

CHARTER REVIEW COMMISSION

Municipal Building Conference Room
201 West Gray
Norman, Oklahoma

Thursday - August 1, 2013
5:30 p.m.

1. Call to order and Roll Call
2. Consideration of approval of the Charter Review Commission minutes of June 6, 2013, and the Public Hearing minutes of June 27, 2013.
3. Continued discussion 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 and possible action.
4. Discussion of Article XX to consider amending or updating the Reapportionment Commission process or procedure.
5. Discussion regarding the Charter Review Commission's quarterly report to Council on August 6, 2013.
6. Adjournment.

CHARTER REVIEW COMMISSION MINUTES

June 6, 2013

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Conference Room on the 6th 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.

Item 1, being:

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
Mr. Hal Ezzell
Ms. Samantha Kahoe
Mr. Ken McBride
Mr. Kevin Pipes
Mr. Richard Stawicki
Mr. Bob Thompson

ABSENT:

Mr. Thad Balkman

TARDY:

Mr. Barry Roberts

STAFF PRESENT:

Mr. Jeff Bryant, City Attorney
Mr. Anthony Francisco, Director of Finance
Ms. Brenda Hall, City Clerk
Mr. Ken Komiske, Director of Utilities
Ms. Kathryn Walker, Assistant City Attorney

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MINUTES OF MAY 2, 2013.

Member McBride 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 May 2, 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, Cubberley, Dillingham, Ezzell, Kahoe, McBride, Pipes, Stawicki, Thompson, and Chairman Heiple

NAYES:

None

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

Item 3, being:

CONTINUED DISCUSSION OF ARTICLE XVI, SECTION 2, TO CONSIDER WHETHER THE CITY COUNCIL SHOULD BE EMPOWERED TO INCREASE UTILITY RATES NOT MORE THAN THREE PERCENT (3%) ANNUALLY WITHOUT REQUIRING A CITY WIDE VOTE AND POSSIBLE ACTION.

Chairman Heiple said during the meeting in May, the Charter Review Commission (CRC) began discussion regarding the Charter requirement that utility rates could only be increased by a vote of the people. He said the CRC can leave the provision in, take the provision out completely, or suggest an alternative. He said CRC members requested additional information regarding historical utility rates in Norman and a comparison of rates to other benchmark communities.

Mr. Ken Komiske, Director of Utilities, highlighted the historical utility rates. He said if the City had the ability to raise rates incrementally, as needed, over \$5 million dollars in revenue would have been generated for residential water usage, \$12 million for water reclamation, and \$12.5 million for sanitation services. He said Norman has one of the lowest utility rates when compared to other communities in Oklahoma. Chairman Heiple said a gradual increase of rates would have allowed rates to level off over the years and would not be as high as they are today.

Member Dillingham asked if there is anyone in the community the CRC should have testimony from because this issue will garner politically charged discussions. Chairman Heiple asked if she had someone specific in mind and Ms. Brenda Hall, City Clerk, said a public hearing will be held at the end of June for public input and the CRC may choose to discuss this issue further after the public hearing prior to making its final recommendations to Council.

Member Dillingham asked Mr. Anthony Francisco, Director of Finance, if Council changed the Charter to some theoretical percentage did he have any idea what that percentage would need to be. Would three percent (3%) be enough and would six percent (6%) be too much? Mr. Komiske said there is no crystal ball, but as an example, Oklahoma City (OKC) establishes their rates for a three year period and recently raised their water rates by four percent (4%). He said OKC also publishes their rates so businesses or anyone interested in moving to OKC will know what the rates are for the next three years. Member Dillingham said she did not know whether the business or development community that changing the Charter provision by itself would so negatively impact businesses that someone may not want to open a business in Norman.

Chairman Heiple asked Member Abraham, who is employed by the City of OKC, if there has been any reaction from people of minimal income in OKC complaining about a four (4%) percent increase and she said there has been no significant, negative public outcry. She said OKC's rationale is that an incremental change over time that is well published and backed up by infrastructure needs is appropriate. She said the water utility in OKC is supported by rate payers and is a self-contained public utility so rate increases are not going to fund anything other than that utility's needs. Member Dillingham asked if OKC has a hardship exception and Member Abraham said yes, rate payers can round-up their utility bill and that overage funds hardship cases.

Chairman Heiple said if the CRC is going to recommend a percentage, language should be included that allows the City Council to set planned future programmed increases. He said Member Thompson has expressed that he does not want to change the provision and asked Members their opinion on whether to eliminate the provision or set a percentage.

