



LEGAL SERVICES DEPARTMENT

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TO: Kyle Lobner, Chair
Members of the Finance Committee

FROM: Christopher R. Behrens, City Attorney

DATE: April 30, 2020

RE: Resolution #9-20/Croatt, Spears
Our File No. A20-0266

At the April 22, 2020 Common Council meeting, a resolution submitted on April 19, 2020 by now former alderpersons Chris Croatt and Cathy Spears was introduced that reads as follows:

Therefore, Be It Resolved...

The City of Appleton put to binding referendum (in November 2020) the following:
Beginning with the 2021 election and for all elections thereafter, shall the total length of service for the positions of Mayor and Alderperson (City Council member) be limited so that no person may be elected to consecutive terms totaling more than 12 years?

That resolution was referred to the City Attorney's Office for review, in particular because the resolution calls for the City to place a binding referendum on the November ballot (presumably upon approval by a majority of Common Council members). A local governing body has broad discretion to authorize an advisory (non-binding) referendum in order to "take the pulse" of the electorate. On the other hand, the processes available for placing a binding referendum on a ballot are very limited in scope (such as specific measures required by ordinance or brought as direct legislation based on the processes in Sec. 9.20).

Accordingly, this resolution as currently presented is not legally permissible. This Council will need to determine whether it supports the resolution and, if it does, the recommendation from this office is to amend it to a non-binding referendum to make it legally compliant. If this Council does not support the resolution, it can simply defeat it in its current form.

If you have any questions please do not hesitate to get in touch.

CRB;jlg