

## CHARTER REVIEW COMMISSION MINUTES

December 2, 2019

The Charter Review Commission met at 5:35 p.m. in the Municipal Building Multi-Purpose Room on the 2nd day of December 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:

Mr. Trey Bates  
Mr. Doug Cubberley, Vice-Chairman  
Ms. Carol Dillingham  
Mr. Tom Hackelman  
Mr. Greg Jungman  
Mr. Kevin Pipes  
Mr. Richard Stawicki  
Mr. Bob Thompson, Chairman  
Mr. Bryan Vinyard  
Ms. Shon Williamson-Jennings

#### ABSENT:

Ms. Aisha Ali  
Mr. Jim Eller  
Mr. Jim Griffith  
Mr. Kenneth McBride

#### STAFF PRESENT:

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

Item 2, being:

### CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MEETING MINUTES OF NOVEMBER 4, 2019.

Member Stawicki moved that the minutes from November 4, 2019, be approved, which motion was duly seconded by Vice-Chairman Cubberley, and the minutes were approved.

Items submitted for the record

1. Charter Revision Ad Hoc Committee minutes of November 4, 2019

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

Item 2, continued:

YEAS: Members Bates, Cubberley, Dillingham, Hackelman, Jungman, Pipes, Stawicki, Vinyard, Williamson-Jennings, Chairman Thompson

NAYES: None

Chairman Thompson declared the motion carried and the minutes of November 4, 2019, approved; and the filing thereof was directed.

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Item 3, being:

**DISCUSSION REGARDING ADDING LANGUAGE TO THE CHARTER TO ESTABLISH A RESIDENT OR COMMUNITY BILL OF RIGHTS.**

Ms. Kathryn Walker, City Attorney, said the Citizen's Bill of Rights (CBOR) is generally related to anything affecting the environment and is led by the Community Environmental Legal Defense Fund (CELDF) and the whole idea behind the CBOR is to push back against State preemption. She said a CBOR does not necessarily give the City more rights or help with State preemption, but cities are allowed to have a Charter and be a Home Rule City, which Norman is. She said that should mean that whatever powers the City chooses to exercise related public health, safety, and welfare can be exercised; however, in reality that is not true. She said cities regularly get preempted by the State on a wide variety of issues.

Member Stawicki said he originally thought the CBOR was not a good idea, but citizens believe their rights are not being taken care of and understands why citizens would want to make sure they are being heard through some type of back-up, such as language in the Charter.

Vice-Chairman Cubberley said adding language to the Charter could potentially leave the City open to lawsuits from citizens because once the City puts that language in the Charter it becomes a requirement, not just a matter of policy. He said policies are different and the City could have language through a policy resolution.

Member Dillingham said the concept is worthy, but is best done outside of the Charter as more of an aspirational piece that would help citizens sort out tentative issues for Council. She said the structure of Oklahoma statutes would make the door wider for lawsuits. She felt there would need to be a CBOR Commission to sort out all the issues, which could take a year or more.

Member Pipes asked if there are other cities in Oklahoma that have a CBOR and Ms. Walker said no. Member Pipes said cities in Oklahoma are preempted in so many areas that it would be easy for big industries to block cities from enacting laws.

Item 3, continued:

Chairman Thompson said it seems if cities do not push back at some point, they simply acquiesce to the whole idea of preemption. He wondered if there is a way to approach this that would lessen the City's liability.

Member Stawicki felt this was not something the Charter Review Commission could address because it would take too much time and this is not the right body to address the issue. He could recommend Council look into this issue further through a CBOR Committee.

Chairman Thompson said there seems to be consensus not to place language in the Charter at this time, but to recommend Council appoint a CBOR Committee to further review the subject. He asked if the Commission wanted to vote on the recommendation and Ms. Brenda Hall, City Clerk, said this item can be placed on next month's agenda for a vote and members agreed.

Items submitted for the record

1. Draft Charter Article for City of Norman Bill of Rights
2. Article from The Colleges of Law Blog entitled, "The Community Rights Movement," by James Paulding

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Item 4, being:

**DISCUSSION REGARDING ADDING LANGUAGE TO THE CHARTER RELATED TO REQUIRING A VOTE OF THE ELECTORATE FOR APPROVAL OF A TAX INCREMENT FINANCE DISTRICT OVER \$5,000,000.**

Ms. Walker said no past Charter Review Commission has considered requiring voter approval of Tax Increment Finance (TIF) Districts. She said Councilmember Wilson requested consideration of setting a threshold of \$5 million for TIF's to be approved by voters. She said cities are authorized to create TIF Districts by the Local Development Act (LDA) to allow cities to use revenue growth generated in a district to fund certain improvements. Over the years, Norman has approved three TIF Districts, 1) Campus Corner TIF - \$1.25 million, 2) University North Park TIF - \$54.725 million, and 3) Center City TIF - \$44.5 million. She said in order to create a TIF District under the LDA, the area proposed for inclusion must first be eligible under the Act. Then a Project Plan must be developed which is required to be reviewed by a committee made up of representatives of the taxing jurisdictions and three community members. Once the review committee makes a recommendation on the Project Plan, the Planning Commission must review and make a recommendation. Finally, the City Council must hold two public meetings prior to adoption of the Project Plan.

