

Meeting Minutes
Charter Commission Meeting
October 19, 2016 - Council Chambers

Present: Chair Josh Krintzman, Vice Chair Rhanna Kidwell, Jane Frantz, Anne Larner, Karen Manning, Brooke Lipsitt. Chris Steele and Howard Haywood not present. Karen Manning and Bryan Barash will arrive late.

The meeting opens at 7:05p.m.

Brooke Lipsitt moves to approve the 9/28/16 meeting minutes, seconded by Anne. The minutes are approved 7-0. Bryan Barash joins the meeting.

Public Comments

Before commenting, Sallee Lipshutz asks why letters sent to the commission on the topic of neighborhood area councils have not been posted to its website. Josh explains these communications are not typically posted, and that people emailing would not be aware that their comments would be made public. Sallee asks us to consult the law department, and believes it is required under Open Meeting Law that the emails be published. Rhanna clarifies this is not the case. Copies of the emails, however, can be requested.

Salle Lipshutz, Radcliffe Rd, Newton, believes the proposed "Scenario 2" Article 9 language reflected in the Collins memo is essentially the same removing the area councils as legal entities from the charter, as several fundamental democratic elements are missing. Her suggestions include:

1. Article 9 should reflect the communications and advisory functions of area councils are primary to their missions.
2. The city's elections must be under the auspices of the city's elections department.
3. Article 9-1: Purpose should be retained in its entirety and expanded to include the communications and advisory functions of area councils and reflect that area councils are legal entities of the city government.
4. Look at Srdj Nedeljkovic's careful editing of Article 9 in his 10/19/16 letter to the Commission.
5. Provide indemnification through Article 11 that is provided to other boards, commissions, etc.

She believes it is unwise to remove details from the charter and place them into the hands of a "markedly smaller" city council whose workload will increase. Keeping these details reflects the Charter Commission's encouragement of local voices within city government.

Bob Burke, 161 Dickerman Road, Newton Highlands Area Council reads Srdj Nedeljkovic's letter, which sums up his position:

1. Make only minor changes to current article. Allow elections to remain municipal elections and area councils to receive city funds and grants. Please do not perpetuate ineligibility for funding. This is not a request for automatic funding.
2. Maintain advisory and substantive roles that area councils may have as determined by the city council. Do not create a mandate in the charter.
3. The current charter is democratic, representative, and equitable in establishing neighborhood area councils and determining their boundaries.

He believes it is fair and open to publicize communications [so Charter Commission should post emails pertaining to area councils].

Nathaniel Lichtin, 53 Pinecrest Rd. shares comparison of area council(s) and city council election data. Area council turnouts are consistent with city council turnouts, which reflects participation. Based on the number of voters in Newton, there couldn't be 30 area councils [referring to comment from last meeting]. The maximum would be 13 area councils. He disagrees with the Collins language. He believes area councils are strongly supported, and that there are more supporters than those opposed to them.

Sue Flicop, 143 Floral Avenue. After hearing the 9/14 Panel, she opposes area councils. She supports organizations such as the Chestnut Hill Association and argues against area councils responsibilities that are “worthy of elected officials”. She argues that the overwhelming objective of Charter Commission was to reduce complexity of government. The commission is making headway so she opposes including including another layer, assuming area councils across the city. If there are not area councils across the city, then commission is allowing for inequity. She cites the lasting impact of including this article in charter. Area council expansion means that the system will be even more complicated than it is now and she does not support a budget for area councils. She has supported the Commission’s discussions to date but this is giving her pause.

Philip Herr, 20 Marlboro St. was involved with Austin St. project for a long time. He felt the Newtonville Area Council came up with a “tilted” survey that came up with votes against it, and they testified strongly against the project”. The city gets a “much better project out of that effort than it normally would have had”. They’ve done an enormous service to the city. We should leave the structure, it’s doing extremely well.

