Minneapolis Charter Commission Minutes
Special Meeting

June 23, 2010 - 4:00 p.m.
Room 319 City Hall, Minneapolis, Minnesota

Commissioners Present: Bernstein (Chair), Clegg, Dolan, Connell, Jancik, Lazarus, Metge, Peltola, Rubenstein, Schwarzkopf, Stade
Commissioners Absent: Bujold, Ferrara, Kadwell, Lichty

Also Present: Dana Banwer, Assistant City Attorney

1. Roll Call

Chair Bernstein called the meeting to order at 4:01 p.m. Roll call was taken.

2. Adopt Agenda

*Commissioner Dolan moved adoption of the agend*a. Seconded.
Adopted upon a voice vote.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Discussion Item

3. Proposed Charter Amendment:
Consider proposed amendment language to the Minneapolis City Charter giving the Charter Commission the responsibility for redistricting.

Clegg summarized the proposed amendment to Chapter 1, Section 3 and Chapter 16, Section 1 of the Minneapolis City Charter as brought forward by the Drafting Committee. The proposed language provides that the Charter Commission be the Redistricting Commission. The Charter Commission would adopt the final redistricting plan by a majority vote and would seek input from an advisory group of up to nine individuals selected from among applicants. In appointing members to the advisory group, the Charter Commission would consider the diversity of its membership.

Peltola stated that he supported the amendment language but would like to strike the entire paragraph relating to the advisory group because any member of the public can attend a noticed meeting, and he didn't feel it was necessary to have a separate group that wasn't actually developing a recommendation.

Schwarzkopf stated that he supported the proposed language but also did not see the need for an advisory group. The advisory group would not be a truly non-partisan, non-political group of individuals.

Clegg moved approval of the amendment language relating to the redistricting process as brought forward by the Drafting Committee. Seconded.

Ginny Gelms, Elections Department, was present and suggested changing Section C of the proposed amendment regarding publishing the tentative redistricting plans so that the legal notice might include publishing on the city's website rather than in Finance & Commerce. Also in Section D of the proposal, the word "reapportionment" is used where it might be more prudent to use the word "redistricting" consistently throughout the document.

Dana Banwer, Assistant City Attorney, stated she that would research the definition of "legal notice" to determine if publishing on the city's website would be considered sufficient notice.

Rubenstein noted that the language simply stated "published as a legal notice" which left it open as to whatever is legal at the time. She felt there was no reason to specify what legal notice consisted of in the Charter.

Schwarzkopf moved that the word "reapportionment" be replaced with the word "redistricting", in Section D of the amendment. Seconded.
Adopted upon a voice vote.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Lazarus moved that the word "manifestingly" be replaced with the word "manifestly" in the last line of Section 3(A)(4).
Adopted by unanimous consent.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Lazarus moved that the sentence "The Commission will appoint an Advisory Group at not more than nine members who are eligible voters of the City of Minneapolis" in Section 3(B) be amended to read as follows:

"The Commission will appoint a~~n~~ ~~Advisory~~ Group ~~at~~ of not more than nine members who ~~are~~ shall be eligible voters of the City of Minneapolis." and that the word "Advisory" be deleted in reference to the Advisory Group throughout the document. Seconded.

Bernstein suggested substituting the word "Citizen" for the word "Advisory".

Clegg noted that former Commissioner Melendez suggested never using the word "shall" because it had so many different meanings.

Lazarus withdrew the portion of his motion relating to deleting the word "are" and substituting the words "shall be".

Peltola stated that the Charter Commission itself is noted as an advisory committee on the city's website and would then be appointing another advisory group to attend their meetings but not act as a separate entity. He didn't think that would generate many applications. He would prefer to strike the entire paragraph relating to the advisory group, but if not, to change the phrase "the commission will" to "the commission may" appoint an advisory group. Then if it is later decided that the advisory group is not needed, a Charter amendment would not be required to make that change.

