

MINUTES MINNEAPOLIS CHARTER COMMISSION

Wednesday, July 7, 2004

Commission Members Present: Bernstein, Thaden, Lazarus, Clegg, Collier, Dolan, Ferrara, Melendez, Metge, Theurer – 10 (Quorum: 8)

Commission Members Excused: Dziedzic - 1

1. Roll Call.

Chair Bernstein called the meeting to order at 4:05 p.m. in Room 317, City Hall, Minneapolis, MN. There were nine members present; two members absent.

Bernstein introduced Sue Ponsford, who was recently appointed to serve on the Charter Commission, although the Clerk's Office had not yet received official transmission from the chief judge's office of Ms. Ponsford's appointment. Ms. Ponsford sat in as an observer and did not vote. Later in the meeting, Ms. Ponsford introduced herself and gave a brief background. She grew up in Cokatoe, MN, and now is a homeowner in the Bryant neighborhood of south Minneapolis and works as a technology consultant at a non-profit agency.

2. Adopt Agenda.

Lazarus moved adoption. Seconded.
Adopted upon a voice vote.
Clegg and Dziedzic absent.

3. Approve Minutes of May 5, 2004.

Lazarus moved approval. Seconded.
Adopted upon a voice vote.
Clegg and Dziedzic absent.

4. 5th Revision to City Charter: Update.

Melendez had one hard copy of the 5th revision and would mail copies to all commission members. In the meantime, he has contacted the reader from AFSCME and asked to sit down with representatives from the union to talk about the civil service provisions in the Charter. He has also asked Lyle Schwarzkopf for a meeting. On June 16th, Melendez met with the Library Board, and they have concerns, which were not quite clear, but he felt those concerns have to do with the fact they would like legal review for their benefit. He was not certain whether they had a consensus about what the issues are.

There was discussion on what the commission's process is going to be for the next couple of months. There will probably be two meetings in September dedicated to the Charter revision, at least one being a public hearing, and one more final meeting after that, with transmission of the document to the City Council in October. Bernstein planned on setting those dates at the August meeting.

Melendez would provide the 5th revision to council members along with a transmittal letter regarding the upcoming meetings.

(no action taken).

5. Proposed Citizen Petition to Amend the City Charter: Respond to question submitted by Jason Samuels: "What is the deadline for submitting a citizen petition? Is it August 10, the statutory deadline, or 25 days before August 10?"

Aaron Marcus, 918 E 17th St, Chair of Citizens Organized for Harm Reduction (C.O.H.R.), was present, along with Jason Samuels, 3 E 25th St, Administrative Coordinator of the same organization. C.O.H.R. seeks four declarations/clarifications regarding a Charter amendment and petition process for citizen initiative, which were provided in written copy. The four requests follow:

1. Minnesota Statutes Section 410.12 subd. 1 states "proposed Charter amendments must be submitted at least 12 weeks before the general election." We seek a declaration from this Commission that timely submission is made if the committee of electors (the petitioners) provides the Charter Commission or its designed body with all then collected petitions by August 10, 2004, and this date excludes the additional time of 25 possible days for certification and additional time of 25 possible days for certification and additional signature collection (meaning that last possible date for additional signature collection is August 30, 2004).
2. If the committee of electors timely submits all petitions collected as of August 10, 2004, on August 10, 2004, may the committee of electors continue to collect signatures during the 10 day period the initial submissions are certified?
3. If the committee of electors timely submits the petitions but fails to collect the required number of 7,774 valid signatures, is the additional 10 days to collect signatures given to the committee of electors 10 calendar days or 10 business days?
4. Minnesota Statutes Section 410.12 subd. 3 states that all petitions should be submitted as a single instrument to the Charter Commission. Is the Charter Commission the body to which the committee of electors is to serve the petitions or do we send the petitions to the Department of Elections?

Regarding the question about the August 10 deadline, Kristi Lassegard, Assistant City Attorney, referenced the letter from Peter Ginder, Deputy Director of the Civil Division/City Attorney's office, in that he had solely addressed what's basically the drop dead date for petition, and she understands that to be August 10. She did not know that Mr. Ginder, in his written opinion, was applying any additional windows that would stop that time. The City Attorney's office would have to look into it further.

C.O.H.R. referenced a citizen petition submitted in 1997, in which case the deadline twelve weeks before the general election was August 12, 1997. The initial submission was made August 11, 1997. On August 14th, they were certified as not having the number necessary to certify for the ballot, opening a new petition window on August 15th. On August 25th, they submitted additional signatures, which were then certified as proper on August 27th, for the ballot in November. C.O.H.R. wants to be ensured this same process would be used this year, in that if they did not have a sufficient number of

signatures submitted on August 10th, that they do have the extra ten day window in which to get the more signatures. They had copies of letters from the former Director of Elections documenting the 1997 timeframe referenced.

Susanne Griffin, Director of Elections, was not familiar with the 1997 documents, but she understood that is the way the process worked in the past; that the proposal was submitted with what the petitioners believed to be the required number of signatures, and the verification process started from that point on.

Ms. Lassegard added that she didn't understand the question to be when the window begins, but whether or not they would get additional time, or whether they need to start building that in advance of August 10. She agreed there's that window, but they still have to get in by August 10; maybe they need to back up the date and we need to get more information on that.

Collier felt these questions should be presented to the City Attorney because ultimately they are the ones that would make the final decision on a question that one may think is different than what is in the Charter. Presenting the subject matter to the Charter Commission is one thing, but rulings or legal opinions on dates and procedures are beyond the Commission's role.

