

CHARTER REVIEW COMMISSION MINUTES

May 17, 2021

The Charter Review Commission met at 5:41 p.m. in a virtual meeting in the Municipal Building Council Chambers on the 17th day of May, 2021, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 24 hours prior to the beginning of the meeting.

CALL TO ORDER AND ROLL CALL.

PRESENT:

Mr. Trey Bates
Mr. Doug Cubberley, Vice-Chairman
Mr. Jim Eller
Mr. Tom Hackelman
Mr. Kenneth McBride
Mr. Richard Stawicki
Mr. Bryan Vinyard
Ms. Shon Williamson-Jennings
Mr. Bob Thompson, Chairman

ABSENT:

Ms. Aisha Ali
Ms. Carol Dillingham
Mr. Jim Griffith
Mr. Greg Jungman
Mr. Kevin Pipes

STAFF PRESENT:

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

Item 2 being:

DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE XIII, RECALL OF ELECTIVE OFFICERS TO PROVIDE A RECOMMENDATION ON WHETHER THE LANGUAGE SHOULD BE MODIFIED.

Ms. Kathryn Walker, City Attorney, said for the first time in the City's history, multiple recall petitions were filed last summer against several Councilmember and the Mayor. Although Article XIII, Recall of Elective Officers, has been in the Charter for many years, these provisions have not really been tested. Having utilized the provisions in the Charter in an actual recall scenario, Staff identified several things that could be changed to make the process clearer and better.

At the last Charter Review Commission (CRC) meeting, Commissioners discussed multiple items and whether or not to make recommendations to Council.

Item 2, continued:

Ms. Walker Highlighted items discussed with input from the CRC as follows:

Section 1 – Time of commencing proceedings

The CRC discussed whether the limit on recall proceedings during the first six months of service is reasonable, and whether allowing a Councilmember to be recalled later in the term when an election for the next term is already scheduled is prudent. Staff was directed to draft language that would allow an elected official to be removed via recall at any time after six months from the date of accession to six months prior to the end of the term, thus avoiding a potential situation where recall and regular municipal election for the same office are happening in back to back months. She said Staff drafted the following amended language:

The holder of any elective office, either by election or appointment to fill a vacancy, may be removed at any time during the time period beginning after six months from the date of his accession to said office and ending six months prior to the expiration of the current term of the elected official so subject to recall by the registered voters qualified to vote for a successor to such incumbent.

Section 2. – Filing a petition; validation of signatures

The CRC expressed support for incorporating a reference in State law for the petition form that requires a gist of the reason for the recall at the top of each petition page. The CRC also discussed whether 30 days is sufficient for the City Clerk to review petitions, particularly when multiple petitions are filed. While Commissioners recognized the need to review petitions expeditiously, they also recognized the challenge multiple petitions present in terms of time to review. It was suggested Staff draft language that would allow no more than 30 days to review one petition for a ward representative, no more than 60 days to review a petition for the Mayor (simply because the signature threshold is much higher), and 90 days if multiple petitions were received. Because of the concerns expressed during the discussion about Section 1 related to potential recall elections occurring back to back with regular municipal elections for the same office, Staff was asked to run through several timing scenarios. Staff drafted amended language as follows:

A petition bearing the signatures, names, and addresses of twenty-five percent (25%) of the registered voters qualified to vote for the officer whose recall is sought, shall be necessary to initiate recall proceedings. The City Clerk shall maintain on file for public use proper petition forms that are in substantial conformance with the form provided in State law for referendum petitions to initiate such proceedings.

At the top of each page of said petition(s) there shall be a ~~short~~ simple statement of the ~~reasons for which recall is being sought~~ gist of the recall proposition; “If successful, this petition will allow the voters to decide whether to recall (insert elected officer) prior to the expiration of his/her term, or allow he/she to continue to serve in office.”

Item 2, continued:

Section 2. – Filing a petition; validation of signatures, continued:

The petition must be returned to the City Clerk within thirty (30) days, Sundays and legal holidays excepted, of its situation in order to be valid. Failure to return the petition(s) within the proper time limits shall render them null and void.

Upon receipt of the petition(s), the City Clerk shall inspect said petition(s) to see that all the signatures are valid and that they are registered voters for the office from which the officer's removal is sought. Such inspection by the City Clerk shall be completed in a reasonable amount of time, not to exceed ~~not more than~~ thirty days for one petition to recall a ward representative, sixty (60) days for a petition to recall the Mayor, and ninety (90) days if multiple petitions are undergoing inspection concurrently.

Section 3. – Notice and publication

The CRC reviewed the current notice requirements in the Charter as well as notice requirements in State law (34 O.S. § 17). Staff was asked to draft language that would reference State Statute rather than mimic the statutory language to ensure the Charter provision does not have to be amended every time State law changes.

