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TITLE: Observations and Recommendations of Minneapolis Redistricting

This report concludes my role as a volunteer student observer for the City of Minneapolis Charter Commission and Redistricting Group. I attended a large majority of the meetings of the Redistricting Group, the public hearings, and a Communications Committee and Operations Committee meeting. My purpose in this effort was to observe the redistricting process and provide an analysis and recommendations for the use and benefit of future redistricting bodies. I am a recent graduate of Hamline University's School of Law, and a dual degree student in the Master in Public Administration program to be completed in 2013. This opportunity provided me an opportunity to observe the redistricting process from both an election law and city administration perspective.

The suggested issues to be addressed seemed to cover four general areas: the administration/management of the Redistricting Group, the quality of engagement from Redistricting Group members, the redistricting process itself, and my recommendations for future bodies.

Administration/Management of the Redistricting Group

This section considers the information, resources, and staff support for the Redistricting Group. In the initial stages of the process, there seemed to be some confusion regarding the resources available to the Redistricting Group and Charter Commission for communications with the general public and the methods by which engage city residents. As the process continued, there also seemed to be some issue with the appropriate role of the City Clerk's office. While the paid staff were very professional and supportive, I was concerned by the use of precinct considerations driving the action of the Redistricting Group, especially on the strip between the Bryn-Mawr and Harrison neighborhoods. Because the Redistricting Group cannot simultaneously be involved in precinct drawing, precinct considerations should not be the primary factor in setting a Ward boundary. The issue in this case dealt with a deviation from the legislative boundary that nearly resulted in a precinct with no voters, but City staff creatively resolved the issue. The result seemed to balance the need to consider ease of administration for the Clerk's office and allowing the precincts to drive the boundary decisions.

A second issue to consider regarding the level of information and resources available to the Redistricting Group would be the inappropriate reliance of the Group members on the Common Cause redistricting web application. Common Cause, a self-described non-partisan

organization, assisted interest groups from around the City by providing mapping software for general use in their advocacy for the drawing of boundary lines. The participation by city residents was exceptional, due in part to the Common Cause website. However, the Redistricting Group members should not rely on the same software to draw their maps for consideration by the whole Group. It is a difficult line to balance as relying on the resources of a non-governmental organization could create an appearance of impropriety for the Group members. Admittedly, it was a helpful tool that put members of the Redistricting Group on similar footing as the citizen advocates, especially due to the license issues for the City's mapping software. The software available to the Redistricting Group was helpful during meetings, and the software consultant expertly assisted the Group. However, allowing Group members to so closely align with and rely on a controversial organization's mapping tool is inappropriate.

Lastly, while the Redistricting Group did not appear to be overburdened by its task, it seemed to rely on the Operations Committee beyond its intended scope. As discussed in the procedural rules approved on March 3, 2011, the Operations Committee was to be responsible for hiring staff and serving as a liaison with the city staff. That was later expanded to include minor and technical corrections to the maps approved by the Redistricting Group. However, as the deadline grew closer, there seemed to be more and more substantive changes coming from the Operations Committee, including from the meeting I attended on March 15, 2012. The Operations Committee also expanded its membership beyond the prescribed three members and included any member of the Redistricting Group that could attend the meeting. Because the Operations Committee was less-well attended than Redistricting Group meetings, by both the Group members and public, and as substantive changes to the boundaries were brought from Operations to the full Redistricting Group, the intended transparency of the process was diminished. The continued reliance on the Operations Committee to perform actions better suited for the full Redistricting Group was an inappropriate short-cut in the redistricting process.

Engagement of Redistricting Group Meetings

This section discusses how well the Redistricting Group was able to work in a nonpartisan and evenhanded manner, and my impressions of the meeting dynamics. What I appreciated about the Group was that the Advisory and Charter members blended well and were equal partners in the process. There was constructive communication among the two groups and they did operate as single entity.

However, whether the Group members operated in a nonpartisan and evenhanded manner is difficult to assess, by any standard. When you are dealing with interest groups and are balancing considerations of race and communities of interest, the decisions become necessarily partisan. There were a handful of Redistricting Group members that I would classify as operating in a partisan fashion and with little concern for the necessary balance of considered factors. It would be inappropriate to discuss individual issues, but suffice it to say that there were individual members that appeared to be more concerned with individual preferences than with the final product.

This level of engagement from the handful of Redistricting Group members had an impact on meeting dynamics and the working relationships among the Group. They created

tensions and often led to behavior not becoming of the task at hand. The meetings were generally formal enough, although they bordered on too informal at times, which I address below in a discussion of the public's participation.

Redistricting Process

The redistricting process itself suffered from a number of issues as it relates to public participation, the internal process, and member deliberations. The public was very engaged in this process, aided by the efforts of Common Cause and a few members of the Redistricting Group. The opportunities for participation through the public hearings were adequate, and the goal of a process reflecting the diversity of the community was met. The locations of the public hearings were appropriate, and the engagement from the diverse population of the city was supported by many Group members.

