

CITY COUNCIL CONFERENCE MINUTES

December 13, 2011

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a Conference at 5:30 p.m. in the Municipal Building Conference Room on the 13th day of December, 2011, and notice and agenda of the meeting were posted at 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: Councilmembers, Dillingham Gallagher, Griffith, Kovach, Lockett, Quinn, Spaulding, Mayor Rosenthal

ABSENT: Councilmember Ezzell

DISCUSSION REGARDING ESTABLISHING A CHARTER REVIEW COMMISSION.

Mr. Jeff Bryant, City Attorney, said Council discussed establishing a Charter Review Commission (CRC) at the Study Session meeting on May 18, 2010, and at the November 1, 2011, Study Session, Council discussed whether to move forward with establishing a CRC. He said Council requested Staff review the work of the last Committee and determine what items were “left on the table” from that previous process.

Mr. Bryant said the most recent Charter Committee was appointed by Council on November 9, 2004, and the Committee made recommendations relating to Municipal Elections which were forwarded to Council in January, 2005, which were approved by the voters on March 29, 2005. He said additional meetings began on January 12, 2005, to comprehensively review all other sections of the Charter and the Committee met eight (8) additional times. The Committee forwarded its report and recommendation dated June 16, 2005, to Council for consideration.

Mr. Bryant said the Committee unanimously recommended the changes to Article II, Section 1; Article III, Sections 1 and 6; Article IX – Hospital; and Article XVII – Miscellaneous Provisions, Section 2. The majority of the Committee recommended changes to Article XVI – Municipal Owned Utilities, Section 2, by a vote of 4 to 2, with Committee members Schindler and Hancock voting against that recommendation. The Committee also recommended that Article XVI be voted upon at a separate election from the other recommended Charter changes.

Mr. Bryant said Council discussed the recommendations of the Committee at the October 18, 2005, study session and the following recommendations were forwarded to Council for consideration to be included in the next municipal-wide election that was anticipated to be held March 7, 2006.

- Article III-City Manager – Section 1 & 6: simplify the removal process and clarify the Council’s ability to request information regarding a particular City Department;
- Article IV-Hospital – clean up items;
- Article XVII-Miscellaneous Provisions – Section 2 – modernize employee compensation language.

Ordinance No. O-0506-18 amending the Charter and Ordinance No. O-0506-19 calling a Special Election for the voters to consider the Charter Amendments was scheduled for first reading on December 13, 2005, with second and final reading to be scheduled for December 27, 2005. The action was postponed to January 10, 2006.

Mr. Bryant said on January 10, 2006, four additional draft Charter Amendments were to be proposed by Councilmembers as amendments to the Ordinance; however, Council voted to postpone the item until February 28, 2006, to allow the additional proposals to be reviewed by the Committee.

Four (4) Councilmembers signed a three (3) page explanation of their collaborative effort concerning the following draft amendments:

- Article XVI, Section 2-Municipal Owned Utilities – mandatory utility rate review at least every three years for each utility;
- Article III, Section 7-Political Activity – City employee who runs for partisan political office must take a leave of absence during the campaign;
- Article III,-Section 4(b)-City Manager – Department Heads to be hired by annual renewable contracts approved by a majority of Council;
- Article III, Section 4(i)-City Manager – allowing budgeting of only 95% of projected revenues and establishing mandatory reserves.

The Committee met nine (9) additional times to discuss the additional proposals and a public hearing was held on the proposed amendments on March 1, 2006. The Committee issued an Interim Report on February 21, 2006, and a Final Report on March 15, 2006. The Committee Final Report recommended the following language changes:

- clarify the proposal to Article XVI, Section 2 – Utility Rate Review;
- by a vote of four (4) to two (2), felt no changes were needed in the current policy Article III, Section 7 – Political Activity;
- recommended substitute language because the proposal too broadly expanded the Council’s role from a policy-making body in Article III, Section 4(b) – City Manager; and
- the Committee felt the Council, as a matter of policy, has the ability to set a reserve now and recommended language change “to preserve that type of input opportunity for future Councils” in the annual budgeting process.

Council formally received the Committee’s Final Report at the City Council meeting of April 11, 2006, and Ordinance No. O-0506-18, containing the Committee recommendations was also brought forward at the same time. No additional amendments to the Ordinance were offered and Ordinance No. O-0506-18 was postponed indefinitely by a unanimous vote.

Mr. Bryant said the Council Oversight Committee reviewed the Charter again over a number of meetings and Council opted to submit to the voters on March 1, 2011, the following amendments which were approved:

- Article II-City Officers and Elections, Section 2 – change voter registration requirement to six (6) months to mirror state law;
- Article VII-City Parks, Section 2 – allow use of certain accumulated park land fees for community or neighborhood parks; and
- Article IX-Hospital – several sections to clean up language.

Mr. Bryant said the Charter was again amended on November 8, 2011, in Article II-City Officers and Elections, Sections 5 and 6, to allow the setting of election dates to comply with State law if municipal elections were to be conducted by the County Election Board.

