

CHARTER REVIEW COMMISSION MINUTES

August 12, 2019

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Multi-Purpose Room on the 12th day of August 2019, 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:

Mr. Trey Bates
Mr. Doug Cubberley, Vice-Chairman
Ms. Carol Dillingham
Mr. Jim Eller
Mr. Greg Jungman
Mr. Kenneth McBride
Ms. Aysha Prather
Mr. Richard Stawicki
Mr. Bob Thompson, Chairman
Mr. Bryan Vinyard
Ms. Shon Williamson-Jennings

ABSENT:

Ms. Aisha Ali
Mr. Jim Griffith
Mr. Tom Hackelman
Ms. Victoria McBride
Mr. Kevin Pipes

STAFF PRESENT:

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

Item 1, being:

OVERVIEW OF AMENDMENT NO. 1 TO RESOLUTION NO. R-1819-66 ESTABLISHING THE CHARTER REVIEW COMMISSION.

Ms. Kathryn Walker, Interim City Attorney, highlighted amendments to Resolution R-1819-66 that includes whether to delete language allowing Council to appoint a successor or instead require a special election to be called for the purpose of filling such vacancy; review potential loopholes used to skirt the Open Meetings Act (OMA) and provide recommendation; review executive session restrictions and provide recommendation on appropriate limits of use versus overly expansive such that it provides cover to skirt OMA; revisit the relationship between Norman Regional Hospital and the City of Norman for equitability of benefit versus burden to the respective parties and make a recommendation; and examine the ward boundary creation process.

Item 1, continued:

Chairman Thompson suggested bundling the two OMA items for one discussion as well as bundling the Norman Regional Hospital equitability with an item already in the resolution regarding increasing the number of members of the Board of Norman Regional Hospital. He said the ward boundary creation process could be a stand-alone item for discussion.

Items submitted for the record

1. Resolution R-1819-66, Amendment No. 1

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Item 2, being:

DISCUSSION OF ARTICLE II, SECTION 1, OF THE CITY CHARTER TO CONSIDER INCREASING THE MONTHLY STIPEND PROVIDED FOR THE MAYOR AND COUNCILMEMBERS.

Ms. Walker said in 2005, the Charter Review Commission (CRC) recommended a compensation increase for the Mayor and Councilmembers, but a compensation increase was not included in the municipal election. In 2015, verbiage changed from "compensation" to "stipend" and the most recent proposed stipend increase appeared in R-1819-66; however, no recommendations was made on a specific amount. She said Staff has provided a chart of comparable cities for Mayor and Council salaries. She said Mayor and Council currently receive \$50 per month plus an additional \$10 per meeting attended, but salary cannot exceed \$100 per month.

Vice-Chairman Cubberley felt the stipend should be increased, especially for the Mayor, because the Mayor and Council can spend 30 to 40 hours per week working on City business and the Mayor spends twice that time on the job than Councilmembers.

Member Stawicki said the current stipend amount has been in place since the 1960's so it is time to look at increasing that.

Member Jennings agreed the stipend should be increased, but wondered what would be compatible today compared to \$50 in 1968. What can the City afford to pay because the amount has to be reasonable.

Member Dillingham said the stipend should be increased, but does not want to get into a position where this becomes a job. She said one of the most important things about local government is the aspect of volunteering.

Member Eller felt the stipend should be in the ballpark with comparable cities. He said Council will never have a salary, but the job should not be done for free either.

Item 1, continued:

Member Prather said citizens that run for Council are people that can already afford to sacrifice their time so a higher stipend may allow lower income citizens who may not have the luxury to spend the amount of time needed to be on Council to run for Council.

Member Jennings felt Norman's stipend should be the same as Edmond's (\$350 per month).

Member Bates suggested a range of \$450 to \$650 per month would be appropriate and Member Jungman agreed. Member Bates felt the Mayor should be paid more than Council due to the extra duties the Mayor performs.

Ms. Walker asked if Mayor and Council should be paid a flat fee per month and Ms. Brenda Hall, City Clerks, said a flat fee would be much easier for purposes of processing.

Member McBride suggested a fee at half the rate of Oklahoma City (\$1,000 per month).

Member Stawicki said he would like to see an increase, but not as high as Oklahoma City.

Member Vinyard suggested \$550 to \$750 per month.

Vice-Chairman Cubberley said the Mayor may not have more authority than Council, but the Mayor spends a lot more time on City business than Councilmembers and deserves a slightly higher stipend than Council.

Member Bates said he would be willing to increase the Mayor's stipend in the range of \$675 to \$975.

