



CITY OF NORMAN, OK CITY COUNCIL SPECIAL MEETING

Municipal Building, Council Chambers, 201 West Gray, Norman, OK 73069
Tuesday, August 03, 2021 at 5:30 PM

AGENDA

You are required to sign up in advance of the meeting on the City's webpage, by calling the City Clerk's Office (405-366-5406), or at the Council Chambers prior to the start of the meeting with your name, ward, and item you wish to speak to including whether you are a proponent or opponent. When the time comes for public comments, the Clerk will call your name and you can make your way to the podium. Comments may be limited on items of higher interest, if so, the Mayor will announce that at the beginning of the meeting. Participants may speak one time only up to 3 minutes per person per item. There will be no yielding of time to another person. Sign up does not guarantee you will get to speak if the allotted time for that item has already been exhausted. If there is time remaining after those registered to speak have spoken, persons not previously signed up may have the opportunity to speak. Comments received must be limited to the motion on the floor only.

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

PLEDGE OF ALLEGIANCE

AGENDA ITEMS

1. PRESENTATION BY BOB THOMPSON, CHAIRMAN OF THE CHARTER REVIEW COMMISSION, OF THE CHARTER REVIEW COMMISSION'S RECOMMENDATIONS FOR PROPOSED CHARTER AMENDMENTS FOLLOWING THEIR REVIEW OF THE NORMAN CITY CHARTER AS DIRECTED IN RESOLUTION R-1819-66.
2. REVIEW OF ARTICLE VII, SECTION 2, TO CONSIDER WHETHER THE CITY ATTORNEY SHOULD BE APPOINTED AND SUBJECT TO REMOVAL BY THE CITY COUNCIL. CRC vote 8-3
3. REVIEW OF ARTICLE II, SECTION 1 TO CONSIDER INCREASING THE MONTHLY STIPEND PROVIDED FOR THE MAYOR AND COUNCILMEMBERS.

Language recommended that would provide an initial increase in annual stipend and provide for a Compensation Commission that would determine additional increases every three years. CRC vote unanimous.

4. REVIEW OF ARTICLE II, SECTIONS 2, 5, 6 AND 14 TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS SHOULD BE CHANGED FROM TWO TO THREE YEARS, AND WHETHER THE TERM OF OFFICE FOR MAYOR BE CHANGED FROM THREE TO FOUR YEARS.

Language recommended to provide for three year terms for all ward representatives. No changes to the term of office for the Mayor recommended by the Charter Review Commission. CRC vote unanimous

5. 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

6. 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

7. 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

8. ARTICLE VI, SECTION 1 OF THE CHARTER TO INCREASE THE NUMBER OF MEMBERS OF THE BOARD OF NORMAN REGIONAL HOSPITAL AUTHORITY FROM NINE TO ELEVEN MEMBERS.

Language recommended to increase the number of board members from 9 to 11, provided that at least 9 of the members are Norman residents. CRC vote unanimous

9. 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

10. ARTICLE II, SECTION 2 OF THE CHARTER TO 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.

Language recommended to require residency within the ward for 6 months prior to filing for elective office with provisions made for cases where ward boundaries have changed. CRC vote unanimous

11. 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

ADJOURNMENT

THE CITY OF NORMAN CHARTER REVIEW COMMISSION FINAL REPORT

The Charter Review Commission (“CRC”) was established with the adoption of Resolution R-1819-66 on April 23, 2019. Seventeen community members were initially appointed to the CRC, but three members were ultimately unable to serve. Members of the CRC include: Bob Thompson (Chairman), Doug Cubberley (Vice-Chairman), Richard Stawicki, Kenneth McBride, Kevin Pipes, Trey Bates, Carol Dillingham, Jim Griffith, Shon Williamson Jennings, Greg Jungman, Tom Hackelman, Jim Eller, Bryan Vineyard, and Aisha Ali. The Resolution established the CRC to conduct a targeted review of the Norman City Charter and report its recommendations to Council. Resolution R-1819-66 was amended on July 23, 2019 and again on November 10, 2020 to add additional areas of the Charter for the CRC to examine. The following items were identified for targeted review:

- Consider adding 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.
- Review of Article VII, Section 2 to consider whether the City Attorney should be appointed and subject to removal by the City Council.
- Consider adding language to the Charter that would establish consequences should the provisions of Section 2-103 of the City’s Code be violated.
- Review of Article II, Section 1 to consider increasing the monthly stipend provided for the Mayor and Councilmembers.
- Consider adding language to Article II, Section 1 of the Charter adding reimbursement for cell phone expenses as additional compensation received by City Councilmembers.
- Review of Article II, Sections 2, 5, 6 and 14 to consider whether the term of office for Councilmembers should be changed from two to three years, and whether the term of office for Mayor be changed from three to four years.
- 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.
- Consider adding language to Article II, Section 10 of the Charter that would require a sitting Councilmember to resign their position at the time he or she files for another City, State or Federal elected office.
- Consider adding language to Article II, Section 2 of the 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.

- 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.
- Consider adding language to the Charter to establish a Resident or Community Bill of Rights.
- Consider amending Article VI, Section 1 of the Charter to increase the number of members of the Board of Norman Regional Hospital Authority from nine to eleven members.
- Consider 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.
- 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.
- Review Article II, Section 11 to consider whether to allow partisan elections for municipal office.
- Review potential loopholes used to skirt the Open Meetings Act and provide recommendation.
- Review executive session restrictions and provide recommendation on appropriate limits of use versus overly expansive such that it provides cover to skirt Open Meetings Act.
- Revisit the relationship between Norman Regional Hospital and the City of Norman for equitability of benefit versus burden to the respective parties and make a recommendation.
- Examine the ward boundary creation process.
- Review Article XIII, Recall of Elective Officers, and provide a recommendation on whether the language should be modified.
- Review Article XVII, Section 9 to consider whether to require biennial review of the Charter.

Among other things, Resolution R-1819-66 required the CRC to hold quarterly public meetings, to submit its final recommendations to Council in a written Final Report approved by a majority vote of two-thirds of the members of the Commission. The CRC met regularly until COVID-19 resulted in most City committees and commissions canceling their meetings. The CRC began meeting again via Zoom while it was permitted. Public hearings were held January 6, 2020 and October 12, 2020. Meetings were held on the following dates: July 8, 2019, August 12, 2019,

September 9, 2019, October 14, 2019, November 4, 2019, December 2, 2019, January 13, 2020, February 10, 2020, March 9, 2020, August 10, 2020, November 12, 2020, April 19, 2021, May 17, 2021 and June 14, 2021. The following is a summary of the recommendations being forwarded to Council by the CRC:

- APPOINTMENT AND REMOVAL OF A CITY AUDITOR BY CITY COUNCIL

Not recommended by the CRC.

- APPOINTMENT AND REMOVAL OF CITY ATTORNEY BY CITY COUNCIL

Recommended by a vote of 8-3.

- ADDITION OF CONSEQUENCES FOR VIOLATIONS OF THE CITY'S ETHICS ORDINANCE

Not recommended by the CRC.

- ARTICLE II, SECTION 1 TO CONSIDER INCREASING THE MONTHLY STIPEND PROVIDED FOR THE MAYOR AND COUNCILMEMBERS.

Language recommended that would provide an initial increase in annual stipend (applicable to terms following expiration of current Councilmember and Mayor terms), and providing for a Compensation Commission that would determine additional increases every 3 years.

- ARTICLE II, SECTION 1 TO CONSIDER ADDING REIMBURSEMENT FOR CELL PHONE EXPENSES AS ADDITIONAL COMPENSATION RECEIVED BY CITY COUNCILMEMBERS.

No changes recommended by CRC.

- ARTICLE II, SECTIONS 2, 5, 6 AND 14 TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS SHOULD BE CHANGED FROM TWO TO THREE YEARS, AND WHETHER THE TERM OF OFFICE FOR MAYOR BE CHANGED FROM THREE TO FOUR YEARS.

Language recommended to provide for 3 year terms for all ward representatives. No changes to the term of office for the Mayor recommended by CRC.

- 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.

- ARTICLE II, SECTION 10 OF THE CHARTER TO REQUIRE A SITTING COUNCILMEMBER TO RESIGN THEIR POSITION AT THE TIME HE OR SHE FILES FOR ANOTHER CITY, STATE OR FEDERAL ELECTED OFFICE.

No changes recommended by the CRC.

- ARTICLE II, SECTION 2 OF THE CHARTER TO 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.

Language recommended to require residency within the ward for 6 months prior to filing for elective office with provisions made for cases where ward boundaries have changed.

- 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.

- ADDING NEW LANGUAGE TO THE CHARTER TO ESTABLISH A RESIDENT OR COMMUNITY BILL OF RIGHTS.

No additions to the Charter were recommended by the CRC.

- ARTICLE VI, SECTION 1 OF THE CHARTER TO INCREASE THE NUMBER OF MEMBERS OF THE BOARD OF NORMAN REGIONAL HOSPITAL AUTHORITY FROM NINE TO ELEVEN MEMBERS.

Language recommended to increase the number of board members from 9 to 11, provided that at least 9 of the members are Norman residents.

- 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.

No additions to the Charter were recommended by the CDC.

- ARTICLE II, SECTION 22 TO CONSIDER ALLOWING THE OUTGOING COUNCILMEMBER CREATING THE VACANCY TO APPOINT HIS OR HER SUCCESSOR, OR TO 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.

- ARTICLE II, SECTION 11 TO CONSIDER WHETHER TO ALLOW PARTISAN ELECTIONS FOR MUNICIPAL OFFICE.

No changes recommended by the CRC.

- REVIEW POTENTIAL LOOPHOLES USED TO SKIRT THE OPEN MEETINGS ACT AND PROVIDE RECOMMENDATION.

No additions to the Charter were recommended by the CRC.

- REVIEW EXECUTIVE SESSION RESTRICTIONS AND PROVIDE RECOMMENDATION ON APPROPRIATE LIMITS OF USE VERSUS OVERLY EXPANSIVE SUCH THAT IT PROVIDES COVER TO SKIRT OPEN MEETINGS ACT.

No additions to the Charter were recommended by the CRC.

- REVISIT THE RELATIONSHIP BETWEEN NORMAN REGIONAL HOSPITAL AND THE CITY OF NORMAN FOR EQUITABILITY OF BENEFIT VERSUS BURDEN TO THE RESPECTIVE PARTIES AND MAKE A RECOMMENDATION.

No changes recommended by the CRC.

- EXAMINE THE WARD BOUNDARY CREATION PROCESS.

No changes recommended by the CRC.

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

The CRC 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.

- ARTICLE XVII, SECTION 9 TO CONSIDER WHETHER TO REQUIRE BIENNIAL REVIEW OF THE CHARTER.

No changes recommended by the CRC.

Summaries of the CRC's discussion of each item are attached, as well as formal language recommended, and the meeting minutes.

Article __, Section __ – Creation of the Position of City Auditor Subject to Appointment and Removal by City Council

Background:

The Creation of the position of City Auditor is a novel issue for the CRC. The proposed change first appeared in the Resolution No. R-1819-66 drafted in December 2018.

Currently, the City Manager is the only employee of Council. The Charter sets forth the Manager's position as an at-will employee of the Council and sets forth how a City Manager may be removed or suspended. It also outlines the general and special duties and powers of the City Manager.

The Charter empowers the City Manager to “appoint and remove all directors or heads of departments and all subordinate officers and employees in such departments. Further, such appointments and removals shall be made upon the basis of merit and fitness alone, including training and experience in the work to be performed...” Article III, Section (b). Similarly, the City's Personnel Manual sets forth the causes for termination in Section 305.9. Such causes include, but are not limited to:

- (a) Failure to report for work, regularly and promptly, except for causes beyond control of the employee;
- (b) Failure to meet prescribed standards of work, morality and ethics to an extent that makes an employee unsuitable;
- (c) Failure to comply with City rules and regulations;
- (d) Failure to make a reasonable effort to perform emergency service in any position when requested to do so;
- (e) Insubordination (a willful or intentional failure to obey a lawful and reasonable request of a supervisor or an action which constitutes lack of respect or harassment directed toward a supervisor);
- (f) Abuse of, or actions toward or around other employees or the public, either on or off the job, which tend to disrupt the good order and efficiency of the operation of any City department, impair the morale of its employees or impair the respect of the public for the department;
- (g) Horseplay, scuffling, and other acts that could have an adverse influence on the safety or well-being of other employees;
- (h) Theft, destruction or misuse of City property;
- (i) Unauthorized absences, abuse of leave privilege or a three (3) day absence without leave (AWOL)
- (j) Acceptance of a gift, fee, money or other valuable consideration given with the intent of influencing the employee in the performance of their official duty;
- (k) Improper use of authority or official position for personal profit or advantage;
- (l) Use of alcoholic beverages or intoxication while on duty;
- (m) Use, possession, sale, solicitation or transfer of drugs; or

- (n) Controlling interest, directly or indirectly, in any contract or job for the work or for material, or supplies, or the profits thereof, or any purchase made for or sales made by, to or with the City.

Recent City Managers in Norman have had an employment contract that specifies his or her status as an at-will employee and contains severance provisions that apply if the City Manager is fired, but not for cause. The current City Manager's contract is attached for your review.

A chart comparing the existence of city auditors and the approval and removal process of those city auditors was attached for the CRC's review at its September 2019 meeting. Commission members discussed the position and did not feel it was necessary for the City to create a position in the Charter for City Auditor due to the sufficiency of existing regular outside audits.

Proposed Change:

No changes recommended by the Charter Review Commission.

Article VII, Section 2 – Appointment and Removal of City Attorney by City Council

Background:

Appointment and removal of the City Attorney by the City Council is a novel issue for the CRC. Currently, the City Manager appoints and removes the City Attorney. The proposed change first appeared in the Resolution No. R-1819-66 drafted in December 2018.

Currently, the City Manager is the only employee of Council. The Charter sets forth the Manager's position as an at-will employee of the Council and sets forth how a City Manager may be removed or suspended. It also outlines the general and special duties and powers of the City Manager.

The Charter empowers the City Manager to “appoint and remove all directors or heads of departments and all subordinate officers and employees in such departments. Further, such appointments and removals shall be made upon the basis of merit and fitness alone, including training and experience in the work to be performed...” Article III, Section (b). Similarly, the City's Personnel Manual sets forth the causes for termination in Section 305.9. Such causes include, but are not limited to:

- (o) Failure to report for work, regularly and promptly, except for causes beyond control of the employee;
- (p) Failure to meet prescribed standards of work, morality and ethics to an extent that makes an employee unsuitable;
- (q) Failure to comply with City rules and regulations;
- (r) Failure to make a reasonable effort to perform emergency service in any position when requested to do so;
- (s) Insubordination (a willful or intentional failure to obey a lawful and reasonable request of a supervisor or an action which constitutes lack of respect or harassment directed toward a supervisor);
- (t) Abuse of, or actions toward or around other employees or the public, either on or off the job, which tend to disrupt the good order and efficiency of the operation of any City department, impair the morale of its employees or impair the respect of the public for the department;
- (u) Horseplay, scuffling, and other acts that could have an adverse influence on the safety or well-being of other employees;
- (v) Theft, destruction or misuse of City property;
- (w) Unauthorized absences, abuse of leave privilege or a three (3) day absence without leave (AWOL)
- (x) Acceptance of a gift, fee, money or other valuable consideration given with the intent of influencing the employee in the performance of their official duty;
- (y) Improper use of authority or official position for personal profit or advantage;
- (z) Use of alcoholic beverages or intoxication while on duty;
- (aa) Use, possession, sale, solicitation or transfer of drugs; or

- (bb) Controlling interest, directly or indirectly, in any contract or job for the work or for material, or supplies, or the profits thereof, or any purchase made for or sales made by, to or with the City.

Recent City Managers in Norman have had an employment contract that specifies his or her status as an at-will employee and contains severance provisions that apply if the City Manager is fired, but not for cause. The current City Manager's contract is attached for your review.

A chart comparing the status of City Attorneys/Municipal Counselors and the approval and removal process of such persons was provided to the CRC at its September 9, 2019 meeting. Discussion centered around the need for the Council to be able to select its Attorney versus the need to protect the Council's legal advice from politics. Ultimately, the CRC asked that two options be prepared for discussion at the October meeting – one option to add language to the Charter that would make the City Attorney an at-will employee of City Council, similar to the City Manager, and a second option that would make the City Attorney an at-will employee of the City Manager and clarify that the City Council is the client. After discussing the two options, the CRC voted 8 - 3 to recommend Option 1.

Language adopted by the CRC:

Option 1 (modeled after City Manager, Art. III, Section 1):

The City Attorney shall be appointed by Manager; such appointment shall be subject to the approval of a majority of the City Council. The City Attorney may be removed by the City Manager. Council shall by an affirmative vote of five (5) members appoint a City Attorney, who shall serve at the pleasure of the City Council as an at-will employee. He or she shall be chosen by the Council solely upon the basis of his or her qualifications, without regard to age, race, color, religion, ancestry, national origin, sex or place of birth, and need not, when appointed, be a resident of the City or State. No member of the Council shall, during the time for which he is elected, be chosen City Attorney, nor for two years after he ceases to be a member. In case of absence or disability of the City Attorney, the Council may designate some qualified person to perform the duties of the office during such absence or disability. The City Attorney may be removed or suspended at any time, upon an affirmative vote of five (5) members of the Council. Should at least four (4) Councilmembers desire that a majority of Council discuss removal or suspension of the City Attorney, then a notice of such a request shall be filed with the City Clerk, who shall then place an item for Executive Session for that purpose on the Agenda of the next regularly scheduled Council meeting or at a special meeting of the Council called for that purpose. In the event Council should desire to suspend or remove the City Attorney following the Executive Session, an additional item shall be included on the same Agenda of the meeting in which the Executive Session is to be held to consider immediate suspension or removal of the City Attorney. If the Council suspends or removes the City Attorney from office, the Council may provide for the temporary performance of the City Attorney's duties. The action of the Council in suspending or removing the City Attorney shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council.

Article __, Section _ – Consequences for Violations of the Ethics Ordinance

Background:

On April 12, 2009, the City Council adopted the City of Norman Ethics Policy for City Council, Boards, Commissions and Committees of the City of Norman by Resolution. This policy continues to be used to guide decisions related to ethical dilemmas on Norman Boards, Commissions and Committees. In 2011, the Council adopted Ordinance O-1112-5, which formerly codified much of the Ethics Policy as applicable to City Councilmembers in Section 2-103 of the Code. Among other things, the Ethics Ordinance requires that Councilmembers refrain from participating in discussion and votes on items in which they have a pecuniary interest (expectation of a financial benefit, detriment or employment consequence) or actual conflict (items in which the official holds a direct benefit, detriment or employment consequence) related to the action or decision. Additionally, Councilmembers must disclose potential conflicts prior to participating in the discussion and vote on an item where he or she might have an indirect benefit, detriment or employment consequence that could call into question his or her objectivity or independence. The City Attorney's role as set forth in the Ethics Ordinance is to answer questions and provide opinions related to possible ethics violations. There is no penalty outlined in the ordinance for violations. The resolution establishing the CRC asked that the CRC consider adding language to the Charter that would establish consequences for violations of Section 2-103 of the Code. A copy of the ordinance is attached for your review.

