



# CITY OF NORMAN, OK CITY COUNCIL CONFERENCE

Municipal Building, Conference Room, 201 West Gray, Norman, OK 73069  
Tuesday, August 24, 2021 at 5:00 PM

## AGENDA

*It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, retaliation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.*

### CALL TO ORDER

### DISCUSSION ITEMS

1. REVIEW OF ARTICLE II, SECTION 2, TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS AND MAYOR SHOULD EXPIRE ON THE LAST TUESDAY OF THE MONTH IN WHICH A RUNOFF ELECTION IS HELD OR SCHEDULED TO BE HELD.

Language recommended to change the beginning and end date of terms such that a new term would begin (and the prior term end) on the first Tuesday following certification of the election results for the new term. CRC vote unanimous. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for additional Council discussion.

2. REVIEW OF ARTICLE II, SECTION 22 TO CONSIDER ALLOWING THE OUTGOING COUNCILMEMBER CREATING THE VACANCY TO APPOINT HIS OR HER SUCCESSOR, UNLESS SUCH VACANCY HAS BEEN CREATED DUE TO REMOVAL FROM OFFICE AS A RESULT OF PROCEEDINGS BY A COURT OF COMPETENT JURISDICTION, OR WHETHER TO DELETE LANGUAGE ALLOWING COUNCIL TO APPOINT A SUCCESSOR AND INSTEAD REQUIRE A SPECIAL ELECTION TO BE CALLED FOR THE PURPOSE OF FILLING SUCH VACANCY.

Language recommended to clarify that Council can either appoint someone to fill the vacancy or call a special election. Language also recommended to eliminate confusion about appointments being for the remainder of the term. CRC vote unanimous. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for additional Council discussion.

3. ARTICLE XIII, RECALL OF ELECTIVE OFFICERS TO CONSIDER WHETHER THE LANGUAGE SHOULD BE MODIFIED.

The Charter Review Commission recommended changes to Article XIII to address potential timing conflicts with existing elections, ensuring the Clerk has adequate time to review signed petitions, and incorporating state law where appropriate in light of *In re: Petition to Recall Ward Three City Comm'r Ezzell*, 2021 OK 5. CRC vote unanimous. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for additional Council discussion.

4. ARTICLE XVI, SECTION 2 OF THE CHARTER TO REQUIRE THE CITY COUNCIL TO CONSIDER A RESOLUTION CALLING FOR A VOTE OF THE ELECTORATE TO INCREASE CITY UTILITY RATES UNDER CERTAIN CONDITIONS.

Language recommended to require Staff to prepare a rate study for each utility annually and requiring Council to submit a rate increase for one or more utilities at the next Council election, and making provision for situations where an additional rate increase may be needed to meet an unexpected need. CRC vote unanimous. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for additional Council discussion.

5. RESOLUTION AS FOR REVIEW TO CONSIDER ADDING LANGUAGE TO THE CHARTER TO REQUIRE A VOTE OF THE ELECTORATE FOR APPROVAL OF A TAX INCREMENT FINANCE DISTRICT OVER \$5,000,000.

The motion voted on was to recommend the electorate vote on all Sales Tax Increment Finance Districts. CRC vote 5-5. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for additional Council discussion.

## **ADJOURNMENT**

# **Possible Charter Amendments**

## **Additional Discussion**


**Council Conference**

**August 24, 2021**






# Background

- Council voted whether to send each recommendation of the CRC to a vote of the people on August 3, 2021
  - Additional discussion was requested on 4 topics:
    - Term Expiration
    - Appointment Process
    - Recall of Elective Officers
    - Utility Rates
- 



# Agenda Item 1: Art. II, Section 2 – Mayor and Councilmember's Term Increase/Expiration

- Current Charter Language:
    - Councilmembers: 2 year terms, odd wards elected in odd-numbered years, even wards elected in even-numbered years
    - Mayor: 3 year terms
    - Take office first Tuesday in July after election
  - CRC Recommendation
    - Beginning in 2023, move to three year terms for Council members
    - Beginning in 2024, terms will begin on the first Tuesday following certification of the election results
  - Council Concerns
    - Everyone should have the same end of term date
    - Update the year so it doesn't impact current terms
- 

# Agenda Item 1: Art. II, Section 2 – Mayor and Councilmembers

## Term Increase/Expiration

CRC Recommendation:

### **Section 2. - Term of office.**

~~The term of Councilmembers shall be for a period of two years.~~ Beginning with the 2023 elections, elections for Councilmembers shall occur every three years, with the odd-numbered ward elections occurring in 2023 and every three years thereafter, and the even-numbered ward elections occurring in 2024 and every three years thereafter. The terms of Councilmembers chosen to represent Council wards two (2), four (4), six (6), and eight (8) shall ~~expire~~ begin on the first Tuesday of July of the next even numbered year after their election. Beginning in 2024 and every third year thereafter, the terms of Councilmembers chosen to represent such wards shall begin at six-thirty in the evening (6:30pm) on the first Tuesday following certification of the election results by the board secretary.

The term of Councilmembers chosen to represent Council wards one (1), three (3), five (5), and seven (7) shall ~~expire~~ begin on the first Tuesday of July of the next odd numbered year after their election. Beginning in 2023 and every third year thereafter, the terms of Councilmembers chosen to represent such wards shall begin at six-thirty in the evening (6:30pm) on the first Tuesday following certification of the election results by the election board secretary.

Each elected officer shall continue to hold and to perform the duties of his office until his successor is elected and qualified, unless he is removed or forfeits his office under other provisions of this Charter.

~~The term of office of the Mayor elected at regular elections,~~ Elections for Mayor shall be occur every three (3) years. The term of the Mayor shall ~~expire~~ begin on the first Tuesday of July and each three (3) years thereafter. Beginning with the 2025 election, and every third year thereafter, the term of the Mayor shall begin at six-thirty in the evening (6:30pm) on the first Tuesday following certification of the election results by the election board secretary.

# Agenda Item 1: Art. II, Section 2 – Mayor and Councilmembers Term Increase/Expiration

	Current Term	Proposed Term	Revised Term
<b>Odd Wards</b>	July 2, 2019 – July 7, 2021  July 7, 2021 – 2023 (Tuesday following election results)	2023 – 2026 (Tuesday following election results)	2025-2026 (Tuesday following run-off election results)
<b>Even Wards</b>	July 3, 2018 - July 7, 2020  July 7, 2020 – July 5, 2022  July 5, 2022 – 2024 (Tuesday following election results)	2024 – 2027 (Tuesday following election results)	2026-2029 (Tuesday following run-off election results)
<b>Mayor</b>	July 2, 2019 – July 5, 2022	July 5, 2022 – 2025 (Tuesday following election results)	2028-2031 (Tuesday following run-off election results)

# Agenda Item 1: Art. II, Section 2 – Mayor and Councilmembers

## Term Increase/Expiration

Revised Recommendation:

### Section 2. - Term of office.


~~The term of Councilmembers shall be for a period of two years.~~ Beginning with the 2025 elections, elections for Councilmembers shall occur every three years, with the odd-numbered ward elections occurring in 2025 and every three years thereafter, and the even-numbered ward elections occurring in 2026 and every three years thereafter. The terms of Councilmembers chosen to represent Council wards two (2), four (4), six (6), and eight (8) shall ~~expire~~ begin on the first Tuesday of July of the next even numbered year after their election **through July 2024**. Beginning in 2026 and every third year thereafter, the terms of Councilmembers chosen to represent such wards shall begin at six-thirty in the evening (6:30pm) on the first Tuesday following **the date of the scheduled run-off election for such offices.**

The term of Councilmembers chosen to represent Council wards one (1), three (3), five (5), and seven (7) shall ~~expire~~ begin on the first Tuesday of July of the next odd numbered year after their election **through July 2023**. Beginning in 2025 and every third year thereafter, the terms of Councilmembers chosen to represent such wards shall begin at six-thirty in the evening (6:30pm) on the first Tuesday following **the date of the scheduled run-off election for such offices.**

Each elected officer shall continue to hold and to perform the duties of his office until his successor is elected and qualified, unless he is removed or forfeits his office under other provisions of this Charter.

~~The term of office of the Mayor elected at regular elections,~~ Elections for Mayor shall be occur every three (3) years. The term of the Mayor shall ~~expire~~ begin on the first Tuesday of July and each three (3) years thereafter **through July 2025**. Beginning with the 2028 election, and every third year thereafter, the term of the Mayor shall begin at six-thirty in the evening (6:30pm) on the first Tuesday following **the date of the scheduled run-off election for such offices**







# Agenda Item 1: Art. II, Section 5 – Mayor and Councilmember Term Increase/Expiration

CRC Recommendation:

## **Section 5. – Municipal Elections.**

By resolution duly adopted each year, the City Council shall designate a date in the following year, which is approved under then-current state law, for the holding of Norman's municipal election, at which time there will be election contests conducted by the Cleveland County Election Board for each of the following positions for which two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8) in even-numbered years; wards one (1), three (3), five (5), and seven (7) in odd-numbered years; and Mayor in 2007 and each third year thereafter. Beginning in 2023, and every third year thereafter, elections for the following wards should be held, provided two (2) or more qualified (as described above) registered voters have filed for office: wards one (1), three (3), five (5), and seven (7). Beginning in 2024, and every third year thereafter, elections for the following wards should be held, provided two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8). Beginning in 2025, and every third year thereafter, elections for Mayor shall be held, provided two (2) or more qualified (as described above) registered voters have filed for office. If allowed by then-current state law, the date for municipal elections shall be in February. In each such municipal election, a person receiving a majority of votes cast shall be deemed to be the winner. If no person receives a majority of votes in the municipal election, the two candidates receiving the most votes shall proceed in the municipal runoff election, described below. If two or more persons tie for second place in the municipal election, and the person receiving the most votes did not receive a majority of votes cast, then the second-place nominee shall be determined from among those tying, fairly by lot, by the Cleveland County Election Board. If three or more persons tie for first place in the municipal election, then the two municipal runoff election nominees shall be determined from among those tying, fairly by lot, by the Cleveland County Election Board.







# Agenda Item 1: Art. II, Section 5 – Mayor and Councilmember Term Increase/Expiration

Revised Recommendation:

## **Section 5. – Municipal Elections.**

By resolution duly adopted each year, the City Council shall designate a date in the following year, which is approved under then-current state law, for the holding of Norman's municipal election, at which time there will be election contests conducted by the Cleveland County Election Board for each of the following positions for which two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8) in even-numbered years; wards one (1), three (3), five (5), and seven (7) in odd-numbered years; and Mayor in 2007 and each third year thereafter. Beginning in 2025, and every third year thereafter, elections for the following wards should be held, provided two (2) or more qualified (as described above) registered voters have filed for office: wards one (1), three (3), five (5), and seven (7). Beginning in 2026, and every third year thereafter, elections for the following wards should be held, provided two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8). Beginning in 2028, and every third year thereafter, elections for Mayor shall be held, provided two (2) or more qualified (as described above) registered voters have filed for office. If allowed by then-current state law, the date for municipal elections shall be in February. In each such municipal election, a person receiving a majority of votes cast shall be deemed to be the winner. If no person receives a majority of votes in the municipal election, the two candidates receiving the most votes shall proceed in the municipal runoff election, described below. If two or more persons tie for second place in the municipal election, and the person receiving the most votes did not receive a majority of votes cast, then the second-place nominee shall be determined from among those tying, fairly by lot, by the Cleveland County Election Board. If three or more persons tie for first place in the municipal election, then the two municipal runoff election nominees shall be determined from among those tying, fairly by lot, by the Cleveland County Election Board.







# Agenda Item 1: Art. II, Section 6 – Mayor and Councilmembers Term Increase/Expiration

CRC Recommendation:

## **Section 6. – Municipal Runoff Elections.**

By resolution duly adopted each year, the City Council shall designate a date in the following year that is subsequent to the date chosen for Norman's municipal election described in Section 5 herein, which is approved under then-current state law, for the holding of Norman's municipal runoff election, at which time there will be runoff election contests, if necessary, conducted by the Cleveland County Election Board for each of the following positions for which two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8) in even-numbered years; wards one (1), three (3), five (5), and seven (7) in odd-numbered years; and Mayor in 2007 and each third year thereafter. Beginning in 2023, and every third year thereafter, elections for the following wards should be held: wards one (1), three (3), five (5), and seven (7). Beginning in 2024, and every third year thereafter, elections for the following wards should be held: wards two (2), four (4), six (6), and eight (8). Beginning in 2025, and every third year thereafter, elections for Mayor shall be held. If allowed by then-current state law, the date for municipal runoff elections shall be in April.







# Agenda Item 1: Art. II, Section 6 – Mayor and Councilmember Term Increase/Expiration

Revised Recommendation:

## **Section 6. – Municipal Runoff Elections.**

By resolution duly adopted each year, the City Council shall designate a date in the following year that is subsequent to the date chosen for Norman's municipal election described in Section 5 herein, which is approved under then-current state law, for the holding of Norman's municipal runoff election, at which time there will be runoff election contests, if necessary, conducted by the Cleveland County Election Board for each of the following positions for which two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8) in even-numbered years; wards one (1), three (3), five (5), and seven (7) in odd-numbered years; and Mayor in 2007 and each third year thereafter. Beginning in 2025, and every third year thereafter, elections for the following wards should be held: wards one (1), three (3), five (5), and seven (7). Beginning in 2026, and every third year thereafter, elections for the following wards should be held: wards two (2), four (4), six (6), and eight (8). Beginning in 2028, and every third year thereafter, elections for Mayor shall be held. If allowed by then-current state law, the date for municipal runoff elections shall be in April.





# Agenda Item 1: Art. II, Section 14 – Mayor and Councilmembers Term Increase/Expiration


CRC Recommendation: **(No change needed)**

## **Section 14. – Form of ballot.**

In ~~odd-numbered~~ years in which the terms of the odd numbered wards expire, the names of the candidates for City Council for each Council ward numbered one (1), three (3), five (5) and seven (7) shall appear upon the ballot in the appropriate ward of the City and placed under the words: "For Councilmember in Ward No. \_\_\_\_\_", followed by the instruction in each case: "Vote for One".