With regard to structuring of the Council~ we have too many councilors and he is flexible as long as there is reduction and getting clarity with rules. He doesn’t want argument over the particulars getting in the way and looks forward to the proposal.

Ernest Lowenstein, 57 Hyde St., Newton Highlands would like to keep Article 9 more or less intact, as suggested by Srdj Nedeljkovic. The Commission is already [proposing] reduction in Council. It’s going to be harder for citizen to have their voices heard and to be in contact with the government. The establishment of the area councils in quasi-governmental role through charter has been a “god send” in some neighborhoods. The councils have arisen in response to serious issues, so having one area council from each ward is not helpful. It’s helpful for areas affected by issues to bring those issues to the city council. He disagrees with a councilor’s statement (9/14 hearing) that there are plenty of opportunities for a citizen voice to be heard. At hearings, if there is a contentious issue, i.e. around development, priority is given to the developer, councilors, etc and it gets very late before those residents who can stay until 9:30pm. can talk for 3 minutes. This is not “plenty of opportunity” but area councils do provide it. He wants the opportunity for formation of area councils to continue.

Joy Huber, Newtonville Area Council comments on people saying area councils and associations are “the same”. However, the area councils receive liability insurance from the city. They could not afford to run a Village Day without that coverage. Additionally, area councils are doing councilors a service/lessening burden by giving residents someone to talk to about issues.

Article 9 Discussion

Karen recaps that this has been a difficult article, and the next step after 9/28/16 meeting is to work together to recraft the article for an updated draft. Jane emphasizes that the process for reviewing this article is the same it’s been for all, and that it’s necessary to look at all possibilities for the direction of an article.

Chris leads the discussion by going over Title/Purpose. The Commission discusses possibilities for language, and how much detail should be in this section.

Anne recommends more description in the section.

Jane emphasizes area councils’ role with communications. Brooke is not convinced she supports this, but agrees with point about communication. Her question is whether [advisory function] will be their exclusive role. She does not agree with including “legal entities of the city government”.

Bryan clarifies that Sec. 9-8 (Powers and Duties) is where we can expand on the role. Karen agrees with this and also supports using stronger language in 9-1.

Karen explains that the points of deliberation do not exactly correspond to the existing charter. The approach is to craft something new based on the feedback from the 9/28 meeting. Anne stands by her initial points.

Tanya supports augmenting language. Bryan points out that the current article is there for reference, but supports starting with less vs. more.

Josh proposes: ”It is the purpose of this article to encourage citizen involvement in government at the neighborhood level and to facilitate communications between residents and city officials.” Chris points out we may choose to add

language around beautification and community events such as Village days.

Rhanna is more comfortable with the initial sentence. She is unsure about “encouraging citizen involvement in government” which pushes the role to a different level.

Bryan views this as a broad statement and does not feel the two statements are in conflict.

Rhanna does not believe anyone should have to be elected to an area council to be involved in our government, advocate, etc. Associations also provide advisory and communications role. The reference to participating in government might make [area councils] an entity that [they are] not, and that the ordinance should establish that.

Bryan thinks it fits well to encourage the citizen engagement in government. Rhanna is concerned about the areas who do not have them, but Bryan says it is their option to form an area council. Even if there is only one, the opportunity for participation has still increased.

Karen suggests [to Rhanna’s point] that we could describes area councils “as a way” of involving people in government.

Jane does not see the line as problematic. Brooke suggests the word “engagement”.

Josh proposes: “It is the purpose of this article to encourage citizen engagement in government at the neighborhood level and to facilitate communication between residents and city officials.”

Rhanna still prefers the initial sentence, and Bryan and [later] Josh propose incorporating both:

”It is the purpose of this article to encourage citizen engagement in government at the neighborhood level and to facilitate communications between residents and city officials.”

“ The City Council may establish neighborhood area councils to advise the city council and mayor on neighborhood and city-wide issues.”