A chart comparing Norman's ethics ordinance with approaches in other cities was attached for the CRC's review. The cities cited on the chart were all cities in Oklahoma that are of similar size, population, and proximity to metropolitan areas.

Proposed Change:

The Commission voted unanimously to recommend no Charter amendments related to this issue.

Article II, Section 1 – Stipend increase for Mayor and Councilmembers.

Background:

The 2005 CRC unanimously recommended a compensation increase for the Mayor and Council members. The City Council did not elect to include the compensation increase in a municipal vote. In 2015, Article II Sec. 1's verbiage changed from "compensation" to "stipend" per the CRC's recommendation. However, the 2015 CRC did not consider changing the actual stipend amount.

The most recent proposed stipend increase appeared in the Resolution No. R-1819-66 drafted in December 2018. No specific increase amount was requested.

A chart comparing Norman's stipend amount with other cities' stipend amounts/salaries was presented to the CRC during its August 12, 2019 meeting. The Committee discussed the range of stipend amounts in other cities and there was consensus to move forward with a modest increase in a format that would simplify the payment process (instead of tracking the number of meetings attended to establish the stipend amount). The Committee asked that language be drafted to recommend a stipend between \$450 - \$650 per month (\$5,400 - \$7,800 per year) for Councilmembers and \$675 - \$975 per month (\$8,100 - \$11,700 per year) for the Mayor.

At its meeting in September, the Committee reviewed the drafted language and discussed other ways to gauge the appropriate compensation so that it would not require a Charter change every time the stipend was changed. Some suggested tying future increases to a set marker – employee wage increases, consumer price index, etc. but others expressed concerns about putting forward a structure that would guarantee a regular stipend increase without regard to overall budgetary concerns. Ultimately, the Commission appeared to reach a consensus and asked that language be drafted that requiring a Compensation Commission to be appointed and make recommendations for stipend increases every three years.

After looking at the implications of using either the term "stipend" or "salary" and whether the amount of each may impact status of the elected official as an "employee" of the City, it appears stipend is an appropriate term for these purposes regardless of the amount. A stipend is generally defined as a fixed sum of money paid periodically for services or to defray expenses. Whether it is called a stipend, wage or salary is immaterial for Internal Revenue Service purposes. Elected officials are explicitly excluded from the definition of employee in the context of the Employment Security Act, 40 O.S. s. 1-210, Federal Fair Labor Standards, 29 U.S.C.A. s.203, and the Family Medical Leave Act, 29 CFR s.825.102.

The CRC discussed possible language at its October 2019 meeting and voted unanimously to recommend the language set forth below.

Language Adopted by the CRC:

Section 1. - Elected Officers: Powers and duties; stipend.

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The Mayor shall receive an annual stipend of [\$8,100 - \$11,700] for his or her service per annum, payable monthly beginning with the mayoral term that begins in 2022. Each of the

Councilmembers shall receive an annual stipend of [\$5,400 - \$7,800] per annum, payable monthly, beginning with the terms that begin in 2022. The Mayor, with the consent of Council, shall appoint a five-member Compensation Commission to determine and set the appropriate monthly stipend for the Mayor and each of the Councilmembers shall receive based on the consumer price index, the City's overall budget, and other relevant factors every three years thereafter. Said Compensation Commission shall be appointed every three years and any monthly stipend increases approved by the Commission shall not become effective until the following Council or Mayoral (as applicable) term., a stipend for their services, fifty dollars per month, plus ten dollars for each regular or special meeting attended, provided, however, that no Councilmember shall receive more than one hundred dollars total stipend for any given calendar month.

Article II, Section 1 – Reimbursement for Cell Phone Expenses as Additional Compensation.

Background:

Adding reimbursement for cell phone expenses as additional compensation for Councilmembers is a new proposal. Past CRC's have not considered this issue. The proposed change first appeared in the Resolution No. R-1819-66 drafted in December 2018.

A chart comparing Norman's allowed additional compensation with other cities' allowed additional compensation was provided to the CRC at its August 12, 2019 meeting. After some discussion, the Committee recommended that the City provide cell phones for City business to the Mayor and Councilmembers, but felt this was more appropriately characterized as a policy change and did not require a change to the Charter.

Proposed Change:

No changes to the Charter were recommended by the CRC.

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".

Article II, Section 2 – Resignation upon Filing for another Elected Office.

Background:

In 2005, subsequent to the 2005 CRC report, four councilmembers suggested an additional change to the Charter that would have required City employees running for partisan political office to take a leave of absence upon filing for office. City Council did not send any such language forward for a vote. The 2012/13 CRC recommended adding language to the Charter stating that any employee seeking elected office may be required to take a leave of absence as prescribed by the Code of Personnel Manual, and such language was adopted by the voters in 2015.

Although previous CRC's have considered how to best address employees who run for elected office, the proposal requiring a sitting Councilmember to resign upon filing for another City, State, or Federal elected office is a novel issue.

51 Okla. Stat. § 6 prohibits dual office holding such that a sitting City Councilmember cannot also serve as mayor, state representative, federal representative, etc. State law also provides that candidates may file for no more than one office at any one election. 26 Okla. Stat. § 5-106.

A chart comparing Norman's current Charter provisions regarding current councilmembers filing for another elected office with other cities related provisions was provided to the CRC for review during its August 12, 2019 meeting. The Committee discussed whether the Charter should discourage Councilmembers from running for another office and ultimately reached a consensus to recommend that the existing language in the Charter remain.

Proposed Change:

The CRC recommended no changes to Article II, Section 2 related to situations where sitting municipal officials file for another elected office.

Article II, Section 2 – 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.

Background:

Currently, in Article II Section 2, the Norman Charter requires that a councilmember candidate reside in Norman for six months prior to filing for office. There is not a specific ward residency requirement in the Charter at this time. A ward residency requirement for councilmember candidates has not been considered by past CRCs. The proposed change first appeared in the Resolution No. R-1819-66 drafted in December of 2018.

A chart comparing Norman’s current ward residency requirement with other cities’ policies was provided to the CRC for review at its August 12, 2019 meeting. The Committee discussed whether requiring a candidate to live in the ward for six months was too long, but most members expressed support for the requirement, citing the ability to know the ward better the longer one has lived in the ward. Concern was expressed, however, that in the case of reapportionment, someone could have lived in a neighborhood for more than six months, but be ineligible to serve merely because the Ward boundaries changed. In Article XX, Section 5 of the Charter, it states that in the case of reapportionment, “the new wards and boundaries will supersede the previous wards and boundaries for the next primary and general election, and for all other purposes on the day on which the terms of the Councilmembers elected that year begin.”

Some committee members also asked whether it was possible to define residency and/or domicile. Although it is difficult to find a definition of residency in a similar context, Oklahoma courts have recognized that the term “resident” is not an ambiguous term, that is, its meaning is clear to a layperson. *Shelter Mutual Insurance Company v. American Hallmark Insurance Company of Texas*, 330 P.3d 1229 (Okla. Civ. App. 2014). Black’s Law Dictionary defines “residence” as living or dwelling in a certain place permanently or for a considerable length of time. By its plain reading, language requiring residency in the ward for 6 months would mean living or dwelling in a location within the ward for 6 months. Conversely, Black’s Law Dictionary defines “domicile” as the place at which a person is physically present and that the person regards as home; a person’s true, fixed, principal, and permanent home, to which that person intends to return and remain even though currently residing elsewhere.

At its September 9, 2019 meeting, the CRC voted unanimously to recommend the proposed language set forth below.

Language adopted by the CRC:

Section 2. - Term of office.

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For purposes of filing and election to the positions of City Council, only persons who have been duly registered to vote in accordance with state law within the City of Norman and reside within the ward for which they seek election for the six months prior to the date of the municipal election ~~and reside in the ward from which they seek election, on the date of their filing,~~ shall

be eligible to seek election to the City Council. If a candidate's ward designation has changed in the six months prior to the election due to reapportionment, then the requirement of six months durational residency shall be waived, although the candidate is still required to live in the newly established boundaries of the ward for which he or she seeks office.

For the purpose of filing and election to the position of Mayor, only persons who have been duly registered to vote in accordance with state law within the City of Norman for the six months prior to the date of the municipal election, shall be eligible to seek election as Mayor.

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.

Article __, Section __ – City of Norman Community Bill of Rights.

Background:

No past CRC has considered adding a Community Bill of Rights (“CBOR”) to the Charter. Resolution No. R-1819-66 called for the 2019 CRC to consider adding language to the Charter to establish a CBOR. Currently, no Oklahoma cities have a CBOR. Other cities across the United States have adopted or have tried to adopt CBOR ordinances or charter amendments. CBORs are declarations of community self-government often motivated by concerns related to fracking, pollution, water protection, ecological preservation, and sustainable energy.

The Community Environmental Legal Defense Fund (“CELDF”) indicates that CBORs often contain the following:

(1) A preamble, (2) a definitions section, (3) a section enumerating specific rights, (4) a section identifying and prohibiting the rights-violating activities, (5) an enforcement section, (6) a section preserving certain corporate powers, (7) a section voiding past permits that allowed the rights-violating activities, (8) a section calling for federal and state constitutional recognition and enforcement of the rights of community self-government, (9) a severability section, and (10) a repealer section that repeals prior local laws in conflict with the CBOR.

A chart comparing three CBOR’s, each of which employing different degrees of legislative measures to accomplish their goals, was provided to the CRC. The CBORs cited largely conformed to the CELDF’s suggested format except for minor deviations. CBORs differ greatly in their legislative measures. Some CBORs are simply declarations of local self-government and rights to a clean environment, while others ban activity outright and impose strict penalties. The Community Rights US group (www.communityrights.us) is a pro-community rights group with information related to similar efforts across the county. An article written about the community rights movement was also provided for review.

At its meeting on December 2, 2019, the Committee asked for an item on its next agenda to recommend that Council consider working on this issue with a separate committee. No charter amendments were recommended at the time.

Proposed Language:

No changes were proposed by the CRC.

Article IX– Hospital.

Background:

Resolution R-1819-66, as amended, included two items in the charge of the CRC related to the hospital. First, Section 5(l), which asks the Commission to consider recommending an amendment to Article IX, Section 1 of the Charter to increase the number of board members for the Norman Regional Hospital Authority from 9 to 11, was requested by the Hospital. Language accomplishing this change is provided below for your consideration. Section 5(r) of the resolution asked that the Commission revisit the relationship between Norman Regional Hospital and the City for equitability of benefit versus burden to the respective parties and make a recommendation. A brief history of the relationship between the hospital and the City is provided for your consideration. Additionally, the trust indenture creating the hospital authority is attached.

Norman’s first hospital, the American Legion Memorial Hospital, opened after World War I to address the needs of the growing community. During World War II, the hospital closed due to shortages of trained medical personnel. News reports from the time captured stories of people losing loved ones because of the travel time to the nearest hospitals in Oklahoma City. Norman’s Charter was amended in 1945 to include provisions for a municipal hospital. In 1946, Norman Municipal Hospital opened at 901 N. Porter to address the need for a local hospital. The original hospital had 61 beds and 29 employees. After 20+ years of managing the hospital, the City created the Norman Municipal Hospital Authority (now the Norman Regional Hospital Authority), a public trust, in 1969 to provide for the operations of the hospital and allow the hospital the benefits of a public trust without subjecting the City to the liability and financial responsibility related to operating a hospital. The City of Norman has always been the sole public beneficiary of the trust.

Public trusts exist as an independent legal entity, separate and distinct from the beneficiary. The beneficiary, here, the City, is able to enjoy the benefits of the public functions met by the trust, without being liable for lawsuits, financial obligations, etc. Unlike the City’s other public trusts (NUA, NMA, etc.), this particular trust indenture was written to provide for trustees that are separate and independent from the City Council. Instead, the Mayor, with the consent of Council, appoints the trustees to the Norman Regional Hospital Authority (“NRHA”) Board of Directors. The trustees are specifically empowered by the trust indenture with having and exercise exclusive management and control of the Trust properties, making and performing contracts, adopting rules, regulations, policies and procedures for the regulation of its affairs and conduct of its business, acquiring property, making investments, financing facilities, etc. (See Article VII, Amended and Restated Trust Indenture). The City, as beneficiary, has no authority to control or direct the actions of the Trustees. (Article VIII, Amended and Restated Trust Indenture). The Trust Indenture can be amended only by approval of 2/3rds of the Trustees and approval of the Beneficiary so long as no outstanding indebtedness is secured by the Trust Estate (Article X, Amended and Restated Trust Indenture).

Since 1945, the Norman Regional Health System (“NRHS”) has grown to be a multi-campus system providing health and wellness services for south central Oklahoma. The Porter Avenue Norman Regional Hospital currently serves as an acute-care facility and is licensed for 219 beds. The HealthPlex campus at Tecumseh and I-35, open several years ago and is licensed for 168 beds

and features Cardiovascular Services, Spine and Orthopedic Surgery, and Women's and Children's Services. NRHS also includes a healthcare facility in Moore as well as outpatient diagnostic centers, medical transport services, physician services, centers of excellence, durable medical equipment supplies, a primary care network, community wellness services and employer health services. NRHS employs more than 3,000 people and have more than 375 physicians on staff.

Over the past several years, NRHS has undertaken a process to develop a strategic long range plan ("Inspire Health") to more effectively and efficiently provide high quality healthcare in south central Oklahoma. Council, as representatives of the beneficiary of the hospital trust, approved debt financing for the implementation of this plan in November 2019. The CRC discussed the proposed increase in board membership at its March 2020 meeting, and asked that language be drafted to increase the board membership from nine to eleven, and ensure no more than two board members are appointed from other communities in which the Hospital operates a facility. The CRC expressed a strong sentiment that board diversity should be a priority and guiding principle for board composition.

The CRC also discussed the relationship between the Hospital and the City for equitability of benefit versus burden to the respective parties. Chairperson Thompson spoke with Councilmember Petrone, who requested this item be included in the CRC's charge, and relayed that she was asking about liability caps under the Governmental Tort Claims Act and whether citizens received cheaper healthcare in return. CRC members discussed the extraordinary complexity of hospital management and recommended that the NRHS presentation page titled "Community Benefit Reporting Quantifiable Benefits, 2010-2019" be included in the next quarterly report to Council. This document shows a total value of quantifiable benefits provided to the community of \$261,244,917 between 2010 and 2019. No Charter changes were identified by the CRC related to this item.

Proposed Change:

Article IX. – Hospital.

The Mayor, with the approval of the City Councilmembers, shall appoint a Board of Norman Regional Hospital Authority consisting of ~~nine~~eleven registered voters who shall serve for a term of three years. At least nine of the board members shall be Norman residents. A maximum of two members may be appointed from other communities in which the Norman Regional Hospital Authority operates at least one facility. In case of a vacancy in the Board, an appointment to fill the unexpired term shall be made in the same manner as the original appointments. The City Manager shall be an ex-officio member of the Board of Norman Regional Hospital Authority but he shall have no vote. His advice and services shall be given to the Board in the planning and execution of its work.

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. During its January 2020 meeting, the CRC was split 5-5 on whether to recommend changes to the Charter, specifically the language set forth below.

The City Council, after receiving a quarterly update from Chairperson Thompson, asked that the CRC consider this item again since the prior consideration resulted in a tie vote and not all members were present at the previous meeting. The CRC discussed the item again during its November 2020 meeting and ultimately its position remained unchanged.

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.

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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.

Article II, Section 11 – Partisan Elections.

Background:

Since its initial adoption, the City's Charter has included a provision forbidding a person from designating his or her political party affiliation in connection with a run for municipal office. Resolution R-1819-66 (as amended), asked that the CRC review Article II, Section 11 to consider whether to allow partisan elections. According to the National League of Cities ("NLC"), over 75% of all municipalities have nonpartisan elections. The NLC cites the arguments of proponents of nonpartisan ballots as: political parties are irrelevant to providing services and cooperation between elected officials belonging to different political parties is more likely in a partisan setting. Proponents for partisan election argue that the absence of party labels can be confusing to a voter and that without a partisan label, the voters will turn to whatever cue is available, such as ethnicity, incumbent status, or single-issue identification. Additionally, proponents for partisan elections say that non-partisanship tends to produce elected officials more representative of the upper socioeconomic strata than the general populace, aggravating class bias in voter turnout. The NLC article was provided to the CRC at its November 2019 article. The CRC voted unanimously to reject the proposal for partisan elections.

Proposed Change:

No changes were recommended by the CRC.

Review potential loopholes used to skirt the Open Meetings Act and provide recommendation. Review executive session restrictions and provide recommendation on appropriate limits of use versus overly expansive such that it provides cover to skirt Open Meetings Act.

Background:

No past CRC has considered whether to recommend any changes to the Charter related to the Open Meetings Act. A summary of the Act is provided below.

The Oklahoma Open Meeting Act is designed to encourage and facilitate citizens' understanding of governmental processes and problems. Under the act, all meetings of public bodies, including municipalities must be open to the public, held at specified times and places, and votes must be publicly cast and recorded.

No informal gatherings or any electronic communications may decide an issue or take votes on any matter. A public trust whose beneficiary is a municipality may hold meetings by teleconference. However, no more than twenty percent of a quorum of the trustees may participate by teleconference, and all votes must be roll call votes. Executive sessions by teleconference are not permitted.

All regularly scheduled, continued or reconvened, special or emergency meetings of public bodies require public notice. Municipalities must give notice to the municipal clerk in writing by December 15 each year showing the date, time and place of the regularly scheduled meetings for the year. The municipal clerk must keep a record of all notices open to the public. Also, public bodies must display a notice twenty-four hours in advance at the public body's principal office.

If a meeting must be continued or reconvened, public notice of the continued meeting must be announced at the original meeting. Only matters appearing on the agenda of the meeting which is continued may be discussed at the continued or reconvened meeting.

Special meetings of public bodies require forty-eight-hour notice to the municipal clerk. Only matters appearing on the posted agenda may be considered at the special meeting. Notice of the special meeting must be posted twenty-four-hours prior at the public body's principal office. In the event of an emergency meeting, the person calling the meeting must give as much advance public notice as is reasonable and possible under the circumstances.

Minutes must be done for each meeting held by a public body under the Open Meetings Act. The minutes must show members present and absent, all matters considered, all actions taken, and the manner and time of notice. Any person attending a public meeting may record the proceedings as long as the recording does not interfere with the proceedings.

