

CHARTER REVIEW COMMISSION MINUTES

May 2, 2013

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Conference Room on the 2nd day of May, 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.

Item 1, being:

CALL TO ORDER AND ROLL CALL.

PRESENT:

Ms. Jane Abraham
Mr. Trey Bates
Ms. Carol Dillingham
Mr. Harold Heiple, Chairman
Ms. Samantha Kahoe
Mr. Ken McBride
Mr. Richard Stawicki

TARDY:

Mr. Thad Balkman
Mr. Kevin Pipes

ABSENT:

Mr. Doug Cubberley, Vice-Chairman
Mr. Hal Ezzell
Mr. Barry Roberts
Mr. Bob Thompson

STAFF PRESENT:

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

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MINUTES OF April 4, 2013.

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

Items submitted for the record

1. Charter Revision Committee minutes of April 4, 2013

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

YEAS:

Members Abraham, Bates, Dillingham, Kahoe, McBride, Stawicki, and Chairman Heiple

NAYES:

None

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

Item 3, 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 in the April 4, 2013, meeting there was consensus that the ordinance language was good, but Charter language needed to be redrafted and the Charter Review Commission (CRC) asked Staff to tie the two together and bring back for further discussion. Members reviewed the drafted language.

Member McBride moved that the proposed language amendments to Article III, Section 7, as outlined below be approved, which motion was duly seconded by Member Abraham;

Any employee seeking elected office may be required to take a leave of absence as prescribed by the Norman Code of Ordinances and/or the City Personnel Manual. Such requirements shall be consistent with applicable state and federal laws.

Items submitted for the record

1. Memorandum dated April 29, 2013, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Members of the Charter Review Commission
2. Proposed amendments to Article III, Section 7 – City employee’s run for partisan political office
3. Draft ordinance
4. Potential Changes to the City of Norman Personal Manual
5. Amended Charter Revision Ad Hoc Committee minutes of May 25, 2005
6. Charter Revision Ad Hoc Committee minutes of June 15, 2005

and the question being upon approving the proposed language amendments to Article III, Section 7, as outlined above, a vote was taken with the following result:

YEAS: Members Abraham, Bates, Dillingham, Kahoe, McBride, Stawicki, and Chairman Heiple

NAYES: None

Chairman Heiple declared the motion carried and the proposed language amendments to Article III, Section 7, as outlined above were approved.

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Item 4, being:

BEGIN REVIEW OF 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.

Member Stawicki said the reason the Charter language was adopted in 1975 requiring utility rate increases be voted on by the public is because the City of Norman raised utility rates, basically doubling them. He said there was huge dissention among citizens who lobbied for a way to prevent this from happening in the future.

Item 4, continued:

Chairman Heiple said the rates did double, but they doubled because the Mayor decided the only way to continue paying additional police officers after a grant expired was to raise utility rates. He said in the 1970's utility revenues represented a larger portion of revenue than sales tax in the City of Norman's budget. He said the decision to double rates alienated many citizens and resulted in the Charter change as well as the formation of the Ward System. He said up to that time there were no Council Wards and when someone ran for Council they were elected city wide and did not represent a specified area. He said the Charter provision and the proposed Ward System went to a vote of the people and passed; however, the City litigated to appeal the votes, but the Supreme Court upheld the votes. He believed Norman is the only governing body in the United States with this Charter provision and it has resulted in

Item 4, continued:

the City being reactive instead of proactive as Council does not want to call for a utility rate vote every year so they wait until a 30% to 40% increase is needed before going to a vote of the people. He said he has always been opposed to taking control of the budget away from the governing body, but citizens are not willing to give up this right.

Chairman Heiple said this Charter provision has affected the City's ability to partner with other cities in regional water right discussions. Oklahoma City (OKC) said Norman will not have the funds needed to secure water rights from another region. Chairman Heiple said he fully agrees the public has the right to vote on water rate increases. He asked if the 2005 Charter Commission recommend maximizing the rate increase up to 3% annually and requiring a vote of the people for anything higher. He said the 2005 Committee discussed a rate as high as 5%.

Member Bates said he was ten years old when this took place and it is one of his earliest memories of government policy causing a stir among citizens. He said over the last few years he has seen the City's inability to plan and the swing of being in an underfunded state to having to propose an increase that has an added buffer in place for fear of having to come back and ask for an increase later. He said the process has created a burden for the City over the years. He said the current overall water issue the City is facing is unlike anything they have faced in the past. He said the necessity of a regional or local solution changes the dynamics. He said the City must have the funding sources to provide adequate services to the citizens and his biggest concern is that 3% will not really provide the tool to ensure the City can meet the needs of its citizens. He said the City of Norman is the only City that has this type of Charter provision and it would be great to move forward with a recommendation..

Chairman Heiple asked members if they felt 3% was adequate and Member Abraham said she did not. She said OKC has a utility trust authority and utilities rates are structured to be increased slowly over time and rate increases are spread out over a five year period so it is not a huge burden to citizens. She said this allows the City and citizens to plan for the increases. Chairman Heiple asked if the OKC City Council is the utility trust authority and Ms. Abraham said no two Trust members are Councilmembers and the remaining are private citizens. The Trust votes with concurrence from Council.

Member Dillingham said she would like to know if 3% was be adequate to allow utilities to plan for the future. She said in the past, Mr. Ken Komiske, Director of Utilities, presented graphs and charts to Council that depict exactly how quickly the City falls behind over time. She would like the Commission to review information and have input from the public before making a recommendation to Council. She thought a 5% increase was a closer percentage to what is actually needed.

