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In Supreme Court

Cathy Spann, *et al.*,

Appellants,

vs.

Minneapolis City Council, *et al.*,

Respondents.

APPELLANTS' BRIEF

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STATEMENT OF LEGAL ISSUES

Consistent with the Court's grant of further review, the issues before the Court are:

- 1. Whether, under Minneapolis City Charter Section 7.3, the Mayor has a clear legal duty to “establish” and “maintain” a police force of at least 0.0017 sworn officers per resident using funding from the City Council.**

Court of Appeals Decision: The court of appeals held that the Mayor does not have a clear legal duty to “maintain” at least 0.0017 sworn officers per Minneapolis resident. (Add. 15-16).

Most Apposite Authorities:

State ex rel. Gillis v. Goodrich, 264 N.W. 234 (Minn. 1935)

Brayton v. Pawlenty, 781 N.W.2d 357 (Minn. 2010)

In re An Admin. Search Warrant v. Wiebesick, 899 N.W.2d 152 (Minn. 2017)

- 2. Whether the City Council is satisfying its clear legal duty in the City Charter to “fund a police force of at least 0.0017 employees per resident, and provide for those employees’ compensation.”**

Court of Appeals Decision: The court of appeals failed to address whether the City Council has complied with its clear legal duties under the Charter. The court noted the parties’ agreement that the City Council must fund a police force as quoted above. (Add. 11). But the court did not analyze whether the City Council provided requisite funding and failed to address Appellants’ argument and the district court’s holding that it has not. (Add. 4, 6 n.2).

Most Apposite Authorities:

Greene v. Minn. Bureau of Mediation Servs., 948 N.W.2d 675 (Minn. 2020)

State v. Fields, 730 N.W.2d 777 (Minn. 2007)

Shefa v. Ellison, 968 N.W.2d 818 (Minn. 2022)

- 3. Whether the district court properly issued an alternative writ of mandamus.**

Court of Appeals Decision: The court of appeals held that the writ of mandamus should not have issued, and also held, contrary to the record, that the Mayor is “actively exercising his discretion to address the shortage of sworn officers” such that mandamus could not lie to require him to do more, or to require the City Council to provide more funding. (Add. 15).

Most Apposite Authorities:

Minn. Stat. § 586.01, *et seq.*

State ex rel. S. St. Paul v. Hetherington, 61 N.W.2d 737 (Minn. 1953)

Madison Equities, Inc. v. Crockarell, 889 N.W.2d 568 (Minn. 2017)

STATEMENT OF THE CASE AND FACTS

I. Statement of the Case.

Appellants are eight residents and taxpayers of the North Side of Minneapolis suffering from increased violence in their neighborhoods because of Respondents' failure to fund and employ adequate police. Appellants have seen their neighbors, friends, and homes shot amidst rampant violence. Despite desperate pleas to Respondents for restoration of the Minneapolis Police Department ("MPD") to stop the violence in their neighborhoods, Respondents continued to cut the police budget and refused to restore the depleted force. Appellants therefore filed this lawsuit on August 17, 2020. Appellants sought a writ of mandamus to require the Minneapolis City Council ("Council") and Mayor Jacob Frey ("Mayor") to comply with the Minneapolis City Charter's ("Charter") legal requirement that the City Council fund, and the Mayor maintain, at least 0.0017 "employees of the police force" per resident of Minneapolis.

The parties conducted substantial discovery in the district court and submitted a record consisting of stipulated facts and exhibits, along with closing arguments. The district court granted Appellants' petition and issued an alternative writ of mandamus that requires Respondents to fund and employ or maintain at least 730 sworn officers as part of the Minneapolis police force, or a greater number if dictated by the 2020 U.S. Census, by June 30, 2022. Add. 45 (Summary of Relevant Facts and Findings, Conclusions of Law, Order for an Alternative Writ of Mandamus and Alternative Writ of Mandamus ("Order for Writ"), No. 27-CV-20-10558, July 1, 2021, at 26). The 2020 Census for Minneapolis was then issued on August 12, 2021, establishing Minneapolis' population at 429,954, which

requires 731 sworn officers for the City. Respondents appealed from the judgment issued by the district court.

The court of appeals reversed the issuance of the writ of mandamus, and Appellants petitioned this Court for further review and moved to expedite the consideration of this appeal. The Court granted the petition for review on the three issues presented and granted, as modified, the motion to expedite the appeal.

II. Relevant Facts.

In the district court, the parties agreed on a stipulation of facts and exhibits in lieu of an evidentiary hearing. Docs. 45 (Facts) and 46 (Exhibits).¹ These facts and documents show that Minneapolis was and is in a crisis which requires Court intervention. The text, structure, and history of the Charter show (1) that it requires actual sworn officers on the Minneapolis police force, (2) that Minneapolis does not have the requisite number of officers on that force, and (3) that Minneapolis itself projects a further decline well beneath minimum officer numbers.

A. The Charter Sets Forth a Clear Legal Duty to Fund and Maintain a Minimum Minneapolis Police Force of 0.0017 Sworn Officers Per Resident.

Article VII, section 7.3(c) of the Charter requires the Council to “fund a police force of at least 0.0017 employees per resident, and provide for those employees' compensation.”

¹ In this brief, Appellants refer to the Stipulation of Facts, Document Number 45, as “Stip. [page]” or Stip. ¶__”; to the Stipulated Exhibits, Document Number 46, as “Ex. __ at [page]”; and to deposition transcript pages within those exhibits at the actual page within the deposition. Deponents’ names follow transcript citations, and deposition exhibits are referenced as “Dep. Ex. __”.

Stip. 4. Section 7.3(a) of the Charter works in tandem with Section 7.3(c) and charges the Mayor with “complete power over the establishment, maintenance, and command of the police department.” Stip. 4.

Section 7.3(c) requires the Council to provide funding, and then the Mayor must take that funding and translate it into a required minimum number of active, sworn police officers. Stip. 3-4. If there is not enough funding in the budget for the Mayor to hire enough officers to meet that minimum, the Council violates its duties under the Charter. If there is enough funding and the Mayor fails to maintain 731 or more officers, the Mayor violates his duties under the Charter.

B. The 2013 “Plain Language” Revision to the Charter Did Not Change the Charter’s Prior Meaning.

In the 2013 Minneapolis elections, the voters of Minneapolis were presented with a “Plain Language” amendment, which stated as follows:

Editor’s note— This Charter was approved at the 2013 Municipal Election by the voters of the City of Minneapolis November 5, 2013. Amendments 172 and 173 as are follows: Proposal to Amend the Minneapolis City Charter, Question 1: “Shall the Minneapolis City Charter be amended in the form of a complete revision which (1) modernizes the Charter; (2) redrafts its provisions for brevity and in plain language; (3) reorganizes the Charter into nine articles, and groups related provisions together; (4) removes from the Charter certain provisions for possible enactment into ordinance; and (5) retains the current role and relationships of City boards and commissions?”

Minneapolis City Charter, Editor’s Note, available at: https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?nodeId=CH (last visited May 3, 2022). The Editor’s Note is corroborated by a statement about the Plain Language Revision on the City of Minneapolis’ website:

The original Charter adopted in 1920 contained old terms like *'heretofore'* and *'forthwith.'* Even attorneys had a hard time understanding it. Over the years, the Charter had also been amended to include disorganized and contradicting information.

So in 2013, voters were asked if the Charter should be amended to modernize, simplify, and redraft the Charter in plain modern language. The ballot question passed overwhelmingly.

Charter History, “Why was the Charter revised?,” available at <https://www.minneapolismn.gov/government/charter-and-code-of-ordinances/charter-history/> (emphasis in original) (last visited May 3, 2022).

Thus, the drafters of the Plain Language Revision only intended to modernize the Charter. Neither they, nor the voters of Minneapolis, intended to change the Charter’s meaning. Before the Plain Language Revision, Chapter 6, section 1 of the Charter stated:

The personnel of the police department shall be established and maintained at a ratio, or as closely thereto as is possible within the limits of section 2 hereof, of not less than one and seven-tenths (1.7) employees per one thousand (1,000) of population of the city according to the latest United States official census.²

The Plain Language Revision therefore merely clarified that the Council provides funding and the Mayor maintains officers with that funding. The meaning and intent of the Charter to have an actual force minimum, including a mandate to maintain a certain number of sworn officers, have not changed since 1961. Contrary to Respondents’ position, it was not a Trojan Horse to provide the Mayor with totally unheard-of new discretion to ignore a legislative directive.

² Minneapolis City Charter, Nov. 24, 2014 archive, Ch. 6, §1, available at https://library.municode.com/mn/minneapolis/codes/code_of_ordinances/232009?nodeId=CH_CH6PODE.

C. The Purpose of the 1961 Charter Amendment, Which Created the Minimum Staffing Requirement, Was to Add Active, Sworn Officers to the Minneapolis Police Force.

In 1960, Minneapolis faced a police shortage and crime crisis similar to today. This crisis was publicly debated and reported on by the Minneapolis Star and Tribune. Because of the MPD's stagnant police force numbers, the City held a vote in 1961 and enshrined in the Charter the requirement that is today's Section 7.3. The public history behind the Charter Amendment shows the purpose of the provision.

The MPD was clearly "shorthanded" by January 1960, when then-Police Chief Buzz Winslow praised the University of Minneapolis' force that took the "campus...off [MPD's] hands." Ex. 30³ at PET422 ("'U' Police Force Guards State's 4th Largest City," Tribune, Jan. 24, 1960, p. 7). Minneapolis was a city of about 483,000 in 1960, but only had a force of 646. PET 427 ("A Police Need Met," Morning Tribune, Aug. 5, 1961, p. 4).