Executive sessions are only permitted in certain circumstances. Generally, for a municipality this includes discussing employment issues regarding public officers or employees; discussing negotiations concerning employees; discussing purchase or appraisal of real property; confidential communications between a public body and its attorney in certain situations; or when discussing any matter where disclosure of information would violate state or federal law.

Executive sessions discussing the purchase or appraisal of real property may not include any person who may profit directly or indirectly from a transaction concerning the real property.

Any vote or action on any item of business considered in an executive session must be taken in public meeting with the vote of each member publicly cast and recorded. If a public body proposes an executive session, the agenda shall: indicate that an executive session will be proposed; identify the items of business and purposes of the executive session; and state the provision of the Open Meetings Act authorizing the executive session.

Any action taken in willful violation of the Oklahoma Open Meetings Act is invalid. Additionally, the penalty for violation is a misdemeanor punishable by up to a \$500 fine or up to a year of imprisonment in the county jail, or both.

Although the Open Meeting Act only applies to groups meeting the definition of “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, Commissions, Authorities or Committees to hold executive sessions in compliance with State law. In 2011, Council adopted Resolution R-1112-9 (attached) that requires all committees, sub-committees, and ad hoc committees be subject to the Open Meetings Act. This requirement was codified by the adoption of Ordinance O-1213-47, which created Section 4-107 in the City Code and requires all boards, commissions, council sub-committees, and ad hoc committees to follow the provisions of the Open Meetings Act when posting meeting notices and agendas.

The CRC asked for clarification from the Councilmember who asked that it examine these issues. After receiving none, no recommendations were made related to this item.

Article XX– Reapportionment.

Background:

Article XX of the City of Norman’s Charter sets out the reapportionment process. Currently, under Article XX a Reapportionment Ad Hoc Committee reviews and ensures that the 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.” 11 O.S. 11-20-101 (2014) proscribes that municipalities review wards and ward boundaries following the Census and change the boundaries or number of wards if necessary. Wards must be substantially equal in population. 11 O.S. 11-20-101 (2014). When establishing ward boundaries, a municipality should try to avoid subdividing precincts established by a county election board. *Id.* Under 11 O.S. 11-20-102 (2014), a change in the name, boundaries, or number of wards in a municipality may 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 that the standing Reapportionment Commission, which was 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: a) the City proposes to annex or de-annex property; b) during the last quarter of the calendar year prior to the release of the Census; or c) upon the unanimous recommendation of City Council. The CRC suggested striking the language requiring a mandatory meeting because the Reapportionment Commission members’ had concerns “that changing ward boundaries too frequently results in voter confusion.” (2013 Art. XX Background Sheet). The 2013 Art. XX Background Sheet also cited concerns that that a City Council initiated reapportionment could become political and was not necessary. The U.S. 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.” *Reynolds v. Sims*, 377 U.S. 533, 583 (1964).

Finally, the CRC suggested adjusting the deadlines for convening the Committee and providing a resolution to the City Council. The CRC suggested that in the case of proposed annexation or de-annexation, members of the Reapportionment Committee be appointed within ninety days of adoption of the proposal. Also, for purposes of reviewing the Census, the CRC suggested that members of the Reapportionment Committee be appointed six months prior to the Census year. Regarding the Committee’s resolutions to retain or readjust the ward boundaries, the CRC suggested that the Committee provide a resolution to City Council 180 days after the appointment of the Committee or after the issuance of the Census. This was an increase from the previous 90 day deadline. The CRC then suggested adding language to Section 5 allowing City Council to either “adopt the resolution without modification, reject the resolution, or adopt the resolution with such modification as the Council deems necessary.” The previous language only allowed council to either adopt the resolution or not.

The City Council unanimously approved the 2013 CRC’s recommendations on July 17, 2014. Voters later adopted the language into the Charter. Because the 2014 language had not been

put to use yet, the CRC requested clarification regarding concerns about the ward boundary process from the Councilmember who added this item to their charge. Ultimately, no action was taken.

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 11th 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

Date Signed Petition Submitted to Clerk	Ward or Mayor	Minimum Number of Signatures Required	30 day review	60 day review	90 day review
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.

Available Election Dates	Filing Date Options	Notice to Election Board
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.

Article XVII, Section 9. - Periodic Charter Review

Background

In April 2016, voters approved the addition of language to the Charter requiring a periodic review. The language required Council to consider whether a Charter Review Committee should be appointed to review the Charter at least once every 10 years beginning no later than 2024. This language ensured that Council would consider an examination of the Charter on a regular basis while also allowing for the flexibility to appoint a Review Committee more often as may be needed. When Council amended Resolution R-1819-66 in November 2020, one of the tasks added for CRC review was “Review Article XVII, Section 9 to consider whether the require biennial review of the Charter”. Biennial review would require a review every two years. CRC members discussed this proposal at its April 2021 meeting and pointed that the current CRC has been meeting almost two years, meaning such a proposal could have the effect of creating an ongoing Charter review process. Members expressed comfort with the current language and the flexibility it provides for more frequent reviews of the Charter if it is needed. The CRC voted unanimously to not recommend any changes to Article XVII, Section 9.

Recommended Language

No changes were recommended by the CRC.

CHARTER REVIEW COMMISSION MINUTES

July 8, 2019

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Conference Room on the 8th day of July, 2019, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT:

Trey Bates
 Doug Cubberley, Vice-Chairman
 Carol Dillingham
 Jim Eller
 Jim Griffith
 Tom Hackelman
 Greg Jungman
 Ken McBride
 Victoria McBride
 Aysha Prather
 Richard Stawicki
 Bob Thompson, Chairman
 Bryan Vinyard

ABSENT:

Harold Heiple
 Judith Maute
 Kevin Pipes
 Shon Williamson-Jennings

STAFF PRESENT:

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

Items 1, 2 and 3, being:

INTRODUCTIONS, OPENING REMARKS, AND INTRODUCTION OF STAFF SUPPORT MEMBERS.

Committee members and staff introduced themselves and provided information about their background. Ms. Kathryn Walker, Interim City Attorney, welcomed members of the Charter Review Commission and thanked them for their service. She said the Charter is to the City what the Constitution is to the State; therefore, any changes that occur are not done so with careful and thoughtful consideration. She said some of the items for review will move along quickly while others with more substantive changes may require multiple meetings to form a recommendation to be forwarded to City Council.

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Item 4, being:

BRIEF OVERVIEW OF OPEN MEETINGS ACT.

Ms. Walker provided an overview of the State of Oklahoma Open Meetings Act. She said the cornerstone of the Open Meetings Act is that meetings should be open to the public so the public can have the opportunity to be informed of what is going on within their government. The Open Meetings Act applies to all public bodies and City of Norman's Resolution No. R-1112-9 clarifies that all City committees, sub-committees, and ad hoc committees shall follow the Open Meetings Act. She cautioned that communications to a majority of members by e-mail, text messaging, or social media can be construed as an improper meeting. She also distributed copies of the City of Norman Ethics Policy for City Council, Boards, Commissions, and Committees. She said each member of every board, commission and/or committee is required to sign an Ethics Policy pledge. She instructed them to turn their pledges in to the City Clerk once signed.

*

Item 5, being:

OVERVIEW OF RESOLUTION NO. R-1819-66 ESTABLISHING THE CHARTER REVIEW COMMISSION.

Ms. Walker highlighted Resolution No. R-1819-66 establishing the Charter Review Commission (CRC). She said the resolution sets forth the areas of targeted review; appointment, composition, and timetable of the Commission; duties of Commission members; removal of Commission members; and reporting and recommendations by the Commission.

Ms. Walker said the CRC will review the targeted sections of the Charter and consider whether those sections need to be amended to meet the City's current and/or future needs. She said the CRC is charged with educating the community about the Charter, any proposed amendments, and the review process by holding one public meeting each quarter. She said the Commission is also charged with creating policies/procedures for the CRC as guidelines for function of the Commission including attendance, receiving public input, and the structure or format of meetings.

All meetings will be open to the public and minutes will be made available to Council. The CRC may consult with various groups/experts if interested. Quarterly reports will be submitted to Council at a Study Session; final report recommendations must be approved by a majority vote of the Commission prior to being forwarded to Council; and the final report, upon completion, will be submitted to Council in a special meeting where Council will vote on each recommendation.

*

Item 6, being:

ELECTION OF CHAIR AND VICE-CHAIR.

City Clerk Brenda Hall opened the floor for nomination of Chair. Three nominations were received; Bob Thompson, Doug Cubberley and Tom Hackelman. Bob Thompson and Doug Cubberley received a tie vote Mr. Cubberley seceded to Mr. Thompson; therefore, Mr. Thompson became Chair and Mr. Cubberley agreed to be the Vice Chair.

Chairman Thompson said he is looking forward to working with the Committee. He said everyone may not agree on every item, but hoped that everyone's opinion would be considered and respected. He said in the event a recommendation is not sent forward unanimously, he would support a minority report recommendation moving forward as well so Council will have all of the information before making their decision.

Member Bates said he felt it was the Commission's responsibility to study and research each item and come to a consensus on a recommendation.

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Item 7, being:

ESTABLISHING A MEETING SCHEDULE.

The Commission discussed the order in which the items would be reviewed and grouped related items so they could be discussed at the same meeting. The Commission felt it would be helpful to have background information ahead of the meeting for review purposes and Staff agreed. The items to be considered at the August meeting include Sections D-I and Section N of the resolution related to increasing the stipend Council; reimbursement of Council expenses; terms of office and swearing-in time; requirement that a councilmember resign from their seat to run for another City, State or Federal office; residency requirements for Council candidates; and process for appointing a Councilmember to fill a vacancy. The CRC asked Staff to provide a comparison of Norman with other cities our size or bigger in Oklahoma relative to Council salaries, reimbursements, and term lengths.

It was the consensus of the Commission to meet on the second Monday of each month at 5:30 p.m.

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Item 8, being:

ADJOURNMENT.

The meeting was adjourned at 6:27 p.m.

CHARTER REVIEW COMMISSION MINUTES

August 12, 2019

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Multi-Purpose Room on the 12th day of August 2019, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

CALL TO ORDER AND ROLL CALL.

PRESENT:

Mr. Trey Bates
 Mr. Doug Cubberley, Vice-Chairman
 Ms. Carol Dillingham
 Mr. Jim Eller
 Mr. Greg Jungman
 Mr. Kenneth McBride
 Ms. Aysha Prather
 Mr. Richard Stawicki
 Mr. Bob Thompson, Chairman
 Mr. Bryan Vinyard
 Ms. Shon Williamson-Jennings

ABSENT:

Ms. Aisha Ali
 Mr. Jim Griffith
 Mr. Tom Hackelman
 Ms. Victoria McBride
 Mr. Kevin Pipes

STAFF PRESENT:

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

Item 1, being:

OVERVIEW OF AMENDMENT NO. 1 TO RESOLUTION NO. R-1819-66 ESTABLISHING THE CHARTER REVIEW COMMISSION.

Ms. Kathryn Walker, Interim City Attorney, highlighted amendments to Resolution R-1819-66 that includes whether to delete language allowing Council to appoint a successor or instead require a special election to be called for the purpose of filling such vacancy; review potential loopholes used to skirt the Open Meetings Act (OMA) and provide recommendation; review executive session restrictions and provide recommendation on appropriate limits of use versus overly expansive such that it provides cover to skirt OMA; revisit the relationship between Norman Regional Hospital and the City of Norman for equitability of benefit versus burden to the respective parties and make a recommendation; and examine the ward boundary creation process.

Item 1, continued:

Chairman Thompson suggested bundling the two OMA items for one discussion as well as bundling the Norman Regional Hospital equitability with an item already in the resolution regarding increasing the number of members of the Board of Norman Regional Hospital. He said the ward boundary creation process could be a stand-alone item for discussion.

Items submitted for the record

1. Resolution R-1819-66, Amendment No. 1

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Item 2, being:

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

Ms. Walker said in 2005, the Charter Review Commission (CRC) recommended a compensation increase for the Mayor and Councilmembers, but a compensation increase was not included in the municipal election. In 2015, verbiage changed from “compensation” to “stipend” and the most recent proposed stipend increase appeared in R-1819-66; however, no recommendations was made on a specific amount. She said Staff has provided a chart of comparable cities for Mayor and Council salaries. She said Mayor and Council currently receive \$50 per month plus an additional \$10 per meeting attended, but salary cannot exceed \$100 per month.

Vice-Chairman Cubberley felt the stipend should be increased, especially for the Mayor, because the Mayor and Council can spend 30 to 40 hours per week working on City business and the Mayor spends twice that time on the job than Councilmembers.

Member Stawicki said the current stipend amount has been in place since the 1960’s so it is time to look at increasing that.

Member Jennings agreed the stipend should be increased, but wondered what would be compatible today compared to \$50 in 1968. What can the City afford to pay because the amount has to be reasonable.

Member Dillingham said the stipend should be increased, but does not want to get into a position where this becomes a job. She said one of the most important things about local government is the aspect of volunteering.

Member Eller felt the stipend should be in the ballpark with comparable cities. He said Council will never have a salary, but the job should not be done for free either.

Item 1, continued:

Member Prather said citizens that run for Council are people that can already afford to sacrifice their time so a higher stipend may allow lower income citizens who may not have the luxury to spend the amount of time needed to be on Council to run for Council.

Member Jennings felt Norman's stipend should be the same as Edmond's (\$350 per month).

Member Bates suggested a range of \$450 to \$650 per month would be appropriate and Member Jungman agreed. Member Bates felt the Mayor should be paid more than Council due to the extra duties the Mayor performs.

Ms. Walker asked if Mayor and Council should be paid a flat fee per month and Ms. Brenda Hall, City Clerks, said a flat fee would be much easier for purposes of processing.

Member McBride suggested a fee at half the rate of Oklahoma City (\$1,000 per month).

Member Stawicki said he would like to see an increase, but not as high as Oklahoma City.

Member Vinyard suggested \$550 to \$750 per month.

Vice-Chairman Cubberley said the Mayor may not have more authority than Council, but the Mayor spends a lot more time on City business than Councilmembers and deserves a slightly higher stipend than Council.

Member Bates said he would be willing to increase the Mayor's stipend in the range of \$675 to \$975.

Ms. Walker said she is hearing the CRC wants to give a stipend increase Council's stipend in the range of \$450 to \$650 for Councilmembers and \$675 to \$975 for the Mayor and Members concurred. She said she would bring that language to the CRC at the next meeting.

Items submitted for the record

1. Article II, Section 1 – Stipend increase for Mayor and Councilmembers
2. Chart of comparable cities – Total Yearly Stipend/Salary

Item 3, being:

DISCUSSION OF ARTICLE II, SECTION 1, OF THE CITY CHARTER TO CONSIDER ADDING REIMBURSEMENT FOR CELL PHONE EXPENSES AS ADDITIONAL COMPENSATION RECEIVED BY CITY COUNCILMEMBERS.

Ms. Walker said adding reimbursement for cell phone expenses as additional compensation for Councilmembers is a new proposal and past CRC's have not considered this issue. The proposal first came forward in Resolution R-1819-66. She said Staff has provided a chart of comparable cities for Mayor and Council cell phone compensation; however, no other comparable cities compensate their Councilmembers for cell phone expenses.

Item 3, continued:

Chairman Thompson recognized former Councilmember Robert Castleberry to speak on this item.

Councilmember Castleberry said the City should issue cell phones to Councilmembers just as they provide cell phones to some City employees. He said Councilmembers have personal information on their cell phones that they do not want to hand over to be searched for an open record request. If Councilmembers had a City issued cell phone this would not be an issue as they could just hand over their City cell phone and the records requested could be easily extracted.

Chairman Thompson felt this could be a City policy rather than a Charter amendment and Members agreed.

Member Dillingham said there needs to be a caveat to the policy that personal cell phones are not to be used for City business, which would help with any open record litigation issues.

Member Jungman was concerned the City would be giving Councilmembers a shield as opposed to a tool because there is no way to be 100% sure Councilmembers are not having City business conversations on their personal cell phones.

Items submitted for the record

1. Article II, Section 1 – Reimbursement for Cell Phone Expenses as Additional Compensation
2. Chart of comparable cities – Cell Phone Expenses Included

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Item 4, being:

DISCUSSION OF ARTICLE II, SECTIONS 2, 5, 6, AND 14 OF THE CITY CHARTER TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS SHOULD BE CHANGED FROM TWO TO THREE YEARS AND WHETHER THE TERM OF OFFICE FOR MAYOR BE CHANGED FROM THREE TO FOUR YEARS.

Ms. Walker said term increase is a novel issue for CRC with this first being proposed in the resolution to change Councilmember terms from two years to three years and the Mayoral term from three years to four years. She said Staff has provided a chart of comparable cities for Mayor and Council term lengths. She said even wards run on even years and odd wards run on odd years so there is an election every year.

Chairman Thompson said he current system of two years for Council and three years for Mayor is nice because sitting Councilmembers can run for Mayor every other election without giving up their seat.

Member McBride said two years seems like a short period of time to really understand all of the City issues, rhythm, and understanding of the way things get done. He said a four year term seems to be more plausible.

Item 4, continued:

Member Stawicki said Congress and the State House of Representatives have two year terms and their job is much more complex than Council's so he does not think a change is needed.

Vice-Chairman Cubberley said for the purposes of planning, it is hard to do anything in two years because the first year may be planning and the second year may see the start of implementation or the finishing of planning. He said there can be problems in trying to get things done quickly in an election cycle. He said another issue is if someone new comes on Council and does not agree with what previous Council has been planning over the past year or two then that work ends up being delayed or shelved. He said a longer term gives more stability to Council as well as more time to accomplish things so he would suggest at least three years if not four years.

Member Jungman is concerned that a longer term takes a Councilmember further away from the voter.

Member Jennings agreed with Member Jungman and said two year terms makes Councilmembers focus on the voters while longer terms may cause them to disengage.

Member Dillingham said she did not think current term lengths should change and if a Councilmember wants to stay in office then they need to do their job and stay in tune with their constituents who will continue to vote them into office.

Member Bates said there is an argument to be made that longer term lengths could actually improve voter turnout because voters would not have to vote as often. He felt that too many elections create voter fatigue and felt term lengths for Mayor and Council should be three years and staggered differently.

Member Stawicki felt voter apathy was not due to too many elections, but to voters feeling like they have no say.

Member Eller said the learning curve for a Councilmember is long so he would support a three year term.

Chairman Thompson said he likes the current system of alternating odd/even ward elections because each ward is always on a ballot with the Mayor at some point.

Member Jungman said the voters solve the problem because so many members are re-elected, but occasionally someone may not be re-elected. He said most of the time if your constituents like the job a Mayor or Councilmember is doing they will re-elect that person.

Chairman Thompson asked if the CRC should recommend a change in term lengths and the consensus was to leave the terms as is.

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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

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Item 6, being:

DISCUSSION OF ARTICLE II, SECTION 10 OF THE CITY CHARTER THAT WOULD REQUIRE A SITTING COUNCILMEMBER TO RESIGN THEIR POSITION AT THE TIME HE OR SHE FILES FOR ANOTHER CITY, STATE, OR FEDERAL ELECTED OFFICE.