Item 4, continued:

Councilmember Castleberry said, typically, the biggest cost to City utilities is salaries and every time the City goes through arbitration, salaries increase 3% to 4% so a 3% rate increase will not keep up with inflation, it will just keep up with salaries, not infrastructure or additional water supplies. He said in the 1970's 18% was a typical interest rate and currently people are used to a low interest environment so that 3% seems like a lot, but it is not that high historically. He said most people believe that ten years from now interest rates will be close to 10%. He felt that having a cap would be problematic and said in theory, voters do get to vote on every rate increase because half of the Councilmembers are up for election every year so if they were to raise the rates too much they would be voted out of office. He said the FYE 2014 Budget is anticipating a 35% rate increase and that is just to maintain status quo. Mr. Jeff Bryant, City Attorney, said the 35% rate increase in the budget is a sewer rate increase in anticipation of an expansion of the south plant, which will require a vote of the people. He said utility funds are capital intensive and what arbitrators do in labor negotiations are not as determinative on utility funds as it would be for police, fire, or the General Fund. He said rates are funding intense capital improvements, not salaries.

Member Kahoe asked if there is an option to adjust the language so that it leaves the decision up to Council to determine the rate increase percentage and Chairman Heiple said the Commission can recommend anything they want. He said the suggestion is to give Council the authority to raise rates up to maximum percentage to be determined by the Council and submitted to the voters. Member Stawicki said the CRC could suggest language, but it could be ignored like it was in 2005. Ms. Brenda Hall, City Clerk, said the resolution creating the CRC states Council will vote on each recommendation separately and all recommendations will get discussed in a public meeting.

Member Bates said he would like to know the range of other community's regulations. He said the concern seems to be that if the City did not have this Charter provision, the Utilities Department would just go crazy raising rates every other week. He wanted to know what other communities have done over the past ten years and what kind of rate increases have they had versus what the City of Norman has had, with or without caps. Chairman Heiple said he would be more comfortable with twenty years and Member Dillingham agreed.

Member Kahoe asked if there is any indication that a cap would allow the City of Norman to join OKC in the water consortium and Chairman Heiple that is what the CRC is trying to determine.

Member McBride said no one knows what a capital interest rate will be one year from now much less five years from now and no one is certain what the water situation will be as far as availability or cost. He thinks whatever percentage is used means that in some period of time this whole process will have to be done again. He is concerned that the history that prompted the Charter provision was the use of the utility rates to raise money for other purposes. He said as a citizen he expects his utility rate to bear some relationship to the cost of providing those services and he would not like to be told that an increase of 10% was needed, but Council could only increase rates a maximum of 5% so he could not have service. Member McBride asked if language could indicate that any increase in rates must bear a relationship to the cost of the service and Chairman Heiple said yes, but the CRC needs to be realistic and recommend something the Council will move forward with because anything moved forward must have the support of the voters.

Member McBride said his concern about recommending a percentage is that he has seen maximum percentages become minimum percentages too many times over the years. Chairman Heiple agreed and said that is why the CRC must make a recommendation that is supported by the voters and has a reasonable chance of passing. He said in Norman today, there is not a lot of confidence in the City Council, not the nine currently serving, but the Council in general and that is a factor in these discussions. Member Dillingham said citizens have not lost confidence in government as a whole and it is just beginning to trickle down to the local government level. It is a

Item 4, continued:

fact that Enterprise Funds have to stand on their own, but getting that into the minds of the voters so they believe it will be difficult. She hates the idea of percentage as well, but believes CRC does not have the ability or the credibility to do the type of public education necessary to get voter's approval and this is crucial to the fiscal stability to fix the problem. She said Norman cannot play in a regional economy unless we remove this Charter provision and that will have to be done in two steps. Member Bates agreed and said part of that atmosphere is a result of politicizing basic services and basically holding a sword over the heads of government in their ability to do their job. He said at the end of the day if voters can be convinced that the effect of this recommendation has saved the rate payers tremendous amount of money and couple that with the reasonable argument that if this provision should go away the world will not end then wrap it up with the reality of the problems the City will be facing in the future then maybe citizens will listen and understand.

Chairman Heiple said this is a three prong situation, 1) leave the provision in, 2) take it out completely, or 3) suggest an alternative. He felt the CRC has an obligation to send a recommendation to Council and hopefully Council will move forward in some way and not just leave it on the shelf as they have done before.

Member Stawicki said if the CRC is looking at percentages and is worried about whether 3% or 5% is enough, the percentage could be based on the Consumer Price Index (CPI). Language could state that any rate increase cannot exceed the previous year's CPI. Chairman Heiple asked if the CPI even still exists and Councilmember Castleberry said yes, but the current Administration changed the way it is calculated twice. He said if you use the CPI as calculated in 1980 the percentage is 6.2% and if you use the CPI as calculated in 2013 the percentage is 4.4%.

Member McBride said he is intrigued by the thought of some type of floating rate but is not familiar with that. He said if CRC is going to talk about capital markets then they might tie it to some rate that is easily determined in the capital market. He said there needs to be some publicly transparent benchmark that is market driven rather than determined by a group of people.

Chairman Heiple said this discussion will continue in the next meeting as well as beginning discussion on updating language for the Reapportionment Commission.

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Item 5, being:

ADJOURNMENT.

Chairman Heiple declared the meeting adjourned at 6:30 p.m.