Regarding Council’s question of what was “left on the table,” the following items were not forwarded to the voters for consideration: Article III-City Manager, Section 1 and 6, and Article XVII-Miscellaneous Provisions, Section 2. Mr. Bryant said none of the recommendations from the Committee regarding additional proposals offered by the four (4) Councilmembers on January 10, 2006, were offered in Ordinance No. O-0506-18, before it was postponed indefinitely by Council on April 11, 2006.

Council discussed and recommended several changes to Resolution No. R-0910-123 during its study session on November 1, 2011. Staff incorporated the recommendations and distributed a redraft for Council input.

Councilmember Kovach said the work done on the informational packet distributed to Council was very helpful and he appreciated Staff's efforts. He wanted to point out that several other issues came about from Council discussions to include the Reapportionment Commission and Council compensation language currently reads..."Council receives a *salary*..." instead of a *stipend*; therefore, one might argue a violation of minimum wage. Councilmember Kovach said the previous Charter Review processes really underscores why moving forward on an ordinance creating this discussion is important because so many issues/topics were brought forward, but then were dismissed behind the scenes over and over again. He felt the document that we base our government on should have as much public input as possible and be reviewed by a separate Commission.

Mayor Rosenthal said she also appreciated Staff's work and research for a very thorough Council packet on this topic, but she came to a very different conclusion after reviewing all the Charter review history. She stated there were over 20 Charter review meetings with a lot of public input and felt it was not correct to say the process was dismissed behind the scenes because Council took a public vote deciding to postpone the item indefinitely. Mayor Rosenthal felt most of the issues have been addressed, i.e., rainy day fund is now an ordinance, a review of the utilities is now being completed every year, etc., and she does not see the evidence to support a comprehensive review but would support a targeted review. Councilmembers Quinn and Griffith agreed a targeted review would be sufficient.

Councilmember Dillingham said an ordinance should be created stating the Charter will be looked at every 10 years, whether comprehensive or targeted. She said a Citizen Commission could be allowed to come up with a policy and procedure manual for how they as citizens want to be able to identify issues, bring forth citizens to discuss those issues, etc. Councilmember Dillingham said to do so would educate and involve more citizens in the Charter review process, but felt a comprehensive review was not needed at this time since a lot of the issues have been taken care of to date.

Councilmember Lockett felt an ordinance is not necessary because future Councils should be able to choose to review the Charter when they feel it is needed. She said this Council's desire should not be imposed upon future Councils and Councilmember Griffith agreed. Councilmember Kovach referred to the pertinent excerpts of the Charter Review Committee minutes where the same topics kept coming back up. He felt that the *easy* issues were taken care of, but there are important issues that still need to be resolved. Councilmember Kovach felt it is always difficult for a politician to have a controversial issue on the ballot while running for office at the same time and every year half of the Council is up for election. He said Council has the opportunity to develop a mechanism, i.e., an ordinance, to minimize that very problem. Councilmember Kovach felt this would not be imposing his will on any future Council, but rather allowing the people to look at the founding document and decide whether or not to make any necessary changes at that time.

Councilmember Dillingham felt an ordinance would not impose this particular Council's will on future Council(s) anymore than any other ordinance, but would guarantee citizens an opportunity and voice to work with the Charter in any manner the Council deems appropriate. Councilmember Kovach said when discussing Department Head contracts it can be argued that Council is actually needing to be able to evaluate the Department Heads in order to do Council's task of oversight. He said the current and future City Manager(s) should not have to go through this process each and every time and putting language in the Charter that clarifies the roles is important. Mayor Rosenthal felt Charter language allowing Council(s) to approve Department Head contracts would be a change of government and said it was not Council's job to review Department Heads. Councilmember Kovach said Council discussed and agreed at the Budget Retreat that Council should review the Department(s) as a whole and he felt that would also include the City Manager's evaluation of the Department(s). He said this type of work is not something that every new Council and/or City Manager should have to work through and the process should be laid out and clarified.

Mayor Rosenthal said there is a policy role and there is a managerial role. She felt if Council had the task of approving Department Head contracts, it would be a big change to the way and/or function of how Council/City Manager form of government operates. Councilmember Kovach agreed but said the topic of how to deal with an on-going problem has been discussed from Council to Council. He requested Legal Staff explore the framework of the proposed resolution and felt whatever solution is chosen would exemplify the fact that there are certain topics that need to be clarified in the Charter that would help City government run smoother without taking away the City Manager's role. Councilmember Quinn said if the same issues are continually being put off; it may be possible the issues are not supposed to be part of the Charter.

Council felt a targeted review, rather than a comprehensive review, of the Charter would be appropriate at this time. Mayor Rosenthal suggested posing to the Committee the question of whether language needed to be added to the Charter stating a comprehensive Charter review needed to be performed at least every 10 years. She agreed the language pertaining to the Reapportionment Commission needed to be updated and suggested the Committee include this in their review. Councilmember Griffith felt the Committee should also examine Article XVI, Section 2, Utility Rate, specifically a proposal of three percent without incurring the cost of an election. He felt it would free the Utilities Department to make modification(s) to the rates that would not burden the taxpayers but instead allow the Utilities Department to overcome some of the cost(s) incurred. Councilmember Kovach suggested having the Committee looking at the proposals left on the table from the previous Committee, except Articles 3, Sections 4(b) Department Head contracts, and Article 4(i) Mandatory Reserves, and Council agreed.

