

Item 8, being:

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

Ms. Walker said just like the previous item, there is no specific proposed language at this time. Currently, the City Attorney is appointed by the City Manager, subject to confirmation by the City Council. Only the City Manager can terminate the City Attorney and it must be for cause. Under this proposal, the City Attorney would become a full time employee of the City of Norman who would be subject to appointment and removal by City Council. She said if it's the Committee's desire to specify that the City Attorney would serve as an "at will" employee, language would need to be added to the Charter to clarify such status. She highlighted other cities in the metro and surrounding areas. The City Attorney in Stillwater, Oklahoma City, Edmond, and Lawton are appointed by the City Council.

Member McBride felt the City Attorney should report to the City Council. He said question becomes "who's the client – the City Council or the City Manager". He felt the attorney client relationship should be between the City Attorney and the City Council. Member Stawicki suggested the client be identified in the Charter.

Vice-Chairman Cubberley was concerned about politicizing the position. He felt the current language in Article III, Section 6, was sufficient to address these type of concerns. Chairman Thompson felt the previous City Attorney politicized himself and provided examples to the Committee. Vice-Chairman Cubberley agreed there is potential for bad advice or misconduct, but does not think this is the answer. Some felt there has been a long history of the City Attorney not being responsive and loyal to the Council.

The consensus what for staff to draft two alternatives for consideration at the next meeting - that the City Attorney is an at will employee hired and fired by the Council, and language that would maintain the City Attorney's current status as an employee of the City Manager but clarify that the Council is the client.

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Item 9, being:

Miscellaneous Discussion.

Next meeting we will discuss consequences for violations of the Ethics Ordinance.

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Item 10, being:

ADJOURNMENT.

Chairman Thompson declared the meeting adjourned at 7:15 p.m.

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