Metge stated that she liked the term "Advisory Group" because the Commission would be asking a group to give them advice. She was a fan of citizen participation and felt it was good to have more people at the table with a hot topic like redistricting. She was opposed to calling it a citizens' group because she lived in a neighborhood where a lot of her neighbors were not documented and felt it set up a discriminatory term that would alienate some of her neighbors from being a part of the dialogue.

Jancik stated that while he understood the desire to increase citizen participation, he tended to agree with Commissioner Peltola. Based on the language of the proposal, the advisory

group would be somewhat powerless. To that extent, he would probably be in favor of striking the language and allowing the Charter Commission discretion. To the extent that Commissioner Lazarus had suggested striking the word advisory, which doesn't impart any power to a group which has none, he was in favor of it.

The Lazarus motion to delete the word "Advisory" lost upon a voice vote.
Absent - Bujold, Ferrara, Kadwell, Lichty.

The Lazarus motion to delete the word "at" and insert in lieu thereof the word "of" was adopted by unanimous consent.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Peltola moved to amend Section 3(C) by deleting the word "tentative" where it appeared and inserting in lieu thereof the word "proposed". Seconded.
Adopted upon a voice vote.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Clegg moved to change the reference to "Advisory Committee" in Section B to "Advisory Group".
Adopted by unanimous consent.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Mike Dean, Executive Director of Common Cause Minnesota, a non-profit non-partisan government reform organization, was present and thanked the Charter Commission for taking the time to address this issue. Common Cause has been advocating for some of these changes for quite some time to reduce the level of partisanship and to bring greater transparency to the redistricting process. He felt there were a few areas in the Drafting Committee's proposed language that needed to be changed. It will be extremely difficult to educate the public on the proposed changes, and he was worried that the level of complexity of the amendment could kill the overall effort. Mr. Dean distributed two documents containing suggested amendments. One proposal would strike almost all of the current language and dramatically simplify the language and allow a lot of the details to be worked out in ordinance (later referred to as "Common Cause Short Form"). The other proposal (later referred to as "Common Cause Long Form") added additional language to delineate the following:

- Preserve communities sharing common interests within wards. Since this was something that had been handed down through the Supreme Court, he encouraged the Charter Commission to include that language in their amendment.
- Compliance with the Voting Rights Act.
- Remove the restriction of not allowing city employees to participate in the redistricting process and only prohibiting employees of elected officials from participation.
- Strengthen diversity language to include representatives of groups traditionally underrepresented in city government.
- Increase transparency.

He noted that Common Cause thought that eliminating the advisory group would decrease the Commission's credibility when they try to sell the proposal in the community. People will be concerned about the make up of the current Charter Commission, and thus reject the proposal. Also, the current Charter Commissioners did not sign up to be on the Redistricting Commission, so the thought was to have a group that could spend the time to

really understand the issues so that it didn't become too much of a time constraint for Commission members.

Schwarzkopf stated that when partisanship is taken out of reapportionment, it becomes very easy to do. When political partisanship is brought into the process, then each party is vying for the best thing that they can get. When the public is brought into the process, developers may submit plans through a neighborhood group or some other front group. Also, the suggestion of Common Cause to encourage the public to submit plans would cause enormous problems.

Metge thanked Common Cause for their research and input and clarified that neighborhood groups are prohibited contractually from being partisan. They could lose their funding.

Fred Markus, 2523 Portland Avenue South, was present representing himself and stated that he was a member of the last Redistricting Commission. He agreed with the idea of an advisory group and had been advocating for some time to get underrepresented groups to pay attention to this process. Also, it is important to have something less formal than the Charter Commission as the first step that someone could take to get involved in the process. Redistricting involves a technology and vocabulary that is not common to the general public. He was also in favor of the idea of having the Charter Commission sit as the Redistricting Commission. It will give the Charter Commissioners insight into the meaning of redistricting. It's not easy, and it is hard to keep a level playing field. He also agreed with Commissioner Schwarzkopf that it would get chaotic if anyone could submit a plan.

