

**LINO LAKES CHARTER COMMISSION
SPECIAL MEETING
PROPOSED CHARTER AMENDMENT ON CITY WARDS
AGENDA
THURSDAY, June 16, 2016
6:30 PM**

- 1. Call to Order and Roll Call 6:30 PM**
- 2. Pledge of Allegiance**
- 3. Setting the Agenda: Addition or Deletion of Agenda Items**
- 4. Proposed Charter Ward amendment, amending Section 2.03. Council Composition and Election, relating to city wards**
 - A. Discussion on comments from City Attorney, Mr. Langel**

Next meeting date, Thursday, July 14, 2016, 6:30 p.m.

Adjournment

**Caroline Dahl
Chair**

**Pat Devaney
Vice Chair**

**Chris Bretoi
Secretary**

To: Lino Lakes Charter Commission
From: Mohrman, Kaardal & Erickson, P.A.
Date: May 19, 2016

MEMORANDUM

We have made efforts to address each of the concerns of the City Attorney regarding our proposed Charter amendment that would directly affect the Council.

In summary, the Charter amendment seeks to create four wards in the City, proportionally equal in population, and requiring the Council members to be elected from their respective ward and to reside within the boundaries of that ward. The position of the Mayor is not affected. The Mayor remains elected at large.

In our initial draft, the City Attorney had voiced certain reservations which we have addressed in our latest proposal.

First, the amendment has several subdivisions and subparts. This structure, we believe, brings clarity to each provision and is easily understandable to the average citizen. It is their Charter and clarity has been our goal.

Second, the City Attorney is concerned about the restatement of the governing Minnesota Statute (such as § 205.84, subd. 1) regarding the use of population for the creation and redistricting of wards within five percent over or under the mean (a provision not in the state statutory text). This is found in our provision regarding ward “characteristics.” Indeed, as the City Attorney suggests, there is no harm in identifying how the wards are to be created or how the redistricting will occur.

However, to just cite to the state law as the City Attorney suggests, presumes the people know the statute. Further, our proposal is different than the statutory language as we noted and provides greater guidance to the City Council. In other words, we have given clearer meaning to the state statutory phrase – “as equal in population as practicable.” Moreover, the City Attorney did state that our proposed language here is “fine.”

Third, the City Attorney was concerned about other descriptions of ward boundaries as possibly too confining for future councils when redistricting is found necessary (our old proposal under Characteristics, Subdivision 2(b)(2)). In light of the City Attorney comments, we have also modified our old proposal Subdivision 2(b)(3) suggesting that there should be minimal change to the wards when redistricting occurs. Those specifics have been eliminated, although we would caution the Council that ward boundary determinations

cannot be made based upon land use or other manipulations — the City Attorney uses as examples — that would result in the illegalities of gerrymandering.

Fourth, regarding our previous detailed policy and scheduling for redistricting met with the City Attorney's objections have been refined. It now reads that redistricting scheduling is to comply with state law.

Fifth, the City Attorney did not appreciate the repeat of penalties presently in state law against the Council and the Mayor should they fail to redistrict as required (Subdivision 2(d)). Here, we cannot agree with the City Attorney that reference to the state statute is sufficient. We believe that our elected officials must be held accountable to the people. This amendment is a reflection of that philosophy.

A ward council member, elected by the people within that ward, is a direct connection and measure of accountability for the office he or she holds. Likewise, it would be too easy for the state legislature to strike penalties from a statute for the failure of elected officials from their obligation to the people. Here, retaining this provision as part of our Charter ensures that the Council and the Mayor will be held accountable to the people through a measure an elected official easily understands — their pocketbook.

Finally, all other concerns of the City Attorney have been met through the elimination of certain sentences in our first draft proposal. This would include for instance, paragraph (e) governing the “effective date” of redistricting; the last sentence in our original proposal found in subdivision 4 governing transition periods.

If there are additional reasonable refinements, we would be open to take them under consideration.

Thank you.

Lino Lakes City Charter

CHAPTER II. FORM OF GOVERNMENT

Section 2.03. Council Composition, the Mayor, and Elections.

Subdivision 1. The Council shall be composed of a Mayor and four (4) Council Members who shall be qualified electors, ~~and who shall be elected at large.~~ Council Members shall serve for a term of four (4) years and/or until a successor is elected and qualifies.

Subdivision 2. The Mayor shall be elected at large. The Mayor shall serve for a term of two (2) years and/or until a successor is elected and qualifies.

Subdivision 3. Council Wards.