Because the MPD was substantially understaffed, police officials, then-Mayor Peterson, and to-be-Mayor Naftalin endorsed a Charter Amendment which would require as follows:

Shall proposed Amendment No. 17, amending Chapter 6 of the Minneapolis City Charter, to increase the Police Force by establishing a ratio of 1.7 employees per 1,000 residents, or as closely thereto as is possible through a tax levy of not to exceed 3 mills, be adopted?

PET 439 (Text of Amendment). Police, including then-Chief Moore, devoted time to supporting the amendment, especially because of the "critical shortage of police

³ All references to historical sources from the 1960s are to Exhibit 30 presented to the district court, and the citations herein are to the Bates numbers for that Exhibit, "PET ___."

personnel,” noting that they would be “derelict in [their] duty if [they] didn’t inform others of [their] position.” PET 425 (Bob Lundegaard, “Police Officials Urge Patrolmen to Back Manpower Amendment,” Morning Tribune, June 5, 1961, at 19).

The next Chief of the MPD, Pat Walling, stated frankly after his August 1961 appointment by Mayor Naftalin: “The basic reason for the record increase in crime is our inadequately manned police department. A year from now, when the 190 men will be on the street, the figures will show a considerable reduction.” PET 429 (Frank Premack, “Walling Named Chief of Police,” Sunday Tribune, Aug. 6, 1961, at 5). In fact, Chief Walling originally turned down the police chief job from then-Mayor Peterson in 1960, because “at the time the department was inadequately manned. I didn’t think I had sufficient men to do the job....Now with the passage of the amendment...I’ll have enough horses to pull the wagon.” PET 428 (Premack at 1); *see also* PET 430.

The citizens of Minneapolis overwhelmingly supported the Charter Amendment with 65.6 percent approval in June 1961. PET 426 (“More Police Assured for 1962,” Star, June 14, 1961, at 13A). Following the vote, the MPD requested a budget, which Mayor Naftalin approved, with authorization for 836 positions, even though only 821 active officers were required under the charter minimum, “[t]o maintain this minimum in the face of normal vacancies and separations.” PET 427 (“A Police Need Met,” Morning Tribune, Aug. 5, 1961, at 4). Mayor Naftalin and the MPD clearly understood in 1961, immediately after passage, that a *force* of 821 required the number of *officers on payroll* to be greater than the minimum—otherwise, the number actually enforcing the law would fall below the new Charter minimum.

After the Charter Amendment passed, the MPD and the City undertook a massive effort to bring in 190 new officers immediately. For example, the MPD placed advertisements in the Morning Tribune seeking “Patrolmen” for “190 new positions” in the “Minneapolis Police Dept.” PET 432 (“Patrolmen 190 New Positions,” Morning Tribune, Oct. 4, 1961, at 32) (far left side of page, halfway down). The push was for sworn officers who could enforce the laws of the City. The Minneapolis job attracted hundreds of applicants. By October 1961, Minneapolis’ precincts had run out of the 750 applications originally provided by the civil service commission. PET 436 (“Many Show Interest in Police Jobs,” Morning Tribune, Oct. 5, 1961, at 42). By the following November, the City had added at least 180 new officers to the MPD. PET 441-442 (Mayor Naftalin speech to City Council, November 9, 1962).

The history of the 1961 Charter Amendment, which is now Section 7.3(a) and (c) of the Charter, and today’s staggering increase in violence while police force numbers dwindle, demonstrate that there must be at least 0.0017 active, sworn officers per resident on the Minneapolis “police force” at any given time. Mayor Frey’s admissions in this case, quoted by the district court in its Order below, further support the purpose of the 1961 Amendment, still in effect today, and the current need for more officers. Add. 41-42 (Order for Writ 22-23). As the district court noted: “Mayor Frey acknowledges that ‘the uptick in violence we are seeing’ is because police officers are needed.” Add. 42 (Order for Writ 23 ¶60).

D. The Charter’s “Funding” Requirement Differs from Respondents’ Definition of “Funding,” Which Divorces the City’s Budget Process from Reality.

The Charter’s requirement that the Council “fund a police force” and provide for its compensation and the Council’s private, subjective interpretation of “funding” are entirely different concepts. When the Council talks about “actual funding” in this appeal, it will talk about a bookkeeping number on paper: the Minneapolis budget director uses a set of assumptions and writes down how many officers could be paid for on average given the money projected to be allocated and those cost assumptions. *See* Ex. 16 at 53-57 (Cruver). The parties agreed in the Stipulation that there was “actual funding” on paper for the 2021 budget for an average of 770 officers—again, based on the City’s assumptions and money projected in the budget—as opposed to the “target level” of 888 officers on average (another made-up budget number). Stip. ¶20. The “actual funding” reference in the Stipulation is a mere projection as to how far a certain pot of money is expected to go given the City’s faulty assumptions made at the time; whether the City Council has complied with the clear duties set forth in the Charter depends on much stronger evidence—does the amount of money provided by the City Council actually enable the Mayor to hire and maintain a police *force* of 731 officers?⁴

Thus, there are four important police force strength numbers in play in this case: (1) a “target level” of officers, (2) the “funding” number on City budget documents, (3) the

⁴ Respondents can amend the budget at any time during the calendar year to deal with legal requirements and shortfalls, etc. They did exactly that in 2020 when they cut the MPD budget, as discussed below.

Charter minimum force number, and (4) the actual number of officers funded by the budget. The first two numbers are nothing but theory and paper; the third and fourth numbers matter. Only the fourth number, which deals in reality instead of the City budget office’s fantasy, determines whether Respondents have met the Charter’s minimum force requirement. This distinction between theory and practice can be summarized in a simple chart, here related to the 2021 budget:

Target number of officers	888
Budget “funded” officers	770
Charter minimum	731
Officers compensated using funding	583 (December 12, 2021)

Stip. ¶¶9-15, 20; *StarTribune*, “Funding in question as crime keeps rising,” Dec. 12, 2021, available at <https://www.startribune.com/funding-in-question-as-crime-keeps-rising/600126463/?refresh=true>.

Again, Respondents will contend that their budget employees’ mere say-so that they “fund” 770 officers on their budget documents is good enough to satisfy their Charter obligations. This claim runs into a brick wall otherwise known as “reality.” It is theoretically possible that the 2021 budget might have paid for 770 officers *if* the actual costs for sworn officers were consistent with the Council and Mayor’s budgetary assumptions. But Respondents admitted that this did not happen. *E.g.*, Stip. ¶¶9-15. In fact,

Minneapolis maintains far fewer officers than its overly optimistic force strength projections from April 2021.⁵

This is the reality. Minneapolis had about 583 officers as of December 2021. Mayor Frey agrees that Minneapolis needs more officers to secure its safety and says that he wants to hire more. Ex. 17 at 14 (Frey). In fact, he says he would but for the Council's defunding efforts. Ex. 17 at 87-88 (Frey). If the "770" number meant what Respondents say it does—that there is funding which pays for 770 officers to be employed by the MPD—then Mayor Frey should be able to immediately offer jobs to about 200 more new officers today, bringing force payroll numbers to 770. If he could do that, then it would be clear that there is "funding" for 770 officers. But Mayor Frey claims he cannot hire any more officers than currently projected, and the Council has not provided Mayor Frey money to hire more officers than what was originally allocated to MPD for 770 officers. Ex. 17 at 50-52, 55-56, 87-88 (Frey); Ex. 18 at 49 (Bender).⁶ The "770" number is a fantasy written on paper, not the Charter's definition of funding.

⁵ Compare Stip. ¶9 with *StarTribune*, "Funding in question as crime keeps rising," Dec. 12, 2021 (583 sworn officers).

⁶ Officer salaries make up the "vast majority" of the Minneapolis police budget, MPD compensation terms are set by a collective bargaining agreement with the Police Officers' Federation of Minneapolis ("POFM"). Ex. 41 (CBA); Ex. 17 at 39-41 (Frey); Ex. 16 at 50 (Cruver); Ex. 18 at 49 (Bender). The CBA thus removes any Council "discretion" as to *how* to fund the number of officers on the force. If there is no budgeted money for additional officers, the Council must add funding to add officers. Ex. 17 at 42, 55-56 (Frey).

E. Minneapolis' Police Force Has Dwindled by More Than Thirty-Five Percent Since August 2019 and Continues to Do So.

Since August 2019, the Minneapolis police force has experienced a historically devastating decline. When Mayor Frey gave his August 2019 budget address for the 2020 budget year, he claimed that the sworn MPD complement of 900 officers (876 active officers) was “stagnant”—MPD needed more officers. Ex. 17 at Dep. Ex. 21, M000765 (Frey). MPD is thus now *more than 317 officers below that August 2019 complement*—a reduction of greater than *thirty-five percent*. E.g., *StarTribune*, “Funding in question as crime keeps rising,” Dec. 12, 2021 (583 sworn officers). These numbers are unacceptable for a city of nearly 430,000. They are worse even than the unacceptable numbers that led to inflated crime in 1960, triggering the force-minimum Charter Amendment.

These officers have left because of a lack of Council support that resulted in on-duty injuries and retirement, especially related to Post-Traumatic Stress Disorder. PTSD injuries have risen because of the sharp increase in violence in Minneapolis' streets with insufficient police. The officers with PTSD have sought, *en masse*, Public Employees Retirement Association (PERA) Duty Disability. The City also offered a one-time retirement incentive called the “Rule of 80” that bonused officers with age and experience adding up to at least 80 years if they retired. Ex. 15 at 56-59 (Almquist). Twenty-two officers took this retirement incentive and separated from the force by early 2021. Ex. 15 at 59 (Almquist).

