

# Minneapolis Charter Commission Minutes

August 4, 2010 - 4:00 p.m.  
Room 317 City Hall, Minneapolis, Minnesota

Commissioners Present: Clegg, Connell, Dolan, Ferrara, Gerdes, Jancik, Kozak, Lazarus, Lickness, Metge, Peltola, Rubenstein, Sandberg, Schwarzkopf, Stade

Also Present: Dana Banwer, Assistant City Attorney

## 1. Roll Call

Chair pro tem Lazarus called the meeting to order at 4:00 p.m.

## 2. Adopt Agenda

*Commissioner Metge moved adoption of the agenda. Seconded.*  
Adopted upon a voice vote.  
Absent - Kozak, Lickness, Peltola, Stade.

## 3. Approve minutes of meeting of July 7, 2010

*Commissioner Schwarzkopf moved approval of the minutes of the meeting of July 7, 2010.*  
Seconded.  
Adopted upon a voice vote.  
Absent - Lickness, Peltola, Stade.

## Introduction of New Charter Commissioner

### Richard Gerdes

Commissioner Gerdes stated that he was born in St. Paul, Minnesota and attended grade school in St. Paul before his family moved to Minneapolis. His family was then transferred to Burlington, Iowa. He graduated from the University of Iowa and then moved to Des Moines. He has lived in Minneapolis for the last 25 years. He owns his own business which he started from scratch.

## Old Business

### 4. Proposed Charter Amendment:

**Update on status of transmittal to the City Council of proposed amendment to the Minneapolis City Charter amending Chapter 1 relating to *City and Ward Boundaries* and Chapter 16 relating to *Parks and Parkways*, regarding the responsibility for the redistricting process.**

**Proposed ballot language approved by IGR Subcommittee 7/22/2010:**

***“Should the City of Minneapolis adopt a change in its charter by eliminating the Redistricting Commission and giving the responsibility for redistricting of city wards, park board districts and Minneapolis school board districts to the Charter Commission, with input from an advisory group appointed by the Charter Commission?”***

Lazarus stated that this item was provided as an update to the Commissioners regarding the ballot language approved by the Intergovernmental Relations Subcommittee. No further action was required by the Charter Commission on this item. The full City Council will vote on the ballot language on Friday, August 6, 2010.

Clegg stated that he and Vice Chair Lazarus had been invited to attend the IGR Subcommittee to answer any questions that the City Council had concerning the proposed Charter amendment. There were a number of questions, most of them relating to the process that the Charter Commission went through and the rationale for the Advisory Group.

Schwarzkopf noted that Commissioners had received an email from Cheryl Luger who pointed out that the Charter Commission should hold public hearings on the proposed amendment because, from her viewpoint, no public hearings were held on the proposal.

Lazarus requested that the email be discussed during the Rules discussion.

## **New Business**

### **5. Notice of Vacancy in the position of Charter Commission Chair and Notice of Election of Charter Commission Chair at the next Regular Meeting of the Charter Commission scheduled for September 1, 2010.**

Lazarus stated that at the next regular meeting, the Charter Commission will elect a new Chair. He added that he would not be seeking the position of Chair.

### **6. Minnesota Statute 410.05 §2: Discussion on interpretation of statute.**

Lazarus stated that this was placed on the agenda at his request because, in his opinion, Minnesota Statute 410.05, Subdivision 2, is a poorly worded statute. It does not define the beginning of the 30 day period for an appointee to provide written acceptance of appointment. He asked if the Commission wished to request the City Council ask their lobbyist to pursue the matter with the legislature. This request could be made of the City Attorney, and he offered to meet with the City Attorney to discuss the issue.

Clegg did not believe the issue needed to be addressed and didn't think the Council would be interested enough in the topic to ask their lobbyist to investigate it. The appointing Judge has his own interpretation, and the Commission should not interfere with the appointing authority.

Rubenstein noted that Subdivision 2 also contained the following language: "Upon the expiration of each term, the chief judge shall appoint new commission members." This language made it sound as if a Commissioner could not be reappointed to a second term.

Dana Banwer, Assistant City Attorney, stated that previously the statute in question contained term limitations and appointees could serve only two terms. An appointing authority would interpret that to mean that they could continue to appoint someone to successive terms as long as they desire and that there are no term limitations.

