

Deb Little

From: Chris Hood <cmhood@flaherty-hood.com>
Sent: Friday, July 10, 2015 3:57 PM
To: Deb Little
Cc: Nick Haggemiller; Robert Scott
Subject: RE: Official Newspaper Designation and Qualification

Hi Deb,

As you point out, Minn. Stat. c. 331A governs the determination of and selection of the City's official newspaper. Some public notices, notwithstanding the availability of other electronic means, are still required to be published in a qualified newspaper both by Charter, City Code and State statute.

Some of the more relevant criteria for determining whether a newspaper may be designated to be a "qualified newspaper" by the City are highlighted in yellow below:

331A.02 REQUIREMENTS FOR A QUALIFIED NEWSPAPER.

Subdivision 1. Qualification.

No newspaper in this state shall be entitled to any compensation or fee for publishing any public notice unless it is a qualified newspaper. A newspaper that is not qualified must inform a public body that presents a public notice for publication that it is not qualified. **To be qualified, a newspaper shall:**

(a) be printed in the English language **in newspaper format and in column and sheet form equivalent** in printed space to at least 1,000 square inches, or 800 square inches if the political subdivision the newspaper purports to serve has a population of under 1,300 and the newspaper does not receive a public subsidy;

(b) **if a daily, be distributed at least five days each week. If not a daily, the newspaper may be distributed twice a month with respect to the publishing of government public notices.** In any week in which a legal holiday is included, not more than four issues of a daily paper are necessary;

(c) in at least half of its issues each year, have no more than 75 percent of its printed space comprised of advertising material and paid public notices. **In all of its issues each year, have 25 percent, if published more often than weekly, or 50 percent, if weekly, of its news columns devoted to news of local interest to the community which it purports to serve.** Not more than 25 percent of its total nonadvertising column inches in any issue may wholly duplicate any other publication unless the duplicated material is from recognized general news services;

(d) **be circulated in the political subdivision which it purports to serve, and either have at least 400 copies regularly delivered to paying subscribers, or 250 copies delivered to paying subscribers if the political subdivision it purports to serve has a population of under 1,300, or have at least 400 copies regularly distributed without charge to local residents,** or 250 copies distributed without charge to local residents if the political subdivision it purports to serve has a population of under 1,300;

(e) **have its known office of issue established in either the county in which lies, in whole or in part, the political subdivision which the newspaper purports to serve, or in an adjoining county;**

(f) file a copy of each issue immediately with the State Historical Society;

(g) **be made available at single or subscription prices to any person** or entity requesting the newspaper and making the applicable payment, or be distributed without charge to local residents;

(h) have complied with all the foregoing conditions of this subdivision for at least one year immediately preceding the date of the notice publication;

(i) between September 1 and December 31 of each year publish a sworn United States Post Office periodicals-class statement of ownership and circulation or a statement of ownership and circulation verified by a recognized independent circulation auditing agency covering a period of at least one year ending no earlier than the June 30 preceding the publication deadline. When publication occurs after December 31 and before July 1, qualification shall be effective from the date of the filing described in paragraph (j) through December 31 of that year; and

(j) after publication, submit to the secretary of state by December 31 a filing containing the newspaper's name, address of its known office of issue, telephone number, and a statement that it has complied with all of the requirements of this section. The filing must be accompanied by a fee of \$25. The secretary of state shall make available for public inspection a list of newspapers that have filed. Acceptance of a filing does not constitute a guarantee by the state that any other qualification has been met.

So, based on the foregoing, the first level of analysis here would be to determine whether a newspaper is “qualified” pursuant to the above statutory criteria. I do not have information to evaluate whether there are other newspapers serving Northfield other than the Northfield News who would meet the above criteria to be a “qualified newspaper,” but the above analysis would need to be undertaken to consider such other newspapers.