In ~~even-numbered~~ years in which the terms of the even numbered wards expire, the names of the candidates for City Council for each Council ward numbered two (2), four (4), six (6) and eight (8) shall appear upon the ballot in the appropriate ward of the City and placed under the words: "For Councilmember in Ward No. \_\_\_\_\_", followed by the instruction in each case: "Vote for One".


In the years in which the Mayor's term expires, the names of candidates for Mayor shall be placed upon the ballot under the words: "For Mayor", followed by the instruction: "Vote for One".





## Agenda Item 2: Art. II, Section 22

### Filling Vacant Council Positions

- Current Charter Language
    - Vacancies in office are filled by a majority vote of the remaining members of Council.
    - If a vacancy is not filled within 60 days, Council shall call a special election to fill the vacancy for the unexpired term.
  - CRC Recommendation
    - Clarify language to match historic practice that appointments to fill a vacancy are for the remainder of the expired term.
  - Council Discussion
    - Should selection committee process be included in Charter?
    - Who decides the question of calling the election vs. appointment?
      - Council action required for both
- 




## Agenda Item 2: Art. II, Section 22

### Filling Vacant Council Positions

#### CRC Recommendation:

Any vacancy occurring on the City Council shall be filled by a majority vote of the remaining members of the City Council 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.






## Agenda Item 2: Art. II, Section 22


### Filling Vacant Council Positions

Alternative Language Considered (but not adopted) by CRC:

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.







# Agenda Item 3: Article XIII, Recall of Elective Officials

## Section 1, Current Charter Language

- Elected officials are not eligible to be recalled until 6 months from the date of taking office

## CRC Recommendation

- Elected officials may be removed by recall beginning 6 months from the date of taking office and ending 6 months prior to the expiration of the official's term.

## **Section 1. - Time of commencing proceedings.**

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, in the following manner:







# Agenda Item 3: Article XIII, Recall of Elective Officials

## Section 2, Current Charter Language:

- Sufficient petition is one that contains signatures, names, addresses of 25% of the registered voters eligible to vote for the official
- 30 days to circulate the petition
- Separate petitions for separate officials
- Reasons for recall on the top of the petition
- Clerk has 30 days to review and validate.


## CRC Recommendation:


- Use form provided for in State law for referendum petitions
  - Provide a simple statement (“gist”)
  - Clerk has 30 days to review if one petition to recall a ward representative; 60 days for the Mayor; and 90 days if multiple petitions
- 



# Agenda Item 3: Article XIII, Recall of Elective Officials


## Section 2, CRC Recommendation:


- A petition bearing the signatures, names and addresses of twenty-five per cent (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 and 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.”
  - The petition must be returned to the City Clerk within thirty (30) days, Sundays and legal holidays excepted, of its initiation 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 those of registered voters eligible to vote 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 (30) 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.
- 



# Agenda Item 3: Article XIII, Recall of Elective Officials

## Section 2, **Revised** Recommendation:

- A petition bearing the signatures, names and addresses of twenty-five per cent (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 and 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.”
  - The petition must be returned to the City Clerk within thirty (30) days, ~~Sundays and legal holidays excepted~~, of its initiation 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 those of registered voters eligible to vote 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 (30) 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.
- 




# Agenda Item 3: Article XIII, Recall of Elective Officials

## Section 3, Current Charter Language:

- Notice must be published by the Clerk notifying the public that a recall effort has begun, a petition is being circulated, and the deadline for signatures on the petition.
- Clerk must also mail notice to the affected officer(s).

## CRC Recommendation:

- Add a publication requirement in advance of any recall election in accordance with State law.
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# Agenda Item 3: Article XIII, Recall of Elective Officials

## Section 3, CRC Recommendation:

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 the voters, stating the name of the officer(s) whose recall is sought and the time limit within which said petition(s) must be signed. Further, the City Clerk shall cause to be mailed to the officer(s) whose recall is sought an official notice that the petition has been commenced and the time limit in which it must be completed. Such notice shall be by certified mail, return receipt requested, and the refusal of the officer(s) to accept delivery shall in no way affect the validity of the notice. Failure of the City Clerk to keep the City Clerk's office open during regular office hours, which failure prevents the proper filing of said petition(s), shall be adjudged a misdemeanor and upon conviction thereof the Clerk shall be punished by a fine of not less than ten dollars and not more than fifty dollars, and each day said City Clerk violates the provisions hereof shall constitute a separate and distinct offense. In the event such a failure on the part of the City Clerk occurs, petitioners may file the petition(s) with the City Manager.

In addition to publishing notice upon receipt 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.







# Agenda Item 3: Article XIII, Recall of Elective Officials

## Section 4, Current Charter Language:

- If petition is sufficient, it must be presented to Council and Council must call a recall election.
- Recall question must be the only question on the ballot.
- If multiple officers are recalled, there is a potential for an inability of the City to conduct business, fill vacancies by appointment, or call elections (Article XI, Section 1 requires 5 votes to adopt any motion, resolution, measure, etc)

## CRC Recommendation:

- Delete language requiring that recall be the only question on the ballot
  - Add language allowing an affirmative vote of the majority of the remaining seated Councilmembers if more than 4 are recalled.
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# Agenda Item 3: Article XIII, Recall of Elective Officials


## CRC Recommendation:

Upon determination by the City Clerk that the petition(s) bear the signatures of the requisite number of registered voters, said petition(s) shall be presented by the City Clerk to the City Council which body shall, in accordance with state election laws, call a recall election.

~~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 filled as set forth herein.







# Agenda Item 3: Article XIII, Recall of Elective Officials

Section 5, Current Charter Language:


- Process for declaring a vacancy after a successful recall – the timing requirements do not comply with State election laws.

CRC Recommendation:

- Simplify language and tie to State election laws


## **Section 5. – Election to fill vacancy created by recall.**

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 officer(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.





## Agenda Item 4: Requiring Council to consider calling Utility Rate elections under certain conditions


- Current Charter Language
    - Any increase in utility rates within the City's control must be submitted to the voters for approval or rejection
  - CRC Recommendation
    - Staff to provide rate study of each utility annually
    - Council shall submit rate increase for one or more utilities (based on rate study) at next Council election
    - Special elections allowed for unexpected needs
- 




## Agenda Item 4: Requiring Council to consider calling Utility Rate elections under certain conditions

- CRC Recommendation


~~Precedent to an increase in utility rates within the control of the City of Norman, such increase proposal must be submitted to the legal voters of the City for their approval or rejection at the next regular general election, or at a special election which might be called for said purpose. On an annual basis, Staff shall prepare and submit to the City Council a rate study for each of its utilities. Upon receipt of such rate studies, Council shall submit a rate increase for one or more of the utilities to the voters at the next election at which ward representatives or the Mayor will appear on the ballot. Should an unexpected need for an additional rate increase for any utility arise prior to the regular election on which such an increase would normally be scheduled as provided herein, then a special election may be called for such purpose. This section is self-executing and shall supersede all provisions in conflict therewith; legislation may be enacted to facilitate its operations but no ordinance shall limit or restrict the provisions thereof.~~






## Agenda Item 5:

### Require a vote of the electorate for TIF's over \$5 million

- TIF's are a creation of Oklahoma statute (Local Development Act)
  - Provide a means to capture sales tax and/or ad valorem revenue from future development to pay for infrastructure and other authorized project costs
  - Current Charter Language: None
  - CRC Recommendation:
    - After robust debate, there was a tie vote on language that would require a vote of the electorate for any TIF supported by sales tax revenue and created by the City.
- 



## Agenda Item 5:


### Require a vote of the electorate for TIF's over \$5 million

Language Considered by CRC:

#### **Article XIV. – Revenue**

##### Section 4. – Tax Increment Financing Districts.

A tax increment financing district created by the City pursuant to Oklahoma law that pledges sales tax increments to fund improvements within the district, or any amendment thereto, shall only become effective after approval by a majority of the registered voters of the City in a general or special election.



## Article II, Sections 2, 5, 6, 14 – Mayor and Councilmember’s Term Expiration.

### **Background:**

Prior to 2003, the terms of the Mayor and Councilmembers expired “at the time fixed for the last regular meeting of the Council in April”. In 2003, voters approved the current language that sets the expiration of mayoral and councilmember terms on the first Tuesday of July.

A chart comparing Norman’s current term expiration date with other cities’ term expiration date was provided to the CRC at its August 12, 2019 meeting. The Committee discussed the potential for a lengthy period of time between election and officially seating the newly elected member and expressed a desire to reduce this time. The Committee liked the approach used in Stillwater, where seating newly elected officials is tied to the certification of the election results.

During the September meeting, the CRC reviewed proposed language and expressed concerns about the term of office not being exactly two years as set forth in the existing Charter language. Option 1 below has been modified to reflect a two-year cycle for Councilmember elections and a three-year cycle for Mayoral elections.

During the October meeting, Member Bates requested that this issue be revisited in order for Staff to prepare language for three year terms for all elected officials, with odd-number ward elections continuing to occur together in the same year, even-numbered ward elections occurring the next year year together, and the Mayoral election occurring every third year as a standalone election. To achieve this without affecting current terms, the language is drafted to begin in 2023 as shown on the chart below.

	Current Term	New Term
Odd Wards	July 2, 2019 – July 7, 2021  July 7, 2021 – 2023 (Tuesday following election results)	2023 – 2026 (Tuesday following election results)
Even Wards	July 3, 2018 - July 7, 2020  July 7, 2020 – July 5, 2022  July 5, 2022 – 2024 (Tuesday following election results)	2024 – 2027 (Tuesday following election results)
Mayor	July 2, 2019 – July 5, 2022	July 5, 2022 – 2025 (Tuesday following election results)

On November 4, 2019, the CRC voted 6-5 to move forward with three year terms for all members of Council and a modification that would provide that terms end, and new terms begin at 6:30pm on the Tuesday following certification of election results by the County Election Board. This necessitated related changes to Sections 5, 6, and 14 of Article II.

## **Language adopted by the CRC:**

### **Section 2. - Term of office.**

~~The term of Councilmembers shall be for a period of two years. Beginning with the 2023 elections, elections for Councilmembers shall occur every three years, with the odd-numbered ward elections occurring in 2023 and every three years thereafter, the even-numbered ward elections occurring in 2024 and every three years thereafter. The terms of Councilmembers chosen to represent Council wards two (2), four (4), six (6), and eight (8) shall expire~~ begin on the first Tuesday of July of the next even numbered year after their election. Beginning in 2024 and every third year thereafter, the terms of Councilmembers chosen to represent such wards shall begin at six-thirty in the evening (6:30pm) on the first Tuesday following certification of the election results by the election board secretary.

~~The term of Councilmembers chosen to represent Council wards one (1), three (3), five (5), and seven (7) shall expire~~ begin on the first Tuesday of July of the next odd numbered year after their election. Beginning in 2023 and every third year thereafter, the terms of Councilmembers chosen to represent such wards shall begin at six-thirty in the evening (6:30pm) on the first Tuesday following certification of the election results by the election board secretary.

Each elected officer shall continue to hold and to perform the duties of his office until his successor is elected and qualified, unless he is removed or forfeits his office under other provisions of this Charter.

~~The term of office of the Mayor elected at regular elections, Elections for Mayor shall be~~ occur every three (3) years. The term of the Mayor shall expire begin on the first Tuesday of July and each three (3) years thereafter. Beginning with the 2025 election, and every third year thereafter, the term of the Mayor shall begin at six-thirty in the evening (6:30pm) on the first Tuesday following certification of the election results by the election board secretary.

### **Section 5. – Municipal Elections.**

By resolution duly adopted each year, the City Council shall designate a date in the following year, which is approved under then-current state law, for the holding of Norman's municipal election, at which time there will be election contests conducted by the Cleveland County Election Board for each of the following positions for which two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8) in even-numbered years; wards one (1), three (3), five (5), and seven (7) in odd-numbered years; and Mayor in 2007 and each third year thereafter. Beginning in 2023, and every third year thereafter, elections for the following wards should be held, provided two (2) or more qualified (as described above) registered voters have filed for office: wards one (1), three (3), five (5), and seven (7). Beginning in 2024, and every third year thereafter, elections for the following wards should be held, provided two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8). Beginning in 2025, and every third year thereafter, elections for Mayor shall be held, provided two (2) or more qualified (as described above) registered voters have filed for office. If allowed by then-current state law, the date for municipal elections shall be in February. In each such municipal election, a person receiving a majority of votes cast shall be deemed to be the winner. If no person receives a majority of votes in the municipal election, the two candidates receiving the most votes shall proceed in the municipal runoff election, described below. If two or more persons tie for second place in the municipal election, and the person receiving the most votes did not receive a majority

of votes cast, then the second-place nominee shall be determined from among those tying, fairly by lot, by the Cleveland County Election Board. If three or more persons tie for first place in the municipal election, then the two municipal runoff election nominees shall be determined from among those tying, fairly by lot, by the Cleveland County Election Board.

#### Section 6. – Municipal Runoff Elections.

By resolution duly adopted each year, the City Council shall designate a date in the following year that is subsequent to the date chosen for Norman's municipal election described in Section 5 herein, which is approved under then-current state law, for the holding of Norman's municipal runoff election, at which time there will be runoff election contests, if necessary, conducted by the Cleveland County Election Board for each of the following positions for which two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8) in even-numbered years; wards one (1), three (3), five (5), and seven (7) in odd-numbered years; and Mayor in 2007 and each third year thereafter. Beginning in 2023, and every third year thereafter, elections for the following wards should be held, provided two (2) or more qualified (as described above) registered voters have filed for office: wards one (1), three (3), five (5), and seven (7). Beginning in 2024, and every third year thereafter, elections for the following wards should be held, provided two (2) or more qualified (as described above) registered voters have filed for office: wards two (2), four (4), six (6), and eight (8). Beginning in 2025, and every third year thereafter, elections for Mayor shall be held, provided two (2) or more qualified (as described above) registered voters have filed for office. If allowed by then-current state law, the date for municipal runoff elections shall be in April.

