

Brooklyn Park Charter Commission Meeting Minutes
Wednesday, February 13, 2019, 7:00 p.m.
Brooklyn Township Conference Room

1. Call to Order/Roll Call

Chair Scott Simmons called the meeting to order at 7:00 p.m. Members present were: Gordy Aune, Jr., Mary Ann Bishman, John Irvin, Dennis Secara, Scott Simmons, David Williams, Council Liaison Lisa Jacobson and Staff Liaison Devin Montero.

Absent: Commissioners Bor and Hultquist (excused).

2. Additions/Approval of the Agenda of February 13, 2019

Chair Simmons added Under Old Business, Bylaws, they reviewed last month to take care of it.

Motion Commissioner Aune, Jr., Seconded Commissioner Bishman to approve the agenda as amended, adding item 4.1, Bylaws under Old Business.

3. Approval of Minutes

3.1 November 14, 2018

Commissioners provided minor corrections to the minutes.

Motion Commissioner Aune, Jr., Second Commissioner Bishman to approve the meeting minutes as amended. Motion carried unanimously.

3.2 December 12, 2018

Commissioners provided minor corrections to the minutes.

Motion Commissioner Aune, Jr., Second Commissioner Williams, to approve the meeting minutes as amended. Motion carried unanimously.

4. Old Business

4.1 Bylaws (added)

The Commissioners reviewed Attachment 7.4, the City Attorney's summary on what the Commissioners talked about at the last meeting regarding the change on subcommittees not containing a quorum of the Commission. The City Attorney agreed with the Commissioners and that all these meetings were subject to the data practices act, open meeting law, required minutes and posting if there was a quorum.

Chair Simmons asked if they were keeping that language or leaving it out and that was part of the draft. He didn't have an objection to having a subcommittee that was a quorum and meant they needed to post it and take minutes. He stated if people wanted to serve on a subcommittee didn't want to preclude their participation because they had the bylaw language that would bar them from doing it. He stated they knew what it meant if they participated and there was a quorum last month and the City Attorney confirmed it.

Commissioner Williams stated that having been on a couple of subcommittee meetings thought they could get input from anyone from the Commission who wanted to come. He liked that idea of holding the task force or subcommittee to three people for official business because there was many times it had to be flexible with the meetings and had to post them if there was going to be a quorum of members there. He stated it was not saying they couldn't anyone that wanted to come from the Commission or anyone from the public that wants to come. He stated he would be in favor of keeping the language in just to keep the flexibility of the subcommittees.

Commissioner Aune, Jr., thought it was a good idea to put it in the bylaws as suggested by the City Attorney.

Chair Simmons stated he didn't want to say they were going to make it harder for people to know when and where the meetings were or for people already on the committee to participate if they wanted to do so. He stated they were volunteers and to bar someone from participating didn't seem right to him.

Commissioner Secara stated the subcommittee was designed to work on a specific problem or issue and then bring their findings to the Charter Commission for discussion and or approval. He stated the subcommittee could consist of many people as necessary but it was a fact finding process and brought the facts to the Commission for discussion and or approval. It shouldn't be a full quorum of the Commission. He stated that as far as excluding, asked if they were talking about calling expert people to give advice like a senate or house subcommittee depending on the issue that might be necessary. He stated if they were going to do that that maybe it should be done in the presences of the entire Commission.

Commissioner Bishman agreed and stated that Commissioners Secara and Uhde worked on the Redistricting, and met with staff during the day at a time when it was convenient for everyone. She stated she didn't know about noticing that meeting but they were all aware that they were going not do that to help them start looking at it, get the numbers and the facts about redistricting. She stated it was the two Commissioners who got together and put a summary together and was fine with doing that.

Chair Simmons stated the language of the bylaws that was presented to them in January, that a yes vote would be to retain the language that was in red and a no vote would be to eliminate it.

