

CHARTER REVIEW COMMISSION MINUTES

November 7, 2013

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Conference Room on the 7th day of November, 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:

Mr. Doug Cubberley
Ms. Carol Dillingham
Mr. Harold Heiple, Chairman
Mr. Kenneth McBride
Mr. Barry Roberts
Mr. Richard Stawicki
Mr. Bob Thompson

TARDY:

Ms. Jane Abraham

ABSENT:

Mr. Trey Bates
Mr. Hal Ezzell
Ms. Samantha Kahoe
Mr. Kevin Pipes

STAFF PRESENT:

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

Mr. Thad Balkman resigned his position on the Commission due to his recent appointment to District Judge.

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MINUTES OF SEPTEMBER 5, 2013.

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

Items submitted for the record

1. Charter Revision Commission minutes of September 5, 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 Cubberley, Dillingham, McBride, Roberts, Stawicki, Thompson, and Chairman Heiple

NAYES:

None

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

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Item 3, being:

CONTINUED DISCUSSION OF ARTICLE XX TO CONSIDER AMENDING OR UPDATING THE REAPPORTIONMENT COMMISSION PROCESS OR PROCEDURE.

Chairman Heiple said at the September 5, 2013, meeting, the Charter Review Commission (CRC) continued its discussion of potential amendments to Article XX of the Charter dealing with the Reapportionment Commission. During that meeting the CRC discussed the timing of ward boundary changes with municipal elections and asked Staff to research the effect of changing ward boundaries prior to said election, but after candidates have filed for election

Chairman Heiple summarized Staff's findings. According to Staff research, the current Charter states that candidates for City Council shall "reside in the ward from which they seek election, on the date of their filing" to be eligible for service on City Council. Although the Charter does not specifically address residency on the date of election, Article II, Section 22, explicitly states that ceasing to reside in the ward for which one is elected due to reapportionment *does not* create a vacancy of office. Staff believes that based upon that Charter language, it appears a candidate would not cease to be eligible for ward specific representation if the reason the candidate no longer lives in the ward is due to reapportionment.

State law is more specific than the Charter. Title 11, Section 10-103 states the following:

The councilmembers shall be residents and registered voters of the city. The councilmembers from wards shall be actual residents of their respective wards at the time of their candidacy and election; but removal of a councilmember from one ward to another within the city after his election, or a change in ward boundaries, shall not disqualify him from completing the term for which he was elected.

Under the statutory provision, candidates for ward specific representation must be residents of their respective wards at the time of candidacy and election. A candidate does not become disqualified if he or she ceases to live in the ward for which he was elected to represent due to reapportionment. The City of Norman is a home-rule chartered city under Oklahoma law and is accorded full power of local self-government and has the power to enact and enforce; however, Staff found that in a case involving Norman in the early 1990's, the Cleveland County District Court ruled the state election provisions in Title 11 do not apply to Norman and required the City to seat an elected Councilmember who did not meet the residency requirements set forth in the Charter, but did meet the residency requirements provided in Title 11, Section 16-110.

In the September 5, 2013, meeting Member Cubberley asked if Staff compared the decennial census with Staff projections when the new census is released. Staff does compare projections to actual census data with the release of each census and several changes were made in 2011 as to how Staff calculates population estimates to improve accuracy. Estimates are now based on occupancy permits instead of building permits to account for any units that do not actually get built. Multi-family development estimates are now based on the number of units in the structure instead of an average of all types of multi-family development. Finally, the Census Bureau now publishes the American Community Survey annually, which provides Staff with information to update parameters to catch any mid-decade development shifts.

Item 3, continued:

Chairman Heiple distributed a summary of amendments he prepared that changes the name of the Reapportionment Commission to Reapportionment Ad Hoc Committee throughout the Charter. He also proposed Article XX, Section 2. Composition of the Reapportionment Commission, be changed to read Article XX, Section 2. Appointment and Meetings of the Reapportionment Committee. Another proposal is to change Section 3.- Criteria for Ward Boundaries, as follows:

~~Subsequent to the issuance of each Federal Decennial Census and within ninety (90) No later than one hundred and eighty (180) days after the appointment of the Reapportionment Committee Commission or after the issuance of the Federal Decennial Census when the Committee Commission is appointed pursuant to Section 2(b) herein, the Committee Commission shall pass and refer to the City Council a resolution to establish and retain or readjust the wards and their boundaries to comply with the requirements standards set out herein. Wards shall should be formed so as to equalize, as nearly as practicable, the population of the several wards. In addition, each ward shall should 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.~~

Chairman Heiple suggested the following language be removed from Article XX, Section 6.-Annexed territory; reapportionment between census report.