The first issue regarding public participation is that there was questionable benefit to the process by allowing the public to speak at the Redistricting Group meetings in a similar fashion as public hearings. The speakers were often the same in both settings and their messages did not change. The purpose of the public hearings is to provide the public an opportunity to comment on the actions of their representatives. However, a public comment period at each meeting is not conducive to orderly committee work, especially as the Redistricting Group received public comment on a daily basis through the redistricting e-mail account. There was an impact on the meeting dynamics, particularly as some speakers broke appropriate decorum. One such instance resulted in a difficult situation involving a security guard being present for a short period of time. However, one process consideration is that by providing ample opportunities to be heard, the public will more readily accept the final decision. There is an important balancing effort when it comes to public comment at meetings, and there should be consideration on whether the process goals are met by providing more opportunity than the public hearings and general public comment entered into the record.

The second issue relates to the internal processes of the Redistricting Group. The primary internal process issue concerned the publication of the March 20 & 21 Public Hearing maps, with the internal acknowledgement that they would be revised prior to the public hearing by the Operations Committee. This resulted in comments on certain boundaries that were no longer present, until officially announced at the March 22 Redistricting Group meeting. This was confusing to many, and was a serious flaw in the public hearing process, which had the potential to generate controversy. In regards to those specific changes, they were made without any explanation to the public. This feeds into the issue I discussed previously regarding the Operations Committee's role in the process. There is a thin line between substantive and minor changes, and the Redistricting Group should err on the side of substantive changes, which requires more communication with the public.

Additionally, there are potential issues with the deliberations of group members with regard to specific boundaries. Notably and appropriately absent from the Factors to Consider in Redistricting was economic development. However, on numerous occasions, and in the sparsely attended Operations Committee, were those considerations given priority over factors such as natural or neighborhood boundaries. As predicted, once the first decision was made, such

considerations are on the table and used for boundary justifications. There should be a review of these factors and consequences for deviating from it.

Lastly, I encourage the Charter Commission to consider the effect of the recent Supreme Court decision in *Fletcher v. Lamone*, upholding Maryland's law requiring incarcerated persons to be counted at their last known address. This seemed to be an issue in the Downtown Minneapolis neighborhoods in Ward 3. While I am unable to confirm that the jail occupants were considered in the population of the Ward, if they were, the voting residents of Ward 3 would be given greater weight in electing their Councilmember as compared to the rest of the Wards. It may be prudent to engage the Legislature on considering a law similar to Maryland's, which would prevent larger and hidden deviations from occurring beyond the permitted 5%.

Recommendations

My final recommendations are primarily procedural. They incorporate many of the observations I discussed previously, with some steps on curing the stated issues. While some amendments to the Charter may be advisable, many of these recommendations can be incorporated in the procedures and principles passed by the Charter Commission prior to the next redistricting process.

- (1) Determine the roles of the City Clerk's office and communications staff prior to the redistricting process. Initially there was some question over the resources available to the Redistricting Group, with regards to staff, distribution lists, and communication with residents to generate awareness of the process. Later in the process, it appears that the process of creating precincts and their implications could be integrated in the Redistricting Group process better. This could involve adjusting the timing of meetings as the deadline approaches, to avoid having the precinct process drive the larger redistricting process or even its results.
- (2) Member reliance on Group resources only. As I discussed earlier, the Redistricting Group members should only rely on the resources of the City in considering boundaries outside of Group meetings. By relying on the resources of an outside organization that is involved in the same process, such as the Common Cause mapping application, it creates a situation that could appear to jeopardize the neutrality of the Group members.
- (3) Adjust the role and composition of the Redistricting Group. This can be done without amendments to the City Charter, although some amendments may be desired. The goal this recommendation seeks to achieve is a smaller Redistricting Group. 20+ non-representative members of a governing body are too many to allow for constructive discussion and participation. Without an amendment to the Charter, the Advisory Group could serve as the primary body that provides the final recommendation to the Charter Commission. This would result in the Charter Commission having limited engagement in the process, outside of the Chair, which may not be desirable. Therefore, a better solution would be an amendment to the Charter that allows for the smaller group to include 4 to 5 Charter Commissioners and 4 to 5 at-large members. This would support a process more conducive to constructive dialogue, and deliberative in considering the implications of

each decision. Reliance on the Operations Committee could also be reduced, supporting transparent decision-making and greater communication with residents during the process. Such a change could also protect the Redistricting Group from retreating to personal biases, if fewer total members are charged with upholding the established redistricting principles. The current larger group requires less accountability from each member than would be required from a group of fewer members.

- (4) Reinforce the procedures and principles of the Redistricting Group throughout the process. As I indicated earlier, the mission of the Operations Committee seemed to change throughout the process, and boundary decisions were made because of considerations that should have been unavailable to Group members, such as economic development. There should be a conscious effort to stay true to the procedures and principles established by the Charter Commission for the Redistricting Process, I encourage the membership to either reaffirm or amend those procedures to more closely align with resulting practice.
- (5) Revisit the public input processes available to residents. It is difficult to recommend that Redistricting Group meetings should not allow public comment. However, if there is such a thing as too much process, giving residents the opportunity to speak beyond the public hearings and the opportunity to submit written public comment or proposed maps may qualify. Admittedly, this is a balancing act that needs to be backed by intentional procedures and priorities for public input. Public input drives process, and the Charter Commission should revisit how to support constructive public input in this once-in-a-decade process.