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August 26, 2019

Mayor Carter
15 West Kellogg Blvd.
St. Paul, MN 55102

City Council Members
15 West Kellogg Blvd.
St. Paul, MN 55102

Re: RES PH 19-206; RES PH 19-207; RES PH 19-208; RES PH 19-209

Dear Mayor Carter and City Council Members:

Simon Taghioff and I spoke at the August 21 public hearing regarding the above referenced resolutions. The city council then set off a decision for one week, apparently to give the city attorney time to provide a written opinion letter. I had warned the council that it should obtain such written legal support since council was otherwise legally and politically naked.

My warning was based upon our intent to request attorney's fees in our appeals of the 2019 Street Maintenance Services Program (SMSP) fees and assessments. We feel we have good grounds for such a fee award because the council would be proceeding in the face of contrary written opinions by both the Supreme Court and the District Court. This would amount to at least bad faith and possibly even fraud as proscribed by the city charter.

At the August 21 hearing, it appeared that no one had told either the council or the assistant city attorney, Rachael Tierney, of the district court opinion disallowing the city's police power, regulatory fee argument. Indeed, Ms. Tierney indicated that the city's position continued to be based on the fee theory. I subsequently sent copies of Judge Millenacker's opinion to the council members and to Ms. Tierney.

Because the council's consideration of the issue on August 28 will not allow further comment by the public, I feel it is important to set out at least an outline of our position for the council to consider.

First, Mr. Taghioff and I feel strongly that forcing detailed discussions of this important issue to the courts is not the best way to proceed. The city has historically taken the position of "Sue us if you don't like it." We feel that this is not the best way to proceed.

The dire condition of the city streets and the looming city budget deficit are matters of concern to every citizen, elected or otherwise. There has to be a better way to address this problem. We once again plead with the council to allow us to try to help in a non-adversarial setting. If the county can repair its roads without assessments, the city should be able to do likewise. Let us try to make that happen together.

Failing agreement to do that, we have no choice but to appeal once again to the courts. Because the city's position is so clearly wrong, we will be asking for damages and attorneys' fees as allowed under the federal Ku Klux Klan Act, 42 USC 1983. This reconstruction era remedy was afforded by Congress to post civil war citizens (especially freed slaves) who were being given the run around by recalcitrant southern (usually democratic) officials when they attempted to assert their 14th Amendment rights.

The taxpayers of St. Paul are in the same situation. Good Minnesota democrats are again giving them the runaround and forcing them to sue even though the state supreme and district courts have said that this conduct should end. It seems to us that good liberal democrats would not like to be charged with or found guilty of violating the Ku Klux Klan Act.

Please let us avoid the acrimony and cost of litigation. Let us in good faith and mutual concern proceed to identify a better way to solve the city's street repair and budget problems. "Sue us" is not an appropriate or legal answer.

Yours very truly,



John G. Hoeschler