

CHARTER REVIEW COMMISSION PUBLIC HEARING MINUTES

June 27, 2013

The Charter Review Commission met at 6:30 p.m. in the Municipal Building Council Chambers on the 27th day of June, 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.

CALL TO ORDER AND ROLL CALL.

PRESENT:

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

ABSENT:

Mr. Thad Balkman
Mr. Hal Ezzell
Mr. Bob Thompson

STAFF PRESENT:

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

Chairman Heiple said on February 14, 2013, City Council adopted Resolution No. R-1112-109 creating a Charter Review Commission (CRC) to complete a targeted review of the City of Norman Charter and highlighted those items as follows:

- Review Article II, Section 1, of the City Charter to consider changing verbiage from “compensation” to “stipend” in regards to compensation of City Councilmembers
- Review Article III, Section 1, of the City Charter to consider simplifying the process for removal of the City Manager
- Review Article III, Section 6, of the City Charter to consider creating a mechanism under which the City Council could request information regarding a specific City Department from the City Manager
- Review Article III, Section 7, to consider requiring a City employee to take a leave of absence to run for partisan political office
- Review Article XVI, Section 2, to consider whether City Council should be empowered to increase utility rates not more than three percent (3%) annually without requiring a city wide vote
- Review of Article XVII, Section 2, to consider whether employee compensation language needs to be modernized
- Review Article XX, Section 2, to consider amending or updating the Reapportionment Commission process or procedure
- Review whether or not there should be a required periodic review of the Charter within the Charter itself

Chairman Heiple said the resolution charged the Commission with reviewing the sections of the Charter stipulated above and consider whether or not those sections meet the current needs of the City or should be amended to meet current needs. The Commission was also charged with educating the community about the proposed amendments by holding one public hearing each quarter to discuss topics and receive public input. He said this is the second public meeting held.

Chairman Heiple explained why the CRC is recommending removal of Article XVI, Section 2, requiring a vote of the people to raise utility rates. He said the mandate from City Council was to consider whether or not the City Council should be empowered to increase utility rates no more than three percent (3%) annually without requiring a vote of the people. He said CRC members are very diverse and have an intimate knowledge of the workings of the City of Norman and they had three choices, 1) leave the Charter as is 2) recommend a percentage increase or 3) remove it completely. He said the reason the CRC chose not to address a percentage increase is because in order to accommodate a town of 140,000 or more in population, Norman is going to have to get water from somewhere outside the boundaries of Norman and it is a fact that at least part of that water is going to have to come from southeast Oklahoma. He said bringing water from southeast Oklahoma to central Oklahoma will cost hundreds of millions of dollars and Norman is not big enough to do that alone. He said years ago Oklahoma City (OKC) put themselves in the position to have a water supply and contacted surrounding communities to join in a consortium to share costs; however, Norman was told they could not join the consortium because the City Council does not have the power to increase utility rates that might be needed in order to service the debt that might be incurred to construct a pipeline. The CRC also felt a three percent (3%) annual increase would not be sufficient in that regard. He said Norman is the only city in the state and probably the nation to have this Charter provision and that being the case it is not realistic to waste time on a percentage increase that will not achieve the long term goals of obtaining water. He said that is why the CRC is recommending removal of the provision entirely and it is up to the Council whether or not they choose to submit that option to the voters.

Chairman Heiple highlighted CRC recommendations on the remaining items that include changing the word "compensation" to "stipend," creating a mechanism to simplify the process of removal of the City Manager; creating a mechanism for requesting information regarding specific departments; and requiring City employees to take a leave of absence when running for political partisan office.

Chairman Heiple said modernizing employee compensation language, updating the Reapportionment Commission provision, and periodic review of the Charter within the Charter has not been discussed yet. He said the CRC discusses each item and votes on a recommendation. He said at the end of the process the CRC will look at each item again as a package and vote on finalized recommendations prior to forwarding to Council.

Chairman Heiple opened to floor to public comments.