#### Section 14. – Form of ballot.

~~In odd-numbered years~~ in which the terms of the odd numbered wards expire, the names of the candidates for City Council for each Council ward numbered one (1), three (3), five (5) and seven (7) shall appear upon the ballot in the appropriate ward of the City and placed under the words: "For Councilmember in Ward No. \_\_\_\_\_", followed by the instruction in each case: "Vote for One".

~~In even-numbered years~~ in which the terms of the even numbered wards expire, the names of the candidates for City Council for each Council ward numbered two (2), four (4), six (6) and eight (8) shall appear upon the ballot in the appropriate ward of the City and placed under the words: "For Councilmember in Ward No. \_\_\_\_\_", followed by the instruction in each case: "Vote for One".

In the years in which the Mayor's term expires, the names of candidates for Mayor shall be placed upon the ballot under the words: "For Mayor", followed by the instruction: "Vote for One".



Item 5, being:

DISCUSSION OF ARTICLE II, SECTION 2 OF THE CITY CHARTER TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS AND MAYOR SHOULD EXPIRE ON THE LAST TUESDAY OF THE MONTH IN WHICH A RUNOFF ELECTION IS HELD OR SCHEDULED TO BE HELD.

Ms. Walker said prior to 2003, the terms of the Mayor and Councilmembers expired “at the time fixed for the last regular meeting of the Council in April.” In 2003, voters approved the current language that sets the expiration of Mayoral and Councilmember terms on the first Tuesday of July. She said Staff has provided a chart of comparable cities for Mayor and Council term expirations.

Member Stawicki asked if he could provide background on why the term was changed to July since he was involved and Ms. Walker said yes. Member Stawicki said there were members of Council who were upset by the fact that they did not get to vote on their own budget in June and incoming Councilmembers voting on a budget they knew nothing about because they did not work on it for a year. He said after the change to July it became immediately clear this was not a good idea because the first year it went into effect the sitting Mayor was not re-elected and did not stay engaged in City business.

Vice-Chairman Cubberley said he advocated for the change when he was on Council, but supports changing the language back to what it was prior to 2003.

Chairman Thompson said it is confusing to citizens to elect an official in February or April, but not have them seated until July. It is also problematic for a Councilmember or Mayor when they are elected for the position, but have to wait months to be sworn in and seated. He said many times elected candidates will try to involve themselves in the process before it is really appropriate.

Member Dillingham agreed and said once a candidate has been certified by the Election Board as having won the election then that candidate should be sworn-in and seated as soon as possible.

Members felt the seating of newly elected officials should be tied to the certification of the election results.

Items submitted for the record

1. Article II, Section 2– Mayor and Councilmember’s Term Expiration
2. Chart of comparable cities – Expiration/Beginning of Terms

\*

Item 4, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION OF ARTICLE II, SECTION 2 OF THE CITY CHARTER TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS AND MAYOR SHOULD EXPIRE ON THE LAST TUESDAY OF THE MONTH IN WHICH A RUNOFF ELECTION IS HELD OR SCHEDULED TO BE HELD.

Ms. Walker highlighted draft language for the Committee's consideration which would change the date for Councilmember Elects to be sworn in. The language proposed would tie the effective date of the office to the Cleveland County Election Board's certification of the election results. Concern was expressed by the Committee regarding the variability of term length using this approach and Staff was asked to work on language to bring back at next meeting.

Items submitted for the record

1. Article II, Section 2– Mayor and Councilmember's Term Expiration with draft language

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Item 5, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION OF ARTICLE II, SECTION 10, OF THE CITY CHARTER THAT WOULD REQUIRE A CANDIDATE FOR CITY COUNCIL TO RESIDE IN THE WARD IN WHICH HE OR SHE SEEKS ELECTION FOR A MINIMUM OF SIX MONTHS PRIOR TO FILING FOR SAID OFFICE.

Ms. Walker said the draft language requires that a Councilmember candidate reside in ward in which they seek election for six months prior to the date of the Municipal election. It also included language to address changes in ward boundaries due to reapportionment of wards within six months of the election date. That language states if a candidate's ward designation has changed in the six months prior to the election due to reapportionment, the six month residency requirement would be waived.

Members unanimously approved the language as written.

Items submitted for the record

1. Article II, Section 10 – Requiring a Person to Reside in a Ward for a Minimum of Six Months in order to be an Eligible Candidate for a Councilmember Position with draft language

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Item 2, continued:

YEAS:

Members Bates, Cubberley, Dillingham,  
Griffith, Jungman, McBride, Pipes, Stawicki,  
Vinyard, Williamson-Jennings, Chairman  
Thompson

NAYES:

None

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

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**Item 3. Continued discussion and possible action of Article II, Sections 2, 5, 6, and 14, of the City Charter to consider whether the term of office for Councilmembers and the Mayor should be changed from two years to three years.**

Ms. Walker said during the last meeting, Member Bates requested this issue be revised in order for Staff to prepare language for three year terms for elected officials, with odd-number ward elections continuing to occur together in the same year, even-numbered ward election occurring the next year together, and the Mayoral election occurring every third year as a standalone election. She said Staff prepared a chart. She said to achieve this without affecting current terms, the language is drafted to begin in 2023 as follows:

	Current Term	New Term
Odd Wards	July 2, 2019 – July 7, 2021 July 7, 2021 – 2023	2023 – 2026 (Tuesday following election results)
Even Wards	July 3, 2019 – July 7, 2020 July 7, 2020 – July 5, 2020 July 5, 2022 – 2024	2024 – 2027 (Tuesday following election results)
Mayor	July 2, 2019 – July 5, 2022	July 5, 2022 – 2025 (Tuesday following election results)

Item 3, continued:

Member Bates said the current timing sometimes does not allow a sitting Councilmember to run for Mayor without losing their seat, whereas other Councilmembers can run without giving up their seat. He is trying to make it more equitable for all Councilmembers. He said almost all elections for higher offices occur on even years and changing the terms would allow for better time management if running for a higher office. He said the Mayor has a leadership role that is different from the rest of Council, but when it comes down to their ability to be involved and understand the issues there is really no difference in decision making power. He would not want to shorten the Mayor's term, but adding one extra year to the term of the Councilmembers will give them more time to be involved and understand the issues they are voting on.

Member Stawicki said the Mayor does a lot more City activities outside of Council meetings than other members of Council, which means they are only equal in terms of their vote on Council. He suggested creating nine (9) wards which would be one-third of the Council each year being elected each year and the Mayor would not vote at the Council meetings.

Member Pipes said if the Mayor does not vote then a big chunk of accountability is gone.

Member McBride said he supports three year terms for each member of Council including the Mayor and Member Pipes agreed.

Member Dillingham said she was not excited about three year terms because of the loss of engagement with the voters. She said the City is known for its engagement with voters and complacency may creep in with a three year term. She said it is critical to stay in touch with constituents because the demographics do change and it is Council's responsibility to understand what voters are thinking and it puts more pressure on the Councilmember to make sure they have ward meetings or other types of communication. She said face to face communication is important and the best way to do that is keeping Councilmembers engaged is to keep the two year terms.

Member Williamson-Jennings agreed and said two year terms keep representatives accountable and engaged with constituents wants from their representatives.

Councilmember Stawicki asked if any other cities separate Mayor and Council elections as Ms. Walker said she would research that for the Committee.

Member Griffith and Member Jungman support two year terms for Councilmembers.

Member Cubberley said he supports three year terms because it takes time to build relationships and get things done. He said larger City issues can take over a year of Committee and/or Council discussion before making it to Council for a vote so an extra year can make a big difference. He said three years is really not that long and Councilmembers can always be responsive to constituents.

Item 3, continued:

Member Bates said there is an interesting dynamic in a Mayoral race that could potentially be heavily influenced by the fact that there are four wards up for election at the same time. He said by separating the Mayor and Council races it makes it very clear to the public what type of race will be taking place.

Chairman Thompson said issues the Council was working on when he was sworn in as a Councilmember were not the same issues candidates running for office were talking about in the ward races. He voted on issues Council had been discussing for a very long time that he was uneducated about. He said when Council turns over quickly it lacks consistency of knowledge. He said it takes time to get new Councilmembers “up to speed” and new Councilmembers may not agree with the direction current seated Councilmembers are going.

Member McBride moved that the proposal to change the term of office for Councilmembers and the Mayor from two to three years be approved, which motion was duly seconded by Member Cubberley,

Items submitted for the record

1. Proposed Article II, Section 2 – Mayor and Councilmember’s Term Expiration

and the question being upon approving the proposal to change the term of office for Councilmembers and the Mayor from two to three years a vote was taken with the following result:

YEAS:

Members Bates, Cubberley, Griffith, McBride,  
Pipes, Chairman Thompson

NAYES:

Members Dillingham, Jungman, Stawicki,  
Williamson-Jennings, Vinyard

Chairman Thompson declared the motion carried the proposal term of office for Councilmember and the Mayor from two to three years was approved.

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**Item 4. Discussion of Article II, Section 11, to consider whether to allow partisan elections for municipal office.**

Member Cubberley said City items are more issue focused than party focused.

Member Dillingham said it makes it so much easier to knock on a door, answer the phone, and answer an email when you are focusing on the issue and talking about the roads, water, stormwater, etc.

Member Pipes felt the City should stay status quo on this issue.

## Article II, Section 22 – Filling Vacant Council Positions.

### Background:

Whether to allow an outgoing councilmember to appoint their successor or to hold a special election to fill the empty position is a novel issue for the CRC.

The proposed change allowing an outgoing councilmember to appoint their own replacement came in the form of an amendment to the Resolution proposed by Councilmember Castleberry on April 18, 2019. The Resolution was subsequently amended by Councilmember Petrone to include a proposed change that would mandate a special election in the case of a vacant councilmember position.

A chart comparing Norman’s current policy for filling vacant positions with other cities’ policies was provided to the CRC for review at its August 12, 2019 meeting. The CRC discussed both proposals and expressed a desire to follow a consistent process, recognizing that the current Charter language provides Council an option to call a Special Election or follow a committee process. Ultimately, the Committee recommended that language be drafted to codify the Committee process used recently to fill vacancies in Ward 6 and Ward 4.

The CRC voted unanimously at its September 9, 2019 meeting to recommend incorporating the selection committee process into the Charter. Subsequent to the September 2019 discussion, there was some question about the language “for a period extending until the next regular municipal election”. When a vacancy is filled and the next regular municipal election already would 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 per Article II, Section 2 of the Charter. In other words, the appointment continues until the expiration of the term for which the appointee was selected to fill. One remedy that was considered was to have two ballots for the same seat on the same election – one to complete the term, and one for the term beginning in July. However, according to the Election Board, this presented a completely novel issue and one not addressed by their rules. Ultimately, it would be highly discouraged by the Election Board due to the possibility of 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 discussed this issue at its April 2021 meeting and asked Staff to draft an amendment to clarify this issue. During the May 2021 meeting, the CRC also discussed whether to keep the previously suggested amendment related to codifying the selection committee process. Ultimately, the CRC voted unanimously to remove the previously recommended language, and include the clarification regarding filling vacancies for the remainder of the term.

### Recommended Language

#### **Section 22. – Vacancies in office.**

\* \* \* \* \*

Any vacancy occurring on the City Council shall be filled by a majority vote of the remaining members of the City Council 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.

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Item 7, continued:

Member Eller said it would be nice to create language that defines residency/domicile and Members concurred. Ms. Walker said she would do some research to bring draft language back to the Committee.

Items submitted for the record

1. Article II, Section 10 – Requiring a Person to Reside in a Ward for a Minimum of Six Months in order to be an Eligible Candidate for a Councilmember Position
2. Chart of comparable cities – Minimum of Six Months Residency in Ward

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Item 8, being:

DISCUSSION OF ARTICLE II, SECTION 22 OF THE CITY CHARTER TO CONSIDER ALLOWING THE OUTGOING COUNCILMEMBER CREATING THE VACANCY TO APPOINT HIS OR HER SUCCESSOR, UNLESS SUCH VACANCY HAS BEEN CREATED DUE TO REMOVAL FROM OFFICE AS A RESULT OF PROCEEDINGS BY A COURT OF COMPETENT JURISDICTION.

Ms. Walker said currently, the Mayor and Council can appoint a successor, but if that is not done within, 60 days, a special election must be called. In the past, Councilmembers have made recommendations on who Council should consider for the vacancy; however, many times there would not be majority vote (five affirmative votes) for one person so the names were placed into a "hat" and someone would draw a name and that person would fill the vacancy. She said this process is awkward for the person pulling the name out of the hat as well as the person whose name is not drawn. More recently, the City Clerk has accepted applications and a Review Board Committee interviews the candidates then recommends a person to Council for a vote. She said an amendment suggested by former Councilmember Castleberry in 2019, was to allow an outgoing Councilmember to appoint their own replacement. She said a subsequent amendment by Councilmember Petrone would mandate a special election be held for any Council vacancy. She said Staff has provided a chart of comparable cities for filling Mayor and/or Council vacancies.

Member Dillingham said whatever the process is, it should be consistent each time there is a vacancy to fill.

Member Jungman said the proposal to allow a Councilmember to choose their own replacement is absurd and feels candidates going through a Committee process is more practical.

Member Stawicki said if there is more than six months left on the vacating Councilmember's term, there should be a temporary appointment until an election can be held. He does not support a Councilmember appointing their own replacement. He felt that any person filling a vacancy should be appointed through a consistent, designated procedure.



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Item 8, continued:

Member Dillingham prefers the Committee process of recommending one name for a majority vote of the Council because elections can be costly and time consuming. She said vacant seats should be filled as quickly as possible and an election could take more time than a Committee's recommendations so she would like to craft language for that.

Former Councilmember Castleberry asked what would happen if the Committee sends one name forward and Council rejects the person and Chair Thompson said the process would start over. Other members felt a special election should be called if Council rejects the recommended candidate.

Member Prather said she is fine with a Committee recommending one name, but can there be an alternate process if Council rejects that person.

Ms. Walker said she will draft language for a specific process as well as a special election process for the Committee's review.

Items submitted for the record

1. Article II, Section 22 – Filling Vacant Council Positions
2. Chart of comparable cities

\*

Item 9, being:

Miscellaneous Discussion.

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Item 10, being:

ADJOURNMENT.

