

CHARTER REVIEW COMMISSION MINUTES

April 4, 2013

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Conference Room on the 4th day of April, 2013, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT:

Ms. Jane Abraham
Mr. Doug Cubberley, Vice-Chairman
Ms. Carol Dillingham
Mr. Hal Ezzell
Mr. Harold Heiple, Chairman
Ms. Samantha Kahoe
Mr. Ken McBride
Mr. Kevin Pipes
Mr. Barry Roberts
Mr. Richard Stawicki

ABSENT:

Mr. Thad Balkman
Mr. Trey Bates
Mr. Bob Thompson

STAFF PRESENT:

Mr. Jeff Bryant, City Attorney
Ms. Brenda Hall, City Clerk
Ms. Kathryn Walker, Assistant City Attorney

Item 1, being:

CALL TO ORDER AND ROLL CALL.

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MINUTES OF March 7, 2013.

Member Abraham moved that the minutes be approved and the filing thereof be directed, which motion was duly seconded by Member Kahoe;

Items submitted for the record

1. Charter Revision Committee minutes of March 7, 2013

and the question being upon approval of the minutes and upon the subsequent directive, a vote was taken with the following result:

Item 2, continued:

YEAS: Members Abraham, Cubberley, Dillingham, Ezzell, Kahoe, McBride, Pipes, Roberts, Stawicki, and Chairman Heiple

NAYES: None

Chairman Heiple declared the motion carried and the minutes approved; and the filing thereof was directed.

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Item 3, being:

CONTINUE DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE III, SECTION 6, OF THE CITY CHARTER REGARDING CREATING A MECHANISM UNDER WHICH THE CITY COUNCIL COULD REQUEST INFORMATION REGARDING A SPECIFIC CITY DEPARTMENT.

Chairman Heiple said in its meeting of March 7, 2013, the Charter Review Commission (CRC) requested Staff prepare language regarding requests from Council for information from or about departments based on CRC feedback at that meeting. The issue was first raised in 2005 with a prior Charter Committee because prior City Managers were not responsive to Council's concerns regarding particular departments or employees. Concerns were raised at that time that changes would constitute a change in government from Council-Manager to Strong Mayor/Council. There were also concerns with changing Council's role from that of policy makers to daily supervisors. Some members felt having Department Heads directly supervised by Council would infuse politics into day to day City operations. The 2005 Charter Committee settled on clarifying Council's authority to require the City Manager to answer questions or concerns about a specific City department.

Chairman Heiple said the current CRC expressed a desire to incorporate some of the language from State statute related to obtaining information about the conduct of City departments. The CRC realized that such action should require a formal action by Council such as a resolution, and such inquiries would go through the City Manager. However, if Council is unable to get satisfactory cooperation from the City Manager, the CRC felt there should be an avenue for obtaining the information with or without the City Manager by hiring an outside investigator. He said the current language incorporates that language.

Member Roberts moved that the proposed amendments be approved as drafted, which motion was duly seconded by Member McBride;

Items submitted for the record

1. Memorandum dated April 2, 2013, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Charter Review Commission Members
2. Proposed amendments to Article III, Section 6 – Council requesting information regarding specific City Departments

and the question being upon approving the proposed amendments as drafted, a vote was taken with the following result:

Item 3, continued:

YEAS: Members Abraham, Cubberley, Dillingham, Ezzell, Kahoe, McBride, Pipes, Roberts, Stawicki, and Chairman Heiple

NAYES: None

Chairman Heiple declared the motion carried and the proposed amendments as drafted were approved.

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Item 4, being:

CONTINUE DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE III, SECTION 7, OF THE CITY CHARTER REGARDING CREATING A REQUIREMENT THAT A CITY EMPLOYEE TAKE A LEAVE OF ABSENCE TO RUN FOR PARTISAN POLITICAL OFFICE.

Chairman Heiple said after the 2005 CRC submitted their recommendations and final report to Council, four Councilmembers requested additional Charter changes be reviewed. One of the proposals would require City employees running for partisan political office to take a leave of absence upon filing for office with the Oklahoma Ethics Commission. The CRC discussed the language, but recommended no changes be made. Prior to 2005 the City had a provision in the Personnel Manual that mirrored Charter language, but in August 2005 the provision was changed to set requirements that ensured City resources and services would not be jeopardized by an employee running for partisan political office.

Chairman Heiple said the current CRC discussed whether such requirements were more appropriate for partisan or non-partisan offices or both. They also discussed whether such requirements were suitable for placement in the Charter, Code, or Personnel Manual. Members expressed a preference for language similar to the City of Lawton's ordinance regarding employees and political office.

Chairman Heiple read the proposed amendments and asked for comments, changes, or additions. Member Roberts asked if the language should read, "An employee who runs as a partisan candidate" or "An employee who filed as a partisan candidate?" Chairman Heiple asked if the word *partisan* should be in the language. Members felt that "*runs*" was too ambiguous and Mr. Jeff Bryant, City Attorney, said Staff drafted the language that way deliberately. He said it will be optional for Council to adopt an ordinance or resolution implementing the provision in a manner consistent with State and Federal law, but it will be mandatory for the City Manager to implement work rules and regulations. Mr. Bryant said previous discussions included the differences between running for School Board, District Attorney, District Judge, House Legislative or Senate seat, etc., and all have differences on when you file for office and when you file your reports. He said language can be more specific in the Personnel Manual or in an ordinance, which would be similar to the City of Lawton.