The City Clerk shall cause to be published upon the filing of the said petition with the City Clerk's Office, in some newspaper of general circulation in the City of Norman a notice to voters, stating the name of the officer(s) whose recall is sought and the time limit within which said petition(s) must be signed. Staff drafted language as follows:

In addition to publishing notice of a petition, the City Clerk shall also publish notice in advance of any recall election in accordance with Title 34, Section 17, of the Oklahoma Statutes.

Section 4. – Calling election; votes required for recall

The CRC discussed the practical limits to scheduling an election where the question of recall is the only question on the ballot and there was consensus to remove this language. Additionally, the challenge posed by the potential for a successful recall election of five of the nine Councilmembers was discussed. Ms. Walker said Article XI, Section 1, of the Charter requires the affirmative vote of five members to adopt any motion, resolution, or ordinance, or pass any measure, meaning a successful recall of five Councilmembers would result in an insufficient number of Councilmembers to take any action at all, including calling an election to replace the recalled Councilmember. The CRC asked Staff to draft language that would provide for an exception if more than four Councilmembers are recalled at the same time so Staff prepared the following amended language:

Item 2, continued:

Section 4. – Calling election; votes required for recall, continued:

~~The sole question in said election shall be the recall of the officer(s) affected.~~ The recall shall be adopted when the total number of votes in favor of the recall is a majority of all the votes cast on the issue and that majority equals a majority of all the votes cast in the most recent previous election for the particular office in question. Should more than four Councilmembers be recalled in the same recall election, then an affirmative vote of a majority of the remaining seated Councilmembers shall be sufficient to take action until the vacancies resulting from the recall are filed as set forth herein.

Section 5. – Election to fill vacancy created by recall

The CRC asked Staff to draft amended Charter language, which is as follows:

In the event the recall is adopted, a vacancy shall be declared and an election shall be called for the next available election date in accordance with state election laws ~~it shall be filled in the following manner for the unexpired term of the recalled officers(s); the City Council shall set filing for an election to fill the vacancy to commence ten (10) days after the date of the recall vote and last until 5:00 p.m. of the eleventh (11th) day after the recall election.~~ Qualification to be a candidate shall be as for a regular election as set out in Article II. ~~The election to fill the vacancy created by the recall shall be set in accordance with state election laws.~~ Election shall be by a plurality of the votes cast and shall be certified in the regular manner.

Section 6. – Reappointment prohibited after removal.

The CRC made no recommendation prohibiting Councilmembers from serving in office for one year after being recalled or resigning while recall proceedings are pending.

Commissioner Bates asked if the petition review timelines work as far as election dates and Ms. Walker said the 90-day review is where it becomes difficult working with dates the State allows elections to take place. Commissioner Eller asked if Ms. Hall could work with 60 days instead of 90 days and Ms. Hall said 60 days is reasonable as long as she is able to access the Cleveland County Election Board's database instead of a PDF document.

Items submitted for the record

1. Charter Review Commission – Article XIII. Recall of Elective Officers
2. Recall of Petition Timing Scenarios

Item 2, continued:

Commissioner Bates moved to amend language allowing up to sixty (60) days to review multiple petitions including Mayoral, which motion was duly seconded by Commissioner Hackelman;

Items submitted for the record

1. Charter Review Commission – Article XIII. Recall of Elective Officers
2. Recall Petition Timing Scenarios

and the question being upon recommending amending language to allow up to sixty (60) days to review multiple petition, including Mayoral, a vote was taken with the following result:

YEAS: Commissioners Bates, Cubberley, Griffith, Jungman, Pipes, Stawicki, Vinyard, Williamson-Jennings, Chairman Thompson

NAYES: Commissioners Eller and McBride

Chairman Thompson declared the motion carried and language was amended allowing up to sixty (60) days to review multiple petitions, including Mayoral.

Thereupon, Vice-Chairman Cubberley moved that amended language for votes required to recall mirror Article II, Section 1, of the State Statutes, be approved which motion was duly seconded by Commissioner Stawicki; and the question being upon approving the amended language for votes required for recall to mirror Article II, Section 1, of the State Statutes, a vote was taken with the following result:

YEAS: Commissioners Bates, Cubberley, Eller, Hackelman, McBride, Stawicki, Vinyard, Williamson-Jennings, Chairman Thompson

NAYES: None

Chairman Thompson declared the motion carried and amended language for votes required for recall language to mirror Article II, Section 1, of the State Statutes was approved.

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Item 3, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE XVII, SECTION 9, TO CONSIDER WHETHER TO REQUIRE BIENNIAL REVIEW OF THE CHARTER.

This item was considered at the last meeting and was included on this agenda in error.