"Subcommittees and or task force(s) shall not contain a quorum of the Commission"

He stated the motion was made in January pending Item 13.

The motion carried. Chair Simmons voted no.

5. Reports of Officers, Boards, and Standing Committees

Chair Simmons stated he tried to get information on the CLIC's January 10 meeting regarding revamping the language in the Charter, under Section 9.04. He stated they were supposed to discuss possible changes to the Charter Provision.

Commissioner Aune, Jr., stated he went to the meeting and sent an Chair Simmons and email outlining the their discussion on Section 9.04. He stated no action taken was taken . He stated they discussed the youth member, and terms of office. He stated their terms of their members were 3 years and questioned the staggered terms, one, two and three years within the Charter. He stated they also discussed replacing "reports" with "work plan." He stated those were just discussion items and no action was taken.

He stated another item discussed was on Section E, Response by Council, were looking at changing "written review" to "oral review."

Char Simmons stated that his understanding was they might revisit it at their February meeting. He stated he asked the Staff Liaison for a copy of the minutes to see what was discussed that related to Section 9.04. He stated they would get a copy of it in the packet next month.

He stated that a year ago they wanted to reword or rework their duties but based on the conversations at the last meeting it was less than that. He stated it was not as substantive as he thought it was going to be.

Commissioner Aune, Jr. asked about the terms of office.

Chair Simmons stated it was a transition where some members served one year, some two years and three. He stated that was the floating membership issue and whether that needed to stay or not but was not substantive. He stated that o the youth member, it was permissive when it said "may." He stated if it was "may" didn't know why they wouldn't want to keep it in there and maybe the next Mayor might want to appoint someone. He stated it was their prerogative and keeping it permissive was fine.

Commissioner Williams stated when he was on the CLIC, they had two youth members and in both cases they added significantly and one individual made significant input to the youth activities that bubbled through the community after that. He stated he was in favor for the CLIC to have them and was important.

Chair Simmons stated there were some discussions where they were streamlining all the Commissions and making them all parallel, and whether or not to have youth members. He stated

some of the Commissions had their youth members removed from their bylaws, but CLIC's was in the Charter and would come to the Charter Commission if it changed. He stated it would be nice to have Kathy Fraser, CLIC Chair, to come to the Charter Commission to speak to it if the CLIC moved forward with it.

Commissioner Williams reported on the Fire Department Task Force. He stated he went on an interesting ride along on a very snowy day, got a good tour on what the Fire Department did. He stated in February he would have a one day seminar on operations and in March would have a two day meeting to discuss strategies.

Commissioner Secera stated the Redistricting Subcommittee received two documents from the City Clerk and were memorandums from City Attorney Thomson. He stated they concerned a question he had posed to the City Clerk on what was the threshold for deciding whether or not to redistrict, how did the Commission determine the districts had deviated and to what extent did that deviation interfere with or conflict with the understanding of fair and equal representation.

He stated one of the memos was on various standards from other cities, such as, the City of Redwing used 10 percent and redistricted if it was 10 percent or greater; the city of Plymouth used equal as practicable and the city of Minnetonka used five percent. He stated it also mentioned the Supreme Court stating that any population deviation under 10 percent did not constitute an automatic redistricting requirement if the deviation was over ten percent then the entity must rebutt allegations that the deviations were discriminatory. He stated there was no clear demarcation used and that pointed to Section 2.04 that said, "the City Manager shall issue a population report when the population is deviated from district to district as evidenced by the managers biannual city population report?, He asked deviated by how much and what did that mean deviated. He asked if that meant if the city Council needed to change district boundaries every time there was a slight imbalance or needed to change at 5 percent, or at 10 percent and; what needed to be done. He stated that was an issue the subcommittee would work on pending receipt of population report.

Commissioner Williams asked what percentage have the Commission used previously to change boundaries.

Commissioner Aune, Jr., stated they used 5 percent.

Commissioner Secera stated that was what he was trying to get clarification on and it didn't say that in the Charter and that was a possible change they could look into making.