Bernstein said the City Attorney's office will be asked to look specifically at the questions that have been raised and to respond to those, as the Charter Commission will rely on the City Attorney's response or direction.

Bernstein questioned why C.O.H.R. was choosing the City Charter to pursue this as opposed to going to the City Council and asking them? The Charter Commission has recently worked on and redrafted the Charter and confined it to a governance document which defines what the City's responsibilities are. This does not seem to be appropriate for the Charter. The City Charter cannot make something legal that is not legal.

Mr. Marcus responded that they did approach the City Council last year and had many discussions, but it did not appear there were sufficient votes or interests in pursuing the matter; it was not a top priority or people who were/are interested or supportive did not want to make it an issue. At that stage, they looked at the state legislature and lobbied. Medical marijuana bills have not made it out of subcommittee at the legislature. Regarding the City Charter, it seems there are many instances where the City Charter directs City authorities or officials to do or not to do certain actions. This is something directly relevant to the City's department of health, the citizens' health and well being, and that it fits appropriately within Chapter 13 of the City Charter. There are poles that show significant support around the State of Minnesota, and surveys through C.O.H.R. also show significant support in the City of Minneapolis, so they wanted to get an official statement basically by the voters of the City that this is something they deem important. It would also send a strong message from the citizens of this City to the state that this is something they care about. Additionally, C.O.H.R. recognizes that the state statutes do trump, but if the state law does change, either by, for instance, legalizing medical marijuana or legalizing it in general, or doing a variety of other potential action that the state could take, this City would have a mandate to that, which is to license and regulate distribution centers so patients in the City would be able to receive automatic action.

Mr. Marcus said the other questions are also statutory interpretations, so they perhaps should just direct those to the City Attorney's office as well and not burden this Commission. He reviewed the questions as outlined. Bernstein responded to Question No. 4 in that petitions are served to the City Clerk's office.

Melendez suggested the Charter Commission ask the City Attorney for answers to the questions raised by C.O.H.R. and then the Charter Commission can make that available to C.O.H.R. so there's no issue about C.O.H.R.'s ability to solicit that opinion.

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7. Police Department's Five-year Business Plan.

Metge brought up, for the public record, the issue that the Police Department's Five Year Business Plan may conflict with the City Charter regarding the number of police officers required per resident. It states in the Charter, under the police section (6), that the personnel of the police department shall be established and maintained at a ratio, or as closely thereto as is possible within the limits of section 2, of not less than one and seven-tenths (1.7) employees per 1,000 of population of the City according to the latest United States official census, and the 2000 census has Minneapolis population at 382,618. With that ratio, we are demanding the police department to have 650 officers. As of June of this year, we are at 569 officers, so we are under the mandate and with the projected budget cuts, there will be 137 officers less, which is of concern. She was unsure of her role as a Charter Commissioner, but wants to bring this to the attention of the City Council.

Bernstein felt the Charter Commission does not have the responsibility of monitoring the City Council and telling them what they can and cannot do. In the event that a Charter Commission member feels there's a statutory or budget proposals that violates the Charter, it would be entirely appropriate to bring that to the attention of council members, and the City will advise accordingly, and it would be appropriate to sign that as an individual. It is not a request of the Charter Commission unless put into a motion and voted on.

Thaden requested a copy of the statistics and documentation that Metge referred to and whatever might be sent to the City Council. Additionally, it would be helpful to have exact Charter language, definitions of officers and different police department personnel from state statute or the Charter or City ordinance, and all those types of things before the Charter Commission is asked to make a decision.

Collier felt one thing that would be helpful is to find out if it is a percentage referenced, is it a percentage of sworn officers or a percentage of officers on the street, etc., and that question might be the responsibility of the Charter Commission.

Metge wanted to stress that not a lot of people really read the Charter, and it behooves us to bring this to the attention of our elected officials. It would be helpful if a City Attorney did make definitions known, and perhaps the issue can make its way to the Public Safety & Regulatory Services Committee.

Bernstein felt the issue pertinent and asked if Metge would be willing to investigate this, or perhaps the Commission needs to appoint a committee? The City Attorney's office

could be asked to respond about definitions and bring that information back to the August meeting, and perhaps the Commission then might consider any proposals or motions to advise the City Council if, in fact, the plan does not conform to the City Charter.

Metge accepted Bernstein's suggestion and would advise the City Council of the conflict.

Lazarus felt maybe then not only definition of officer is needed, or at least an understanding, but the same would go for the definition of "resident," at least for purposes of the Charter.

Clegg brought up the issue that the existing Charter revision reference is to "employees" as opposed to officer. Given that the goal in the Charter revision is to make no substantive changes to the Charter to receive a 13 to 0 vote, he would contend that to change that to "sworn officer" or to some other thing would have a substantive impact.

6. Status of Vacancies: Update.

Bernstein stated he would draft a letter to former Commissioners Fraser and Leitschuh commending and thanking them for their excellent service on the Charter Commission. Tyrone Bujold has been appointed to fill one vacancy, but the oath of office has not been returned as yet. Sue Ponsford was appointed at the end of June as well (See Agenda Item #1).

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Lazarus brought up the issue of the appropriateness of the issue on agenda item #5. Is it the City Attorney's office who would tell us it is a proper Charter amendment in the first place?

Ferrara felt that although it is a practical way to look at things, if the public wants it in the Charter, don't we serve at the will and pleasure of the public?

Thaden referred to a previous Charter amendment by citizen petition regarding instant runoff voting, and there is precedent for the Charter Commission making its own independent determination.

Thaden moved to adjourn at 5:05 p.m. Seconded.
Adopted upon a voice vote.

Respectfully submitted,

Irene M. Kasper
Council Committee Coordinator