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TO: Council Members
Mayor R.T. Rybak

FROM: Peter W. Ginder, Deputy City Attorney, Civil

CC: Susan Segal, City Attorney

DATE: August 25, 2009

RE: Charter Amendment Petition Regarding Park Board

MEMORANDUM

OVERVIEW

A petition containing a proposed charter amendment to the Minneapolis Charter has been submitted to the Minneapolis Charter Commission. The City Clerk has determined that the petition has been signed by a sufficient number of voters. Because a sufficient number of voters have signed the petition, the Charter Commission is required to propose and transmit the proposed charter amendment to the City Council. The City Council has called the Charter Commission in for a special meeting scheduled for August 26, 2009, so that the Council can consider the petition in a timely manner for the November election ballot.

Proposed Charter Amendment

The text of the proposed amendment is as follows:

> The Minneapolis Park and Recreation Board shall be a separate and independent governmental unit of the state of Minnesota with an elected board of commissioners. The Park and Recreation Board shall preserve and protect park land, lakes and open spaces as a public trust forever and shall have all powers and rights of a separate and independent governmental unit of the state as determined by the state legislature. The Mayor of Minneapolis shall have the right to veto the Park and Recreation Board's legislative actions and budget, subject to the ability of Park Board to override a veto by two-thirds (2/3rds) vote.

We have been asked to opine on whether the proposed charter amendment is legally appropriate to place on the ballot for the November election .

Legislative History

The Minneapolis Park Board was created by the legislature in Special Law of 1883, Chapter 281. It specifically stated that the Board shall "constitute a department of the city of Minneapolis." Id. The Board had the power to devise a "system of public parks and park ways within the limits of and for the use of the

city of Minneapolis ..." Id., Section 2. Shortly thereafter, in another special law, the legislature consolidated all acts relating to the Park Board. Special Law of 1889, Chapter 3. Again the legislature stated that "said board of park commissioners, and its successors shall be a department of the government of said city."

Minneapolis was incorporated as a city in 1867 (Special Laws of 1867, Chapter 19) and consolidated with St. Anthony by legislative act in 1872 (Special Laws of 1872, Chapter, 10). In 1881, the legislature consolidated and amended that and subsequent acts to constitute the "charter of said City of Minneapolis." Special Laws of 1881, Chapter 76. That law provided that "all public property, except property used for educational purposes, within the limits of said city, shall belong to said city of Minneapolis..." That legislative charter was added to by subsequent amendments and the city operated under the legislative charter until city voters adopted its current home rule charter in 1920. The current charter is almost entirely a reenactment of the applicable general laws and special laws then in effect relating to the government of the City. Charter, Chapter 21, Sections 1 and 2.

With respect to the Park Board, the current Charter of the City adopted in 1920, carries forward the language of the 1883 special law and provides that the "Park and Recreation Board of the City of Minneapolis and its successors, shall be a department of the government of said City and shall be a successor to and a continuation of the Board of Park Commissions of the City of Minneapolis ..."

Summary Conclusion

The proposed charter amendment, by its wording, would establish the Park and Recreation Board as a "separate and independent governmental unit of the State of Minnesota." This memorandum addresses the question of whether one local governmental unit of the state, the City of Minneapolis, has the authority as a charter city to create another such independent governmental unit. Based upon our review of the law as discussed below, we believe that the City lacks such authority and that the proposed charter amendment is in conflict with the Minnesota Constitution, is preempted by state law and conflicts with state public policy. As such, it is not an appropriate charter amendment and the City Council may refuse to place the proposed amendment on the election ballot.[1]

ANALYSIS

I. STANDARD FOR PLACING A PROPOSED CHARTER AMENDMENT BY PETITION ON THE BALLOT.

Minnesota Statutes Chapter 410 governs home rule charter cities and Section 410.12 prescribes the steps that must be followed to place a voter-driven petition for a charter amendment on the ballot. The courts have made clear, however, that if the "proposed amendments contravene the public policy of the state or any statutory or constitutional requirement," the council may decline to place improper proposals on the ballot. *See State ex rel. Andrews v. Beach*, 191 N.W. 1012,1013 (Minn.1923). The courts have reasoned that placing an unconstitutional or unlawful amendment on the ballot is a futile gesture not required by Chapter 410.

