

Minneapolis Charter Commission Minutes

Regular Meeting

Wednesday, May 7, 2008 - 4:00 p.m.

Room 319 City Hall, Minneapolis, Minnesota

Commissioners Present: Bernstein (Chair), Bujold, Clegg, Dolan, Ferrara, Jancik, Klassen, Lichty, Remme, Rubenstein, Street

Commissioners Excused: Connell, Lazarus, Stade

Commissioner Absent: Metge

Also Present: Lisa Needham, Assistant City Attorney

1. Roll Call.

Chair Bernstein called the meeting to order at 4:05 p.m. Roll call was taken.

2. Adopt Agenda.

Commissioner Metge moved adoption of the agenda. Seconded.
Adopted upon a voice vote.

3. Approve Minutes of April 2, 2008.

Commissioner Lichty moved approval of the minutes April 2, 2008. Seconded.
Adopted upon a voice vote.

New Business

4. Draft 10A of the proposed revised Charter. Review by Former Commissioner Melendez.

Chair Bernstein welcomed Former Commissioner Brian Melendez, who was present to give a status update and answer questions raised by Commissioners at the last meeting regarding Draft 10A of the revised Charter.

Mr. Melendez stated that he had now completed the side-by-side comparison and forwarded it to the City Attorney. While the City Attorney's Office reviews the side-by-side, he will update the summary report that was prepared in 2006 and submit it to the Commission for approval. There will be at least one more draft of the revision that the Commission will need to approve because while preparing the side-by-side, he found things that he had previously missed that would need to be changed. He hoped to have that draft ready for the July meeting. He suggested that the Commission think about what kind of political support they would like to demonstrate when the revision is submitted to the City Council, such as letters from the Park Board and the Board of Business Agents indicating they are comfortable with the proposed revised Charter.

Lisa Needham, Assistant City Attorney, stated that the City Attorney's Office had a list of approximately ten concerns raised by Barret Lane during his last review. However, she was fairly confident that there would be a quick turn-around time for the City Attorney's Office to

determine if those items had been addressed. An entire top-down review of the latest revision would be a several-months project, and would likely again be outsourced to Barret Lane. She asked the Commission to consider what their next steps would be, and what type of a review they would request.

Commissioner Ferrara did not feel that another top-down review would be necessary. It would be best to have the City Attorney's Office review Mr. Lane's list of concerns, and let the City Council decide whether or not they want a top-down review.

Commissioner Rubenstein agreed with Commissioner Ferrara. It was her understanding that each draft had been responsive to issues raised in the previous draft.

Commissioner Lichty stated that it was his understanding that the City Attorney's Office will most likely be asked to do a top-down review by the City Council once the revision is forwarded to them.

Chair Bernstein stated that another top-down review by the City Attorney's Office could take several months, and July 2009 is the deadline to have the question on the November 2009 ballot if the Council doesn't approve the revised Charter by a 13-0 vote. The Commission should be conscious of that deadline.

Commissioner Clegg stated that the Commission should proceed with the ten item check list and get that back from the City Attorney's Office as soon as possible, then proceed with Mr. Melendez' updated summary report, approve the final draft, and forward it to the City Council.

Mr. Melendez also suggested holding another Council Study Session to gauge indications of support.

Ms. Needham stated that while Mr. Melendez has addressed each concern raised by the City Attorney's Office, a full top-down review has not been done since Draft 5, so the City Attorney's Office could not advise the City Council that they were certain that they have no concerns with the latest draft.

Mr. Melendez suggested that he prepare a red-lined version comparing Draft 5 to Draft 10, which may allow a somewhat more secure opinion without going through an entire top-to-bottom review of the document.

Commissioner Clegg moved that the Commission request that Former Commissioner Melendez revise the Summary Report, and make the other minor changes he mentioned he had recently discovered, by the July meeting; and that the City Attorney's Office report on their review of Barret Lane's ten point checklist of concerns at the June meeting. Seconded. Adopted upon a voice vote.

Mr. Melendez then answered the questions raised by the Commission at their last meeting.
Question 1: "A 'citizen' means an inhabitant who resides within the City, regardless of whether he or she is a citizen within the meaning of the federal or state constitution or any other law." *Would this be considered a substantive change?"*

Mr. Melendez stated that some would consider any change a substantive change. This definition was added because of the fact that there are three different words used in the current Charter to describe people who live in the City - citizen, resident, and inhabitant. Each of those three words also appears in the Federal and State Constitutions and in Statute, and they have different meanings in each of those documents. He had been directed by the Commission to research the issue and choose the word that worked best, and then use that word consistently. The word he chose was "citizen". This defines the word in the context of the Charter. It does not change any legal relationships or confer citizenship upon someone who doesn't already have it. In his opinion, it is not a substantive change.