F. The Council Defunded the Police in 2020 in Violation of the Charter.

The sharp decline in the MPD is no surprise given how the Council has treated it. After the murder of George Floyd, a veto-proof Council majority publicly stated that they were going to defund the MPD. Council President Lisa Bender tweeted on June 4, 2020, in response to Council Member Jeremiah Ellison's similar call for defunding:



EXHIBIT 34
STIPULATED EXHIBIT 35

Ex. 35. Explaining what her tweet meant, Council President Bender testified that a unanimous Council resolution passed on June 12, 2020 could best describe her views. This Resolution identified the MPD's \$193 million budget as a problem. *See* Ex. 18 at 17-20 (Bender) (referencing Resolution No. 2020R-152, *available at* <https://lims.minneapolismn.gov/Download/MetaData/17459/SignedAct.pdf>). Ms. Bender further lamented that, despite vast majority of MPD dollars going toward officer salary and benefits fixed by a CBA, “the context, for me, is that we have significantly increased the police department's budget during my time on the City Council; ...\$30 million more today than it was in 2014, when I took office.” Ex. 18 at 35 (Bender).

Immediately after the June 4 tweet, the Powderhorn Park rally, and the June 12 resolution, the Council began cutting the MPD budget consistent with its unanimously stated intent to downsize the MPD.

Just two weeks after the June 12 resolution, on June 26, 2020, the Council passed Resolution No. 2020R-177, which cut the MPD expense budget by \$8,625,191. Stip. ¶16; Ex. 3 at M001474. Council President Bender admitted that the Council had the discretion to make zero cuts to the MPD, but it made them anyway. Ex. 18 at 26 (Bender). Mayor Frey also admitted that the City did not have to cut the MPD's budget in 2020. Ex. 17 at 19-20 (Frey).

Thereafter, the Council made further cuts to the MPD. On July 24, 2020, the Council cut an additional \$1,524,000 from the MPD budget. Ex. 4 at p. 2 (Resolution No. 2020R-194). This cut removed \$212,218 from the budget for the "CSO Program,"⁷ and \$957,719 from "Patrol." Ex. 4 at p. 2. This cut also *added* \$1,100,000 to the "Office of Violence Prevention" within the Health Department. Ex. 4 at p. 2. These actions were explicitly intended to take from MPD to give to OVP. the MPD identified the real-world effect of these cuts:

2. Did the reallocation of roughly \$1 million for violence prevention efforts this summer (out of a \$188.5 million budget) have *any* impact on police staffing?

Answer: Yes, absolutely there has been an impact. Because we needed to show immediate savings...we had to cancel our academies and the CSO

⁷ The Community Service Officer Program, or CSO Program, consists of full or part time MPD employees who are unsworn civilians with the goal of attending a future Minneapolis Police Academy and being hired as sworn Police Officers. Stip. ¶18.

programs as part of that \$1+ million savings. We did not have enough discretionary spending available to cut to reach the required dollars.

Ex. 33 at M004690 (emphasis in original). Mayor Frey testified that he was aware of the cuts to the CSO Program, Ex. 17 at 24 (Frey Dep), and the MPD “cancelled its August 2020 police academy after the enactment of Resolutions 2020R-177 and 2020R-194, revoking job offers to 36 police officer candidates.” Stip. ¶19. The MPD only hires through academies. Stip. ¶23. Thus, due to this cut, the MPD had *no way* to offset continuing attrition to the department.

G. The 2021 Budget Further Slashed MPD Funding, and the 2022 Budget Failed to Meaningfully Address Staff Shortages.

For the 2021 Budget, Mayor Frey proposed a cut of MPD’s budget to approximately \$174 million, nearly \$20 million lower than the 2020 Budget of \$193 million. Ex. 32 at M005243; Ex. 17 at 37 (Frey). But even that proposed cut, calculated to get past the Council and “retain as many officers as we possibly could,” was not enough to appease the Council’s defunding intent. Ex. 17 at 36-37 (Frey).

The Council attempted to reduce the total *possible* sworn officers on payroll to 750 for the year 2022—regardless of what the 2020 Census might dictate. Ex. 32 at M005244 (“In 2022 the CSL will fund 750 sworn officers per amendment 14 A5”). That proposed amendment failed. *See* Ex. 18 at 50 & Ex. 6 at M015713. The Council then passed a total MPD budget of \$164,292,000 for which it does not require Council approval—about \$10 million under the Mayor’s proposed budget. Stip. ¶20; Ex. 6 at M015718.

The Council adopted budget lowered the MPD’s baseline budget in 2021 and made it impossible for the MPD’s slow hiring methods to deal with the current crisis. In the face

of these cuts, the number on “continuous leave” in MPD kept increasing, and the number of sworn officers in the MPD kept decreasing, creating a “ghost force” that did not protect Appellants and their neighbors on the North Side.

The 2022 Minneapolis budget increased MPD funding to \$193,104,690.⁸ The Mayor’s budget presentation indicates that the number of sworn officers which could be hired on average only slightly increased from 2021 to 2022, from 749 to 756.⁹ The reason this modest expense increase does not accordingly increase officer force numbers is due to normal rise in employee salaries, wages, and benefits and an increase in worker’s compensation claims and disability claims.¹⁰ Despite this inadequate increase in dollars, the number of police in the MPD continues to decrease.¹¹

H. The MPD’s Projected Decline in Officer Numbers Was Still Too Optimistic Under the City’s Prevailing Budgeting and Employment Practices.

The MPD’s projections submitted to the district court in April 2021 were bad enough—they projected an ongoing deficit in officers that would not have met the Charter’s minimum force requirement. There is no evidence that Respondents did anything

⁸ 2022 Council Adopted Budget, available at https://lms.minneapolismn.gov/Download/FileV2/26236/2022-Council-Adopted-Budget_Reduced.pdf.

⁹ 2022 Police Budget Presentation, available at https://lms.minneapolismn.gov/Download/FileV2/24988/2022-Budget-Presentation_Police.pdf.

¹⁰ *Id.* p. 3. Worker’s compensation and duty disability claims alone account for \$8.6 million more than in 2021.

¹¹ *StarTribune*, “Funding in question as crime keeps rising,” Dec. 12, 2021. Respondents possess the actual force numbers at present.

to change policies even after the district court issued the writ of mandamus. But while the Respondents' projections were an admission that they underfunded and underemployed officers, the actual number of officers in MPD is somehow even worse than projected.

The following chart summarizes the MPD's projections and what public reports and documents have showed at corresponding times throughout 2021:

Date	Projected Sworn	Actual Sworn
June 1, 2021	690	658 (Oct. 15)
January 1, 2022	649	583 (Dec. 12)
April 1, 2022	637	unknown ¹²

Stip. ¶¶9-14; POFM Amicus, Oct. 15, 2021, p. 15; *StarTribune*, "Funding in question as crime keeps rising," Dec. 12, 2021 (583 sworn officers).

The MPD made highly optimistic assumptions to support its projections submitted to the district court. First, there had to be no additional freezes or losses of MPD funding. Second, the Mayor had to support MPD's funding requests. Third, the 2022 Budget had to fully fund the Mayor's requested hiring, training and payroll expenses. Fourth, additional funding had to be allocated for training expenses including facility rental, increasingly costly background checks, and other increased costs because of increased training. Fifth, the MPD had to continue or expand its CSO program. Sixth, the MPD had to expand its Field Training Officer (FTO) program to provide mentoring and training to Academy graduates. Seventh, there had to be a return to normal attrition after the current group of

¹² Appellants asked Respondents to provide the current number of sworn officers to the Court, but Respondents have declined to provide an update. *See* Motion to Supplement the Record, May 2, 2022.

disability claimants leave the MPD. Eighth, the 2021 training had to result in 110 new sworn officers. Ninth, the 2022 training has to result in 160 new sworn officers. Stip. ¶15.

These are staggering assumptions when considering a Council that is determined to defund the police and even remove the Charter force minimum. The only way to ensure that the Council complies with the Charter is Court intervention.

I. As the Minneapolis Police Force Has Declined, Violent Crime Has Risen, Disparately Harming Appellants and Their Diverse North Side Neighbors.

Appellants and their neighbors in Minneapolis’ most diverse communities are bearing the brunt of the Council’s misguided quest to destroy Minneapolis law enforcement. Appellants have repeatedly pleaded with the Council for help. Their cries fall mostly on deaf ears, while a hail of bullets rips through Jordan and Hawthorne. Appellants’ stories show why the people of Minneapolis passed the 1961 Charter Amendment—to protect against this very possibility, with actual officers, not numbers on a budget document.

Respondents admit that the crime rate in Minneapolis has increased since the murder of George Floyd. Stip. ¶41 & Ex. 9. The increase in crime numbers is jaw-dropping and is summarized in Exhibit 9, a report created by MPD. Between 2019 and 2020, crime trends were as follows:

Type of Crime	Increase from 2019 to 2020
Homicide	70.8%
Robbery	46.6%
Aggravated assault	23.5%

Burglary	18.4%
Theft from motor vehicles	25.3%
Auto theft	35.9%
Arson	69.5%
Gunshot wound victims	105%
Guns recovered by MPD	13.6% (41.5% in Precinct 4)
Carjackings	301%
Theft of motor vehicle parts	660.9%

Ex. 9 at 6, 7, 13, 15, 16, 18.

Even in the beginning of 2021, the number of rapes and robberies rose from 2020 numbers, increasing by 22.7% and 59.7%, respectively. Ex. 9 at 9. The number of gunshot wound victims in January 2021 rose versus January 2020 by 250%. Ex. 9 at 13.

