

CHARTER REVIEW COMMISSION MINUTES

October 14, 2019

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Multi-Purpose Room on the 14th day of September 2019, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

CALL TO ORDER AND ROLL CALL.

PRESENT:

Ms. Aisha Ali [arrived at 5:43p.m.]
Mr. Trey Bates
Mr. Doug Cubberley, Vice-Chairman
Mr. Jim Eller
Mr. Jim Griffith
Mr. Tom Hackelman
Mr. Kenneth McBride
Mr. Kevin Pipes [arrived at 5:45p.m.]
Mr. Bob Thompson, Chairman
Mr. Bryan Vinyard
Ms. Shon Williamson-Jennings

ABSENT:

Ms. Carol Dillingham
Mr. Greg Jungman
Mr. Richard Stawicki

STAFF PRESENT:

Ms. Kathryn Walker, Interim City Attorney

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MEETING MINUTES OF SEPTEMBER 9, 2019.

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

Items submitted for the record

1. Charter Revision Committee minutes of September 9, 2019

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

Item 2, continued:

YEAS:	Members Bates, Cubberley, Eller, Griffith, Hackelman, McBride, Vinyard, Williamson-Jennings and Chairman Thompson
NAYES:	None

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

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Item 3, being:

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

Committee members discussed the drafted language and found it to be consistent with direction given at a prior meeting. Member Cubberley asked if the language, as drafted, would require City Council to approve its own stipend increases. Interim City Attorney Kathryn Walker stated that the drafted language did not explicitly require Council approval, but that formal action from the Compensation Commission would be needed and Council approval would likely occur in the context of budget approval.

Member Cubberley moved that the draft language for Article II, Section 1, be approved, which motion was duly seconded by Member McBride;

Item submitted for the record

1. Article II, Section 1 – Stipend Increase for Mayor and Councilmembers including draft language for amendments

and the question being upon approving the draft language for Article II, Section 1, a vote was taken with the following result:

YEAS:	Members Ali, Bates, Cubberley, Eller, Griffith, Hackelman, McBride, Pipes, Vinyard, Williamson-Jennings and Chairman Thompson
NAYES:	None

The Chairman declared the motion carried and the draft language for Article II, Section 1, approved.

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Item 4, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION OF ARTICLE VII, SECTION 2, TO CONSIDER WHETHER THE CITY ATTORNEY SHOULD BE APPOINTED AND SUBJECT TO REMOVAL BY THE CITY COUNCIL.

Member McBride reiterated his position that City Council should have authority to select and hire the City Attorney and the City Attorney should serve in an at-will capacity to ensure City Council is represented in the case of a City Manager at odds with the Council. Member Vinyard said that he could also see a similar situation where the Council is at odds with the City Manager and the City Attorney because the Council wants to do something illegal.

Chairman Thompson pointed out that in order for City Councilmembers to be shielded from individual legal liability, the Councilmembers have to follow the City Attorney's advice. Member Cubberley asked for clarification of whether the language in Option 1 still leaves the City Attorney representing the governmental entity. Ms. Walker directed the Commission members to Rule 1.13 of the Rules of Professional Conduct, as well as the Municipal Lawyer article, to confirm that yes, regardless of employment status or identification of the employer, the City Attorney represents the governing body as a whole, as expressed by majority action.

Member Bates asked what the draft language was trying to fix. Member McBride responded that the proposal is to ensure the City Attorney answers to the City Council and the language would constitute a fundamental change in employment status from "for cause" to "at will". Member Vinyard asked whether Council, under current Charter language, would be able to fire the City Manager if he/she is telling the City Attorney to do something contrary to Council's direction. Member Eller felt that Option 1 would create a more independent Council and would help address potential conflicts. Member Vinyard expressed concern that with Council elections every two years, it could lead to turnover instead of stability.

Member Cubberley stated that the current arrangement is an indirect solution and not always accessible to Councilmembers. Member McBride felt that Option 1 was really about accountability and that Council's hands would still be tied under Option 2. Member Ali agreed that the key is accountability, but it is also about transparency.

Member Eller moved that Option 1 of the draft language for Article VII, Section 2, be approved, which motion was duly seconded by Member McBride;

Item submitted for the record

1. Article VII, Section 2 – Appointment and Removal of City Attorney by Council
2. Oklahoma Rules of Professional Conduct, Rule 1.13, Organization as Client
3. Article from the Municipal Law, by John C. Gillespie, titled "The Professional and Ethical Obligations of Municipal Attorneys"

Item 4, continued:

and the question being upon approving Option 1 of the draft language for Article VII, Section 2, a vote was taken with the following result:

YEAS: Members Ali, Bates, Cubberley, Eller, Hackelman, McBride, Pipes, and Chairman Thompson

NAYES: Members Griffith, Williamson-Jennings, and Vinyard

The Chairman declared the motion carried and the draft language for Article VII, Section 2 approved.

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Item 5, being:

DISCUSSION OF WHETHER OR NOT THERE SHOULD BE CONSEQUENCES FOR VIOLATIONS OF THE CITY'S ETHICS ORDINANCE.

The Commission asked Ms. Walker what led to this issue being forwarded to the Commission for consideration. Ms. Walker relayed some concerns from the Councilmember who asked that this be included in the Commission's review regarding the lack of accountability for ethical violations. Ms. Walker reviewed the current Ethics Ordinance as well as the consequences under the Charter, the Ethics Ordinance and State law. The Commission expressed reservations about developing consequences for the Ethics Ordinance and placing them in the Charter instead of within the Ethics Ordinance itself.

Member Cubberley moved that the Commission recommend no changes to the Charter related to consequences for violations of the City's Ethics Ordinance, which motion was duly seconded by Member Bates;

Items submitted for the record

1. Consequences for Violations of the Ethics Ordinance
2. Norman Municipal Code, Section 2-103

Item 5, continued:

and the question being upon recommending no changes to the Charter related to consequences for violations of the Ethics Ordinance, a vote was taken with the following result:

YEAS:	Members Ali, Bates, Cubberley, Eller, Griffith, Hackelman, McBride, Pipes, Vinyard, Williamson-Jennings and Chairman Thompson
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NAYES:	None
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The Chairman declared the motion carried and no changes to the Charter related to consequences for violations of the Ethics Ordinance approved and no changes will be recommended.

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Item 6, being:

Miscellaneous Discussion.

Mr. Bates asked if the Commission would be willing to reconsider changes to Article II, Section 2, regarding the term of office for Councilmembers and the Mayor, specifically, to consider having three year terms for all elected officials. Commission consensus was to include the topic on the next meeting's agenda with Staff providing draft language for three year terms.

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Item 7, being:

ADJOURNMENT.

Chairman Thompson declared the meeting adjourned at 6:46 p.m.