Ms. Walker said in 2005, four Councilmembers suggested an additional change to the Charter that would have required City employees running for partisan political office to take a leave of absence upon filing for office. City Council did not send language forward to a vote. Although previous CRC's have considered how to best address employees who run for elected office, the proposal requiring a sitting Councilmember to resign upon filing for another City, State, or Federal elected office is a novel issue. Ms. Walker said Oklahoma statutes prohibit dual office holding such that a sitting Councilmember cannot also serve as Mayor, state representative, federal representative, etc. State law also provided that candidates may file for no more than one office at any one elections. Staff has provided a chart comparing Norman's current Charter provisions regarding Councilmembers filing for another elected office with other cities related provisions. The cities cited in the chart are all cities in Oklahoma that are of similar size, population, and proximity to metropolitan areas. She said Staff could not find any information on what happens when a City Councilmember files for another office. She said Councilmember Scott will be running for a Senate seat this spring and if she wins that election, she cannot continue to serve on Council.

Member Eller said this is a terrible idea that someone wanting to run for State Senate would have to resign their City Council position.

Member Stawicki said he would not support this proposal.

Member Prather said she does not like the process of replacing a vacant seat with anything other than an election and felt it would happen more often if this precedence was set.

Member Vinyard said his concern is that a Councilmember running for another office may not do an effective job for the City or the other office.

Chairman Thompson asked members if they wanted to move forward with the proposal and members said no, they want to leave it alone.

Items submitted for the record

1. Article II, Section 10 – Resignation upon Filing for another Elected Office
2. Chart of comparable cities – Proposed Resignation Language

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Item 7, being:

DISCUSSION 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 Charter currently requires that a Councilmember candidate reside in Norman for six months prior to filing for office. There is not a specific ward residency requirement in the Charter at this time. She said Staff has provided a chart of comparable cities for Mayor and Council residency requirements.

Member Stawicki said there should be some type of residency timeframe, but six months may be a bit long and suggested half that time. He said sometimes people decide to run for Council at the last minute and may not have that intent six months before the election. He made his decision to run for Council the day before the filing period opened; however, he had lived in his ward for years.

Vice-Chair Cubberley said it would seem to be a disservice to the ward if someone is able to move into the ward at the last minute then file for office in that ward. He said wards are different and have their own quirks and interests. He said a person running for a specific ward should have an understanding of that ward so six months is not an unreasonable time to get to know the area.

Member Jennings said she likes the six month rule because she lives on the east side and several of the poorest Norman residents live there so having no limit marginalizes poor people. She said it is an advantage for wealthier folks to move into a ward for a month or so to see how things go and then leave if they choose to leave. She said six months give someone time to learn the neighborhood and getting a true sense of that part of the City.

Member Jungman felt the voters could decide who they want for Council in their ward so he would not change anything.

Member Eller agrees with Vice-Chairman Cubberley that wards are different and have different needs so he supports living in a ward six months before being able to run for Council in that ward.

Member Jungman said he has a problem with government telling people they cannot run for office. He said the requirement to live in Norman for at least six months prior to filing is good enough.

Member McBride said he supports a requirement for living six months in a ward, but he would like to see if there is language that could address what would happen to a person if there were a ward boundary change. If that person ended up in a different ward where they had not lived in for six months, would that adversely impact that person?

Member Vinyard asked how residency is defined in the Charter because given some of the questions tonight, this needs to be addressed.

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.

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

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Item 9, being:

Miscellaneous Discussion.

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Item 10, being:

ADJOURNMENT.

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

CHARTER REVIEW COMMISSION MINUTES

September 9, 2019

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Multi-Purpose Room on the 9th day of September 2019, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

CALL TO ORDER AND ROLL CALL.

PRESENT:

Ms. Aisha Ali [arrived at 6:02 p.m.]
 Mr. Doug Cubberley, Vice-Chairman
 Mr. Jim Eller
 Mr. Jim Griffith
 Mr. Tom Hackelman
 Mr. Kenneth McBride
 Mr. Kevin Pipes
 Mr. Richard Stawicki
 Mr. Bob Thompson, Chairman
 Mr. Bryan Vinyard

ABSENT:

Mr. Trey Bates
 Ms. Carol Dillingham
 Mr. Greg Jungman
 Ms. Victoria McBride
 Ms. Shon Williamson-Jennings

STAFF PRESENT:

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

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MEETING MINUTES OF JULY 8, 2019, AND AUGUST 12, 2019.

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

Items submitted for the record

1. Charter Revision Committee minutes of July 8, 2019
2. Charter Revision Committee minutes of August 12, 2019

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

Item 2, continued:

YEAS:

Members Cubberley Eller, Griffith,
Hackelman, McBride, Pipes, Stawicki,
Vinyard and Chairman Thompson

NAYES:

None

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

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Item 3, being:

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

Interim City Attorney Kathryn Walker provided draft language for the Committee's consideration based on feedback received at the previous meeting. The language provided a range of stipend for Mayor of \$8,100-\$11,700 annually and a range of \$5,400-\$7,800 for Councilmembers.

Chairman Thompson allowed Mr. Paul Arcoli to present some information to the committee related to this topic since he was not able to do so the previous meeting. Mr. Arcoli said the fixed stipend currently in place makes it difficult for hourly wage individuals to participate in City Council activities. He said the stipend should be increased and suggested the stipend recognize to a degree, the level of tenure for each Councilmember.

Committee members discussed several options; e.g., using minimum wage as a basis for pay with some type of trigger for increases, tie increases to CPI, establishing a Compensation Committee to review and make recommendations to Council for increases. Vice-Chairman Cubberley did not support automatic increases and suggested establishing a committee. Member McBride supported the creation of a Committee and tying increases to something that is not arbitrary like CPI.

Chairman Thompson said the consensus is to create the base number and create a Compensation Committee to review every three years to be effective the following term. He asked Staff to prepare draft language for the Committee's consideration at the next meeting. Ms. Walker said she would need to review using the word stipend vs. salary so that it would not create a problem of making Council City employees.

Items submitted for the record

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

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 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

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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.

Item 8, being:

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

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

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

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

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

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Item 9, being:

Miscellaneous Discussion.

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

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Item 10, being:

ADJOURNMENT.

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

CHARTER REVIEW COMMISSION MINUTES

October 14, 2019

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

CALL TO ORDER AND ROLL CALL.

PRESENT:

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

ABSENT:

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

STAFF PRESENT:

Ms. Kathryn Walker, Interim City Attorney

Item 2, being:

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

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

Items submitted for the record

1. Charter Revision Committee minutes of September 9, 2019

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

Item 2, continued:

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

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

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Item 3, being:

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

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

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

Item submitted for the record

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

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

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

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

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Item 4, being:

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

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

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

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

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

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

Item submitted for the record

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

Item 4, continued:

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

YEAS:	Members Ali, Bates, Cubberley, Eller, Hackelman, McBride, Pipes, and Chairman Thompson
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NAYES:	Members Griffith, Williamson-Jennings, and Vinyard
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The Chairman declared the motion carried and the draft language for Article VII, Section 2 approved.

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Item 5, being:

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

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

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

Items submitted for the record

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

Item 5, continued:

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

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

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Item 6, being:

Miscellaneous Discussion.

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

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Item 7, being:

ADJOURNMENT.

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

CHARTER REVIEW COMMISSION MINUTES

November 4, 2019

The Charter Review Commission met at 5:34 p.m. in the Municipal Building Multi-Purpose Room on the 4th day of November 2019, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

Item 1. Call to Order and Roll Call.

PRESENT:

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

ABSENT:

Ms. Aisha Ali
Mr. Jim Eller
Mr. Tom Hackelman

STAFF PRESENT:

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

Item 2. Consideration of approval of the Charter Review Commission meeting minutes of October 14, 2019.

Member Williamson-Jennings moved that the minutes be approved, which motion was duly seconded by Member Pipes, and the minutes were approved.

Items submitted for the record

1. Charter Revision Ad Hoc Committee minutes of October 14, 2019

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

Item 2, continued:

YEAS: Members Bates, Cubberley, Dillingham,
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.

*

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.

*

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.

Item 4, continued:

Member McBride moved to decline the proposal to allow partisan elections for municipal office, which motion was duly seconded by Member Dillingham,

Items submitted for the record

1. Article II, Section 11 – Partisan Elections
2. Cities 101 - - Partisan and Non-Partisan Elections

and the question being upon declining the proposal to allow partisan elections for municipal office, a vote was taken with the following result:

YEAS:	Members Bates, Cubberley, Dillingham, Griffith, Jungman, McBride, Pipes, Stawicki, Vinyard, Williamson-Jennings, Chairman Thompson
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NAYES:	None
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Chairman Thompson declared the motion carried the proposal to allow partisan election for municipal office was declined.

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Item 5. Miscellaneous Discussion.

Ms. Brenda Hall, City Clerk, said future topics include Utility increases requiring a vote of the people; Residents Bill of Rights; revisit relationship between Norman Regional Hospital System and the City; and Tax Increment Finance District (TIF) requirement for a vote of the people if \$5 million or over; potential loopholes used to skirt the Open Meetings Act; review Council succession revisions; and review Executive Session restrictions and provide recommendations of appropriate limits of use.

Chairman Thompson asked member if the meetings should be limited to one item at a time and members felt several items could be discussed as long as there is consensus to move forward; however, larger issues might need more than one meeting.

Topics for the December meetings include the Citizen Bill of Rights and TIF.

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Item 6. ADJOURNMENT.

Chairman Thompson declared the meeting adjourned at 6:20 p.m.

CHARTER REVIEW COMMISSION MINUTES

December 2, 2019

The Charter Review Commission met at 5:35 p.m. in the Municipal Building Multi-Purpose Room on the 2nd day of December 2019, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

CALL TO ORDER AND ROLL CALL.

PRESENT:

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

ABSENT:

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

STAFF PRESENT:

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

Item 2, being:

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

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

Items submitted for the record

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

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

Item 2, continued:

YEAS:

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

NAYES:

None

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

*

Item 3, being:

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

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

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

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

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

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

Item 3, continued:

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

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

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

Items submitted for the record

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

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Item 4, being:

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

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

Item 4, continued:

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

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

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

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

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

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

Item 4, continued:

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

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

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

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

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

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

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

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

Item 4, continued:

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

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

Items submitted for the record

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

Item 5, being:

MISCELLNEOUS DISCUSSION.

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Item 6 being:

ADJOURNMENT.

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

January 6, 2020

The Charter Review Commission met at 6:00 p.m. in the Municipal Building Council Chambers on the 6th day of January, 2020, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

CALL TO ORDER AND ROLL CALL.

PRESENT:

Ms. Aisha Ali
Mr. Trey Bates
Mr. Doug Cubberley, Vice-Chairman
Ms. Carol Dillingham
Mr. Jim Eller
Mr. Jim Griffith
Mr. Tom Hackelman
Mr. Greg Jungman
Mr. Richard Stawicki
Mr. Bob Thompson, Chairman
Mr. Bryan Vinyard
Ms. Shon Williamson-Jennings

ABSENT:

Mr. Kenneth McBride
Mr. Kevin Pipes

STAFF PRESENT:

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

City Attorney Kathryn Walker said City Council in its meeting of April 23, 2019, adopted Resolution R-1819-66 creating a Charter Review Commission to complete a targeted review of the City of Norman Charter highlighted those items and current recommendations from the Charter Review Commission as follows:

- Review of Article II, Section 1, to consider increasing the monthly stipend provided for the Mayor and Councilmembers.
 - CRC Recommendation: The Mayor shall receive an annual stipend of [\$8,100 - \$11,700] for his or her service per annum, payable monthly beginning with the mayoral term that begins in 2022. Each of the Councilmembers shall receive an annual stipend of [\$5,400-\$7,800] per annum, payable monthly, beginning with the terms that begin in 2022. The Mayor, with the consent of Council, shall appoint a five member Compensation Commission to determine and set the appropriate monthly stipend for the Mayor and each of the Councilmembers based on the consumer price index, the City's overall budget, and other relevant factors every three years thereafter. Said Compensation Commission shall be appointed every three years and any monthly stipend increases approved by the Commission shall not become effective until the following Council or Mayoral (as applicable) term.
- Consider adding language to Article II, Section 1, of the Charter adding reimbursement for cell phone expenses as additional compensation received by City Councilmembers.
 - CRC Recommendation: No changes recommended. CRC felt this was more appropriately characterized as a policy change and did not require a change to the Charter.

- Review of Article II, Sections 2, 5, 6 and 14 to consider whether the term of office for Councilmembers should be changed from two to three years and whether the term of office for Mayor be changed from three to four years.
- 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.
 - CRC Recommendation: Beginning in 2023, move to three year terms for Council members and beginning in 2024, terms will begin on the first Tuesday following certification of the election results
- Consider adding language to Article II, Section 10, of the Charter that would require a sitting Councilmember to resign their position at the time he or she files for another City, State or Federal elected office.
 - CRC Recommendation: No changes or additions to current Charter recommended.
- Consider adding language to Article II, Section 10, of the 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.
 - CRC Recommendation: No changes or additions to current Charter recommended.
- Review Article II, Section 11, to consider whether to allow partisan elections for municipal office.
 - CRC Recommendation: No changes or additions to current Charter recommended.
- 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.
 - CRC Recommendation: Vacancies in office are filled by a majority vote of the remaining members of Council after appointment and recommendation of one candidate from a Selection Committee made up of 5 residents of the ward for this vacancy has or will occur. If a vacancy is not filled within 60 days, Council shall call a special election to fill the vacancy for the unexpired term. (underlined portion new language)
- Review of Article VII, Section 2, to consider whether the City Attorney should be appointed and subject to removal by the City Council.
 - CRC Recommendation: Model City Attorney appointment after the City Manager appointment language in the Charter - position would become an at-will position appointed by a majority of Council and could be removed with 5 votes of Council
- Consider adding 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.
 - CRC Recommendation: No changes or additions to current Charter recommended.
- Consider adding language to the Charter that would establish consequences should the provisions of Section 2-103 of the City's Code be violated.
 - CRC Recommendation: No changes or additions to current Charter recommended.

Other items not yet considered include the following:

- Article XVI, Section 2 – requiring Council to consider a resolution calling for a vote of the electorate to increase City utility rates under certain conditions
- Consider adding language to the Charter to establish a Resident or Community Bill of Rights
- Article VI, Section 1 – increasing number of members of the Norman Regional Hospital Authority from 9 to 11
- Consider adding language to require a vote of the electorate for any TIF > \$5 million
- Review potential loopholes used to skirt the Open Meeting Act
- Review executive session restrictions and provide recommendation on appropriate limits of use versus overly expansive such that it provides cover to skirt the Open Meeting Act
- Revisit relationship between NRH and the City for equitability of benefit versus burden to the respective parties
- Examine the ward boundary creation process

Chairman Thompson opened the floor to public comments.

Robert Huskey - *Filling Vacant Council seats* - asked who will make the appointments to the committee.

Paul Arcaroli - felt extending the same replacement process for vacancies to include Council seats where the incumbent is not running.

Anne Gallagher - *Term Expirations* - the first Tuesday after declaration is too soon - she felt more time is needed for a smoother transition.

Resignation Before Filing for Another Elected Office - felt when a seated councilmember is running for another office their current position as councilmember lags. She felt they should resign their position for run for another office.

Requirement to live in the Ward for which Election is Sought for a Minimum of 6 months - supports the six month requirement

Filling Vacant Council seats - supports proposed language

TIFs over \$5 Million Requiring Vote of Electorate - supports electorate vote

Jayne Crumpley - *Term expirations* - too soon – Councilmembers need more time to get orientated

Resignation Before Filing for Another Elected Office - felt like the councilmember who chooses to fund for another elected office should resign their council seat. She felt there was too much conflict of time

Requirement to live in the Ward for which Election is Sought for a Minimum of six months - supports six months

Partisan Elections - felt council election should remain non partisan

Filling Vacant Council seats - supports proposed language

Consequences for Violations of the Ethics Ordinance - felt citizens often feel there are conflicts and question how the specific councilmember would present the people

TIFs over \$5 Million Requiring Vote of Electorate - supports electorate vote

Steve Ellis - *Term Expirations* - supports earlier seating but questioned three year terms and what election is considered the municipal general election for purposes of initiative and referendum petitions

Cynthia Rogers - *Term Expirations* - said sometimes people run on an issue that often gets settled before they are seated. She felt removing the lame duck issue would be good.

Consequences for Violations of Ethics Ordinance - felt councilmembers could be required to provide full disclosure of business dealings

TIFs over \$5 Million Requiring Vote of Electorate - supports electorate vote

Chairman Thompson - encouraged people to attend the Charter Commission meetings and felt they could benefit from hearing the discussion and debate amongst the Commission when making their recommendations.

Public hearings will continue quarterly with the next hearing being in April.

Items submitted for the record

1. PowerPoint presentation entitled, "Charter Review Commission – Bob Thompson, Chair"

The public meeting adjourned at 6:30 p.m.

CHARTER REVIEW COMMISSION MINUTES

January 13, 2020

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Multi-Purpose Room on the 13th day of January 2020, 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:

Ms. Aisha Ali (5:52)
 Mr. Trey Bates
 Mr. Doug Cubberley, Vice-Chairman
 Mr. Jim Griffith
 Mr. Greg Jungman
 Mr. Kenneth McBride
 Mr. Kevin Pipes
 Mr. Bob Thompson, Chairman
 Mr. Bryan Vinyard
 Ms. Shon Williamson-Jennings (6:02)

ABSENT:

Ms. Carol Dillingham
 Mr. Jim Eller
 Mr. Tom Hackelman
 Mr. Richard Stawicki

STAFF PRESENT:

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

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MEETING MINUTES OF DECEMBER 2, 2019, AND THE CHARTER REVIEW COMMISSION PUBLIC HEARING MINUTES OF JANUARY 6, 2020.

Commissioner Pipes moved that the minutes be approved, which motion was duly seconded by Commissioner Griffith, and the minutes were approved.

Items submitted for the record

1. Charter Review Commission minutes of December 2, 2019
2. Charter Review Commission Public Hearing minutes of January 6, 2020

Item 2, continued:

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

YEAS:	Commissioners 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 the minutes approved; and the filing thereof was directed.

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Item 3, being:

DISCUSSION AND POSSIBLE ACTION REGARDING COMMENTS RECEIVED IN JANUARY 6, 2020, PUBLIC HEARING CONCERNING THE COMMISSION'S RECOMMENDATIONS TO DATE.

