

Minneapolis Charter Commission Minutes

July 6, 2011 - 4:00 p.m.
Room 317 City Hall, Minneapolis, Minnesota

Commissioners Present: Clegg (Chair), Cohen, Connell, Dolan, Ferrara, Gerdes, Johnson, Kozak, Lazarus, Lickness, Peltola, Rubenstein, Sandberg, Schwarzkopf
Commissioner Excused: Metge

Also Present: Burt Osborne, Assistant City Attorney

1. Roll Call

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

Commissioner Rubenstein introduced Jolanta Samuolyte, a lawyer from Lithuania visiting Commissioner Rubenstein's law office for one month and shadowing attorneys.

2. Adopt Agenda

Lazarus moved adoption of the agenda. Seconded.
Adopted upon a voice vote.
Absent - Cohen, Gerdes, Metge.

3. Approve minutes of regular meeting of June 1, 2011

Lazarus moved approval of the minutes of the meeting of June 1, 2011. Seconded.
Adopted upon a voice vote.
Absent - Metge.

4. Chair's Report:

Proposed posting for redistricting GIS staff.

Clegg reported that Commissioners' packets included a proposed posting for a GIS support person which will be referred to the Operations Committee. Under the Redistricting Rules, the Operations Committee is responsible for hiring GIS redistricting staff.

Discussion

5. Plain Language Charter Revision:

Presentation by City Attorney's Office.

Deputy City Attorney Peter Ginder stated that at the request of the City Council, a Work Group was formed to review the Plain Language Charter Revision (PLCR) and report on their concerns. The Work Group consisted of city attorneys, department heads, and knowledgeable staff. The City Attorney's Office responded to issues raised by the Work Group with redlined versions of the PLCR dated April 2011 and June 2011. Ginder summarized some of the issues raised and explained the recommendations made by the City Attorney's Office. The City Attorney's Office requested that the Charter Commission include the recommendations in their final draft.

Clegg suggested forming a Working Group to review the City Attorney's June 2011 redlined version of the PLCR and asked interested Commissioners to contact him.

In the absence of Minneapolis Park and Recreation Board (MPRB) Commissioner Annie Young who had requested to address the Charter Commission, Brian Rice, legal counsel for the MPRB, was present and summarized Commissioner Young's written comments regarding points of agreement between the Minneapolis Park and Recreation Board and the City Attorney's Office and concerns still at issue. Written copies of a letter from Mr. Rice to the City Attorney's Office listing the concerns of the Park Board and a letter of response from Deputy City Attorney Ginder were distributed. An item still at issue is the question regarding the 1883 and 1889 laws of the legislature creating the Park Board and granting the Park Board certain powers and authorities, the language of which was included in the current Charter without significant change. Mr. Rice felt this language should be incorporated into the PLCR.

Minneapolis Park Board Commissioner Annie Young reiterated Attorney Rice's statements. The Park Board wished to be governed by the original laws of 1883 and 1889 and retain their independence and powers.

**6. Communication Committee:
Proposed action steps.**

Clegg explained that proposed action steps for the Communications Committee included working on communications issues relating to redistricting including plans for communicating through the existing City website with a separate redistricting page, developing lists and contact information for traditional and alternative media, developing an email list to include media, neighborhood contacts, known communities of interest, and other persons requesting inclusion, and developing a plan for posting open meetings and public hearings as well as proposed maps being considered by the Redistricting Group. The Communications Committee will recommend additional communication strategies for consideration by the full Charter Commission.

Lazarus moved approval of the actions steps. Seconded.

Adopted upon a voice vote.

Absent - Metge.

Clegg appointed Commissioner Ferrara to convene the first meeting of the Communications Committee. The Committee will select a Chair at their first meeting.

**7. Operations Committee:
Appointments to Operations Committee.**

Clegg stated that the Redistricting Rules provide for an Operations Committee composed of three individuals from the Redistricting Group, with the Chair of the Charter Commission acting as Chair of the Operations Committee. He thanked everyone who had expressed interest. Commissioner Rubenstein and Advisory Group Member Thaden were appointed to the Operations Committee. Clegg stated that he would schedule a meeting of the Operations Committee within the next month primarily to consider hiring GIS staff.

**8. Proposed Charter Amendment:
Proposal by Commission Lazarus relating to use of legal counsel by the Park Board.**

Clegg explained that the Rules of the Charter Commission provide that before voting to place a Charter proposal on the ballot, the Charter Commission will first hold a public hearing on the proposed amendment. If the Commission supported the proposed amendment, at least one public hearing would be held. If the Commission did not support the proposed amendment, the matter would end.

Lazarus moved to hold a public hearing to receive public testimony on a proposed amendment requiring the Park Board to utilize the City Attorney's Office as its legal counsel. Seconded.

Commissioner Lazarus summarized the proposed amendment. The City of Minneapolis is sometimes named as a co-defendant in a lawsuit against the Park Board. The Charter doesn't state that the City is immune from a judgment against the Park Board. If the City is a co-defendant and has liability, it seemed that the City Attorney's Office should represent the Park Board. This would also create some cost savings. In the case of a conflict of interest, outside counsel could be hired. He agreed that the proposed amendment should not be included in the Plain Language Charter Revision but should be a separate amendment forwarded to the voters.