Brian Rice, legal counsel for the Minneapolis Park and Recreation Board, was present and stated that under the old redistricting structure, people were appointed by parties and the City Council was allowed two representatives. Once the City Council reapportionment was completed, two Park Commissioners replaced the two Council representatives. Under the Laws of Minnesota 1992, Chapter 362, Section 2 set up six standards by which the Park District reapportionment should occur. Four of those standards are virtually identical to the four that are included in the language proposed by the Drafting Committee, but there are additional standards applicable to the Park Board. One dealing with preservation of communities of interest and another dealing with districts which stated: “The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it possible, the districts must increase the probability that members of the minority will be elected". Rice noted that Item 3 in the Common Cause Long Form was almost identical to community of interest language typically seen. The difference between the language in Item 5 of the Common Cause proposal and the 1992 legislative language is that one is expressed more affirmatively.

City Council Member Gary Schiff, Ward 9, was present and thanked the Charter Commission for taking up the matter of redistricting. He also appreciated the input by Common Cause and others in the audience. He preferred the idea of the short form proposal, but that was his personal opinion. The original concept of having the Charter Commission take charge of redistricting was because there is an inherent legitimacy and mantle of authority that comes to the Charter Commission because they are appointed by a judicial process and are not appointed by an elected board. An advisory group would help fill in expertise that the Charter Commission doesn’t have, and he felt there should be a very strong link between the Charter Commission and the advisory group. He would be worried if the advisory group was a totally separate entity. He suggested that at least three

members of the Charter Commission also be members of the advisory group to provide communication between the two bodies.

Schwarzkopf explained that they had been thinking in terms of having up to 9 people on the advisory group at the table with the Redistricting Commission, not a separate group making separate plans.

City Council Member Cam Gordon, Ward 2, was present and noted that the School Board issue was something that would need to be addressed. The Charter Commission will also need to decide whether or not they want more details fleshed out in ordinance.

Schwarzkopf stated that the Drafting Committee had discussed it and decided that no ordinances would be needed. The Charter Commission can spell out any details necessary.

Council Member Elizabeth Glidden, Ward 8, thanked the Charter Commission for taking up the issue of redistricting and supported the work they had done in de-politicizing the process. The comments of Common Cause were helpful in further defining the importance of the decisions to be made.

Stade moved to substitute the Common Cause Short Form for the amendment language proposed by the Drafting Committee. Seconded.

Lazarus spoke in opposition to the motion. The City Council proposed that the Charter Commission take responsibility and own the redistricting process. Once they have taken that responsibility, their intent is to not allow ordinances to make changes to the process because that would politicize what they are trying to make non-partisan.

Clegg agreed with Commissioner Lazarus. The Common Cause Short Form notes three times that the redistricting process is governed by criteria set forth in City ordinance including how the boundaries are readjusted, how the advisory group is appointed, and how it should be open and transparent with opportunity for public participation. It seemed to him that the Charter Commission would not have a significant role in the redistricting process and it would remain just as politicized as it is now.

Connell spoke in opposition to the motion. He appreciated the idea of making the language as simple as possible, however in doing so, he felt it would also make the issues quite difficult to deal with.

Stade withdrew his motion.

Clegg moved that Section 3A(3) and 3A(5) as set forth in the Common Cause Long Form as modified by the appropriate Chapter 362 language, be added as new Sections (5) and (6) to the language proposed by the Drafting Committee. Seconded.

Common Cause 3A(3) reads as follows: “To the extent possible, communities sharing common interests including social, economic, cultural, racial, ethnic, economic, or other interests common to the population of an area, should be considered and preserved within wards.”

Common Cause 3A(5) reads as follows: "Wards shall not be established that result in the denial of racial and linguistic minority groups the equal opportunity to participate in the political process and to elect representatives of choice."

Rubenstein felt that the language in 3A(3) seemed so broad as to be meaningless and didn't see how it really added to the Charter provision. It is a great principle, and it is already a principle in constitutional law, but she didn't understand how it would in any way guide the Redistricting Commission.