Discussion ensued regarding who had the responsibility to lobby to make the proposed change and the best way to suggest those changes to the legislature. Banwer stated that anyone could bring issues to the attention of the legislature. With respect to this statute, there are other provisions that she had difficulty interpreting, as well. From time to time, the City Attorney's Office proposes new legislation or amendments to current legislation. The city's IGR staff then goes before the city's IGR Subcommittee, and then the City Council sets the city's legislative

agenda. She had spoken with other City Attorney offices that also had difficulties interpreting sections of 410, so it may be the League of Minnesota Cities who would lobby for a change.

Ferrara suggested forming a committee to draft a letter to the City Attorney or the IGR Subcommittee defining the suggested changes to the statute.

Banwer concurred that if the Commission wanted to pursue any changes, they should provide as much detail as possible as to what exactly they were recommending. However, she was not in the position to speak for Ms. Segal or the department regarding moving the proposal forward.

Kozak stated that the only way to get a meaningful response from the City Attorney's Office would be to provide specific language. That is the only way they can evaluate what it is the Charter Commission is asking them to do. It would be best to go through the League of Cities to amend a general law that would affect all cities having Charter Commissions.

Metge was in favor of the suggestion to form a working group to draft language, bring it to the next Charter Commission meeting, see if there is consensus to move forward, and then meet with the City Attorney and possibly the League of Cities. She was apprehensive about an individual Charter Commissioner meeting with the City Attorney before the Commission weighed in on the changes.

Schwarzkopf suggested writing a paragraph stating the problem, including any other issues the City Attorney has encountered in interpreting the statute, and presenting it to either the League of Cities or the City Attorney. He didn't think specific amendment language was necessary.

Banwer suggested that the Commission have a discussion at a future meeting in order to somewhat narrow the issue.

Lazarus stated that he would write a paragraph spelling out his concerns with Subdivision 2 and suggested that the topic be discussed at the next meeting. In the interim, Commissioners could review Chapter 410 to see if they find any areas that are problematic or difficult to interpret.

## **7. Charter Commission Rules:**

### **Discuss possible review/revision of rules.**

Lazarus stated that regarding the email Commissioners had received from Cheryl Luger concerning holding public hearings on the proposed redistricting amendment, the question was whether the Commission had followed their own rules.

Banwer stated that it was her opinion that there is no legal requirement that the Charter Commission hold public hearings on proposed Charter amendments. The Charter Commission Rules are somewhat internally in conflict. Rule 2.3.1 states, "The Commission may hold a public hearing on any proposal to amend the Charter, and shall schedule any such hearing for a future meeting, not earlier than its next regular meeting". That contrasts with Rule 5.1, to which she believed Ms. Luger was referring, which states in part, "A public hearing is required prior to placement of a proposed Charter amendment on the ballot unless two-thirds of the Commissioners present and voting vote not to hold a public hearing". She couldn't say how the inconsistency within the rules would be interpreted. However, the vote at the Charter

Commission meeting that moved the proposed amendment forward was a unanimous vote of the ten members present constituting two-thirds of the Charter Commission and she would give that some weight and significance as well.

Lazarus stated that in other words, the Charter Commission perhaps didn't follow their internal rules to the letter, but they did follow the statute. However, revisiting the rules would probably be a good idea even if this issue had never arisen because the rules are six or seven years old. He suggested forming a subcommittee to undertake that process.

Lickness inquired if it would be inappropriate to make a motion that the Charter Commission hold a public hearing on the proposed redistricting amendment.

Lazarus stated that he would rule that as an inappropriate motion.

Connell stated that the Charter Commission held two public hearings and, as a result, adjusted the proposal that ultimately passed. He had a difficult time understanding how that fact was neglected. One of the public meetings had no one in attendance. If individuals have something to say and want to be heard, they should show up at the public meetings.

Clegg agreed with Commissioner Connell that it was far from clear that there was any rule violation. There were two public hearings held on the subject of redistricting. It was discussed at the full Charter Commission meetings which are all open meetings and, in essence, public hearings because any one is allowed to speak. The exact wording of the proposed amendment has been on the city's website for at least two months. The intent of the rule providing for a public hearing is to obtain public input, and whether the Charter Commission gave the right notices or took the right votes, they certainly provided a lot of opportunity for public input.

Sandberg agreed. She didn't think a public hearing was required every time the amendment language was tweaked. Two public meetings were held on the subject of redistricting before the June meeting, and she felt the rule had been satisfied.

Stade suggested that rules relating to redistricting be added to the Charter Commission Rules. In the interest of voter education and transparency, perhaps drafting the redistricting rules now, before the election, would help inform voters as to how redistricting will proceed if the proposed amendment passes. He felt there was some push-back from neighborhood groups that are talking about possibly speaking against the amendment because of how it has been written and the fact that it doesn't spell out things such as neighborhoods staying in one ward. Also, any meetings held by the Rules Committee should be open to the public.

