CITY OF LINO LAKES
RESOLUTION NO. 12-80

RESOLUTION DECLINING SUBMISSION OF PROPOSED CHARTER AMENDMENTS FOR ELECTION

BE IT RESOLVED by the City Council of the City of Lino Lakes, Anoka County, Minnesota ("City") as follows:

Section 1. Background

1.01. By email dated January 25, 2012, the Lino Lakes Charter Commission ("Charter Commission") submitted to the City Clerk two proposed amendments to the City Charter requesting that both amendments be submitted to the voters at the general election on November 6, 2012, all in accordance with Minnesota Statutes, Section 410.12, subdivisions 1 and 4.

1.02. The proposed amendments requested two separate ballot questions: one that would limit the City's valorem tax levy to the maximum in accordance with Minnesota Statutes, Sections 275.70 to 275.74 (with certain modifications) or any lesser limit that applies under any future statewide levy limits (the "Tax Cap Amendment"); and one that would define the duties of the Charter Commission and assign certain responsibilities regarding charter amendments to the Charter Commission and City Council, respectively (the "Charter Governance Amendment"). The text of the two proposed amendments is attached hereto as Exhibit A.

1.03. The City Council, in consultation with the City Attorney and special counsel to the City, has determined not to submit the Tax Cap Amendment and Charter Governance Amendment to the voters for the reasons described below.

1.04. The Tax Cap Amendment is manifestly unconstitutional, contravenes State public policy, and is in part preempted by State law, because (a) it is unconstitutionally vague, being impossible to implement and leaving the City with no clear authority as to the amount of tax levy permitted; and (b) it contravenes State policy or is preempted by State law in purporting to require or authorize referenda in order to finance utilities in cases where those utilities are not financed in part with special assessments.

1.05. The Charter Governance Amendment is manifestly unconstitutional, contravenes State public policy, and is in part preempted by State law, because (a) it unconstitutionally seeks to expand the duties and responsibilities of the Charter Commission beyond those expressly granted by the legislature in Chapter 410 of the Minnesota Statutes; and (b) it contravenes State policy or is preempted by State law in purporting to permit the Charter Commission to continue to operate in perpetuity, to review all proposed Charter amendments and corresponding ballot language, to allow the Commission to create materials and engage in activities related to informing voters of the impact of proposed Charter amendments, and to require the City Council to provide "equal funds and opportunities" to inform the public about a proposed Charter amendment.

Section 2. Amendments Rejected.

2.01. For the reasons set forth in Section 1 hereof, the Council declines to submit the Tax Cap Amendment and the Charter Governance Amendment to the voters.

2.02. Staff are authorized and directed to deliver a copy of this resolution to the Charter Commission.

Approved by the City Council of the City of Lino Lakes this 13th day of August, 2012.

The motion for the adoption of the foregoing resolution was introduced by Council Member ______________and was duly seconded by Council Member and upon vote being taken thereon, the following voted in favor thereof:

The following voted against same:

____
Jeff Reinert, Mayor

ATTEST:

____
Julianne Bartell, City Clerk

EXHIBIT A

Text of Charter Amendments Submitted by Charter Commission

Tax Cap Amendment:

*Section 7.13. Tax Cap***.**

The City shall be restricted in the amount it can raise taxes each year. The maximum levy shall be calculated in accordance with the provisions of Minn. Stat. §§ 275.70 to 275.74 (2010), as modified below. If the state legislature adopts new levy limits, the City shall be restricted to the lesser of the limits imposed under the laws in 2010, and the new limits.

The City's levy for the year 2012 shall be used as the starting point for calculating all subsequent levy adjustments. Any unused levy authority from 2012 or prior years may not be used.

Levies imposed on a majority of the property owners in the City for a new special district or utility (such as a storm sewer improvement district, storm sewer utility, or lake improvement district) created after 2011 shall be included in the levy limit. These levies will qualify as "special levies" only if a majority of the City's voters specifically vote to authorize the creation of the special district or utility.

For the purpose of determining the maximum levy, the original net tax capacity shall be used for all property which is both (a) placed in a tax increment financing district after 2011 and (b) being taxed on the basis of its original net tax capacity.

Charter Governance Amendment:

Section 1.04. Charter Commission.

The City shall have an ongoing Charter Commission with responsibility for maintaining and updating the Charter, and for informing residents of the meaning or impact of proposed Charter amendments. Members of the Charter Commission shall be appointed by the Chief Judge of the local district court, and shall receive no compensation.

Section 1.05. Amendments to this Charter.

All proposed amendments to the Charter and corresponding ballot wording shall be submitted to the Charter Commission for review. The City Council may not directly or indirectly use public funds to inform the public about an amendment unless the City Council provides the Charter Commission with equal funds and opportunities to inform the public about the amendment.