Staff Liaison Montero stated he received the City Managers Report from the Planning department and when the City Manager reviewed it, he would send it to the subcommittee.

Commissioner Bor stated there was not an established threshold for redistricting and not a mandate and seemed to be arbitrary base done for the three or four cities quoted.

Commissioner Secara stated there was no federal or state standard and was the practice of Brooklyn Park to redistrict at 5 percent deviation and was not stated specifically in the Charter. He stated the Charter stated when they had deviated. He stated he didn't know if that was an oversight or if the original folks that wrote the Charter wanted to leave the city some flexibility on that issue. He stated that was the discussion they were going to have.

Chair Simmons stated that examination of case law would shed some light on it and thought the standard was the degree of prosecutorial risk. At a certain threshold it got too big and risked being sued for not equal representation.

Commissioner Williams stated he would be interested knowing what the process for the city to determine if it was 5 percent or brought up to 7, 10 or how. He stated if they didn't have that in the Charter or in any type city ordinances asked what the process was and how that was determined.

Commissioner Irvin stated it should be the lowest it could be but not to exceed 10 percent.

6. New Business

6.1 Review of Charter Commission 2018 Annual Report

Chair Simmons stated the report was straight forward and thorough. He had a couple of corrections to the report. Discussions were held on the total number of meetings held and to reword that portion of the report.

Council Liaison Jacobson asked if they met in the summer.

Chair Simmons stated at the March meeting they would have that discussion about the summer months. He stated there had been time where they took off two months and other times three months off.

Commissioner Aune, Jr. stated that on Page 5, the Ranked Choice Voting, thought they should keep that paragraph in the report.

Staff Liaison Montero stated the Charter Commission would be giving the verbal report on February 25.

Motion Commissioner Williams, second by Commissioner Bishman to adopt the Charter Commission 2018 Annual Report as amended. The motion carried unanimously.

6.2 Review of Proposed Charter Changes

Chair Simmons stated that Attachment 6.2A had the proposed Charter to date.

Commissioner Williams asked about Section 4.07 where it had the blue highlighted words “paper” and thought they were proposed to be changed to “pages.”

Staff Liaison Montero state he was going to send that section to the City Attorney to get a clarification on it because there was discussion on it by the Commissioners.

Commissioner Irvin asked if the form had both sides because it mentioned it as two sided in some places of the Charter.

Commissioner Bor stated she thought it had to be one side with 10 signatures.

Staff Liaison Montero stated when he made copies for the candidates he put it on both sides of the paper.

Chair Simmons asked if there were any other outstanding questions they had for the City Attorney. He stated the goal was to bank what they had and then vote on it all as a one packet.

Commissioner Aune, Jr., stated that Section 4.04, Special Elections, was not included in the proposed changes and did have a reference to official newspaper and wondered if it needed the website language in there too.

Staff Liaison Montero stated he missed adding that section. The January packet had that section where the Commissioners had “and city website” language.

Commissioner Aune, Jr. asked why in Sections 4.06 and 4.07, the last sentences were changed to “City Manager” rather than “city clerk.”

Chair Simmons stated it went goes back to the discussion of the City Manager would was the only employee that was referenced in the Charter and all of the offices were subordinate to that office. He stated the city clerk was technically part of the City Manager’s office.

He stated that at the bottom of Section 6.03, said, “*Sample forms must be available at the city clerk’s office.*” He asked if they were being consistent and changing it “City Manager.”

Commissioner Bor stated it was the same on Page 9, Sections 6.11 and 6.12.

Chari Simmons stated they also proposed to taking the parentheses off too.

Aune: on 10.02 as far as including the website; that is Public Works;

Chair Simmons stated that on Chapter 7, regarding contracts stated that on Item 7.1, there was response from Operations and Maintenance Director Ruiz regarding Section 7.06. He stated his response was consistent with what they were doing. He stated his email reinforced it and the Commissioners wanted to ask him just to make sure.