These numbers are appalling, and they are felt most heavily where Appellants live. Respondents know that violent crime disproportionately affects the most diverse neighborhoods in Minneapolis. In 2020, the MPD and the Mayor’s Office submitted a Racial Equity Impact Analysis (REIA) to the Council as part of a request for additional MPD funding for support “across the city” through the co-responder program with the Hennepin County Sheriff and the Met Council. Ex. 31 at M003564. Even though the support would be widespread, the REIA stated that additional officers across the city would benefit those in diverse neighborhoods particularly at risk of increased criminal violence. Ex. 31.

The MPD and Mayor’s office reported as follows to the Council:

People of color...are disproportionately [sic] more likely to be victims of violent crime and account for the highest percentage of victims of gunshot wound citywide (81%). The highest concentration of both violent crime and shots fired occur in the two precincts with the most diverse communities in the city, Precinct 3 in South Minneapolis, and Precinct 4 in North Minneapolis....Thus, the highest concentration of violent crimes are occurring in the city's most diverse areas.

....

This will achieve racial equity goals by...having a more equitable distribution of resources across our city. Due to the concentration of...violent and shooting [crimes]...in the most diverse areas of our city, those areas typically experience longer call response times due to the additional strain on resources....Since areas with the highest racial diversity in the city also experience the highest totals with respect to violent crimes and gun crimes, we would expect service levels to increase in those areas for calls for service...measured by a decrease in call response time and an increase in presence.

In short, when Minneapolis adds police, it benefits diverse neighborhoods like Appellants' Jordan and Hawthorne the most. When Minneapolis defunds police, it hurts diverse communities like Appellants' the most.

Appellants demonstrated the harm that they have specifically experienced in excruciating detail in the district court. Ex. 21 (Response to Interrogatory No. 2); Ex. 10 (Sondra Samuels); Ex. 11 (Cathy Spann); Ex. 12 (Aimee Lundberg). Appellants' stories are key to understanding the purpose of minimum force requirement in the City Charter.

The massive increase in violence in North Minneapolis started with the riots following the murder of George Floyd. Ex. 10 at 24 (S. Samuels); Ex. 11 at 19 (Spann). But the violence did not end there. Appellants clearly identify the Council's June 7, 2020 defunding announcement and subsequent budget cuts as the catalyst for the violence in Minneapolis. Sondra Samuels testified as follows:

[W]ould it be fair to say [Jordan is] a neighborhood that has suffered violence for much longer than just 2020?

A. Oh, for sure. But I tell you, 2020 was a capstone year. It was the first time my husband and I actually looked at each other and contemplated whether we could stay....to have a city council just go on CNN and make an announcement that they're defunding the police...and dismantling, it felt like they were defunding and dismantling our neighborhood and all that we had...given, had sacrificed, and had been given, quite frankly, from this community.

Ex. 10 at 16-18 (S. Samuels).

Cathy Spann testified the same:

Q. And tell us...what was your response when nine council members stood up with an organization behind a sign that said "Defund the Police"?

A. I had no response. My feeling was numb, shocked disbelief, but I had no response.

Q. After that rally, what happened in your community...?

A. Violence erupted.

Q. What do you mean by that?

A. Families started hearing gunshots hourly, daily, nonstop....the violence just wouldn't stop. People's homes were being shot up. Innocent children and people were being shot on the street. Violence erupted all throughout North Minneapolis, all throughout the Jordan neighborhood. On many blocks, there were gunshots.

Ex. 11 at 31-32 (Spann).

Aimee Lundberg testified similarly:

Q. And then it says, "This announcement,"..."with no plan in place,"..."out of your emotional response to injustice has ended up in being our burden to bear."....What do you mean by that?

A. I mean their announcement to defund, dismantle....was an emotional response....It was coming from extreme voices, and...I believe it was an

emotional response to what we saw happen between George Floyd and the police officer....And as citizens,...we took the brunt of that, the side effect of their announcement and the movement of the MPD and the escalation in carjackings, robberies, and automatic weapons gunfire. It was our burden. We were the ones who lived it.

....

By talking about this, are you pointing to any other actions after June 7th by the council?

A. I mean, we have just seen the budget cuts. You know, we've continued to see that happen.

Ex. 12 at 54-55, 57 (Lundberg).

Appellants also testified that the violence has not abated since the end of the riots after the murder of George Floyd. Sondra Samuels testified:

Well, things...haven't really calmed down in North Minneapolis....I've never in my life experienced what we experienced here post-riot and looting, and...I got to say, and the announcement of the city council about defunding the police and dismantling....those are two inextricably linked scenarios....the biggest difference between the violence and the crime and the lack of safety before the riots and then post, is that we had a depleted police force. So there's never been a time that I called 911 and didn't get an answer, or when they picked up, they say, "Can you hold." Never, ever, ever, ever, ever....we used to complain about the police not coming right away....There was never a time that they just didn't come....[I]t became really clear around what was happening that we just did not have the people power to do all of those things....And...I remember an officer saying, you know, "Ma'am, we just don't have the numbers."

Ex. 10 at 29-32 (S. Samuels).

Appellants feel fear, have suffered injury, and feel defenseless and abandoned by the Council because of its repeated statements and actions to defund the MPD. Aimee Lundberg has been diagnosed with PTSD because of the increased violence in Jordan. Stip. ¶41d. Gunmen shot Aimee and her husband Jonathan's house twice, once next to her child's bedroom window, because of increased crime and lack of police protection. Ex. 21

(Response to Interrogatory 2); Ex. 38 at PET 420-421 (photos). Sondra Samuels also testified:

It's that we have a depleted police force, and nobody's coming. And...the criminals know that, that nobody is coming....And so it has felt like we are in a defenseless, absolutely defenseless and helpless posture that I never experienced in all of the years I've lived in Minneapolis. I've never been, Counsel, afraid. I've never been afraid of my neighborhood....I've just never been afraid of my neighborhood until the city council moved to defund the police, and we saw the numbers just drop off in an ongoing way.

Ex. 10 at 35-36 (S. Samuels).

In their personal experience, Appellants see the key difference between the ongoing violence now and prior levels as a lack of police, and that the decline in the MPD has been the sole determinant of their declining safety. Aimee Lundberg testified:

Q. So my question for you is, how did the city's failure to comply with its legal duties under City Charter Section 7.3 cause your house to be shot twice?....

A....The...experience that we had this summer...after George Floyd's death, there was an obvious reduction in police, and the escalation of crime and gunfire went to an unprecedented level. We were hearing machine guns. We were hearing exchange of fire, not just a pop, pop, pop, which is what we've come accustomed to, unfortunately. And I don't want to admit that it's normalized, but it had been. But the extent in which this violent behavior happened this summer was immediate and it was overwhelming, and it is so close by,...to the point where it wasn't, "Oh, this is happening because it's...a weekend and it's later at night." It was in the middle of the day. And so I do believe, because of the escalation of gunfire and the escalation of violent behavior in this community, it got to the point where, yeah, our house got hit. I'm surprised it wasn't hit with more bullets. It's shocking to me that it's only two.

The other Appellants echo these deponents' testimony. Ex. 21 (Response to Interrogatory 2). Appellants documented the violence and damage with photographs as well. Ex. 38 (bullet holes in the Lundbergs' siding, PET 420-421).

Appellants' testimony of grief and loss, and the stories of a "hail of bullets," are not internalized grief. They were not silent, letting their community be ravaged by violence with no response. Rather, they spoke out. They sent email after email to the Respondents begging for help. Except for a few sparse responses, their cries went unanswered. Ex. 27 (Appellants' emails).

J. Minneapolis Is Continually Failing to Take Action That Would Work to Address the Officer Shortfall.

The Minneapolis Police Department requires *all* sworn officers—rookies and veterans alike—to go through police academies for onboarding and training. Even lateral transfers who are licensed peace officers attend to ensure their training is "up to date" before they become full MPD officers. Stip. ¶23. Each Minneapolis Police Academy takes about three months to complete. After graduation, new sworn officers are "probationary" and must shadow Field Training Officers on regular patrol calls. It takes several months for them to transition to independent work. Upon completion of their probationary period, new officers are finally deemed full patrol officers able to work independently. Stip. ¶30.

The City had no plan to add sworn officers to MPD in 2021 other than through the first two academies to take place in 2021 and potentially through the CSO program. Stip. ¶33. At the time this case was submitted to the district court, the MPD was only expecting to add a maximum of 110 new sworn police officers over the three 2021 training academies due to capacity limits. Stip. ¶¶24-25.¹³ For the 2022 budget process, Respondents represented that the Mayor's proposed budget to be released in August 2021 would include

¹³ It is not clear whether these academies were actually full.

training for 160 or more new sworn officers in 2022. Stip. ¶34; *see also* Exhibit 8. However, it is unclear whether that is true.

During the course of these academies, it is not as though attrition stops. Rather, as the City's projections show, even while slowly adding officers, the MPD expected to lose more officers than it adds through April 2022. Stip. ¶¶9-14. The City appears to have done nothing to change that, and the numbers are worse than anticipated.

K. In The District Court, Respondents Admitted That Funding Requires Hiring.

While Respondents will argue here that funding need not translate into employment of officers in the MPD, they admitted in the district court that funding and hiring of officers go together:

The other thing, Your Honor, is yes, we do have this funding minimum, but Minneapolis is unique in the sense that it has a funding minimum that many other departments don't have funding minimums...I don't know the grave details of how Duluth or Moorhead or any other place in...Minnesota does it, **but without funding minimums they could have a force that goes down to a minimum number, the extremes that you talked about, but here we have a funding minimum that is being met by the department.**

Doc. 66 at 6:12-22 (emphasis added).

