



City of Saint Paul

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Title: Charter amendments raised at the December 27, 2016 Charter Commission meeting.

Notes:

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Enactment Date:

Attachments: 12-27-16 Charter Commission Meeting Minutes, Goldstein Email, Ellen Brown Letter, Take Action Minnesota, Kirr Resolution 2-27-2017, 2.27.2017 Repke document, 2.27.2017Old language section 705

Financials Included?:

Contact Name:

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History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Charter Commission	02/27/2017	Notes: Open for discussion of potential Charter Amendments raised at the last Charter Commission meeting Commissioner Kirr stated that he is a new member, this is his second meeting related to the Charter Commission, and he is eager to serve St. Paul. Commissioner Kirr read a resolution that he authored, (attached to this item of the minutes), which motioned to amend agenda to delete discussion of charter amendments. Chair Alton asked for seconds to that motion				

Repke seconds for purpose of discussion

*Commissioner Repke noted that he has heard from Commissioner Kirr and internet concerns about the process. Would like to explain the process. Has not problem not taking formal action today, but thinks it would be a waste of time to not discuss issues today
Committees are working groups, there is nothing that comes out of this committee meeting that couldn't be proposed at the next charter commission without having committee work done in advance.
At the Charter commission meeting, ask to put something to be put out for public hearing.
This is the time where we mock up, play with language, and decide if we will bring it to the Charter Commission. This is a place for discussion*

Commissioner Kirr does not object to discussion charter amendments, but is concerned about discussing things that were not assigned to this committee, and things that seem to get into the record that didn't seem to be on the record. He does not know how the letter from the councilmembers, Repke response to the letter and Mr. Butler's proposed amendments did not seem like they were on the record from that meeting to this meeting. If these items should not be discussed, and that is why he asked them to be removed from the agenda.

Commissioner Alton stated that the prerequisites are not prerequisites for us having a consideration of any issues regarding the St. Paul charter at this meeting today. If you wanted to discuss amending some other section of the charter, we would welcome that opportunity to have that discussion. The fact that a letter may not have been entered on the record doesn't invalidate the ability of the committee to discuss. We are a working group/committee to discuss issues that might be up for consideration.

Commissioner Kirr was uncertain about why there is an attachment of the 12/27/2016 meeting minutes to today's agenda.

Commissioner Alton stated it was a clerical effort to include as much information as possible. The minutes are not approved or official.

Commissioner Kirr moves to the question:

All those in favor of Commissioner Kirr's motion signify by saying aye.

Commissioners Repke, Johnson, Kohen voted nay.

Motion failed.

Chair Alton stated that at the December Charter Commission meeting a few things were discussed as potential amendments to the charter:

Amend filing fees and dates for filing, contained in chapter 8. He asked if any committee members want to discuss.

Chair Alton thinks that the county election office believes that changed in fees or signature requirements are not necessary at this point. Minneapolis recently changed their charter so their fees match St. Paul, and they were recently changed this, does not think there is a strong interest.

Commissioner Varco asked what changes were proposed.

Chair Alton responded that decreasing the fees and decreasing the number to get a candidate on the ballot was proposed. Appears there is interest to discuss at this time, we can always discuss at a later date.

Next item is a potential amendment to our charter regarding ranked choice voting.

*Commissioner Repke passed out language of charter before ranked choice voting was passed in 2009. He was fine with not taking any formal action today, due to the concerns Commissioner Kirr had about notification. There will be at least 2 public hearings about ranked choice voting if it is decided to propose something. Charter commission will hold public hearing on these issues.
Old language Section 705 – primary election was held on the First Tuesday after the Second Monday in September. His understanding is that the state has changed those to August. If we were going to look for this type of change of doing a primary, we would need feedback about what the best date would be to do it on. He thinks it would be the first Tuesday after the second Monday in August, when the State holds its primaries. He would be interesting in hearing peoples' discussions about the best time to do a primary election.*

Would like commissioners to look over the language to see if there are any other places where we

should raise those concerns to make those changes.

Commissioner Repke shared his rationale for concern, including the changes and when it occurred, rational for why he believes the committee should explore it.

Commissioner Repke handed out a document to all members of the committee and read hand out (attached). The attached document includes an order from administrative law judge and highlighted relevant comments on the order.

Chair Alton asked for clarification of the relevance of the order

Commissioner Repke stated that it explains what happened in the 2009 election, how it passed. It was deemed to have been a violation of MN State Statute 211B.02

Commissioner Repke's document includes the reallocation summary of the three races; the Ward 2, 2011 and the Ward 2 turn-out. 2007-2011 are the only two where the races are identical. In 2013, redistricting occurred. The document also includes the 2013 reallocation summary statement for the Ward 1 race, and the Ward 2 2015 reallocation. These are the summary of arguments on why he thinks it's appropriate for the charter commission to look at the issue and why he would like it in front of the Charter Review Committee and a recommendation to Charter Commission at the next meeting.

Commissioner Kirr applauds Commissioner Repke's detail and research, he is wondering what is the ultimate goal of proposing changing back to the old way.

Commissioner Repke stated that he has viewed RCV as a poll test. If you have to explain on election how it works to voters, it is unfair. Some are better informed than others, and they will be more likely to be able to rank their ballot. If explained on Election Day, thousands of people haven't had time to think about how to rank their ballots. Those who know what is going on have an advantage. The reason he provided these numbers is because you will hear that people ranked their ballots, but he and Mr. Varco have observed the counting of ranked choice ballots and have seen that numerous people put the same candidate 7 times, and do not rank their votes. Because it slides into the ballot and works, it counts. He encouraged committee members to go to Ramsey County and look at results. If you look at records, Dan Bostrom was highest for 1st and 2nd vote. Thousands of people don't understand and don't realize that they don't understand.

Chair Alton invited people in the hallway to come in and stand in the room.

Commissioner Kirr would love to look through data, wonders if the issue for Commissioner Repke is that it is an education issue, because the system is so complicated that we need to explain it to people, or something else?

Commissioner Repke believes that the problem in the United States has low voter turnout is long, complicated ballots. Most systems ask people allow people to fill out one dot and it pre-ranks their ballot based on the political party they are choosing. We don't have they type of system. We ask people to vote six times to rank councilmembers. This is not the norm. We keep seeing voter turnout get lower. For example if you look at the results from Ward 1, 25% of the people didn't get to choose between Dai Thao and Noel Nix. Something is wrong if 25% of people who show up to vote didn't cast their vote but believe that they did.

Commissioner Varco asked if the run-off voting only applies to Mayor and City Council elections. It is his understanding that there is a primary for school board, except it keeps getting waived because there aren't enough candidates. He wondered what would be the circumstances where we might be forced to have a school board primary.

Commissioner Repke responded that the school district has its own elections. We don't control what the school board does; they have been deciding not to have a primary.

Commissioner Varco's second question in regards to the draft that was handed out: page 11, Sec. 706 which says if the law that prescribes that the election of mayor and councilmember be by party designation; Is that state law or local ordinance? Could the City of St. Paul choose to have a party primary for mayor and city council?

Commissioner Alton and Repke said it is up to the commission

Commissioner Varco If Minneapolis still has primaries. They don't do multiple school board candidates;

it's all single-seat running?

Commissioner Repke believes that is true.

Commissioner Filice doesn't understand why we need to do this quickly. She applauds idea of analyzing voter data. She would like to see the voter data on the three previous elections without ranked choice voting. She would like more time to hear from community of why it works or doesn't work. She commented that it would be very confusing at the polls to vote on mayor and at the same time voting on an amendment on why you did or didn't like it. Could this sort of analysis be postponed to another year that isn't an election year, and the commission could spend more time figuring out what direction they want to go?