Member Thompson said for his own clarification, if the Charter provision was eliminated completely would the rate increase be subject to a vote of City Council only, and if the percentage option were to be used, what would happen if the percentage did not meet the costs. He said if the City has a very large project on the horizon, that would need to be calculated into the percentage.

Item 3, continued:

Member Pipes said what he is hearing is Norman cannot participate in regional water discussions or pay for future utility needs with a percentage cap because there will continue to be major capital improvement projects.

Member Ezzell said to say the principle driver behind changing the provision is participation in a Regional Water Trust Authority is an oversimplification. He said there are a lot more moving parts that impact the decision than whether or not Norman can participate in regional water discussions. He said that is just one consideration of many and it is the CRC's duty to make a recommendation and if Council chooses to moderate or compromise that then that is their choice to do when they are hearing input at that time. He felt the CRC should push forward a clear recommendation with language and a basis for that language, but not push forth multiple alternatives.

Member Bates said there are three reasons he supports eliminating the provision altogether. 1) It would resolve a number of problems such as the regional water solution, problems with the way the rates are managed, and the difficulty of planning for the future due to the restrictive provision. 2) Members need to be sure they are comfortable that they are not opening a Pandora's Box or being accused of that; however, the easiest way to prove it is not true is to look at other communities who do not have such a restriction and have not allowed their rates to get so out of control that their citizens are not protected. He said look at other communities and say, "Ok, well those communities have not gone crazy with their rates, why do you expect Norman to go nuts?" That would not make sense because there is no foundation for it. 3) The basis for this Charter provision and the reason Norman is the only community to have this provision in the first place is not applicable anymore. At the time this provision was enacted, the City was actually trying to generate revenue for the general operation of the city on the back of water rates. That circumstance and environment provided for that situation no longer exists. He said the ability to play well with other communities, address long term water needs, and be in control of our own destiny is definitely limited when the City cannot even control their own rate structure. He said at the end of the day there is a bunch of scariness out there, but no other community that allows their Utility Department to raise and manage their rate structure has gone amuck. He said you can point to every other community and say there are sufficient checks and balances and oversight to ensure such thing would not happen.

Member Cubberley said a fourth reason is that it is expensive. He said it costs the City money to keep this Charter provision and the cost is in deferred maintenance, in selling bonds, in insurance paid on the bonds, and the higher rate the City has to pay on bonds. He said there is a cost attached to this provision and that is the reason he has concluded the provision does not make sense. He said Member Bates pointed out some very good reasons for eliminating this Charter provision and felt the CRC should forward that recommendation to Council. Member Stawicki pointed out it also costs money for the elections themselves.

Member Roberts said it sounds like an all or nothing scenario. If the CRC recommended a percentage that was not functional in terms of the water utility it would be self-defeating and there would be no point in making that change. He said if the CRC forwards that recommendation to City Council then they have not helped much at all. Member Dillingham agreed and said setting some percentage does not solve the problem of making sure the City can meet additional costs of capital projects as capital projects can be very costly. She said if the City encountered some type of cataclysmic event such as a tornado that destroys one of the treatment plants and the City could only raise rates up to four percent (4%) the City will still be in the same shape of having to sell bonds and defer maintenance so she would like to eliminate the provision entirely. She said Enterprise Funds by themselves have solved the initial problem of using the monies for anything other than what they are meant to be used for.

Member McBride agreed and said if Council is not responsive to the needs of the citizens, the citizens have recourse. He said citizens trust Council with so many other important financial decisions for the City. He said there are a lot of moving parts and it is difficult to anticipate how complex future water needs may be and what future water decisions will need to be made. He said sometimes the City may not have the luxury of time to hold

Item 3, continued:

an election in order to make those decisions. He said it may end up costing the City a lot of money to be a retail purchaser of water in a circumstance where the City could have participated in some type of wholesale purchase of water through a regional water agreement. He said eliminating the provision could save the City millions of dollars and the circumstances that gave rise to this provision no longer exists, has not existed for years, and there is no justification for the provision. Member Dillingham said that is the other reason that needs to be added to the list reasons to get rid of the provision. She said the choice between being able to elect your City Councilmember who is going to make decisions is so much better than simply being a customer of some other entity where you have absolutely no control over your rates.

