



City of Grand Forks
Staff Report
Committee of the Whole – March 9, 2020
City Council – March 16, 2020

Agenda Item: Ballot Language: Publication of minutes and checks

Submitted by: Maureen Storstad, Finance Director

Staff Recommended Action: Approve ballot language for June 9, 2020 election

Committee Recommended Action: Refer to City Council with the recommendation to approve.

Council Action:

BACKGROUND: In November 1994, an initiated measure was approved that required all cities, regardless of their form of government, to put on the ballot the question of whether the minutes of its governing body shall be published in its official newspaper. The law further required that the questions appear on the 1996 biennial municipal election and every four years thereafter.

I have consulted with Mr. Swanson and it is appropriate to utilize the same suggested ballot language as we have used for the last 3 years this has been on the ballot, 2008, 2012, and 2016.

ANALYSIS AND FINDINGS OF FACT:

- NDCC Section 40-01-09.1 requires an election every four years on the matter of publication of the minutes
- The City Council must approve the ballot language.
- The language must be submitted to the County no later than April 6, 2020 to be included on the June 9, 2020 election ballot.

SUPPORT MATERIALS:

- Memo from Mr. Swanson regarding ballot language, which is still the recommended language for the 2020 ballot.



CITY OF GRAND FORKS


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OFFICE OF CITY ATTORNEY

MEMORANDUM

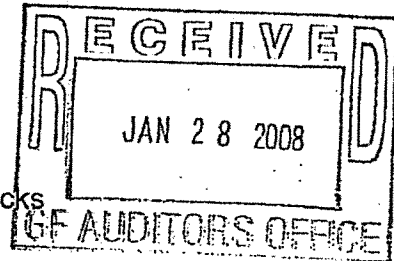
TO: John Schmisek, Director of Finance & Administrative Services

CC: Michael Brown, Mayor
Rick Duquette, City Administrator

FROM: Howard D. Swanson, City Attorney 

RE: Public Vote on Publication of Minutes and Checks

DATE: January 24, 2008



NORTH DAKOTA CENTURY CODE §40-01-09.1 requires the City to place on the ballot every four years a measure to determine whether the City should be required to publish in its official newspaper minutes of its proceedings as well as a listing of checks. NORTH DAKOTA CENTURY CODE §40-01-09.1 provides as follows:

40-01-09.1 Publication of city government proceedings -- Electorate to decide.

Beginning with the 1996 biennial municipal elections, and every four years thereafter, all cities in North Dakota, regardless of their form of government, must put on the ballot the question of whether the minutes of its governing body shall be published in its official newspaper. If voters approve publication, the governing body shall, within seven days after each of its meetings, give its official newspaper, for publication, the complete minutes, or a complete summary showing the substantive actions taken at the meeting.

Roll call votes must be published, but may be indicated as "unanimous" when appropriate. A list of the individual checks written by the city and approved by the governing body, showing the payee and the amount of each check, must be published. However, employee salary checks need not be published if the governing body elects to publish an annual salary schedule for each employee. When applicable, these minutes may be labeled as being published subject to the governing body's review and revision. The minutes shall continue to be published until disapproved at a succeeding quadrennial election.

In 2000 the City utilized a ballot with instructions that provided information to the voter as to the fiscal impact of such a measure. The North Dakota Attorney General's office has subsequently ruled that such information may not be included on the ballot or in any voting instructions. In an opinion dated December 24, 2002 to Senator John Andrist (Letter Opinion 2002-L-73), Attorney General Stenehjem opined that information such as included in Grand Forks' 2000 ballot is "clearly surplusage that is not authorized" by law. He further concluded that "the additional language would be argumentative or prejudicial." Attorney General Stenehjem concluded that NORTH DAKOTA CENTURY CODE §40-01-09.1 does not "permit the inclusion of surplusage such as the estimated cost of publication on the ballot and that it is improper for a city or a school district to include that."

Therefore, the ballot language would need to be essentially as follows:

Shall the City Council for the City of Grand Forks, North Dakota be required to publish in the *Grand Forks Herald*, at city expense, its minutes and a listing of individual checks issued by the City?

Yes _____
No _____

A "yes" vote means you want the City Council for the City of Grand Forks, North Dakota to be required to publish its city minutes and a listing of individual checks issued by the City in the official city newspaper.

A "no" vote means you do not want the City Council for the City of Grand Forks, North Dakota to be required to publish its city minutes and a listing of individual checks issued by the City in the official city newspaper.

Should you require any additional information with regard to this matter, please do not hesitate to contact me.

HDS/dak