Vice-Chairman Cubberley said there were comments during the public hearing regarding term expirations and conflicts of interest on initiative or referendum petitions and asked Ms. Walker to explain her view of the comments. Ms. Walker said in Title XI of State Statutes there are statutes that apply generally to municipal referendum and initiative petitions and how an election comes into play when talking about the number of signatures needed on the petition. She said to determine the number of signatures needed, Staff has to go back to the most recent general municipal election, which in this case was the mayoral citywide election. She said it is also used in talking about when such an item would be placed on an election ballot and Title XI states "general election" or "special election"; however, under the Local Development Act (LDA) it states "general municipal election" and again that was the mayoral election. Vice-Chairman Cubberley asked if any recommendation by the Commission in regards to changing Councilmember terms would affect when an initiative or referendum petition would be brought forward to a City election and Ms. Walker said no. Vice-Chairman Cubberley said he had no desire to reconsider this item.

Commissioner Jungman said at the public hearing, five different people told him that changing Council terms from two years to three years was not desirable and he personally agrees.

After further discussion by the Commission, Chairman Thompson said there seems to be consensus not to reconsider changing the Charter Review Commission's recommendation to Council at this time. He said the Charter Review Commission can present recommendations to Council as well as the public comments regarding those recommendations and Commissioners agreed. He said Council will ultimately decide whether recommendations move forward or not.

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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:

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.

Item 6, continued:

Chairman Thompson said when he was on Council he contacted the Oklahoma Municipal League (OML) regarding three on three meetings the City conducts and their opinion was that as long as the information provided to one group was not shared with another group, it was not a violation of the Open Meeting Act. He said the three on three meetings he attended were not helpful because he did not know what other Councilmembers thought about the issue being discussed except for the three Councilmembers in the meeting and he could not ask non-attending Councilmembers about their thoughts on the issue. He said he had objected to the three on three meetings on a fairly regular basis while serving on Council.

Commissioner Jungman said he would like Staff to look at other states that have language on walking quorums to see what options are available. He was under the impression that Oklahoma Statutes barred walking quorums.

Ms. Walker said social media has made Opening Meeting Act regulations a challenge as well.

Chairman Thompson said the Charter Review Commission would like more clarification on what exactly Council is looking for on this issue.

Items submitted for the record

1. Information regarding potential loopholes used to skirt the Open Meetings Act dated January 10, 2020
2. Codification of Commitment to Open Meetings in Charters
3. Resolution R-1112-9

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Item 7, being:

DISCUSSION REGARDING REVIEWING EXECUTIVE SESSION RESTRICTIONS AND APPROPRIATE LIMITS OF USE VERUS OVERLY EXPANSIVE SUCH THAT IT PROVIDES COVER TO SKIRT THE OPEN MEETING ACT.

Ms. Walker said executive sessions are only permitted in certain circumstances and generally, for a municipality this includes discussing employment issues regarding a public officer or employees; discussing negotiations concerning employees; discussing purchase or appraisal of real property; confidential communications between a public body and its attorney regarding a claim or a pending investigation on litigation; or when discussing any matter where disclosure of information would violate state or federal law. Any vote or action on any item of business considered in an executive session must be taken in a public meeting with the vote of each Commissioner publicly cast and recorded. If a public body proposed an executive session, the agenda shall indicate that an executive session will be proposed; identify the items of business and purposes of the executive session, and state the provision of the Open Meeting Act authorizing the executive session.

Item 7, continued:

Commissioner Williamson-Jennings asked if the Councilmember(s) that asked for this issue to be discussed could attend the next Charter Review Commission meeting to provide clarification regarding what loopholes they are worried about. She said she would like to focus on issues that need to be reviewed, but as of today, this issue does not hold a lot of meaning to her.

Commissioner Jungman asked how many votes would it take to break the seal of an executive session and Ms. Walker said it would take a majority vote.

Commissioner Pipes said Legal Staff and the City Clerk do a good job of educating Councilmembers and Commissioners of Boards, Commissions, and Committees of the Open Meeting Act requirements when they are elected or appointed.

After further discussion, Chairman Thompson said there seems to be consensus to table this time until further clarification can be provided.

Items submitted for the record

1. Information regarding executive session restrictions

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Item 8, being:

MISCELLNEOUS DISCUSSION.

Chairman Thompson said at the next meeting the Charter Review Commission will revisit Council's concern regarding loopholes in the Open Meeting Act, but it is his opinion that Council should not expect the Commission to recommend changing the executive session process. He said the Commission will also be discussing the ward boundary process.

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Item 8, being:

Miscellaneous Discussion.

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Item 9, being:

ADJOURNMENT.

Chairman Thompson declared the meeting adjourned at 6:52 p.m.

CHARTER REVIEW COMMISSION MINUTES

February 10, 2020

The Charter Review Commission met at 5:42 p.m. in the Municipal Building Multi-Purpose Room on the 10th day of February 2020, 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:

Ms. Aisha Ali
Mr. Doug Cubberley, Vice-Chairman
Ms. Carol Dillingham
Mr. Tom Hackelman
Mr. Richard Stawicki
Mr. Bob Thompson, Chairman
Mr. Bryan Vinyard
Ms. Shon Williamson-Jennings (5:45)

ABSENT:

Mr. Trey Bates
Mr. Jim Eller
Mr. Jim Griffith
Mr. Greg Jungman
Mr. Kenneth McBride
Mr. Kevin Pipes

STAFF PRESENT:

Ms. Kathryn Walker, City Attorney
Ms. Brenda Hall, City Clerk
Ms. Joyce Green, Geographical
Information Systems (GIS) Manager

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MEETING MINUTES OF JANUARY 13, 2020.

Commissioner Ali moved that the minutes be approved, which motion was duly seconded by Commissioner Stawicki;

Items submitted for the record

1. Charter Review Commission minutes of January 13, 2020

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

Item 2, continued:

YEAS: Commissioners Ali, Cubberley, Dillingham,
 Hackelman, 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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Discussion of Items 3 and 4 were combined.

Items 3 and 4, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING REVIEWING
 POTENTIAL LOOPHOLES USED TO SKIRT THE OPEN MEETING ACT.

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING REVIEWING
 EXECUTIVE SESSION RESRICTIONS AND APPROPRIATE LIMITS OF USE VERSUS
 OVERLY EXPANSIVE SUCH THAT IT PROVIDES COVER TO SKIRT THE OPEN MEETING
 ACT.

Chairman Thompson said last month the Commission requested additional information and/or specific examples Council wanted them to consider on this topic. He spoke with Councilmember Petrone, who requested this be included in the review, and she shared her concerns regarding using an executive session for a threat of a lawsuit leaving Councilmembers unable to discuss the lawsuit with the public or decisions Council is trying to make regarding the lawsuit. Current Open Meeting Act language states an executive session can be held regarding confidential communications between a public body and its attorney regarding pending investigations, claims, or actions. He said Councilmember Petrone wondered what constitutes pending litigation, is it simply a threat or is it a formalized process that creates pending litigation? Her concern was that if someone does not like Council's decisions they can sue the City, which can then become something taken behind closed doors. He asked Ms. Walker to discuss when executive sessions become necessary and Ms. Walker said this particular section relies on the advice of the City Attorney. She said there is case law that talks about pending investigation, claims, or actions that include threatened litigation and the balancing of responsibility to be transparent with the public and responsibility of representing the City and that is the language Staff has relied upon for executive sessions. She said there is also attorney/client confidentiality communications that are not subject to the Open Records Act (ORA) and she felt it is better to have language on an agenda in order for the public to know what is being discussed rather than doing everything by confidential communication. She said in the case of the University North Park Tax Increment Finance (UNPTIF) District, the City did receive one or two letters of threatened litigation letters as well as a petition in support of litigation that outlined the causes of action. She said Staff took that to be a very serious threat that needed to be discussed in an executive session.

Items 3 and 4, continued:

Commissioner Vinyard asked if the process of entering into an executive session is based on information received by the City Attorney who then feels this is something to be presented to Council or is that determined by a majority of Council? Ms. Walker said the City Attorney decides if an item needs to be discussed in executive session prior to presentation to Council. She said Council has to vote to convene into executive session.

Commissioner Dillingham said Council voting to adjourn into executive session is an important point and one of the things she spends a lot of time on at the County level is trying to educate clients to make sure they understand that if they strongly feel that the subject is something they would rather air publicly then she will list the pros and cons of doing that. She said there are often pretty serious privacy issues involved when dealing with employment law or threatened litigation and attorneys do not want people to know their strategies so it can be very difficult to balance all those interests. She is hesitant to add something to the Charter that would take away the important flexibility necessary to protect all of the many interests or takes away the City Attorney's ability to protect the City.

Chairman Thompson suggested executive sessions pertaining to potential or pending litigation must be accompanied by a demand letter from the client's attorney or a demand letter from the claimant filing pro se (individual filing without an attorney) and verified by the City Attorney that litigation will be pro se.

Co-Chairman Cubberley said the Commission has to be careful about tying the hands of the City Attorney to be able to talk to their client who is the City Council. He said even litigation filed pro se does not stop a claimant from hiring or firing an attorney at any time during the process. He agreed with Commissioner Dillingham about protecting the City's interests. He asked what recent issues have required executive sessions and Ms. Walker said condemnations, workers comp cases, employee union issues, and UNPTIF.

Commissioner Williamson-Jennings asked if the City has criteria the City Attorney uses to determine if something is a legitimate threatened litigation and Ms. Walker said no, most cases are actual pending litigation or tort claims where the City knows there is going to be potential litigation. The other option is sending communications to Council that never becomes public and no one knows the items are being potentially discussed so she feels more transparent posting executive session on an agenda.

Commissioner Stawicki and Co-Chairman Cubberley said they did not see any abuse of the use of executive session when they were on Council.

Commissioner Stawicki said he did have a problem with the three on three meetings that have been discontinued.

Commissioner Hackelman said the executive session tool is good, but over the past year and a half there has been public sentiment that issues are being discussed in executive session merely to keep information out of the public's eye. He said as long as there is a tangible reason for an executive session then he is okay with holding executive sessions.

Items 3 and 4, continued:

Chairman Thompson said there seems to be a preference to provide maximum transparency by placing the executive session on the agenda versus less transparency through attorney client privilege communications. He said Council has to vote on whether or not to adjourn into executive session so that puts the onus on Council.

Chairman Thompson said Councilmember Petrone suggested executive sessions be taped so new Councilmembers can get up to speed on the issues.

Ms. Brenda Hall, City Clerk, said materials and discussions in executive sessions are privileged information and cannot be shared. She said in all her years of attending training on the Open Meeting Act, taping executive sessions has never been recommended. She said once it has been recorded, it can be considered discoverable in court and can be used in litigation against the City.

Co-Chairman Cubberley said the City Attorney can meet with new Councilmembers to fill them in on the executive session items.

Commissioner Ali said there may be a lack of trust in the City Attorney providing information to the new Councilmember making the discussion feel less transparent and felt the UNPTIF executive session discussions seem to be overshadowing decisions in regards to the Charter amendment review.

Commissioner Dillingham said recording executive sessions is a slippery slope because there will be arguments as to whether or not the recordings are discoverable or if and when they become an open record.

Co-Chairman Cubberley said every new Councilmember feels left out to a certain extent on many issues just because they have not been involved in the discussions and that is just the nature of turnover.

Chairman Thompson said there seems to be consensus to take no action on recording executive sessions and members concurred.

Commissioner Dillingham said the Charter Review Commission unanimously supports maximum transparency; however, because the City has existing adequate checks and balances she felt there was no need to change language in the Charter.

Item 3 and 4, continued:

Co-Chairman Cubberley moved that no action be taken on this item, which motion was duly seconded by Commissioner Vinyard; and the question being upon taking no action on this item, a vote was taken with the following result:

YEAS:	Commissioners Ali, Cubberley, Dillingham, Hackelman, Stawicki, Vinyard, Williamson- Jennings, Chairman Thompson
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NAYES:	None
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Commissioner Thompson declared the motion carried and no action was taken on this item.

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Item 5, being:

CONTINUED DISCUSSION REGARDING THE WARD BOUNDARY CREATION PROCESS.

Ms. Walker said the City used to have a Reapportionment Commission and one of changes of the last Charter Review Commission was to appoint an Ad Hoc Committee in certain situations only, such as annexation or de-annexation of property and during the last quarter of the calendar year prior to the release of the Census, or upon the unanimous recommendation of City Council.

Commissioner Vinyard left the meeting at 6:14 p.m.

Ms. Walker said criteria for the ward boundaries are set up by ordinance to be formed so as to equalize, as nearly as practicable, the population of the wards. In addition, each ward should be 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. Ward lines shall not create artificial corridors which in effect separate voters from the ward to which they most naturally belong. She said the Ad Hoc Committee will meet after the 2020 Census to review ward boundaries.

Chairman Thompson asked if the Ad Hoc Committee is allowed to take into consideration voter participation in a ward and Ms. Walker said no, they can consider population, but not participation.

Co-Chairman Cubberley said when he was elected to Council in 2001 he represented a small piece of ward that changed boundaries three times over a ten year period. He said sometimes there is more growth in certain parts of the City and reviewing ward boundaries every ten years seems to be more practical.

Item 5, continued:

Commissioner Dillingham agreed and said a portion of her ward (Ward 4) went back and forth between Ward Four and Ward Eight over several years.

Chairman Thompson suggested discussion be postponed until the Charter Review Committee can determine Council's specific concerns about the ward boundary process.

Co-Chairman Cubberley moved to postpone this item until further notice, which motion was duly seconded by Commissioner Hackelman;

Items submitted for the record

1. Draft Charter Review Commission Article XX – Reapportionment.
2. Current Charter Provisions for Article XX – Reapportionment
3. Reapportionment/Ward Boundary Creation and Review Process

and the question being upon postponing this item until further notice, a vote was taken with the following result:

YEAS:

Commissioners Ali, Cubberley, Dillingham,
 Stawicki, Williamson-Jennings, Chairman
 Thompson

NAYES:

None

Chairman Thompson declared the motion carried and the item was postponed until further notice.

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Item 6, being:

MISCELLANEOUS DISCUSSION.

Ms. Hall said future items to be discussed includes the request from Norman Regional Health Systems to expand their board members, examining the relationship between NRHS and the City of Norman, and utility rates.

Commissioners asked if Councilmember Petrone could attend the next meeting to explain her concerns regarding items she requested to be reviewed.

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Item 7, being:

ADJOURNMENT.

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

CHARTER REVIEW COMMISSION MINUTES

March 9, 2020

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Multi-Purpose Room on the 9th day of March, 2020, 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. Doug Cubberley, Vice-Chairman
 Ms. Carol Dillingham
 Mr. Jim Eller
 Mr. Jim Griffith
 Mr. Tom Hackelman
 Mr. Kenneth McBride
 Mr. Kevin Pipes
 Mr. Richard Stawicki
 Mr. Bob Thompson, Chairman
 Mr. Bryan Vinyard
 Ms. Shon Williamson-Jennings

ABSENT:

Ms. Aisha Ali
 Mr. Trey Bates

TARDY:

Greg Jungman

STAFF PRESENT:

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

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MEETING MINUTES OF FEBRUARY 10, 2020.

Commissioner Stawicki moved that the minutes be approved, which motion was duly seconded by Commissioner Hackelman;

Items submitted for the record

1. Charter Review Commission minutes of February 10, 2020

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

Item 2, continued:

YEAS: Commissioners Cubberley, Dillingham, Eller,
Griffith, Hackelman, 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.

*

Items 3, being:

CONTINUED DISCUSSION REGARDING THE WARD BOUNDARY CREATION PROCESS.

This item was postponed from the previous meeting in an attempt to gain further information regarding Council's specific concerns about the ward boundary process. Chairman Thompson reached out to the councilmember who requested this item be added for review, but did not receive any additional input.

Co-Cubberley moved to that no changes be recommended, which motion was duly seconded by Commissioner Williamson-Jennings;

Items submitted for the record

1. Draft Charter Review Commission Article XX – Reapportionment.
2. Current Charter Provisions for Article XX – Reapportionment
3. Reapportionment/Ward Boundary Creation and Review Process

and the question being upon recommending no changes, a vote was taken with the following result:

YEAS: Commissioners Cubberley, Dillingham, Eller,
Griffith, Hackelman, McBride, Pipes,
Stawicki, Vinyard, Williamson-Jennings,
Chairman Thompson

NAYES: None

Chairman Thompson declared the motion carried and no changes were recommended.

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Item 4, being:

DISCUSSION REGARDING ARTICLE VI, SECTION 1, OF THE CITY CHARTER TO CONSIDER INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF NORMAN REGIONAL HOSPITAL AUTHORITY FROM NINE MEMBERS TO 11 MEMBERS.

Commissioner Cubberley disclosed he is the Chairman of the Norman Regional Hospital Authority and provided some background on this request. He said Norman Regional Hospital System (NRHS) now has facilities in a regional area and not just Norman. Communities where facilities exist include Noble, Newcastle, Moore, and South Oklahoma City. He said the Board has discussed increasing the membership from nine to 11 to allow for representation from some of the other communities NRHS serves.

Commissioner Vinyard said he would be willing to support the request if it was limited to two members from a community where NRHS has a facility and that Norman retain nine members. At the request of Chairman Thompson, Commissioner Cubberley provided to makeup of the current Board. The Commission directed the City Attorney to prepare language for their consideration at the next meeting. Commissioner Hackelman suggested adding language regarding the diversity of the communities NRHS represents.

Discussion took place with Commissioners Cubberley, Pipes and Eller had a conflict when it comes to making recommendations on NRHS since Commissioners Cubberley and Pipes currently service on the Board and Member Eller works as Chaplain at NRHS. City Attorney Walker said there could be a potential conflict that would require they disclose their association, but there would not be a pecuniary conflict since they all serve as volunteers.

Items submitted for the record

1. Current Charter Provisions for Article XX – Reapportionment
2. Reapportionment/Ward Boundary Creation and Review Process

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Item 4, being:

DISCUSSION REGARDING THE RELATIONSHIP BETWEEN NORMAN REGIONAL HOSPITAL AND THE CITY OF NORMAN FOR EQUITABILITY OF BENEFIT VERSUS BURDEN TO THE RESPECTIVE PARTIES.

Commissioners had asked if Councilmember Petrone could attend tonight's meeting to explain her concerns regarding the relationship between Norman Regional Hospital and the City of Norman. Chairman Thompson said he contacted Councilmember Petrone and her response was what are the city's taxpayers and City government getting in return for the current relationship, e.g., cheaper health care?

Item 4, continued:

There had been previous discussions at Council related meetings about NRHS not accepting a particular type of Blue Cross and Blue Shield (BCBS) insurance. Commissioner Cubberley said NRHS has been negotiating with BCBS for over two years and have finally come to an agreement for that particular insurance plan. He said every plan and rates are negotiated and oftentimes that process can be very long. Commissioner Vinyard said he negotiated contracts for Emergency Room doctors for 25 years and the negotiations can be very complex. In his experience, BSBC is the hardest company to negotiate with.

Commissioner Cubberley highlighted the Norman Regional Health System Community Benefit Report. Chairman Thompson asked that this report be included in the next quarterly report.