~~Further the Commission may, at other periods than those set out above, in the manner and upon the basis stated and provided for herein, alter the boundaries of the wards when an increase, decrease, or shift in residence of the population of the City or other substantial change in the criteria set out above.~~

Members Dillingham, Cubberley, and McBride concurred with the proposed amendments.

Member Dillingham moved that the proposed amendments to Article XX as prepared by Staff and further amended by Chairman Heiple be recommended to City Council, which motion was seconded by Member McBride;

Items submitted for the record

1. Memorandum dated October 30, 2013, from Kathryn L. Walker, Assistant City Attorney, through Jeff H. Bryant, City Attorney, to Members of the Charter Review Commission
2. Annotated version of Article XX. Reapportionment
3. Summary of amendments suggested by Chairman Heiple based on September 2013, Charter Review Commission discussion

and the question being upon the proposed amendments to Article XX as prepared by Staff and further amended by Chairman Heiple being recommended to City Council, a vote was taken with the following result:

Item 3, continued:

YEAS: Members Cubberley, Dillingham, McBride, Roberts, Stawicki, Thompson, and Chairman Heiple

NAYES: None

Chairman Heiple declared the motion carried and the proposed amendments to Article XX as prepared by Staff and further amended by Chairman Heiple will be recommended to City Council.

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Item 4, being:

DISCUSSION OF WHETHER OR NOT THERE SHOULD BE A SCHEDULED REVIEW OF THE CHARTER WITHIN THE CHARTER ITSELF AND POSSIBLE ACTION.

In its meeting of September 5, 2013, the CRC began discussion of this topic and expressed a desire for some background information regarding what precipitated the inclusion of this topic. In answer to that, the topic was discussed for inclusion for review in a City Council Conference of December 14, 2011. At that time, there was much debate among Councilmembers about whether or not a scheduled review of the Charter would be imposing current Council desires onto future Council(s). Some Councilmembers felt that the same Charter review topics kept coming back up and while the *easy* issues would be taken care of, the important issues were never resolved because they were considered too controversial. Councilmember Kovach felt it was always difficult for a politician to have a controversial issue on the ballot while running for office at the same time and every year half of the Council is up for election. He felt that by adopting an ordinance to review the Charter periodically, Council would have a mechanism to minimize that problem. He also felt this would not be imposing his will on any future Council, but rather allowing the people to look at the founding document and decide whether or not to make any necessary changes at that time. Member Dillingham was on Council at that time and also believed such an ordinance would not impose current Council's will on future Council(s) any more than any other ordinance.

In the September meeting, the CRC also asked how many Charter review committees have been established during the last twenty years and Staff found the Charter has been reviewed for potential amendments fifteen times since 1902. Ad Hoc Committees were established on nine of the fifteen occasions, five of the nine committees were citizen review committees, and four were sub-committees of Council.

Member Dillingham felt that review of the Charter every ten years would be convenient and Chairman Heiple agreed. Member Stawicki said he is not convinced that the Charter needs a regularly scheduled review and Member Dillingham said the reason she recommends *just taking a look* at the Charter every ten years is because there are so many things that change over time that people forget they are the City's foundational document. She said the Charter needs to be reviewed every once in a while for housekeeping reasons and Chairman Heiple agreed. Member Thompson said Mr. Steve Lewis, City Manager, was the first person to make the suggestion of having a regular review of the Charter. Mr. Lewis stated the Charter needed simple housekeeping changes, but for a few years the Mayor(s) in charge did not want to open Pandora's Box by having a review of the Charter and there was no mechanism in place for anyone to insist that the changes be addressed.

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Item 4, continued:

Chairman Heiple suggested the Charter be reviewed “at least once each ten years” with Council appointing an ad hoc committee to review the Charter for possible amendments. Member Barry felt a time prompt would foreclose the necessity to rely on anyone’s collective memory about the last time a review was done and felt the maximum time should be “no more than ten years” and members agreed. Member Cubberley asked who would be responsible for ensuring the review happened as scheduled and members felt the City Attorney or City Manager should be responsible.

Member Jane Abraham arrived at 5:50 p.m.

Chairman Heiple asked the City Clerk to prepare a list of the eight recommendations to Council for the CRC to review in the December meeting to make sure everyone was in agreement on each recommendation. He said another item to discuss in December is whether or not the CRC wants to propose additional topics to discuss and ask Council’s permission to discuss those topics. He suggested the next public meeting be held the week following the December meeting for public input on the eight recommendations.

Items submitted for the record

1. Scheduled Review of Charter – Pertinent excerpts from City Council Conference discussion of December 13, 2011
2. Summary of Charter amendments

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Item 5, being:

ADJOURNMENT.

Chairman Heiple declared the meeting adjourned at 5:50 p.m.