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

Item 6, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION OF ARTICLE II, SECTION 22, OF THE CITY CHARTER TO CONSIDER ALLOWING THE OUTGOING COUNCILMEMBER CREATING THE VACANCY TO APPOINT HIS OR HER SUCCESSOR, UNLESS SUCH VACANCY HAS BEEN CREATED DUE TO REMOVAL FROM OFFICE AS A RESULT OF PROCEEDINGS BY A COURT OF COMPETENT JURISDICTION. [ALTERNATE LANGUAGE APPROVED]

Ms. Walker said at the previous meeting the Committee discussed alternate language to replace vacancies other than allowing the outgoing Councilmember creating the vacancy to appoint his or her successor. She said the Committee asked Staff to draft language that would require the use of a committee within the ward similar to the process used that past few times a vacancy occurred. She said the language requires a committee made up of five residents within the ward to make a recommendation for City Council's consideration.

Members unanimously approved the language as written.

Items submitted for the record

1. Article II, Section 22 – Filling Vacant Council Positions with draft language

\*

Item 7, being:

DISCUSSION REGARDING THE CONSIDERATION TO ADD LANGUAGE TO THE CHARTER RELATED TO THE APPOINTMENT AND REMOVAL OF A CITY AUDITOR THAT WOULD BE A FULL TIME EMPLOYEE OF THE CITY OF NORMAN AND APPOINTED AND SUBJECT TO REMOVAL BY THE CITY COUNCIL.

Ms. Walker said there is no specific proposed language at this time. Currently, Norman does not have a City Auditor. The change as proposed would create the position of City Auditor. The City Auditor would be 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 create a City Auditor position that 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. Oklahoma City was the only city that has an auditor position and that position is appointed by City Council. Stillwater has an Audit Committee that is appointed by City Council.

Committee members discussed pros and cons of this proposal. Vice-Chairman Cubberley said City Council has the ability to hire an auditor for any specific purpose and felt this position would just be adding another level of bureaucracy, which is not needed for a city the size of Norman. Member Stawicki suggested the City Controller be a Council employee. Member Eller like the notion of an internal auditor not for finances, but for practices.

After further discussion, it was unanimously approved not to create the position. No change to the Charter will move forward to City Council.

## **Article XIII. Recall of Elective Officers**

### **Background**

For the first time in the City's history according to Staff research, multiple recall petitions were filed last summer against several Councilmembers and the Mayor. Although Article XIII, Recall of Elective Officers, has been in Norman's Charter for many years, these provisions hadn't really been tested. Now 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. Council amended the CRC's Resolution in November 2020 to add this section to the list of items they wanted the CRC to consider.

Residents do not have a right to recall their City elected officials by statute; rather, only a City's Charter can grant such a right. When dealing with a matter of local concern, courts typically give deference to cities. The City's provisions for recall are summarized below:

Section 1: An elected official is not eligible to be recalled until 6 months from the date of taking office.

Section 2: A petition for recall must contain signatures, names and addresses of 25% of the registered voters qualified to vote for the official proposed to be recalled.

The City Clerk provides the petition and circulators must return it to her within 30 days, not counting Sundays and legal holidays.

Separate petitions for separate elected officials

The top of each page of the petition must provide the reasons for recall.

The City Clerk has 30 days to review petitions and determine whether the signatures are valid and are those of registered voters eligible to vote for the official proposed to be recalled.

Section 3: City Clerk must publish a notice in the newspaper stating the name of the officer(s) whose recall is sought and the time limit for signing the petition. Notice is also mailed to the elected officer(s).

City Clerk must open her office during regular office hours or face possible prosecution.

Section 4: Once a petition is determined to have a sufficient number of signatures, the petition(s) must be presented to City Council, who shall call a recall election.

The only question on the ballot shall be the recall of the officer(s) affected.

In order to be successful, the total number of votes in favor of the recall must be a majority of the votes cast on the issue AND equal a majority of the votes cast in the most previous election for the office in question.

Section 5: Once an official is recalled, a vacancy is declared and filling for the unexpired term of the recalled officer(s). Council shall set filing dates for said election to commence 10 days after the date of the recall vote and lasting until 5 pm on the 11<sup>th</sup> day after the recall vote. The election to fill the vacancy shall be conducted in accordance with state election laws.

Section 6: Once an official is removed by recall, or if he/she resigned while recall proceedings were pending, the official cannot be appointed to any office within one year after such removal or resignation.

There are number of issues Staff identified for improvement while going through the recent recall process:

1. The petition form should be improved to provide more data points that will assist in matching voter signatures to voter registrations.
2. Thirty days is not enough time for the Clerk to review multiple petitions at the same time, and is likely not sufficient for a recall petition for the office of Mayor, simply because the signature threshold is much higher.
3. Elsewhere in the Charter, 5 votes are required for Council to take action. There should be a limit to the number of officials that can be recalled at one time. If 5 were to be recalled, there would not be enough officials left to call an election to replace the recalled officials.
4. Section 4 could be clarified that the question of recall should be the only *City* question on the ballot. In odd-numbered years in particular, election dates are already very limited by State law. An additional concern is the ability of Councilmembers who are the subject of recall to avoid recall simply by calling elections for other municipal issues on available dates.
5. The timing for declaring a vacancy and setting a filing period should be revised to match more closely to state law and to address the issue of whether an election is needed if the recall election occurs too closely to the regular election or the end of the term for the same seat. For example, in the most recent experience, odd-numbered ward representatives were already scheduled for the regular municipal election in February. If the recall election had been set on March 2, 2021 (the next available date and the only available date in March), then the election to fill the vacancy under state law could not have occurred until May 11, 2021 for a term that ends on July 6, 2021. If more than two candidates ran and no one garnered a majority of the vote, the earliest possible date for a runoff election would have been on July 13, 2021, after the term for which the official was being elected had expired.

While in the middle of a multiple day hearing of petition sufficiency in one of the local recall petitions on January 26, 2021, the Oklahoma Supreme Court issued its opinion in *In re: Petition to Recall Ward Three City Comm'r Ezzell*, 2021 OK 5. In the *Ezzell* case, the Supreme Court considered the extent to which other state statutory provisions may be applicable to local recall processes. The Court ultimately held that the same general procedure that applies to initiative and referendum should also control municipal recall elections.

State law related to initiative and referendum petitions are found in Title 34 of the Oklahoma Statutes. 34 O.S. §§1 and 2 sets forth the form for referendum and initiative petitions respectively. The form recently changed, effective November 1, 2020, to include more data points to assist with matching names on the petition with names in the voter registration database. The Charter currently doesn't set forth the form of the petition; it simply states that the petition form will be provided by the City Clerk. The form has already been updated to follow as closely as possible the referendum petition form provided by state statute because one of our goals was to include more data points to assist with matching signatures. The forms are put together in a pamphlet and include a warning related to fraudulent signatures, the gist of the proposition on the signature page, and an affidavit to be signed by each petition's circulator, all as required for initiative and referendum petitions under 34 O.S. §§3, 6. A copy of the form is attached for your reference.

34 O.S. §6.1 sets forth signatures that must be excluded from the total count by the Secretary of State when making a verification and count of the number of signatures on initiative and referendum petitions. Excluded signatures include:

1. All signatures on any sheet of any petition not verified by the circulator
2. All signatures of nonresidents
3. All signatures on a sheet that is not attached to a copy of the petition pamphlet
4. All multiple signatures on any printed signature line
5. All signatures not a printed signature line
6. Those signatures by a person who signs with any name other than his or her own, or signs more than once
7. All signatures of any sheet on which a notary has failed to sign, the seal of the notary is absent, the commission of the notary has expired or the expiration date is not on the signature sheet
8. Any signatures that cannot be verified by the Secretary of State with the Oklahoma State Election Board's public voter registration records. (Remember, the proscribed form states that at least 3 data points must be matched).

34 O.S. §17 requires publication of initiative and referendum measures not less than 5 business days before any election is held on such a measure, a copy of the ballot and an explanation of how to vote for or against the measure. This would be a simple requirement to implement for a recall petition. It would simply read: "On \_\_\_\_\_, 2021, voters of Ward \_\_\_\_/Norman will have an opportunity to vote on the following question: Should Councilmember/Mayor \_\_\_\_\_ be recalled? A yes vote means you would like he/she to be recalled and no longer serve in office and a no vote means you would like he/she to retain his/her office."

## **Areas of the Charter to Consider for Modification**

### Section 1 – Time of commencing proceedings

None

### Section 2 – Filing of Petition; Validation of Signatures

Should we continue to require a statement of the reasons for which recall is sought at the top of each page of the petition?

Consider adding language that the petition provided by the Clerk shall be substantially similar to the form provided by State law for initiative and referendum petitions

Should the 30-day time period within which to return the petition be changed and/or should it continue to exclude Sundays and legal holidays?

The City's Clerk's inspection is required to be done in 30 days and makes no exclusions. Should more time be given if multiple petitions or for Mayoral recall? The Secretary of State's administrative rules for counting signatures includes the following process:

- Notify the proponent(s) of the specific date, time and location for the signature count
- Secretary of State trains counters
- Proponent(s) can provide an observer for the counting process
- Physical Count:
  - o Petitions are detached from signature sheets
  - o A physical count of the signatures is done
  - o Signature sheets are consecutively numbered
  - o Signature sheets and one (1) printed copy of the petition are bound in consecutively numbered volumes, which include a cover sheet showing the volume number, purported number of signature sheets, the series of numbers assigned to the signature sheets and the total number of signatures counted for that volume

NOTE: In this recent process, it appeared that we didn't receive the same information that the State is given as the database was much more tedious to search and in the format provided, only one person could use it at a time.

Clarify the information used to validate signatures to align with the data points in the new form, and with 34 O.S. §6.1 above.

### Section 3 – Notice and publication

Consider adding a requirement to publish notice as set out above in line with 34 O.S. §17.

#### Section 4 – Calling election; votes required for recall

Consider clarifying that it must be the only City issue on the ballot

Consider limiting the number of officers that may be recalled at any one time (never more than 4) to avoid quorum issues

Consider ways to avoid a situation where Council can call elections on other issues to avoid a recall election

#### Section 5 – Election to fill vacancy created by recall

Update time frames to coincide with state law.

Consider whether language could be added to avoid a situation where the recall election and/or the election to fill the vacancy occurs after the recalled official's term would've ended anyway.

#### Section 6- Reappointment prohibited after removal.

None

The CRC discussed these issues at length at its meeting of April 19, 2021 and asked Staff to draft language that was responsive to the discussion. Changes to each section as discussed by the CRC is provided below, along with a summary of the discussion. The language below was adopted during its May 2021 meeting.

#### **Recommended Language:**

##### **Section 1. - Time of commencing proceedings.**

[The CRC discussed whether the limit on recall proceedings during the first 6 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 elections for the same office are happening in back to back months.]

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, in the following manner:

## Section 2. - Filing of petition; validation of signatures.

[The CRC expressed support for incorporating a reference to State law for petition form in response to the *Ezzell* case mentioned previously. Some members of the CRC expressed reservations about requiring a reason for recall on each petition; however, to the extent the *Ezzell* case requires that we follow state law as closely as possible, it would appear a gist of some kind would be required on each petition page. Some members expressed concern that the sufficiency of the gist could become a point of contention and result in otherwise valid petitions being thrown out, similar to initiative and referendum petitions. Staff has attempted to draft language that would comply with State law but provide a more standardized gist, particularly since the “gist” of a recall petition is less nuanced than many subjects of initiative and referendum petitions. The CRC also discussed whether 30 days is sufficient for the clerk to review petitions, particularly when multiple petitions are filed. While members recognized the need to review petitions expeditiously, they also recognized the challenge multiple petitions present in terms of time to review. It was suggested that 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. A table is attached looking at a few different scenarios.]

A petition bearing the signatures, names and addresses of twenty-five per cent (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 and 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.”

The petition must be returned to the City Clerk within thirty (30) days, Sundays and legal holidays excepted, of its initiation 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 those of registered voters eligible to vote 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 (30) 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.



### Recall Petition Timing Scenarios

<b>Date Signed Petition Submitted to Clerk</b>	<b>Ward or Mayor</b>	<b>Minimum Number of Signatures Required</b>	<b>30 day review</b>	<b>60 day review</b>	<b>90 day review</b>
August 14, 2020*	Ward 3	2,573	September 14, 2020	October 14, 2020	November 13, 2020
August 14, 2020*	Mayor	18,154	September 14, 2020	October 14, 2020	November 13, 2020
January 6, 2021**	Odd # Ward	2,100 (avg.)	February 5, 2021	March 7, 2021	April 6, 2021
February 7, 2021***	Even # Ward	2,400 (avg.)	March 9, 2021	April 8, 2021	May 8, 2021

\* Actual petitions received in 2020.

\*\* If a petition were filed 6 months prior to end of term.

\*\*\* First opportunity to file petition for new Councilmembers sworn in on July 7, 2020.

<b>Available Election Dates</b>	<b>Filing Date Options</b>	<b>Notice to Election Board</b>
November 3, 2020	8/24/20 – 8/26/20 8/31/20 – 9/2/20	August 19, 2020 (75 days because of State election)
February 9, 2021	12/14/20 – 12/16/20	December 10, 2020
April 6, 2021	2/8/21 – 2/10/21 2/15/21 – 2/17/21	February 4, 2021
September 14, 2021	7/19/21 – 7/21/21	July 15, 2021
November 9, 2021	9/13/21 – 9/15/21 9/20/21 – 9/22/21	September 9, 2021

### **Section 3. – Notice and publication.**

[CRC members reviewed the current notice requirements in the Charter as well as notice requirements in 34 O.S. §17, which is arguably implicated in the *Ezzell* decision. Staff was asked to draft language that would reference state statute rather than mimic the statutory language to ensure the Charter provision doesn't 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 the voters, stating the name of the officer(s) whose recall is sought and the time limit within which said petition(s) must be signed. Further, the City Clerk shall cause to be mailed to the officer(s) whose recall is sought an official notice that the petition has been commenced and the time limit in which it must be completed. Such notice shall be by certified mail, return receipt requested, and the refusal of the officer(s) to accept delivery shall in no way affect the validity of the notice. Failure of the City Clerk to keep the City Clerk's office open during regular office hours, which failure prevents the proper filing of said petition(s), shall be adjudged a misdemeanor and upon conviction thereof the Clerk shall be punished by a fine of not less than ten dollars and not more than fifty dollars, and each day said City Clerk violates the provisions hereof shall constitute a separate and distinct offense. In the event such a failure on the part of the City Clerk occurs, petitioners may file the petition(s) with the City Manager.