Items submitted for the record

1. Current Charter Provisions for Article IX – Hospital
2. Amended and Restated Trust Indenture for Norman Regional Hospital Authority
3. Inspire Health, Norman Regional Health System Community Benefit dated March 9, 2020

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Item 5, being:

MISCELLANEOUS DISCUSSION.

Ms. Hall said the last item for the Commission to discuss is utility rates and it would be on next month's agenda.

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Item 6, being:

ADJOURNMENT.

Chairman Thompson declared the meeting adjourned at 6:47 p.m.

CHARTER REVIEW COMMISSION MINUTES

August 10, 2020

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Council Chambers on the 10th day of August, 2020, 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:

Ms. Aisha Ali
 Mr. Trey Bates
 Mr. Doug Cubberley, Vice-Chairman
 Ms. Carol Dillingham
 Mr. Jim Griffith
 Mr. Kenneth McBride
 Mr. Kevin Pipes
 Mr. Richard Stawicki
 Mr. Bob Thompson, Chairman
 Mr. Bryan Vinyard
 Ms. Shon Williamson-Jennings

ABSENT:

Mr. Jim Eller
 Mr. Tom Hackelman
 Greg Jungman

STAFF PRESENT:

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

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MEETING MINUTES OF FEBRUARY 10, 2020.

Vice-Chairman Cubberley moved that the minutes be approved, which motion was duly seconded by Commissioner Pipes;

Items submitted for the record

1. Charter Review Commission minutes of March 9, 2020

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

Item 2, continued:

YEAS: Commissioners Ali, Bates, Cubberley, Dillingham, Griffith, 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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Items 3, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE VI, SECTION 1, OF THE CITY CHARTER TO CONSIDER INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF NORMAN REGIONAL HOSPITAL AUTHORITY FROM NINE TO ELEVEN MEMBERS.

Ms. Kathryn Walker, City Attorney, said Norman Regional Hospital System (NRHS) now has facilities in a regional area, not just Norman, and communities where facilities exist include Noble, Newcastle, Moore, and South Oklahoma City. She said the Charter Review Commission (CRC) has discussed increasing the membership from nine to 11 to allow for representation from some of the other communities NRHS serves. She said in the March 2020, meeting, Commissioners asked Staff to draft language to state, “The Mayor, with the approval of the City Councilmembers, shall appoint a Board of Norman Regional Hospital Authority consisting of eleven registered voters who shall serve for a term of three years. At least nine of the board members shall be Norman residents. A maximum of two members may be appointed from other communities in which the Norman Regional Hospital Authority operates at least one facility.” She said the CRC also expressed a strong sentiment that board diversity should be a priority and guiding principle for board composition.

Ms. Walker reminded everyone Commissioners Cubberley and Pipes currently service on the Board and Member Eller works as Chaplain at NRHS. She said this disclosure does not prohibit them from participating in the discussion or from voting on the item.

Vice-Chairman Thompson moved to approve the language change to the Charter, which motion was duly seconded by Commissioner Dillingham;

Items submitted for the record

1. Draft language for Charter Review Commission Article IX –Hospital.

Item 3, continued:

and the question being upon approving the language change to the Charter, 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 the language change to the Charter was approved.

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Item 4, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING THE RELATIONSHIP BETWEEN NORMAN REGIONAL HOSPITAL AND THE CITY OF NORMAN FOR EQUITABILITY OF BENEFIT VERSUS BURDEN TO THE RESPECTIVE PARTIES.

Chairman Thompson said he spoke with Councilmember Petrone regarding her reason for wanting the CRC to discuss the item and she wanted to know what the city's taxpayers and City government are getting in return for the current relationship, e.g., cheaper health care?

Vice-Chairman Cubberley said over time the hospital has gone from a municipal entity to a public trust for the benefit of community, but the main benefit is the City no longer has to operate the hospital and more importantly, the City is no longer responsible for hospital finances and debt. He said the biggest benefit to the community is control because through appointment of board members the City still has local control over the hospital system. He said the Board makes decisions regarding the hospital and its services and that decision making authority is locally controlled, but at the same time it is community members making decisions for the community. He said the Board is very cognizant of community needs and Council has the opportunity to periodically change the face of the Board through appointments.

Ms. Brenda Hall, City Clerk, said at the last meeting, Commissioner Cubberley highlighted the Norman Regional Health System Community Benefit Report that talks about the benefits to the community and Chairman Thompson asked that this report be included in the next quarterly report to Council.

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. Commission 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 Cubberley 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.

Commission 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 Cubberley 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 it 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:

MISCELLNEOUS 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 7, being:

ADJOURNMENT.

Commissioner Pipes moved that the meeting be adjourned, which motion was duly seconded by Commissioner Dillingham; and the question being upon approval the meeting being adjourned, a vote was taken with the following result:

YEAS:

Commissioners Ali, Bate, Cubberley,
Dillingham, Griffith, McBride, Pipes,
Stawicki, Vinyard, Williamson-Jennings,
Chairman Thompson

NAYES:

None

Chairman Thompson declared the motion carried and the meeting was adjourned at 7:10 p.m.

CHARTER REVIEW COMMISSION MINUTES

September 14, 2020

The Charter Review Commission met in a virtual meeting at 5:45 p.m. hosted in the Municipal Building Council Chambers on the 14th day of September, 2020, 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
Ms. Carol Dillingham
Mr. Jim Eller
Mr. Jim Griffith
Mr. Tom Hackelman
Mr. Greg Jungman
Mr. Kenneth McBride
Mr. Richard Stawicki
Mr. Bob Thompson, Chairman
Mr. Bryan Vinyard

ABSENT:

Mr. Kevin Pipes
Ms. Shon Williamson-Jennings

TARDY:

Ms. Aisha Ali

STAFF PRESENT:

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

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MEETING MINUTES OF AUGUST 10, 2020.

Commissioner Stawicki moved that the minutes be approved, which motion was duly seconded by Commissioner Vinyard;

Items submitted for the record

1. Charter Review Commission minutes of August 10, 2020

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

Item 2, continued:

YEAS:

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.

Item 4, being:

MISCELLNEOUS DISCUSSION.

City Clerk Hall said the recall process staff is currently going through has raised questions about the process and some of the current language. She said the process has highlighted the need to make modifications so that it functions more effectively. She said Council will most likely be amending the resolution to add those additional items for the Commission's review.

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Item 5, being:

ADJOURNMENT.

Chairman Thompson declared the meeting was adjourned at 6:35 p.m.

CHARTER REVIEW COMMISSION PUBLIC HEARING MINUTES

October 12, 2020

The Charter Review Commission held a video conference (virtual meeting) at 6:00 p.m. hosted in the Municipal Building Council Chambers on the 12th day of October, 2020, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

CALL TO ORDER AND ROLL CALL.

PRESENT:

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

ABSENT:

Mr. Jim Eller
 Mr. Jim Griffith
 Mr. Greg Jungman
 Mr. Kenneth McBride

STAFF PRESENT:

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

City Council in its meeting of July 23, 2019, adopted Resolution R-1819-66 creating a Charter Review Commission to complete a targeted review of the City of Norman Charter. Ms. Kathryn Walker, City Attorney, highlighted those items and current recommendations from the Charter Review Commission as follows:

- Consider adding 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.
 - CRC Recommendation: No changes or additions to current Charter recommended.
- Review of Article VII, Section 2, to consider whether the City Attorney should be appointed and subject to removal by the City Council.
 - CRC Recommendation: Model City Attorney appointment after the City Manager appointment language in the Charter - position would become an at-will position appointed by a majority of Council and could be removed with 5 votes of Council.

- Consider adding language to the Charter that would establish consequences should the provisions of Section 2-103 of the City's Code be violated.
 - CRC Recommendation: No changes or additions to current Charter recommended.
- Review of Article II, Section 1, to consider increasing the monthly stipend provided for the Mayor and Councilmembers.
 - CRC Recommendation: The Mayor shall receive an annual stipend of [\$8,100 - \$11,700] for his or her service per annum, payable monthly beginning with the mayoral term that begins in 2022. Each of the Councilmembers shall receive an annual stipend of [\$5,400-\$7,800] per annum, payable monthly, beginning with the terms that begin in 2022. The Mayor, with the consent of Council, shall appoint a five member Compensation Commission to determine and set the appropriate monthly stipend for the Mayor and each of the Councilmembers based on the consumer price index, the City's overall budget, and other relevant factors every three years thereafter. Said Compensation Commission shall be appointed every three years and any monthly stipend increases approved by the Commission shall not become effective until the following Council or Mayoral (as applicable) term.
- Consider adding language to Article II, Section 1, of the Charter adding reimbursement for cell phone expenses as additional compensation received by City Councilmembers.
 - CRC Recommendation: No changes recommended. CRC felt this was more appropriately characterized as a policy change and did not require a change to the Charter.
- Review of Article II, Sections 2, 5, 6 and 14 to consider whether the term of office for Councilmembers should be changed from two to three years and whether the term of office for Mayor be changed from three to four years.
 - CRC Recommendation: 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 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 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.

Elections for Mayor shall be occur every three (3) years. The term of the Mayor shall begin on the first Tuesday of July and every 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.

- 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.
 - CRC Recommendation: Beginning in 2023, move to three year terms for Council members and beginning in 2024, terms will begin on the first Tuesday following certification of the election results
- Consider adding language to Article II, Section 10, of the Charter that would require a sitting Councilmember to resign their position at the time he or she files for another City, State or Federal elected office.
 - CRC Recommendation: No changes or additions to current Charter recommended.
- Consider adding language to Article II, Section 10, of the 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.
 - CRC Recommendation: No changes or additions to current Charter recommended.
- 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.
 - CRC Recommendation: 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.
- Consider adding language to the Charter to establish a Resident or Community Bill of Rights
 - CRC Recommendation: No changes or additions to current Charter recommended.
- Consider adding language to require a vote of the electorate for any TIF > \$5 million
 - 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.

- 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.
 - CRC Recommendation: Vacancies in office are filled by a majority vote of the remaining members of Council after appointment and recommendation of one candidate from a Selection Committee made up of five residents of the ward for this vacancy has or will occur. If a vacancy is not filled within 60 days, Council shall call a special election to fill the vacancy for the unexpired term. (underlined portion new language)
- Review Article II, Section 11, to consider whether to allow partisan elections for municipal office.
 - CRC Recommendation: No changes or additions to current Charter recommended.
- Review potential loopholes used to skirt the Open Meeting Act
 - CRC requested additional clarification from the requesting Councilmember.
- Review executive session restrictions and provide recommendation on appropriate limits of use versus overly expansive such that it provides cover to skirt the Open Meeting Act
 - CRC requested additional clarification from the requesting Councilmember.
- Article VI, Section 1 – increasing number of members of the Norman Regional Hospital Authority from 9 to 11 and revisit relationship between NRH and the City for equitability of benefit versus burden to the respective parties.
 - CRC Recommendation: Increase from nine (9) to eleven (11) board members; at least nine (9) must be Norman residents; no more than two (2) may be appointed from other communities with a NRH facility. No other changes recommended.
- Examine the ward boundary creation process
 - CRC Recommendation: Consideration postponed; the CRC requested additional clarification from the requesting Councilmember.

Chairman Thompson opened the floor to public comments.

Robert Castleberry - *vote of the electorate for any TIF > \$5 million* – was concerning about taking a tool away from Council that could be used to create economic development

Vote on utility rates – supports current language because it creates more transparency

Ethics Ordinance – if there are not any consequences to violations of the ordinance then do away with it.

City Auditor – supports an internal auditor that reports to Council

City Attorney – does not support City Attorney reporting to Council

Council terms – if terms are increased there needs to be lesser requirements for a recall petition

Council cell phones – should be handled by a policy not needed in the Charter

Stipend increase for Council – likes that the recommendation was a range so the people can decide how much it should be

Chairman Thompson - encouraged people to attend the Charter Commission meetings and felt they could benefit from hearing the discussion and debate amongst the Commission when making their recommendations.

Items submitted for the record

1. PowerPoint presentation entitled, "Charter Review Commission – Bob Thompson, Chair"

The public meeting adjourned at 7:20 p.m.

CHARTER REVIEW COMMISSION MINUTES

November 12, 2020

The Charter Review Commission met in video conference meeting at 5:30 p.m. hosted in the Municipal Building Council Chambers on the 12th day of November, 2020, 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:

Ms. Aisha Ali
 Mr. Trey Bates
 Mr. Doug Cubberley, Vice-Chairman
 Mr. Tom Hackelman
 Mr. Kenneth McBride
 Mr. Kevin Pipes
 Mr. Richard Stawicki
 Mr. Bob Thompson, Chairman
 Mr. Bryan Vinyard
 Ms. Shon Williamson-Jennings

ABSENT:

Mr. Jim Eller
 Mr. Jim Griffith
 Mr. Greg Jungman

STAFF PRESENT:

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

Item 2, 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. Kathryn Walker, City Attorney, said City Council asked the Charter Commission to look at this topic again since the prior consideration resulted in a tie vote and all members were not present at the previous meeting.

Commissioner Bates said he was not sure what would be accomplished by revisiting this topic. His recollection of the topic was it was very well discussed and debated with a lot of thoughts brought to the discussion, but ultimately the Commission was a very split and felt it was difficult to make call. Members of the Commission felt like this is a very divided topic both within the Commission and the community and that the tie vote reiterated that opinion.

Commissioner Hackleman said he was not able to attend the meeting when this was previously discussed, but did not see the harm in letting the voters weigh in on these major projects.

Item 2, continued:

Commissioner Vinyard agreed with Commissioner Bates and said there were good points on both sides of the issue. He was a little confused why Council referred this back to the Commission to see if the vote might change with reconsideration, when they moved forward with the auditor position although this Commission recommended against it. He felt the outcome of the previous vote shows Council how divided this topic is within the community and Council can decide whether they wish to move it forward or not.

Commissioner McBride said his position has not changed since January and did not see the need to reconsider.

Commissioner Hackleman recommended to postpone any action on this item until a greater number of Commissioners could participate. Commissioner Bates said it did not serve much purpose to revisit this topic given the same set of facts. He felt if the Commission was going to revisit it again it needed to be something that has not been considered before.

Items submitted for the record

1. Draft language for Voter Approval Required for Tax Increment Finance Districts

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Item 3, being:

DISCUSSION REGARDING ARTICLE XIII, RECALL OF ELECTIVE OFFICERS TO PROVIDE A RECOMMENDATION ON WHETHER THE LANGUAGE SHOULD BE MODIFIED.

Ms. Walker provided an overview of the existing Charter language relative to recall of elected officials. Having gone through a recall process for the Mayor and three councilmembers in recent months brought to light some areas of the Charter that may need to be cleaned up to provide clearer language regarding the process. One area of concern identified by City Clerk Hall was the amount of time allotted to review the signatures. Current language states the review must be completed no later than 30 days from receipt of the petition, which is very problematic when multiple petitions are filed or a petition for the Mayor has been filed as it would require more than 23,000 signatures. Ms. Hall said Staff was also looking at revising the petition form to require additional information that would make it easier to identify the signature.

Commissioners ask Staff to review recall processes in other cities for further review. Additional information was requested regarding the percentage of votes cast in the last Mayoral election and statutory regulations for municipal elections.

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Item 4, being:

DISCUSSION REGARDING ARTICLE XVII, SECTION 9, TO CONSIDER WHETHER TO REQUIRE BIENNIAL REVIEW OF THE CHARTER.

Commissioners discussed whether or not to recommend a biennial review of the Charter. The consensus of the Commission was that biennial was too often given the fact it has taken almost two years to complete the current targeted review and felt the current Charter language of at least once every ten years was sufficient.

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Item 5, being:

MISCELLNEOUS DISCUSSION.

None.

*

Item 6, being:

ADJOURNMENT.

Chairman Thompson declared the meeting adjourned at 6:53 p.m.

CHARTER REVIEW COMMISSION MINUTES

April 19, 2021

The Charter Review Commission met at 5:36 p.m. in a virtual meeting in the Municipal Building Council Chambers on the 19th day of April, 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:

Ms. Aisha Ali (6:05 p.m.)
 Mr. Trey Bates
 Mr. Doug Cubberley, Vice-Chairman
 Ms. Carol Dillingham (5:47 p.m.)
 Mr. Jim Griffith
 Mr. Tom Hackelman
 Mr. Greg Jungman
 Mr. Kenneth McBride
 Mr. Kevin Pipes
 Mr. Richard Stawicki
 Mr. Bryan Vinyard
 Ms. Shon Williamson-Jennings

ABSENT:

Mr. Jim Eller
 Mr. Bob Thompson, Chairman

STAFF PRESENT:

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

Item 2, being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION PUBLIC HEARING MINUTES OF OCTOBER 12, 2020, AND THE REGULAR MEETING MINUTES OF NOVEMBER 12, 2020.

Commissioner Jungman moved that the minutes be approved, which motion was duly seconded by Commissioner Stawicki;

Items submitted for the record

1. Charter Review Commission Public Hearing minutes of October 12, 2020, and Regular Meeting minutes of November 12, 2020

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

Item 2, continued:

YEAS:

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?

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.

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 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.

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.

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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Item 4, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE XVII, SECTION 9, TO CONSIDER WHETHER TO REQUIRE BIENNIAL REVIEW OF THE CHARTER.

Commissioner Jungman did not feel a need to guide Council on this because they can call for a Charter review whenever they want.

Commissioner Williamson- Jennings said one of the reasons for having a Constitution or Charter is to have a guiding tool, but should not be a fiercely political tool. She does not believe the Charter should be changed every few years.

Commissioner Jungman said the City already has a requirement that the Charter be reviewed every ten years and felt that was appropriate.

Commissioner Pipes said if Council wants to the review the Charter then they should be able to do that.

Commissioner Dillingham did not see any reason to change the current requirement of every ten years.

Commissioner Ali said ten years is good and as-needed is available as well.

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

YEAS:

Commissioners Ali, Bates, Dillingham, Griffith, Hackelman, Jungman, McBride, Pipes, Stawicki, Vinyard, Williamson-Jennings, Vice-Chairman Cubberley

NAYES:

None

Vice-Chairman Cubberley declared the motion carried and no changes were recommended.

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Item 5, being:

DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE II, SECTION 22, VACANCIES IN OFFICE.

Ms. Walker said she is bringing this back to request help because the CRC has already made a recommendation on part of this by wanting to incorporate the recent practice of using committees made up of members of the Ward where the vacancy has occurred to recommend selection of a person to fill the vacancy. She said over the past four years, this has come up more often than ever before. She said what has been happening is the person vacating their seat is serving a Ward that is already up for election in February so, for example, in Ward Five, Councilmember Wilson resigned in August because she moved out of her Ward. Her seat was already up for election in February. She said Council can call a Special Election to fill the seat for the remainder of the term, but the practice has been to appoint someone to serve the remainder of the term then they could file and campaign for that office if they wanted to continue to serve. She suggested recommending calling a Special Election within 60 days or appoint someone to serve the remainder of the term.