Ferrara stated that the Redistricting Task Force met several times at open meetings and everyone who attended was allowed to speak. There were two Redistricting Task Force meetings in February, three in March, and two in April. The Redistricting Task Force's recommendations were never even voted upon by the Charter Commission. The Commission moved onto what was largely presented and discussed at the first public meeting which then became a more substantive change to the redistricting process than that recommended by the Redistricting Task Force. One of the recommendations that came from the Redistricting Task Force involved the need to engage the public and hold more public meetings prior to and during the redistricting process. He felt there was a need for the Charter Commission to develop standing committees to discuss issues in depth and obtain public input.

*Clegg moved that a Rules Committee of not more than five Charter Commissioners be appointed to consider the Charter Commission Rules, and changes to those rules, and that notice of Rules Committee meetings be posted on the City's website as open meetings.*  
Seconded.

Stade suggested a friendly amendment by adding that the Rules Committee also discuss rules for the redistricting process.

Clegg stated that his goal was to get the committee formed and then discuss the committee's charge.

Connell asked for clarification on the motion. The Commission would be voting on whether to form a committee to consider the rules of the Charter Commission, rules regarding the functioning of Charter Commission as a body.

Lazarus stated that that was correct.

*Clegg's motion that a Rules Committee of not more than five Charter Commissioners be appointed to consider the Charter Commission Rules, and changes to those rules, and that notice of Rules Committee meetings be posted on the City's website as open meetings was adopted upon a voice vote.*  
Absent - Metge.

The Rules Committee will consist of Commissioners Clegg (appointed as Convener by Vice Chair Lazarus), Lickness, Rubenstein, Sandberg, and Stade.

Stade stated that the public had concerns about the redistricting amendment. In the interest of voter education and transparency, the Rules Committee could draft some rules for how the Charter Commission will proceed with the redistricting process so the public knows more specifically how it will work. He felt this would be helpful in advocating for the amendment getting passed and should be a priority of the Commission before the election.

Discussion ensued on the charge of the Rules Committee.

Peltola did not feel the Charter Commission should invest effort on something that hadn't yet passed.

Connell stated that he had read all of the minutes of the previous Redistricting Commission, and one of their first items of business was to discuss their individual starting points with respect to the issue and philosophy of redistricting. One of the last things they did was give their impressions of the process they had used and compare their final impressions with their initial impressions. Reading through those minutes was very useful in helping him approach the problem and some of the concerns the Charter Commission is likely to face in the event that they act as the Redistricting Commission. Perhaps that is what is lacking. Perhaps the public doesn't understand who the Charter Commissioners are and where they are coming from.

Ferrara agreed that the Commission shouldn't do anything before they need to do it. However, he did advocate for the formation of standing committees. The Commission doesn't have enough discussion or do enough homework. They need to engage the public more so that

when decisions are made, people feel connected. As far as rules for redistricting, the Redistricting Commission agrees upon its own rules when it is constituted.

Lazarus suggested that a discussion regarding standing committees could be taken up by the Rules Committee.

Schwarzkopf noted that when he voted on the motion to create the Rules Committee, he did not vote on creating rules for the Redistricting Commission. Drafting rules for the Redistricting Commission should be done by a separate committee, and the Charter Commission should vote on that issue separately.

Lickness stated that one of the members of the Executive Committee of the Democratic Party of Minneapolis posted on the Minneapolis Issues Forum that they had made an initial motion to oppose the Charter amendment and that they had invited members of the Charter Commission to attend their meeting to answer questions, but no one attended. After inquiring further, she was told that the invitation was sent only to the Chair of the Charter Commission. She asked if it would be appropriate for a Charter Commissioner to attend the meeting to answer questions so that the Executive Committee had more information to make a decision.

Stade stated that he had been invited to one of the meetings and spoke as a private citizen, but also from the Charter Commission's side of the story regarding the redistricting amendment. Common Cause is also speaking to neighborhood groups. He felt the Charter Commission had somewhat of a weak case right now because people don't know how the process will actually unfold if the amendment is passed. If the Charter Commission is not attending these meetings, the people are only hearing one side of the story.

Lazarus stated that past practice has been that the Chair of the Charter Commission speaks on behalf of the Commission when an official statement needs to be issued. That doesn't mean that anyone is restricted from commenting as a private citizen. He recommended that the Commission not become too embroiled in partisan politics. He inquired of the City Attorney if under the redistricting amendment, an election judge would be prohibited from serving on the Advisory Group, which was a question that had been raised by Commissioner Sandberg.