In addition to publishing notice upon receipt 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. There was consensus to remove this language. Additionally, the challenge posed by the potential for a successful recall election of 5 of the 9 Councilmembers was discussed. Article XI, Section 1 of the Charter requires the affirmative vote of five (5) 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 Councilmembers. The CRC asked Staff to draft language that would provide for an exception to Article XI, Section 1 if more than four Councilmembers are recalled.]

Upon determination by the City Clerk that the petition(s) bear the signatures of the requisite number of registered voters, said petition(s) shall be presented by the City Clerk to the City Council which body shall, in accordance with state election laws, call a recall election.

~~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 any action until the vacancies resulting from the recall are filled as set forth herein.

**Section 5. – Election to fill vacancy created by recall.**

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 officer(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.

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Item 2, continued:

YEAS:	Commissioners Ali, Bates, Dillingham, Griffith, Hackelman, Jungman, McBride, Pipes, Stawicki, Vinyard, Williamson- Jennings, Vice-Chairman Cubberley
NAYES:	None

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

\*

Items 3, 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 recall of elected officers is a process the City has had in the Charter for many years, but has never been tested. She said recall petitions have been filed in the past, but never with the volume of signatures or multiple elected official recalls that were filed with the City Clerk last fall. She and the City Clerk began making notes of what they thought needed to be changed in the process. She said the Supreme Court made a ruling on a recall in Enid, Oklahoma, that changed the game for everyone. She said cities do not have the right to recall elected officials unless that is provided for in their Charter.

Ms. Walker said under Norman's Charter, an elected official is not eligible to be recalled until they have served at least six months then a petition is filed with the City Clerk that includes signatures, names, and addresses of 25% of the eligible registered voters that are qualified to vote for the office proposed to be recalled. She said the Mayor election is citywide and will be a much larger number of voters. The City Clerk provides the petition to the petitioner and the petitioner has 30 days to circulate the petition that excludes Sundays and legal holidays. She said separate petitions for separate elected officials are required with a reason for the recall clearly listed in the heading of each petition page and once the petitions are filed with the City Clerk, the City Clerk has 30 days to review the petitions and determine whether the signatures are valid as registered voters eligible to vote for that office. The City Clerk publishes a notice in the local newspaper stating the name of the petitioner(s), the date petitions are due in her office, and the name of the official being recalled. This past fall, the City Clerk had to review multiple boxes of petition pages with thousands of signatures for several officials, including the Mayor. Once the petition is determined to have sufficient number of signatures, it is presented to City Council who shall call a recall election and the only question on the ballot will be the recall of the official. In order to be successful, the total number of votes to recall an official must be a majority of the votes at the recall election and at least a majority of votes at the previous election so the petitioner cannot capitalize on lower voter turnout.

Item 3, continued:

Ms. Walker said once the official is recalled, a vacancy is declared and filing for the unexpired term of the recalled official proceeds to take place in accordance with State election laws. Legal notice must be published no less than five days before any election is held that includes ballot language.

Ms. Walker said she and Ms. Brenda Hall, City Clerk, discussed improving the petition form because matching names to the voter database is very difficult, i.e., the person signed the petition using a shortened version of their name, such as Bob instead of Robert, which is not what is registered with the Cleveland County Election Board. She said the database was very slow and the City Clerk's computer would sometimes shut down in the middle of a search so 30 days was not enough time to verify multiple officials recall petition signatures as well as ensuring they live in the Ward of the official being recalled.

Ms. Walker said five recall petitions were filed and asked what would happen if they had all been successful. She said the Charter requires five votes to do anything so how would the process work if there is not five Councilmembers to take action? Would the Governor have the authority to call an election in that situation, which would be a novel issue for the State.

Ms. Walker said the Charter currently states, "The sole question in said election shall be the recall of the official(s) affected" and Staff is suggesting language that states, "The only City issue on the ballot shall be the recall of the official(s) affected" because in some years, election dates are very limited and other entities may have questions on the ballot, which the City has no control over.

The timing for declaring the vacancy and setting the filing period needs to be revised to match more closely with State law. There are also concerns about calling a recall election when that seat is already up for re-election as well as timing of the election date when the recall occurs.

Ms. Walker said while the City was litigating a lawsuit on the recall petition for Ward Three, the Supreme Court ruled on the Enid, Oklahoma, case and ultimately stated the City of Norman should be following the same procedure in its case even if its Charter is different than Enid's.

After some review, Staff is proposing a new petition form that is much more like a Referendum Petition; however, the City will accept a Referendum Petition as well as an Initiative Petition in order to have flexibility. Ms. Walker said the State was having difficulty in matching signatures for some of their petitions so as of November 2020, cities and towns have to match at least three data points on petitions that includes providing a pamphlet, providing a warning related to fraudulent signatures, providing a gist of the proposition on each signature page, and the petition circulator must sign an affidavit. She said the days of leaving a petition on a counter for people to sign is gone because someone has to witness the signature now.

Should the City allow more than 30 days to gather signatures? Should the City exclude Sundays and legal holidays? Should more time be given to the City Clerk if multiple petitions for recall are filed at one time? Should some of the State rules be incorporated into the Charter? Should the City limit the number of recalls that can be on one ballot at any time? Should the City create language to avoid a situation where the recall election potentially happens after a person's term has ended?

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Item 3, continued:

Vice-Chairman Cubberley suggested the Charter Review Commission (CRC) review each item brought forward by Staff individually and ask questions, make statements, or suggest recommendations.

#### Section I, Time of Commencing Proceedings

Ms. Walker said this item requires a Councilperson to be seated six months before a recall petition can be filed.

Commissioner Jungman said there is a logical window when a recall is appropriate and that is after a person is elected and before the next election so a person would only have to be in office for one meeting before being subjected to recall. He said the next election may be a more efficient means to get to a vote than a recall.

Commissioner Eller said that makes sense and language could be added to describe that window as far as how long they have been on the Council and no later than a certain number of days before an election to fill the seat.

Vice-Chairman Cubberley said, talking as a former Councilmember, it would be so easy for his election opponent to start circulating a petition after the first meeting so six to 18 months into the term would be more appropriate.

Commissioner Dillingham agreed and said a person should be allowed to serve long enough so their constituents to get to know them unless they have committed an unlawful act or malfeasance that would justify removal from office.

Commissioner Jungman suggested six months after the last election or six months before the next election.

Vice-Chairman Cubberley asked if a contingency could be added that in the event the seating does not change then the recall will be withdrawn or nullified because the voters have elected not to change the seating.

Commissioner Vinyard said to grant six months when a person can campaign on a multitude of different issues to garner votes then comes right in and votes directly opposite of those issues, that nullifies the will of the people in the original vote.

Commissioner Pipes asked if there had been recalls prior to the ones filed last year and Ms. Hall said there has not been a recall that has made it to a ballot in the 31 years she has worked for the City nor has there ever been one that included multiple seats.

Commissioner Jungman said there seems to be consensus on a short initial waiting period and a six month end of term waiting period.

Item 3, continued:

Section I, Time of Commencing Proceedings, continued:

Commissioner Bates said the language suggests the recall process can begin at such time that would allow the process to be complete within six months of the time elected, is that correct? Ms. Walker said language states, "The holder of any elective office whether by election or appointment may be removed at any time after six months from the date of the succession of said office." She said six months from the election is the time someone could start the filing of a recall petition.

Commissioner Pipes felt no changes are necessary because this request came from one Councilmember who just lost re-election and while that Councilmember is a nice person he does not see the need to change what has been working for years.

Commissioner Dillingham said recall should be extraordinary and rare and changing language could lead to a slippery slope of a constituent with enough friends bringing forth a recall petition just because he or she disagrees with any decision a Councilmember has made rather than something serious infraction.

Commissioner Vinyard disagreed and said the threshold to get someone recalled is high already so that is the check and balance already.

Commissioner Williamson-Jennings said if the Councilmember is doing due diligence and still working for the will of the people, there will be enough constituents that will not sign a recall petition. She cautiously agrees with six months after being seated or six months before an election.

Commissioner Ali said just about every issue the CRC has dealt with has been a "slippery slope" so creating a more streamlined process to ensure those involved have more consistency and standardization seems to be a reasonable recommendation.

Vice-Chairman Cubberley said he would like to see language prior to making a decision on whether or not to make a recommendation. He asked Ms. Walker to draft language for review and discussion.

Continue to Require Statement Language at the Top of Each Petition.

Commissioner Jungman said no and Commissioner Dillingham said yes. Commissioner Jungman said if yes, will it be a matter of if the reason is valid or invalid because if there is no standard for the reason then they could put anything they wanted on top of the page so there might as well be nothing.

Commissioner Dillingham said her yes is based on case law and the Attorney General opinions that specifically state that when you ask someone to sign a petition, it has to give a person of reasonable intelligence an idea of what the petition is requesting. An essential reason of some description is a critical piece of that.

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Item 3, continued:

Continue to Require Statement Language at the Top of Each Petition, continued:

Ms. Walker said if following Title 44, there has to be a gist that generally describes the impact of the petition.

Commissioner Jungman said he is okay with a reason as long as the reason as long as there is not a standard on what makes a reason valid or invalid.

Vice-Chairman Cubberley said if he was signing a petition, he would want to see what it was about and not have to go back to page one to see what the petition is about.

Ms. Walker suggested a standardized petition would be helpful in this matter and Commissioner Jungman agreed.

Consider Adding Language that the Petition Should be Substantially Similar in Form as Provided by State Law.

Commissioner Jungman said a standardized form for a recall petition, not particularly a Referendum or Initiative Petition, it would solve this issue.

Commissioner Dillingham said the Supreme Court has told the City to do this so the City should do this and Commissioner Jungman agreed.

City Clerk Inspection Required to be Completed in 30 Days.

Vice-Chairman Cubberley said there are no exclusions, so should the City Clerk be allowed more time if multiple petitions or Mayoral recall are filed?

Commissioner Dillingham said yes and Commissioner Jungman asked Ms. Hall how much time would be needed. Ms. Hall said it varies, because 30 days for each petition filed is plenty of time for a couple of Ward petitions, but when a Ward petition is filed at the same time as a Mayoral petition, it takes more time. She had 30,000 signatures to verify in 30 days and it was a nightmare so there needs to be some type of exception.

Vice-Chairman Cubberley asked if the CRC could get rid of the 30-day requirement and allow reasonable time, which would require notifying the proponent of the specific date. Ms. Hall said her only concern with this is having the petitioner watching the procedure and did not want people shadowing her day and night, especially after hours and weekends which is when she worked on most of the verification. She does agree there needs to be more time whether that is tied to multiple petitions being filed or more time for the Mayoral.

Commissioner Jungman said there is a professional pressure to verify petitions signatures in a timely manner so the rule does not have to be precise, but there needs to be clarity on when the petition is considered valid or invalid.



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Item 3, continued;

City Clerk Inspection Required to be Completed in 30 Days, continued:

Commissioner Pipes asked how long the State has to verify signatures on a general Initiative Petition and Ms. Walker said she was not able to find a time limit, but she can try to find an average for CRC's review. Commissioner Pipes said the State has more employees to review the signatures so City Staffing does have bearing.

Commissioner Dillingham said Cleveland County allows a "reasonable amount of time" for verification of County related election signatures. She believes the City could be allowed a reasonable amount of time based on the number of recall petitions and whether one is Mayoral provided not-to-exceed a specific number of days.

Commissioner Williamson-Jennings suggested 30 days for Ward recall petitions and 60 days for Mayoral recall petitions.

Commissioner Dillingham suggested 90 days for multiple recall petitions that includes Mayoral and Ms. Hall felt that would be sufficient.

Commissioner Vinyard said he has heard that a lot of time is needed due to how sloppily the forms are completed by people signing the petition and asked if signatures on a green bar similar to what is found in the Election Board files would make it easier to read and follow and Ms. Hall said it would make it easier. She said one of the items proposed for the new form is a State requirement for a birth date, which would be another key way to identify signatures faster.

Commissioner Pipes asked if City Clerks in other cities are required to verify petition signatures and Ms. Hall said in Stillwater, their County Election Board verified the signatures for the City, but was not sure the City of Norman would be able to convince the Cleveland County Election Board to do that work for the City. Commissioner Dillingham agreed and said the Cleveland County Election Board would not consider this a statutory duty, but may be willing to share a database. Vice-Chairman Cubberley said it would not hurt to ask for any help the County is willing to give.

Vice-Chairman Cubberley asked Ms. Walker to prepare language with flexibility for CRC's review and discussion.

Notice and Publication

Vice-Chairman Cubberley said this issue considers adding a requirement for published notice in line with State law and asked what State law requires. Ms. Walker said State law requires cities to publish any Initiative or Referendum measure not less than five business days before any election is held on the measure with a copy of the ballot and an explanation on how to vote for or against the measure.

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Item 3, continued:

Notice and Publication, continued:

Vice-Chairman Cubberley said this seems to be a straightforward yes and Commissioner Dillingham agreed.

Commissioner Dillingham asked if the notice could be posted on the City's website to avoid the newspaper publication requirement and Ms. Hall said with The Norman Transcript changing to a three day a week paper with very low staffing, they have missed publications on more than one occasion and the City barely obtained the reprint in the paper in time on the last election. She said having the option of publishing on the website would be helpful.

Ms. Walker said language requires newspaper publication so not doing that could leave the City open to lawsuits. Commissioner Dillingham said this is one of those things where the legislature would have cross referenced the Open Meeting Act (OMA) where it states that if a city has a website they can post on notices on their website. She said most people generally search for a website and to not purchase a newspaper. Ms. Walker said she can draft language that states the notice will be published in conformance with State Statute in case legislation changes to recognize websites.

Calling Elections and Votes Required for Recall

Vice-Chairman said Council is asking the CRC to clarify that the recall question must be the only City issue on the ballot.