Commissioner Repke stated that the reason to do it this year is because we do have a mayor's race so people would use see the ranked choice ballot, use the ranked choice ballot, then would decide if they like it or not. If they like it they would say they don't want to change to a primary. Every time we do this, and since we have have gotten a letter from the majority of city council saying they have no intention of passing the charter amendment. What the Charter Commission would do, is pass a charter amendment, let's say we pass to do a primary. Then the city council decides to accept that it would go to a primary or reject it, and that forces it to a ballot. We have already heard from five councilmembers that they won't approve it. That means that it will be forced to a ballot. In my mind, this makes it easier to decide since people would actually know what they would be doing. The problem with an even number year, few people would know what ranked choice voting is. If done on a year of an even number year, is people wouldn't know what ranked choice voting. It is unfair to do it during a year with council races, some wards would have higher voter turnout, depending on whether or not there is a contested race. The only fair time to do put it in front of voters would be when the mayors up, there is no confusion, I vote for the mayor, rank the ballot, then ask the voters, did they understand, would I prefer to have two people, or 9 or 10 candidates and then rank them?

Commissioner Filice stated that she does not agree, doesn't think there is enough analysis or time to do enough analysis. She thinks it's important to see what happens in a contested mayor race with this form of voting before we decide. It feels rushed. It is an important thing to be on the ballot, but it needs more analysis. She respectfully disagrees.

Commissioner Alton pointed out other comments received pointed out that this will cost money to change. The original change to ranked choice voting was a result of a petition of several thousand people, and now we are being asked to disregard that, change our charter on the vote of the majority of the commissioners. Thinks this is not fair. He agrees with Commissioner Filice that a mayoral race without an incumbent running is a great opportunity to see how it works without jumping to risking changing it.

Commissioner Varco asked if this party has the power to put on an even year ballot?

Commissioner Alton said Yes

Commissioner Repke said that the reason it wasn't brought up since 2010 because it was unfair with an incumbent mayor. Now that they can see what they voted in, use the system and decide that they love the system and decide they can support the system and voters would have the opportunity to use it. If it is not done this year, then the next time it is fair would be the next time you don't have an incumbent mayor in the election, which could be in another 8 years. Which means you have city council races where 25% of the people don't vote for the city council candidate, their votes thrown in the garbage can.

Commissioner Kirr asked isn't it fairest for advocates against ranked choice to collect signatures, then have appeal the amendment to the charter commission and then have the city vote on it?

Commission Repke replied that we are the keeper of the charter, not just a random group of citizens. We are on this body because we believe in the charter of St. Paul and want it to be fair and equitable. He can't think of anything less fair than a voting system that we need to be educated on to be able to participate. And those that propagated it know that people aren't educated in it and know that some people will do better than others.

Chair Alton asked for any other comments.

Commissioner Rybin thinks billboards in the audience are rude, but if Commissioner Repke didn't then

she doesn't object.

Commissioner Repke stated that thinks they are being respectful.

Chair Alton asked if there is any further discussion or data the committee they would like gathered. No official action will be taken today, is there anything else that needs to be done to prepare for another meeting?

Commissioner Kirr stated that he is a data scientist by background and training. He would like to see lots of data, because he is unable to disentangle what the effects are and what the causes are and he doesn't know if the cause of low turnout that we get bad results in ranked choice, or is it some other combination. He is not sure if the data he is looking at here is enough to tell him if there is a relationship as Commissioner Repke is proposing. He thinks three elections is a small sample size to evaluate what the data is telling us. He would like to see raw data and analyze it himself; he recommends getting raw data and have it analyzed by a data scientist to see the cause & effect.

Chair Alton stated that we don't have the resources to hire a data scientist, so they are glad to have Commissioner Kirr's expertise. Asked what the source of the data would be. Noted that Ramsey county election office has records; asked if one month be enough time to work on data.

Commissioner Kirr stated that he was not sure how much time, since he doesn't know the details of the data; a lot of questions come to mind. If he could talk to someone in Ramsey County, he could come back to the committee and say whether or not it is doable.

Chair Alton said they will introduce him to Mr. Mansky before he leaves the meeting today.

Commissioner Repke stated that the committee sends language forward to charter commission. If there was a proposal to change back to a primary system, there would be 2 public hearings, where all resources and data would be presented. Repke can bring information from other cities.

Commissioner Johnson concurs with Commissioner Kirr and Commissioner Filice. He would like to see more data, both pro and con on advantages and disadvantages of the ranked choice system, and focus primarily on a local election and knows there are other examples. He thinks that additional data would help and realizes

Commissioner Repke has done a lot of research and trusts his judgement but will still like to see other sources. This is a complex issue has emotional a rational statistical component we need to look at before a proposal is made. There are going to be multiple hearings, and a chance to accumulate and look at the data and allow public testimony would be valuable, many are interested and they may have information that could be of use to this body. Thinks we need to look further and get the facts and figures. To the extent that he has looked at the issue, thinks on the surface it seems obvious, but there are weaknesses and paradoxes built into it that should be carefully considered.

Commissioner Alton thanked the public for coming to this meeting; their presence is helpful, even though no testimony was made. There will be another meeting with an opportunity. He received many emails and suggested that in the future, the public should send emails to City staff as well so they can be entered in the record as testimony.

We will get an email address for comments, and post it on line.

Text of Legislative File CCI 17-3

Charter amendments raised at the December 27, 2016 Charter Commission meeting.

Charter Commission Meeting

December 27, 2016

Chair Richard Kramer called the meeting to order at 4:36 p.m.

ROLL CALL

Sign in sheet:

Chair Richard Kramer- Present

Vice-Chair Deborah Montgomery -Absent

Commissioner Brian Alton - Present

Commissioner Kathy Donnelly-Cohen - Present

Commissioner Bridget Faricy - Absent

Commissioner Amy Filice - Present

Commissioner George E. Johnson - Absent

Commissioner John Paul Kirr - Present

Commissioner Joyce Maddox - Absent

Commissioner David Maeda - Present

Commissioner Gladys P. Morton - Absent

Commissioner Charles Repke - Present

Commissioner Virginia Rybin - Absent

Commissioner Rick Varco - Absent

Commissioner Carrie J. Wasley - Present

Other Attendees:

Peter Butler

Chris Smith

Joe Mansky, Ramsey County

Adam Vetvick

William Moore

Fred Melo

APPROVAL OF THE AGENDA

Approval of the agenda moved by Commissioner Charles Repke, seconded by Commissioner Donnelly-Cohen and adopted by unanimous vote.

APPROVAL OF THE MINUTES

Commissioner Wasley moved to approve minutes of November 15, 2015, seconded by Commissioner Repke and adopted by unanimous vote.

CITIZEN COMMENTS

Peter Butler, St. Paul resident

He would like suggest three changes to the city Charter. Two are in section 8 which are about initiative, referendum and recall.

Sec 8.02.2 (part)

Each signer of the petition shall write thereon the petitioner's name and the street number and council ward or legislative district and precinct designation of the petitioner's residence.

Most people probably don't know their ward or precinct designation. He recommends that if that is unnecessary for verifying that a person is a registered voter, that the language be deleted.

Sec. 8.2.24 (part)

Any name appearing on any petition which does not comply with the foregoing requirements, except as to council ward or legislative district and precinct designation shall be stricken.

If this information has no purpose, he thinks for simplicity of people collecting signatures, that information should be deleted

Second suggestion: Section 8.04 sets deadlines for the submission of a petition and it says that the last day for doing it is 120 days before the next election. State law requires the City Council to approve any language 74 days before the next election. This section also says that the City Council has up to sixty days to act or not act on it. So if I were to submit a petition on the 120th day, and the Council were to wait until the 60th day after that that's only 60 days for the election and we have missed the state deadline. So extending the 120 days to 134/35 days or delete the roll of the Council in there would ensure that people can meet the deadlines of the charter and state law.

Final recommendation: Section 7.04- Name on ballot suggests commission review filing fees for mayor \$500.00 and City Council which is \$250.00. I think this is excessive in comparison to the governor, which is \$300.00 to file in that race; U.S. senator is \$400,, State legislators are \$100, and attorney general is \$300. At least for mayor the amount is higher than most state offices or that the number of required signatures is reduced from 500 to make it easier for those that don't have the money to collect signatures. Nothing like that should be a barrier for any one running for office.
Submitted notes.

Two letters, classified under citizen comments (attached)

ELECTION OF CHARTER COMMISSION OFFICERS

Chair Kramer stated that the Charter Commission has been meeting once per year, and the officers elected today will be the 2017 officers. Chair, vice-chair, and secretary will be filled.