Question 2: *"Jurisdiction. The district court has jurisdiction — " The existing Charter states that the District Court of Hennepin County has exclusive jurisdiction in any legal dispute arising out of the Charter and/or ordinances, which is consistent with state law. The proposed change seems to state that the District Court would have jurisdiction, but doesn't identify Hennepin County's District Court. That would mean, for example, if a merchant in Bemidji, Minnesota, had a dispute with the City of Minneapolis, the merchant could commence an action in the District Court for Beltrami County. Is there a good reason to expand jurisdiction from Hennepin County to state-wide jurisdiction?"*

Mr. Melendez stated that when lawyers talk about the District Court, they are always referring to a particular district court. He could add a definition stating that reference to the district court means the Hennepin County District Court and doesn't confer jurisdiction on any other district. It appears approximately three times in the revised Charter.

Question 3: *Redistricting. (2) Redistricting Commission. With the elimination of the Library Board member, the Redistricting Commission will have only six, instead of seven, members. If the City Council has anticipated that situation and is taking steps to correct it, then it is not a concern.*

Mr. Melendez stated that the same issue arises with respect to the Board of Estimate and Taxation. The way it was handled in the draft revision was to delete the reference to the Library Board member and let the chips fall where they may. Carol Becker of the Board of Estimate and Taxation has since informed him that there is a balance on the Board which has now been destroyed by the elimination of the Library Board member. The Commission may want to think about replacing that member with someone who is elected city-wide to keep the political dynamic of the board.

Chair Bernstein stated that pending legislation may abolish the Board of Estimate and Taxation, so it may be a moot point.

Commissioner Clegg stated that his preference would be to highlight this issue in the Executive Summary and request the City Council to either direct the Commission to deal with it in a specific way or to come up with their own solution.

Commissioner Ferrara stated that the make-up of the boards is defined in the Charter. Therefore, he felt the Charter Commission should recommend a replacement for the position.

Commissioner Lichty stated that Commissioner Street mentioned at a previous meeting that the changes to the boards are going to come as they may and there are policy decisions that need to be made about how those positions are going to be filled, or not filled. Those policy decisions are not necessarily the bailiwick of the Charter Commission. Making those changes may make it more difficult to get the revised Charter passed. Commissioner Street's suggestion was to leave it as it is, highlight the situation to the City Council, and recommend that they give the Commission guidance.

Mr. Melendez stated that he would soon be meeting with Council Member Hodges and would discuss the issue with her at that meeting.

Commissioner Bujold felt commissions and boards should not have imbedded in them the clear risk of stale-mating. It is the Charter Commission's responsibility to put out a document that reflects a good system of government.

Commissioner Rubenstein stated that it is the Charter Commission's job to make sure that there are an odd number of members on those bodies, but it is up to the City Council to do so.

Commissioner Clegg felt that the composition of the boards and commissions would be resolved before the final draft of the revised Charter is presented to the City Council.

Commissioner Street felt there was actually no question before the Commission. The Planning Commission was dealt with at a previous meeting and the Board of Estimate and Taxation, if it is going to be eliminated, will be removed by Statute in which case it is out of the Commission's hands.

Question 4: *"Voting Method. The voters elect the City's elected officers by single transferable voting. The City Council must provide by ordinance the method of counting the votes and of breaking a tie." The language, as adopted by the electorate, includes "sometimes known as Ranked Choice Voting or Instant Runoff Voting." Why is there a need to eliminate the adopted language?*

Mr. Melendez stated that the language in the revision is the language that he came up with after meeting with FairVote staff, so he knows they are comfortable with the language. The technical term for the system is Single Transferable Vote.

Question 5: *Quorum. Each board's quorum is a simple majority of its membership..." What is the definition of "simple majority"?*

Mr. Melendez stated that quorum meant any number greater than half.

Question 6: *Legislative acts. This section states that the effect of legislative acts are admissible in evidence. Why is a rule of evidence being created in the Charter when there are state-adopted rules of evidence?*

Mr. Melendez stated that it is in the old Charter, and therefore should be in the new Charter. The rules of evidence that state courts all follow provide for the reception into evidence of official documents, but there has to be some other source saying which documents are official, as opposed to unofficial documents. The reason this is in the current Charter is because the City itself had to say which copies of its Charter or its ordinances were official.

The Charter requires that the ordinances be published in a certain way. Once they are published that way, a court can take that as the official word of the City.

Ms. Needham stated that from standpoint of the City Attorney's Office, unless there is a general rule, they would prefer the language be kept in the Charter.

Commissioner Ferrara inquired if Mr. Melendez had resolved the objections raised by Mr. Lane.

Mr. Melendez stated that from his point of view, he had done everything necessary to address all of Mr. Lane's objections. In preparing the side-by-side, he did find an additional 5 or 6 changes to be made, and Mr. Lane may have found others, also.

Chair Bernstein expressed the gratitude of the Charter Commission for all of Mr. Melendez' time and effort on the project.

Chair Bernstein stated that he would not be able to attend the June meeting. Mr. Melendez would also be unable to attend the June meeting.

Commissioner Ferrara moved that the June Charter Commission meeting be cancelled, and the July meeting be rescheduled to July 9. Seconded.
Adopted upon a voice vote.

Commissioner Lichty moved to adjourn. Seconded.
Adopted upon a voice vote.

The meeting adjourned at 5:05 p.m.

Peggy Menshek
Charter Commission Coordinator