Commissioner Jungman asked if multiple persons can be on the recall ballot and Ms. Walker said the only question on the ballot can be the recall question. Ms. Hall said there can be multiple recalls on the same election day, but they have to be on separate ballots and there cannot be any other City question, such as General Obligation Bonds.

Ms. Walker said this item is simply clean-up to make it clear that no other City issue can be on the recall ballot, but that language can be stricken.

Commissioner Jungman said he did not see why the City would limit itself to recalls versus other issues.

Commissioner Dillingham said in order to stay consistent and because of limited election dates, the City needs to be allowed to have other issues on the ballot.

Item 3, continued:

Limiting Number of Officers That May Be Recalled At Any One Time

Vice-Chairman Cubberley said limiting the number of officer recalled to four at any one time could help with quorum issues.

Commission Jungman said it would be irrational to tell voters who they can and cannot recall and felt the solution would be to place language in the Charter that if states if five members of Council are recalled, there would have to be a majority of Councilmembers not recalled to meet the quorum.

Vice-Chairman Cubberley asked if that would be allowed under State law and Ms. Walker said yes, the Charter requires five votes no matter how many Councilmembers attend the meeting so language could be changed to state a majority of the remaining Councilmembers.

Consider Ways to Avoid a Situation Where Council Can Call Elections on Other Issues To Avoid a Recall Election.

Ms. Walker said the previous item fixed this situation.

Election to Recall to Fill Vacancy Created by Recall.

Vice-Chairman Cubberley said this item relates to an election to fill vacancy created by recall and updates timeframes to coincide with State law. It also considers whether language could be added to avoid a situation where the recall election and/or election to fill the vacancy occurs after the recall officials term would have ended.

Vice-Chairman Cubberley asked about the State law timeframes and Ms. Walker said there is typically a three-day filing period for candidates and the City has to give 60-day notice to the Election Board and 75 days if it is a State or Federal election. Vice-Chairman Cubberley asked how that was different from the City's current timelines and Ms. Walker said the City only has a two-day filing period under the Charter and the Charter does not recognize there is a firm time period before calling an election.

Vice-Chairman Cubberley asked about avoiding a recall election after the term would have ended and Ms. Walker said the earlier discussion of waiting six months prior to or after an election before being recalled will take care of this issue.

Items submitted for the record

1. Charter Review Commission: Article XIII, Recall of Elective Officers
2. Current Charter language, Article XIII, Recall of Elective Officer
3. Draft petition

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## 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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## **Article XVI. Municipally Owned Utilities.**

### **Background**

Article XVI, Section 2 of the City’s Charter requires any increase in utility rates within the control of the City of Norman to be submitted to the legal voters of the City for their approval or rejection. This section was added to the Charter in the 1970’s after Council adopted a utility rate to cover the cost of additional officers.

This Section has been considered on multiple occasions by prior CRC’s. The 2005 CRC studied this provision and recommended that it be changed to authorize increases in utility rates of up to 3% per year without requiring an election. Under the 2005 CRC proposal, any increase greater than 3% would require voter approval. The City Council did not move this proposal forward for voter consideration at that time. In Resolution No. R-1112-109, the CRC was asked to “Review Article XVI, Section 2 to consider whether City Council should be empowered to increase utility rates not more than three percent (3%) annually without requiring a city wide vote.” After extensive discussion, the CRC responded with a recommendation that Section 2 be stricken altogether. The minutes from those meetings are attached. Council ultimately disagreed and no amendments to this Section were submitted to the voters.

Section 5(j) of Resolution R-1819-66 (as amended) asks the current CRC to consider “adding language to Article XVI, Section 2 of the Charter requiring the City Council to consider a resolution calling for a vote of the electorate to increase City utility rates under certain conditions, i.e. upon a finding of financial need after a review of the utility funds and their monetary sources by the Finance Director or upon the recommendation of an independent elected utilities board.” The language was suggested by then Councilmember Castleberry, as a way to ensure the City went to the voters for needed increases when dictated by financial need.

Ken Komiske, Director of Utilities, attended the August 2020 CRC meeting and provided historic information about how often and how much the City increases utility rates, particularly as compared to other cities without such a Charter provision. The CRC requested additional information relative to methodology in other cities, frequency of rate increases, and whether entities other than City Councils were empowered to implement rate increases. This information is provided below. A member proposed consideration of requiring a vote on one alternating utility rate every year to remove it from considerations related to Councilmember elections and to ensure a regular rate increase.

CRC further discussed this proposal at its September 2020 meeting and discussed a desire to create an expectation for annual utility elections while giving Council and Staff the flexibility to address the needs of each utility. The CRC voted to adopt the language set forth below unanimously.

### **Adopted Language:**

#### **Section 2. -**

Precedent to an increase in utility rates within the control of the City of Norman, such increase proposal must be submitted to the legal voters of the City for their approval or rejection at the next regular general election, or at a special election which might be called for said purpose. On an annual basis, Staff shall prepare and submit to the City Council a rate study for each of its utilities.

Upon receipt of such rate studies, Council shall submit a rate increase for one or more of the utilities to the voters at the next election at which ward representatives or the Mayor will appear on the ballot. Should an unexpected need for an additional rate increase for any utility arise prior to the regular election on which such an increase would normally be scheduled as provided herein, then a special election may be called for such purpose. This section is self-executing and shall supersede all provisions in conflict therewith; legislation may be enacted to facilitate its operations but no ordinance shall limit or restrict the provisions thereof.

Item 4, continued:

Commissioner McBride moved that no changes be recommended, which motion was duly seconded by Commissioner Dillingham; and the question being upon no changes being recommended, a vote was taken with the following result:

YEAS:	Commissioners Ali, Bates, Cubberley, Dillingham, Griffith, McBride, Pipes, Stawicki, Vinyard, Williamson-Jennings, Chairman Thompson
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NAYES:	None
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Chairman Thompson declared the motion carried and no changes were recommended.

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Item 5, being:

DISCUSSION REGARDING ARTICLE XVI, SECTION 2, OF THE CHARTER REQUIRING THE CITY COUNCIL TO CONSIDER A RESOLUTION CALLING FOR A VOTE OF ELECTORATE TO INCREASE CITY UTILITY RATES UNDER CERTAIN CIRCUMSTANCES, I.E., UPON A FINDING OF FINANCIAL NEED AFTER A REVIEW OF THE UTILITY FUNDS AND THEIR MONETARY SOURCES BY THE FINANCE DIRECTOR OR UPON THE RECOMMENDATION OF AN INDEPENDENT ELECTED UTILITIES BOARD.

Chairman Thompson introduced Mr. Ken Komiske, Director of Utilities, who will be making a presentation on Enterprise Funds and the need for a utility rate increase.

Mr. Komiske said Enterprise Funds are operated in a manner similar to private business enterprises, where the intent of the City is that the costs of providing goods or services to the general public is financed or recovered primarily through user charges. He said Enterprise Funds includes water, sanitation, and water reclamation.

#### Water Fund

Mr. Komiske said in May 1999, an inverted block rate was approved by voters that consisted of a higher rate structure for the highest users to encourage conservation; in March 2006, voters approved a water rate increase; in August 2010, voters denied a water rate increase; and in January 2015, voters approved a water rate increase at current levels to fund Water Treatment Plant (WTP) improvements and obtain 2 million gallons per day (MGD) of additional groundwater supply. He said a water rate increase will be desperately needed in FYE 21 to fund upcoming projects. He said the last increase in January 2015, and passed by a significant amount of voters. He said utilities are capital intensive and rate increases are not just for providing water to customers. He said the City really needs to have a rate increase every three years instead of waiting six to ten years. He said most cities change their utility rates annually or bi-annually.

Item 5, continued:

Water Fund, continued:

He highlighted water rates in comparable cities and said Norman has lower than average water rates than Lawrence, Kansas; Lubbock, Texas; Denton, Texas; Tulsa, Oklahoma; Broken Arrow, Oklahoma; Stillwater, Oklahoma; Bartlesville, Oklahoma; Lawton, Oklahoma; Oklahoma City, Oklahoma; Enid, Oklahoma; Edmond, Oklahoma; and Moore, Oklahoma.

Mr. Komiske said when the City waits five or more years before asking the public for an increase, Norman's water rate dramatically increases; however, if Norman could increase rates every three years, that increase would not look as dramatic. He said in 2021, the City will need an additional \$4 million from residential customers and this causes rate shock to customers. He said educating the public and letting them know exactly why a rate increase is needed and what the money will be spent on is very important in obtaining voter approval. He said if the City had been able to increase rates on a slow scale over the past six years, the City could have collected \$13 million and if the City had collected that revenue, the City would not need \$4 million now.

The City will have to meet a requirement of the Department of Environmental Quality (DEQ) to blend wells and if the City cannot do that, the City will have to chlorinate each of its 40 wells, which is a \$14 million project. Mr. Komiske said even if the City bonds that project, which it will, the City would still need \$1.7 million annually from customers to meet the mandated requirement.

Sanitation Fund

Mr. Komiske said in May 2004, voters approved a sanitation rate increase; in May 2007, voters approved curbside recycling; in August 2010, voters denied a sanitation rate increase; and in March 2011, voters approved a sanitation increase. He highlighted sanitation rates in comparable cities and said Norman has lower than average sanitation rates than Lawrence, Kansas; Lubbock, Texas; Denton, Texas; Stillwater, Oklahoma; Ponca City, Oklahoma; Lawton, Oklahoma; and Oklahoma City, Oklahoma.

Water Reclamation Fund

Mr. Komiske said in August 2001, voters approved a \$5 Sewer Maintenance Fee exclusive to maintenance; in August 2021, voters approved an Excise Tax for sewer connections; in June 2003, voters approved sewer funding for a Northside Wastewater Treatment Plant (WWTP) and a sewer rate for sludge handling; and in November 2013, voters approved a sewer rate increase. He highlighted water reclamation rates in comparable cities and said Norman has lower than average water reclamation rates than Lawrence, Kansas; Lubbock, Texas; Denton, Texas; Tulsa, Oklahoma; Ponca City, Oklahoma; Ardmore, Oklahoma; Broken Arrow, Oklahoma; Stillwater, Oklahoma; Bartlesville, Oklahoma; Oklahoma City, Oklahoma; Enid, Oklahoma; Edmond, Oklahoma; Moore, Oklahoma; and Midwest City, Oklahoma.

Item 5, continued:

Mr. Komiske said it costs approximately \$2.5 million per year to replace sewer lines, which is what the \$5 Sewer Maintenance Fee is used for as well as maintaining existing lines.

The City of Norman has the lower total utility rates than Lawrence, Kansas; Lubbock, Texas; Denton, Texas; Tulsa, Oklahoma; Ponca City, Oklahoma; Ardmore, Oklahoma; Broken Arrow, Oklahoma; Stillwater, Oklahoma; Bartlesville, Oklahoma; Lawton, Oklahoma; Oklahoma City, Oklahoma; Enid, Oklahoma; Edmond, Oklahoma; Moore, Oklahoma; and Midwest City, Oklahoma.

#### Commission Discussion

Commissioner Griffith said even before he served on Council, Norman's utilities crisis has always been an issue for him and one of the reasons he wanted to be on the CRC is to address this and do something positive. He said on an annual basis, what kind of percentage would be needed to raise rates incrementally as costs go up to minimize the sticker shock of unfunded mandates. Mr. Komiske said 4% per year over the last six years would have provided \$14 million, which is more money than the City would need at this point so 2 1/2% to 3% would be a good percentage. Commissioner Griffith said he was thinking 3% would be a good number to recommend to Council so Staff could deal with the cost of doing business and if another mandate comes from DEQ, that could go to a vote of the people as an unexpected expense.

Commissioner Dillingham said the last CRC wanted Council to address this issue with some type of parameter by which Council can raise the rates within a percentage based upon factors proven to Council. She said it is a real problem to get Council to pull the trigger to vote on this Charter change, but it needs to happen. She is so impressed with Mr. Komiske's ability to do his job year after year under these conditions and this needs to be the Commission that really goes after this change because it is too hard on Staff and too hard on citizens who do not really understand the issues.

Commissioner Pipes said, unfortunately, this issue has always been so political since it was restricted so many years ago and agrees it is time to get this done because Norman is the only City that requires a public vote to increase utility rates.

Commissioner Griffith said he would really like to see this happen because the City should not have to keep begging for money from the public just to keep providing essential services to the community. He said it is just common business sense to be able to minimally raise rates as costs to the City increase.

Commissioner Vinyard said if the CRC makes this recommendation and Council approves, will this money only be used for utility purposes and not be used in the General Fund for other purposes? Mr. Komiske said correct, Enterprise Funds are separate businesses and the funds cannot be mixed into any other funds. Commissioner Vinyard said that would be his only concern.

Item 5, continued:

Commissioner Williamson-Jennings said Mr. Komiske stated that other cities either annually or bi-annually increase utility rates incrementally so how do they do that? Is it within their Charter? Do they have a Utility Board? Mr. Komiske said some cities have a trustee board composed of a couple of Councilmembers and business leaders that review utility rates and make recommendations to Council for increases when needed. He said Oklahoma City raises their rates 2.8% to 4% every four years and send out mailers to customers letting them know what their new rates will be over the next four years.

Vice-Chairman Cumberley said Norman's problem is City Council because when the Mayor is up for election, he or she does not want the controversy of increasing utility rates during the campaign and Mayoral elections take place every three years. He said any recommendation to ask the public for the ability to increase rates without a vote of the people will never be approved by Council.

Commissioner Stawicki said before Enterprise Funds were created, Norman's City Council decided they needed money and raising utility rates was an easy way to obtain money so they basically doubled the cost of water resulting in the Charter requirement for a vote of the people to increase utility rates.

Commissioner Ali said she understands the public not wanting to give up the right to vote on utilities, but the City cannot afford to continue providing services with its current rates that may not change for several years. She said this needs to move forward for a Charter change, but is concerned about how that need can be communicated and stressed to Council in a way they will want to move forward with a Charter change.

Commissioner Dillingham said this is not a problem about whether or not the City should do this or not, it is the politics of this issue that is the problem. She said this needs to be a type of campaign with the voters to get the public to understand that voting for utilities is not something to be proud of, but is hurting the City and the public when services have to be cut or diminished.