Commissioner Bor stated that on Page 9, Section 6.12 also had “City Clerk” and should be “City Manager similar to Section 6.11.

Chair Simmons stated that is their work to date of the banked changes.

6.3 Review of Charter Chapters 7-11

Chair Simmons stated there were two spots in Chapter 8, Sections 8.04 and 8.06, where they already covered relating to the website language.

Commissioner Secara stated he wanted to make sure they covered Section 8.12, the last sentence, *“The Comprehensive Annual Financial Report or a summary there of shall be published in the official newspaper on or before July 30 of each year”* should have “and city website” added.

Chair Simmons stated it was covered and added that language.

Commissioner Williams asked about Section 7.04, the first paragraph, last sentence, “the provisions of this Charter shall not be construed so as to prevent the combing of the offices of the City Clerk and Director of Finance.”

Staff Liaison Montero stated that in other cities, smaller, the city clerk and finance director were the same. Previously, when the city clerk left the city, the Finance Director became the Acting City Clerk.

Commissioner Williams asked if they still need that provision.

Staff Liaison Montero stated it should be kept as a backup to the City Clerk.

Commissioner Williams stated that in several sections of the Charter like the website situation, on Page 3, Section 7.05, the first sentence, *“the City Manager shall be the chief purchasing agent of the city and the City Manager may make or let contract of the purchase of merchandise, material, or equipment or any kind of construction work in the manner provided by state law for cities of its class”*

He propose that that they enrich the whole Charter by referencing the state statute. He stated that if someone was going through it and did want to know, didn’t have to research the whole state statutes where there was a reference provided. He didn’t think it would take too much by to do that.

Chair Simmons stated they had pushed back on those things because the statutes were recodified, renumbered or realigned. He stated there was no internal reference to state law for specific sections. He the legislature might take that whole municipal section of state law and revamp it so the cities might end up with a different number and then they had to come back

and change the internal reference to it.

Commissioner Williams stated that was in the past before they had word processors but thought there was technology now and if the state sections changed, they could automatically update it.

Chair Simmons stated they would have to vote on it, bring it to the Council and get the Council to pass it, and have a public hearing every time they changed the Charter even if it was as simple as changing a reference number.

He stated in the future the city might become a first class city and was a cost to it, public hearings and newspaper publications, but it was the will of the Commission if they wanted to do it.

Commissioner Williams asked if they were going to make it harder for city government to keep a document updated or to make it harder for the citizens who wanted to use the document in the future. He stated right now when reading the Charter, there were not many that were going to know what state law said in that area. He stated if there was a reference they could go find out. He stated that it would add value and understood that it might have to be updated periodically. He stated that is why they were reviewing the Charter and there were a lot of things that were not up to date either.

Chair Simmons stated in that specific instance there would be two references, one would help the untrained observer on what class the city was, the second one would be the procurement statute. He stated those were two separate bodies of law and the procurement statutes had certain things that triggered based on whether the city was a first or second class, some requirements and thresholds. He stated there were two references, the contracting statutes were recodified 15 years ago, all of the purchasing items and how the cities could purchase with the best value and those kinds of things and what cities could do and townships could do. He stated he was not against it but why they hadn't done it in the past. He stated if they could fashion something that was acceptable was worth a shot.

Commissioner Bor stated there were cities who served customers who had a reference resource page and they could make the list with a link or how to get there. She stated there was a way to do it without embedding it. She stated that as the website was redesigned that might be something that could be next.

Commissioner Williams stated he would agree to that and seemed like an improvement to his idea.

Commissioner Simmons asked if there was a reference without putting a number.

Commissioner Bor asked if he meant not listing the actual statute number and said that was correct. She stated it was a website and people who were interested in knowing more information and knew where to go and could figure it out with a search but assumed that would be helpful. She stated it could be done that way without specifying it and that page was easy to

update.

