

May 26, 2023

Dear Mayor Frey and Council President Jenkins,

Yesterday, the Minneapolis City Council passed Legislative File No. 2023-00572, a Motion—which is not a policy—to direct the City Attorney’s Office to prepare a draft rent stabilization ordinance (“the Motion”). Prior to and during the Council meeting, there was discussion that the Motion would be presented to the Mayor and be subject to the Mayor’s veto authority. This advice was delivered to the Mayor. Upon review, I have determined that the advice was not correct. The Motion is not an “act by the Council” and therefore is not subject to presentation to the Mayor, nor is it subject to Mayoral approval or veto.

Minneapolis City Charter Article IV, section 4.4(c) provides that the Council must present each “act” to the Mayor, subject to the Mayor’s signature or veto. However, section 4.4(a)(2)(B) explicitly exempts from the definition of “act” “a rule or other vote that relates to the Council’s internal organization or procedure.” (Emphasis added.)

The City Attorney uniquely and equally serves both the Executive Branch and the Legislative Branch. Article VII, section 7.2(c)(1) of the Charter states:

Except as this charter otherwise provides, the City Attorney and the legal department under his or her direction—(A) serve as the attorneys and counselors at law to the Mayor, *the City Council* and its committees, and the other boards, commissions, committees, departments, and officers for which this charter provides; and (B) counsels, and delivers an opinion on any legal question from, the Mayor, *the City Council* and its committees, and the other boards, commissions, and committees for which this charter provides, *who must consult only the City Attorney (and must not employ or pay any other attorney)* for any necessary legal advice.

Id. (Emphasis added.)

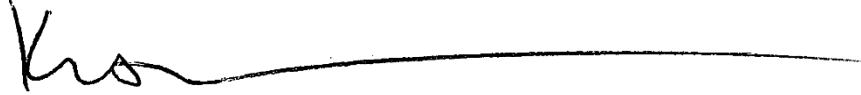
During the recent past, the Council has engaged both the City Clerk and the City Auditor through the procedural vehicle of motions that, under the authority of section 4.4(a)(2)(B), were not presented to the Mayor. The Motion is no different. Because the City Attorney is the City Council’s attorney, when the Council acts as a body to request legal drafting, the City Attorney is a legislative resource. Indeed, pursuant to the City Charter, the City Council cannot employ any other legal counsel.

Again, the Motion was not a declaration of policy; it was simply a direction from the Council, as a body, to its attorneys, to do the legal work necessitated by the Council’s legislative drafting process. Reading section 4.4(a)(2)(B) in conjunction with section 7.2(c)(1) leads to the conclusion that the

Motion was a vote relating to the Council's internal organization or procedure and is not subject to presentation to the Mayor.

The City Clerk should treat the Motion in the same manner as motions directing the work of the City Clerk and City Auditor, by applying to the official Council Action, in the area titled "Mayor Action," the seal that states, "Pursuant to City Charter Article IV § 4.4., this act does not require Mayor's signature."

Sincerely,

A handwritten signature in black ink, appearing to read "Kristyn Anderson", with a long horizontal flourish extending to the right.

Kristyn Anderson
Minneapolis City Attorney

cc: Council Members
Casey Carl, Minneapolis City Clerk