Mr. Komiske said businesses should have a base meter charge that is higher than residential meters, but it is too cumbersome to explain all the nuances of that on a ballot. Commissioner Pipes said the length and clarity of ballot language is important and most people are not going to understand different rate structures and the complexities of those structures. He would support a recommendation for incremental rate increases with a capped method as well as a utilities board to make arguments to Council on the reasons for a rate increase.

Chairman Thompson said the community generally supports utility increases and, in his opinion, is cumbersome in regards to the operational side of the City, but in terms of overall benefits to the community it is actually superior.

Vice-Chairman Cumberley said the City should have a citizen board with a few Councilmembers and a majority of citizens to take that decision away from politicians. He said the task of deciding if a rate increase is warranted is up to the citizen board to make a recommendation to Council.

Item 5, continued:

Commissioner Stawicki said he tends to agree with Chairman Thompson.

Commissioner Ali said she would be more comfortable looking at comparable cities that have elected utility boards, what are some of the comparisons, what are the trends, etc. She is hesitant to remove the disconnect of the citizens by removing Councilmembers from deciding rate increases, but at the same time she feels there is some level of concern regarding the unknowns, i.e., State or Federal mandates, that could effect utilities. She said a utilities board makes sense, but disconnecting the electoral process is also worrisome.

Commissioner Vinyard said even if Norman creates a board with or without acting Councilmembers on the board someone has to nominate those people and within the community there is going to be perceived politics even in that action. He said the political equation will never go away in people's minds.

Commissioner McBride said Commissioner Ali makes a good point in reviewing comparable cities with utility boards appointed by City Council, but will discover that no other city requires a vote of the people in order to change their utility rates. He said there are probably good models to look at and to follow, but none will require a vote of the people. He said water quality is an extremely important issue and the amount of money it takes to maintain water quality is also extremely important. He believes the requirement for a vote of the people needs to be eliminated. While he is not prepared to suggest an alternative, he is prepared to say the City needs representatives that do what the people elect them to do.

Commissioner Bates said this issue has been discussed numerous times over the years, and there appears to be a lack of trust in elected officials to make good decisions as related to fiscal matters of the community, which they are trusted to do in almost every other way. He said previous City Council would not take this issue on when recommended by the CRC because it is such a political hot button. He believes in the concept of City Council or another Board making decisions on all rate structures without it being a political issue.

Chairman Thompson said the only way this Charter language will ever change is for a unanimous Council to be willing to risk their political seats. He said Council would need to be convinced the public would be willing to concede their right to vote on City utilities for any change to be made.

Commissioner Griffith said utilities are always under crisis management and the City has been very lucky to be able to continue to operate with the funding it has; however, it would be great if management of the utility rate could be increased on an incremental basis and decided on by City Council who are the voice of the people.

Chairman Thompson asked if Staff could research methodologies of other cities for the CRC to review and make a recommendation that might be convincing enough for them to advance these ideas.

Item 5, continued:

Commissioner Cubberley would like to know how many people vote on utility rate increases because he believes it would be minimal. He said if CRC is requesting more information then he would like to see that information.

Mr. Brenda Hall, City Clerk, said there have been eight failed elections since 1984, the last one being in 2010, and the total number of voters that voted in 2010 for the water rates was 9,078 and the number that voted for sanitation rates was 9,009. She said prior to that, the average vote has been around 9,000, except the sanitation and curbside recycling total was 5,800. She said there are currently a little over 72,000 registered voters.

Commissioner Cubberley said 20% of voters or less are determining the fate of any one utility election. Chairman Thompson said those same voters are involved in the City Council election process. Commissioner Williamson-Jennings said 100% of the public is paying the increasing utility rate.

Commissioner Cubberley said Staff only asks for an increase when there is dire need and the City starves its utilities to extract a very low utility rate, which is not good business. He said most of the time voters agree to the increase so why not allow the City to increase utility rates an incremental amount each year or every three years? He said the political will is not there to go to the voters each year so he would love to see a utility rate increase before the voters every three years, but that has not been popular with Council.

Chairman Thompson said a Charter recommendation could require an annual review or three-year review of each utility with a vote so that decision is taken out of the political realm.

Commissioner Ali said she would like to know what is costs to inform 100% of the users about an upcoming election topic that only has 10% representation at the polls. She said that money could be used on a more concrete process so the utility is not starved for an increase that will only carry the City through five years or less.

Commissioner Williamson-Jennings said it might be better to find out what the public has an appetite for before moving this issue forward.

Commissioner McBride said maybe the CRC should step back and talk about what might be possible because if it is impossible, the CRC does not really need to spend a lot of time on it. He thinks looking at other solutions that have worked in other communities is a great idea and suggested having a standard utility rate increase vote every two years.

Commissioner Dillingham said the middle ground might be having a Charter provision that requires that at least one Enterprise Fund increase election be held every three years perhaps along with the Mayoral election to have as many voters as possible participate and save money on election costs.



Item 5, continued:

Commissioner Pipes said once people get the right to vote on something they do not like for it to be taken away. He is not sure it is the CRC's job to figure out the politics before presenting a recommendation to Council. He said this is an issue that needs to be thoroughly discussed because this is about water and cities cannot run without water or sanitation or wastewater services. He would like to find more best practices of how to structure the mechanics of governmental decision making leading to an election or not to have an election.

Chairman Thompson said there seems to be consensus to bring this item back for further discussion with information requested by members. He would like to see the cost of elections and some type of language that would result in a required series of elections for utility rates.

Commissioner Griffith would like to see the process of how regional cities raise rates other than the usual comparison chart of cities provided today. Commissioner Williamson-Jennings agreed and suggested cities of comparable size to Norman that have successful rate structures. Ms. Walker said Staff can research benchmark cities with universities.

Items submitted for the record

1. Background on Article XVI. Municipally Owned Utilities.
2. Charter Review Commission minutes of May 2, 2013, and June 6, 2013
3. PowerPoint presentation entitled, "City of Norman Charter Review Committee Enterprise Funds," dated August 2020

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Item 6, being:

#### MISCELLANEOUS DISCUSSION.

Chairman Thompson said the CRC spent a lot of time discussing the need for an internal auditor, but Council hired that position prior to a recommendation from CRC. He felt that Council was too broad in their request on this issue and the CRC did not have the detailed information needed to make a recommendation. He spoke with the Mayor and his Ward Councilmember requesting the courtesy of a heads up going forward on items that not longer needed to be discussed by CRC due to Council acting upon the issue.

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Item 2, continued:

YEAS:

Commissioners Bates, Cubberley,  
Dillingham, Eller, Griffith, Hackelman,  
Jungman, McBride, Stawicki, Vinyard,  
Chairman Thompson

NAYES:

None

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

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Item 3, being:

DISCUSSION REGARDING ARTICLE XVI, SECTION 2, OF THE CHARTER REQUIRING THE CITY COUNCIL TO CONSIDER A RESOLUTION CALLING FOR A VOTE OF ELECTORATE TO INCREASE CITY UTILITY RATES UNDER CERTAIN CIRCUMSTANCES, I.E., UPON A FINDING OF FINANCIAL NEED AFTER A REVIEW OF THE UTILITY FUNDS AND THEIR MONETARY SOURCES BY THE FINANCE DIRECTOR OR UPON THE RECOMMENDATION OF AN INDEPENDENT ELECTED UTILITIES BOARD.

Chairman Thompson said the Committee previously discussed requiring Council to review a utility each year and call an election under certain circumstances.

Ms. Kathryn Walker, City Attorney, said staff provided information requested by the Commission last month regarding how other cities operate and how frequently they increase rates. She said a number of them do it annually, but several do it every three years which fits in with the language she is presenting tonight.

Ms. Walker said the potential amendment would be adding language to Article XVI, Section 2, of the Charter stating precedent to an increase in utility rates within the control of the City of Norman, such increase proposal for each utility must be submitted on a rotating basis to the legal voters of the City for their approval or rejection at the ~~next~~ regular general election each year, or at a special election which might be called for said purpose. Should an unexpected need for an additional rate increase for any utility arise prior to the regular election on which such an increase would normally be scheduled as provided herein, then a special election may be called for such purpose. This section is self-executing and shall supersede all provisions in conflict therewith; legislation may be enacted to facilitate its operations but no ordinance shall limit or restrict the provisions thereof.

Commissioners Cubberley and Jungman asked for the definition of a general election and whether years where the Mayor is not up for election would the election for Council seats still be considered a regular general election. Ms. Walker answered in the affirmative. Commissioner Stawicki said to avoid any confusion the word "Norman" could be added in front of general election.

Item 3, being:

Ms. Walker said additional language could be added to say at the regular election in which ward or mayoral representatives are elected to make it a little clearer.

Commissioners discussed adding special election to the language as well to provide more flexibility.

Concerns were raised regarding rotating the utilities every year in the event one utility may have greater need and require votes two years in a row. Language would be changed to reflect that issue. Additionally, adding staff bring a rate study before Council each year to determine if the increase was needed.

Commissioner Dillingham moved that draft language for Article II, Section 1, be approved as follows:

~~Precedent to an increase in utility rates within the control of the City of Norman, such increase proposal must be submitted to the legal voters of the City for their approval or rejection at the next regular general election, or at a special election which might be called for said purpose. On an annual basis, Staff shall prepare and submit to the City Council a rate study for each of its utilities. Upon receipt of such rate studies, Council shall submit a rate increase for one or more of the utilities to the voters at the next election at which ward representatives or the Mayor will appear on the ballot. Should an unexpected need for an additional rate increase for any utility arise prior to the regular election on which such an increase would normally be scheduled as provided herein, then a special election may be called for such purpose.~~ This section is self-executing and shall supersede all provisions in conflict therewith; legislation may be enacted to facilitate its operations but no ordinance shall limit or restrict the provisions thereof.

which motion was duly seconded by Commissioner Griffith;

Items submitted for the record

1. Background on Article XVI. Municipally Owned Utilities.

and the question being upon approving draft language for Article XVI, Section 2, as stated above, a vote was taken with the following result:

YEAS:

Commissioners Ali, Bates, Cubberley,  
Dillingham, Griffith, Hackelman,  
Jungman, McBride, Stawicki, Vinyard,  
Chairman Thompson

NAYES:

None

Chairman Thompson declared the motion carried and the draft language for Article XVI, Section 2, approved, as stated above.

Commissioner Eller left the meeting prior to the vote.

## CHARTER REVIEW COMMISSION

### **Article \_\_\_, Section \_\_\_ – Voter Approval Required for Tax Increment Finance Districts over \$5,000,000.**

#### **Background:**

No past CRC has considered requiring voter approval of any Tax Increment Finance (“TIF”) District. Resolution No. R-1819-66 called for the 2019 CRC to consider adding language to the Charter requiring a vote of the electorate for approval of a Tax Increment Finance District over \$5,000,000.

Cities are authorized to create TIF districts by the Local Development Act, which was adopted by the State Legislature in 1992. TIF Districts allow cities to use revenue growth generated in a district to fund certain improvements. Over the years, the City has created three TIF Districts – the Campus Corner TIF, the University North Park TIF, and the Center City TIF. The Campus Corner TIF authorized project costs in the amount of \$1.25 million for lighting, security systems, landscaping, sidewalks, etc. and was funded with growth in revenue from ad valorem and sales taxes. The University North Park TIF authorized project costs in the amount of \$54.725 million to fund costs associated with traffic and roadway improvements, economic development, Legacy Park, a conference center and cultural facility, and Lifestyle Center. It was funded with a portion of the growth in sales tax and ad valorem tax revenue generated within the district. Most recently, Council created the Center City TIF, which uses growth in ad valorem revenue to fund up to \$44.5 million in primarily public infrastructure improvements that make redevelopment more costly and more difficult.

In order to create a TIF district under the Local Development Act, 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 hearings prior to adoption of the plan. The proposal before the CRC 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.

#### **Proposed Language:**

There is no proposed language at this time.

# Tax Increment Finance District Approval Comparative Table

Item 5.

City	Voter Approval for Tax Increase Required	Voter Approval for TIF Districts Required	Other TIF Related Language in Code or Charter
Norman (Current)	Yes	No	N/A
Stillwater	Yes	No	N/A
Oklahoma City	Yes	No	<p>Chap. 52, Art. VII, § 52-261</p> <p>“Any ad valorem increment district created by the City [ ], or any amendment(s) to any such increment district, shall require the approval of a majority of the ad valorem taxing entities located within the boundaries of the [increment] district.”</p> <p>Chap. 38, Art. VII, Div. 1, § 38-488</p> <p>“It is the policy of the City that all future special sales tax documents, bond resolutions and Tax Increment Financing documents shall include a provision for one percent for art.”</p>
Edmond	Yes	No	N/A
Midwest City	Yes	No	N/A
Lawton	Yes	No	<p>Chap. 10, Art. 10-15 is Lawton’s Tax Increment Financing Ordinance. It outlines the policy behind Lawton’s TIF plan, creates TIF districts, and describes how taxes are apportioned, determined, and used.</p>

## CHARTER REVIEW COMMISSION

### January 13, 2020

#### **Article \_\_\_, Section \_\_\_ – Voter Approval Required for Tax Increment Finance Districts over \$5,000,000.**

##### **Background:**

No past CRC has considered requiring voter approval of any Tax Increment Finance (“TIF”) District. Resolution No. R-1819-66 called for the 2019 CRC to consider adding language to the Charter requiring a vote of the electorate for approval of a Tax Increment Finance District over \$5,000,000.

Cities are authorized to create TIF districts by the Local Development Act, which was adopted by the State Legislature in 1992. TIF Districts allow cities to use revenue growth generated in a district to fund certain improvements. Over the years, the City has created three TIF Districts – the Campus Corner TIF, the University North Park TIF, and the Center City TIF. The Campus Corner TIF authorized project costs in the amount of \$1.25 million for lighting, security systems, landscaping, sidewalks, etc. and was funded with growth in revenue from ad valorem and sales taxes. The University North Park TIF authorized project costs in the amount of \$54.725 million to fund costs associated with traffic and roadway improvements, economic development, Legacy Park, a conference center and cultural facility, and Lifestyle Center. It was funded with a portion of the growth in sales tax and ad valorem tax revenue generated within the district. Most recently, Council created the Center City TIF, which uses growth in ad valorem revenue to fund up to \$44.5 million in primarily public infrastructure improvements that make redevelopment more costly and more difficult.

