



MEMORANDUM

Overview

The Charter Revision Work Group plan required this office to review the proposed Charter revisions and provide an overview to the Charter Revision Work Group as to specific proposed Charter amendments that would affect various City departments. Over the course of the past several weeks, we reviewed the proposed Charter amendments, discussed the changes with representatives from each department, and discussed the amendments with the Charter Revision Work Group. This memorandum summarizes the impact of this proposal on the powers of the Mayor and the City Council.

I. Powers of the Mayor

A. The proposed Charter revision refers to the Mayor as the “chief executive officer” but does not define that term anywhere in the proposal. It is not clear if the inclusion of this term is an expansion or diminution of the powers that the Mayor possesses vis-à-vis the City Council in the current Charter.

B. The proposed Charter amendment changes the requirement that the Mayor “address” the City Council annually on the state of the city, to a requirement that the Mayor must “report” annually. This could be construed to allow/limit the Mayor to deliver a written document to the City Council rather than appearing in person and addressing the City Council on the state of the city.

C. The proposed Charter revision imposes a duty on the Mayor to establish the City’s goal and priorities by April 1st, following which the Council is to review and may amend the goals and priorities by August 15th. The proposed Charter revision is silent about what happens in the event that the Mayor misses the April 1st



deadline to establish the City's goals and priorities. The deadline for the Mayor to establish the City's goals and priorities is not found in the current Charter.

D. The proposed Charter revision provides that the Mayor may attend by proxy any board, committee or other public body of which he or she is a member. This could be construed to mean that the Mayor could merely appoint one of the members of the board or body to vote on behalf of the Mayor. This would constitute a change from the current Charter provision that the Mayor may appoint a representative to serve in his or her place on the board or public body.

E. The proposed Charter revision incorporates some changes from the current Charter, with regard to mayoral succession. The changes include: 1) a requirement that the City Council adopt an ordinance that defines the circumstances under which a Mayor shall be deemed to be unable to perform his or her duties, and how the inability ends; 2) a requirement that the City Council establish a line of succession beyond the council vice-president, which must include each Council member, and may include other elected or appointed officers after the Council members; and 3) the elimination of a provision in the current Charter that calls for an election of a Chair pro-tem under Robert's rules of Order to fill the vacancy of the vice-president.

II. Powers of the City Council

A. The proposed Charter revision appears to change the existing language of the current Charter by seemingly eliminating the requirement that the City Council elect a vice-president. The proposed Charter revision states that the City Council must elect its officers and organize its committees at the first meeting in January following each general election, without specifying the officers to be elected. If the revision is adopted, the Council rules would have to be amended to designate the officers to be elected.

C. The provision in the current Charter specifying the succession if the City Council President is absent from any meeting of the Council or both the President and vice-president are absent is eliminated from the proposed Charter revision. Instead, the proposed Charter revision contemplates that the City Council will establish a succession plan by ordinance. This provision is subject to change by ordinance.

D. The language of the proposed Charter revision contained in Article IV, section 4.2, regarding the Council as judge of its members' elections, clarifies that the Council has the power to "compel the testimony of any witness who may have relevant information, and may compel the production of any relevant book, document, or thing". By revising the language of the current Charter ("... City Council ... shall have the power to send for persons and papers"), with the new language, the Council clearly has subpoena power under the proposed Charter revision.

E. The proposed Charter revision provides that the City Council may impose penalties for breach of an ordinance, including the possible penalties (fine, imprisonment, or labor in a workhouse or on a public improvement, another penalty, or any combination of such penalties). In addition, the proposed Charter revision omits the provisions of Chap. 4, Sec. 7 of the current Charter. As a result, the City Council would no longer have authority to require city prisoners to work upon City improvement projects. Given that these Charter provisions were most likely adopted when Municipal court existed and prior to the courts'

unification, the City would not have the authority to specify the sentence for violation of City ordinances, as doing so would violate the separation of powers provision of the Minnesota Constitution.

F. The proposed Charter revision changes the majority vote requirement so that a majority vote of all members (7) is required not only for ordinances and resolutions as is currently required, but for all actions of a “legislative nature”. The language of the current Charter and the proposed Charter revision related to how ordinances and resolutions are passed appear to be similar, except that the proposed Charter uses the term “an act”, and the current Charter specifies “ordinances and resolutions” requiring a majority affirmative vote to pass. Under the current Charter, as interpreted by City Attorney opinions, an act of the City Council, such as the adoption of a committee report, does not require a majority vote of the Council membership, but only a majority of those voting. The adoption of a committee report by a majority vote of the Council has the same effect as a resolution, but only requires a majority of those voting on the question. Article V, Section 5.3(f)(1) of the proposed Charter revision defines “act” requiring a majority of all membership to be “. . .any ordinance, resolution, appropriation, any other lawful action of a legislative nature, and any action amending, repealing, or otherwise affecting any such act; but. . . does not include a rule or other vote that relates to a board’s internal organization or procedure.” There is no change as to ordinances and resolutions which, under the current Charter require a majority of all of the members of the City council. However, it is not clear what other acts would be deemed to be “of a legislative nature” under the proposed Charter revision so as to require seven votes. On this basis, it is unclear whether Chap. 4, Section 9 of the current Charter would be changed due to the addition of the proposed Charter revision language.

G. The requirement that an ordinance cannot be passed at the same session or any session less than one week after its first reading, unless its subject matter has been previously referred to a committee at a previous session is addressed in Article IV, Sec. 4.4 (b) of the proposed Charter revision. However, the wording seems to be permissive rather than limiting. This ambiguity might empower the City Council to authorize the passage of ordinances at the same meeting at which they are first introduced, even if the subject matter of the ordinance has never been previously referred to a committee.

H. The current Charter provides for the minimum size of the Mayor’s staff, while Article VIII, Sec. 8.1(g)(1) of the proposed Charter revision states that the City Council must provide at least the same staff as set out as the minimum in the current Charter, but also includes the phrase “along with any other appropriate staff”. The current Charter authorizes the Council “to determine the maximum number of” mayoral aides. The proposed Charter revision requires the Council to “provide for the staff and other resources the Mayor needs for the effective performance of his or her duties.”