Item 4, continued:

Ms. Walker said the proposal for the Charter Review Commission is to consider whether a vote of the public must also be required prior to creating a TIF District with authorized project costs exceeding \$5 million. She said the most controversial issue is the idea that the City would be spending tax dollars to incentivize retail, although the Center City TIF is all public infrastructure.

Member Hackelman said he understands when Council votes on a TIF, there needs to be an extra vote and asked Ms. Walker to explain that. Ms. Walker said a TIF has to go before the Statutory Review Committee, which is made up of all the representatives of the taxing jurisdictions, sales tax and ad valorem, and three at-large members. The Statutory Review Commission will make a recommendation on the Project Plan that goes forward to Council. If Council wants to adopt something different from what was approved and recommended, they must have a simple majority (six members instead of five in favor). Member Hackelman said the Statutory Review Committee has not met regularly, correct? Ms. Walker said they meet when amendments to the Project Plan are made and a quorum was not available until the end August 2019, so it can be difficult to schedule meetings quickly. Member Hackelman asked if there are members of the Statutory Review Committee that are not willing to meet and Ms. Walker said that is possible, but not typical and it was not from lack of effort. Member Hackelman said that particular situation lends itself strongly to a public vote. He said the position it put the Council in was perhaps not as transparent as the public would have preferred that particular process to be and a public vote would be appropriate similar to the MAPS Projects in Oklahoma City that have a public vote.

Member Vinyard was concerned about setting an actual dollar amount threshold and if that would become obsolete in the future.

Vice-Chairman Cubberley felt it would be a mistake to tie the hands of economic development. He said the City operates on sales tax and there are times when incentives are needed for economic development so cities need to be able to incentivize its main form of income. He said in today's environment, a TIF sales tax may not pass and felt placing a threshold of \$5 million is foolish because it is an arbitrary figure. He said at the end of the day the UNPTIF was a very public process, but did not turn out as everyone expected for a variety of reasons. He said things happened over time that were not anticipated at the time of approval. He said having a threshold ties the hands of the people elected to make these decisions.

Member Dillingham said even if a TIF is approved by voters, Council could still amend the Project Plan via the LDA and it could be completely different. She said it is very likely the vote could intensify the stress between the voters and Council. She said the process is a tool in a toolbox that the legislature has defined how it is to be used so to mess with that does tie the hands of Council to make appropriate decisions.

Member Hackelman said he agrees with incentivizing economic development, but when the City receives no ad valorem tax and a TIF is based on an incremental sales tax increase then a floor of \$5 million is not too much to ask. He would be willing to look at a higher threshold if needed, but felt there needs to be a set standard.

Item 4, continued:

Member Dillingham suggested a public vote for TIF's over a certain amount using sales tax only and funding of public infrastructure only. She wondered if that would adequately provide incentives for the quality of development the City wants and deserves.

Member Stawicki said if the public is required to vote to increase sales tax, then the public should be required to authorize diversion of that sales tax. He said the City should go through the same process it currently follows, instead of Council adopting the Project Plan Council would send a specific Project Plan to a vote of the electorate.

Vice-Chairman Cubberley said if the public is going to be asked to vote on one TIF, they should vote on all TIF's no matter what the amount of the project costs. He said it does not make sense to say only those projects \$5 million or above should be voted on by the public.

Member Bates said he takes issue with the concept of "diversion" of tax funds because people immediately start thinking there is a real case of equity in terms of voters rights if money can be diverted. He said the concept behind a TIF is it increment of funds that would not otherwise be there if not for the TIF or money that is above what is raised by the government body before the increment district went into effect. He said the City is not diverting current funds, it is taking advantage of the future growth in funds to help pay for certain items. He said TIF's are complicated issues and difficult to understand so the reality of forcing a vote on TIF's is that none of them will ever go to pass again. He said the Stormwater issue is a great example of a complicated issue that is voted on by the public and has never passed. He said there will always be a group of people trying to further complicate the TIF to keep it from passing. He said the City would be destroying a tool in its toolbox. He feels that the original concept of the UNPTIF was good, but the amendments complicated that over time turning it into something that was never meant to be. He said if a vote of the people would be needed on every amendment that would only complicate matters further.

Member Vinyard said the Charter Review Commission's decision should not be based on one TIF (UNPTIF) they believe went poorly, because requiring a vote of the public takes a tool out of the toolbox that could be a very good tool.

Member Dillingham said elections are not cheap and asked the cost. Ms. Hall said it costs between \$30,000 to \$35,000 for a citywide election for one ballot.

Member Stawicki felt any initial TIF should go to a public vote as well as any major amendments.

Chairman Thompson said the Charter Review Commission will discuss what recommendations they want to send forward to Council at the next meeting.

Item 4, continued:

Ms. Hall said next steps include a public hearing for input on the Charter Review Commission's recommendations and report to Council regarding what recommendations have been made to date. She said the public meeting and report can both be scheduled in January 2020, if that is the Commission's desire.

Ms. Walker suggested a public meeting on January 6, 2020, with the report to Council at the regularly scheduled Council meeting of January 14th or January 21st and members agreed.

Items submitted for the record

1. Draft Charter Article for Voter Approval Required for Tax Increment Finance district over \$5,000,000

Item 5, being:

MISCELLNEOUS DISCUSSION.

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Item 6 being:

ADJOURNMENT.

Chairman Thompson declared the meeting adjourned at 6:55 p.m.