In order to create a TIF district under the Local Development Act, 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 hearings prior to adoption of the plan. The proposal before the CRC 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.

At its December 2, 2019 meeting, the Committee discussed the merits of requiring a vote of the electorate prior to creating a TIF district and whether such a proposal should include a \$5 million threshold. The Committee wanted to further discuss whether an election should be for TIF’s that utilize sales tax increments only and whether there is an appropriate threshold amount. Some members expressed concern that a threshold would not stand the test of time and would essentially require all TIF’s to be voted on by the electorate. Some of the discussion related to limiting the scope of any Charter amendment to TIF’s funded from sales tax increments since the City is only entitled to sales tax. Additional discussion centered on whether Council would be able

to amend a TIF without an additional vote of the electorate. Staff was asked to draft a proposal based on the feedback thus far to help spur additional discussion.

**Proposed Language for Discussion:**

**Article XIV. – Revenue**

**Section 4. - Tax Increment Financing Districts.**

A tax increment financing district created by the City pursuant to Oklahoma law that pledges sales tax increments to fund improvements within the district, or any amendment thereto, shall only become effective after approval by a majority of the registered voters of the City in a general or special election.

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.

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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.

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Item 4, being:

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

Ms. Walker said at the last meeting, the Charter Review Commission suggested this item be discussed by a Citizen's Bill or Rights (CBOR) Committee appointed by Council because it is such a huge issue. She said she placed this item on the agenda for a vote by the Charter Review Commission.

Commissioner Jungman moved to take no action on this item, which motion was seconded by Commissioner McBride:

Items submitted for the record

1. Draft City of Norman Community Bill of Rights

and the question being upon taking no action on this item, a vote was taken with the following result:

YEAS:	Commissioners Ali, Bates, Cubberley, Griffith, Jungman, McBride, Pipes, Vinyard, Chairman Thompson
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NAYES:	None
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Chairman Thompson declared the motion carried and no action was taken on this item.

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Item 5, being:

**CONTINUED DISCUSSION AND POSSIBLE ACTION 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 at the last meeting, Staff was asked to draft language for review. She said there was quite a diversity of opinion about whether or not a Tax Increment Finance (TIF) District should require a vote of the electorate as well as whether or not \$5 million would be the trigger threshold for requiring a vote of the electorate. She said some Commissioners expressed concern that a threshold would not stand the test of time and would essentially require all TIF's to be voted on by the electorate. Additional discussion centered on whether Council would be able to amend a TIF without an addition vote of the electorate.

Item 5, continued:

Ms. Walker highlighted proposed language as, “A tax increment finance district created by the City pursuant to Oklahoma law that pledges sales tax increments to fund project cost within the district, or any amendment thereto, shall only become effective after approval by a majority of the registered voters of the City in a general or special election.”

Commissioner Jungman clarified any pledge of sales tax would prompt a vote regardless of the amount and Ms. Walker said yes.

Chairman Thompson said he likes the language as well because it opens the possibility for small TIF's that could be daisy chained to larger TIF's to get around a public vote so this is a better approach.

Commissioner Griffith agreed and said because sales tax funds will be committed to a TIF the voter approval would not only support the TIF, but the amount of sales tax dedicated from the revenue stream created by the TIF could be a deterring factor on how the public votes. He said arguments would have to be made to convince the voter to approve a TIF and he supports the clarity of the language.

Commissioner Ali said she appreciates the clarity of the language when it comes to sales tax, but what about TIF's that are not sales tax based? Ms. Walker said any TIF process would have to go through the Statutory Review Committee process as well as public hearings, etc. She said the City does not receive property tax so that would apply to any TIF requiring sales tax revenue. Commissioner Ali said most citizens and business owners do not understand the process so they feel they do not have a voice in the process.

Commissioner Griffith said he likes the language because it protects the City's revenue stream and people will have a voice on how that revenue stream is diverted whether that is \$1 million or \$100 million.

Commissioner Bates said he understands the frustration the public has about the University North Park Tax Increment Finance (UNPTIF) District, and he was on the original committee that helped evaluate the UNPTIF. He said the frustration of where the UNPTIF is today compared to what it was envisioned to be is worthy of the feelings the public has about it. He said everyone has certain responsibilities even if mistakes are made. He said ultimately, it is City Council's job to protect the City's revenue stream and it is their job to determine what makes sense or what does not make sense for the City. He said at the very core, it is the financial responsibility of Council to make sure the City is on the right track. He said to strip away a tool that can be used right is an overreaction to a mistake that is perceived to have been made with the UNPTIF. He said the scrutiny given to the UNPTIF would be different today if a similar project were to come forward. He is against the idea that the public cannot trust their elected officials to make a good decision and if Council does make a mistake there are procedures to rectify that mistake. He said there is a TIF process and that process should not be destroyed because of what many perceive to be a mistake. He is opposed to changing that process because complicated issues tend to get whittled down into slogans during elections as opposed to the complicated negotiations and details that go into the TIF projects.

Item 5, continued:

Commissioner Vinyard agreed with Commissioner Bates and asked if the public is going to vote on everything in a general election. He said the City has elected officials chosen by the people in their ward to make these difficult decisions. He said a Councilmember may hear from ten really loud people that disagree with their decision, but that does not necessarily mean it is representative of the entire ward.

Commissioner Jungman said he does not feel like a public vote will harm a good project, i.e., was NORMAN FORWARD helped or hurt by a public vote? What he hears from his Councilmember is the City made commitments and promises that Council has to work really hard to be accountable for to meet those commitments and promises.

Chairman Thompson said his view is that the Charter Review Commission is recommending Council put the TIF in a category that already exists, i.e., General Obligation Bonds, sales tax increases, utility rates, etc. He said a public vote on TIF's does not mean the public does not trust Council, it just means the public recognizes TIF's are directly related through the revenue stream and since the public votes on whether or not to increase the revenue stream, it is not inappropriate to vote on how those funds are diverted.

Commissioner Ali said elected City officials are very engaged in their respective wards and show mutual respect in sharing work with their constituents. She said citizens in Norman support their elected leaders, which binds the community together and citizens follow along with their elected officials because they share their work. She said the fear of disagreement comes from the divided leadership when it comes to the UNPTIF and because of that division a vote would allow the public to say they agree with this side or that side and that would help with division in leadership.

Commissioner Pipes said he has reservations about moving forward with a recommendation until the UNP Referendum Petition has been resolved.

Commissioner McBride said, philosophically, he would hope the Charter Review Commission is not setting a pattern that everything Council messes up should require a vote of the people and sees that as no longer representative of democracy.

Commissioner Jungman moved to recommend the electorate vote on all sales tax increment finance districts, which motion was seconded by Commissioner Ali;

Items submitted for the record

1. Draft language for Voter Approval Required for Tax Increment Finance Districts over \$5,000,000

and the question being upon recommending the electorate vote on all sales tax increment finance districts, a vote was taken with the following result:

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Item 5 continued:

YEAS: Commissioners Ali, Griffith, Jungman,  
Williamson-Jennings, Chairman Thompson

NAYES: Commissioners Bates, McBride, Pipes,  
Vinyard, Vice-Chairman Cubberley

Chairman Thompson declared the motion failed and recommending the electorate vote on all sales tax increment finance districts was not approved.

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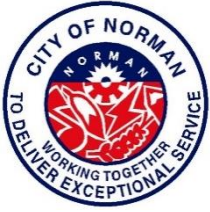
Item 6, being:

#### DISCUSSION REGARDING REVIEWING POTENTIAL LOOPHOLES USED TO SKIRT THE OPEN MEETING ACT.

Ms. Walker said the direction for the Charter Review Commission is to review potential loopholes used to skirt the Open Meeting Act and provide a recommendation and to review executive session restrictions and provide recommendation on the appropriate limits of use versus overly expansive such that it provides cover to skirt Open Meeting Act. She said she does not have further clarification or examples, but combined the two items in the backup material to summarize what the Open Meeting Act requires.

Ms. Walker said although the Open Meeting Act only applies to groups meeting the definition of a "public body" in the Act, the City's Charter and Code ensure other bodies also comply with the Open Meeting Act. The Charter currently provides that all meetings of the City Council, Boards, Commissions, Authorities, and Committees of the City be open to the public under such regulations as may be fixed by ordinance. It also recognizes the ability of the Council, Boards and Commissions to hold executive sessions in compliance with State law. In 2011, the City adopted Resolution R-1112-9 that requires all committees, sub-committees, and ad hoc committees be subject to the Open Meeting Act as well.

Commissioner Jungman asked if having a series of smaller meetings with Council violates the Open Meeting Act in the "walking quorum" sense. Ms. Walker said Oklahoma does not have a definition within the Open Meeting Act that talks about a walking quorum. She said that term is used in other states, but typically at the City of Norman, three Councilmembers would meet at one time; however, after questions were raised regarding the legality the City stopped having those types of meetings. She has had three to four Councilmembers attend a meeting when she thought she was meeting with only one, but the Legal Staff nor the City Manager have scheduled these types of meetings since the question was raised.



# CITY OF NORMAN, OK CITY COUNCIL CONFERENCE

Municipal Building, Council Chambers, 201 West Gray, Norman, OK 73069  
Tuesday, August 24, 2021 at 5:00 PM

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## MINUTES

*It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, retaliation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.*

### CALL TO ORDER

#### PRESENT

Mayor Breea Clark  
Councilmember Ward 1 Brandi Studley  
Councilmember Ward 2 Lauren Schueler  
Councilmember Ward 3 Kelly Lynn  
Councilmember Ward 4 Lee Hal  
Councilmember Ward 5 Rarchar Tortorello  
Councilmember Ward 6 Elizabeth Foreman  
Councilmember Ward 7 Stephen Holman  
Councilmember Ward 8 Matthew Peacock

1. REVIEW OF ARTICLE II, SECTION 2, TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS AND MAYOR SHOULD EXPIRE ON THE LAST TUESDAY OF THE MONTH IN WHICH A RUNOFF ELECTION IS HELD OR SCHEDULED TO BE HELD.

The Charter Review Commission unanimously recommended to change the beginning and end date of terms such that a new term would begin (and the prior term end) on the first Tuesday following certification of the election results for the new term and to move to three year terms for Councilmembers and a four year term for the Mayor. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for further discussion by Council.

It was the consensus of Council to move forward with the amendment as proposed.

\* \* \*



2. REVIEW OF ARTICLE II, SECTION 22 ,TO CONSIDER ALLOWING THE OUTGOING COUNCILMEMBER CREATING THE VACANCY TO APPOINT HIS OR HER SUCCESSOR, UNLESS SUCH VACANCY HAS BEEN CREATED DUE TO REMOVAL FROM OFFICE AS A RESULT OF PROCEEDINGS BY A COURT OF COMPETENT JURISDICTION, OR WHETHER TO DELETE LANGUAGE ALLOWING COUNCIL TO APPOINT A SUCCESSOR AND INSTEAD REQUIRE A SPECIAL ELECTION TO BE CALLED FOR THE PURPOSE OF FILLING SUCH VACANCY.

The Charter Review Commission unanimously recommended to clarify that Council can either appoint someone to fill a Council vacancy or call a special election. Language also recommended to eliminate confusion about appointments being for the remainder of the term only. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for further discussion by Council.

Councilmembers were hesitant to put this in the Charter and thought an ordinance or policy might be better. Consensus was not to send this forward as a Charter amendment.

\* \* \*

3. ARTICLE XIII, RECALL OF ELECTIVE OFFICERS TO CONSIDER WHETHER THE LANGUAGE SHOULD BE MODIFIED.

The Charter Review Commission unanimously recommended changes to Article XIII to address potential timing conflicts with existing elections, ensuring the Clerk has adequate time to review signed petitions, and incorporating state law where appropriate in light of *In re: Petition to Recall Ward Three City Comm'r Ezzell*, 2021 OK 5. The CRC also recommended to add a publication requirement in advance of any recall election in accordance with State law. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for additional Council discussion.

Councilmembers Lynn and Tortorello felt like the percentage of signatures should be linked to votes cast at the last election.

Councilmember Holman said he would like to see information from others cities to compare.

Councilmembers Foreman and Studley was not in favor to lower the percentage because it would not be the same in every ward.

Consensus of Council was to provide additional information from other cities to a future study session.

\* \* \*

4. ARTICLE XVI, SECTION 2, OF THE CHARTER TO REQUIRE THE CITY COUNCIL TO CONSIDER A RESOLUTION CALLING FOR A VOTE OF THE ELECTORATE TO INCREASE CITY UTILITY RATES UNDER CERTAIN CONDITIONS.

The Charter Review Commission unanimously recommended to require Staff to prepare a rate study for each utility annually and requiring Council to submit a rate increase for one or more utilities at the next Council election, and make provision for situations where an additional rate increase may be needed to meet an unexpected need. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for additional Council discussion.

Mayor Clark said voter fatigue is real and felt that Council should be able to have a certain percentage of increase with a vote of the people, which still protects the voters from large increases without a vote. Councilmembers discussed a percentage based on CPI or other means. Councilmembers asked for more information from other cities back to Council at a future study session.

\* \* \*

5. RESOLUTION AS FOR REVIEW TO CONSIDER ADDING LANGUAGE TO THE CHARTER TO REQUIRE A VOTE OF THE ELECTORATE FOR APPROVAL OF A TAX INCREMENT FINANCE DISTRICT OVER \$5,000,000.

The motion voted on by the CRC was to recommend the electorate vote on all Sales Tax Increment Finance Districts and the vote tied at 5-5. At the Special Session of August 3, 2021, Council rejected the proposal as written to allow for additional Council discussion.

Some Councilmembers supported requiring a vote of six councilmembers to approve a Tax Increment Finance District, but there was not consensus to send this forward as a Charter amendment.

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## **ADJOURNMENT**

The meeting adjourned at 6:16 p.m.