

CITY COUNCIL STUDY SESSION MINUTES

January 4, 2022

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Norman Central Library Redbud Room, Third Floor, 103 West Acres, on the 4th day of January, 2022, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray and the Norman Central Library located at 103 West Acres, 24 hours prior to the beginning of the meeting.

PRESENT:	Councilmembers Hall, Holman, Lynn, Peacock, Studley, Mayor Clark
TARDY:	Councilmember Tortorello (6:00 p.m.)
ABSENT:	Councilmembers Foreman and Schueler

Item 1, being:

CONTINUED DISCUSSION REGARDING POSSIBLE AMENDMENTS TO THE NORMAN CITY CHARTER.

Ms. Kathryn Walker, City Attorney, said the Charter Review Commission (CRC) was appointed in the summer of 2019, to review specific items as requested by members of City Council. The CRC met monthly, with the exception of several months missed due to the pandemic. A study session was held on August 3, 2021, to present CRC recommendations to Council and to decide whether or not to send each recommendation to voters. Council voted to send five of the recommendations to voters related to term expiration, Council vacancies, utility rates, recall elections, and tax increment financing. Council discussed these five items during a Conference on August 24, 2021, and reached consensus on sending the CRC recommendations' related to term expiration and filling vacant Council position forward to voters and *not* sending Charter amendments related to tax increment financing forward. Further discussion and information was requested for CRC recommendations related to utility rates and recall elections. Although the CRC made no recommendation for changes related to the reapportionment process, the recent test of the language recommended by the 2012 CRC and ultimately by the voters in 2013, has led to some discussion of possible Charter changes related to reapportionment.

Recall Petition

Ms. Walker said consensus was reached among a majority of Council on a majority of the recommendations related to the recall process and Council primarily focused on the number of petition signatures required in order to trigger a recall election. The Charter currently requires a petition bearing the signatures, names and addresses of 25% of the registered voters qualified to vote for the officer whose recall is sought. Some Councilmembers felt the 25% threshold was appropriate while others were concerned the threshold was too high, especially when compared to the historic low voter turnout for municipal elections. Staff was asked to look at other Big 12 cities and cities within Oklahoma to compare signature requirements in other jurisdictions.

Recall Petition, continued:

Recall provisions could not be found in several of these jurisdictions so the comparable cities search was extended to future conference foes within the Southeast Conference.

Ms. Walker highlighted requirements for other cities and said Kansas (state) requires 40% of votes cast in the last general election for which recall is sought; Austin, Texas, requires 10% of qualified voters for office for which recall is sought; College Station, Texas, requires 40% of total number of votes cast at last general election for office for which recall is sought; Waco, Texas, requires 30% of qualified voters for office for which recall is sought; Columbia, Missouri, requires 30% of votes cast at the last regular election for office for which the recall is sought provided there must be at least 200 signatures for each ward and 500 signatures for Mayor; Knoxville, Tennessee, requires 30% of votes cast at the last regular election for office for which recall is sought; Stillwater, Oklahoma, requires 25% of votes cast in last general city election; Edmond, Oklahoma, requires 35% of registered voters at the time of the last election for office being sought for recall and at least 10% must sign the affidavit submitted with the petition; Lawton, Oklahoma, requires 20% of total number of votes for Governor in the last gubernatorial election in the city or ward for which the recall is sought and a written statement must be provided with the petition before circulation that is signed by at least 100 registered voters of the city or ward which recall is sought; Oklahoma City, Oklahoma, requires 35% of the qualified electors of the area for which the incumbent was elected as shown by County registration records at the time the petitions are filed; Moore, Oklahoma, requires 35% of the registered qualified electors who voted in the last general municipal election; and Enid, Oklahoma, required 30% of the votes cast at the last preceding election for the office for which recall is sought.

After further discussion by Council, it was the consensus to leave the percentage the as it is currently stated in the Charter.

Utility Rates

Ms. Walker said the current CRC was asked to consider “adding language to Article XVI, Section 2, of the Charter requiring Council to consider a resolution calling for a vote of the electorate to increase utility rates under certain conditions, i.e., upon finding a 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 purpose of the request was to ensure the City went to the voters for needed increases when dictated by financial need. The CRC discussed a desire to create an expectation for annual utility elections while giving Council the flexibility to address the needs of each utility. Ultimately, the CRC recommended language that would require annual rate studies for each of the three utilities. The language would also require Council to submit an annual rate increase, presumably based on the rate study results, at the same election as the regular Council elections.

Council’s discussion regarding utility rates focused on examining ways to preserve the ability of voters to vote on more sizeable rate increases while allowing Council to adopt more modest increases as needed to ensure each utility is able to meet its needs on an annual basis. Previous CRC’s have discussed amending the Charter to empower Council to increase utility rates up to three percent (3%) annually without a vote of the people. Council requested information from other states, namely Lawton, Oklahoma, to determine what triggers a rate increase.

Utility Rates, continued:

Ms. Walker said Lawton adopted a resolution in 2002, giving policy direction to Staff to consider the Consumer Price Index (CPI) in determining whether utility rates should be adjusted. The CPI represents changes in prices of all goods and services purchased for consumption by urban households. User fees, such as water and sewer service, as well as sales and excise taxes paid by the consumer are also included. She said if voters were to approve Charter language allowing Council to impose a maximum rate increase based on the CPI, rate increases adopted by Council would be limited by whatever the CPI is over a specified length of time. Any proposed increase greater than the CPI would still require a vote of the people.

Councilmembers discussed various percentages 3% and lower where Council would have the ability to increase the water rates without a vote of the people

Direction give to Staff was to draft language that provides for an annual increase of no more than 3%, only after presentation of a rate study and recommendation from a new board, the Utility Rate Commission (with ward specific appointments). Council wanted to specify would not take effect until 2023/2024 if water rate election were successful in April.