Ms. Jayne Crumpley, 423 Elm Avenue, said she could not take a position on some of the items because she did not know what was behind Council wanting them reviewed or what the CRC hoped to accomplish. For instance she does not know the current process for removal of the City Manager or what the CRC is proposing that would simplify that. Chairman Heiple said minutes from CRC meetings detailing what has been discussed to date is available from the City Clerk's Office and encouraged everyone to avail themselves of that information.

Ms. Cindy Rogers, 633 Reed Avenue, said she understands the need to raise utility rates, but is concerned that growth causes costs to rise and she does not see how increasing rates will address the drivers of why the cost increases are occurring. She said the demand side is an essential factor and she does not know how one side of the market can be addressed without addressing the other side and how increasing rates would address that. Member McBride said he would not want CRC's proposal to be interpreted by anyone as encouraging or hoping rates will go up and nothing in the proposal increases rates. He said the recommendation only places responsibility for setting those rates onto the City's elected officials and gives them the right and responsibility to do that. Mr. Ken Komiske, Director of Utilities, said currently the City's rates are stair stepped in large increments because increases have to be voted on by the people and raising rates requires the education of 100,000 plus citizens to get them to approve an increase. He said if the City could make smaller incremental increases to that stair step of rates without having to go to a vote the increases would be smaller and the City would be collecting more revenue during the interim. He feels it is better for customers and businesses to anticipate rate increases. He said OKC sets their rates for a four year period and publishes those rates so customers can plan for the increases. He said that is the thought behind this issue.

Chairman Heiple said Mr. Komiske's graph depicting current rate increases as opposed to what gradual increases would be is very educational and eye opening. He asked Staff to place the information on the City's website with other utility information. He said historically, Council has been reluctant to ask the public to raise rates until the City is in a position of crisis and the City has to raise rates 30% or more at one time, which is a huge increase especially to those on fixed incomes. He said a gradual increase of three percent (3%) annually would be a much better way of stabilizing the impact to the public. He said all utilities are Enterprise Funds and have to generate enough income to pay for the operation that includes replacing aging equipment and infrastructure, which can be a costly proposition.

Member Stawicki said Ms. Rogers is talking about the cost of taking on the next new customer, growth paying its own way. He said no one has talked about the huge step that needs to be taken to be involved in the consortium and the hundreds of millions of dollars Norman would be responsible for in building that infrastructure. He personally went along with eliminating the Charter provision and believes voters have the right to decide if they want to continue having that control or allowing Norman to grow.

Ms. Joy Hampton, The Norman Transcript, asked when the Charter recommendations will come to a vote and Chairman Heiple said the CRC's report will be submitted to Council by the end of the year, but Council will determine what recommendations they want to move forward with. Ms. Hampton said she came to report on what the public had to say tonight and all she is hearing is the CRC talking and explaining why they are making these recommendations.

Mr. Charles Wesner, 616 Tulsa Street, said the CRC wants to eliminate the provision in order to give developers an opportunity to dump a million dollars on another contentious issue that will continue to split the City wide open. He said the recent high density discussions should have made it clear as to why the public does not trust City Council. He said the high density issue should have been dismissed months ago. He said the City will be making a big mistake if they eliminate this Charter provision.

Mr. Shawn Hook, 3923 Durango Circle, said City Council is afraid to take a utility rate increase to the public because the people have not been voting the way Council wants them to vote. He said if you are going to take something to a vote of the people, make sure you do your due diligence by putting a plan together and explaining to the public why the City needs this money and needs to be in the consortium for future water needs. He said the City has the opportunity to educate the public on these needs before it ever goes to a vote. He said do not tell people you are taking away their right to vote. He said it is the elected officials jobs to put together plans and bring those plans back to the people that elect them to make sure everyone is doing their job and it appears to him that this is not happening.

Member Pipes said the CRC had lengthy discussions regarding the utility rate issue, but he still has lot of questions about it and the only reason he voted to send the recommendation forward is because it does require a vote of the public if they want to allow the City Council the authority to set rates. He said there will be more opportunities to ask questions and it is not a done deal.