Ms. Walker said an easy fix would be changing language that states, "After any vacancy occurring on the Council shall be filled by a majority vote after an appointment recommendation of one candidate from a selection committee for a period extending ~~until the next regular Municipal election~~ for the remainder of the term." Commissioners stated they liked this language.

Vice-Chairman asked Ms. Walker to prepare language to be voted on at the next meeting.

Items submitted for the record

1. Charter Review Commission: Article II, Section 22, Filling Vacant Council Positions

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Item 6, being:

MISCELLNEOUS DISCUSSION.

Vice-Chairman Cubberley said the next meeting will be May 10, 2021.

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Item 7, being:

ADJOURNMENT.

The meeting was adjourned at 7:02 p.m.

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
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NAYES:	Commissioners Eller and McBride
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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
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NAYES:	None
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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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Item 3, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE XVII, SECTION 9, TO CONSIDER WHETHER TO REQUIRE BIENNIAL REVIEW OF THE CHARTER.

This item was considered at the last meeting and was included on this agenda in error.

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Item 4 being:

DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE II, SECTION 22, VACANCIES IN OFFICE.

Article II, Section 22 – Filling Vacant Council Position

The CRC discussed whether to allow an outgoing Councilmember to appoint their own successor or to hold a special election to fill the empty position. A chart comparing Norman's current policy for filling a vacant position with other cities' policies was provided to the CRC for review and the CRC discussed the proposals and expressed a desire to follow a consistent process, recognizing that current Charter language provides Council an option to call a Special Election or follow a committee process.

Article II, Section 22 – Filling Vacant Council Position, continued:

On September 19, 2019, the CRC recommended modifying Charter language as follows:

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 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.

Since that discussion about this item, there has been some question about the language that states, "for a period extending until the next regular municipal election." When a vacancy is filled and the next regular municipal election would already 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. In other words, the appointment continues until the expiration of the term for which the appointee was selected to fill. One remedy considered was to have two ballots for the same seat on

Item 4, continued:

the same election – one to complete the term, and one for the term beginning in July; however, the Cleveland County Election Board highly discouraged this due to the possibility of voter 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 asked Staff to draft an amendment as follows:

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.

Commissioner Bates felt this process does not need to be locked into the Charter and Vice-Chairman Cubberley said the amended language sets forth a process for Council, but Council can reject the CRC's recommendation if they do not feel language is warranted.

Commissioner Stawicki felt existing language was adequate.

Vice-Chairman Cubberley said committees can be skewed and focused on one applicant so committees are not always as broad based as one would like them to be.

Commissioner McBride moved to that no action be taken for language regarding a selection committee, which motion was duly seconded by Commissioner Stawicki;

Items submitted for the record

1. Charter Review Commission – Article II, Section 22 – Filling Vacant Council Positions
2. Proposed Language (Inclusive of language already adopted by the CRC) – Section 22 – Vacancies in office

Item 4, continued:

and the question being upon no action being taken regarding a selection committee, a vote was taken with the following result:

YEAS:	Commissioners Cubberley, Eller, Hackelman, 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 action was taken regarding a selection committee.

Thereupon, Commissioner McBride moved to approve language as amended, which motion was duly seconded by Commissioner Stawicki; and the question being upon approving language as amended, a vote was taken with the following result:

YEAS:	Commissioners Cubberley, Eller, Hackelman, 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 language as amended was approved.

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Item 5 being:

MISCELLNEOUS DISCUSSION.

Ms. Walker said she would finish the CRC final report to be approved by the Commission in a special meeting, possibly in June, prior to being presented to Council. She said Council will then vote on each recommendation, section by section.

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Item 6 being:

ADJOURNMENT.

The meeting was adjourned at 6:27 p.m.

CHARTER REVIEW COMMISSION MINUTES

June 14, 2021

The Charter Review Commission met at 5:55 p.m. in the Municipal Building Council Chambers on the 14th day of June, 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:

Ms. Alisha Ali
Mr. Trey Bates
Mr. Doug Cubberley, Vice-Chairman
Ms. Carol Dillingham
Mr. Jim Eller
Mr. Jim Griffith
Mr. Kevin Pipes
Mr. Richard Stawicki

ABSENT:

Mr. Tom Hackelman
Ms. Shon Williamson-Jennings
Mr. Greg Jungman
Mr. Kenneth McBride
Mr. Bob Thompson, Chairman
Mr. Bryan Vinyard

STAFF PRESENT:

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

Item 2 being:

CONSIDERATION OF APPROVAL OF THE CHARTER REVIEW COMMISSION MINUTES OF APRIL 29, 2021, AND MAY 17, 2021.

Approved. Moved by Commissioner Stawicki, Seconded by Commissioner Eller. Ayes: Vice-Chairman Cubberley, Commissioners Ali, Bates, Dillingham, Eller, Griffith, Pipes, and Stawicki. Nays: None.

Items submitted for the record

1. Charter Review Commission minutes of April 19, 2021, and May 17, 2021

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Item 3, being:

CONTINUED DISCUSSION AND POSSIBLE APPROVAL, REJECTION, AMENDMENT, POSTPONEMENT 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 TO THREE YEARS.

Article II, Section 2 – Term of Office

Ms. Kathryn Walker, City Attorney, said the Charter Review Commission (CRC) discussed the potential for a lengthy period of time between election and officially seating the newly elected member and expressed a desire to reduce that time. The Commission like the approach used in Stillwater, Oklahoma, 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. Staff prepared options to reflect a two-year cycle for Councilmember election and a three-year cycle for Mayoral elections. During the October meeting, Commissioner Bates requested that this issue be revisited in order for Staff to prepare language for three year terms for all elected officials, with odd-numbered ward elections continuing to occur together in the same year, even-numbered ward elections occurring the next year together, and the Mayoral election occurring every third year as a stand-alone election. To achieve this without affecting current terms, language was drafted for three-year terms to begin in 2023. On November 4, 2019, the CRC voted six to five to move forward with amendments to Section 2 that would implement three-year terms for members of Council. She said tonight, the CRC will review and vote on ancillary amendments also needed to implement three-year terms for all members of Council.

Approved. Moved by Commissioner Stawicki, Seconded by Commissioner Pipes. Ayes: Vice-Chairman Cubberley, Commissioners Ali, Bates, Dillingham, Eller, Griffith, Pipes, and Stawicki. Nays: None.

Items submitted for the record

1. Article II, Section 2 – Term of Office

Article II, Section 5 – Municipal Elections

Ms. Walker said Staff drafted language that states, “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.”

Item 3, continued:

Approved. Moved by Commissioner Dillingham, Seconded by Commissioner Stawicki. Ayes: Vice-Chairman Cubberley, Commissioners Ali, Bates, Dillingham, Eller, Griffith, Pipes, and Stawicki. Nays: None.

Items submitted for the record

1. Article II, Section 5 – Municipal Elections.

Article II, Section 6 – Municipal Runoff Elections

Ms. Walker said Staff drafted language for municipal runoff elections and Commissioners requested language be amended (stricken) as follows:

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 ward 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, election 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 the municipal runoff elections shall be in April.

Approved as amended. Moved by Commissioner Stawicki, Seconded by Commissioner Eller. Ayes: Vice-Chairman Cubberley, Commissioners Ali, Bates, Dillingham, Eller, Griffith, Pipes, and Stawicki. Nays: None.

Items submitted for the record

1. Article II, Section 6 – Municipal Runoff Elections.

Item 3, continued:

Article II, Section 14 – Form of Ballot

Ms. Walker said Staff prepared language as follows:

In ~~odd-numbered~~ years in which the terms of 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 Councilmembers in Ward No. _____” followed by the instruction in each case: “Vote for One.”

In ~~even-numbered~~ years in which the terms of 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 Councilmembers in Ward No. _____” followed by the instruction in each case: “Vote for One.”

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

Approved. Moved by Commissioner Stawicki, Seconded by Commissioner Bates. Ayes: Vice-Chairman Cubberley, Commissioners Ali, Bates, Dillingham, Eller, Griffith, Pipes, and Stawicki. Nays: None.

Items submitted for the record

1. Article II, Section 14 – Form of Ballot

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Item 4, being:

**DISCUSSION AND POSSIBLE APPROVAL, REJECTION, AMENDMENT, POSTPONEMENT
REGARDING THE CHARTER COMMISSION FINAL REPORT.**

Ms. Walker highlighted the CRC recommendations in the final report as follows:

- Appointment and removal of a City Auditor by City Council – not recommended by the CRC;
- Appointment and removal of City Attorney by City Council – recommended by a vote of eight to three;
- Addition of consequences for violations of the City’s Ethics Ordinance – not recommended by the CRC;
- Article II, Section 1 to consider increasing the monthly stipend provide for the Mayor and Councilmembers – CRC recommends an initial increase in annual stipend and providing a Compensation Commission to determine additional increases every three years;

Item 4, continued;

- Article II, Section 1 to consider adding reimbursement for cell phone expenses as additional compensation received by City Councilmembers – no changes recommended by the CRC;
- Article II, Sections 2, 5, 6, and 14 to consider whether the term of office for Councilmembers should be changed from two to three years, and whether the term of office for Mayor be changed from three years to four years – CRC recommends three year terms for all ward representatives and no changes to Mayor's term;
- Article II, Section 10 to require a sitting Councilmember to resign their position at the time he or she files for another City, State, or Federal elected office – no changes recommended by the CRC;
- Article II, Section 2 to 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 – the CRC recommends requiring residency within the ward for six months prior to filing for elective office with provision made for cases where ward boundaries have changed;
- Article XVI, Section 2 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 CRC recommends Staff 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 provisions for situations where an additional rate increase may be needed to meet unexpected need;
- Adding new language to the Charter to establish a resident or community Bill of Rights – no additions to the Charter were recommended by the CRC;
- Article VI, Section 1 to increase the number of members of the Board of Norman Regional Hospital Authority from nine to eleven members – the CRC recommends increasing the number of board members from nine to eleven, provided that at least nine of the members are Norman residents;
- Adding language to the Charter related to requiring a vote of the electorate for approval of a Tax Increment Finance District over \$5 million – no additions were recommended by the CRC;
- Article II, Section 22 to consider allowing the outgoing Councilmember creating the vacancy to appoint his or her successor, or to require a special election to be called for the purpose of filling such vacancy – the CRC recommended clarification that Council can either appoint someone to fill the vacancy or call a special election and to eliminate confusion, any appointment would be for the remainder of the term only;
- Article II, Section 11 to consider whether to allow partisan elections for municipal office – no changes were recommended by the CRC;
- Review potential loopholes used to skirt the Open Meetings Act and provide recommendation – no additional to the Charter were recommended by the CRC;
- Review Executive Session restrictions and provide recommendations on appropriate limits of use versus overly expansive such that it provides cover to skirt the Open Meetings Act – no additions to the Charter were recommended by the CRC;
- Revisit the relationship between Norman Regional Hospital and the City of Norman for equitability of benefit versus burden to the respective parties and make a recommendation – no changes were recommended by the CRC;

Item 4, continued:

- Examine the ward boundary creation process – no changes were recommended by the CRC;
- Article XIII, Recall of Officers to consider whether the language should be modified – the CRC recommends changes to address potential timing conflicts with existing elections, ensuring the City Clerk has adequate time to review signed petitions and incorporating state law where appropriate in light of “Petition to Recall Ward Three City Councilmember Ezell” 2021 OK 5; and
- Article XVII, Section 9 to consider whether to require biennial review of the Charter – no changes were recommended by the CRC.

Approved. Moved by Commissioner Ali, Seconded by Commissioner Stawicki. Ayes: Vice-Chairman Cubberley, Commissioners Ali, Bates, Dillingham, Eller, Griffith, Pipes, and Stawicki. Nays: None.

Items submitted for the record

1. Charter Review Commission Final Report

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Item 5 being:

MISCELLNEOUS DISCUSSION.

None

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Item 6 being:

ADJOURNMENT.

The meeting was adjourned at 6:23 p.m.

Article VII, Section 2 – Appointment and Removal of City Attorney by City Council

Background:

Appointment and removal of the City Attorney by the City Council is a novel issue for the CRC. Currently, the City Manager appoints and removes the City Attorney. The proposed change first appeared in the Resolution No. R-1819-66 drafted in December 2018.

Currently, the City Manager is the only employee of Council. The Charter sets forth the Manager's position as an at-will employee of the Council and sets forth how a City Manager may be removed or suspended. It also outlines the general and special duties and powers of the City Manager.

The Charter empowers the City Manager to “appoint and remove all directors or heads of departments and all subordinate officers and employees in such departments. Further, such appointments and removals shall be made upon the basis of merit and fitness alone, including training and experience in the work to be performed...” Article III, Section (b). Similarly, the City's Personnel Manual sets forth the causes for termination in Section 305.9. Such causes include, but are not limited to:

- (a) Failure to report for work, regularly and promptly, except for causes beyond control of the employee;
- (b) Failure to meet prescribed standards of work, morality and ethics to an extent that makes an employee unsuitable;
- (c) Failure to comply with City rules and regulations;
- (d) Failure to make a reasonable effort to perform emergency service in any position when requested to do so;
- (e) Insubordination (a willful or intentional failure to obey a lawful and reasonable request of a supervisor or an action which constitutes lack of respect or harassment directed toward a supervisor);
- (f) Abuse of, or actions toward or around other employees or the public, either on or off the job, which tend to disrupt the good order and efficiency of the operation of any City department, impair the morale of its employees or impair the respect of the public for the department;
- (g) Horseplay, scuffling, and other acts that could have an adverse influence on the safety or well-being of other employees;
- (h) Theft, destruction or misuse of City property;
- (i) Unauthorized absences, abuse of leave privilege or a three (3) day absence without leave (AWOL)
- (j) Acceptance of a gift, fee, money or other valuable consideration given with the intent of influencing the employee in the performance of their official duty;
- (k) Improper use of authority or official position for personal profit or advantage;
- (l) Use of alcoholic beverages or intoxication while on duty;
- (m) Use, possession, sale, solicitation or transfer of drugs; or

- (n) Controlling interest, directly or indirectly, in any contract or job for the work or for material, or supplies, or the profits thereof, or any purchase made for or sales made by, to or with the City.

Recent City Managers in Norman have had an employment contract that specifies his or her status as an at-will employee and contains severance provisions that apply if the City Manager is fired, but not for cause. The current City Manager's contract is attached for your review.

A chart comparing the status of City Attorneys/Municipal Counselors and the approval and removal process of such persons was provided to the CRC at its September 9, 2019 meeting. Discussion centered around the need for the Council to be able to select its Attorney versus the need to protect the Council's legal advice from politics. Ultimately, the CRC asked that two options be prepared for discussion at the October meeting – one option to add language to the Charter that would make the City Attorney an at-will employee of City Council, similar to the City Manager, and a second option that would make the City Attorney an at-will employee of the City Manager and clarify that the City Council is the client. After discussing the two options, the CRC voted 8 - 3 to recommend Option 1.

Language adopted by the CRC:

Option 1 (modeled after City Manager, Art. III, Section 1):

The City Attorney shall be appointed by Manager; such appointment shall be subject to the approval of a majority of the City Council. The City Attorney may be removed by the City Manager. Council shall by an affirmative vote of five (5) members appoint a City Attorney, who shall serve at the pleasure of the City Council as an at-will employee. He or she shall be chosen by the Council solely upon the basis of his or her qualifications, without regard to age, race, color, religion, ancestry, national origin, sex or place of birth, and need not, when appointed, be a resident of the City or State. No member of the Council shall, during the time for which he is elected, be chosen City Attorney, nor for two years after he ceases to be a member. In case of absence or disability of the City Attorney, the Council may designate some qualified person to perform the duties of the office during such absence or disability. The City Attorney may be removed or suspended at any time, upon an affirmative vote of five (5) members of the Council. Should at least four (4) Councilmembers desire that a majority of Council discuss removal or suspension of the City Attorney, then a notice of such a request shall be filed with the City Clerk, who shall then place an item for Executive Session for that purpose on the Agenda of the next regularly scheduled Council meeting or at a special meeting of the Council called for that purpose. In the event Council should desire to suspend or remove the City Attorney following the Executive Session, an additional item shall be included on the same Agenda of the meeting in which the Executive Session is to be held to consider immediate suspension or removal of the City Attorney. If the Council suspends or removes the City Attorney from office, the Council may provide for the temporary performance of the City Attorney's duties. The action of the Council in suspending or removing the City Attorney shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council.

Item 8, being:

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

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

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

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

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

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Item 9, being:

Miscellaneous Discussion.

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

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Item 10, being:

ADJOURNMENT.

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

Item 4, being:

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

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

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

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

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

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

Item submitted for the record

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

Item 4, continued:

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

YEAS:	Members Ali, Bates, Cubberley, Eller, Hackelman, McBride, Pipes, and Chairman Thompson
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NAYES:	Members Griffith, Williamson-Jennings, and Vinyard
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The Chairman declared the motion carried and the draft language for Article VII, Section 2 approved.

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Item 5, being:

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

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

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

Items submitted for the record

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

Article II, Section 1 – Stipend increase for Mayor and Councilmembers.

Background:

The 2005 CRC unanimously recommended a compensation increase for the Mayor and Council members. The City Council did not elect to include the compensation increase in a municipal vote. In 2015, Article II Sec. 1's verbiage changed from "compensation" to "stipend" per the CRC's recommendation. However, the 2015 CRC did not consider changing the actual stipend amount.

The most recent proposed stipend increase appeared in the Resolution No. R-1819-66 drafted in December 2018. No specific increase amount was requested.

A chart comparing Norman's stipend amount with other cities' stipend amounts/salaries was presented to the CRC during its August 12, 2019 meeting. The Committee discussed the range of stipend amounts in other cities and there was consensus to move forward with a modest increase in a format that would simplify the payment process (instead of tracking the number of meetings attended to establish the stipend amount). The Committee asked that language be drafted to recommend a stipend between \$450 - \$650 per month (\$5,400 - \$7,800 per year) for Councilmembers and \$675 - \$975 per month (\$8,100 - \$11,700 per year) for the Mayor.

At its meeting in September, the Committee reviewed the drafted language and discussed other ways to gauge the appropriate compensation so that it would not require a Charter change every time the stipend was changed. Some suggested tying future increases to a set marker – employee wage increases, consumer price index, etc. but others expressed concerns about putting forward a structure that would guarantee a regular stipend increase without regard to overall budgetary concerns. Ultimately, the Commission appeared to reach a consensus and asked that language be drafted that requiring a Compensation Commission to be appointed and make recommendations for stipend increases every three years.