Additionally, in the event that there is more than one “qualified newspaper” serving Northfield and meeting the above criteria, then the City would also have to give priority in selection of such newspaper using the following analysis in the below statute, except as provided in subdivision 6, which has a separate analysis that would also need to be applied to determine if the exception was applicable:

331A.04 DESIGNATION OF A NEWSPAPER FOR OFFICIAL PUBLICATIONS.

Subdivision 1. Priority.

The governing body of a political subdivision, when authorized or required by statute or charter to designate a newspaper for publication of its public notices, shall designate a qualified newspaper in the following priority.

Subd. 2. Known office in locality.

If there are one or more qualified newspapers, the known office of issue of which are located within the political subdivision, one of them shall be designated.

Subd. 3. Secondary office in locality.

When no qualified newspaper has a known office of issue located in the political subdivision, but one or more qualified newspapers maintain a secondary office there, one of them shall be designated.

Subd. 4. General circulation in locality.

When no qualified newspaper has its known office of issue or a secondary office located within the political subdivision, then a qualified newspaper of general circulation there shall be designated.

Subd. 5. Other situations.

If a political subdivision is without an official newspaper, or if the publisher refuses to publish a particular public notice, matters required to be published shall be published in a newspaper designated as provided in subdivision 4. The governing body of a political subdivision with territory in two or more counties may, if deemed in the public interest, designate a separate qualified newspaper for each county.

Subd. 6. Exception to designation priority.

(a) Notwithstanding subdivisions 1 to 3, the governing body of a political subdivision may designate any newspaper for publication of its official proceedings and public notices, if the following conditions are met:

(1) the newspaper is a qualified medium of official and legal publication;

(2) the publisher of the newspaper furnishes a sworn statement, verified by a recognized independent circulation auditing agency, covering a period of at least one year ending no earlier than 60 days before designation of the newspaper, stating that the newspaper's circulation reaches not fewer than 75 percent of the households within the political subdivision;

(3) the newspaper has provided regular coverage of the proceedings of the governing body of the political subdivision and will continue to do so; and

(4) the governing body votes unanimously to designate the newspaper.

(b) If the circulation of a newspaper designated under this subdivision falls below 75 percent of the households within the political subdivision at any time within the term of its designation as official newspaper, its qualification to publish public notices for the political subdivision terminates.

Subd. 7. Joint bidding.

A bid submitted jointly by two or more newspapers for the publication of public notices must not be considered anticompetitive or otherwise unlawful if the following conditions are met:

(1) all of the qualified newspapers in the political subdivision participate in the joint bid;

(2) the existence of the joint bid arrangement is disclosed to the governing body of the political subdivision before or at the time of submission of the joint bid; and

(3) the board is free to reject the joint bid and, if it does, individual qualified newspapers do not refuse to submit separate bids owing to the rejection of the joint bid.

In this case, if the Northfield News has its main or secondary office in Northfield, then they would have priority over any other qualified newspapers who do not have a local office, unless the exception in subdivision 6 applies. If two newspapers are local and they meet the criteria to be a "qualified newspaper", in that event the Council could choose either local newspaper. If the Star Tribune was competing with the Northfield News, the Star Tribune would have to meet the exception in subdivision 6 to be selected over the Northfield News based upon application of the above statute.

I hope this helps. Let me know if you need anything else.

Thank you.

Chris

From: Deb Little [mailto:Deb.Little@ci.northfield.mn.us]

Sent: Friday, July 10, 2015 10:53 AM

To: Chris Hood

Subject: Official Newspaper

Chris,

Per our conversation, can you summarize our requirements regarding the official publications/designation of an official newspaper/qualified newspaper?

Here are some of the references I found:

- Official Newspaper
 - o Charter – 15.1 & Code 2-57 (required to publish items as referenced in Charter 4.10; 6-63(b))

State Stat. – 429 process & others – contains req. to publish notices in newspaper
State Stat. – 331A.02 (requirements for a qualified newspaper)

Thanks!

Deb Little, City Clerk
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