

CHARTER REVIEW COMMISSION MINUTES

August 10, 2020

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Council Chambers on the 10th day of August, 2020, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 24 hours prior to the beginning of the meeting.

CALL TO ORDER AND ROLL CALL.

PRESENT:

Ms. Aisha Ali
Mr. Trey Bates
Mr. Doug Cubberley, Vice-Chairman
Ms. Carol Dillingham
Mr. Jim Griffith
Mr. Kenneth McBride
Mr. Kevin Pipes
Mr. Richard Stawicki
Mr. Bob Thompson, Chairman
Mr. Bryan Vinyard
Ms. Shon Williamson-Jennings

ABSENT:

Mr. Jim Eller
Mr. Tom Hackelman
Greg Jungman

STAFF PRESENT:

Ms. Kathryn Walker, City Attorney
Ms. Brenda Hall, City Clerk

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MEETING MINUTES OF FEBRUARY 10, 2020.

Vice-Chairman Cubberley moved that the minutes be approved, which motion was duly seconded by Commissioner Pipes;

Items submitted for the record

1. Charter Review Commission minutes of March 9, 2020

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: Commissioners Ali, Bates, Cubberley, Dillingham, Griffith, McBride, Pipes, Stawicki, Vinyard, Williamson-Jennings, Chairman Thompson

NAYES: None

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

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Items 3, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE VI, SECTION 1, OF THE CITY CHARTER TO CONSIDER INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF NORMAN REGIONAL HOSPITAL AUTHORITY FROM NINE TO ELEVEN MEMBERS.

Ms. Kathryn Walker, City Attorney, said Norman Regional Hospital System (NRHS) now has facilities in a regional area, not just Norman, and communities where facilities exist include Noble, Newcastle, Moore, and South Oklahoma City. She said the Charter Review Commission (CRC) has discussed increasing the membership from nine to 11 to allow for representation from some of the other communities NRHS serves. She said in the March 2020, meeting, Commissioners asked Staff to draft language to state, “The Mayor, with the approval of the City Councilmembers, shall appoint a Board of Norman Regional Hospital Authority consisting of eleven registered voters who shall serve for a term of three years. At least nine of the board members shall be Norman residents. A maximum of two members may be appointed from other communities in which the Norman Regional Hospital Authority operates at least one facility.” She said the CRC also expressed a strong sentiment that board diversity should be a priority and guiding principle for board composition.

Ms. Walker reminded everyone Commissioners Cubberley and Pipes currently service on the Board and Member Eller works as Chaplain at NRHS. She said this disclosure does not prohibit them from participating in the discussion or from voting on the item.

Vice-Chairman Thompson moved to approve the language change to the Charter, which motion was duly seconded by Commissioner Dillingham;

Items submitted for the record

1. Draft language for Charter Review Commission Article IX –Hospital.

Item 3, continued:

and the question being upon approving the language change to the Charter, a vote was taken with the following result:

YEAS:	Commissioners Ali, Bates, Cubberley, Dillingham, Griffith, McBride, Pipes, Stawicki, Vinyard, Williamson-Jennings, Chairman Thompson
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NAYES:	None
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Chairman Thompson declared the motion carried and the language change to the Charter was approved.

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Item 4, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING THE RELATIONSHIP BETWEEN NORMAN REGIONAL HOSPITAL AND THE CITY OF NORMAN FOR EQUITABILITY OF BENEFIT VERSUS BURDEN TO THE RESPECTIVE PARTIES.

Chairman Thompson said he spoke with Councilmember Petrone regarding her reason for wanting the CRC to discuss the item and she wanted to know what the city's taxpayers and City government are getting in return for the current relationship, e.g., cheaper health care?

Vice-Chairman Cubberley said over time the hospital has gone from a municipal entity to a public trust for the benefit of community, but the main benefit is the City no longer has to operate the hospital and more importantly, the City is no longer responsible for hospital finances and debt. He said the biggest benefit to the community is control because through appointment of board members the City still has local control over the hospital system. He said the Board makes decisions regarding the hospital and its services and that decision making authority is locally controlled, but at the same time it is community members making decisions for the community. He said the Board is very cognizant of community needs and Council has the opportunity to periodically change the face of the Board through appointments.