Chairman Heiple asked if someone starts running for office three or four months before the filing period, would this open the door for taking a leave of absence from official duties? Member Pipes said it is common for someone to put their name out there three or four months ahead of time. Chairman Heiple said suppose the City Manager walks by and hears the employee talking about running and tells the employee he/she is now on leave of absence because it is mandatory. Member McBride said it leaves the door open for a determination of when that running process actually begins because it could then come down to being a determination with regard to time spent away from the office or when public announcements are made. He did not believe there is any language that would anticipate all the circumstances that

Item 4, continued:

could come about and he would rather leave the Charter language general and intentionally vague with more specific regulation in the Personnel Manual or an ordinance.

Chairman Heiple said proposed ordinance language states, "Each paid employee of the City who desires to seek any county, state, or federal elective office with an agency which has a jurisdiction which includes the geographical city limits of Norman, Oklahoma, shall be placed on leave status a minimum of fourteen (14) calendar days prior to any primary, primary runoff, or general election" and "After recommendation of the employee's department director, the City Manager may place employees on leave status *in excess* of the time periods indicated where the candidacy interferes with office job duties or additional leave time would be in the best interest of the municipal service and the City." Chairman Heiple said the ordinance does give flexibility to the City Manager, while establishing a minimum of 14 days so if the word "*runs*" is in the Charter then hasn't that covered actual problems that may arise with the language of the ordinance?

Member McBride felt the language was general enough to express the policy intent and he liked the approach of the proposed Charter language. Chairman Heiple suggested changing the language from "An employee who runs as a partisan candidate" to "An employee who seeks elective public office." Mr. Bryant said at the last meeting, the Committee was split on whether or not to use partisan or non-partisan in the language.

Mr. Bryant said it might be helpful to reverse the discussion and look at the Personnel Manual and ordinance provisions first since those are fairly detailed. He reminded members that the Charter provision makes it mandatory that the City Manager have a Personnel Manual provision that covers Charter language. Chairman Heiple said Section 12-402(a) of the Personnel Manual provides language regarding jurisdiction, types of office, and leave requirements seems to cover everything being discussed and Mr. Bryant agreed. Member Roberts said the Personnel Manual does not mention partisan or non-partisan, it only mentions county, state, or federal and asked if language needed to be consistent and Chairman Heiple said yes. Chairman Heiple said the Charter can state, "Any paid employee desiring to run for county, state, or federal elective office shall take a leave of absence from his official duties. The Council may enact ordinances or adopt resolutions implementing that and the City Manager shall do the same."

Member Kahoe said there was concern at the last meeting regarding partisan versus non-partisan because any office is really partisan behind the scene. There was also concern that a City employee would carry the brand of the City while campaigning. Chairman Heiple said District Judge positions are the only elective county, state, or federal offices that is non-partisan under Oklahoma law. Member Pipes suggested leaving out partisan and non-partisan. Member Dillingham said if the City Manager is going to be specifically directed to promulgate policy and procedures consistent with state, federal, and local law, then maybe language should just state, "Any employee seeking elected office may be required to take a leave of absence and shall comply with all federal, state, and local laws, policies, and procedures including the City of Norman Personnel Manual." Then the City Manager shall issue work, rules, and regulation. Member Roberts said county, state, and federal limitation may take care of the intent of the language to leave regulations up to Council and the Personnel Manual.

Chairman Heiple suggested combining the first two sentences of the proposed Charter language to read, "An employee shall take a leave of absence as prescribed by the City Council and ordinances or resolutions implementing this Charter provision" and let the third sentence stand as is. Mr. Bryant said if the CRC combined the first two sentences, the third sentence should be removed. Member Roberts said another conflict could be that the responsibilities of the elected office may take employees away from the day to day duties regardless of whether the office is county, state, or federal.

Item 4, continued:

Chairman Heiple suggested Staff combine the first sentences in the proposed Charter language and draft additional language keeping in mind concerns voiced today. Mr. Bryant said there is consensus the ordinance is good, but Charter language needs to be redrafted and Chairman Heiple said that is correct, tie those two together and bring back for further discussion.

Items submitted for the record

1. Memorandum dated April 2, 2013, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Charter Review Commission Members
2. Proposed amendments to Article III, Section 7 – City employee’s run for partisan political office
3. Draft ordinance
4. Lawton, Oklahoma, Code of Ordinances – Chapter 17 – Personnel and Procedures – Article 17-2 – Personnel Regulations
5. Pertinent excerpts from the City of Norman Personnel Manual
6. Potential Changes to the City of Norman Personnel Manual

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Item 5, being:

BEGIN REVIEW OF ARTICLE XVII, SECTION 2, TO CONSIDER WHETHER EMPLOYEE COMPENSATION LANGUAGE NEEDS TO BE MODERNIZED.

Chairman Heiple said proposed changes are basically clarification and housekeeping changes and asked members if they had any changes or suggestions regarding the proposed language.

Member Ezzell moved that the proposed amendments as drafted be approved, which motion was duly seconded by Member Dillingham;

Items submitted for the record

1. Memorandum dated April 2, 2013, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Charter Review Commission Members
2. Proposed amendments to Article XVII, Section 2 – Modernization of employee compensation language

and the question being upon approving the proposed amendments as drafted, a vote was taken with the following result:

YEAS: Members Abraham, Cubberley, Dillingham, Ezzell, Kahoe, McBride, Pipes, Roberts, Stawicki, and Chairman Heiple

NAYES: None

Chairman Heiple declared the motion carried and the proposed amendments as drafted were approved.

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Item 6, being:

DISCUSSION REGARDING COMMENTS RECEIVED DURING THE PUBLIC HEARING ON
APRIL 3, 2013.

Chairman Heiple said no one attended the public meeting except five members of the CRC and three Staff personnel. He hoped the next public hearing would be better attended since the CRC will have more of the process completed.

Chairman Heiple said next month the CRC will discuss the provision regarding utility rates requiring a vote of the people.

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Item 7, being:

ADJOURNMENT.

Chairman Heiple declared the meeting adjourned at 6:23 p.m.