Member Thompson disagreed with some of the points raised. He said there has always been a philosophical division between growth and no growth in Norman and there is always controversy about the strength of the pro-business, pro-development community and this is one of their issues. He said when he was on Council there were enough votes that Council could have shoved through a Stormwater Master Plan if they had wanted to. He said that could have been a very costly disaster for the development community as a utility with long term commitment to the community. He said Council was held back from doing that because it would have taken a vote of the people and that is a very complex thing. At that point, this Charter provision proved itself to not just be a protector of the residential community, but also a protector of the community as business people. He said it serves to limit the ambition of one side of the community versus the other. Chairman Heiple felt the difference between the Stormwater Master Plan, which was such a multi-faceted, hugely expensive monster and the simple question of do we or do we not get rid of this provision is like night and day in comparison.

Member Stawicki said he would support the majority decision of this committee on this subject only because citizens have the right to vote on the changes; however, he felt if Council wants this to pass there needed to be restrictions.

Member Kahoe moved to approve a recommendation that Council submit to the voters the question of removing Article XVI, Section 2, from the Charter in its entirety, which motion was duly seconded by Member McBride;

Items submitted for the record

1. Memorandum dated June 3, 2013, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Members of the Charter Review Commission
2. PowerPoint presentation entitled, "Charter Review Commission, Article XVI, Section 2, Public Utilities," dated June 6, 2013

and the question being upon approving a recommendation that Council submit to the voters the question of removing Article XVI, Section 2, from the Charter in its entirety, a vote was taken with the following result:

YEAS: Members Abraham, Bates, Cubberley, Dillingham, Ezzell, Kahoe, McBride, Pipes, Roberts, Stawicki, and Chairman Heiple

NAYES: Member Thompson

Chairman Heiple declared the motion carried and a recommendation that Council submit to the voters the question of removing Article XVI, Section 2, from the Charter in its entirety, was approved.

Item 3, continued:

Member Roberts wanted clarification on the vote. He asked if this recommendation means the ultimate result for the removal of this provision would place the rate increase decisions strictly within the vote of the City Council and Chairman Heiple said that is correct. Member McBride said removing this provision would make the Charter more consistent with every other City in the State. Member Pipes said there is one other town in Oklahoma that has some type of provision similar to Norman's and Mr. Jeff Bryant, City Attorney, said that was Chickasha, but they repealed that provision.

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Item 4, being:

BEGIN REVIEW OF ARTICLE XX TO CONSIDER AMENDING OR UPDATING THE REAPPORTIONMENT COMMISSION PROCESS OR PROCEDURE.

Ms. Hall said Council requested Article XX be reviewed because the Charter currently states the Reapportionment Commission has to meet every year to review Ward boundaries to determine if population has changed such that the boundaries need to be adjusted. She said the Charter states a specific time and date when the Commission must meet. She said there are many years in which the Reapportionment Commission makes no recommendation so it was suggested the Commission meet during Census years only. Chairman Heiple asked former Councilmembers their thoughts on the matter and Member Cubberley said when he was on Council he represented an area that had three different Councilmembers in three different Wards over a ten year period. He said citizens have no chance to get to know their Councilmember and there is tremendous confusion on behalf of the voters when they get ping ponged around. He said there is a good reason to review the population every census year, but the constant yearly threat of changes just because there may be a population increase in a Ward is not really good. He said the changes usually occur in small areas that are contiguous to other Wards. He felt every ten years would be adequate for review of Ward boundaries.

Member Thompson said another problem is the Reapportionment Commission makes a recommendation and Council decides not to follow that recommendation and makes no changes. Members of the Reapportionment Commission were insulted they had spent so much time working on changes and Council did not follow the recommendation.

Chairman Heiple said Charter language is conflictive and should have been changed years ago. He suggested deleting the second paragraph of Article XX, Section 2, and asked Staff to provide language for review at the next meeting. Mr. Bryant said Staff would draft language to follow Federal law.

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Ms. Hall said the next public hearing needs to be held in late June and Chairman Heiple suggested Thursday, June 27, 2013, at 6:30 p.m. He said there will be no meeting in July and meetings will resume August 1, 2013.

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Item 5, being:

ADJOURNMENT.

Chairman Heiple declared the meeting adjourned at 6:27 p.m.

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.

Charter Review Commission Public Hearing Minutes

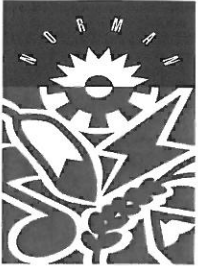
June 27, 2013

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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.