Connell agreed with Commissioner Rubenstein. If each of these principles are already principles that are established either by constitutional or statutory law, the Commission is bound to uphold each. Adding this language to the amendment would simply be window dressing.

Jancik agreed stating that the principles are in statutory case law and Supreme Court precedent. If the Commission wanted to add the language to give the principles more visibility when the amendment is proposed to the public, then to that extent adding the language would be good. However, it really serves no useful purpose beyond that.

Lazarus stated that he felt the language in Section 3A(3) and 3A(5) would merely create more fertile ground for lawsuits.

Metge stated that 3A(3) as written would set guiding principles for the Commission when making selections.

Bernstein separated the motion to consider separately adding Sections 3A(3) and 3A(5) of the Common Cause Long Form to the language prepared by the Drafting Committee.

The motion to add Section 3A(3), as set forth in the Common Cause Long Form, as a new Section (5) in the language proposed by the Drafting Committee, lost upon a voice vote.
Absent - Bujold, Ferrara, Kadwell, Lichty.

The motion to add Section 3A(5), as set forth in the Common Cause Long Form, as a new Section (5) in the language proposed by the Drafting Committee, lost by a showing of hands.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Lazarus moved that in Section 3 Part B of the language proposed by the Drafting Committee, the second to the last paragraph be amended to read as follows: "City government. In appointing members to the Advisory Group the Charter Commission will consider the diversity of its membership <u>and communities sharing common interests</u>."
Seconded.

Peltola noted that this section of the amendment was talking about the composition of the advisory group, whereas the added language was meant to be placed under descriptions of the wards and how the wards should be composed.

Lazarus withdrew his motion.

Rubenstein moved that the following language be added to Section 3(A)of the language proposed by the Drafting Committee: "The wards must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it possible, the wards must increase the probability that members of the minority will be elected. To the extent possible, communities sharing common interests should be considered and preserved within wards." Seconded.

Schwarzkopf preferred not adding the language but was particularly bothered by the use of the phrase "wards must …"

Connell stated that he would vote against the motion because the Charter Commission was bound by federal and state law with respect to these issues.

Clegg suggested replacing the word "must" with the phrase "to the extent possible".

Rubenstein accepted Clegg's suggestion as a friendly amendment. The motion then read as follows:

Rubenstein moved that the following language be added to Section 3(A) as Item No 5: "The wards must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it possible, the wards ~~must~~, to the extent possible, will increase the probability that members of the minority will be elected. To the extent possible, communities sharing common interests should be considered and preserved within wards." Seconded.
The motion lost upon a voice vote.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Bernstein stated that he didn't understand the purpose of the advisory group since the Commission must take public testimony and any member of the public, organizations, or political parties could offer their suggestions and input.

Bernstein moved that the language in Section 3(B) creating the advisory group be deleted from the document. Seconded.

Discussion ensued on whether the Chair could make a motion.

Bernstein withdrew his motion.

Jancik moved that the language in Section 3(B) creating the advisory group be deleted from the document. Seconded.

Stade noted that most of the testimony the Charter Commission heard was in favor of an advisory group. Also, the language was left vague so the Commission could figure out how the advisory group should specifically work. The idea was that the advisory group members would be directly contributing and part of the discussion right away.

Jancik noted that Mr. Dean from Common Cause had suggested that the advisory group gave legitimacy to the process and that there were certain groups that wouldn't vote for it unless there is an advisory group.

Connell stated that the language was the result of a compromise by the Drafting Committee. The advisory group will share in the work of the Redistricting Commission and add input, but the Redistricting Commission will actually vote.

Metge stated that she was in favor of the advisory group because when people are at the table in conversations, and not just coming in for two minutes to testify at a public hearing, more creative ideas and input come forward.

Clegg agreed with Commissioner Metge. The advisory group will operate in accordance with rules and procedures established by the Commission which preserves the flexibility for the Commission to make one set of rules. Another Commission ten years from now could change those rules if this doesn't work.