(a) Number: The City comprises four wards, designated by number.

(b) Characteristics: The wards shall be as equal in population as practicable.

(1) At the time of ward creation or redistricting, each ward must not have a population more than five percent over or under the mean ward population according to the latest decennial federal census;

(2) Each ward shall be composed of compact, contiguous territory to the extent possible except as necessary in order to put in effect the foregoing criteria.

(c) Redistricting: Redistricting shall occur in accordance with governing state law.

(d) Council Penalties for Not Taking Action: If the Council fails to take either action within the time period required, no further compensation shall be paid to the mayor or council member until the wards of the city are either reconfirmed or redefined as required under this section.

(e) Jurisdiction: The state district court has original jurisdiction over any case arising out of the redistricting of the City's wards under this Subdivision 2.

Subdivision 4. Ward Council Members.

(a) Election: Each member of the Council shall be elected from a separate ward. Voters may only vote for a candidate for the Council ward seat within which the voters reside.

(b) **Residency Requirement:** A Council Member must reside within the ward from which they are elected. If a Council Member moves within the City from the Council Member's elective ward, or if a Council Member is excluded from a ward as a result of ward creation districting or redistricting, that Council Member's term of office shall expire on January first, following the next regular City election.

Subdivision 5. **Transition Periods.** The Council may enact any necessary or prudent ordinances necessary to implement Section 2.03 to transition the City to four wards in accordance with state law.

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June 7, 2016

Jeff Karlson
City of Lino Lakes
600 Town Center Parkway
Lino Lakes, MN 55014-1182

Via e-mail

RE: *Charter Amendment - Wards*
Our File No. 4021-0130

Dear Mr. Karlson:

The revised, proposed Charter amendment and accompanying memorandum from Mr. Kaardal was forwarded to me for review. Overall, I have only a couple substantive changes, which concern the term of a Council member when a ward is redistricted or the Council member moves out of his or her ward (see paragraph four below). The remaining comments are just attempts to clarify the current language.

1. The semicolon at the end of subparagraph 3(b)(1) should be a period.
2. Paragraph 3(d) refers to “either action,” which is a reference to the post-census actions the City Council must undertake (either confirm or redefine the wards). The language describing those actions was deleted in this amendment, so that reference no longer works. I suggest the following to clarify:

(d) Council Penalties for not Taking Action: If the Council fails to ~~take~~ confirm or redefine ward boundaries ~~action~~ within the time ~~period~~ required by law after official certification of the federal decennial or special census, no further compensation shall be paid to the mayor or council member until the wards of the city are either reconfirmed or redefined ~~as required under this section~~.

3. The word “seat” should be removed from Subdivision 4(a). Otherwise, it reads as if voters reside within a ward seat, instead of within a ward.
4. The words “creation districting or” should be removed from Subdivision 4(b). A council member cannot be excluded from a ward when it is first created; he or she is automatically in whatever ward in which he or she resides, so it is not clear what that language was intended to mean. In any event, how Council seats will be handled following initial implementation of the ward system will be determined by the transition ordinance.

Also, residency within a ward is a statutory requirement, *Minn. Stat. § 205.84, subd. 1(a)*. So, if a Council member moves from his or her ward, the position must then be declared vacant. *Minn. Stat. 351.02(4); Op. Atty. Gen. 63-a-11 (Oct. 24, 1974) (counsel member’s office vacated when he ceases to be an inhabitant of the ward)*. The Council member cannot remain on the Council until after the next regular election. How the vacancy is handled (appointment versus special election) depends on the timing of the vacancy and is determined by statute. *Minn. Stat. § 412.02, subd. 2a*.

Finally, if a ward is redistricted such that a Council member is no longer living within his or her ward, that Council member still serves out the remainder of his or her term. *Minn. Stat. 205.84, subd. 1(a)*. I therefore suggest the following changes to this paragraph:

(b) Residency Requirement: A Council Member must reside within the ward from which they are elected. If a Council Member moves within the City from the Council Member’s elective ward, the Council Member’s seat shall be declared vacant. ~~or if~~ If a Council Member is excluded from a ward as a result of ward ~~creation districting or~~ redistricting, that Council Member’s shall serve the remainder of his or her term of office shall expire on January first, following the next regular City election.

If you have any questions about these comments or the amendment in general, please give me a call.