Ms. Walker said she is hearing the CRC wants to give a stipend increase Council's stipend in the range of \$450 to \$650 for Councilmembers and \$675 to \$975 for the Mayor and Members concurred. She said she would bring that language to the CRC at the next meeting.

Items submitted for the record

1. Article II, Section 1 – Stipend increase for Mayor and Councilmembers
2. Chart of comparable cities – Total Yearly Stipend/Salary

Item 3, being:

DISCUSSION OF ARTICLE II, SECTION 1, OF THE CITY CHARTER TO CONSIDER ADDING REIMBURSEMENT FOR CELL PHONE EXPENSES AS ADDITIONAL COMPENSATION RECEIVED BY CITY COUNCILMEMBERS.

Ms. Walker said adding reimbursement for cell phone expenses as additional compensation for Councilmembers is a new proposal and past CRC's have not considered this issue. The proposal first came forward in Resolution R-1819-66. She said Staff has provided a chart of comparable cities for Mayor and Council cell phone compensation; however, no other comparable cities compensate their Councilmembers for cell phone expenses.

Item 3, continued:

Chairman Thompson recognized former Councilmember Robert Castleberry to speak on this item.

Councilmember Castleberry said the City should issue cell phones to Councilmembers just as they provide cell phones to some City employees. He said Councilmembers have personal information on their cell phones that they do not want to hand over to be searched for an open record request. If Councilmembers had a City issued cell phone this would not be an issue as they could just hand over their City cell phone and the records requested could be easily extracted.

Chairman Thompson felt this could be a City policy rather than a Charter amendment and Members agreed.

Member Dillingham said there needs to be a caveat to the policy that personal cell phones are not to be used for City business, which would help with any open record litigation issues.

Member Jungman was concerned the City would be giving Councilmembers a shield as opposed to a tool because there is no way to be 100% sure Councilmembers are not having City business conversations on their personal cell phones.

Items submitted for the record

1. Article II, Section 1 – Reimbursement for Cell Phone Expenses as Additional Compensation
2. Chart of comparable cities – Cell Phone Expenses Included

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Item 4, being:

DISCUSSION OF ARTICLE II, SECTIONS 2, 5, 6, AND 14 OF THE CITY CHARTER TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS SHOULD BE CHANGED FROM TWO TO THREE YEARS AND WHETHER THE TERM OF OFFICE FOR MAYOR BE CHANGED FROM THREE TO FOUR YEARS.

Ms. Walker said term increase is a novel issue for CRC with this first being proposed in the resolution to change Councilmember terms from two years to three years and the Mayoral term from three years to four years. She said Staff has provided a chart of comparable cities for Mayor and Council term lengths. She said even wards run on even years and odd wards run on odd years so there is an election every year.

Chairman Thompson said he current system of two years for Council and three years for Mayor is nice because sitting Councilmembers can run for Mayor every other election without giving up their seat.

Member McBride said two years seems like a short period of time to really understand all of the City issues, rhythm, and understanding of the way things get done. He said a four year term seems to be more plausible.

Item 4, continued:

Member Stawicki said Congress and the State House of Representatives have two year terms and their job is much more complex than Council's so he does not think a change is needed.

Vice-Chairman Cubberley said for the purposes of planning, it is hard to do anything in two years because the first year may be planning and the second year may see the start of implementation or the finishing of planning. He said there can be problems in trying to get things done quickly in an election cycle. He said another issue is if someone new comes on Council and does not agree with what previous Council has been planning over the past year or two then that work ends up being delayed or shelved. He said a longer term gives more stability to Council as well as more time to accomplish things so he would suggest at least three years if not four years.

Member Jungman is concerned that a longer term takes a Councilmember further away from the voter.

Member Jennings agreed with Member Jungman and said two year terms makes Councilmembers focus on the voters while longer terms may cause them to disengage.

Member Dillingham said she did not think current term lengths should change and if a Councilmember wants to stay in office then they need to do their job and stay in tune with their constituents who will continue to vote them into office.

Member Bates said there is an argument to be made that longer term lengths could actually improve voter turnout because voters would not have to vote as often. He felt that too many elections create voter fatigue and felt term lengths for Mayor and Council should be three years and staggered differently.

Member Stawicki felt voter apathy was not due to too many elections, but to voters feeling like they have no say.

Member Eller said the learning curve for a Councilmember is long so he would support a three year term.

Chairman Thompson said he likes the current system of alternating odd/even ward elections because each ward is always on a ballot with the Mayor at some point.

Member Jungman said the voters solve the problem because so many members are re-elected, but occasionally someone may not be re-elected. He said most of the time if your constituents like the job a Mayor or Councilmember is doing they will re-elect that person.