Ms. Brenda Hall, City Clerk, said at the last meeting, Commissioner Cubberley highlighted the Norman Regional Health System Community Benefit Report that talks about the benefits to the community and Chairman Thompson asked that this report be included in the next quarterly report to Council.

Item 4, continued:

Commissioner McBride moved that no changes be recommended, which motion was duly seconded by Commissioner Dillingham; and the question being upon no changes being recommended, a vote was taken with the following result:

YEAS:	Commissioners Ali, Bates, Cubberley, Dillingham, Griffith, McBride, Pipes, Stawicki, Vinyard, Williamson-Jennings, Chairman Thompson
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NAYES:	None
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Chairman Thompson declared the motion carried and no changes were recommended.

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Item 5, being:

DISCUSSION REGARDING ARTICLE XVI, SECTION 2, OF THE CHARTER REQUIRING THE CITY COUNCIL TO CONSIDER A RESOLUTION CALLING FOR A VOTE OF ELECTORATE TO INCREASE CITY UTILITY RATES UNDER CERTAIN CIRCUMSTANCES, I.E., UPON A FINDING OF FINANCIAL NEED AFTER A REVIEW OF THE UTILITY FUNDS AND THEIR MONETARY SOURCES BY THE FINANCE DIRECTOR OR UPON THE RECOMMENDATION OF AN INDEPENDENT ELECTED UTILITIES BOARD.

Chairman Thompson introduced Mr. Ken Komiske, Director of Utilities, who will be making a presentation on Enterprise Funds and the need for a utility rate increase.

Mr. Komiske said Enterprise Funds are operated in a manner similar to private business enterprises, where the intent of the City is that the costs of providing goods or services to the general public is financed or recovered primarily through user charges. He said Enterprise Funds includes water, sanitation, and water reclamation.

Water Fund

Mr. Komiske said in May 1999, an inverted block rate was approved by voters that consisted of a higher rate structure for the highest users to encourage conservation; in March 2006, voters approved a water rate increase; in August 2010, voters denied a water rate increase; and in January 2015, voters approved a water rate increase at current levels to fund Water Treatment Plant (WTP) improvements and obtain 2 million gallons per day (MGD) of additional groundwater supply. He said a water rate increase will be desperately needed in FYE 21 to fund upcoming projects. He said the last increase in January 2015, and passed by a significant amount of voters. He said utilities are capital intensive and rate increases are not just for providing water to customers. He said the City really needs to have a rate increase every three years instead of waiting six to ten years. He said most cities change their utility rates annually or bi-annually.

Item 5, continued:

Water Fund, continued:

He highlighted water rates in comparable cities and said Norman has lower than average water rates than Lawrence, Kansas; Lubbock, Texas; Denton, Texas; Tulsa, Oklahoma; Broken Arrow, Oklahoma; Stillwater, Oklahoma; Bartlesville, Oklahoma; Lawton, Oklahoma; Oklahoma City, Oklahoma; Enid, Oklahoma; Edmond, Oklahoma; and Moore, Oklahoma.

Mr. Komiske said when the City waits five or more years before asking the public for an increase, Norman's water rate dramatically increases; however, if Norman could increase rates every three years, that increase would not look as dramatic. He said in 2021, the City will need an additional \$4 million from residential customers and this causes rate shock to customers. He said educating the public and letting them know exactly why a rate increase is needed and what the money will be spent on is very important in obtaining voter approval. He said if the City had been able to increase rates on a slow scale over the past six years, the City could have collected \$13 million and if the City had collected that revenue, the City would not need \$4 million now.

The City will have to meet a requirement of the Department of Environmental Quality (DEQ) to blend wells and if the City cannot do that, the City will have to chlorinate each of its 40 wells, which is a \$14 million project. Mr. Komiske said even if the City bonds that project, which it will, the City would still need \$1.7 million annually from customers to meet the mandated requirement.