Ms. Lyntha Wesner, 616 Tulsa Street, said she likes that OKC forms a four year plan and explains to citizens what the money is needed for and she did not see any reason why Norman could not do that. She said citizens could vote on an incremental utility rate increase every year when they vote for Council and felt increases would pass as long as the City has justified their plans and long range commitments.

Ms. Cindy Rogers said one of the few ways citizens have some control in the demand is through their votes on water rate increases and that plays an important role in why the City needs to justify the bigger picture as to why the City is in this position. If the City is in this position because old pipes broke down then explain that to the people. She would vote for a water rate increase because she knows it is needed, but wants to make sure the right marginal and average costs are being charged and increases are not being requested because the City is growing so fast it cannot keep up with demand. She said citizens will vote for an increase if the City argues as to why it is needed and it puts oversight in the hands of citizens, which is the only mechanism citizens have.

Chairman Heiple said it is clear that justification needs to be thought out and presented well. He said comments from the public are helpful to the CRC as well as Council.

Councilmember Gallagher said he researched the 1974 debacle that preceded the utility rate increase provision being placed in the Charter. He said the Mayor and City Manager quit and the Council adopted the Ward System.

Mr. Steve Avis said he is concerned about taking away the people's right to vote on rate increases. He asked if Council will vote on each recommendation as a whole or individually and Chairman Heiple said, historically, each Charter change is an individual vote, but the decision of how it is packaged and presented to voters is up to Council.

Ms. Lyntha Wesner asked the intent of a periodic review of the Charter and asked if it would just be easier to have Council bring up changes as needed instead of having a committee review it periodically. Chairman Heiple said a standing commission would be appointed to meet as needed. Member Cubberley said he did not know what the motivation was for a periodic review, but some cities, by Charter, review their Charter every ten or twenty years to make sure it is updated and fits current situations. Member Dillingham said periodic review is simply an option and Council wanted that discussion to determine whether there is enough value in changing the Charter to include a periodic review perhaps in conjunction with the decennial census.

Councilmember Gallagher said the last Reapportionment Commission boundary changes took away one of the largest subdivisions in his Ward and Council questioned the seemingly haphazard formation of some of the Ward divisions. He said it is a vital aspect of the Charter to make boundaries more equitable and to keep one portion pulling from a very small, condensed portion of the City versus a Ward being given an entirely new portion of voters that the seated Councilmember has not had contact with because they were never in their Ward. He asked what the CRC is considering in the Reapportionment Commission item. Chairman Heiple said the CRC has not discussed that or seen the background on that item so there has been no action or comments by CRC at this time. Councilmember Gallagher said reapportionment is a volatile situation and asked why the Reapportionment Commission would randomly change Ward boundaries under the aspect of equalizing voters when in fact the numbers did not equalize in some instances. Chairman Heiple said he was surprised to discover the Charter provision requires the Commission meet every year and felt it was unnecessary.

Councilmember Gallagher said when he asks about water reuse he keeps hearing the City is waiting on legislation. He asked if the CRC had information regarding reuse. Chairman Heiple said the CRC was specifically told to address the eight items charged to them by Council, but if the CRC wanted to get into other topics they could and they may do that. He said in answer to the question, citizens need to contact their legislators to pass a law telling Oklahoma Department of Environmental Quality (ODEQ) that municipalities are going to be able to reuse water treated at their Wastewater Treatment Plants. He said if that law was passed the City could discharge treated gray water into Lake Thunderbird, which would increase what the City is allowed to take out of the Lake Thunderbird. He said ODEQ is the slowest, bureaucratic agency in the history of the world and until the legislature enacts a law, ODEQ will continue to stall on reuse. Councilmember Gallagher felt the City should be pushing legislation on reuse to cut costs.

Councilmember Gallagher asked how the process for removal of the City Manager would be changed as the current process seems to be somewhat simple. Chairman Heiple said the CRC tried to clean up language so it is clear that the process would be taking into account multi-year contracts with the City Manager. He said there are a lot of overlying factors and the CRC has specified what they believe will be cleaner language to let everyone know exactly what the ground rules and procedures are for that situation.