Chair: Commissioner Alton nominates Richard Kramer, Repke moves, Wasley seconds
Richard Kramer elected by unanimous vote

Vice-chair: Commissioner Repke moves reelecting Deborah Montgomery, Commissioner Donnelly-Cohen seconds; Deborah Montgomery is elected by unanimous vote

Secretary - Alton moves re-electing Virginia Rybin, Wasley seconds, Virginia Rybin is elected by unanimous vote

STAFF REPORT – Joe Mansky, Ramsey County Elections Manager.

Mr. Mansky stated that the deadline for amendments to the charter that will be going to the ballot is July 11, per state law. If there are questions that go on the ballot, City Council will authorize the text and the City Attorney will approve by August 25.

If the Charter Commission opts to put a question on the ballot or a citizen effort to initiate, they will need to take action on charter amendments by July 11.

Other information: Two years ago the legislature allowed people to vote prior to Election Day for any reason. This year voters can place ballot directly into counter. These transformative acts increased number of people voting prior to the election by 107%. The number of voters is estimated to increase by 100,000 county-wide by 2020. The Commission might want to consider when and where they want people to vote as they deliberate how elections are being conducted.

Mr. Mansky talked about the new voting system in 2016. The post-election audit showed that for the first time 100% accurate in squaring up the ballots with the ballot counter. Because they don't have approval for electronic reallocation of votes for the election of mayor this year, they will be doing the manual reallocation as for past elections. He noted that there is a video on line showing the process. The ballot will look identical to past, assuming there will be up to six choices listed.

Voters can rank up to six choices. Candidate names are rotated on the ballot from precinct to precinct, as required by law. Rotating the names in nonpartisan races, this eliminates the advantage of being first or disadvantage of being far down on the list for any particular candidate.

Other side of ballot would have authorized ballot questions authorized by City or school district, and other members of school board that were not elected in 2016.

Chair Kramer asked for questions from audience members or commissioners.

Chair Kramer asked if machines will be used in the next election.

Mr. Mansky stated that it will be the same process as 2011. Number of votes will be listed on website. Reallocation will be done manually as in the past. It will be the same method as the Coleman/Franken re-count. Candidates are at the table during the count.

Commissioner Repke stated that he had observed in the past and it is impressive how few mistakes are made in recount, and they do an excellent job.

Mr. Mansky explained how the votes are sorted and reallocated by hand.

Ballots are returned in sealed containers, and remain until reallocation process, first determine count hand count is official. Once ballots are on the table, reallocations are done from bottom up. Smallest pile number is reallocated first, and repeated until someone reaches the threshold to win or there are two candidates left and whoever has the most votes is the winner, whether or not they have the majority.

William Moore, St. Paul – East Side: MN Audience; the numbers are confusing for average voter. Mr. Moore asked for clarification of the reallocation process.

Mr. Mansky reiterated the process of reallocation using a specific example. Explained that it is possible to have twelve candidates file for mayor. If one candidate gets more than 50% of the vote, there is no need for reallocation. Reallocation is only necessary if there is no candidate with over 50% of the votes. Mr. Mansky encouraged people to volunteer as election judges. Ballots are counted one precinct at a time.

Commissioner Repke noted that in the last Ward 2 race, the piles were 2782, 2444, and 582. They never hit 2870, which would be 50%, so 2872 won (see attached letters).

Mr. Mansky explained that there is a basket for all inactive ballots (a no votes remaining for a candidate that is still viable). The greater that pile gets, the greater the chance. The bigger the pile gets, the greater the chance that the winner will not have enough ballots to get to 50%.

Only one vote is ultimately counted, but they get several opportunities to tell us based on who is left, how you want to have your one vote count. He encouraged the audience to watch the on line video, or to watch the reallocation in person.

William Moore stated because of Mr. Mansky's explanation, he trusts the situation, but does not necessarily favor ranked-choice voting.

Mr. Mansky stated that all of this information is on the website: RCElections.org

Peter Butler asked if there has been any instance where the first choice votes did not win the election

Mr. Mansky stated that it has not happened here, but has in Oakland.

No guarantee that it could not happen here.

Commissioner Repke pointed out that in 2011 the person who was 2nd on election night was not in final two for the final count.

Commissioner Alton asked whether Mr. Mansky anticipates an electronic reallocation to be approved even though the Secretary of State has not approved the electronic reallocation system.

Mr. Mansky stated that it is the Legislation's decision, the Secretary of State has authority to examine and improve the voting systems in Minnesota. He does not have a law that tells him what he is supposed to do to test whether a method of voting meets whatever standard is set.

We are waiting for legislature to allow him to enact a law.

Chair Kramer asked for other questions.

Shawn Towle asked Mr. Mansky to if he could explain *Arrow's Theorem of Improbability* (if there are more than 4 candidates on the ballot, it is improbable that you will get a majority)?

Mr. Mansky was not familiar with that theorem.

Mr. Moore asked how it was determined to have 6 candidates.

Mr. Mansky stated that the City Council made that decision. The City of Minneapolis, which pre-dates ours by a couple of years, only allows 3. We told the council we could accommodate more choices.

City Council wanted more choices and settled on six.

Commissioner Repke pointed out that realistically, this is what would fit on the ballot in columns that would be readable to the average voter. More than 6 would require an extended length ballot.

Mr. Mansky explained that if we get 12 candidates, 6 choices would consume one side of a 17-inch (maximum size) ballot, all would be on one side, other side would be questions and school board.

Commissioner Meda asked if our equipment being used in any other jurisdiction.

Mr. Mansky explained that ours is brand new and currently for this vendor, we are the largest jurisdiction in the country using it. As best he knows there are not very many jurisdictions using this system, we are the only one with ranked choice voting.

Jeanne Massey, Executive Director of Fair Vote Minnesota asked for clarity on the equipment, it is her understanding that it has the capacity to tabulate a ranked choice election. Could you explain the process and the hiccups?

Mr. Mansky explained that the system is capable of doing that but does not currently have the software application in place, because when we bid out the system, there was no reason to do that. When law is enacted we will instruct vendor to add software. If things move quickly enough this year, we would be ready to reallocate in 2017.

Mr. Moore asked if this (2017 election) would be a test (with no incumbent mayor), and if the reason the last election didn't need to use ranked choice was because there was a majority.

Mr. Mansky stated that there should get more like 60,000 votes cast with a Mayor race.

Mr. Towle stated that he has been in conversation with the vendor. The next software allocation is going to have that capacity in it, but they are not going to allow the lease of it unless there has been authority that states it can be used. He wonders if you are pursuing an actual test with results. Would the city be able to implement the use of ranked voting in the City?

Mr. Mansky said they have talked to the City Attorney about doing something on their own. The City Attorney says the Secretary of State has authority when it comes to use of voting system. The secretary of State does have the authority to authorize experimental use, but lacking direction from legislature, that is our stopping point.

Mr. Butler asked if they could design ballot to have accommodated more candidates. He noted that Mr. Mansky said the machines can't tally those, but have to be hand count anyway, could there be a more compact design?

Mr. Mansky responded that they don't know at this time that we aren't going to be able to do that. They want to make sure we are ready to go if it comes to that. They are going to set the ballot up as if it could be electronically reallocated.

Commissioner Repke added that anytime you have to assign numbers, it makes it more confusing. It is less confusing if you ask them to go to column one for first choice, column two for second choice, than if you ask them to go for "Smith" and give Smith a 1 – 5.

Mr. Mansky stated that currently, our voting systems count vertically, not horizontally. Minnesota voting systems count vertically. To do something different is where we need approval from the state

Mr. Moore asked whether these changes will not occur in 2017.

Mr. Mansky said it is a possibility that they want to be prepared for.

Fred Melo, Pioneer Press asked if there is software lined up.

Mr. Mansky said there is not.

Mr. Melo asked if the legislation happens, could it be in place by November.

Mr. Mansky stated that if it looks like it is getting traction, they will have it ready.

Chair Kramer asked for any final questions. Thanked guests for their participation

REPORTS OF STANDING COMMITTEE

No standing committee reports.