Respondents also “[g]ranted there is a certain point when officers are funded and ***hiring must happen...***” Doc. 66 at 17:9-14 (emphasis added). Respondents then conflated funding and hiring later in the argument, stating:

The funding ***for the hiring*** and for the positions are there. The Mayor and the Chief have proposed and received a budget for 2021 that increased hiring and intend to ask for more money for the 2022 budget, but they can only move as fast as they can move.

Doc. 66 at 26:23-27:3 (emphasis added). Respondents admitted that when funding is provided, *hiring must happen*. The Mayor's mandate to hire upon receiving funding is unequivocally supported by the structure, text, and history of the Charter. After all, the sole purpose of funding a "police force" is to hire its members.

Respondents did attempt to hyper-technically reduce Section 7.3(c) of the Charter to mere paper funding numbers in other statements to the Court. *E.g.*, Appellants' COA Br. 16, Sept. 8, 2021. But Respondents admitted below that the Charter requires the Mayor to use allocated funds to hire officers.

ARGUMENT AND AUTHORITIES

I. Introduction

The district court properly granted the alternative writ of mandamus and gave Appellants a glimmer of hope that the City of Minneapolis and their neighborhoods, dearly beloved to them, would have a chance to thrive again. The court of appeals, while recognizing that Appellants' position is the "logical" one here, reversed that decision. This Court should reverse the court of appeals' "illogical" decision and reinstate the district court's alternative writ of mandamus. The Court should hold that the Council and Mayor Frey are required to fund and employ at least 731 sworn officers as part of the Minneapolis police force under Charter §7.3, based on the 2020 U.S. Census population for Minneapolis.

The court of appeals subverted the will of the people of Minneapolis by converting the Charter's minimum force requirement into a mere number on paper. The court of appeals' decision created "discretion" where there is none by holding that Mayor Frey—or any successor with a dimmer view of the MPD—can unilaterally dismantle the MPD by firing every officer on the force. The court of appeals also failed to analyze whether the Council actually provided funding for 731 sworn officers given the serious depletion of the force and Mayor Frey's testimony that he cannot hire more or hold more academies without more money. These holdings were error.

This Court is now faced with three issues central to the meaning of the Minneapolis City Charter: (1) whether the Mayor has a clear legal duty to "establish" and "maintain" a police force of at least 0.0017 sworn officers per resident using funding from the City

Council, (2) whether the Council has provided sufficient funding to “fund a police force of at least 0.0017 employees per resident, and provide for those employees’ compensation,” and (3) based on the Court’s view of these two issues, whether the district court properly issued the alternative writ of mandamus.

In response to these presented issues, Appellants ask this Court to hold as follows. First, the unambiguous text of Charter §7.3 requires the Council to fund, and the Mayor to establish and maintain, a police force of 731 sworn officers, whose compensation must be paid. Even if the Court were to hold that the Charter is ambiguous, the history and structure of the Charter overwhelmingly support both funding and maintenance of a minimum number of Minneapolis police. Second, Respondents’ duties are clear—there is no “discretion” to under-fund or fail to maintain the MPD in violation of the force requirement. Mandamus is therefore the proper vehicle to enforce these duties.

The district court was right to issue the alternative writ of mandamus, and this Court should reinstate it and require Respondents to show compliance with the writ or show cause before the district court by June 30, 2022.

II. The Court of Appeals’ Decision Is Subject to *De Novo* Review.

In reviewing the issuance of a writ of mandamus, appellate courts give deference to the district court’s findings of fact. *Popp v. Winona County*, 430 N.W.2d 19, 22 (Minn. Ct. App. 1988). However, “[w]here statutory construction is necessary to reach a determination on whether the district court erred by issuing the writ of mandamus, that statutory interpretation is a question of law that this court...reviews de novo.” *Hans Hagen Homes, Inc. v. City of Minnetrista*, 728 N.W.2d 536, 539 (Minn. 2007). A charter is

“subject to the recognized rules of statutory construction.” 62 C.J.S. *Municipal Corporations* § 156 (2011); *Firefighters Union Local 4725 v. City of Brainerd*, 920 N.W.2d 232, 240-41 (Minn. Ct. App. 2018).

III. The Plain Meaning of Charter Section 7.3 Requires Both Funding and Maintenance of 0.0017 Sworn Officers Per Resident.

The court of appeals erred by holding that the Mayor has no clear legal duty under Charter §7.3(a) to “establish” and “maintain” the Minneapolis police force at 0.0017 sworn officers per resident, consistent with section 7.3(c)’s funding requirement. (Add. 15). The court misapplied the rules of statutory interpretation and held that the words “establishment” and “maintenance” vis-à-vis a police force could not be reasonably interpreted to require “employment” of even a single officer. In fact, the *only* reasonable interpretation of the Charter requires the Mayor to use funds allocated solely for that purpose to accomplish that purpose.

A. Where a Charter Is Unambiguous, Courts Apply Its Plain Meaning.

Where a charter is unambiguous, courts apply its plain meaning. *Am. Tower, L.P. v. City of Grant*, 636 N.W.2d 309, 312 (Minn. 2001). An essential canon of statutory construction is that “words or phrases are construed...according to their common and approved usage” unless some special meaning has been attributed to them over time. Minn. Stat. §645.08(1). Further, courts must “construe statutes ‘as a whole’ so that statutory language is understood in context” and “harmonize statutes if possible.” *Greene v. Minn. Bureau of Mediation Servs.*, 948 N.W.2d 675, 679 (Minn. 2020).

B. The Mayor Has a Clear Legal Duty to “Establish” and “Maintain” a Police Force of at Least 0.0017 Sworn Officers Per Resident Using Funding Provided by the Council for that Sole Purpose.

The Charter provides as follows, in relevant part:

The City Council must fund a police force of at least 0.0017 employees per resident, and provide for those employees' compensation....

§ 7.3(c).

The Mayor has complete power over the establishment, maintenance, and command of the police department.

§ 7.3(a).

The only reasonable interpretation of Charter §7.3(a) is that the Mayor’s “establishment” and “maintenance” of the police force, where the Council must fund 731 officers under Section 7.3(c) and provide for *their* compensation, means using *those* funds to employ *those* officers, at minimum. This is the only interpretation of the Charter which harmonizes Sections 7.3(a) and 7.3(c) to make “logical” sense. The court of appeals admitted that it is “logical to conclude that if the city council provides funds for police officers, then the mayor must use those funds for their designated purpose.” (Add. 11). As Judge Connolly pointedly stated in his concurrence, to say otherwise is “illogical.” (Add. 17 (Connolly, J., concurring specially)).

The common dictionary definitions of the terms in Section 7.3(a), which the court of appeals failed to define, support this interpretation. According to Merriam-Webster’s online dictionary, every common use of the word “maintain” in the context of the Minneapolis police force supports Appellants’ interpretation of the Charter: (1) to keep in an existing state; (2) to sustain against opposition or danger; (3) to continue or persevere

in; and (4) to support or provide for. “Maintain,” *Merriam-Webster*, available at <https://www.merriam-webster.com/dictionary/maintain>. The last of these definitions is commonly used to refer to a group of people, like a family. *Id.* It means to provide for their ongoing well-being, and in the context of an organization like the MPD, it means providing for their employment and compensation and keeping them part of the group. After all, the Mayor inherently needs funds to maintain a police force; “funding” and “maintenance” are two sides to the same coin. The application of this definition harmonizes the Charter’s funding and maintenance provisions such that the Council’s legislative prerogative is effected by the Mayor’s executive actions.

Likewise, the common dictionary definition of “establishment” in this context necessarily refers to hiring a body of people for a specific purpose: “something established: such as...a permanent civil or military organization [or]...a public or private institution.” “Establishment,” *Merriam-Webster*, available at <https://www.merriam-webster.com/dictionary/establishment>. To “establish” consistently means “to make firm or stable...to bring into existence...to put on a firm basis.” “Establish,” *Merriam-Webster*, available at <https://www.merriam-webster.com/dictionary/establish>. In Black’s Law Dictionary, it means, relevantly, “To found, to create, to regulate; as: ‘Congress shall have power to establish post-roads and post-offices.’” “Establish,” *The Law Dictionary*, available at <https://thelawdictionary.org/establish/>. “Establishment” here, alongside the term “maintenance,” most logically refers to the creation, support, and regulation of the police force. The only way to create, support, and regulate a police force is to hire people to be sworn police officers and continue to pay them to do that job. Thus,

in the face of a funding minimum, the clear import of the Charter's reference to "establishment" is a mandate to use funds available to employ and "provide" for police officers' "compensation."

Appellants' interpretation of the Charter is especially sensible in the context of minimum funding clauses. This Court's precedent militates against allocated funds not being spent for their intended purposes. *E.g.*, *State ex rel. Gillis v. Goodrich*, 264 N.W. 234, 238 (Minn. 1935) ("Were this a case where by a standing ordinance certain expenditures were mandatorily required, our conclusion as to result might be otherwise."); *Brayton v. Pawlenty*, 781 N.W.2d 357, 381 n.3 (Minn. 2010) (failure to spend may unlawfully "negate a legislative policy decision").

