

Minneapolis Charter Commission Public Hearing Journal

Monday, May 21, 2012 - 4:00 p.m.
Room 319 City Hall, Minneapolis, Minnesota

Commissioners Present: Clegg (Chair), Ferrara, Lazarus, Lickness, Metge, Peltola, Sandberg, Schwarzkopf

Also Present: Burt Osborne, Assistant City Attorney

1. Background / Introduction to the Plain Language Charter Revision

Clegg noted that Charter Commission Rules required the Commission to hold a public hearing before placing a charter amendment on the ballot. He introduced former Commissioner Brian Melendez who was present to provide background on the Plain Language Charter Revision (PLCR).

Mr. Melendez distributed to Commissioners a book entitled "Legal Writing in Plain English" by Bryan Garner, which was the style guide used for the revision, as well as a bound version of the Plain Language Charter Revision adopted by the Charter Commission in 2009. He explained that when Minneapolis became a charter state, all the special laws that had been passed regarding the city of Minneapolis were compiled into a single document as the charter. The current charter is more than 70,000 words, confusingly organized, full of redundant or conflicting provisions or provisions that have long since been overridden by special law, written in a very legalistic style, and contained a lot of detail better suited for ordinance. The Plain Language Charter Revision attempted to address these issues. The initial goal of the Charter Commission had been to make no substantive changes. The Commission was not trying to reform city government, but simply trying to get the document into a workable form so that people who want to reform it can understand what it is they need to change. However, some felt that taking provisions out of the charter, which can only be amended by the voters or by a 13-0 vote of the City Council, and placing them in ordinance where they can be amended by a vote of seven members of the City Council, constituted a substantive change. The Commission then took the approach that anything that affected a citizen's rights or the relationship between governmental bodies or officers should remain in the charter. The revised charter contains every provision that any board, citizen, or other interested person or group considered important enough to remain in the charter rather than in ordinance. The revision is organized topically in plain language resulting in a more readable document with shorter sentences. It is written at a 9th grade reading level, as opposed to a college-age reading level required for the current charter.

Metge noted that when they first began working on the revision, the Commission decided that when the process was complete, they would then entertain substantial changes to the charter, including holding public hearings to obtain more input.

Clegg explained that the draft ballot language would contain a clause stating that the revised charter would not become effective until January 1, 2014 in order to allow adequate time for the City Council to place provisions that were removed from the charter into ordinance.

2. Acceptance of public comments

Clegg opened the public hearing.

a) John Erwin, President, Minneapolis Park and Recreation Board, stated that he was present with Commissioner Fine and Park Board Attorney Brian Rice to report that they had reviewed and unanimously supported Draft 12(D) of the PLCR. The Park Board's areas of concern had been addressed. He understood that there was now a Draft 12(D1), and the Park Board had not yet had an opportunity to fully review it and asked for time to do so. Their goal was to ensure that the powers and privileges of the Park Board were retained moving forward. Mr. Melendez clarified that he and Chair Clegg had met with City Attorney Segal and Deputy City Attorney Peter Ginder last week and Draft 12(D1) was basically his notes from that meeting which he had sent to them to determine if he had captured the discussion correctly. It was not yet a formal draft of the revision.

b) Susan Segal, City Attorney, thanked the Charter Commission for their years of work on the Plain Language Charter Revision. She stated that the meeting with Chair Clegg and Mr. Melendez had basically resolved their differences; however, she continued to have many concerns. There are written opinions and legal decisions on the current charter. It is difficult and cumbersome to amend the charter even with unanimous consent of the City Council, and migrating provisions to ordinance will allow changes with only seven City Council votes. Undoubtedly there will be unintended consequences to the new language. Her concerns were also due to the fact that every time the City Attorney's Office reviews the PLCR, they find a new issue; however, she did not think that any more time now would help that process.

Clegg stated that they intended to meet again with the Park Board and the City Attorney's Office to resolve any differences. Unresolved issues will be before the Charter Commission at their June meeting.

Melendez noted that the following statement was included in Article I of the PLCR: "the settled interpretation of any term or provision from a version of the charter before its latest revision on _____, 20___, is valid in interpreting the revised charter to the extent that the charter carries forward the interpreted provision or term."

c) Brian Rice, legal counsel for the Minneapolis Park and Recreation Board, stated that he appreciated City Attorney Segal's concerns. There was always the concern that changing a word could lead to another interpretation of that part of the charter. Supporting the revision was a bit of a leap of faith for the Park Board, but they appreciated the commitment of the Charter Commission to this process over the past decade. His advice to the Park Board has been to build redundancy into provisions affecting the Park Board. He thought the PLCR was workable but couldn't be absolutely certain that he hadn't missed something.

Lazarus suggested that since the PLCR had been through a thorough vetting process at the City Council's request, it would behoove the Council to pass it on a 13-0 vote and save the public angst over the very long document which few would read and fewer would understand. Clegg stated that the Commission had been given a clear message by two council members that they would not support the PLCR on a 13-0 vote because regardless of whether or not there were any substantive changes, they thought it was a significant enough change that it should go before the voters.

Lickness inquired about the role of the Charter Commission in educating and informing the public about the Plain Language Charter Revision. Clegg stated that that would be up to the Commission, noting that the Charter Commission did not have a budget.

Ferrara suggested that the Charter Commission request funds for public education. Also, it is important that people realize that the revised charter will be amended as issues are discovered.

Metge suggested talking to the City Council's Executive Committee. She had heard that because of the large number of ballot questions proposed for the 2012 ballot, there was a "vote no" campaign underway encouraging people to vote no on all of the ballot questions. It might be better to try to have the revision approved on a 13-0 council vote.

Peltola inquired about the process and options available to the Charter Commission if the amendment is not approved by the voters. Clegg stated that the Commission could place it on the ballot again as there is no prohibition against a repeat question.

Ferrara stated that it would get complicated dealing with future amendment proposals based on the old charter and hoped that the council would consider voting on the PLCR. As a member of the Charter Commission, there were charter changes he had been holding off on proposing in order to follow the process agreed to by the Commission. Clegg noted that asking the council to vote on the revision would mean postponing placing it on the ballot until 2013.

As there was no one else present wishing to address the Charter Commission, the public hearing was closed.

Clegg thanked former Commissioner Melendez and his law firm for all of his work on the Plain Language Charter Revision.

3. Adjournment

The meeting was adjourned at 5:00 p.m.

Peggy Menshek
Charter Commissioner Coordinator