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Item 4 being:

DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE II, SECTION 22, VACANCIES IN OFFICE.

Article II, Section 22 – Filling Vacant Council Position

The CRC discussed whether to allow an outgoing Councilmember to appoint their own successor or to hold a special election to fill the empty position. A chart comparing Norman's current policy for filling a vacant position with other cities' policies was provided to the CRC for review and the CRC discussed the proposals and expressed a desire to follow a consistent process, recognizing that current Charter language provides Council an option to call a Special Election or follow a committee process.

Article II, Section 22 – Filling Vacant Council Position, continued:

On September 19, 2019, the CRC recommended modifying Charter language as follows:

Any vacancy occurring on the City Council shall be filled by a majority vote of the remaining members of the City Council after appointment and recommendation of one candidate from a Selection Committee made up of five residents of the ward for which the vacancy has or will occur for a period extending until the next regular municipal election, at which time an election, conducted as provided by this Charter and applicable State law, shall be held to fill any balance of the unexpired term; provided, however, if the City Council does not fill the vacancy by appointment within sixty (60) days after the same occurs, it shall be mandatory on the part of the City Council to call and schedule a special election to fill the vacancy for the unexpired term, which election shall be held for the election of a City Councilmember, only, and said election shall be conducted in the same manner as a regular municipal election.

Since that discussion about this item, there has been some question about the language that states, "for a period extending until the next regular municipal election." When a vacancy is filled and the next regular municipal election would already include election for the next term of the same seat that was filled, historically, the election for the next term has not been treated as automatically including filling the current term because the regular election is for a two-year term beginning in July. In other words, the appointment continues until the expiration of the term for which the appointee was selected to fill. One remedy considered was to have two ballots for the same seat on

Item 4, continued:

the same election – one to complete the term, and one for the term beginning in July; however, the Cleveland County Election Board highly discouraged this due to the possibility of voter confusion.

For clarity's sake, the Charter language could be modified to require either calling a special election or appointing someone to fill the remainder of the term to eliminate any sort of argument about when the term begins. This would give Council flexibility to consider the available election dates in making a decision whether to appoint or elect a replacement.

The CRC asked Staff to draft an amendment as follows:

Any vacancy occurring on the City Council shall be filled by a majority vote of the remaining members of the City Council after appointment and recommendation of one candidate from a Selection Committee made up of five residents of the ward for which the vacancy has or will occur for a period extending until the next regular municipal election, at which time an election, conducted as provided by this Charter and applicable State law, shall be held to fill any the balance of the unexpired term; provided, however, if the City Council does not fill the vacancy by appointment within sixty (60) days after the same occurs, it shall be mandatory on the part of the City Council to call and schedule a special election to fill the vacancy for the unexpired term, which election shall be held for the election of a City Councilmember, only, and said election shall be conducted in the same manner as a regular municipal election.

Commissioner Bates felt this process does not need to be locked into the Charter and Vice-Chairman Cubberley said the amended language sets forth a process for Council, but Council can reject the CRC's recommendation if they do not feel language is warranted.

Commissioner Stawicki felt existing language was adequate.

Vice-Chairman Cubberley said committees can be skewed and focused on one applicant so committees are not always as broad based as one would like them to be.

Commissioner McBride moved to that no action be taken for language regarding a selection committee, which motion was duly seconded by Commissioner Stawicki;

Items submitted for the record

1. Charter Review Commission – Article II, Section 22 – Filling Vacant Council Positions
2. Proposed Language (Inclusive of language already adopted by the CRC) – Section 22 – Vacancies in office

Item 4, continued:

and the question being upon no action being taken regarding a selection committee, a vote was taken with the following result:

YEAS: Commissioners Cubberley, Eller, Hackelman,
McBride, Pipes, Stawicki, Vinyard,
Williamson-Jennings, Chairman Thompson

NAYES: None

Chairman Thompson declared the motion carried and no action was taken regarding a selection committee.

Thereupon, Commissioner McBride moved to approve language as amended, which motion was duly seconded by Commissioner Stawicki; and the question being upon approving language as amended, a vote was taken with the following result:

YEAS: Commissioners Cubberley, Eller, Hackelman,
McBride, Pipes, Stawicki, Vinyard,
Williamson-Jennings, Chairman Thompson

NAYES: None

Chairman Thompson declared the motion carried and language as amended was approved.

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Item 5 being:

MISCELLNEOUS DISCUSSION.

Ms. Walker said she would finish the CRC final report to be approved by the Commission in a special meeting, possibly in June, prior to being presented to Council. She said Council will then vote on each recommendation, section by section.

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Item 6 being:

ADJOURNMENT.

The meeting was adjourned at 6:27 p.m.