

# Minneapolis Charter Commission Minutes

*Regular Meeting*

**Wednesday, February 7, 2007 - 4:00 p.m.**

**Room 317 City Hall, Minneapolis, Minnesota**

Commissioners Present: Bernstein, Lazarus, Clegg, Connell, Ferrara, Lichty, Remme, Rubenstein, Stade, Street

Commissioners Excused: Dolan, Klassen, Ponsford

Commissioners Absent: Bujold, Metge

## 1. Roll Call

Chair Bernstein called the meeting to order at 4:06 p.m. Roll call was taken.

## 2. Adopt Agenda

*Commissioner Lazarus moved adoption of the agenda. Seconded.*

Adopted upon a voice vote.

## 3. Approve Minutes of December 6, 2006

*Commissioner Lazarus moved approval of the minutes of December 6, 2006. Seconded.*

Adopted upon a voice vote.

## New Business

### 4. Election of Officers:

**Elect officers (Chair, Vice Chair, and Secretary).**

**Action Taken: Jim Bernstein, Chair; Barry Lazarus, Vice Chair; Barry Clegg, Secretary.**

Chair Bernstein opened the floor to nominations.

*Commissioner Lazarus moved the nomination of the current officers to their current positions - Commissioner Bernstein as Chair, Commissioner Lazarus as Vice Chair, and Commissioner Clegg as Secretary. Seconded.*

Commissioner Ferrara inquired if anyone else had an interest in serving as an officer. No one expressed an interest.

Chair Bernstein called for nominations three times. There being no other nominations, the nominations were closed.

Commissioner Lazarus' motion to nominate Commissioner Bernstein as Chair, Commissioner Lazarus as Vice Chair, and Commissioner Clegg as Secretary, was adopted upon a voice vote.

### 5. Charter Commission 2006 Annual Report:

**Receive and file the 2006 Annual Report of the Minneapolis Charter Commission, and direct the Clerk to submit the report to the Chief Judge of District Court.**

*Commissioner Ferrara moved to receive and file the 2006 Annual Report, with direction to the Clerk to submit the report to the Chief Judge. Seconded.*

Adopted upon a voice vote.

## **6. Subcommittees to review the City Attorney's Analysis of Draft Revised Charter.**

Chair Bernstein stated that a letter had been received from former Commissioner Melendez stating that he is now concluding his responsibilities as the State DFL Chair for the 2006 elections and offering to review Barret Lane's analysis of the Draft Revised Charter. He indicated that he will take whatever role the Commission requests of him. He's ready to assist the subcommittees, or he is willing to draft a response to Barret Lane's analysis. He will act at the direction of the Commission. Chair Bernstein stated that as the principal drafter of the proposed Charter revisions, former Commissioner Melendez has provided Herculean effort to the project. Much of the actual physical writing of the revisions have been his responsibility, and he has done it in multiple drafts. His willingness to step back into the process is of immeasurable benefit to the Charter Commission.

Commissioner Clegg stated that he had been in touch with former Commissioner Melendez and planned to meet with him next week, along with any other interested Commissioners, as well. It made sense to get Mr. Melendez' input before the subcommittees met. The initial comments of the City Attorney's Office were made to Draft 6, and Barret Lane's analysis was to determine whether or not changes had been made in accordance with the City Attorney's comments to Draft 6. At the end of Draft 8, the Charter Commission had directed Mr. Melendez to stop trying to please everyone and simply put together the best draft possible. So even though the comments to Draft 6 were out there, many of those changes were intentionally not made.

Commissioner Ferrara agreed but felt that, as a Commission, everyone needed to be very involved in the process. He did not see the benefit of only a few Commissioners meeting with former Commissioner Melendez. There would be more benefit in getting as many Commissioners in attendance at that meeting as possible. It should be more of a collective effort. He also felt the Chair had underemphasized just what a great effort and amount of time Mr. Melendez had put into the project.

Commissioner Rubenstein agreed that all the Commissioners should meet with former Commissioner Melendez. Everyone needed to understand the specific issues. In reviewing the draft and the City Attorney's analysis, it appeared that in many cases whether the changes were substantive didn't matter because they were practical changes. Also, in reviewing the minutes of the September 6 meeting, the Commission had voted and agreed that former Commissioner Melendez would look at the City Attorney's analysis first and provide the Commission with an overview. From there it would make sense for the Commission to work with Mr. Melendez in order to understand more clearly what the issues are and be in a better position to decide how to approach them.

Chair Bernstein asked the Assistant City Attorney if the meeting of a seven-member subcommittee would be in violation of the Open Meeting Law.

Lisa Needham, Assistant City Attorney, stated that the situation would, in fact, invoke the Open Meeting Law. It would be a deliberative portion of the Charter Commission, even though it's framed as a subcommittee, and would have the power to take an action since it would be a quorum of the Commission. The meeting should be noticed as all the Charter Commission meetings are noticed.