[1] In reaching this conclusion, we have carefully considered the letter of Fred L. Morrison attached to the letter of Scott Nieman dated Aug 20, 2009, to the Honorable R.T. Rybak, the Honorable Barbara Johnson and Mr. James Bernstein.

For example, in 2004, the Minnesota Court of Appeals held that if a proposed amendment was unconstitutional or preempted by state law, the Minneapolis City Council could refuse to place it on the ballot. *See Haumant v. Griffin*, 699 N.W.2d 774, 780 (Minn. Ct. App. 2005)(upholding refusal to place amendment on ballot establishing medical marijuana distribution centers). *See also Minneapolis Term Limits Coalition v. Keefe*, 535 N.W.2d 306, 308 (Minn. 1995)(holding that proposed amendment limiting the terms of local elected officials violated Article VII, Section 6 of the Minnesota Constitution); *Davies v. City of Minneapolis*, 316 N.W.2d 498 (Minn. 1982)(proposed amendment prohibiting levy of sales tax for domed stadium violated prohibition against impairment of contracts found in the United States Constitution); *Housing and Redevelopment Auth. of Minneapolis v. City of Minneapolis*, 198 N.W.2d 531 (Minn. 1972)(rejecting proposed amendment that would permit referendum on "any action" of the city council); *State ex rel Andrews v. Beach*, 191 N.W. 1012 (Minn. 1923). Cases prior to *Haumant* generally stated that a proposed charter amendment would need to be "manifestly unconstitutional" in order for a municipality to refuse to place an amendment on the ballot. However, the Minnesota Court of Appeals in *Haumant* noted that it was illogical to allow a provision that was "somewhat unconstitutional" to be placed on the ballot while prohibiting manifestly unconstitutional ballot measures. See *Haumant* at 780. The *Haumant* court clarified the analysis for whether an amendment is unconstitutional stating that "despite the broad governance authority conferred through a home rule charter, any charter provision that conflicts with state public policy is invalid." Id. at 779, (citing *Nordmarken v. City of Richfield, 641 N.W.2d 343, 347 (Minn. App. 200).*

In the *Housing and Redevelopment Authority* case, the Minnesota Supreme Court found that because the proposed amendment was unconstitutional, it was proper for the trial court "to enjoin the election rather than permit the administration and the voters of the city of Minneapolis to experience the frustration and expense of setting up election machinery and going to the polls in a process which was ultimately destined to be futile." 198 N.W.2d at 536. The *Davies* court echoed this sentiment, stating that "[w]hen a proposed charter amendment appears to be manifestly unconstitutional, the City Council must have the authority to avoid what would amount to a futile election and a total waste of taxpayers' money." 316 N.W.2d at 503-04.

II. THE PROPOSED CHARTER AMENDMENT IS LIKELY UNCONSTITUTIONAL.

With respect to the proposed amendment, it is our opinion that the City is without authority to create an independent governmental unit and that the proposed charter amendment would be found in violation of the Minnesota Constitution. Article XII, Section 3 of the Minnesota Constitution provides:

> The legislature may provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units and their functions, for the change of boundaries thereof, for their elective and appointive officers including qualifications for office and for the transfer of county seats. A county boundary may not be changed or county seat transferred until approved in each county affected by a majority of the voters voting on the question.

The Minnesota Constitution vests the state legislature with the authority to create, organize, administer, consolidate, divide, and dissolve local government units. It is useful to keep in mind the fact that the Minnesota Constitution is "a limit to – not a grant of – legislative power." *Citizens for Rule of Law v. Senate*

Committee on Rules & Administration 2009 WL 2225635 (Minn. Ct. App. 2009) (citing *Williams v. Evans,* 165 N.W. 495, 496 (1917)). Further guidance on this principle is found in *Leighton v. Abell*:

> The principle of our decision of this case, as well as of those we have just cited, is that which attends every constitutional grant of power to any official or department of government. 'A Constitution being the paramount law of a state designed to separate the powers of government and to define their extent and limit their exercise by the several departments, * * * no other instrument is of equal significance. * * * when the people have declared by it that certain powers shall be possessed and duties performed by a particular officer or department, their exercise and discharge by any other officer of department, are forbidden by a necessary and unavoidable implication. Every positive delegation of power to one officer or department implies a negation of its exercise by any other officer, department or person. If it did not, the whole constitutional fabric might be undermined and destroyed.'