Chair Kramer asked commissioners to select what committee they are interested in serving on: The Communications Committee or the Charter Review Committee. Meetings will be called after committee membership is appointed. Rachel (Tierney) is looking into standing rules about appointing. He noted that they need to avoid a majority serving on one committee, so all may not be appointed to every committee they are interested in.

Commissioner Repke stated that he hopes they select chairs soon and have a meeting reasonably soon so there is opportunity for public input before July 11.

Chair Kramer responded that our standing rules require three readings (our rules, not imposed). They can be waived, but we would probably want to follow our standing rules.

The Charter Review Committee could consider if amendment is not substantial, charter review committee could put forward as an amendment (not substantial) without having it go on the ballot, if we can get unanimous approval from the council.

There are different options for amending the charter, but substantial amendments require ballot voting.

Language changes are minor amendment,

Voting method changes has traditionally gone to go to voters for approval.

Pick a date, which can be cancelled, so there is time for committees to meet.

Commissioner Repke stated that the date could be used for the first reading.

Chair Kramer concurred and stated that in general Wednesdays are not preferred, due to City Council meetings.

Commissioner Alton asked if they are being speculative and whether they could set a November meeting and call an additional meeting if there were business.

Chair Kramer stated that he would like to have a date established so it is out there and can meet ballot deadlines if something needs to go to the ballot, or if it is a minor amendment there would be time for it to go to the City Council.

Commissioner Repke suggests Monday February 27.

The next meeting of the Charter Commission was set as February 27, 2017.

If there are recommendations of committees, it will not be canceled. If additional readings are necessary, dates will be set at that meeting.

OTHER BUSINESS

None.

ADJOURNMENT

Meeting adjourned at 5:30 pm

Moore, Shari (CI-StPaul)

From: Tom Goldstein <tom_goldstein@comcast.net>
Sent: Monday, February 27, 2017 12:46 AM
To: rjfkramer@aol.com; debmontgomery@comcast.com; bridget@bridgetfaricy.com; Filice, Amy (CI-StPaul); leenegeolela@gmail.com; jpkirr@gmail.com; Joycea0805@gmail.com; DEMAEDA@msn.com; gladysmort@aol.com; vrybin@infionline.net; brian@mcclay-alton.com; 'Rick Varco'; Chuckrepke@aol.com
Cc: Moore, Shari (CI-StPaul)
Subject: Ranked Choice Voting should not be repealed!

Dear Charter Commission Member:

I am writing to let you know that I oppose the effort of a small group of political activists to repeal Ranked Choice Voting in St. Paul. While I initially opposed Ranked Choice Voting in 2009, the fact that voters approved the measure after supporters gathered enough signatures to place the measure on the ballot convinced me otherwise. Not only does RCV increase the likelihood that we will have more competitive political races, it eliminates costly primaries in which turnout has sometimes been in the single digits.

Those arguing for the repeal of RCV claim that the new voting method is confusing to voters and has done nothing to improve voter turnout. While the latter part of this statement may be true, demonizing RCV for continued low turnout after only a few election cycles is nothing more than a partisan effort to make sure that one-party rule remains the rule in our city. The traditional primary system was in place in St. Paul for nearly a hundred years before being replaced by RCV. Perhaps we should give RCV a few decades of use before we start making overall judgments about its effectiveness.

Supporters of RCV were required to gather more than 6,000 signatures in order to put the question of RCV before St. Paul voters in 2009. It seems only fair that those who desire to repeal this system be required to do the same in order to demonstrate public support for their position. Allowing this measure to move forward absent that effort would be an insult to the community.

There should be no short-cuts in the democratic process. Please reject this attempt to repeal RCV. Thank you.

Best,

Tom Goldstein

P.S. Please note that as a candidate for mayor I also wish to have my name included as a signatory to the letter previously sent to you by Elizabeth Dickinson and Councilmember Dai Thao.

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Tom Goldstein for Saint Paul

Moore, Shari (CI-StPaul)

From: Ellen Brown <ellen@thebrownpartners.com>
Sent: Friday, February 24, 2017 11:28 AM
To: Moore, Shari (CI-StPaul)
Subject: To Charter Commission

Date: February 23, 2017

To: Saint Paul Charter Commission

From: Ellen T Brown
Chair, Saint Paul Better Ballot Campaign

This memo is in response to my having recently learned that the Charter Commission is considering a ballot initiative that would deny Saint Paul voters the use of ranked voting in City elections.

This year will see the first contested mayoral race since ranked voting came into use, which makes it also the first serious citywide test of ranked voting. It will happen with or without a repeal initiative going forward. Why would the Commission pursue repeal before seeing how well the system serves us in this race?

Further, three reasons compel me—on behalf of the voters who chose the ranked voting method by ballot initiative in 2009—to oppose repeal

1) A return to the nonpartisan primary-general election system would once again disenfranchise huge swaths of voters. A low turnout primary election results in two candidates presented in the general election who, in the last citywide primary (2009) prior to RCV, were selected by just 7 percent of registered voters (and turnout that year was double that from 2007). It's also essential to note that primary participation historically has not included a significant number of minority voters. Under ranked voting, all the voters get to weigh in on a full slate of candidates in a single decisive election in November. And the city doesn't have to bear the cost of a primary.

2) Some have been critical of ranked voting saying it doesn't really result in a majority of those voting choosing the winner, as some voters don't choose to rank; so if their chosen candidate doesn't earn a position in the second (or third) round of counting, their vote isn't counted. But this action is no different from a voter's candidate losing in the primary and the voter then not bothering to vote in the general election. It is a choice she makes. In any case, the percent of those voting in the final round in recent RCV elections has still not only far outnumbered those voting in primary elections in the past, but the total number of voters helping elect the winner in November is higher: In 2007, the last Ward 2 race under the primary-general election system, the number of voters casting a vote on election day was 5,199. In 2015, the number of voters casting a vote in the final runoff round was 5,226.

It's really important here to understand how much more power voters have under ranked voting by eliminating the disenfranchising primary and holding one high turnout election in November.

3) The turnout in the general election since ranked voting was adopted has increased in the wards with contested races, a goal we should all support. In Ward 2, where ranked voting has come into play, turnout for the 2015 city council race was 6 percent higher than in 2011, and was the Ward's highest turnout for a municipal election in a decade.

One opponent of ranked voting recently said that more choice is bad for voters. I couldn't conceive of a more arrogant statement and one that shows distrust of voters. We know from the experience in St. Paul ward races and races in other cities that use RCV across the country, more choice does not confuse voters and, in fact, it is what they are demanding.

Reducing voters' choice by repealing the ranked voting system is contrary to our belief in democracy.

It is ironic that opponents of ranked voting, who fret (needlessly, according to Joe Mansky) about its being confusing to voters, are promoting a ballot initiative to repeal in the same election that most city voters will have their first chance to use it in a competitive election. At a minimum, the Charter Commission should wait for further consideration of ranked voting until after November when we will see whether the system continues to produce the successful elections it has thus far.

Respectfully,

Ellen T Brown
874 Fairmount Avenue
Saint Paul MN 55105
651-225-5650



705 Raymond Ave.
Suite #100
Saint Paul, MN 55114
651.641.6199

February 27, 2017

Rich Kramer, Chairman
Charter Commission
15 Kellogg Blvd., W.
Room 220, City Hall
Saint Paul, MN 55102

Chairman Kramer:

I write on behalf of TakeAction Minnesota to express our support for St. Paul's system of ranked choice voting and ask that it not be altered or undone by the Charter Commission.

In 2009, TakeAction Minnesota supported tens of thousands of St. Paul voters to amend the City charter to include ranked choice voting. Our members felt that this commonsense way to cast a ballot would make elections more about issues and less about personal attacks. They recognized that ranked choice voting gives voters more candidates to choose from and eliminates small turnout primaries that stifle democratic participation. It makes our elections better and more representative.

RCV has delivered, and is now our custom in St. Paul. It is the election system we know, and it works. The system should not be torn down.

We respectfully ask that you leave our system of voting in place.