Bryan moves to accept Josh’s proposed statement. Chris seconds. Brooke requests division of the question.

The first sentence passes - 5 in favor. Opposed (Rhanna and Josh): 2. Abstain: 1 (Karen)

Bryan makes motion for second sentence, seconded by Chris. Brooke expresses concerns that the second sentence suggests the intention that the mayor and city council heed the [area councils’] advice, and this is an unrealistic expectation.

Anne questions whether there is adequate context to discuss this at this point.

Tanya urges keeping the enabling part of the sentence: “The City Council may establish neighborhood area councils”.

Josh likes the sentence, and Karen does not think anything would be lost to refer to advisory function only in Sec. 9-8.

4 vote in favor of the motion. (Frantz, Steele, Krintzman, Barash). Opposed: (Kidwell, Manning, Lipsitt) Abstain: Lerner.

The motion passes and both sentences are included.

Jane initiates discussion of area council boundaries. The question is whether to define the setting of boundaries via ordinance or through the charter.

Anne expresses trouble separating boundaries from elections. Based on what we learned at last meeting, keeping this as it is [in the charter] creates risk for very cumbersome elections. There needs to be a solution of the tension that would make area council boundaries consistent with those of state defined areas (i.e. via precinct lines) or [we should] have a different process for elections. It’s too burdensome to run elections by hand. Perhaps have a constraint on petitioners to have area councils conform to precincts. There is a dilemma which is a challenge to address.

Bryan believes that this should be thought about by the City Council and flexible as the area councils evolve.

Jane is concerned that putting boundaries in the charter reflects what we have in 2016, and we do not know how elections will look down the road. Having city council set the boundaries allows for “nimbleness”.

Chris is concerned that precincts change when there is a census.

Karen sees a “danger” in becoming experts with this, when the question of area councils is a significant public policy question. Drawing a line and having city council make the decisions allows the area councils to evolve with the needs of the city and the council.

She makes a motion to include the line:

“Area council boundaries shall be established according to guidelines set forth by City Council ordinance”. Jane seconds it.

6 are in favor of the motion: Manning, Frantz, Krintzman, Barash, Steele, Lipsitt. Oppose: 0. Abstain: Kidwell, Larner. The motion passes.

The next topic of discussion is Elections.

Jane has heard a range of feedback but not consensus on the topic.

Anne believes that based on the vote on boundaries, it is rational to give discretion to the City Council regarding elections as well, as they are intricately linked.

Brooke understands there is a lot of pain and not a lot of benefit to the city running the elections. She anticipates groups will continue to form organically (i.e. around causes) and the citizens represented by the body should run the elections. This is where she becomes troubled considering area councils vs. associations, does not see why the city should run the elections, and thinks we risk posing an enormous burden on the city.

Tanya raises whether we want to define if the councilors will be city officials. It can go to ordinance, and/or we can include a prohibition against municipal elections.

Upon reflection, Bryan is concerned about not having elections run by the elections office, i.e. with regard to veracity.

Jane reiterates that David Olson’s concern is if the area councils were to expand and the elections process did not change. The process of elections is evolving so he proposes the City Council should make the decisions.

Karen points out that other cities run their area council elections according to their bylaws and we are unique in having the municipal elections. Elections run outside of City Hall can be valid. In a follow up conversation with David Olson, he informed us his office could navigate the question with the City Council. To Tanya’s point, City Council could determine the official status of the area councils.

Brooke still has trouble defining the councils as governmental bodies when she sees their roles as indistinct from that of the non-governmental bodies. If the city runs the elections, by definition it is a governmental body, so she is stuck. She is concerned about the effect of letting the city council make this determination.

Brooke and Bryan discuss whether volunteer boards are government bodies, and Brooke believes they are not.

Brooke moves that the area councils run their own elections. Rhanna seconds.