31 N.W.2d 646, 652-53 (Minn. 1948) (citing *State ex rel. Crawford v. Hastings,* 10 Wis. 525).

This principle has been restated in various forms:

> Home rule charters are but a constitutional diversion of legislative power from the constitutional legislature to the citizens of the charter-making area, and their powers of legislation must necessarily be circumscribed by the provisions of the constitution under which they act. The whole plan of home rule charters ... is an exception carved out of the powers which, under the constitutional division of powers, was conferred upon the legislature as an independent branch of the government.

Almquist v. Biwabik, 28 N.W.2d 744, 746 (Minn. 1947). Similarly, it has been stated that municipalities "possess no inherent powers and are purely creatures of the legislature." *Breza v. City of Minnetrista,* 735 N.W. 2d 106, 110 (Minn. 2006)(citing Minn. Const. Article XII, Section 3).

Importantly, the constitutional grant to the populace of a municipality to adopt a home rule charter is limited to "its government." Article XII, Section 4 of the state Constitution provides: "Any local governmental unit when authorized by law may adopt a home rule charter for its government." This language does not permit charter provisions of a home rule charter city to create a separate and independent unit of government.

With that in mind, the constitutional provisions in question must be read as limiting the power of creating, organizing, administering, and dissolving local government units to the legislature only. The practical difficulties in the assumption by cities of the power to create independent units of the state are apparent and such a result is not reasonably within the purview of the constitutional amendment. Thus, a charter provision directing the City to create "a separate and independent governmental unit of the state of Minnesota" would violate the constitutional provisions granting that authority to the state legislature. Local governmental units, such as the City of Minneapolis, are without authority to create new, independent governmental units. The Minnesota constitution gives that power to the state legislature and the legislature alone.

III. THE PROPOSED CHARTER AMENDMENT IS LIKELY IN DIRECT CONFLICT WITH STATE LAW AND PUBLIC POLICY

A. Pre-emption generally

The City Council may refuse to place a proposed charter amendment on the ballot where the amendment would conflict with the public policy of the state. "The general rule is that, in matters of municipal concern, home rule cities have all the legislative power possessed by the legislature of the state, save as such power is expressly or impliedly withheld. The adoption of any charter provision contrary to the public policy of the state, as disclosed by general laws or its penal code, is also forbidden." *State ex rel Town of Lowell v. City of Crookston*, 91 N.W.2d 81, 83 (Minn. 1958). In the event that the State has thoroughly occupied the field of legislation in question, cities are pre-empted from imposing their own municipal regulations. *See Mangold Midwest Co. v. Vill. of Richfield,* 143 N.W.2d 813, 819 (1966).

In determining whether or not preemption has occurred, Minnesota courts consider four factors: (1) the subject matter regulated; (2) whether the subject matter is so fully covered by state law that it has become solely a matter of state concern; (3) whether any partial legislation on the subject matter evinces an intent to treat the subject matter as being solely a state concern; and (4) whether the nature of the subject matter is such that local regulation will have an adverse effect on the general state population. *Nordmarken v. City of Richfield*, 641 N.W.2d 343, 348 (Minn. Ct. App. 2002) (citing *Mangold* at 143 N.W.2d at 820).

B. Legislative control over creation, dissolution, and division of municipalities

The proposed amendment creates a "separate and independent governmental unit of the state of Minnesota." However, the State, in conformity with Article XII, Section 4 of the Constitution, has legislated specifically in this subject area. Minn. Stat. Sec. 410.04 provides that "Any city may frame a city charter for its own government in the manner hereinafter prescribed…" Section 410.07 goes on to state that:

> Subject to the limitations in this chapter, it may provide for any scheme of government not inconsistent with the constitution, and may provide for the establishment and administration of all departments of a city government, and for the regulation of all municipal functions, as fully as the legislature might have done before home rule charter for cities were authorized by constitutional amendment in 1896. It may omit provisions in reference to any department contained in general or special laws then operative in the city, and provide that such special or general laws, or such parts thereof are specified, shall continue and be in force therein…

Advocates of the proposed charter amendment have focused on the language "as fully as the legislature might have done before home rule charters for cities were authorized by constitutional amendment in 1896." In so doing, they have ignored the provisos at the beginning of the sentence. First, any form of government is "subject to the limitations of this chapter" and second, the form of government may not be "inconsistent with the constitution."[2] Courts construe a statute to give effect to all its provisions; no word, phrase or

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[2] It should also be noted that what the legislature "actually did" in 1883 was to create the Park Board as a "department" of the City of Minneapolis, as is provided in the City's current charter. (See p. 2 above).

sentence should be deemed superfluous or insignificant. *Fish v. Commissioner of Minnesota Department of Human Services*, 748 N.W.2d 360 (Minn. App. 2008).