Commissioner Williams stated that as he understood that rather than embedding the various sections, they would have a reference page at the back of it, anything that had notes and references notes, 1 through 89, for example, and the reference was in back of the book.

Commissioner Bor stated they could also create a page on the website and would be the most helpful. She stated they could be looking at the hits and where people went and that would be another way of adding to that and not putting it in the Charter.

Commissioner Williams stated that was a better idea.

Commissioner Bisham agree with Commissioner Bor. She stated in the past, having to do purchasing for the State, she periodically was familiar with it and knew where to go. She stated she had bookmarks and it would automatically go to the materials management section and was easy enough for people to find. She stated she periodically had to go in and check the rules and to see if there were any policy changes or see if there were any statute changes that would affect it.

Commissioner Bor stated they could call it fluid document reference.

Commissioner Williams stated that if it was on a website, presumably when that was changed and went to that website, they would see the latest changes without the having to add it into the document.

Chair Simmons stated that under Section 7.01 was about if there was a vacancy in the City Manager position, talked about advertising to local and national publications and agencies. He thought it would be simple enough to add "an on the city's website."

He stated another issue he felt that was on the realms of substantive was under the City Manager. He stated there was a current controversy over the "hotdish" issue about what authority the City Manager or any of the subordinates had to contract to prevent access to public data. He asked where the City Manager and city staff got authority to contract away access to public data. He stated it was done by contract and didn't know where that came from and to him that was a substantive policy issue.

Council Liaison Jacobson stated they Council wasn't aware of that and the signing of a nondisclosure agreement that was signed by Eric Hansen who was not there now in Community Development and not the head of Community Development.

Chair Simmons stated then it applied to all staff, a contract that was signed by one person, who was not in a Departmental authority much less the City Manager contracting away anyone's right of the city. He stated it fell under the review of Chapters 7 through 11 and was timely.

Commissioner Williams stated that was a substantive issue and asked if that was for the Charter. He asked if that was for public debate or some other thing in the Council to address and fix.

Chair Simmons stated he didn't know if it was contracting and the Charter and through the will of the Charter Commission the didn't want the city contracting away access to public documents or work place conversations going on with city dollars. He stated if it was not in the Charter asked where it would be and didn't know whose domain it would be in.

Council Liaison Jacobson stated that in looking at future development there could be future developments that came even if "hotdish" went away, to look at and come into the city but they didn't want anyone to know its use yet in order to protect them and would be great developments for the city. She stated there had to be something because the process that was done recently wasn't great.

Chair Simmons stated if they were doing that a specific reason, which, should be articulated in some sort of statute or code, somewhere, under those circumstances that wanted to do it and getting at the ultimate transparency. He stated it shouldn't have been that individual that did it should had risen to a managerial level.

He stated that was all he could find in Chapters 7 through 11 and Chapters 12 through 14 and didn't anticipate a lot of conversation on it next month. He stated he wouldn't be attending the meeting next month and First Vice Chair Aune, Jr. would be there.

7. Correspondence/Communications

Chair Simmons stated Item 7.3 was just an FYI item . He stated the City of St. Louis Park had an odd year election and would be using ranked choice voting. He stated the Commissioners knew that was happening.

Staff Liaison Montero passed out the current Work Plan. He stated Pages 1 and 2 were the current items and Page 3 were the items the Charter Commission had completed.

Chair Simmons stated they would be voting on the aggregate of all of the changes they had made maybe in March and depended on what happened at the meeting.

Council Liaison Jacobson stated that in each of the Council Districts there was going to be a townhall meeting and was new this year. She stated she had information on the East District happening in February and Central District in March.

8. Adjournment

Motion Commissioner Aune, Jr. and seconded by Commissioner Bishman to adjourn the meeting. The motion carried unanimously. The meeting adjourned at 8:33 p.m.

Respectfully submitted,

Devin Montero, Staff Liaison