All those in favor: 3 (Kidwell, Lipsitt, Krintzman) 5 opposed: (Frantz, Steele, Larner, Barash, Manning). The motion does not pass.

Bryan makes motion that manner of running elections shall set by ordinance. Chris Steele seconds.

All in favor: 6 All opposed: 1 (Kidwell). Abstain (Lipsitt).

The motion passes.

Karen brings up the next point of deliberation with regard to formation:

“Formation of area councils shall be set by ordinance.” This would apply to issues such as signature gathering and expansion.

Chris points out this is tightly tied to setting boundaries and should follow the same concept.

Jane believes formation is best laid out by charter, whereas Bryan thinks it is important to evolve with the City Council.

Anne would like to set out guidelines for a moratorium for current area councils. Bryan is curious whether we should put something in place, i.e. in the transition provisions.

Jane shares concern is that there could be a mega-council, or that a very small group might choose to form a council. Outlining this section within charter allows us to set parameters, i.e. minimum or maximum number of residents.

Brooke has had similar thoughts, and thinks parameters could be helpful. (i.e., there is a risk half a dozen area councils could arise in one area because the citizen are particularly active and involved). She wants to help protect the balance.

Bryan was thinking more about the signatures, etc. He agrees with Brooke’s point, but the details of formation he pictures with the council. Rhanna agrees and proposes we could “layer on” certain protections. (i.e. to prevent mega-councils, etc.)

Jane thinks there should be a minimum and maximum, and is worried about the gerrymandering.

Chris initiates thoughts about minimum and maximum size of the area councils. Karen thinks this may be too ambitious and suggests we might want to invoke this idea as part of a values statement.

Bryan proposes minimum and maximum number of area councils. Jane proposes tabling the item and Josh suggests moving forward. Jane recaps we are figuring out whether we should include area council formation in the charter, and any minimums or maximums.

Brooke proposes that the population area should be no smaller than a precinct and no larger than the size of the average ward. This would account for population changes over time. Boundaries should be drawn by city council with the goal of making the areas as compact as possible. Jane and Bryan agree with this direction.

1:38 audio:

Brooke moves that “the rules for formation of the area councils will be set by ordinance with the proviso that no area council shall have a service area smaller than the population of the average precinct nor larger than the population of the average ward.”

Additionally, “Boundaries shall be drawn in such a way to make the service area as compact as reasonable.” (at the time of the formation).

Chris seconds it. Josh re-reads. Rhanna suggests we might want to merge the sentences about the formation and the boundaries into one sentence. The second sentence should be a “provided that” in the boundaries section rather than where it is. Bryan proposes a friendly amendment that is not taken. Rhanna thinks we should just refer to boundaries in the sentence.

Tanya says eventually we may ultimately create a large sentence about what is accomplished via ordinance.

Josh asks for latitude with the drafting.

Brooke says formation has to do with signatures, timetable. She agrees with Rhanna’s point to combine formation and boundaries.

Josh rereads motion, and 8 vote in favor, so the motion passes.

The next discussion topic is Powers and Duties.

Jane points out that the Board Orders for the 4 area councils allow only for area council advisory powers. There are not a lot of models from other cities.

Bryan would not mind being more specific in this section, given the City Council will ultimately have the decision. Brooke asks for his recommendations, and he refers back to the current charter.

Rhanna is more comfortable with the details being designated by charter. Keeping “advisory” in the charter ensures that any new area councils would have equal powers to the existing four.

Jane raises the issue of equity, and does not want to risk that some area councils may have substantive powers and others would not.

Brooke raises question of whether these are government officials, if they are indemnified, and whether associations have indemnity, i.e. for their events. The issue of benefits/indemnity raises equity issues for her.

Chris says that boards/commissions are indemnified, and Rhanna points out that organizations such as PTOs indemnify themselves, and that it is not a huge burden.

Jane makes motion: “Area councils shall have advisory roles. These advisory bodies’ specific responsibilities shall be determined by City Council via ordinance”. Brooke seconds.