DATE: July 29, 2013
TO: Members of the Charter Review Commission
THROUGH: Jeff H. Bryant, City Attorney *JHB*
FROM: Kathryn L. Walker, Assistant City Attorney *KLW*
RE: Materials for the August 1, 2013 Meeting

At the June meeting of the Charter Review Commission, the Commission continued its discussion of Article XVI, Section 2 (utility rate increases). Information regarding historical utility rates in Norman and a comparison of rates to other benchmark communities was provided as well as a comparison of the effect of instituting a gradual rate increase versus larger, but less frequent, rate increases. The Commission voted to recommend striking Section 2 of Article XVI, which would delete the requirement for a citizen vote before any utility rate increase. A summary of that discussion and the language as approved is attached for your review.

Additionally, the Commission began its discussion of Article XX, Reapportionment Commission. A summary of the discussion and applicable law, as well as operational concerns related to the Commission, is attached for your review.

Staff will be available at the meeting on August 1, 2013 to answer any questions you may have.

office memorandum

CHARTER REVIEW COMMISSION

Thursday – August 1, 2013

Continued Discussion

Article XVI, Section 2 – Utility rate increases.

Background:

Article XVI, Section 2 requires that before a utility rate increase can be imposed, the question of the increase shall be submitted to the voters for approval or rejection. The 2005 CRC studied this provision and recommended that it be changed to authorize increases in utility rates of up to 3% per year without requiring an election. Under the 2005 CRC proposal, any increase greater than 3% would require voter approval. The City Council did not move this proposal forward for voter consideration at that time. In Resolution No. R-1112-109, the current CRC was asked to “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.”

The current CRC discussed this provision at its May and June meetings, and ultimately requested that Staff draft language eliminating the requirement for a vote precedent to any utility rate increase. The requested language is provided below.

Language Based on May/June Discussion:

Section 2.

~~Precedent to an increase in utility rates within the control of the City of Norman, such increase proposal must be submitted to the legal voters of the City for their approval or rejection at the next regular general election, or at a special election which might be called for such purpose. This section is self-executing and shall supersede all provisions in conflict therewith; legislation may be enacted to facilitate its operations but no ordinance shall limit or restrict the provisions thereof.~~

CHARTER REVIEW COMMISSION

Thursday – August 1, 2013

Continued Discussion

Article XX. Reapportionment

Background:

Article XX of Norman’s Charter currently requires that there be a Reapportionment Commission whose purpose it is to review the ward boundaries in Norman to ensure that the population of each ward is equal, as nearly as practicable. Additionally, wards are to be formed “of compact, contiguous territory with boundaries drawn to reflect and respond to communities of common interest, ethnic background, and physical boundaries, to the extent reasonably possible.” The Reapportionment Commission is required to refer to City Council a resolution establishing and adjusting ward boundaries to comply with these requirements within ninety (90) days of the issuance of each Federal Decennial Census. The Reapportionment Commission can also recommend reapportionment at other times, such as when property is annexed by the City or when changes are necessitated by an increase, decrease or shift in the residence of the population of the City. The current Charter provision contemplates that the Reapportionment Commission should meet at least annually. In the past, Reapportionment Commissions have studied and in proposed changes in Ward boundaries more frequently than once every 10 years.

State law (11 O.S 20-101) requires that the municipal governing body review wards and ward boundaries as soon as practicable following each federal census to ensure the wards are formed of compact and contiguous territory and are substantially equal in population. Additionally, the municipal governing body, to the extent practicable, should avoid dividing precincts established by a county election board in establishing ward or council boundaries.

During the June CRC meeting, Commission members expressed concerns that changing ward boundaries too frequently results in voter confusion.

Federal case law has addressed the question of frequency for adjustment of legislative boundaries in a number of cases. In *Reynolds v. Sims*, 377 U.S. 533, 583 (1964), the U.S. Supreme Court stated that the “[D]ecennial reapportionment appears to be a rational approach to readjustment of legislative representation in order to take into account population shifts and growth.” In a review of relevant federal case law, a law review article provided the following summary:

Where there is no evidence of a legislative body refusing to redistrict yet finds itself facing an election “on the cusp of [a] decennial census,” courts have generally been less apt to require either a redistricting before the election, or throwing out election results based on an old census and holding special elections, finding it more important to preserve district stability. *French v. Boner*, 963 F. 2d 890, 891-92 (6th Cir. 1992). Courts

have held that population shifts alone at the end of a ten-year census cycle do not create such an actionable claim. *Fairley v Forrest County*, 814 F. Supp. 1327 (S.D. Miss. 1993). In addition to preserving district stability, courts have found redistricting between censuses to be inherently inaccurate anyway, given that the data relied upon is necessarily from the last census, which may have been some years previous. See *Simkins v. Gressette*, 495 F. Supp. 1075 (D.S.C. 1980). However, where a state fails to redistrict because of political squabbling and not due to any rational state policy, or where an existing districting scheme is found to be discriminatory, courts have been willing to step in and order an immediate redistricting even when the result will be delay of upcoming elections or using data other than census data to form new districts. See *Farnum v. Burns*, 548 F. Supp. 769 (D.R.I. 1982).