As discussed above, the constitution reserves the right to create local governmental units to the legislature. In addition to the constitutional provision, Chapter 410 limits the framing of a city charter to "its own government." Section 410.04. Simply put, Chapter 410 does not contemplate the creation of other governmental units of the state. "Where a statute enumerates the persons or things to be affected by its provisions, there is an implied exclusion of all others." *Lilly v. City of Minneapolis*, 527 N.W.2d 107, 110 (Minn. App. 1995)(citing *Maytag Co. v Commissioner of Taxation*, 17 N.W.2d 37, 40 (Minn. 1944). In fact, the schemes or forms of permitted municipal government are outlined in section 410.16 which provides that the charter commission "may incorporate as part of the proposed charter for any city the commission, mayor-council, council-manager form of city government or any other form not inconsistent with constitution or statute..."

Section 410.07 authorizes a city charter to "provide for the establishment and administration of all departments of a city government, and for the regulation of all local municipal functions, as fully as the legislature might have done..." The clause "as fully as the legislature might have done" modifies the establishment and administration of all departments of a city government and the regulation of all local municipal functions. It does not permit the creation of independent governmental subdivisions. An analogous situation was found in *Housing and Redevelopment Authority of Minneapolis*. In that case, the proposed amendment would have conferred the right of referendum with respect to "any action" taken by the city council, not limited to ordinances. The court stated that this "broad referendum authority not only appears to be without statutory authority under Minn. St. 410.20" but that, additionally, "the restrictions in Minn. St. 410.20 express a legislative intent to limit referendum to ordinances..." Id. at 234-5. This restrictive interpretation of "ordinance" was also followed in *Hanson v. city of Granite Falls*, 529 N.W.2d 485 (Minn. App. 1995)(limiting ordinances to legislative acts and not including resolutions).

Section 410.18 provides:

> Such charter commission may also provide that the administrative powers, authority, and duties in any such city shall be distributed into and among departments and may provide that the council may determine the powers and duties to be performed by and assign them to the appropriate department and determine who shall be the head of each department and prescribe the powers and duties of all officers and employees thereof, and may assign particular officers or employees to perform duties in two or more departments, and make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

Once again, Chapter 410 evinces an intent that all powers, authorities and duties shall remain "in any such city" and are to be distributed among its departments.

As discussed above, the proposed amendment appears to violate Article XII, Section 3, of the Constitution which limits the creation of governmental subdivisions to the State. Additionally, it appears to be in direct conflict with the limitations of 410.07 which only authorizes home rule cities to create departments to carry out municipal functions.

Minnesota common law also holds that the legislature has the power over the creation of governmental units. As far back as 1879, the Minnesota Supreme Court noted that it was well-settled that the legislature had absolute power over the creation, dissolution, and division of municipal corporations:

> Considered as a question of power solely, the absolute right of the legislature, in all cases not within any constitutional prohibition or restriction, to create, alter, divide and abolish township organizations, or municipalities having *quasi* corporate powers and functions, and to make such division and apportionment of the property and debts of the old corporation, in case of a division of its territory, between it and the new organization created in whole or in part out of a portion of such territory, as may suit legislative policy or discretion, and without any regard to the wishes or interests of the inhabitants affected thereby, has been so often asserted and so uniformly maintained by the courts, both federal and state, as to have become the settled and unquestioned law in this country.

State v. City of Lake City, 25 Minn. 404, 414 (Minn. 1879).

Minnesota courts have long held that the creation, dissolution, and division of municipal corporations is "subject to the legislative control of the state creating them." *See also Pepin v. Sage,* 129 F. 257 (8th Cir. 1904) (quoting *Mount Pleasant v. Beckwith*, 100 U.S. 514 (1878)) (stating that creation, dissolution and division of municipal corporations is "subject to the legislative control of the state creating them"); *State ex rel School Dist. No. 44 of Wright County v. Board of Com'rs of Wright County,* 148 N.W. 53 (1914) (stating that the legislature has "plenary control of the local municipality, of its creation and of all its affairs").

