

September 9, 2021

RE: Charter Commission Item CCI 21-7, Public Hearing on Civil Penalties - September 13, 2021

Dear Chairman Alton and Commissioners,

Please accept these public comments as you consider the City Council's request for Civil Penalties.

1. St. Paul's proposal leaves its citizens with little legal protection due to the threat of court costs exceeding the fine.

[Bloomington](#), [Minneapolis](#), [St. Cloud](#) and [Duluth's](#) adoption of civil penalties is one reason our city is requesting the Commission to amend the Saint Paul Charter.

Compared to these cities, St Paul is the only one seeking to impose administrative hearing costs of \$22,700¹ onto residents. Recently, hearing costs amounting to \$21,907 were imposed onto a respondent for a first-time offense under file [RES PH 20-12](#) even though the administrative hearing officer made no finding of bad faith on the part of the respondent.

Bloomington splits the hearing costs equally between the parties. Minneapolis, St Cloud and Duluth all pay the expenses of these hearings, mirroring State [Statute](#) requirements requiring the municipality to pay all Administrative Hearing costs.

2. Administrative fines do not always deter a contractor from working without competency.

The June 7, 2017 issuance by the City of Minneapolis under mechanical permit no. 659466² shows this. The contractor had no competency training for moving gas meters within DOT jurisdiction³. Regardless, the permit was issued with no plan, stated scope of work or competency review.

A proper review could have prevented the loss of lives and serious injuries that occurred at the school. Fines issued after the violation occurs are too late.

The emphasis on issuing quantities of fines over quality proactive inspection are evident within the city's proposal.

The projected 2022 fines revenue is \$29,600¹ but the City Attorney said this is only "at the front end"⁴ and there will be "far more enforcement of our ordinances than there is now".³

Deputy Director Niziolek stated "he used the (civil fine) tool a lot"⁴ in Minneapolis and stated that traffic enforcement could be added to the list in the future.³ Deputy Bistodeau stated he issued hundreds of citations for "peeling paint," characterizing these as "serious, cosmetic offenses".⁵

Bloomington, MN (pop. 85,332) budgeted \$500,000 in civil fines revenue for 2021.⁶
St. Cloud (pop. 68,001) budgeted \$80,000 for administrative fines revenue for 2021, projecting 280 fines.⁷

¹ DSI Director Cervantes 7/29/2021 response to Charter Commission, file CCI 21-7 attachment 2.

² Please see Exhibit 1.

³ Please see Exhibit 2 and this link: <https://data.nts.gov/Docket?ProjectID=95735>

⁴ St Paul Charter Commission Public Hearing held June 28, 2021

⁵ St Paul Charter Commission meeting held in 2019

⁶ Please see Exhibit 3 and 4.

⁷ Please see pg. 103 and 54 at this link: <https://ci.stcloud.mn.us/DocumentCenter/View/21374/2021-Budget>

Duluth (pop. 85,915) budgeted \$43,400 for administrative fines revenue for 2021.⁸

Minneapolis (pop. 420,324) also budgeted for fines revenue for 2021⁹, but includes parking fines. An open FOI request seeking breakdown of revenue is pending.¹⁰

Minneapolis began their civil fines program in 2000 with this stated policy:

*“Levels of fines shall be requested according to various considerations, including legal guidelines, deterrent effect, administrative costs and revenue potential. Because the purpose of monetary penalties against those violating City ordinances is to deter continuing or future offenses, the City shall not request any increase in fine amounts with the singular purpose of revenue enhancement.”*¹¹

In 2001 Minneapolis justified hiring additional inspectors because:

*“Past experience indicates that dedicated inspectors [hired] to identify unpermitted work readily generate enough permit revenue and fees to cover their salaries.”*¹²

In 2004 City of Minneapolis policy was changed to read:

*“Levels of fines shall be set according to legal guidelines, deterrent effect, administrative costs and revenue potential.”*¹³

Fines issued by these cities are increasing year over year, not decreasing; a trend standing in contradiction to Deputy Niziolek’s statement that *“what I’ve learned about enforcement tools [civil fines] ...is when we do have tools, that the number of individuals that are non-compliant shrinks”*.¹⁴

3. The civil penalty is not a more equitable method of punishment than the present court system.

The City feels that the current system is broken because of court backlogs and their reluctance to issue criminal citations that create economic barriers. But all of the barriers cited by the city¹⁵ are felony, not misdemeanor convictions.