Mr. Jeff Bryant, City Attorney clarified that Council requested the Committee to review the following Charter sections:

- Article II, Section 1 – City Officers, change verbiage from *salary* to *stipend*;
- Article III, Section 1 - City Manager, simplify the removal process;
- Article III, Section 6 – Council review of Department Heads, clarify the Council's ability to request information regarding a particular City Department;
- Article III, Section 7 – Political Activity, City employee must take leave of absence if running for office;
- Article XX, Section 2 - Reapportionment Commission - Update/change language;
- Article XVI, Sections 2 – Utility Rate Review; study whether three percent rate increase without a public vote should be proposed; and
- Whether or not there should be a scheduled Charter review within the Charter itself.

Councilmember Quinn said the Charter has been very productive for the City and did not want to leave the impression that Council felt it needed to be completely revamped. Councilmember Gallagher said the Committee should look at the above mentioned items and also look seriously at the entire Charter. Mayor Rosenthal said that would be a comprehensive review, rather than a targeted review and felt Council already had consensus that it would be a targeted review at this time. She felt Council needed to direct the Committee to review the six or seven items mentioned above or direct them to do a line-by-line Charter review. Councilmember Dillingham suggested having the Committee conduct a targeted review, but agreed with Councilmember Kovach that the Committee should use the framework established in the draft resolution to determine whether any additional Charter amendments, additions, and/or deletions should be made.

Mayor Rosenthal requested Staff review Resolution No. R-0910-123 and revise it to indicate the targeted issues mentioned earlier. She wanted to clarify the "at large" language and asked whether the Councilmember(s) were to nominate applicants to the Mayor or nominate applicants from their respective Ward themselves. Council discussed and felt the Councilmember(s) should nominate applicants to the Mayor and then the Mayor will appoint the applicants at large to serve on the Commission.

Items submitted for the record

1. Memorandum dated December 7, 2011, from Mr. Jeff Harley Bryant, City Attorney, to Honorable Mayor and Council Members
2. Draft Resolution No. R-0910-123, Charter Review Commission with suggested changes from November 1, 2011
3. City Council Special Session minutes of November 1, 2011, including items submitted for the record, memorandum dated October 25, 2011, from Mr. Jeff H. Bryant, City Attorney, to Honorable Mayor and Council Members, and Resolution No. R-0910-123, Charter Review Commission
4. City Council Study Session minutes of May 18, 2010, including items submitted for the record, memorandum dated May 13, 2010, from the Oversight Committee to Honorable Mayor and Councilmembers with proposed Resolution No. R-0910-123, Charter Review Commission
5. Pertinent excerpts from City Council minutes of April 11, 2006, including items submitted for the record, memorandum dated March 15, 2006, from Mr. John Hancock, Charter Review Committee Co-Chair and Mr. Harold Heiple, Charter Review Committee Co-Chair, to the Honorable Mayor and Councilmembers and Charter Revision Ad Hoc Committee minutes of January 18, 2006, January 25, 2006, February 1, 2006, February 8, 2006, February 15, 2006, February 22, 2006, March 1, 2006, March 8, 2006, and March 15, 2006; and pertinent excerpts from City Council minutes of January 10, 2006
6. Pertinent excerpts from City Council minutes of February 28, 2006, including items submitted for the record, Charter Revision Ad Hoc Committee Interim Report dated February 21, 2006, and pertinent excerpts from City Council minutes of January 10, 2006
7. Letter dated January 18, 2006, from Councilmembers Rachel Butler-Ward 5, Cindy Rosenthal-Ward 4, Doug Cubberely-Ward 7, and Bob Thompson-Ward 1, to Ad Hoc Charter Review Committee Members
8. E-mail from dated January 10, 2006, from Councilmember Mandy Haws-Ward 8, to Councilmember Doug Cubberley and Councilmembers in reference to Charter Amendments
9. Four additional Charter Amendments submitted by Councilmember Kovach at the Oversight Committee meeting on January 10, 2006
10. Pertinent excerpts from City Council minutes of January 10, 2006
11. Pertinent excerpts from City Council minutes of December 27, 2005, including items submitted for the record, memorandum dated November 8, 2005, from Mr. Jeff Harley Bryant, City Attorney, to the Honorable Mayor and Council Members, and Proposed Ordinance No. O-0506-18
12. Memorandum dated June 16, 2005, from Mr. John Hancock, Charter Review Committee Co-Chair and Mr. Harold Heiple, Charter Review Committee Co-Chair, to the Honorable Mayor and Council Members
13. PowerPoint Presentation entitled, "Creation of a Charter Review Committee," dated December 14, 2011

The meeting adjourned at 6:17 p.m.

ATTEST:

City Clerk

Mayor