This absolute control is reflected in the State's statutory scheme. Chapters 365 through 418, inclusive, deal with the State's regulation of towns, cities, and counties, in other words, "independent governmental units of the state." The statutes cover such details as what functions a town may perform (Minn. Stat. § 365.02); how boundaries of counties can be altered (Minn. Stat. § 370.01); creation an operation of statutory cities (Minn. Chap. 412); creation of home rule charter cities (Minn. Chap. 410); and how municipal boundaries may be adjusted (Minn. Stat. § 414.01).

Minnesota Statutes § 414.01 is of particular interest to our inquiry here. That statute lays out extensive provisions of how municipal boundaries may be adjusted, and states that such an adjustment can only occur after a state administrative law judge conducts proceedings, makes determinations, and issues orders:

> The chief administrative law judge shall conduct proceedings, make determinations, and issue orders for the creation of a municipality, the combination of two or more governmental units, or the alteration of a municipal boundary.

Minn. Stat. § 414.01 subd. 1. The proposed amendment attempts to alter the City's boundaries via ceding land to the Park Board, which is in direct contradiction to Minn. Stat. § 414.01. The legislature has clearly evinced an intent to control the creation, division, and dissolution of municipal boundaries, and the City may not therefore pass laws that infringe upon the state's authority in this matter.

C. The Park Board is a department of the City of Minneapolis

As set out above, both the initial state legislation creating the Minneapolis Park Board in 1883, amended in 1889, and the Minneapolis Charter adopted 1920, delineate the Park Board as a "department of the government" of the City of Minneapolis. (See pp. 1-2 above). This is despite the fact that the Park Board, from its inception, has had a separately elected Board.

The courts have also recognized the status of the Park Board as a "department" of the City government with a number of cases in which the court has specifically stated that the Park Board is a department of the City. *See State ex re Merrick v. District Court of Hennepin Co.*, 22 N.W. 625, 626-628 (Minn. 1885)(stating that Special Law 1883 ch. 281 created "a board of park commissioners...together with the mayor and two members of the city council, which board is made a department of the city government and holding that the board is a "proper agency of the municipality"); *Webber v. Board of Park Com'rs of City of Minneapolis*, 82 N.W. 1119 (Minn. 1900) (stating that Park Board "is not a municipal corporation. The members thereof are but officers and agents of the city of Minneapolis...and the board as a body is but a department of the city government.").

When the legislature intends that a separate, independent body shall have general authority over parks and levy authority specifically, it has taken the steps to create park districts via legislative action. *See* Minn. Stat. ch. 398 (creating park districts which are "deemed to be political subdivisions of the state of Minnesota and public corporations"); 383B.73 (authorizing Three Rivers Park District to impose a levy). The legislature has had ample opportunity to provide the same authority to the Park Board and has not done so. The amendment represents an attempt to gain that authority via Charter revision, which is impermissible.

Charter amendments may address "any subject appropriate to the orderly conduct of municipal affairs." *Minneapolis Term Limits Coalition v. Keefe*, 535 N.W.2d 306, 310 (Minn. 1995). Here, the proposed amendment does not attempt to address the conduct of the City's municipal affairs or the internal structure of governance. Rather, it attempts to entirely remove a department of the City from the City's control by creating a new legal entity. Such a drastic change is not contemplated by the scope of permissible charter amendments.

D. The *Mangold* factors

As noted above, there are four factors a court looks to in determining whether state preemption has occurred:

> (1) the subject matter regulated;
> (2) whether the subject matter is so fully covered by state law that it has become solely a matter of state concern;
> (3) whether any partial legislation on the subject matter evinces an intent to treat the subject matter as being solely a state concern; and
> (4) whether the nature of the subject matter is such that local regulation will have an adverse effect on the general state population.

Mangold at 143 N.W.2d at 820.