Sincerely,

Dan McGrath
Executive Director

CC: Shari Moore, Clerk

RESOLUTION to the Charter Review Committee of the Saint Paul Charter Commission
Commissioner John Paul (Jack) Kirr
February 27, 2017

WHEREAS File # CCI 17-3 Version 1 ("Agenda #3") on the February 27, 2017 Charter Review Committee meeting agenda ("February Meeting"), is described as *Charter amendments raised at the December 27, 2016 Charter Commission meeting* ("December Meeting") and includes an attached file labeled "12-27-16 Charter Commission Meeting Minutes" ("December Meeting Minutes").

WHEREAS the December Meeting Minutes ARE NOT APPROVED by the Charter Commission.

WHEREAS a letter from five (5) City Council members to the Charter Commission dated December 21, 2016 ("Council Letter") is NOT ON THE RECORD in the hyperlink within the December Meeting Minutes on the February Meeting agenda.

WHEREAS a letter from Commissioner Repke dated December 27, 2016 in response to the Council Letter ("Repke Response") is NOT ON THE RECORD in the hyperlink within the December Meeting Minutes on the February Meeting agenda.

WHEREAS both the Council Letter and the Repke Response were NOT ENTERED INTO THE PUBLIC RECORD at the December Meeting during the "Citizen Comment" period.

WHEREAS the only proposed charter amendments raised IN THE PUBLIC RECORD during the "Citizen Comment" period at the December Meeting were three (3) proposed amendment changes from a Mr. Peter Butler of Saint Paul.

WHEREAS the Charter Commission did not *Commit to Committee* any proposed charter amendments raised at the December Meeting, including the proposed amendment changes from Mr. Butler.

WHEREAS the procedural questions relating to matters within this resolution, asked by Commissioner Kirr on February 24, 2017 and February 25, 2017 (attached to this resolution in their entirety), HAVE NOT ALL BEEN ANSWERED SATISFACTORILY by the Saint Paul City Attorney prior to the February Meeting.

WHEREAS any consideration of Agenda #3 at the February Meeting puts the City of Saint Paul at risk of acting arbitrarily and capriciously.

RESOLVED that Agenda #3 should be removed from the February Meeting agenda.

from: jpkirr@gmail.com
to: "Tierney, Rachel (CI-StPaul)" <rachel.tierney@ci.stpaul.mn.us>

cc: "Chuckrepke@aol.com" <Chuckrepke@aol.com>,
"brian@mcclay-alton.com" <brian@mcclay-alton.com>,
"amyfilice@gmail.com" <amyfilice@gmail.com>,
"debmontgomery@comcast.com" <debmontgomery@comcast.com>,
"carriejwasley@q.com" <carriejwasley@q.com>,
"Rick.Varco@seiuhealthcaremn.org" <Rick.Varco@seiuhealthcaremn.org>,
"vrybin@info-line.net" <vrybin@info-line.net>,
"kdc2@comcast.net" <kdc2@comcast.net>,
"rjfkramer@aol.com" <rjfkramer@aol.com>,
"Joseph.Mansky@CO.RAMSEY.MN.US" <Joseph.Mansky@co.ramsey.mn.us>

date: Fri, Feb 24, 2017 at 6:21 PM
subject: Re: Charter Commission Review Committee meeting

Thank you Rachel,

(0) I would like answers to the questions below before the Monday meeting.

(1) What is the relationship between the Charter Review Committee (the body convening on Monday) and the Charter Commission itself? Where is this relationship documented?

(2) What does the agenda item CCI 17-3 "Charter amendments raised at the December 27, 2016 Charter Commission meeting" ask of the Charter Review Committee? Is this a discussion? A vote? Something else?

(3) What specifically are these "raised" amendments? The only ones I see on the city website - and the only ones I heard proposed at the December 27th Charter Commission meeting - are the three entered during the "Citizen Comment" period by a Mr Butler of Saint Paul.

(4) By what means were Mr Butler's three raised amendments added to the Charter Review Committee agenda when the raised amendments themselves were entered into the record at a Charter Commission meeting?

(5) What if anything happens to any of Mr Butler's three raised amendments after an action (?) by the Charter Review Committee? Are they brought to the Charter Commission? The city council?

(6) How is the Charter Review Committee able to take any action on these three raised amendments if the Charter Review Committee itself is only "reviewing" (emphasis added) its own role in CCI 17-2 "Review of the Committee Role"?

Kind regards,

John Paul (Jack) Kirr

from: jpkirr@gmail.com
to: "Tierney, Rachel (CI-StPaul)" <rachel.tierney@ci.stpaul.mn.us>

cc: "Chuckrepke@aol.com" <Chuckrepke@aol.com>,
"brian@mcclay-alton.com" <brian@mcclay-alton.com>,
"amyfilice@gmail.com" <amyfilice@gmail.com>,
"debmontgomery@comcast.com" <debmontgomery@comcast.com>,
"carriejwasley@q.com" <carriejwasley@q.com>,
"Rick.Varco@seiuhealthcaremn.org" <Rick.Varco@seiuhealthcaremn.org>,
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"kdc2@comcast.net" <kdc2@comcast.net>,
"rjfkramer@aol.com" <rjfkramer@aol.com>,
"Joseph.Mansky@CO.RAMSEY.MN.US" <Joseph.Mansky@co.ramsey.mn.us>

date: Sat, Feb 25, 2017 at 9:38 PM
subject: Re: Charter Commission Review Committee meeting

Hi Rachel,

I have several additional questions I would like answers to, below, before the Monday 2/27 meeting of the Charter Review Committee.

At the end of the "Citizen Comments" section of the December 27 Charter Commission meeting minutes, there is a note stating "Two letters, classified under citizen comments (attached)."

- (1) Where are these attachments on the city website? I cannot find them on the city website.
- (2) Please verify these two letters are (a) A 12/21 letter to the Charter Commission from five (5) St Paul City Council members and (b) Commissioner Repke's 12/27 response to that letter.
- (3) If (2) is true then by what means, exactly, are these two letters able to be included as "Citizen Comments"?

These letters were not entered into the public record by a committee motion. To my recollection neither letter was formally introduced to the committee but were only left on our desks.

To my recollection the Charter Commission made no direct reference to these letters during the 12/27 meeting, and I am unable to find any reference to them in the 12/27 Charter Commission meeting minutes - other than in (2) above if verified.

Importantly none of the "citizens" or public attending the Charter Commission meeting saw or heard the information contained in either letter.

- (4) Notwithstanding the foregoing, by what means, exactly, can a Charter Commissioner respond to a letter to the Charter Commission contemporaneously with the receipt of that letter (whether or not entered into the public record) to the Charter Commission?

History of charter change

2009 Charter amendment passed. YES 17,083 - 52.455 – NO 15,486 – 47.55%

Charter Change requires 51% positive vote. 32,569 votes cast 16,611 needed.

Charter Change passed by 472 votes.

November 2009, Unfair Campaign Practice charges brought against the “Saint Paul Better Ballot Campaign” for making knowingly and deliberate false claims of endorsement of the Minnesota DFL and the League of Women Voters as well as use of the names of national figures including President Obama in over 40,000 pieces of campaign literature.

Order of the administrative law judges is that the violations “were multiple and deliberate” and that they “created an unfair advantage...” “but the impact on the election cannot be quantified on this record.”

They fined the campaign the maximum allowed \$5,000.00.

Since then we have had three elections under ranked choice voting.

In 2011, the first instant runoff occurred in Ward 2. The incumbent won when the third place finisher passed the second place finisher after the votes of the fourth and fifth place finisher were dropped.

In 2013, we had a record low voter turnout in the Mayor’s race and elected our first City Council Member with less than 50% of the people voting that day. Dai Thao was elected with 39.7% of the vote. Of the 2444 people who did not cast votes for the top two vote getters and were available for redistribution only 1178, 48.2% transferred to the final two candidates and 51.8% were “inactive” or in other words 1266 voters 25.5% of those voting in Ward 1 that day ended up not voting in the final vote count.

In 2015, we elected our second City Council member without a majority of those voting. Rebecca Noecker was elected with 48.4% of the vote. Of the 1209 votes that did not vote for one of the two top vote getters, 627 votes 52% of those available transferred to other candidates and 582 votes 48% of those available did not transfer, this time leaving 10% of the people who voted that day not participating in the final vote count.