In *Gillis*, the St. Paul Comptroller was tasked with the division of funds between the police, fire, and health funds of the city. 264 N.W. at 237. The law giving the comptroller this power set no employment minimums, only maximums. The comptroller transmitted to the city council a fire department budget estimate that had the practical effect of reducing the number of fire department employees by 93 employees from its previous 427 and underpaying numerous employees. *Id.* at 235. The Court allowed this because the controlling legal provision at issue only set "maximums beyond which the designated department shall not go, in number or personnel, or their compensation." *Id.* at 238. The Court specifically stated that "[w]ere this a case where by a standing ordinance certain expenditures were mandatorily required, our conclusion as to result might be otherwise." *Id.*

This is the case envisioned by *Gillis*. Unlike the comptroller in *Gillis*, there are no maximums here, but a minimum number of officers to be funded by the Council. Once the Council appropriates the mandatory funds for Minneapolis' police force, the Mayor must use his powers under Section 7.3(a) to maintain a sufficient number of police officers to give effect to Section 7.3(c). Mayor Frey does not have discretion to fail to spend the funds appropriated by the Council. And if the Mayor claims that he *cannot* hire more officers given current funding levels, then the Council has failed to provide adequate funds under the Charter, no matter what they say on paper.

This Court touched on the reason that charter-required funding minimums clearly require mayoral action in *Brayton v. Pawlenty*. 781 N.W.2d at 365 n.3. In *Brayton*, the Court noted that while the case before it did not expressly invoke the question of whether the executive has inherent authority to not spend money once appropriated, other courts which have addressed the question have squarely decided that executives cannot refuse to spend in a manner that undermines legislative directives. *Id.* (collecting cases).¹⁴

This case presents this issue squarely, and there is no question as to the “legislative intent” behind the allocation of dollars by the Council, because the Charter gives the Council no choice but to allocate enough dollars to keep the MPD at or above 731 sworn officers. The people of Minneapolis made that decision for the Council and Mayor and

¹⁴ The *Brayton* Court collected the following cases: *Opinion of the Justices to the Senate*, 376 N.E.2d 1217, 1223 (Mass. 1978); *Hunter v. State* 865 A.2d 381, 390-91 (Vt. 2004); *Rios v. Symington*, 833 P.2d 20, 23, 29 (Ariz. 1992); *Colo. Gen. Assembly v. Lamm*, 700 P.2d 508, 520, 522 (Colo. 1985). These cases all stand for the proposition that an executive's decisions cannot undo a legislative directive.

took away any “discretion”¹⁵ as to whether to reach that minimum force number, in 1961. So, the Mayor has zero discretion to refuse to employ 731 officers using funds allocated by the Council for that sole purpose. And again, if the Mayor does not have enough funds to get to 731 at any given time, the Council must provide more funds or it violates the Charter.

Appellants’ interpretation is the only one which harmonizes Section 7.3(a) and 7.3(c) consistent with the plain meaning of the Charter. Appellants’ interpretation is also the only interpretation consistent with the original meaning and intent of the Charter related to the police force. And as the court of appeals admitted, Appellants’ interpretation is the only reasonable and “logical” one before the Court: the Mayor has no discretion to personally dismantle the Minneapolis police force when funds have been provided solely to employ and compensate sworn officers.

C. The Council Must “Fund a Police Force of at Least 0.0017 Employees Per Resident, and Provide for Those Employees’ Compensation,” Which It Has Failed to Do.

The court of appeals correctly noted that the Council has a clear legal duty to fund at least 0.0017 employees of the police force per resident of Minneapolis. Add. 11. But the court erroneously held, without analyzing Appellants’ argument and the district court holding to the contrary, that the City Council has complied with that duty. Add. 6 n.2. Where the court of appeals fails to consider a legal argument advanced by a party and that

¹⁵ As discussed more fully below, there is no “discretion” to fail to obey a clear legal duty. To hold otherwise would undo the mandamus statutes.

argument is meritorious, this Court will reverse. *E.g.*, *State v. Fields*, 730 N.W.2d 777, 779 (Minn. 2007).

Appellants have consistently argued, and the district court correctly held, that the plain meaning of “fund a police force” is inextricably intertwined with the number of employees of the police force in the real world. *E.g.*, Order for Writ p. 4 ¶7, p. 18 ¶39; Respondents’ COA Br., Oct. 8, 2021, at 4-7. Otherwise, the Charter funding provision is at best an aspiration, and at worst a nullity. Construing “funding” to be related only to inaccurate paper budget numbers, as the court of appeals did, violates the central canon of statutory construction, that the “object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature. Every law shall be construed, if possible, to give effect to all its provisions.” Minn. Stat. §645.16.

The district court correctly held:

Based on the above discussion and calculations, the City Charter § 7.3(c) requires Respondents fund a police force of 730.33 employees. The parties stipulated that the MPD will have 649 sworn officers as of January 1, 2022, 637 sworn officers as of April 1, 2022, 669 sworn officers as of June 1, 2022, and 721 sworn officers as of January 1, 2023—all of these projections fall significantly below the required 730.33 employees. (*See* Stip. of Facts, ¶¶ 10-13).

In so holding, the district court properly interpreted the plain meaning of “fund a police force of at least 0.0017 employees per resident, and provide for those employees’ compensation” to require the allocation of enough money to maintain that force number throughout the year for which the funding is provided. If the Council-provided dollars do not allow for the maintenance of that number of police officers and their compensation, the Council has not met its funding duty.

This interpretation coheres with the parties' Stipulation and the deposition testimony in the district court admitted as exhibits. The parties stipulated that the City's "2021 budget provides actual funding of 770 sworn officers on payroll because out of the 'target level' of 888 sworn officers, 118 sworn officer positions in MPD will be held vacant in 2021." Stip. ¶20. The phrase "actual funding" only differentiates the money provided from "target level funding." It means that, if the Respondents' faulty assumptions were correct (they were wrong), the 2021 budget could fund 770 sworn officers and not 888. But the "770" number itself relies on those assumptions; it is a mere calculation that assumes the pot of money provided will cover that number of officers' compensation. *See* Ex. 16 at 53-57 (Cruver) ("you will see that from some of the spreadsheets that we used to try and figure out, how can we get to this average of 770 that we are paying for each month"). The budget's "funded" figure is simply not the end of the legal analysis because it deals with assumptions and projections based on the total amount of money provided in the budget divided by the cost of officers after other expenses are subtracted. The Charter, on the other hand, deals with how far that money goes in the real world. And that is the question the Court must ask: does the Council's provided budget support the number of police required by the charter?

In the real world, the answer is no, by a long shot. Mayor Frey testified that he could not hire more officers than he currently has based on the money provided—now down to 583, and probably even fewer—without more Council-provided money. Ex. 17 at 50-52, 55-56, 87-88 (Frey). Mayor Frey agrees that Minneapolis needs more officers to secure its

safety and says that he wants to hire more. Ex. 17 at 14 (Frey). In fact, he says he would but for the City Council's defunding efforts. Ex. 17 at 87-88 (Frey).

So if the "770" number meant what Respondents say it does—that there is funding which pays for 770 officers to be employed by the MPD—then Mayor Frey would have been able to, throughout 2021 and continuing to today, offer jobs to about 200 more officers than are currently employed, bringing force payroll numbers to 770 as of the writing of this brief. If he could have done that, then it would have been clear that there was "funding" for 770 officers. That simply has not been the case. The Council has failed, therefore, to provide sufficient funding under the Charter. The district court properly recognized this, as quoted above.

Respondents and the court of appeals have turned this common-sense interpretation on its head. Respondents will try to rewrite "fund a police force...and provide for those employees' compensation" into "write a budget that says it funds a police force." But nothing in Charter §7.3 supports Respondents' claim that the Council's duty to fund is discharged by the creation of a flawed budget. Under Respondents' interpretation, the Council can make a slew of unfounded and incorrect assumptions, write a number on paper that might theoretically work, and claim to have "funded" a police force, even if reality screams out to the contrary. That is what the court of appeals incorrectly presumed below, without any analysis, despite Appellants' arguments to the contrary. *Compare* Add. 6 n.2 *with* Respondents' COA Br., Oct. 8, 2021, at 4-7.

Simply put, the Council must provide enough funding for the Mayor to be able to employ and compensate 731 or more officers throughout the budget year. Mayor Frey says

he wants to hire more officers, yet the force is at or below 583 sworn officers. The Council simply hasn't provided the funding required by the Charter. Under the Charter's plain meaning, this means that the district court properly issued the writ of mandamus. This Court should reverse the court of appeals and reinstate the writ.

IV. If the Charter Is Ambiguous, Its History, the Circumstances of Its Enactment, and Its Structure Overwhelmingly Support Appellants' Interpretation.

If the Charter's terms are ambiguous—subject to different reasonable interpretations, *State v. Caldwell*, 803 N.W.2d 373, 382 (Minn. 2011)—then the Court attempts to ascertain its meaning based on extrinsic evidence available to it. As the Court recently held:

In determining the meaning of an ambiguous constitutional provision, we may consider a variety of extrinsic sources, including the history and circumstances of the times and the state of things existing when the constitutional provisions were framed and ratified in order to ascertain the mischief addressed and the remedy sought by the particular provision.

Shefa v. Ellison, 968 N.W.2d 818, 830-31 (Minn. 2022) (cleaned up).

Here, the history of the 1961 Charter Amendment and the language of the Charter just prior to the “Plain Language Revision” of 2013 strongly support an actual force requirement of 731 officers and reinforce the nondiscretionary nature of the Council and Mayor's clear duties to fund and maintain that force.

A. If the Charter Does Not Unambiguously Favor Appellants, Then It Must Be Ambiguous Because Appellants' Interpretation Is Reasonable and “Logical.”

At minimum, based on the court of appeals' own concessions, the court should have held that “establishment” and “maintenance” are ambiguous terms because they have more

than one reasonable interpretation. (Add. 11); *Greene*, 948 N.W.2d at 679. The court of appeals concedes that it is “logical to conclude that if the city council provides funds for police officers, then the mayor must use those funds for their designated purpose.” (Add. 11).¹⁶ As Judge Connolly pointedly stated, to say otherwise is “illogical.” (Add. 17 (Connolly, J., concurring specially)).