Anne asks whether this will preclude the area councils from what they currently undertake. Bryan has this concern, and refers to Village Days (not advisory role) and thinks the language should remain more specific. Chris suggests possibly modifying the first section. Josh points out the ordinance allows for anything to be laid out, and Rhanna and Josh do not view this language as preclusive.

Marilyn proposes something generic, which unfolds as: “Area councils shall have advisory roles and may perform such other functions as may be prescribed by ordinance ”.

Jane likes this proposal.

Brooke wants to ensure the language will be universal when new area councils are formed. (template for board resolutions). Bryan proposes adding: “and shall be consistent across all area councils”.

Anne does not recommend this approach, and thinks it could be too constraining. Brooke is drawing a distinction between permitting and instructing. Bryan points out area councils could look to city council for something additional. Josh draws distinction between consistent and identical.

Marilyn recommends the word “ applicable” vs. consistent. Discrepancies between existing and new councils can be addressed in transition provisions if needed.

Jane ok’s “applicable” as part of motion. Josh reads the updated motion:

“Area councils shall have advisory roles and may provide such other functions as prescribed by ordinance. These advisory bodies’ specific responsibilities shall be determined by City Council via ordinance and shall be applicable across all area councils”.

8 vote in favor and the motion passes.

Jane points out the use of “shall” and not “may”.

Karen asks if we should circle back to Boundaries/Formation and the group prefers to see a draft at the next meeting before continuing the discussion.

The last Article 9 discussion points focus on additional requirements. Jane is concerned that discussion of financial records is “light” within current charter. Bryan points us back to proposed language, not the current charter.

Bryan makes motion to accept what is in discussion document:

Ordinances shall include Provisions for area council bylaws, annual reporting, and financial records. The area councils shall create bylaws conforming to the guidelines set forth by City Council ordinance, and set bylaws must be approved by the City Council. The City Council shall designate an area council liaison.

Brooke wants to have further discussion of “area council liaison”, believing this could over-empower area councils. Bryan removes the sentence. The motion is as follows:

“Ordinances shall include Provisions for area council bylaws, annual reporting, and financial records. The area councils shall create bylaws conforming to the guidelines set forth by City Council ordinance, and set bylaws must be approved by the City Council.”

Karen believes Brooke has misunderstood what article leaders intended but the Commission would like definition clarification, so the topic will be revisited.

The motion passes 6-0. (Brooke and Karen abstain).

Bryan makes a motion that the City Council shall designate a City Council liaison. Rhanna objects on the same grounds Brooke had and would like to ensure this does not create preference. Bryan understands the proposed role differently, as a designated contact point, which helps with a current issue.

The article leaders will circle back with proposed language, though Brooke is skeptical that this person would be treated as at the only entry point. Bryan suggests the word “primary”. Tanya explains that David Olson has [unofficially] had the role of primary point of contact and that in other cities, people are assigned the role.

Jane is concerned that this could be misconstrued without more definition. Bryan will work with area leaders on language. The motion to include the line about the area council liaison fails. (Bryan is only “yes” vote).

Chris motions that Article 11 include indemnity for area councils. Jane seconds. 4 vote in favor (Karen, Bryan, Chris, Jane), Opposed (Brooke, Josh). Abstain (Anne, Rhanna). The motion carries.

2:17 -2:20

Bryan raises area council membership, or “composition” as Chris points out. Chris makes a motion that we include: “Formation and Composition of Area Councils shall be set by ordinance”. Bryan seconds.

This passes 8-0.

The group would like to see another draft of the text before determining the direction of the review. Bryan will draft definition of liaison.