ORDER

IT IS ORDERED:

That having been found to have violated Minn. Stat. § 211B.02, Respondent Saint Paul Better Ballot Campaign shall pay a civil penalty of \$5,000 by January 1, 2010.³⁶

Dated: November 30, 2009

s/Kathleen D. Sheehy
KATHLEEN D. SHEEHY
Presiding Administrative Law Judge

s/Cheryl LeClair-Sommer
CHERYL LECLAIR-SOMMER
Administrative Law Judge

s/Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

Reported: Digitally recorded, no transcript prepared.

NOTICE

This is the final decision in this case, as provided in Minn. Stat. § 211B.36, subd. 5. A party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69.

MEMORANDUM

There are two issues in this case. The first is whether the St. Paul BBC knowingly and falsely claimed that the ballot question was endorsed by organizations including the Minnesota DFL, the Minnesota League of Women Voters, and the St. Paul League of Women Voters. The second is whether the St. Paul BBC claimed

³⁶ The check should be made payable to "Treasurer, State of Minnesota" and sent to the Office of Administrative Hearings, P.O. Box 64620, St. Paul MN 55164-0620.

endorsement by several individuals—President Obama, Sen. John McCain, Ralph Nader, and Cynthia McKinney—without obtaining their written permission.

With regard to the claim of false endorsement by the organizations, the Respondent's evidence focused on the extent to which these organizations have indicated support for IRV. It is not disputed that the Minnesota DFL generally supports the use of IRV in state and local elections and that this position is included in the DFL Action Agenda. Nor is it disputed that the League of Women Voters (both the Minnesota League and the St. Paul affiliate) has found IRV to be an acceptable voting system, along with plurality voting. The issue here is whether the St. Paul BBC properly used these general statements of support for IRV in claiming in its literature that the DFL and the League of Women Voters "endorsed" the ballot question in St. Paul.

The Respondent argues that there is no legal or factual distinction between "support" for IRV and "endorsement" of a ballot question. It contends that the two words are interchangeable and that it is free to call the general statements of support by these organizations an "endorsement" of the ballot question.³⁷

As a legal matter, the statute at hand provides that a person may not "knowingly make, directly or indirectly, a false claim stating or implying that a candidate or ballot question has the support or endorsement of a major political party or party unit or of an organization."³⁸ The statute by its terms expressly differentiates between "support" and "endorsement." In interpreting this language, the Minnesota Supreme Court has recognized that there is a distinction between the words "support" and "endorsement." In *Schmitt v. McLaughlin*, a candidate who was not endorsed by the DFL party used the initials "DFL" on advertisements and lawn signs.³⁹ The Court concluded that the "use of the initials 'DFL' would imply to the average voter that [the candidate] *had the endorsement or, at the very least, the support of the DFL party.*"⁴⁰ This interpretation is consistent with the canon of statutory construction requiring that meaning be given if possible to each word in a statute.⁴¹ Moreover, the Court indicated that the determination whether a person has the endorsement or support of a political party is a matter that can be objectively determined.⁴²

As a factual matter, the record reflects that the organizations themselves have specific procedures for persons wishing to obtain statements of support or

³⁷ The Respondent provided testimony to this effect and cites to *Buckley v. Valeo*, 424 U.S. 1, 44 n. 52 (1976), for the proposition that these words are synonymous. In *Buckley*, the United States Supreme Court held, among other things, that the independent expenditure provisions of the Federal Election Campaign Act were unconstitutional. The cited footnote explains that communications expressly advocating the election or defeat of a candidate for public office were subject to this limitation. The panel does not believe *Buckley* sheds any light on the issues raised in this case.

³⁸ Minn. Stat. § 211B.02.

³⁹ 275 N.W.2d 587 (Minn. 1979).

⁴⁰ *Id.*, 275 N.W.2d at 591 (emphasis added).

⁴¹ Minn. Stat. § 645.16 ("Every law shall be construed, if possible, to give effect to all its provisions"); Minn. Stat. § 645.17(2) (it is presumed that "the legislature intends the entire statute to be effective and certain").

⁴² 275 N.W.2d at 591.

endorsement. The DFL party permits endorsements of candidates only by a 60% affirmative vote of delegates present and voting, but no convention representing a geographical area less than the area competent to elect the public official may endorse a candidate.⁴³ The DFL's position on ballot questions is similar. The process for taking a formal DFL Party position on any ballot question and, if desired, placing the question on the official DFL Sample Ballot, requires a 60% affirmative vote, and the body with authority to take an official stand on that question is the party unit having the smallest jurisdiction that includes the entire electoral district that will vote on the ballot question.⁴⁴ In this case, that means that only the St. Paul DFL had the authority to take a position on the St. Paul ballot question. The League of Women Voters has an official position statement, developed in 2005 and unchanged since then, that supports both the use of IRV in state and local single-seat elections, and the continued use of a plurality voting system.⁴⁵ Neither the Minnesota League of Women Voters nor the St. Paul League of Women Voters has specifically endorsed the use of IRV in lieu of plurality voting in any election.

The Respondent argues that it could properly characterize the general statements of support by these organizations as an "endorsement," because based on *Kennedy v. Voss*,⁴⁶ even "extreme and illogical inferences" based upon accurate statements of fact are not actionable as false statements in campaign literature. That case involved an allegedly false statement regarding a candidate's voting record, and the violation alleged was of Minn. Stat. § 210A.04, subd.1, a predecessor of Minn. Stat. § 211B.06. Claims asserted under § 211B.06 are subject to a different and higher standard of proof. As noted by the Minnesota Supreme Court, the support or endorsement of an organization, when challenged under § 211B.02, is a matter that can be objectively determined. In addition, claims of ignorance about the permissible limits of claiming endorsements, particularly with regard to the implication of endorsement by the DFL party, are viewed with some skepticism.⁴⁷

The record is clear in this case that the Respondents were well aware of the official positions of these organizations. The Respondent successfully obtained the endorsement of the St. Paul DFL party in 2007; however, the presentation of the ballot question to voters was delayed due to the litigation over IRV in Minneapolis. When that matter was resolved,⁴⁸ the Respondent again sought the endorsement of the St. Paul DFL; this time, however, it failed to obtain the requisite number of votes. This was the second major campaign spearheaded by Ms. Massey, who previously directed the successful ballot initiative in Minneapolis. She was personally involved in the BBC's unsuccessful effort to obtain the endorsement in St. Paul, and her testimony that she

⁴³ Ex. R-14 at Art. 3, Section 4, subsection H.

⁴⁴ *Id.* Section 15.

⁴⁵ Ex. R-7.

⁴⁶ 304 N.W.2d 299 (Minn. 1981).

⁴⁷ See *In the Matter of Ryan*, 303 N.W.2d 462, 468 (Minn. 1981); *In the Matter of Daugherty v. Hilary*, 344 N.W.2d 826, 832 (Minn. 1984).

⁴⁸ See *Minnesota Voters Alliance v. City of Minneapolis*, 766 N.W.2d 683 (Minn. 2009) (rejecting a number of constitutional challenges to IRV, as adopted by ordinance in Minneapolis).

was unaware that she could not claim endorsement by the "DFL" or the "Minnesota DFL" is not credible.

Likewise, the Respondent was well aware of the position of the League of Women Voters; it worked with League representatives to put the "Vote Yes" question on the ballot in 2007, and it participated in a forum shortly before the recent election in which the League's official position was read before the commencement of a debate between the Respondent and Complainant Chuck Repke. The argument that the Respondent believed it could claim "endorsement" of the ballot question by the League, based on either a partial reading of the League's position, or on personal expressions of support by individual League members or officers, is lacking in credibility.

With regard to the claimed endorsements by individuals, the Respondent admits that it made no effort to obtain written permission from President Obama, Sen. McCain (the endorsed Republican candidate for president in the last election), Ralph Nader (an independent, endorsed Reform Party, and endorsed Green Party candidate for president in the past), or Cynthia McKinney (an endorsed Green Party candidate for president in the last election). The Respondent contends that it would be "absurd" to require that national political leaders, who have taken public positions on specific issues, must provide written permission to use their names in support of local ballot initiatives addressing those issues. In addition, Ms. Massey testified that she was unaware that it was necessary to obtain written permission before using the names of individuals in its literature.