Commissioner Clegg stated that he didn't think it would be an issue. Since they would be accommodating Mr. Melendez' schedule, it was likely that the meeting would be held during the day at a law office downtown. He didn't think seven Commissioners would be able to attend.

Chair Bernstein stated that the required procedure would be followed, although even if a quorum were present, they would not transact any business.

Commissioner Ferrara stated that whatever the rules, the Commissioners needed to meet with Mr. Melendez and get to work. It's no one's intention to violate the Open Meeting Law.

Commissioner Lichty suggested breaking the subcommittees up into three groups in order to avoid the possibility of a quorum.

Assistant City Attorney Needham advised against doing that. Typically, most Open Meeting litigation has centered around creative scheduling designed to avoid triggering the Open Meeting Law.

Commissioner Rubenstein stated that it was in the Commission's best interest to make the whole process as public and open as possible. It was also important to decide what the Commission wants to ask former Commissioner Melendez to do.

*Commissioner Clegg moved that an organizational meeting with former Commissioner Melendez be scheduled for next week, with the goal to have Mr. Melendez meet with the subcommittees.*  
Seconded.

Commissioner Ferrara inquired if the City Council held closed sessions without a quorum.

Assistant City Attorney Needham stated that there is a very limited set of circumstances in which the City Council can close a meeting, such as when the City Attorney's Office is providing the City Council with litigation settlement advice, or when private personnel information is being discussed. Typically, only a portion of a meeting of the meeting is closed. The regular meeting is held, then the Chair notes, for the record, why the meeting will close pursuant to the Open Meeting Law.

Commissioner Stade inquired if, in the interests of representation, the two subcommittees could choose who would attend the organizational meeting.

Chair Bernstein stated that nothing would prevent that. The idea was for former Commissioner Melendez to review Barret Lane's legal analysis, raise his own questions, and offer his own insights. There is not a lot of work for the Charter Commission to do anymore. The City Attorney has made it clear that he is willing to consider a legal response to Barret Lane's review. He did indicate that because of his past experience with former Commissioner Melendez, that Mr. Melendez' review would carry weight.

Assistant City Attorney Needham stated that it seemed that the Commission would have enough time to notice the meeting with former Commissioner Melendez as an open meeting. A special meeting would require three days notice. It could also be framed as an emergency meeting; in which case, there must be a good faith effort to provide notice. In an excess of caution, she suggested the Commission simply go through the normal notification procedures.

Chair Bernstein called for a vote on Commissioner Clegg's motion that an organizational meeting with former Commissioner Melendez be scheduled for next week, with the goal to have Mr. Melendez meet with the subcommittees.  
Adopted upon a voice vote.

Commissioner Clegg stated that he would arrange the meeting with former Commissioner Melendez.

Chair Bernstein stated that the Commission would eventually need to decide if they want to submit the revised Charter to the City Council, or go directly to the voters. If the Commission decided to go directly to the voters, they must decide whether they want it ready in time for the 2008 election.

Commissioner Connell stated that in reviewing the September 6 minutes, it appeared that the goal of the Commission was to refer this matter to former Commissioner Melendez and also to form

subcommittees to study the City Attorney's analysis. After the comments made by the Chair regarding the City Attorney's feelings on the matter, it seemed that the Commission would definitely want to have Mr. Melendez' input. The Commission may want to consider having him draft a formal response. He inquired if the Charter Commission would be submitting the revision as a whole to the City Council, in whatever form it was in, at that point in time.

Chair Bernstein stated that if former Commissioner Melendez drafted a letter in response to the City Attorney's analysis, Barret Lane may then be asked to draft a letter in response to that.

Commissioner Clegg stated that if the revision received a 12-1 vote, it would fail, but it would send a clear signal to the voters that a majority of the Council would be in favor of it.

Chair Bernstein stated that when the Commission is ready to present the revision in its final form, it will most likely go to a City Council Study Group prior to being formally submitted to the City Council.

## Informational Update

### 7. Charter Commission Vacancy:

**On January 8, 2007, a Notice of Vacancy was placed on the City's website and sent out in accordance with City requirements. Notice was published in Finance and Commerce Newspaper on January 10, 2007. Applications will be accepted through February 16 and will be forwarded to Judge Wieland.**

Chair Bernstein encouraged the Commissioners to notify anyone who might be interested in getting involved in the Charter Commission to submit an application for the vacancy.

*Commissioner Lazarus moved that the minutes reflect the Commission's gratitude toward Commissioner Ponsford for her membership on the Charter Commission. Commissioner Ponsford had been a very intelligent, hard working, and wonderful member of the Commission. Seconded. Adopted upon a voice vote.*

*Commissioner Lazarus moved to adjourn. Seconded. Adopted by unanimous consent.*

The meeting adjourned at 5:12 p.m.

Peggy Menshek  
Charter Commission Coordinator