

Subject: RE: Pledge of Allegiance / City Council
Date: Tuesday, July 16, 2019 at 9:36:54 AM Central Daylight Time
From: Soren Mattick
To: 'kathy w'
CC: 'Jake Spano', 'Tom Harmening'
Attachments: image001.png, image002.png

Kathy,

I appreciate your thoughts on the matter. I am not able to discuss any legal advice that I have offered the City Council on this matter as requested in your first paragraph. To your point in the second paragraph, I am not aware of any authority that allows a City Council member to be recalled.

Soren M. Mattick

Attorney

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From: kathy w <kdwikstrom@[REDACTED]>
Sent: Saturday, July 13, 2019 9:13 PM
To: Soren Mattick <SMattick@[REDACTED]>
Subject: Re: Pledge of Allegiance / City Council

I have been wondering if the City Council Members asked you **Soren M. Mattick** as City Attorney if it was legal for them to raise and vote on or remove the REQUIRED saying of the Pledge of Allegiance before Council meetings? Or did they seek outside Legal advice on this issue? If the first occurred would that cause you to recuse yourself from making a 'specific determination' on the subject of Recall if you had given legal advice to the City Council members on this issue? (All of this is a fact specific determination so charter cities must consult the city attorney before seeking an election to recall or remove a city official from office.)"As a City Attorney, I do not "determine the validity" of anything. My job is to analyze existing laws and provide legal advice to the City. My review of the laws of the state of Minnesota have led me to conclude that there is no existing law by which St. Louis Park City Council Members may be recalled."

Are you saying that if an elected position is not specifically mentioned it is not covered by Recall? Is the City Council Position expressly excluded or just not mentioned? From your reply below "Local government officials are not included" it appears they are NOT expressly excluded which makes it an open analytical subject and unsettled Law, which makes a strong case for me to start the process of Recalling the five City Council members who voted to eliminate saying the Pledge of Allegiance before Council meetings to the Secretary of States Office. **The grounds for recall of an officer other than a**

judge are serious malfeasance or nonfeasance during the term of office in the performance of the duties of the office or conviction during the term of office of a serious crime. It seems to me it's just like the City Council members not being expressly told under the City Charter they can't vote to stop the Pledge that it is possible to push for a Recall for serious malfeasance (1. An act for which the individual has no authority or warrant of law. 2. The unjust performance of some act which the person has no right, and has not been contracted to do). Were these Council members elected with the stated Public position of Removing the REQUIRED Pledge of Allegiance before Council meetings? I think not!

This matter does raise many questions as to the ethics and legalities for those involved and for the residents of the City of St Louis Parks legal recourse.

Resident/Voter, Kathy Wikstrom

From: Soren Mattick <SMattick@>
Sent: Tuesday, July 9, 2019 11:49 AM
To: 'kathy w'
Cc: 'Jake Spano'; Tom Harmening
Subject: RE: Pledge of Allegiance / City Council

Kathy,

The web page you linked describes the recall procedure in Article VIII, Section 6, of the Minnesota Constitution (see https://www.revisor.mn.gov/constitution/#article_8). That part of the MN Constitution contains an exhaustive list of the individuals subject to recall: members of the senate or house of representatives, executive officers of the state identified in section 1 of article V of the constitution, and judges of the supreme, court, court of appeals, or district court. The executive officers listed in Article V, Section 1, are the governor, lieutenant governor, secretary of state, auditor, and attorney general. Local government officials are not included.

As a City Attorney, I do not “determine the validity” of anything. My job is to analyze existing laws and provide legal advice to the City. My review of the laws of the state of Minnesota have led me to conclude that there is no existing law by which St. Louis Park City Council Members may be recalled.

