

Writer's Direct Dial: (612) 676-2303
Email: brice@rmjlaw.net

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Brian Melendes
Minneapolis Charter Commission Revision Reporter
Faegre and Benson LLP
2200 Wells Fargo Center
90 South 7th Street
Minneapolis, MN 55402-3901

Re: Preliminary Minneapolis Park and Recreation Board
Comments on Charter Revisions

Dear Mr. Melendes:

I serve as general counsel to the Minneapolis Park and Recreation Board. Thank you for taking the time to discuss your work on behalf of the Minneapolis Charter Commission with me this week. As you indicated, you will be presenting a Fourth Draft of the Revised Charter to the City Council on Friday, February 20th at a study session. As I indicated to you on the phone, it was only late last week that my client had learned that the Charter Commission was proceeding with this project. I had the opportunity to review a version of the Fourth Draft of the City of Minneapolis Revised Charter with the Park Board yesterday and the Board has requested that I convey some serious concerns about that fourth draft before tomorrow's meeting.

The Minneapolis Park and Recreation Board was created by an act of the Minnesota Legislature in 1883. From 1883 to 1920, the time at which many provisions related to the Minneapolis Park Board were included in the first City Charter, the Legislature expanded its original grant of power and gave the Minneapolis Park and Recreation Board several unique and, in many ways, extraordinary powers. Principle among those powers was the ability to control, govern and administer a park system in adjacent to the City of Minneapolis. Minneapolis City Charter, Chapter 16, § 2. Because of the enactments of the Minnesota Legislature, Minneapolis Park Board was able to lay out and create a system for Minneapolis Park System which reaches far beyond the corporate limits of the City of Minneapolis.

Clearly, the Minnesota Legislature could authorize such an exercise of power. I doubt seriously that any Municipal Charter could have granted such unique authority. As you prepare a revised Charter, a fundamental question will be presented: can the City of Minneapolis Revised Charter authorize the Park Board to acquire property outside the corporate limits of the City of Minneapolis and exercise regulatory control over those lands. As you consider this matter you should also understand that the Park Board has continued to acquire property outside the City limits as recently as five years ago when it acquired fee title to land in the Fort Snelling reservation in Hennepin County for its park purposes.

The Fourth Draft of the Revised Charter, Section 1.3 proposes to supercede all previously enacted special laws. This would also present some issues which need considerable thought and attention. While I think there would no question that a special law that pertained only to a City of Minneapolis corporate matter could be overridden by a Charter change, I question whether certain Charter changes which apply the organic acts of the Minneapolis Park and Recreation Board could accomplish such a result. In other words, I think that any Revised Charter provision that addresses the question of superceding certain special laws would have to except special laws that grant extra-municipal authority like the Park Board's.

From aside from these larger and more philosophical questions, I have the following specific comments that, in order to remain true to your charge of not making substantive changes in the charter, must be addressed in future revisions:

1. By special law the Minneapolis Park and Recreation Board is given two representatives on the city's Redistricting Commission to replace those two individuals appointed by the City Council as the Redistricting Commission considers Park Board reapportionment. This provision contains of laws of Minnesota 1992, Chapter 392.
2. The current Fourth Draft of the Charter would treat Park Board elections to be exactly the same as the city's election. Under current law, Minneapolis Park Board elections are conducted on a nonpartisan basis and do not employ the use of a three word phrase to describe the party affiliation or preference of a candidates. City Council elections were initially governed by a general state law, then replaced was by a special first class city law, and then governed by Charter amendments.

3. Under the current City Charter the Park Board is only able to dispose of Park Board property after it was determined that it was no longer needed for the park system and only with the approval of the District Court. See Chapter 16, § 13. As I read the Fourth Draft the requirement that the District Court approve of the sale is absent.
4. Under the current City Charter and special laws, the Park Board has the unique authority to acquire property by issuing mortgages to evidence the indebtedness. Within the last three years, the Park Board has used this authority to acquire its Park headquarters operations on the Mississippi River. This power is unique among Minnesota local units of government and was specifically conferred by legislative action which was subsequently incorporate into the Charter. See Chapter 16, § 2.
5. The Fourth Draft omits the Park Board's authority to levy special assessments for sidewalks, curbs and gutters. See Chapter 16, §15. In addition, the Park Board has a unique special assessment authority which allows the Park Board in certain cases to create a park on a large scale through condemnation and assess the benefited property benefited thereby. See Chapter 16 § 3-4.
6. The Fourth Draft Charter Revision would repeal several of Park Board special taxes that include shade trees, parkway maintenance and lake pollution control fund.
7. The Fourth Draft repeals special laws that allow Park Board to set its own compensation. Laws 1988, Chapter 574.
8. The Park Board has the authority under current City Charter provisions and state law provisions to issue bonds in the amount of \$50,000. See Chapter 16, § 5.
9. The Park Board has the authority to levy tax for the Minneapolis Art Institute the Museum Levy Fund and I believe the Fourth Draft omits reference to that. See Chapter 16, § 7.

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10. The general grant of what authority the Park Board has in section 5 of the Revised Charter draft also concerns the Park Board. Currently the Park Board has the authority to “control govern administer a park system in adjacent to the city of Minneapolis, that choice of words used in Section 5.5 along with the Park Board’s view of its responsibility needs expansion and clarification.
11. The Park Board does not believe that the mayor’s veto powers extends to appointments. In Section 4.4 the Charter revisions include the term appointment under the definition of act for the purpose of the type of actions which the mayor can veto for City Council actions. The mayoral veto provision with respect to the Park Board remains silent on the issue of appointment. However, in the 120 year history of the Park Board no Mayor has ever signed or vetoed the appointment of a superintendent.

The concerns listed above are very significant to the Park Board. My client has authorized me to conduct a more complete review. I will be providing you a more detailed critique of the Fourth Draft within the next two weeks.

Very truly yours,

Brian F. Rice

Cc: Jon Olson, President
Park Commissioners
Jon Gurban, Intern Superintendent