Chairman Thompson asked if the CRC should recommend a change in term lengths and the consensus was to leave the terms as is.

Item 5, being:

DISCUSSION OF ARTICLE II, SECTION 2 OF THE CITY CHARTER TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS AND MAYOR SHOULD EXPIRE ON THE LAST TUESDAY OF THE MONTH IN WHICH A RUNOFF ELECTION IS HELD OR SCHEDULED TO BE HELD.

Ms. Walker said prior to 2003, the terms of the Mayor and Councilmembers expired “at the time fixed for the last regular meeting of the Council in April.” In 2003, voters approved the current language that sets the expiration of Mayoral and Councilmember terms on the first Tuesday of July. She said Staff has provided a chart of comparable cities for Mayor and Council term expirations.

Member Stawicki asked if he could provide background on why the term was changed to July since he was involved and Ms. Walker said yes. Member Stawicki said there were members of Council who were upset by the fact that they did not get to vote on their own budget in June and incoming Councilmembers voting on a budget they knew nothing about because they did not work on it for a year. He said after the change to July it became immediately clear this was not a good idea because the first year it went into effect the sitting Mayor was not re-elected and did not stay engaged in City business.

Vice-Chairman Cubberley said he advocated for the change when he was on Council, but supports changing the language back to what it was prior to 2003.

Chairman Thompson said it is confusing to citizens to elect an official in February or April, but not have them seated until July. It is also problematic for a Councilmember or Mayor when they are elected for the position, but have to wait months to be sworn in and seated. He said many times elected candidates will try to involve themselves in the process before it is really appropriate.

Member Dillingham agreed and said once a candidate has been certified by the Election Board as having won the election then that candidate should be sworn-in and seated as soon as possible.

Members felt the seating of newly elected officials should be tied to the certification of the election results.

Items submitted for the record

1. Article II, Section 2-- Mayor and Councilmember's Term Expiration
2. Chart of comparable cities – Expiration/Beginning of Terms

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Item 6, being:

DISCUSSION OF ARTICLE II, SECTION 10 OF THE CITY CHARTER THAT WOULD REQUIRE A SITTING COUNCILMEMBER TO RESIGN THEIR POSITION AT THE TIME HE OR SHE FILES FOR ANOTHER CITY, STATE, OR FEDERAL ELECTED OFFICE.

Ms. Walker said in 2005, four Councilmembers suggested an additional change to the Charter that would have required City employees running for partisan political office to take a leave of absence upon filing for office. City Council did not send language forward to a vote. Although previous CRC's have considered how to best address employees who run for elected office, the proposal requiring a sitting Councilmember to resign upon filing for another City, State, or Federal elected office is a novel issue. Ms. Walker said Oklahoma statutes prohibit dual office holding such that a sitting Councilmember cannot also serve as Mayor, state representative, federal representative, etc. State law also provided that candidates may file for no more than one office at any one elections. Staff has provided a chart comparing Norman's current Charter provisions regarding Councilmembers filing for another elected office with other cities related provisions. The cities cited in the chart are all cities in Oklahoma that are of similar size, population, and proximity to metropolitan areas. She said Staff could not find any information on what happens when a City Councilmember files for another office. She said Councilmember Scott will be running for a Senate seat this spring and if she wins that election, she cannot continue to serve on Council.

Member Eller said this is a terrible idea that someone wanting to run for State Senate would have to resign their City Council position.

Member Stawicki said he would not support this proposal.

Member Prather said she does not like the process of replacing a vacant seat with anything other than an election and felt it would happen more often if this precedence was set.

Member Vinyard said his concern is that a Councilmember running for another office may not do an effective job for the City or the other office.

Chairman Thompson asked members if they wanted to move forward with the proposal and members said no, they want to leave it alone.

Items submitted for the record

1. Article II, Section 10 – Resignation upon Filing for another Elected Office
2. Chart of comparable cities – Proposed Resignation Language

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Item 7, being:

DISCUSSION OF ARTICLE II, SECTION 10 OF THE CITY CHARTER THAT WOULD REQUIRE A CANDIDATE FOR CITY COUNCIL TO RESIDE IN THE WARD IN WHICH HE OR SHE SEEKS ELECTION FOR A MINIMUM OF SIX MONTHS PRIOR TO FILING FOR SAID OFFICE.

Ms. Walker said the Charter currently requires that a Councilmember candidate reside in Norman for six months prior to filing for office. There is not a specific ward residency requirement in the Charter at this time. She said Staff has provided a chart of comparable cities for Mayor and Council residency requirements.