Sanitation Fund

Mr. Komiske said in May 2004, voters approved a sanitation rate increase; in May 2007, voters approved curbside recycling; in August 2010, voters denied a sanitation rate increase; and in March 2011, voters approved a sanitation increase. He highlighted sanitation rates in comparable cities and said Norman has lower than average sanitation rates than Lawrence, Kansas; Lubbock, Texas; Denton, Texas; Stillwater, Oklahoma; Ponca City, Oklahoma; Lawton, Oklahoma; and Oklahoma City, Oklahoma.

Water Reclamation Fund

Mr. Komiske said in August 2001, voters approved a \$5 Sewer Maintenance Fee exclusive to maintenance; in August 2021, voters approved an Excise Tax for sewer connections; in June 2003, voters approved sewer funding for a Northside Wastewater Treatment Plant (WWTP) and a sewer rate for sludge handling; and in November 2013, voters approved a sewer rate increase. He highlighted water reclamation rates in comparable cities and said Norman has lower than average water reclamation rates than Lawrence, Kansas; Lubbock, Texas; Denton, Texas; Tulsa, Oklahoma; Ponca City, Oklahoma; Ardmore, Oklahoma; Broken Arrow, Oklahoma; Stillwater, Oklahoma; Bartlesville, Oklahoma; Oklahoma City, Oklahoma; Enid, Oklahoma; Edmond, Oklahoma; Moore, Oklahoma; and Midwest City, Oklahoma.

Item 5, continued:

Mr. Komiske said it costs approximately \$2.5 million per year to replace sewer lines, which is what the \$5 Sewer Maintenance Fee is used for as well as maintaining existing lines.

The City of Norman has the lower total utility rates than Lawrence, Kansas; Lubbock, Texas; Denton, Texas; Tulsa, Oklahoma; Ponca City, Oklahoma; Ardmore, Oklahoma; Broken Arrow, Oklahoma; Stillwater, Oklahoma; Bartlesville, Oklahoma; Lawton, Oklahoma; Oklahoma City, Oklahoma; Enid, Oklahoma; Edmond, Oklahoma; Moore, Oklahoma; and Midwest City, Oklahoma.

Commission Discussion

Commissioner Griffith said even before he served on Council, Norman's utilities crisis has always been an issue for him and one of the reasons he wanted to be on the CRC is to address this and do something positive. He said on an annual basis, what kind of percentage would be needed to raise rates incrementally as costs go up to minimize the sticker shock of unfunded mandates. Mr. Komiske said 4% per year over the last six years would have provided \$14 million, which is more money than the City would need at this point so 2 1/2% to 3% would be a good percentage. Commissioner Griffith said he was thinking 3% would be a good number to recommend to Council so Staff could deal with the cost of doing business and if another mandate comes from DEQ, that could go to a vote of the people as an unexpected expense.

Commissioner Dillingham said the last CRC wanted Council to address this issue with some type of parameter by which Council can raise the rates within a percentage based upon factors proven to Council. She said it is a real problem to get Council to pull the trigger to vote on this Charter change, but it needs to happen. She is so impressed with Mr. Komiske's ability to do his job year after year under these conditions and this needs to be the Commission that really goes after this change because it is too hard on Staff and too hard on citizens who do not really understand the issues.

Commissioner Pipes said, unfortunately, this issue has always been so political since it was restricted so many years ago and agrees it is time to get this done because Norman is the only City that requires a public vote to increase utility rates.

Commissioner Griffith said he would really like to see this happen because the City should not have to keep begging for money from the public just to keep providing essential services to the community. He said it is just common business sense to be able to minimally raise rates as costs to the City increase.

Commissioner Vinyard said if the CRC makes this recommendation and Council approves, will this money only be used for utility purposes and not be used in the General Fund for other purposes? Mr. Komiske said correct, Enterprise Funds are separate businesses and the funds cannot be mixed into any other funds. Commissioner Vinyard said that would be his only concern.

Item 5, continued:

Commissioner Williamson-Jennings said Mr. Komiske stated that other cities either annually or bi-annually increase utility rates incrementally so how do they do that? Is it within their Charter? Do they have a Utility Board? Mr. Komiske said some cities have a trustee board composed of a couple of Councilmembers and business leaders that review utility rates and make recommendations to Council for increases when needed. He said Oklahoma City raises their rates 2.8% to 4% every four years and send out mailers to customers letting them know what their new rates will be over the next four years.