The statute unequivocally provides that "A person or candidate may not state in written campaign material that the candidate or ballot question has the support or endorsement of an individual without first getting written permission from the individual to do so."⁴⁹ There is no exception for national political leaders. As with support claimed from organizations, it should be an easy matter to objectively determine whether an individual has provided permission to use that individual's name in support of a candidate or ballot question. The Respondent could truthfully have said in its literature, without obtaining written permission, that as a state legislator in 2002, President Obama introduced legislation that would have permitted municipalities to adopt instant runoff voting for the positions of mayor, city clerk, and city treasurer.⁵⁰ It could truthfully have said, without obtaining written permission, that Sen. McCain, in 2002, supported an IRV ballot question in Alaska; or that Ralph Nader said in a debate in 2008 that IRV was something that should be examined. But these are far different messages than saying, without written permission, that the St. Paul ballot question was "endorsed" by President Obama, Sen. McCain, and the others.

The Respondent's testimony that it was not aware that written permission was required from individuals is contradicted by its acknowledgment that it in fact obtained written permission from most if not all of the state and local elected officials, former state and local officials, and other business and community leaders whose names were

⁴⁹ Minn. Stat. § 211B.02.

⁵⁰ Ex. R-23.

used in the mailings. It specifically obtained written permission from Brian Melendez, the chair of the Minnesota DFL, to say that he personally supported the ballot question. In addition, the Respondent's web site was designed to incorporate a mechanism by which individuals could provide electronic written permission to use their names as a public endorsement of "advanced voting methods like Instant Runoff Voting."⁵¹ To the extent that the Respondent is relying on testimony that it was not aware of the requirement to obtain written permission from individuals, the panel finds that this testimony is not credible.

Accordingly, the panel has concluded that the Respondent made knowingly false claims that the Minnesota DFL and the League of Women Voters "endorsed" the St. Paul ballot question and that it failed to obtain written permission from the national political figures before using their names as supporters of the ballot question, in violation of Minn. Stat. § 211B.02. The panel has concluded that these violations, which were reflected in approximately 40,000 pieces of campaign literature, were multiple and deliberate. They were made despite the clarity of the statutory prohibitions, and the Respondent remains completely unapologetic. The timing of these mailings made it difficult for opponents to respond before the election and created an unfair advantage. These false claims of support or endorsement likely influenced some voters, but the impact on the election cannot be quantified on this record. Under all the circumstances, the panel believes a fine in the amount of \$5,000 is the appropriate penalty.

K.D.S., B.L.N., C.L.S.

⁵¹ Ex. C-3.

Ward 2 Reallocation Summary Statement
November 14, 2011

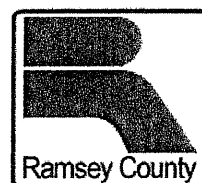
Candidate	Election Night Totals- First Choice	Hand Count Totals-First Choice	Reallocation Rounds			
			1		2	
			+/-	Subtotal	+/-	Subtotal
Dave Thune	2079	2078	75	2153	717	2870
Jim Ivey	1435	1435	86	1521	-1,521	0
Bill Hosko	1378	1378	189	1567	497	2064
Cynthia Schanno	343	344	-344	0	0	0
Sharon Anderson	118	120	-120	0	0	0
Write-in	8	8	-8	0	0	0
Suspended Ballots	0	65	-65	0	0	0
Total Votes Cast	5361	5363	0	5241	0	4934
Inactive	0	0	187	187	307	494
Total Ballots	5361	5428	5428		5428	

52.9 %

38.0 %

9.1 %

	Election Night	Hand Count
Target Calculations ((Total 1st choice votes cast/2)+1)	2681	2682



Key:	Active
	Inactive
	Winner (more than target)

TOTAL AVAILABLE
FOR REDISTRIBUTION
- IVEY, SCHANNO, ANDERSON, E+ ALL

1972

TOTAL DISBURSED

1478 - 75 %

TOTAL INACTIVE

494 - 25 %

City of Saint Paul Ward 2 Turn Out
2007 v 2011

What follows is a break down by precinct of the turn out In Ward 2 in the last two city council elections. The 2007 general election was where Thune and Hosko faced off and the 2011 IRV race where Ivey, Schanno, and Anderson joined Thune and Hosko on the ballot. What is interesting to note is where turn out is significantly up, and the characteristics of those precincts and where turn out is down.

The 2011 IRV election had a significantly (more than 10%) higher turn out in precincts 2-11 (Lowertown), 2-4 (Summit Hill); 2-6 and 2-7 (Brewery/Irvine Park/Riverfront); and 2-13 West Side Bluff.

The 2011 IRV election had a significantly lower turn out in precincts 2-15 - District Del Sol, 2-16 - Riverview School, and 2-14 - Humboldt.

The most common characteristic of the precincts with the decrease in turn out is that they have the highest minority percentage of population in Ward 2. In fact, precinct 2-15 is the only precinct that is over 50% minority members in Ward 2. 2-15 is 70% of color and 2-16 47% and 2-14 is 34.9%.

Of course, the data can't show who actually voted on election day or if it was IRV that reduced the turnout in some precincts and increased it in others. It is just interesting to note that it is a consistent pattern in city after city.

Voter turn out break down Ward 2 2007 v 2011 (% of minority member 2010 census)

Prct	% 2007	% 2011	+/-%	Min %
2-1	25.6%	27.4%	+7	10.1
2-2	28.0%	29.7%	+6	7.6
2-3	30.0%	27.4%	-9.5	18.4
2-4	19.6%	21.8%	+11	9.4
2-5	30.0%	29.4%	-2	19.4
2-6	24.5%	27.4%	+12	20.3
2-7	20.2%	23.4%	+15.8	29
2-8	17.2%	16.9%	-2	32.1
2-9	18.9%	20.2%	+7	34.1
2-11	20.7%	24.8%	+19.8	18.9
2-12	26.2%	25.7%	-2	19.3
2-13	25.2%	27.7%	+10	27.4
2-14	20.5%	18.5%	-11	34.9
2-15	11.0%	8.9%	-23.5	70.5
2-16	16.3%	13.9%	-17.2	46.8

Prct	% 2007	% 2011	+/-%	Min %
2-11	20.7%	24.8%	+19.8	18.9
2-7	20.2%	23.4%	+15.8	29
2-6	24.5%	27.4%	+12	20.3
2-4	19.6%	21.8%	+11	9.4
2-13	25.2%	27.7%	+10	27.4
2-9	18.9%	20.2%	+7	34.1
2-1	25.6%	27.4%	+7	10.1
2-2	28.0%	29.7%	+6	7.6
2-5	30.0%	29.4%	-2	19.4
2-8	17.2%	16.9%	-2	32.1
2-12	26.2%	25.7%	-2	19.3
2-3	30.0%	27.4%	-9.5	18.4
2-14	20.5%	18.5%	-11	34.9
2-16	16.3%	13.9%	-17.2	46.8
2-15	11.0%	8.9%	-23.5	70.5



Ward 1 Reallocation Summary Statement
November 11, 2013

Candidate	Election Night Totals First-Choice	Hand Count Totals-First Choice Team 1	Hand Count Totals-First Choice Team 2	Hand Count Totals-First Choice TOTALS	Reallocation Rounds											
					1		2		3		4		5		6	
					+/-	Subtotal	+/-	Subtotal	+/-	Subtotal	+/-	Subtotal	+/-	Subtotal	+/-	Subtotal
Dai Thao	1346	679	668	1347	25	1372	36	1408	155	1563	135	1698	272	1970		1970
Noel Nix	1165	535	632	1167	16	1183	50	1233	63	1296	120	1416	306	1722		1722
Johnny Howard	727	467	261	728	29	757	51	808	33	841	474	1015	-1,015	0		0
Debbie Montgomery	681	445	237	682	25	707	36	743	36	779	-779	0		0		0
Kazoua Kong-Thao	396	231	165	396	16	412	20	432	-432	0		0		0		0
Mark Voerding	266	117	148	265	27	292	-292	0		0		0		0		0
Paul Holmgren	178	82	96	178	-178	0		0		0		0		0		0
Write-in	7	2	5	7	-7	0		0		0		0		0		0
Total Votes Cast	4766	2558	2212	4770	0	4723	0	4624	0	4479	0	4129	0	3692	0	3692
Suspended Ballots	193	23	35	58	-58											
Inactive		67	63	130	105	235	99	334	145	479	350	829	437	1,266		1266
Total Ballots	4959	2648	2310	4958	4958		4958		4958		4958		4958		4958	