Member Stawicki said there should be some type of residency timeframe, but six months may be a bit long and suggested half that time. He said sometimes people decide to run for Council at the last minute and may not have that intent six months before the election. He made his decision to run for Council the day before the filing period opened; however, he had lived in his ward for years.

Vice-Chair Cubberley said it would seem to be a disservice to the ward if someone is able to move into the ward at the last minute then file for office in that ward. He said wards are different and have their own quirks and interests. He said a person running for a specific ward should have an understanding of that ward so six months is not an unreasonable time to get to know the area.

Member Jennings said she likes the six month rule because she lives on the east side and several of the poorest Norman residents live there so having no limit marginalizes poor people. She said it is an advantage for wealthier folks to move into a ward for a month or so to see how things go and then leave if they choose to leave. She said six months give someone time to learn the neighborhood and getting a true sense of that part of the City.

Member Jungman felt the voters could decide who they want for Council in their ward so he would not change anything.

Member Eller agrees with Vice-Chairman Cubberley that wards are different and have different needs so he supports living in a ward six months before being able to run for Council in that ward.

Member Jungman said he has a problem with government telling people they cannot run for office. He said the requirement to live in Norman for at least six months prior to filing is good enough.

Member McBride said he supports a requirement for living six months in a ward, but he would like to see if there is language that could address what would happen to a person if there were a ward boundary change. If that person ended up in a different ward where they had not lived in for six months, would that adversely impact that person?

Member Vinyard asked how residency is defined in the Charter because given some of the questions tonight, this needs to be addressed.

Item 7, continued:

Member Eller said it would be nice to create language that defines residency/domicile and Members concurred. Ms. Walker said she would do some research to bring draft language back to the Committee.

Items submitted for the record

1. Article II, Section 10 – Requiring a Person to Reside in a Ward for a Minimum of Six Months in order to be an Eligible Candidate for a Councilmember Position
2. Chart of comparable cities – Minimum of Six Months Residency in Ward

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Item 8, being:

DISCUSSION OF ARTICLE II, SECTION 22 OF THE CITY CHARTER TO CONSIDER ALLOWING THE OUTGOING COUNCILMEMBER CREATING THE VACANCY TO APPOINT HIS OR HER SUCCESSOR, UNLESS SUCH VACANCY HAS BEEN CREATED DUE TO REMOVAL FROM OFFICE AS A RESULT OF PROCEEDINGS BY A COURT OF COMPETENT JURISDICTION.

Ms. Walker said currently, the Mayor and Council can appoint a successor, but if that is not done within, 60 days, a special election must be called. In the past, Councilmembers have made recommendations on who Council should consider for the vacancy; however, many times there would not be majority vote (five affirmative votes) for one person so the names were placed into a “hat” and someone would draw a name and that person would fill the vacancy. She said this process is awkward for the person pulling the name out of the hat as well as the person whose name is not drawn. More recently, the City Clerk has accepted applications and a Review Board Committee interviews the candidates then recommends a person to Council for a vote. She said an amendment suggested by former Councilmember Castleberry in 2019, was to allow an outgoing Councilmember to appoint their own replacement. She said a subsequent amendment by Councilmember Petrone would mandate a special election be held for any Council vacancy. She said Staff has provided a chart of comparable cities for filling Mayor and/or Council vacancies.

Member Dillingham said whatever the process is, it should be consistent each time there is a vacancy to fill.

Member Jungman said the proposal to allow a Councilmember to choose their own replacement is absurd and feels candidates going through a Committee process is more practical.

Member Stawicki said if there is more than six months left on the vacating Councilmember’s term, there should be a temporary appointment until an election can be held. He does not support a Councilmember appointing their own replacement. He felt that any person filling a vacancy should be appointed through a consistent, designated procedure.

Item 8, continued:

Member Dillingham prefers the Committee process of recommending one name for a majority vote of the Council because elections can be costly and time consuming. She said vacant seats should be filled as quickly as possible and an election could take more time than a Committee's recommendations so she would like to craft language for that.

Former Councilmember Castleberry asked what would happen if the Committee sends one name forward and Council rejects the person and Chair Thompson said the process would start over. Other members felt a special election should be called if Council rejects the recommended candidate.

Member Prather said she is fine with a Committee recommending one name, but can there be an alternate process if Council rejects that person.

Ms. Walker said she will draft language for a specific process as well as a special election process for the Committee's review.

Items submitted for the record

1. Article II, Section 22 – Filling Vacant Council Positions
2. Chart of comparable cities

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Item 9, being:

Miscellaneous Discussion.

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Item 10, being:

ADJOURNMENT.

Chairman Thompson declared the meeting adjourned at 7:15 p.m.