The city intends to seek court judgement to collect unpaid fines. But these judgements will show up on a background check and will certainly be a barrier to the person trying to find housing.

4. The civil penalty is not necessary.

We can fix the present system by changing the degree of offense within our ordinances. For example:

Ramsey County District Court has set three payable offense fines for the violation of Ordinance 200.05 (dogs at large): 1st offense = \$30, 2nd offense = \$50, 3rd offense = \$100¹⁶.

⁸ Please see pg. 64 at this link: <https://duluthmn.gov/media/11239/2021-combined-book-online-version.pdf>

⁹ Please see pg. 501 at this link: <https://www2.minneapolismn.gov/media/content-assets/www2-documents/government/2021-Adopted-Budget.pdf>

¹⁰ Please see Exhibit 5.

¹¹ Please see pg. 45 at this link: <https://www.minneapolismn.gov/media/-www-content-assets/documents/2001-adopted-budget-full.pdf>

¹² Please see pg. 666 at this link: <https://www.minneapolismn.gov/media/-www-content-assets/documents/2001-adopted-budget-full.pdf>

¹³ Please see pg. 65 at this link: <https://www.minneapolismn.gov/media/-www-content-assets/documents/2004-adopted-budget-full.pdf>

¹⁴ City Council Organizational Committee meeting held 4-21-2021

¹⁵ Please see attachment 2 at this link: <https://stpaul.legistar.com/LegislationDetail.aspx?ID=5071232&GUID=90287E90-88F0-4583-904D-CA5C3E6616FF&Options=&Search=>

¹⁶ Please see Exhibit 6.

All three are misdemeanors, because the City Council has not ordained the 1st or 2nd offense as a petty misdemeanor. If the 1st and 2nd offense would be revised downward to petty misdemeanor, the city could then name the 3rd offense as a misdemeanor subject to any fine amount the Council decides, up to \$1,000.¹⁷ Many of the city ordinances listed on the attachment¹⁸ can be treated in similar manner.

In Conclusion:

Ramsey County has the lowest household yearly income level of the Seven-County Metro Area at \$64,660. More importantly, Black/African American median household income within the Metro is \$38,822, meaning St Paul African Americans earn even less.¹⁹

Please weigh these disparities when considering the City Council request to copy legislation drafted out of municipalities where household incomes are at least \$48,000 more than the incomes of our honorable citizens.

The request for more enforcement tools should be weighed against the grey areas that exist within written codes.

In 2016 the city amended Chapter 34 of the legislative code after the Supreme Court determined that St. Paul could no longer require older homes to meet standards not in effect at the time the house was built.²⁰ For many years, the city's interpretation of the Minnesota Building code was injurious to homeowners in the city who were trying to keep up their older homes.

This year the city amended Chapter 63 by eliminating requirements for off street parking that named fines for having "too many cars" at local auto service garages.²¹ Many garages found it impossible to comply prior to the amendment.

Respectfully submitted,

John Purdy
John Purdy

10 W Delos St.
St Paul, MN 55107
651-292-9651
Jpmn0101@gmail.com

Pg. 3

¹⁷ Please see MN Judicial Council Policy 506.1 I. G. 1. b. and I. G. 4. a. at this link: https://www.mncourts.gov/mncourtsgov/media/Judicial_Council_Library/Policies/500/506-1-Statewide-Payable-Offense-Policy.pdf?ext=.pdf

¹⁸ Please see Exhibit 7

¹⁹ Please see: <https://mn.gov/deed/newscenter/publications/review/december-2020/twincities-income-poverty.jsp>

²⁰ Please see Exhibit 8 and this link: <https://www.twincities.com/2017/01/09/st-paul-housing-inspections-rip-up-building-codes-at-least-on-paper/>

²¹ <https://stpaul.legistar.com/LegislationDetail.aspx?ID=5065168&GUID=CFAA053F-3EF2-442D-9D9B-5B5F1D5186D0&FullText=1>