Peltola stated that the Commission would have to spend time going through applications, the appointing process, developing the rules, etc. There are probably ways that the Commission hasn't thought of yet to seek out community input that wouldn't involve appointments.

Rubenstein stated that when this process began, it was because the Charter Commission was asked to think about making the redistricting process more open. The advisory group will help achieve that because it will include members of the public who want to be part of it and give them an opportunity to have a more meaningful role. Also, when the Charter Commissioners were appointed, the actual redistricting process was not part of the duties of the Commission. There are a lot of people out there who have experience, knowledge, and interest who ought to have an opportunity without having to apply to the Charter Commission to have a role in redistricting.

Bernstein stated that he had had experience with boards and commissions made up of voting and non-voting members, and he had never had a good experience when it was time to make a decision and the non-voting members didn't get to vote. He had hoped there would be a separate panel made up of community members and some Charter Commissioners to actually create the redistricting plan and bring that plan to the Charter Commission.

Metge stated that the Neighborhood Community Engagement Commission could help the Charter Commission with the structure of the advisory group, how to get the community involved, and how to work in partnership.

Stade called the question. Seconded.

The Jancik motion that the language in Section 3(B) creating the advisory group be deleted from the proposed amendment lost. Yeas, 3; Nays, 8 as follows:
Yeas - Dolan, Peltola, Bernstein.
Nays - Clegg, Connell, Jancik, Lazarus, Metge, Rubenstein, Schwarzkopf, Stade.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Clegg moved that the amendment language submitted by the Drafting Committee, as amended, be forwarded to the July 7 Charter Commisson meeting for a final debate and to consider suggestions and input from the City Attorney. Seconded.

Peltola requested to make an additional amendment to the document.

Clegg withdrew his motion.

Peltola moved that the sentence "The Commission will appoint an Advisory Group of not more than nine members who are eligible voters of the City of Minneapolis" in Section 3(B) be amended to read as follows: "The Commission ~~will~~ may appoint an Advisory Group of not more than nine members who are eligible voters of the City of Minneapolis". Seconded.
The motion lost upon a voice vote.
Absent - Bujold, Ferrara, Kadwell, Lichty.

Clegg moved that the amendment language submitted by the Drafting Committee, as amended, be forwarded to the July 7 Charter Commission meeting for a final debate and to consider suggestions and input from the City Attorney. Seconded.

Discussion ensued on whether the Charter Commission could adopt the amendment and only consider amendments from the City Attorney at the July 7 meeting.

Dana Banwer stated that there were areas which she would like to continue to research before the Commission voted on the final amendment language. She asked the Commission to clarify if their intent was to adopt the language and transmit the amendment to the City Council at this point, or whether they were going to postpone it to the next meeting and at that point transmit it to the City Council. Given the outstanding information that was needed, she didn't think the document was ready for transmittal.

Clegg withdrew his motion.

Connell moved that the Drafting Committee language, as amended, be adopted subject to any legal amendments that may be required which will be considered at the July 7 Charter Commission meeting prior to transferring the document to the City Council. Seconded.

Discussion ensued on whether other amendments to the document would be in order on July 7 or only amendments brought forward by the City Attorney.

Stade called the question.

Peltola moved to adjourn.

Bernstein ruled the motion to adjourn out of order to allow for continued discussion.

Schwarzkopf moved a substitute motion to approve the language submitted by the Drafting Committee, as amended, and that the Commission consider any additional recommendations by the City Attorney only at the next meeting. Seconded.

Connell accepted the substitute motion.

The Schwarzkopf motion to approve the language submitted by the Drafting Committee, as amended, and that the Commission consider any additional recommendations by the City Attorney only at the next meeting was adopted upon a voice vote.
Absent - Bujold, Ferrara, Kadwell, Lazarus, Lichty.

Peltola moved to adjourn. Seconded.
Adopted upon a voice vote.
Absent - Bujold, Ferrara, Kadwell, Lazarus, Lichty.

The meeting was adjourned at approximately 6:20 p.m.

Peggy Menshek
Council Committee Coordinator