



Legislation Details (With Text)

File #: RES 18-1922 **Version:** 1 **Name:**
Type: Resolution **Status:** Passed
In control: City Council
Final action: 11/14/2018

Title: Finding the Petition for a referendum of Ord 18-39 is legally sufficient but that the subject matter is not appropriate to submit to the electorate.

Sponsors: Amy Brendmoen

Indexes:

Code sections:

Attachments: 1. certification of results of petition inspection, 2. Comment rec'd by Council re Ord 18-39 Petition, 3. Online comment re Ord 18-39 petition

Date	Ver.	Action By	Action	Result
11/20/2018	1	Mayor's Office	Signed	
11/14/2018	1	City Council	Adopted	Pass

Finding the Petition for a referendum of Ord 18-39 is legally sufficient but that the subject matter is not appropriate to submit to the electorate.

WHEREAS, Saint Paul City Charter Section 8.01 states that “[t]he people shall have the right to ... require ordinances to be submitted to a vote ... by a process known as ... referendum”; and

WHEREAS, a petition seeking a referendum to repeal Ord. 18-39 which created Chapter 220 of the Saint Paul Legislative Code in order to regulate coordinated collection of certain residential trash In Saint Paul, was filed with the Office of the City Clerk on October 16, 2018 (the “Petition”); and

WHEREAS, City Charter Chapter 8 requires a petition for referendum to be signed by registered voters equal in number to eight (8) percent of those who voted for the office of mayor in the last preceding city election; and

WHEREAS, the last preceding city election was held November 7, 2017; and

WHEREAS, according to the Ramsey County Elections Manager, there were 61,646 first choice votes cast for Mayor in the 2017 election, meaning that the required number of signatures for the Petition is 4,932; and

WHEREAS, the Ramsey County Elections Manager, who supervises elections on behalf of the City, has reported to the Council that Petition signatures have been checked for compliance with the requirements of Chapter 8 of the Saint Paul City Charter; and

WHEREAS, the Ramsey County Elections Manager reports that the Petition contains 6,469 signatures, and that 5,541 of those comply with the Charter’s requirements; and

WHEREAS, Minnesota Statute § 443.28, part of the Rubbish Removal chapter of Minnesota Statutes, requires

a City to adopt rates for rubbish removal by ordinance; and

WHEREAS, Minnesota Statute § 115A.94 authorizes a city to organize collection as a municipal service by various methods including by negotiated or bidded contract, and creates a required procedure a city must follow to organize collection of trash; and

WHEREAS, Minnesota Statute § 115A.94 further states that once an agreement is made between a city and participating haulers, the city "shall" use its appropriate local controls to establish coordinated collection; and

WHEREAS, after following the statutorily-required process, on November 8, 2017 in RES 17-1776, the City Council authorized the execution of the Agreement ("Agreement") between the City and a Consortium of then-licensed trash haulers (the "Consortium") to collect residential trash for approximately 78,000 residential units in the City of Saint Paul; and

WHEREAS, following the City's execution of the Agreement, the City adopted Ord. 18-39 creating Leg. Code Chapter 220; and

WHEREAS, in compliance with Minnesota Statutes §§ 443.28 and 115A.94, Ord 18-39 established regulations for the collection of trash and set the rates to be charged to residential owners for the collection of trash; and

WHEREAS, the Agreement, has a number of inter-related terms that govern coordinated collection including agreed-upon rates, a requirement that the Consortium bill residents directly, and a requirement that the City pay Consortium Members for outstanding invoices they are unable to collect from residents; and

WHEREAS, the office of the City Attorney has reviewed the requirements and procedures for establishing coordinated collection and has provided a legal analysis and opinion to the City Council regarding whether the subject matter of the Petition is appropriate to submit to the electorate; now, therefore, be it

RESOLVED, that the City Council hereby adopts the report of the Ramsey County Elections Manager and finds that the Petition is sufficient to satisfy the minimum signature requirements under City Charter Chapter 8; and be it

FURTHER RESOLVED, based upon the legal opinion of the City Attorney, the City Council finds that the provision of the City Charter allowing referendum for the subject matter of the Petition is preempted by Minnesota Statutes §§ 443.28 and 115A.94, is an unconstitutional interference with the Agreement between the City and the Consortium, and conflicts with state public policy; and be it

FINALLY RESOLVED that, based on these findings, the City Clerk is hereby directed not to submit Ord. 18-39 as a ballot question to the County Auditor for placement on the ballot for the next election.