Discussion of Article 11 (Anne)

There are 2 issues with the Designer Review Committee (DRC) and Designer Selection Committee (DSC). The DSC wording is out of sync with state statutes, and the DRC language needs to be edited for consistency. The last sentence of Sec. 11-8, “the ordinance may provide for one design review committee for all public buildings or it may provide that separate committees be established for each facility” should be removed, as it had not been used for the last 45 years. Ouija Young (Legal), Josh Morse (Building Commissioner), and current and past chairs of public facilities and co-chairs and past chair of design review have been consulted.

The updated draft is intended to clarify the roles.

Rhanna moves to accept Anne’s proposed changes which is seconded by Bryan. 8 are in favor and the motion

passes. [Revisit 10/26].

Discussion of Article 5 (Anne)

Anne consulted with Ruthann Fuller, David Wilkinson, and Maureen Lemiux for their input on this article.

She walks through proposed revisions (audio 2:27) and highlights proposed edits to Sec. 5-1: Financial Conditions of the City.

The last line ensures the forecast [of funds subject to appropriation] is submitted at least 6 months prior to the mayor's submission of the next fiscal year's operating budget. This was a suggestion of Maureen's. It is helpful to have this information available for review at the same time as the CIP. She notes that David Wilkinson underscored that the forecast is focused on funds subject to appropriation, which is more precise.

Sec. 5-1 changes appears to be well-received by the staff consulted.

The next change is to Sec. 5-4, regarding the Mayor's Capital Improvement Program, requiring the Mayor to establish and update the inventory of "significant" rather than "all" capital assets.

In Sec. 5-6 under "Independent Audit", "city accounts" is changed to "city funds" to reflect proper financial terminology, and "in accordance with generally accepted accounting principles" is added.

There is a brief discussion about whether to move 5-4 (g) about the Annual Report. The change is not made. Brooke makes a movement for approval of the amendment, seconded by Rhanna.

The motion passes 8-0.

Discussion of Article 6 (Bryan)

Bryan and Anne delved deeper into the topic of the Reorganization Plan, as Councilors had cited a lack of clarity. They worked with Collins to craft a definition and set a March 1st date [providing forward notice] by which the council would be notified with regard to an organization. Another goal is to separate this from budget discussions.

Scott Lennon raised in a follow up memo to Anne that the word "city departments" might be preferable to "city agencies". Marilyn and Tanya point out that city agencies, defined in the charter, includes city departments.

Bryan opens up question of the March 1st date cited in the section, which was approved by Scott Lennon, and Brooke agrees this works. However, she is concerned about what "city agencies" may encompass in addition to city departments. Marilyn confirms the definition includes boards and commissions. Brooke requests more precision and Bryan agrees. Marilyn suggests "city agencies performing municipal operations (or functions)" as a possibility. [She adds] that perhaps city departments can be used, but highlights importance of consistent use of terms throughout the document. (refer to Article 1: Definitions).

Jane is concerned this could constrain the staff from making city agencies more effective if city council approval is required, i.e. for consolidations. Anne points out they are actually trying to address the concern Jane is raising and the tension that currently exists. The problem is with "city agencies". Marian reads the working definition. "City Department" may be fine to use if it's commonly used, but may need to be defined.

The question will be revisited.

Meeting adjourns at 9:45p.m.

Documentation used:

[Article 9 Discussion/Deliberations Guide for 10/19/16](#)

[Article 9: Example/Draft](#)

[Article 9 Panel Discussion Guide](#)

[Collins Center: Neighborhood Area Councils Research for Article 9 Review](#)

[Collins Center: Addendum re: Elections \(9/28/16\)](#)

[Impact of Area Councils at City Hall](#)

[Area Council Voting History \(2009 - 2015\)](#)

[Proposed Revised Language Design Review and Designer Selection: Article 11, Sec. 8](#)

[Memo to Commission: Effects of Proposed Changes to Article 11, Section 8](#)

[Anne Larner 9/23 Memo to the Charter Commission](#)

[Article 5.9/23 Draft with Proposed Edits](#)

[Article 6 Proposed Edits \(10/17/16\)](#)