David J. A. Bargaen, The Frequency of Redistricting in Nebraska and the Balance Between One Person, One Vote and Electoral Stability: How Often Is Too Often?, 82 Neb. L. Rev. 575, 593-94 (2003).

In talking with staff members that assist the Reapportionment Commission, other practical concerns have arisen in the reapportionment process that could be addressed through a Charter amendment. Article XX, Section 2 requires that the Commission meet on the second Monday of July of each year at 7:30pm. There have been occasions when a quorum of the Commission have not been available at the time set forth in the Charter. This issue could be addressed by simply requiring an annual meeting at a time so determined by the Director of Planning and Community Development.

Additionally, Section 3 requires the Commission to refer a resolution to the City Council establishing and readjusting ward boundaries within ninety (90) days of the issuance of the Federal Decennial Census. In Section 4, the Commission is required to hold a public hearing at least ten (10) days before the Commission votes on the resolution that will be forwarded to Council. There have been occasions when the public's input of its recommendation has warranted further study by the Commission. After additional study, if the resolution is changed, a second public hearing is required. This process is difficult to conclude within ninety (90) days. This issue could be addressed by lengthening the ninety (90) day timeframe to one-hundred and twenty (120) days.

Amendment based on CRC Discussion:

Section 1. – Reapportionment Commission.

There shall be a Reapportionment Commission, which shall consist of nine voting members appointed by the Council on nomination by the Mayor. All members of the Reapportionment Commission shall be registered voters of the City and shall hold no other office or position of employment in the City government.

Section 2. – Composition of the Reapportionment Commission.

The Reapportionment Commission's members shall be residents and registered voters of the City's wards, (one at-large and one from each ward).

The terms of all nine (9) voting members shall be five (5) years, beginning on July 1. The members so appointed shall, at a regular meeting each July ~~of each year subsequent to July 1, 1977,~~ meet and elect a new presiding officer and such other officers as the Commission may deem necessary to its proper function.

Vacancies shall be filled by the City Council in the manner set out hereinafter for the unexpired terms.

Section 3. – Criteria for Ward Boundaries.

Subsequent to the issuance of each Federal Decennial Census and ~~within ninety (90)~~ not later than one hundred and twenty (120) days thereof, the Commission shall pass and refer to the City Council a resolution to establish and readjust the wards and their boundaries to comply with the requirements set out herein. Wards shall be formed so as to equalize, as nearly as practicable, the population of the several wards. In addition, each ward shall be formed of compact, contiguous territory with boundaries drawn to reflect and respond to communities of common interest, ethnic background, and physical boundaries, to the extent reasonably possible. Ward lines shall not create artificial corridors which in effect separates voters from the ward to which they most naturally belong.

Section 4. – Public hearing on proposed boundaries; votes required for passage.

At least ten (10) days before voting on the resolution, the Reapportionment Commission shall hold a public hearing thereon. At least five (5) votes shall be required for passage of the resolution, and the vote on passage shall be by roll call and shall be entered in the minutes of the Commission. A map showing the wards and their boundaries shall be appended to the resolution.

Section 5. – Council shall have final authority.

The resolution shall then be referred to the city Council which shall, within thirty (30) days, conduct a public hearing on the proposed resolution and adopt the resolution without modification, reject the resolution, or adopt the resolution with such modification as the Council deems necessary, the resolutions as an ordinance of the city. In any alteration or amendment of the resolution as proposed by the Reapportionment Commission, the City Council shall use the same criteria for ward boundaries as hereinabove adopted for the use of the Reapportionment Commission.

Thereupon, the new wards and boundaries shall supersede the previous wards and boundaries for purposes of the next primary and general election, and for all other purposes on the day on which the terms of the Councilmembers elected that year begin.

Section 6. – Annexed territory; reapportionment between census report.

When territory is annexed to the City, the Reapportionment Commission, by resolution in the manner provided hereinabove, shall incorporate it into the adjacent ward or wards or shall readjust the wards and boundaries in the manner provided hereinabove, as it deems appropriate.

Further the Commission may, at other periods than those set out above, in the manner and upon the basis stated and provided for herein, consider altering the boundaries of the wards when an twenty percent (20%) or greater variance exists between the least populated ward when compared to the most populated ward due to a increase, decrease, or shift in residence of the population of the City, or other substantial change in the criteria set out above.