Whether a particular interpretation is “reasonable” is often bound up in its “logic.” See *Emerson v. Sch. Bd. of Indep. Sch. Dist. 199*, 809 N.W.2d 679, 683 n.5 (Minn. 2012). In *Emerson*, the Court held that a statute was susceptible to more than one reasonable interpretation because the phrase “any other professional employee *required to hold a license* from the state department shall be deemed to be a ‘teacher’ within the meaning of this section” necessarily asked the question “*required by whom?*” *Id.* at 683 & 683 n.5 (emphasis added). The *Emerson* Court adopted the school district’s interpretation, that “the answer to the question ‘required by whom’ is provided by a logical inference from the reference in the following clause to the issue of the license, the state department.” *Id.* at 683 n.5. In doing so, the Court rejected the teacher’s position that the “school district required” the license. *Id.* at 681. The Court considered each a reasonable interpretation.

Likewise, if the Court does not agree that Appellants’ interpretation is unambiguously correct, the terms of the Charter must be ambiguous because section 7.3(a) and 7.3(c) are logically bound up with each other. When the City Council provides

¹⁶ As noted above, the court of appeals supplied the wrong definition of “fund” as it is written in the Charter. If the Court were to hold that the term “fund” is ambiguous, then Appellants would rely on their arguments above as well as the history and structure discussed in this section as they relate to that term.

“funding” specifically earmarked to “compensate” employees of the police force, it is necessarily referring to those employees of the police force hired and “maintained” by the Mayor. The use of the phrase “force” in section 7.3(c) and the Mayor’s requirement to “establish” and “maintain” it in section 7.3(a) necessarily refer to the number of that force funded by 7.3(c).¹⁷ This is how funding minimums work, and the *Gillis* Court acknowledged that Appellants’ view is a reasonable way to interpret a force funding minimum in a city charter. 264 N.W. 234 at 238 (“Were this a case where by a standing ordinance certain expenditures were mandatorily required, our conclusion as to result might be otherwise.”).

Again, Appellants believe the Charter unambiguously means that the Council must fund and provide compensation for, and the Mayor must maintain and compensate, a force of 731 or more sworn officers based on 2020 population numbers. But if the Court is not inclined to agree that the Charter unambiguously supports Appellants, then the Court should look to extrinsic sources to interpret the proper meaning of the Charter. These extrinsic sources overwhelmingly support Appellants’ interpretation.

B. Immediately Before the Non-Substantive “Plain Language Revision” of 2013, the Charter Explicitly Required Maintenance of the “Ratio” of 0.0017 Officers Per Resident.

Plain language revisions of constitutional governing documents, adopted by voters, do not make substantive changes where they explicitly disclaim making substantive

¹⁷ As shown below, this is what the Charter explicitly required before the “Plain Language Revision’s” non-substantive amendments.

changes.¹⁸ This Court has expressly adopted this mode of analysis vis-à-vis the Minnesota Constitution, subsequent to its 1974 plain language revision, as introduced by Laws 1974, chapter 409. *In re An Admin. Search Warrant v. Wiebesick*, 899 N.W.2d 152, 159 (Minn. 2017); *League of Women Voters Minn. v. Ritchie*, 819 N.W.2d 636, 678 (Minn. 2012); *Butler Taconite v. Roemer*, 282 N.W.2d 867, 868 n.1 (Minn. 1979). In *Wiebesick*, consistent with every other case interpreting the 1974 plain language revision, the Court held that “the 1974 restructuring of the Minnesota Constitution ‘was not intended to change the interpretation of the section . . . only to make the Constitution more readable and stylistically correct.’” 899 N.W.2d at 159 (quoting *Butler Taconite*, 282 N.W.2d at 868 n.1). The Charter here is subject to the same analysis.

Laws 1974, chapter 409 described itself as “An act proposing an amendment to the Minnesota Constitution in all its articles; reforming its structure, style and form.” Minn. Laws 1974, Ch. 409, at 787, available at <https://www.revisor.mn.gov/laws/1974/0/Session+Law/Chapter/409/pdf/> (last visited May 2, 2022). The Charter’s Plain Language Revision, passed in 2013 and implemented in 2015, is exactly like the Minnesota Constitution’s modernization amendments. As noted above, the Editor’s Note to the Charter describes the question posed to voters. It expressly maintained the balance of

¹⁸ The alternative is unworkable. Plain language revisions, presented to the voters in short ballot questions, cannot create hidden changes littered across countless provisions of law. Government officials could simply re-interpret provisions whenever it affords them more discretion, as in this case. These officials often have substantial legal resources, free of charge to them, to litigate these provisions. It is important that plain language updates do not suddenly become game-changers that work against the public who simply wanted to get rid of words like “thereto.”

power pre-existing the change and redrafted the language for brevity and plain language. Minneapolis City Charter, Editor's Note, available at: https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?nodeId=CH (last visited May 3, 2022) (“Shall the Minneapolis City Charter be amended in the form of a complete revision which (1) modernizes the Charter; (2) redrafts its provisions for brevity and in plain language; (3) reorganizes the Charter into nine articles, and groups related provisions together; (4) removes from the Charter certain provisions for possible enactment into ordinance; and (5) retains the current role and relationships of City boards and commissions?”).

Consistently, only the Charter's wording—not its meaning—has changed since the “Plain Language Revision.”. Previously, Chapter 6, sections 1 and 2 of the Charter stated:

The city council shall...by resolution, fix the salary and compensation of each member of the force and provide for the payment thereof. (section 2)

The personnel of the police department shall be established and maintained at a ratio, or as closely thereto as is possible within the limits of section 2 hereof, of not less than one and seven-tenths (1.7) employees per one thousand (1,000) of population of the city according to the latest United States official census.¹⁹ (section 1)

Now, the Charter states:

The City Council must fund a police force of at least 0.0017 employees per resident, and provide for those employees' compensation....

§7.3(c).

¹⁹ Minneapolis City Charter, Nov. 24, 2014 archive, Ch. 6, §1, available at https://library.municode.com/mn/minneapolis/codes/code_of_ordinances/232009?nodeId=CH_CH6PODE (last visited May 2, 2022).

The Mayor has complete power over the establishment, maintenance, and command of the police department.

§7.3(a).

As detailed in the statement of facts above, the Plain Language Revision was merely a clarifying instrument. The ballot question itself represented to voters that it did not change the meaning of the Charter. In the context of Sections 7.3(a) and 7.3(c), the Plain Language Revision clarified that the Council provides funding and the Mayor maintains the force with that funding.

As further support, the terms “establishment” and “maintenance” are derived from “established and maintained” in the prior wording of the Charter. The object of both terms describing the Mayor’s duties is precisely what Appellants have argued: the Minneapolis police-to-population “ratio.” The court of appeals’ failure to define “maintain” or “establish” is more glaring considering these terms’ historical relation to the police-to-population “ratio.” The Charter’s intent was and is to have an actual force minimum, funded by the Council and “maintained” by the Mayor. The Mayor cannot personally fire police officers to bring the Minneapolis police force below the minimum set by Section 7.3(c), or down to zero²⁰ for that matter, which is the logical end of the court of appeals and Respondents’ reasoning. And if the Mayor is unable to “maintain” the force at the given ratio, the Council must provide more funding, which it has failed to do.

²⁰ Even as they argue for total discretion, Respondents admitted in oral argument before the district court that police funding necessitates hiring sworn officers. Doc. 66 at 6:12-22, 17:9-14, 26:23-27:3. The court of appeals erroneously discounted these admissions. Add. 9.

C. The People of Minneapolis Voted in 1961 to Increase the Actual Police Force, Not Just Increase Budgetary Appropriations.

Appellants' interpretation is also squarely supported by the history and purpose of the 1961 Charter Amendment, thoroughly described above and accepted by the district court as accurate. Add 30 (Order for Writ p. 11 ¶14). The 1961 Charter Amendment was designed to result in an immediate increase in both funding and hiring of sworn officers. Minneapolis faced a crime wave in 1960, and the force had fallen to 646 officers in a city of 480,000, larger than today. Minneapolitans therefore voted for a minimum force requirement to fight that crime wave, approving the following question:

Shall proposed Amendment No. 17, amending Chapter 6 of the Minneapolis City Charter, *to increase the Police Force* by establishing a ratio of 1.7 employees per 1,000 residents, or as closely thereto as is possible through a tax levy of not to exceed 3 mills, be adopted?

PET 439 (Text of Amendment) (emphasis added).

After the vote, Mayor Naftalin and Police Chief Walling set out to hire 190 officers to attain a total of 836 officers—even though the minimum only required 821. Why? “To maintain this minimum in the face of normal vacancies and separations.” Ex. 30 at PET 427 (“A Police Need Met,” *Minneapolis Morning Tribune*, Aug. 5, 1961, at 4).

The original public meaning of the Charter minimum therefore requires that the number of officers actually on the force be funded *and* maintained. If the Court holds that the meaning of the Charter is ambiguous, the Court should find the public discussion of the 1961 Charter Amendment persuasive and supportive of Appellants' interpretation of Charter Sections 7.3(a) and 7.3(c).