Reapportionment

Ms. Walker said Article XX of the Charter sets out the reapportionment process. Currently, the Charter requires the Reapportionment Ad Hoc Committee to review and ensure wards are formed “of compact, contiguous territory with boundaries drawn to reflect and respond to communities of common interest, ethnic background, and physical boundaries, to the extent reasonably possible.” State law requires that municipalities review wards and ward boundaries following the Census and change the boundaries or number of wards, if necessary. Wards must essentially be equal in population and a municipality should try to avoid subdividing precincts established by a County Election Board. New precinct boundaries are not established by each County Election Board until the State Legislature has completed the reapportionment process. The Oklahoma Constitution requires the Legislature to accomplish apportionment within 90 legislative days after the convening of the first regular session of the Legislature following each Federal Decennial Census. The Oklahoma Constitution provides for the apportionment of a Bipartisan Commission on Legislative Apportionment of the Legislature fails to act within the prescribed timeline. Under State law, a change in the name, boundaries, or number of wards in a municipality may also be proposed at any time by 1) a resolution of the municipal governing body or 2) an initiative petition filed with the governing body of the municipality.

In 2013, the CRC suggested substantial restructuring of the reapportionment process. First, the CRC suggested the standing Reapportionment Commission, which is made up of members with five year terms, be changed to the Reapportionment Ad Hoc Committee. The Reapportionment Ad Hoc Committee would be appointed and convened when the City proposes to annex or de-annex property, during the last quarter of the calendar year prior to the release of the Census, or upon unanimous recommendation by Council. The CRC also suggested changing the language requiring a mandatory meeting because Reapportionment Commission members had concerns “that changing ward boundaries too frequently results in voter confusion.” The 2013 CRC cited concerns that a City Council initiated reapportionment could become political and was not

Reapportionment, continued:

necessary. The United States Supreme Court has stated that “[D]ecennial reapportionment appears to be a rational approach to readjustment of legislative representation in order to take into account population shifts and growth.”

The CRC also suggested adjusting the deadlines for convening the Committee and providing a resolution to Council so that in case of a proposed annexation or de-annexation, members of the Reapportionment Committee can be appointed within 90 days of adoption of the proposal. For purposes of reviewing the Census, the CRC suggested that members of the Reapportionment Committee be appointed six months prior to the Census year and provide a resolution within 180 days after the appointment of the Committee or after issuance of the Census. The CRC suggested language allowing Council to adopt the resolution without modification, reject the resolution, or adopt the resolution with such modification as Council deems necessary. Previous language only allowed Council to adopt or reject a resolution. City Council unanimously approved the 2013 CRC recommendations on July 17, 2014, and voters later adopted the language into the Charter.

Ms. Walker said since the conclusion of the 2019 CRC considerations, the City has had the opportunity to test the language from the 2014 amendments with the 2020 Census. The 2020 Census was delayed due to the pandemic, which certainly exaggerated some of the effects of the Charter timelines. In a typical year, the Census data would have been released by April 2021, and the Legislature would likely, but not necessarily, have completed the process by the end of the Legislative session in May 2021. After completion, the County Election Board would begin its process of adjusting precinct boundaries.

In researching other cities to determine how reapportionment is approached, Ms. Walker said Oklahoma City has a mandatory duty imposed on Council to redistrict when the Census shows the population in any ward is greater than any other ward and redistricting must be completed within one year of receipt of the Census. The timing in the Oklahoma City approach provides some flexibility to wait for the State to complete its redistricting process and the County to draw new precinct boundaries. Ms. Walker said Tulsa had the opportunity to implement new Charter language with the latest Census and requires that an Election District Commission be appointed no later than July 1, 2021, and every ten years thereafter. The Election District Commission is required to adopt and file an Election District Plan within six months of appointment and after a public hearing; however, Council does not vote on the Plan which becomes effective 30 days after it is filed with the City Clerk provided no judicial challenges are filed. She said this does not address the issue of timing that new election precinct boundaries are known. Lawton appoints a Redistricting Commission very ten years, beginning on July 1st upon receipt of the Census results. The Commission is required to, within a reasonable time, convene and approve a resolution readjusting wards and their boundaries. At least ten days before the adoption of the resolution, the Commission is required to hold a public hearing and once adopted, the Commission files the resolution with the City Clerk and the new boundaries go into effect.

Reapportionment, continued:

Ms. Walker said appointing the Reapportionment Ad Hoc committee months prior to the issuance of data the Committee needs to review can create issues with Committee member availability and result in a Committee that was not appointed by current elected officials. Additionally, the timelines in the Charter do not take into consideration the process the Legislature goes through to apportion districts, which is then followed by the County Election Board's process of drawing precinct lines after the release of Census data. She said, as stated previously, State law requires cities to try to avoid subdividing precincts and the Charter timeline for reapportionment potentially advances the City's process ahead of the State's process even in a normal year, which means the Committee is asked to draw ward boundaries without knowing where the new precinct boundaries are located. Rather than setting timelines based on dates the City expects data to be released, the Legislature to finish its apportionment process, and the Election Board to adjust its precinct boundaries, it may be a better practice to set the City's timelines based on events, such as the release of Census data to the City, issuance of revised precinct boundaries, etc.

Ms. Walker recommended Council appoint the committee within 60 days of release of Census data and tie the committee timeline to Election Board precincts determination.

Items submitted for the record

1. Memorandum dated January 4, 2022, from Kathryn Walker, City Attorney, to City Council

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The meeting was adjourned at 7:01 p.m.

ATTEST:

City Clerk

Mayor