Very truly yours,



Joseph J. Langel

cc: Julie Bartell, City Clerk (via e-mail)

CITY CHARTER AMENDMENTS - MN STATUTES 410.12

January 2016

Proposals to amend a charter can be made by:

- Council recommendation
- Citizen petition
- Charter Commission recommendation

Charter amendments can be approved by:

- Election
- Ordinance

For 2016 election year, proposals to amend a charter must be submitted *to the city* (see specific procedures for submitting amendments below) no later than July 12, 2016. County Auditor must be notified of title and language of all questions to be placed on the ballot according to the following schedule. Actions and approvals must be planned accordingly.

Primary Election of August 9, 2016 – Deadline no later than 5 pm, Friday, May 27, 2016

General Election of November 8, 2016 – Deadline no later than 5 pm, Friday August 26, 2016

PROCEDURE FOR AMENDMENT BY COUNCIL RECOMMENDATION:

- Council adopts ordinance proposing the amendment
- Council submits ordinance to Charter Commission for review
- Charter Commission has 60 days for review (may be extended by the commission an additional 90 days by filing a resolution determining that additional time is necessary with the City Clerk)
- Charter Commission either approves, rejects, or suggests substitute amendment
- Charter Commission notifies Council of their action
- Council may drop amendment OR adopt resolution calling for election to approve:
 - Proposed amendment as it was originally proposed OR
 - The Charter Commission's substitute amendment
- If a resolution calling for election is adopted, language of the ballot question is determined by the Council. The question must identify the amendment clearly and distinguish the question from other questions on the same ballot.

PROCEDURE FOR AMENDMENT BY CITIZEN PETITION:

- Citizens circulate petition stating the proposed amendment to the charter
 - Petitions must be uniform in character and must state the proposed amendment to the charter in full
 - If amendment is larger than 1,000 words, a true and correct copy must be filed with the City Clerk, and the petition will contain a summary (between 50 and 300 words) setting forth the "substance and nature" of the proposed amendment.
 - When a summary is used, that **summary** (along with a copy of the proposed amendment) must be first submitted to the Charter Commission for its approval as to form and substance. The commission has 10 days to return the summary with any modifications necessary to fairly comply with these requirements.
- Petition must be submitted at least 17 weeks prior to the general election and must be reviewed by the City Clerk for sufficiency.
- If determined to be sufficient, the commission must submit the petition to popular vote.
 - Amendment goes to the City Clerk, who notifies the Council.
 - Council places amendment on ballot for voter approval

- NOTE: Council may not refuse to submit or change the amendment as long as it is constitutional. A City Council does not need to submit an unconstitutional charter amendment or an amendment that violates state or federal law to the voters.
- Language of the ballot question is determined by the Council. The question must identify the amendment clearly and distinguish the question from other questions on the same ballot.

PROCEDURE FOR AMENDMENT BY CHARTER COMMISSION RECOMMENDATION:

Charter Commission Recommendation for Approval of Amendment by Ordinance:

- Charter Commission makes recommendation to Council by filing notice with City Clerk
- Within 1 month of filing notice with the City Clerk the Council must publish notice of a public hearing of the proposal
- Notice must contain the text of the proposed amendment
- Public hearing must be held between 2 weeks and 1 month after notice is published
- Council must vote on amendment within 1 month of public hearing
- Amendment approved only if Council vote is unanimous
- Ordinance amending charter published in same manner as other ordinances of the City
- Ordinance becomes effective 90 days after passage and publication, unless a later date is provided for in the ordinance
- Within 60 days after passage and publication, a petition signed by registered voters equal in number to at least 5 percent of the registered voters in the City or 2,000, whichever is less, may be submitted to force a referendum on the amendment.
- If voters file a proper petition, the City must handle the amendment like any other charter amendment, except the Council may submit the ordinance at a general or special election that occurs within 60 days after filing the petition, or it may reconsider its action in adopting the ordinance.
- If ordinance is submitted by the Council to the voters, language of the ballot question is determined by the Council. The question must identify the amendment clearly and distinguish the question from other questions on the same ballot.

Charter Commission Recommendation for Approval of Amendment by Election:

- Charter Commission makes recommendation to Council by filing notice with City Clerk
- Proposal must be submitted to Council at least 17 weeks prior to the general election
- Council must provide for election as long as amendment is constitutional and does not violate state or federal law
- Language of the ballot question is determined by the Council. The question must identify the amendment clearly and distinguish the question from other questions on the same ballot.

This summary of MN Statute is intended for informational purposes only and should not be construed as legal advice. Persons seeking amendment of their City Charter are advised to work cooperatively with their City staff and to seek appropriate legal counsel.