Ms. Jeanette Coker, 620 E. Main Street, said it would be helpful to have a copy of the current Charter provisions as well as what the CRC is recommending for each provision. She said she has no idea whether or not "stipend" would be a good replacement for "compensation" since she does not know what that provision says in the first place so it is hard for her to comment or question the recommendation. Chairman Heiple said the City will try to provide a list of what the CRC is charged with as well as the list of provisions they have voted on at the next public meeting.

Mr. Larry Dillingham, 1711 S. Pickard Avenue, said in regards to periodic review of the Charter, when he heard there might be a standing committee he saw visions of a “shadow City Council” and people going through all sorts of mechanisms to get on that standing committee. He said if the City wants to review the Charter, the City should appoint a different set of people for each review, not have a standing committee of people with an agenda. Chairman Heiple said the CRC would keep that in mind when they discuss that item.

Councilmember Gallagher asked if the list of items for CRC review was generated by Staff, City Manager, and Council or if the public was given an opportunity to suggest anything to be considered. Member Dillingham said when she chaired the Planning and Transportation Committee meetings some of these items were discussed and anyone who attended those meetings could comment. She said the reason the CRC is holding public meetings is to get public input and to see if there are additional issues. She said the CRC wants to know what other issues this body should consider so if there is anything the public wants the CRC to review, tell CRC members or City Council. Member Cubberley said whatever item(s) the public wants reviewed, Council will have to give CRC that charge so he suggested contacting Councilmembers.

Ms. Jayne Crumpley said she attended the prior Charter Review Ad Hoc Committee’s meetings and tried to stay informed. She said, at those meetings, the public was informed as to why Council wanted the issues reviewed and she was not aware the current CRC had already held one public meeting so far. Chairman Heiple said the first public meeting was held on short notice and no one attended, but it was not because the City was trying to hide anything. He said this meeting was better advertised through newspaper articles regarding water rates written by Joy Hampton.

Member Roberts said at their first regular meeting, the CRC discussed general ground rules and one of the things they talked about was not wanting to be considered a “shadow City Council.” They did not believe they had free reign to consider any item that concerned the City of Norman and to act on it. The CRC had specific marching orders and agreed to stick with what they were asked to do.

Ms. Joy Hampton thanked the members of the CRC for giving their personal time to serve on the Commission.

Mr. Shawn Hook asked for a quick synopsis on how the CRC, as a group, decided on the recommendation that people should allow the City Council take care of utility rate increases instead of having the people vote on those increases. Member Dillingham said the CRC is recommending Council submit a change in the Charter with respect to the utility rates to the vote of the people. She said the people will vote on whether they want that or not. She said the CRC is not making a recommendation on utility rates, they are making a recommendation that the people need to be asked that question. She said the CRC is hoping City Council has the courage to let the people vote on that.

Member Roberts said if Council decides to move forward with the recommendation and there is a campaign, all the pros and cons will get discussed. He said the only rate recommendation the CRC is sending forward is this should be a straight up or down question of should the City Council have the authority or should it not have the authority to raise rates. The CRC decided not to recommend a percentage as a cap or condition of the provision. The CRC wanted to send the question out there and whether or not the Charter is amended will be decided by a public vote. He said let us have the debate and let us have the campaign. Mr. Shawn Hook said he is concerned about low voter turnout and if no one votes, then that means a few people could actually take that capability away from citizens.

Mr. Trey Bates said his fear is that when something is said over and over again it starts sounding true and what he has heard over and over again from a number of people is that somebody is going to take away somebody’s right. He said the fact of the issue is does this go to a vote of the people? Do the people want the utility rates to be set by their representative or do they want to go through the process of voting each and every time on each and every utility rate increase like no other city in the state or maybe like no other city in the nation? He said no one is suggesting that someone’s right to vote be taken away. The issue is simply whether or not we are going to vote on how utility increases will be administered in the future and that is a reasonable thing to ask.

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Items submitted for the record

1. PowerPoint presentation entitled, "Charter Review Commission Public Hearing," dated June 27, 2013

The public meeting adjourned at 7:55 p.m.