The Minneapolis Park and Recreation Board and the City Attorney's Office submitted written statements.

Kozak spoke in opposition to the proposed amendment. Since legislation provides that the Park Board has a certain amount of autonomy and independence from City government, it should have the ability to appoint its own attorney.

Cohen spoke in opposition to the proposed amendment. The voters of Minneapolis made it very clear that they want an independent Park Board, and the proposed amendment subverts the independence of the Park Board.

Schwarzkopf spoke in favor of the proposed amendment. Having worked for the City for 19 years, it was clear to him that the City needs to speak in one voice.

Rubenstein spoke in favor of the proposed amendment. A judgment against the Park Board is a judgment against the City, and it would worthwhile to explore the issue in greater depth.

Sandberg stated that she was attracted by the idea of streamlining government but did not find the financial arguments very compelling. A public hearing would allow the Commission to obtain more information. At this point, she would probably not support submitting the proposed amendment to the voters.

Johnson spoke in opposition to the proposed amendment. She had read the supporting documents and the proposed amendment, but found no compelling reason to have the City Attorney's Office also represent the Park Board.

Peltola stated that he would like to hear more on the subject and wondered if there was some way, short of a public hearing, where the Commission could periodically come back to the issue. While he respected the opinions that had been offered, he would probably not support the motion.

Clegg spoke in opposition to the proposed amendment. The proposed amendment would take away the independence of the Park Board by delegating their authority to choose their own counsel. Also, the Charter Commission held hearings in the past and heard conclusively from the people who testified that they valued more than anything else the independence of the Park Board. Since the amendment wouldn't have any substantial support from the public, it should not go on the ballot.

Ferrara noted that the minutes from 2009 showed that the public did not vote on the Park Board's independence; that portion of the proposal did not go before the voters. However, he did not think the Charter Commission should micro-manage the Park Board and would either abstain or not support the motion at this time.

Lazarus responded to the letter from Park Board President Erwin dated July 5. There was a reference in the letter to the fact that the Park Board regularly issues RFPs for legal services, but the current counsel for the Park Board has been in place for approximately 20 years. He also felt that the financial figures relating to the Park Board's legal expenses were inaccurate and that the figures could not be thoroughly vetted without a public hearing. There is no reason to believe that the City Attorney's Office would not provide more efficient and effective representation. He did not know why considering the proposed amendment would not promote good government or constructive relationships. This is an opportunity to see if more efficiency can be achieved within the system.

Park Board President John Erwin was present and stated that the Park Board unanimously voted to oppose the amendment. The Park Board is semi-autonomous; semi-independent. They often have disagreements with the City in policy or action and needed to have a separate attorney to address those issues. The members of the Park Board, as well as Minneapolis residents, recognize that there is tension between the City Council, Mayor, and Park Board. He did not feel that the Park Board would be effectively represented when the City Attorney, as well as outside counsel, would be appointed by one of the people the Park Board may have a potential disagreement with. The citizens of Minneapolis deeply support an independent Park Board, and the parks are clearly a success story. The last RFP he remembered was in 2001, and it is the intention of the Park Board to have an RFP process this Fall. When the Park Board has a conflict of interest with Mr. Rice, they obtain outside counsel. He disagreed that combining legal efforts would save resources. He felt the City's dollar figures may be underreported. The Park Board spends .51% of their total budget on legal fees. The Park Board is currently working on ideas that could add up to a lot more in cost savings than could potentially occur from this proposal. Lastly, the Park Board and the City are now working together and collaborating on issues, and a ballot initiative would interfere with that effort. He respectfully requested that the Charter Commission not support the proposed amendment.

Connell inquired if there was any information regarding how the City and the Park Board have worked together or would work together in the event that the City was a named defendant in a matter that fell largely within Park Board jurisdiction.

Brian Rice, legal counsel for the Minneapolis Park and Recreation Board, stated that the Park Board has a very good relationship with the City Attorney's Office and relies on their work. Where the City and the Park Board are co-defendants, it depends upon the nature of the case as to who is the lead counsel. In his 25 years' experience, he could not recall a case where a

judgment against the Park Board affected the City. The business lines for the City are different than those for the Park Board. He noted that the Park Board uses outside counsel for workers' comp cases as well as real estate issues.

Connell stated that while it sounded like dual or overlapping representation and it would be tempting to delve into the matter more, he didn't feel it could be done without infringing on the independence of the Park Board and he would vote against the proposed amendment.

Lickness stated that she did not think it was the Charter Commission's job to micro-manage the Park Board's RFP process or its final choice of vendors and would vote against the motion.

The Lazarus motion to hold a public hearing to receive public testimony on the proposed amendment requiring the Park Board to utilize the City Attorney's Office as its legal counsel failed. Yeas, 4; Nays, 10 as follows:

Yeas - Dolan, Lazarus, Rubenstein, Schwarzkopf.

Nays - Cohen, Connell, Ferrara, Gerdes, Johnson, Kozak, Lickness, Peltola, Sandberg, Clegg.

Absent - Metge.

Public Commentary

There was no one present wishing to address the Charter Commission.

Lazarus moved to adjourn. Seconded.

Adopted upon a voice vote.

Absent - Metge.

The meeting was adjourned at 5:18 p.m.

Peggy Menshek
Council Committee Coordinator