V. **When It Issued the Alternative Writ of Mandamus, the District Court Properly Set the Exercise of Respondents' Discretion Into Motion.**

Minnesota courts properly issue a writ of mandamus “to compel the performance of an act which the law specially enjoins as a duty.” *Madison Equities, Inc. v. Crockarell*, 889 N.W.2d 568, 571 (Minn. 2017); Minn. Stat. § 586.01 (2016). For Appellants to obtain a writ of mandamus here, they had to show the district court (1) the City Council and Mayor “failed to perform an official duty clearly imposed by law,” (2) which caused “a public wrong specifically injurious to [Appellants],” and (3) for which “there is no other adequate legal remedy.” *Madison Equities*, 889 N.W.2d at 571. As the court of appeals correctly noted, after the district court issued the alternative writ of mandamus here, Respondents only appealed the first prong of this analysis: whether the Council and Mayor failed to perform an official duty clearly imposed by law. Add. 8. Appellants have established that the Council and Mayor have a clear legal duty to fund and maintain at least 731 police officers in Minneapolis. The Court should therefore reinstate the alternative writ of mandamus.

Respondents will claim, and the court of appeals held, that the district court overstepped its proper role by instructing the Council and Mayor how to exercise their discretion under the Charter. Add. 11. It did not—it merely set that discretion into motion, which is a proper purpose of mandamus relief. *State ex rel. S. St. Paul v. Hetherington*, 61 N.W.2d 737, 740 (Minn. 1953) (“[M]andamus...does lie to set the exercise of that discretion into motion where the board fails to act....”). Important as well, the court of appeals’ decision on this issue is bound up entirely in its determination that the Mayor has

no clear legal duty to maintain a force of more than zero officers. Add. 11 (“The charter does not direct the mayor to employ any certain number of officers.”). Thus, if the Court determines that Appellants’ interpretation of the Charter is correct, the court of appeals’ reasoning as to whether mandamus should have issued was erroneous.

But the court of appeals’ holding is really laid bare where it reasons that there is “tension between” the argument that setting “the mayor’s discretion in motion” is proper and the argument that the “charter clearly imposes a (nondiscretionary) duty to continuously employ a minimum number of officers.” Add. 14-15. In other words, in the court of appeals’ view, if the Mayor has to make *any* discretionary decision as to how to staff the police force, there can never be mandamus relief. The court of appeals’ reasoning is directly foreclosed by this Court’s mandamus precedent, which expressly authorizes courts to issue writs of mandamus to “set discretion into motion” to meet a legislative or constitutional directive.

In *Hetherington*, the Court was faced with a disparity in Dakota County’s voting districts of about 7,000 citizens in some districts, and two others with nearly twice that amount. 61 N.W.2d at 741. The Court noted that mandamus was an appropriate vehicle to set discretion into motion where it appeared that the board “fails to act or to obtain a new and bona fide exercise of discretion when it appears that the board has acted without discretion or in a clearly arbitrary and capricious manner.” *Id.* at 740.²¹ *Hetherington*

²¹ Respondents argued in the court of appeals, and the court of appeals appeared to credit, Respondents’ claim that they are not acting “arbitrarily or capriciously.” Add. 15; Appellants’ COA Br., Sept. 8, 2021, at 24; Respondents’ COA Br., Oct. 8, 2021, at 49-50. Appellants do not need to prove that Respondents have acted arbitrarily or capriciously (or

specifically dealt with a statutory directive that “commissioner districts shall ‘contain as nearly as practicable an equal population.’” *Id.* at 742. Even though the county had taken *some* action to redistrict, and thus had exercised *some* sort of discretion, the Court remanded the matter to the district court to determine whether the disparity created by the redistricting was avoidable. *Id.* Whether Dakota County violated “clear legal duties” was far less concrete than in the instant case, yet the Court held that issuance of the writ of mandamus could be proper depending on the subsequently established record. *Id.* Consistently, the fact that there are *some* police “maintained” on the MPD and the Council provides *some* “funding” is not dispositive of whether Respondents have complied with their clear legal duties.

In fact, Respondents’ duties here are far clearer than in *Hetherington*. Here, the Council must fund 731 sworn officers, and the Mayor must maintain at least that many officers on the police force. In fact, this case is even clearer than this Court’s decision issuing the writ of mandamus in *Madison Equities*. There, the court administrator was required by Rule 58.01 to enter judgment “forthwith” unless otherwise directed by the district court under other specific circumstances. 889 N.W.2d at 572. The district court interpreted the rules of civil procedure to grant it a broad authority—discretion—to issue a

in “bad faith”) for mandamus to lie, the district court did not reach that issue, and Appellants properly countered Respondents’ argument on that issue as an alternative ground for affirmance. However, as noted in Appellants’ reply supporting the motion to expedite this appeal, Respondents are responsible for the continued decline of the MPD, and if they have not even changed their failed methods since the order was issued, then the district court certainly could find that they have acted in “bad faith” to allow the continued depletion of the force in violation of the writ of mandamus.

stay based on its inherent power, and it did so. *Id.* This Court reversed and issued the writ of mandamus requiring the district court to vacate the stay and issue judgment. *Id.* at 575. The district court in that case certainly used “discretion” to issue a stay, but the Court held that the use of discretion itself, where the law requires otherwise, is subject to mandamus correction.

The mandamus rule is that elected officials can be ordered to comply with clear legal duties even where discretion may be employed as to the *means* of their compliance. A hypothetical illustrates Appellants’ point. Assume that a county board of commissioners is required to redistrict after the 2020 census because some of its districts vary in population from the average by more than 10 percent, and redistricting will not cause a precinct split. *See* Minn. Stat. §375.025. The county auditor and county attorney provide the board with 3 different possible redistricting options. One of the options violates the statutory requirement that there be no 10 percent variance in commissioner district population from the average, but it would not require a 2022 county board election, so it would save the county a substantial amount of money. The other two options comply with that statute but would require all members of the county board to run for reelection in 2022. If the board selects the illegal option because it wants to save money, it is certainly exercising its “discretion.” But that “exercise of discretion” violates the law. Mandamus would therefore be proper to force them to choose between one of the two legal options.²² If the same board chooses between one of the two legal options, however, mandamus would not lie to force

²² It is no surprise that the county board redistricting statute allows voters to bring a mandamus action in this very circumstance. Minn. Stat. § 375.025, Subd. 2.

it to choose the other, because it has complied with its clear legal duties and exercised its discretion appropriately.

In this case, the Mayor and Council are doing the equivalent of choosing the illegal option. The Council has not provided the Mayor enough money, and the Mayor has failed to maintain the force at levels required by the 2020 Census. They are using “discretion,” so to speak, in making these illegal decisions. But because the decisions are illegal, mandamus is appropriate to force them to fund the police and increase force levels. If, after an alternative writ is issued, they choose a plan that Appellants would not necessarily prefer, but it achieves the Charter’s legal requirements, Appellants will have no grounds to complain. But Respondents cannot “stay the course,” as they appear to have done since the issuance of the alternative writ on July 1, 2021, and refuse to change their behavior to comply with the law.

To that point, Appellants have never asked any court to tell Respondents how to arrive at 731 sworn officers. The oral argument in district court made this starkly clear. *E.g.*, Doc. 66 at 12-13. Appellants, and the district court, have only stated that Respondents’ discretion does not allow them to violate their clear legal duties in the Charter to fund and maintain 0.0017 employees of the police force per resident of Minneapolis. The district court merely gave Respondents a benchmark that they must meet, Add. 45 (Writ), and they need to use their discretion to meet it. The hiring methods Respondents choose, the oversight they provide, the benefits they offer, the bonuses they offer—all things used by the City in 1961 following the passage of the Charter Amendment—are matters of

discretion. But Respondents have no discretion to *do nothing different* and continue to violate the Charter.

The court of appeals' refusal to uphold the alternative writ of mandamus also undermines the very existence of the alternative writ. Shockingly, Respondents argued before the court of appeals that the very act of requiring them to show cause via the alternative writ as to their efforts to replenish the police force invaded their discretion. Appellants' COA Br., Sept. 8, 2021, p. 23 ("The district court itself tacitly admitted that the number of officers hired over the next year is a discretionary act when it included a 'show cause' provision in its order....But the existence of cause itself is a question of discretion."). On the contrary, the existence of a show cause hearing is a *feature* of the alternative writ of mandamus, and allows a respondent to demonstrate their compliance or a valid excuse for nonperformance. Minn. Stat. §586.03-04. Respondents' arguments, and the court of appeals' decision, are, respectively, a collateral attack on the existence of the alternative writ and a judicial negation of a statutory remedy for non-performance by elected officials.

What the court of appeals held, and what Respondents will advocate, is that it is an "exercise of discretion" to be cheap, slow, and ineffective—while Appellants duck from gunfire ripping through the streets of Minneapolis' embattled North Side. Discretion is not an excuse for inaction in the face of clear legal duties.

CONCLUSION

The Minneapolis City Council and Mayor Jacob Frey have violated their clear legal duties in the Minneapolis City Charter to fund and maintain a police force of at least 0.0017 sworn officers per resident of Minneapolis. The district court properly issued an alternative writ of mandamus to require Respondents to adequately fund and maintain the Minneapolis police force. The court of appeals' reversal of that decision was wrong, and this Court should reverse the court of appeals and reinstate the district court's alternative writ of mandamus. The Court should require Respondents to immediately "take all necessary action" to restore the Minneapolis police force to at least 731 sworn officers, or show cause why they have not done so, by June 30, 2022.

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Date: May 3, 2022

By:

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CERTIFICATE OF COMPLIANCE

I hereby certify that this document conforms to the requirements of Minn. R. Civ. App. P. 132.01, is produced with a proportional 13-point font, and the length of this document is 13,986 words. This Brief was prepared using Microsoft Word 365, Version 2204.

UPPER MIDWEST LAW CENTER

Dated: May 3, 2022

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