39.7%
34.7%

25.5%
25.5%

TOTAL AVAILABLE
FOR REDISTRIBUTION
- HOWARD, MONTGOMERY, KONG-THAO -
VOERDING, HOLMGREN ET AL -

= 2444

1178 - 48.2%

TOTAL DISBURSED
TO OTHER CANDIDATES

= 1266

TOTAL INACTIVE

- 51.8%

Target Calculations (Total 1st choice votes cast/2)+1	Election Night	Hand Count
2384	2386	

Key:	Active	Inactive
Winner (more than target, when count is complete)		

Ward 2 Reallocation

Candidate	Election Night Totals- First Choice	Hand Count Totals-First Choice Team 1	Hand Count Totals-First Choice Team 2	Hand Count Totals- First Choice TOTALS	Reallocation Round	
					1	
					+/-	Subtotal
Rebecca Noecker	2390	1262	1129	2391	391	2782
Darren Tobolt	2207	919	1289	2208	236	2444
Bill Hosko	840	483	357	840	-840	0
Pat Fearing	110	45	65	110	-110	0
Sharon Anderson	93	59	35	94	-94	0
Michael C Johnson	75	39	37	76	-76	0
Write-in	19	8	11	19	-19	0
Suspended Ballots	n/a	34	36	70	-70	0
Total Votes Cast	5734	2849	2923	5738	0	5226
Inactive	0				582	
Total Ballots	5734	2849	2923	5738	5226	

48.4%
42.6%

100%

	Election Night	Hand Count
Target Calculations ((Total 1st choice votes cast/2)+1)	2868	2870

TOTAL AVAILABLE FOR REDISTRIBUTION
(HOSKO, FEARING, ANDERSON, JOHNSON ET AL)

1209

TOTAL DISBURSED TO OTHER CANDIDATES

627 - 52%

TOTAL INACTIVE

582 48%

Key:	Active
	Inactive
	Winner (more than target)

Sec. 6.09. Item veto.

Any ordinance or resolution shall be approved or vetoed by the mayor in its entirety, except that any item in a measure appropriating money may be approved or vetoed.

(C.F. No. 98-374, § 1, 11-25-98)

Sec. 6.10. Reconsideration and overriding veto.

Any ordinance or resolution or any part of an appropriation measure which has been vetoed may be reconsidered by the council and shall become law if passed by an affirmative vote of at least five (5) members within thirty (30) days of the veto. Any such ordinance or resolution or any part of an appropriation measure which has been reconsidered by the council and repassed shall be deemed approved.

(C.F. No. 98-374, § 1, 11-25-98)

Sec. 6.11. Effective date of ordinance.

Emergency ordinances shall be effective upon passage, approval and publication once in any legal newspaper, unless a later date is specified in the ordinance. All ordinances other than emergency ordinances shall become effective thirty (30) days after passage, approval and publication once in the official newspaper unless a later date is specified therein.

(C.F. No. 98-374, § 1, 11-25-98)

Sec. 6.12. Codification.

The council shall provide for the compilation of legislative ordinances in a legislative code and administrative ordinances in an administrative code.

(C.F. No. 98-374, § 1, 11-25-98)

Sec. 6.13. Prima facie evidence.

Any codification or compilation of the ordinances or resolutions of the city prepared under the direction of the council or any copy of any ordinance or resolution certified by the city clerk shall be prima facie evidence of its contents and of

the regularity and legality of its adoption and shall be admitted as evidence in any court without further proof.

(C.F. No. 98-374, § 1, 11-25-98)

CHAPTER 7. ELECTIONS***Sec. 7.01. City elections.**

The election of city officers and such other officers as are required by law to be elected at a city election shall be held on the first Tuesday after the first Monday in November in odd numbered years.

Note—Amended, see Note 2 following Chapter 2.

Sec. 7.02. Voter qualifications.

Every person entitled to vote under the provisions of the Constitutions of the State of Minnesota and of the United States, and who shall fulfill the requirements prescribed by law, shall be entitled to vote in all elections.

Sec. 7.03. Qualifications of candidates.

Every person eligible to office under the Constitution of the State of Minnesota shall be eligible to file for election.

Sec. 7.04. Name on primary ballot.

Not later than six (6) weeks nor more than eight (8) weeks before the primary election, any

*Administrative code reference—For administrative provisions relative to elections, see Title IV, Subtitle E.

person eligible may, by filing an affidavit and payment of fifty dollars (\$50.00) to the city clerk, have his or her name placed on the primary election ballot. Each person desiring to have his or her name placed on the primary ballot for councilmember shall state in the affidavit of candidacy the district for which he or she is a candidate. (Ord. No. 17665, § 5, 6-29-89)

Editor's note—Section 7.04 amended, election Nov. 4, 1980; see Resolution, C.F. 275919 and Note 1 following Chapter 2; further amended by Ord. No. 17412, see Note 4 to Chapter 2; further amended by Ord. No. 17413, C.F. 86-1425, adopted by city council Nov. 5, 1986, pursuant to Minnesota Statute, Section 410.12.

Sec. 7.05. Primary election.

A primary election shall be held on the first Tuesday after the second Monday in September preceding any municipal election day.

Note—Amended, see Note 2 following Chapter 2.

Sec. 7.06. City election candidates.

If the law prescribes that the election of mayor and councilmember be by party designation, the candidate of each party receiving the highest number of votes in the primary election for the office of mayor or the office of councilmember in any district shall be declared the nominee of his party for the office at the next city election and the candidate's name shall be placed on the municipal election ballot, together with the name of any candidate for the office nominated by petition in accordance with the law. If the law does not provide for election by party designation, the two (2) candidates for mayor receiving the highest number of votes in the primary election for the office and the two (2) candidates for the council in each district receiving the highest number of votes for council in that district shall be declared the nominees and the only nominees for the respective offices at the next city election.

(Ord. No. 17665, § 5, 6-29-89)

Editor's note—Section 7.06 amended, election Nov. 4, 1980; see Resolution C.F. 275919 and Note 1 following Chapter 2; further amended by Ord. No. 17412, see Note 4 to Chapter 2.

Sec. 7.07. Special election.

The council may by resolution, adopted by affirmative vote of at least five (5) members, order a
Supp. No. 9

special election when deemed necessary for any purpose and provide for the holding of the election.

Sec. 7.08. Election procedure.

Except where in conflict with the provisions of this Charter, the conduct and procedure of all elections shall be governed by the applicable statutes, together with supplementary ordinances passed by the council.

Editor's note—Section 7.08 amended, election Nov. 7, 1978; see also Section 7.09.

Sec. 7.09. Nonpartisan election.

Notwithstanding any other provision of law, all elections for the office of mayor or councilmember shall be held on a nonpartisan basis, with no party designation on the ballot for such offices.

Editor's note—Party designation amendment submitted to voters at election Nov. 7, 1978 and approved. C.F. 272037, adopted Nov. 14, 1978.

Sec. 7.10. Canvass of returns.

Within seven (7) days after the election, the city council shall canvass the returns and declare the results of the election.

Editor's note—Section 7.10 added by Ord. No. 17047, C.F. 279148, adopted by the city council Aug. 25, 1983, pursuant to Minnesota Statutes, Section 410.12.

CHAPTER 8. INITIATIVE, REFERENDUM, AND RECALL

Sec. 8.01. Initiative, referendum and recall.

The people shall have the right to propose ordinances, to require ordinances to be submitted to a vote, and to recall elective officials by processes known respectively as initiative, referendum and recall.

Sec. 8.02. Petition.

Initiative, referendum or recall shall be initiated by a petition signed by registered voters of the city equal in number to eight (8) percent of those who voted for the office of mayor in the last preceding city election in the case of initiative or referendum, and twenty (20) percent in the case of recall.