As to the first two factors, the above examples make clear that the state has evinced an intent to treat the matter of creation, division, and dissolution of municipal corporations as a matter of state concern. Municipal corporations are formed merely "to administer the local and internal affairs of the community and to assist locally in the civil government of the state as a branch thereof." *State v. City of Hudson*, 42 N.W.2d 546, 548 (Minn. 1950). As regards the third factor, the ample legislation addressing the creation and governance of towns, cities, quasi-municipal corporations, and park districts suggests that the state intended to occupy the field. Finally, allowing local governments to unilaterally create, divide and dissolve governmental units of the state would clearly have an adverse effect on the general state population. The state legislature clearly has an interest in maintaining control over state-wide matters such as the creation of governmental subdivisions of the state. Allowing an amendment such as the proposed would allow all charter cities to thwart state-level control, creating conflicts with state public policy.

It is clear that the legislature intended to wholly govern the creation of subdivisions of the state government. Because the proposed amendment seeks to use a city charter rather than the legislative process to create a state subdivision, it is pre-empted and in violation of state public policy.

IV. THE PROPOSED CHARTER AMENDMENT IS WITHOUT EFFECT BECAUSE IT RELIES UPON HYPOTHETICAL FUTURE ACTIONS OF THE STATE LEGISLATURE

The limiting clause that the proposed new entity shall have those "powers and rights of a separate and independent governmental unit of the state as determined by the state legislature" makes this proposed amendment futile.

The backers of the medical marijuana initiative in *Haumant* made a similar argument. There, the appellants argued that any preemption problem was "alleviated by the inclusion of the phrase 'to the extent permitted by State and Federal law' in the proposed amendment." 699 N.W.2d at 779. Haumant argued that, although the City Council was not presently able to pass an ordinance authorizing medical marijuana use, the Council would be able to "wait until state law permits the distribution of marijuana for medical use and then act knowing it has the support of the citizenry." *Id.*

The Court rejected this argument, noting that accepting the argument would require the court to order the City Council to hold a special election on an amendment that would ultimately have no effect. *Id. See also Hous. & Redevelopment Auth. of Minneapolis v. City of Minneapolis*, 198 N.W.2d 531, 536 (1972) (holding that election should be enjoined rather then conducting an election which was ultimately destined to be futile).

Here, the effectiveness of this amendment appears to rely upon hypothetical future actions of the legislature to either grant or define the power of the proposed new entity. In fact, Minneapolis Park and Recreation Board Resolution 2009-160, passed at its August 19, 2009, meeting purportedly establishes the "principles to be proposed to the State Legislature should this referendum be the will of the voters ..." These proposals set out the Park Board's intent to seek legislation that, among other things, the Park Board will be under the direct control of the State Legislature; that it should model itself along the lines of a park reserve district Minnesota Statutes Chapter 39A; and, that it will have certain bonding and levy authority. These "principles" can be modified by subsequent Park Board action. The Park Board resolution acknowledges that the proposed charter amendment is dependent on future legislative action. The proposed amendment

ultimately would have no effect unless and until the legislature chooses to give it effect. Any such special legislation, however, would preempt the charter amendment rendering the amendment unnecessary. As such, the City should not have to undertake the expense of conducting an election for a provision that is ultimately futile.

V. THE PROPOSED CHARTER AMENDMENT IS NOT IN THE FORMAT REQUIRED BY STATUTE

Minn. Stat. § 410.12 subd. 1 states in part:

> All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment.

The proposed amendment contains none of the standard features of a charter amendment. The amendment does not state what parts of the Charter it modifies or strikes. It leaves intact all of Chapter 16 of the Charter governing the Park Board including the language that would be in direct contradiction (such as the portion that states that the Park Board is a department of the City) if the amendment passed. Indeed, the proposed amendment does not even have the savings clause that petition backers relied upon in the Housing Authority case, where the proposed amendment began with "Notwithstanding any provisions of the Minneapolis City Charter to the contrary." 198 N.W.2d 533-34.

The proposed amendment would be in direct conflict with language in the current charter. The form of the proposed amendment fails to provide full notice to the voters of all of the provisions that would be affected by the amendment. The failure to amend any existing charter language would also likely lead to the "chaotic situation" in city government identified in the *Housing and Redevelopment Authority of Minneapolis* case. 198 N.W. 2d at 235. As such, it cannot be said to be a proper amendment to the City's Charter.

CONCLUSION

Based upon the above discussion, it is likely that the proposed charter amendment is unconstitutional, preempted by the state and/or in violation of state public policy. Therefore, the City Council may refuse to put the proposed amendment on the ballot.