Soren M. Mattick

Attorney

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From: kathy w <kdwikstrom@>
Sent: Thursday, July 4, 2019 6:54 AM
To: Soren Mattick <SMattick@>
Subject: Re: Pledge of Allegiance / City Council

https://ballotpedia.org/Laws_governing_recall_in_Minnesota

Sir, Please highlight for me in the attached Document where a City Attorney determines the validity of a Recall. Links to Laws would be helpful.

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|--|---|
| | <p><u>Laws governing recall in Minnesota - Ballotpedia</u></p> |
| | <p>The amount of valid signatures required for recall election are 25 percent of total votes cast for the position at last election. First, a "Proposed Recall Petition" must be submitted to the Minnesota Secretary of State specifying the grounds upon which the official should be</p> |
| | <p>ballotpedia.org</p> |

From: Soren Mattick <SMattick@>
Sent: Monday, July 1, 2019 1:50 PM
To: 'Jake Spano'; kathy w
Cc: THARMENING@; Nancy Deno
Subject: RE: Pledge of Allegiance / City Council

Kathy,

There isn't a procedure to recall a member of the St. Louis Park City Council.

The League of Minnesota Cities has written on this topic. St. Louis Park is a Charter city (see second paragraph). However, there is nothing in the Charter that contemplates a recall.

E. Recall or removal from office

Section IV:
Unauthorized elections on questions.
Minn. Stat. § 351.02 (5).
Minn. Stat. § 410.20.
Minn. Const. art. VIII, § 6.
Jacobsen v. Nagel, 255 Minn. 300, 96 N.W. 2d 569 (1959).
Minn. Stat. § 351.01.
Minn. Const. art. VIII, § 5.
Minn. Stat. § 410.20.
State ex rel. Martin v. Burnquist, 141 Minn. 308, 170 N.W. 201 (Minn. 1918).
State ex rel. Kinsella v. Eberhart, 116 Minn. 313, 133 N.W. 857 (Minn. 1911).

Local voters often ask if the city can hold a vote to remove a particular local official from office in a special election. As discussed previously, voters in statutory cities have only those powers delegated to them by the state legislature. Currently, voters in statutory cities have no authority to petition for, or vote on, removing an elected official from the city council. In some situations, councilmembers lose office by operation of law, for example if a person is convicted of a felony; but there is no authority to remove officers by a vote.

Charter cities may have limited authority in the charter to remove elected officials. Recall elections in charter cities are limited by the Minnesota Constitution. The charter may allow for a recall election to remove an elected official due to malfeasance or nonfeasance in the performance of his or her duties. To constitute malfeasance or nonfeasance the conduct must affect the person's performance of official duties rather than conduct that affects their personal character as a private individual. All of this is a fact specific determination so charter cities must consult the city attorney before seeking an election to recall or remove a city official from office.

Soren M. Mattick

Attorney

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CAMPBELL KNUTSON
PROFESSIONAL ASSOCIATION

From: Jake Spano <[mayorjakespano@\[redacted\]](mailto:mayorjakespano@[redacted])>
Sent: Saturday, June 29, 2019 9:04 PM
To: kathy w <[kdwikstrom@\[redacted\]](mailto:kdwikstrom@[redacted])>
Cc: Soren Mattick <[SMattick@\[redacted\]](mailto:SMattick@[redacted])>; [THARMENING@\[redacted\]](mailto:THARMENING@[redacted]); Nancy Deno <[ndeno@\[redacted\]](mailto:ndeno@[redacted])>
Subject: Re: Pledge of Allegiance / City Council

Kathy-

By way of cc I'm connecting you to our city attorney and senior staff for follow up on your question.

Jake Spano
Mayor
St. Louis Park, Minnesota

On Jun 29, 2019, at 3:44 PM, kathy w <kdwikstrom@> wrote:

Sir, I would like to know the procedure for initiating Recall for each of the City Council Members. I have been unable to find any references to this Procedure nor does the Cities search engine give any useful information! I will also be contacting both the State Democratic and Republican Parties for answers to this question.
Thank you for your consideration.