Vice-Chairman Cubberley said Norman's problem is City Council because when the Mayor is up for election, he or she does not want the controversy of increasing utility rates during the campaign and Mayoral elections take place every three years. He said any recommendation to ask the public for the ability to increase rates without a vote of the people will never be approved by Council.

Commissioner Stawicki said before Enterprise Funds were created, Norman's City Council decided they needed money and raising utility rates was an easy way to obtain money so they basically doubled the cost of water resulting in the Charter requirement for a vote of the people to increase utility rates.

Commissioner Ali said she understands the public not wanting to give up the right to vote on utilities, but the City cannot afford to continue providing services with its current rates that may not change for several years. She said this needs to move forward for a Charter change, but is concerned about how that need can be communicated and stressed to Council in a way they will want to move forward with a Charter change.

Commissioner Dillingham said this is not a problem about whether or not the City should do this or not, it is the politics of this issue that is the problem. She said this needs to be a type of campaign with the voters to get the public to understand that voting for utilities is not something to be proud of, but is hurting the City and the public when services have to be cut or diminished.

Mr. Komiske said businesses should have a base meter charge that is higher than residential meters, but it is too cumbersome to explain all the nuances of that on a ballot. Commissioner Pipes said the length and clarity of ballot language is important and most people are not going to understand different rate structures and the complexities of those structures. He would support a recommendation for incremental rate increases with a capped method as well as a utilities board to make arguments to Council on the reasons for a rate increase.

Chairman Thompson said the community generally supports utility increases and, in his opinion, is cumbersome in regards to the operational side of the City, but in terms of overall benefits to the community it is actually superior.

Vice-Chairman Cubberley said the City should have a citizen board with a few Councilmembers and a majority of citizens to take that decision away from politicians. He said the task of deciding if a rate increase is warranted is up to the citizen board to make a recommendation to Council.

Item 5, continued:

Commissioner Stawick said he tends to agree with Chairman Thompson.

Commissioner Ali said she would be more comfortable looking at comparable cities that have elected utility boards, what are some of the comparisons, what are the trends, etc. She is hesitant to remove the disconnect of the citizens by removing Councilmembers from deciding rate increases, but at the same time she feels there is some level of concern regarding the unknowns, i.e., State or Federal mandates, that could effect utilities. She said a utilities board makes sense, but disconnecting the electoral process is also worrisome.

Commissioner Vinyard said even if Norman creates a board with or without acting Councilmembers on the board someone has to nominate those people and within the community there is going to be perceived politics even in that action. He said the political equation will never go away in people's minds.

Commissioner McBride said Commissioner Ali makes a good point in reviewing comparable cities with utility boards appointed by City Council, but will discover that no other city requires a vote of the people in order to change their utility rates. He said there are probably good models to look at and to follow, but none will require a vote of the people. He said water quality is an extremely important issue and the amount of money it takes to maintain water quality is also extremely important. He believes the requirement for a vote of the people needs to be eliminated. While he is not prepared to suggest an alternative, he is prepared to say the City needs representatives that do what the people elect them to do.

Commissioner Bates said this issue has been discussed numerous times over the years, and there appears to be a lack of trust in elected officials to make good decisions as related to fiscal matters of the community, which they are trusted to do in almost every other way. He said previous City Council would not take this issue on when recommended by the CRC because it is such a political hot button. He believes in the concept of City Council or another Board making decisions on all rate structures without it being a political issue.

Chairman Thompson said the only way this Charter language will ever change is for a unanimous Council to be willing to risk their political seats. He said Council would need to be convinced the public would be willing to concede their right to vote on City utilities for any change to be made.

Commissioner Griffith said utilities are always under crisis management and the City has been very lucky to be able to continue to operate with the funding it has; however, it would be great if management of the utility rate could be increased on an incremental basis and decided on by City Council who are the voice of the people.

Chairman Thompson asked if Staff could research methodologies of other cities for the CRC to review and make a recommendation that might be convincing enough for them to advance these ideas.