Banwer stated that she had not researched that issue and would report back to the Commission. She added that since some new Commissioners had inquired about training, she would be happy to provide training to either the new Commission members or the entire Commission if desired. In the mean time, any specific questions could be sent either directly to her, or to the clerk who will forward them to her. She did not advise the Commission to have discussions, via email or any other type of electronic discussions, among themselves because that would constitute a violation of the Open Meeting Law unless a meeting had been noticed.

Rubenstein requested that the discussion about redistricting processes be placed on the next agenda. She agreed that it might be premature to write rules regarding redistricting at this time, but it is not premature to talk about what processes will be followed. It had been recommended by the Redistricting Task Force that a schedule be developed for the Charter Commission to give the public more opportunity to participate in the redistricting process. If there is misinformation being spread, it should be addressed.

Lazarus stated that it would be up to the next Chair whether that would be an agenda item and ruled that it would not be considered at this time because it was not on the agenda.

Sandberg inquired who would set the agenda for the September meeting.

Lazarus stated that he would do so.

*Connell moved that a portion of the next meeting be dedicated to the discussion proposed by Commissioner Rubenstein.*

*Lazarus ruled the motion out of order as a non-agenda item.*

*Gerdes moved to adjourn.*

Ferrara inquired why the motion was considered out of order.

Lazarus stated that the redistricting amendment had already been discussed and passed, and he didn't believe it was appropriate as new business at this time.

*Connell moved to reconsider the adoption of the agenda and amend the agenda by adding an item under New Business regarding a discussion of the redistricting process, as described by Commissioner Rubenstein.*

Lazarus inquired if Gerdes accepted the motion as a friendly amendment to the motion to adjourn. Gerdes stated that he did not.

*Sandberg appealed the ruling of the Chair regarding placing a discussion of the redistricting process, as described by Commissioner Rubenstein, on the September agenda. Seconded.*

Lazarus ruled that the appeal was denied.

Kozak stated that an appeal of the ruling of the chair is a privileged motion and requires a vote. If a majority votes to uphold the challenge of the ruling, then the ruling is reversed.

Peltola noted that the motion to adjourn was privileged and also non-debatable so should take precedence.

Lazarus called for a vote on whether to uphold the ruling of the Chair. The motion lost. Yeas, 3; Nays, 10 as follows:

Yeas - Jancik, Lazarus, Peltola.

Nays - Clegg, Connell, Dolan, Ferrara, Gerdes, Kozak, Lickness, Rubenstein, Sandberg, Stade.

Declining to vote - Schwarzkopf.

Absent - Metge.

Lazarus stated that the September agenda would contain a discussion item regarding the procedures the Charter Commission will implement in the redistricting process.

## Postponed

### 8. City Council Briefing:

**Consider request from the Elections Committee that the Charter Commission, along with Elections staff, brief the Elections Committee of the City Council on the current redistricting process and the history leading up to it.**

**3/3/2010, 4/7/2010, 5/5/2010, 6/2/2010 - Postponed.**

**Action Taken 7/7/2010 - Postponed pending clarification on whether a briefing is still needed, or if the City Attorney's presentation to the IGR Subcommittee on June 17, 2010 fulfilled the request.**

Lazarus inquired of City Council Member Hofstede, who was present at the meeting, if she felt a City Council briefing on the redistricting process was still needed.

Banwer pointed out that there had been a briefing at the Committee of the Whole on June 17, 2010, regarding the redistricting process. Since the initial request was made in February, the Charter Commission was inquiring if there was still a need for that type of briefing.

Hofstede stated that additional briefings of the depth of the initial briefing were unnecessary; however, on-going briefings regarding redistricting would be of interest to her.

Lazarus noted that the new City Clerk was present and asked that he introduce himself.

Casey Joe Carl introduced himself stating that he was recently selected as the new City Clerk for the city of Minneapolis. In that regard, he was the successor to the legendary Lyall Schwarzkopf who had served many years as City Clerk. He hoped he was a worthy successor to Mr. Schwarzkopf. If he could be of assistance to the Charter Commission, they should not hesitate to contact him.

*Clegg moved to adjourn. Seconded.*

*Adopted upon a voice vote.*

*Absent - Metge.*

The meeting was adjourned at 5:29 p.m.

Peggy Menshek  
Charter Commission Coordinator