Item 5, continued:

Commissioner Cubberley would like to know how many people vote on utility rate increases because he believes it would be minimal. He said if CRC is requesting more information then he would like to see that information.

Mr. Brenda Hall, City Clerk, said there have been eight failed elections since 1984, the last one being in 2010, and the total number of voters that voted in 2010 for the water rates was 9,078 and the number that voted for sanitation rates was 9,009. She said prior to that, the average vote has been around 9,000, except the sanitation and curbside recycling total was 5,800. She said there are currently a little over 72,000 registered voters.

Commissioner Cubberley said 20% of voters or less are determining the fate of any one utility election. Chairman Thompson said those same voters are involved in the City Council election process. Commissioner Williamson-Jennings said 100% of the public is paying the increasing utility rate.

Commissioner Cubberley said Staff only asks for an increase when there is dire need and the City starves its utilities to extract a very low utility rate, which is not good business. He said most of the time voters agree to the increase so why not allow the City to increase utility rates an incremental amount each year or every three years? He said the political will is not there to go to the voters each year so he would love to see a utility rate increase before the voters every three years, but that has not been popular with Council.

Chairman Thompson said a Charter recommendation could require an annual review or three-year review of each utility with a vote so that decision is taken out of the political realm.

Commissioner Ali said she would like to know what is costs to inform 100% of the users about an upcoming election topic that only has 10% representation at the polls. She said that money could be used on a more concrete process so the utility is not starved for an increase that will only carry the City through five years or less.

Commissioner Williamson-Jennings said it might be better to find out what the public has an appetite for before moving this issue forward.

Commissioner McBride said maybe the CRC should step back and talk about what might be possible because if it is impossible, the CRC does not really need to spend a lot of time on it. He thinks looking at other solutions that have worked in other communities is a great idea and suggested having a standard utility rate increase vote every two years.

Commissioner Dillingham said the middle ground might be having a Charter provision that requires that at least one Enterprise Fund increase election be held every three years perhaps along with the Mayoral election to have as many voters as possible participate and save money on election costs.

Item 5, continued:

Commissioner Pipes said once people get the right to vote on something they do not like for it to be taken away. He is not sure it is the CRC's job to figure out the politics before presenting a recommendation to Council. He said this is an issue that needs to be thoroughly discussed because this is about water and cities cannot run without water or sanitation or wastewater services. He would like to find more best practices of how to structure the mechanics of governmental decision making leading to an election or not to have an election.

Chairman Thompson said there seems to be consensus to bring this item back for further discussion with information requested by members. He would like to see the cost of elections and some type of language that would result in a required series of elections for utility rates.

Commissioner Griffith would like to see the process of how regional cities raise rates other than the usual comparison chart of cities provided today. Commissioner Williamson-Jennings agreed and suggested cities of comparable size to Norman that have successful rate structures. Ms. Walker said Staff can research benchmark cities with universities.

Items submitted for the record

1. Background on Article XVI. Municipally Owned Utilities.
2. Charter Review Commission minutes of May 2, 2013, and June 6, 2013
3. PowerPoint presentation entitled, "City of Norman Charter Review Committee Enterprise Funds," dated August 2020

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Item 6, being:

MISCELLNEOUS DISCUSSION.

Chairman Thompson said the CRC spent a lot of time discussing the need for an internal auditor, but Council hired that position prior to a recommendation from CRC. He felt that Council was too broad in their request on this issue and the CRC did not have the detailed information needed to make a recommendation. He spoke with the Mayor and his Ward Councilmember requesting the courtesy of a heads up going forward on items that not longer needed to be discussed by CRC due to Council acting upon the issue.

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Item 7, being:

ADJOURNMENT.

Commissioner Pipes moved that the meeting be adjourned, which motion was duly seconded by Commissioner Dillingham; and the question being upon approval the meeting being adjourned, a vote was taken with the following result:

YEAS:	Commissioners Ali, Bate, Cubberley, Dillingham, Griffith, McBride, Pipes, Stawicki, Vinyard, Williamson-Jennings, Chairman Thompson
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NAYES:	None
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Chairman Thompson declared the motion carried and the meeting was adjourned at 7:10 p.m.