After looking at the implications of using either the term "stipend" or "salary" and whether the amount of each may impact status of the elected official as an "employee" of the City, it appears stipend is an appropriate term for these purposes regardless of the amount. A stipend is generally defined as a fixed sum of money paid periodically for services or to defray expenses. Whether it is called a stipend, wage or salary is immaterial for Internal Revenue Service purposes. Elected officials are explicitly excluded from the definition of employee in the context of the Employment Security Act, 40 O.S. s. 1-210, Federal Fair Labor Standards, 29 U.S.C.A. s.203, and the Family Medical Leave Act, 29 CFR s.825.102.

The CRC discussed possible language at its October 2019 meeting and voted unanimously to recommend the language set forth below.

Language Adopted by the CRC:

Section 1. - Elected Officers: Powers and duties; stipend.

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The Mayor shall receive an annual stipend of [\$8,100 - \$11,700] for his or her service per annum, payable monthly beginning with the mayoral term that begins in 2022. Each of the

Councilmembers shall receive an annual stipend of [\$5,400 - \$7,800] per annum, payable monthly, beginning with the terms that begin in 2022. The Mayor, with the consent of Council, shall appoint a five-member Compensation Commission to determine and set the appropriate monthly stipend for the Mayor and each of the Councilmembers shall receive based on the consumer price index, the City's overall budget, and other relevant factors every three years thereafter. Said Compensation Commission shall be appointed every three years and any monthly stipend increases approved by the Commission shall not become effective until the following Council or Mayoral (as applicable) term.
~~a stipend for their services, fifty dollars per month, plus ten dollars for each regular or special meeting attended, provided, however, that no Councilmember shall receive more than one hundred dollars total stipend for any given calendar month.~~

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Item 1, continued:

Chairman Thompson suggested bundling the two OMA items for one discussion as well as bundling the Norman Regional Hospital equitability with an item already in the resolution regarding increasing the number of members of the Board of Norman Regional Hospital. He said the ward boundary creation process could be a stand-alone item for discussion.

Items submitted for the record

1. Resolution R-1819-66, Amendment No. 1

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Item 2, being:

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

Ms. Walker said in 2005, the Charter Review Commission (CRC) recommended a compensation increase for the Mayor and Councilmembers, but a compensation increase was not included in the municipal election. In 2015, verbiage changed from "compensation" to "stipend" and the most recent proposed stipend increase appeared in R-1819-66; however, no recommendations was made on a specific amount. She said Staff has provided a chart of comparable cities for Mayor and Council salaries. She said Mayor and Council currently receive \$50 per month plus an additional \$10 per meeting attended, but salary cannot exceed \$100 per month.

Vice-Chairman Cubberley felt the stipend should be increased, especially for the Mayor, because the Mayor and Council can spend 30 to 40 hours per week working on City business and the Mayor spends twice that time on the job than Councilmembers.

Member Stawicki said the current stipend amount has been in place since the 1960's so it is time to look at increasing that.

Member Jennings agreed the stipend should be increased, but wondered what would be compatible today compared to \$50 in 1968. What can the City afford to pay because the amount has to be reasonable.

Member Dillingham said the stipend should be increased, but does not want to get into a position where this becomes a job. She said one of the most important things about local government is the aspect of volunteering.

Member Eller felt the stipend should be in the ballpark with comparable cities. He said Council will never have a salary, but the job should not be done for free either.

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Item 1, continued:

Member Prather said citizens that run for Council are people that can already afford to sacrifice their time so a higher stipend may allow lower income citizens who may not have the luxury to spend the amount of time needed to be on Council to run for Council.

Member Jennings felt Norman's stipend should be the same as Edmond's (\$350 per month).

Member Bates suggested a range of \$450 to \$650 per month would be appropriate and Member Jungman agreed. Member Bates felt the Mayor should be paid more than Council due to the extra duties the Mayor performs.

Ms. Walker asked if Mayor and Council should be paid a flat fee per month and Ms. Brenda Hall, City Clerks, said a flat fee would be much easier for purposes of processing.

Member McBride suggested a fee at half the rate of Oklahoma City (\$1,000 per month).

Member Stawicki said he would like to see an increase, but not as high as Oklahoma City.

Member Vinyard suggested \$550 to \$750 per month.

Vice-Chairman Cubberley said the Mayor may not have more authority than Council, but the Mayor spends a lot more time on City business than Councilmembers and deserves a slightly higher stipend than Council.

Member Bates said he would be willing to increase the Mayor's stipend in the range of \$675 to \$975.

Ms. Walker said she is hearing the CRC wants to give a stipend increase Council's stipend in the range of \$450 to \$650 for Councilmembers and \$675 to \$975 for the Mayor and Members concurred. She said she would bring that language to the CRC at the next meeting.

Items submitted for the record

1. Article II, Section 1 – Stipend increase for Mayor and Councilmembers
2. Chart of comparable cities – Total Yearly Stipend/Salary

Item 3, being:

DISCUSSION OF ARTICLE II, SECTION 1, OF THE CITY CHARTER TO CONSIDER ADDING REIMBURSEMENT FOR CELL PHONE EXPENSES AS ADDITIONAL COMPENSATION RECEIVED BY CITY COUNCILMEMBERS.

Ms. Walker said adding reimbursement for cell phone expenses as additional compensation for Councilmembers is a new proposal and past CRC's have not considered this issue. The proposal first came forward in Resolution R-1819-66. She said Staff has provided a chart of comparable cities for Mayor and Council cell phone compensation; however, no other comparable cities compensate their Councilmembers for cell phone expenses.

Item 2, continued:

YEAS:

Members Cubberley Eller, Griffith,
Hackelman, McBride, Pipes, Stawicki,
Vinyard and Chairman Thompson

NAYES:

None

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

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Item 3, being:

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

Interim City Attorney Kathryn Walker provided draft language for the Committee's consideration based on feedback received at the previous meeting. The language provided a range of stipend for Mayor of \$8,100-\$11,700 annually and a range of \$5,400-\$7,800 for Councilmembers.

Chairman Thompson allowed Mr. Paul Arcoli to present some information to the committee related to this topic since he was not able to do so the previous meeting. Mr. Arcoli said the fixed stipend currently in place makes it difficult for hourly wage individuals to participate in City Council activities. He said the stipend should be increased and suggested the stipend recognize to a degree, the level of tenure for each Councilmember.

Committee members discussed several options; e.g., using minimum wage as a basis for pay with some type of trigger for increases, tie increases to CPI, establishing a Compensation Committee to review and make recommendations to Council for increases. Vice-Chairman Cubberley did not support automatic increases and suggested establishing a committee. Member McBride supported the creation of a Committee and tying increases to something that is not arbitrary like CPI.

Chairman Thompson said the consensus is to create the base number and create a Compensation Committee to review every three years to be effective the following term. He asked Staff to prepare draft language for the Committee's consideration at the next meeting. Ms. Walker said she would need to review using the word stipend vs. salary so that it would not create a problem of making Council City employees.

Items submitted for the record

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

Item 2, continued:

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

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

*

Item 3, being:

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

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

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

Item submitted for the record

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

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

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

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

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Article II, Section 2, 5, 6, and 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 amendments to Section 2 that would implement three year terms for all members of Council. On June 14, 2021, the CRC examined ancillary amendments also needed to implement three year terms for all members of Council and adopted changes to Sections 5, 6 and 14 unanimously.

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: 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.

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 3, continued:

Chairman Thompson recognized former Councilmember Robert Castleberry to speak on this item.

Councilmember Castleberry said the City should issue cell phones to Councilmembers just as they provide cell phones to some City employees. He said Councilmembers have personal information on their cell phones that they do not want to hand over to be searched for an open record request. If Councilmembers had a City issued cell phone this would not be an issue as they could just hand over their City cell phone and the records requested could be easily extracted.

Chairman Thompson felt this could be a City policy rather than a Charter amendment and Members agreed.

Member Dillingham said there needs to be a caveat to the policy that personal cell phones are not to be used for City business, which would help with any open record litigation issues.

Member Jungman was concerned the City would be giving Councilmembers a shield as opposed to a tool because there is no way to be 100% sure Councilmembers are not having City business conversations on their personal cell phones.

Items submitted for the record

1. Article II, Section 1 – Reimbursement for Cell Phone Expenses as Additional Compensation
2. Chart of comparable cities – Cell Phone Expenses Included

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Item 4, being:

DISCUSSION OF ARTICLE II, SECTIONS 2, 5, 6, AND 14 OF THE CITY CHARTER TO CONSIDER WHETHER THE TERM OF OFFICE FOR COUNCILMEMBERS SHOULD BE CHANGED FROM TWO TO THREE YEARS AND WHETHER THE TERM OF OFFICE FOR MAYOR BE CHANGED FROM THREE TO FOUR YEARS.

Ms. Walker said term increase is a novel issue for CRC with this first being proposed in the resolution to change Councilmember terms from two years to three years and the Mayoral term from three years to four years. She said Staff has provided a chart of comparable cities for Mayor and Council term lengths. She said even wards run on even years and odd wards run on odd years so there is an election every year.

Chairman Thompson said he current system of two years for Council and three years for Mayor is nice because sitting Councilmembers can run for Mayor every other election without giving up their seat.

Member McBride said two years seems like a short period of time to really understand all of the City issues, rhythm, and understanding of the way things get done. He said a four year term seems to be more plausible.

Item 4, continued:

Member Stawicki said Congress and the State House of Representatives have two year terms and their job is much more complex than Council's so he does not think a change is needed.

Vice-Chairman Cubberley said for the purposes of planning, it is hard to do anything in two years because the first year may be planning and the second year may see the start of implementation or the finishing of planning. He said there can be problems in trying to get things done quickly in an election cycle. He said another issue is if someone new comes on Council and does not agree with what previous Council has been planning over the past year or two then that work ends up being delayed or shelved. He said a longer term gives more stability to Council as well as more time to accomplish things so he would suggest at least three years if not four years.

Member Jungman is concerned that a longer term takes a Councilmember further away from the voter.

Member Jennings agreed with Member Jungman and said two year terms makes Councilmembers focus on the voters while longer terms may cause them to disengage.

Member Dillingham said she did not think current term lengths should change and if a Councilmember wants to stay in office then they need to do their job and stay in tune with their constituents who will continue to vote them into office.

Member Bates said there is an argument to be made that longer term lengths could actually improve voter turnout because voters would not have to vote as often. He felt that too many elections create voter fatigue and felt term lengths for Mayor and Council should be three years and staggered differently.

Member Stawicki felt voter apathy was not due to too many elections, but to voters feeling like they have no say.

Member Eller said the learning curve for a Councilmember is long so he would support a three year term.

Chairman Thompson said he likes the current system of alternating odd/even ward elections because each ward is always on a ballot with the Mayor at some point.

Member Jungman said the voters solve the problem because so many members are re-elected, but occasionally someone may not be re-elected. He said most of the time if your constituents like the job a Mayor or Councilmember is doing they will re-elect that person.

Chairman Thompson asked if the CRC should recommend a change in term lengths and the consensus was to leave the terms as is.

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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.

*

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.

Item 3, being:

CONTINUED DISCUSSION AND POSSIBLE APPROVAL, REJECTION, AMENDMENT, POSTPONEMENT 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 TO THREE YEARS.

Article II, Section 2 – Term of Office

Ms. Kathryn Walker, City Attorney, said the Charter Review Commission (CRC) discussed the potential for a lengthy period of time between election and officially seating the newly elected member and expressed a desire to reduce that time. The Commission like the approach used in Stillwater, Oklahoma, 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. Staff prepared options to reflect a two-year cycle for Councilmember election and a three-year cycle for Mayoral elections. During the October meeting, Commissioner Bates requested that this issue be revisited in order for Staff to prepare language for three year terms for all elected officials, with odd-numbered ward elections continuing to occur together in the same year, even-numbered ward elections occurring the next year together, and the Mayoral election occurring every third year as a stand-alone election. To achieve this without affecting current terms, language was drafted for three-year terms to begin in 2023. On November 4, 2019, the CRC voted six to five to move forward with amendments to Section 2 that would implement three-year terms for members of Council. She said tonight, the CRC will review and vote on ancillary amendments also needed to implement three-year terms for all members of Council.

Approved. Moved by Commissioner Stawicki, Seconded by Commissioner Pipes. Ayes: Vice-Chairman Cubberley, Commissioners Ali, Bates, Dillingham, Eller, Griffith, Pipes, and Stawicki. Nays: None.

Items submitted for the record

1. Article II, Section 2 – Term of Office

Article II, Section 5 – Municipal Elections

Ms. Walker said Staff drafted language that states, “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.”

Item 3, continued:

Approved. Moved by Commissioner Dillingham, Seconded by Commissioner Stawicki. Ayes: Vice-Chairman Cubberley, Commissioners Ali, Bates, Dillingham, Eller, Griffith, Pipes, and Stawicki. Nays: None.

Items submitted for the record

1. Article II, Section 5 – Municipal Elections.

Article II, Section 6 – Municipal Runoff Elections

Ms. Walker said Staff drafted language for municipal runoff elections and Commissioners requested language be amended (stricken) as follows:

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 ward 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, election 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 the municipal runoff elections shall be in April.

Approved as amended. Moved by Commissioner Stawicki, Seconded by Commissioner Eller. Ayes: Vice-Chairman Cubberley, Commissioners Ali, Bates, Dillingham, Eller, Griffith, Pipes, and Stawicki. Nays: None.

Items submitted for the record

1. Article II, Section 6 – Municipal Runoff Elections.

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

*

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

*

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.

*

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

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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 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.

Article IX– Hospital.

Background:

Resolution R-1819-66, as amended, included two items in the charge of the CRC related to the hospital. First, Section 5(l), which asks the Commission to consider recommending an amendment to Article IX, Section 1 of the Charter to increase the number of board members for the Norman Regional Hospital Authority from 9 to 11, was requested by the Hospital. Language accomplishing this change is provided below for your consideration. Section 5(r) of the resolution asked that the Commission revisit the relationship between Norman Regional Hospital and the City for equitability of benefit versus burden to the respective parties and make a recommendation. A brief history of the relationship between the hospital and the City is provided for your consideration. Additionally, the trust indenture creating the hospital authority is attached.

Norman’s first hospital, the American Legion Memorial Hospital, opened after World War I to address the needs of the growing community. During World War II, the hospital closed due to shortages of trained medical personnel. News reports from the time captured stories of people losing loved ones because of the travel time to the nearest hospitals in Oklahoma City. Norman’s Charter was amended in 1945 to include provisions for a municipal hospital. In 1946, Norman Municipal Hospital opened at 901 N. Porter to address the need for a local hospital. The original hospital had 61 beds and 29 employees. After 20+ years of managing the hospital, the City created the Norman Municipal Hospital Authority (now the Norman Regional Hospital Authority), a public trust, in 1969 to provide for the operations of the hospital and allow the hospital the benefits of a public trust without subjecting the City to the liability and financial responsibility related to operating a hospital. The City of Norman has always been the sole public beneficiary of the trust.

Public trusts exist as an independent legal entity, separate and distinct from the beneficiary. The beneficiary, here, the City, is able to enjoy the benefits of the public functions met by the trust, without being liable for lawsuits, financial obligations, etc. Unlike the City’s other public trusts (NUA, NMA, etc.), this particular trust indenture was written to provide for trustees that are separate and independent from the City Council. Instead, the Mayor, with the consent of Council, appoints the trustees to the Norman Regional Hospital Authority (“NRHA”) Board of Directors. The trustees are specifically empowered by the trust indenture with having and exercise exclusive management and control of the Trust properties, making and performing contracts, adopting rules, regulations, policies and procedures for the regulation of its affairs and conduct of its business, acquiring property, making investments, financing facilities, etc. (See Article VII, Amended and Restated Trust Indenture). The City, as beneficiary, has no authority to control or direct the actions of the Trustees. (Article VIII, Amended and Restated Trust Indenture). The Trust Indenture can be amended only by approval of 2/3rds of the Trustees and approval of the Beneficiary so long as no outstanding indebtedness is secured by the Trust Estate (Article X, Amended and Restated Trust Indenture).

Since 1945, the Norman Regional Health System (“NRHS”) has grown to be a multi-campus system providing health and wellness services for south central Oklahoma. The Porter Avenue Norman Regional Hospital currently serves as an acute-care facility and is licensed for 219 beds. The HealthPlex campus at Tecumseh and I-35, open several years ago and is licensed for 168 beds

and features Cardiovascular Services, Spine and Orthopedic Surgery, and Women's and Children's Services. NRHS also includes a healthcare facility in Moore as well as outpatient diagnostic centers, medical transport services, physician services, centers of excellence, durable medical equipment supplies, a primary care network, community wellness services and employer health services. NRHS employs more than 3,000 people and have more than 375 physicians on staff.

Over the past several years, NRHS has undertaken a process to develop a strategic long range plan ("Inspire Health") to more effectively and efficiently provide high quality healthcare in south central Oklahoma. Council, as representatives of the beneficiary of the hospital trust, approved debt financing for the implementation of this plan in November 2019. The CRC discussed the proposed increase in board membership at its March 2020 meeting, and asked that language be drafted to increase the board membership from nine to eleven, and ensure no more than two board members are appointed from other communities in which the Hospital operates a facility. The CRC expressed a strong sentiment that board diversity should be a priority and guiding principle for board composition.

The CRC also discussed the relationship between the Hospital and the City for equitability of benefit versus burden to the respective parties. Chairperson Thompson spoke with Councilmember Petrone, who requested this item be included in the CRC's charge, and relayed that she was asking about liability caps under the Governmental Tort Claims Act and whether citizens received cheaper healthcare in return. CRC members discussed the extraordinary complexity of hospital management and recommended that the NRHS presentation page titled "Community Benefit Reporting Quantifiable Benefits, 2010-2019" be included in the next quarterly report to Council. This document shows a total value of quantifiable benefits provided to the community of \$261,244,917 between 2010 and 2019. No Charter changes were identified by the CRC related to this item.

Proposed Change:

Article IX. – Hospital.

The Mayor, with the approval of the City Councilmembers, shall appoint a Board of Norman Regional Hospital Authority consisting of ~~nine~~eleven registered voters who shall serve for a term of three years. At least nine of the board members shall be Norman residents. A maximum of two members may be appointed from other communities in which the Norman Regional Hospital Authority operates at least one facility. In case of a vacancy in the Board, an appointment to fill the unexpired term shall be made in the same manner as the original appointments. The City Manager shall be an ex-officio member of the Board of Norman Regional Hospital Authority but he shall have no vote. His advice and services shall be given to the Board in the planning and execution of its work.

Item 4, being:

DISCUSSION REGARDING ARTICLE VI, SECTION 1, OF THE CITY CHARTER TO CONSIDER INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF NORMAN REGIONAL HOSPITAL AUTHORITY FROM NINE MEMBERS TO 11 MEMBERS.

Commissioner Cubberley disclosed he is the Chairman of the Norman Regional Hospital Authority and provided some background on this request. He said Norman Regional Hospital System (NRHS) now has facilities in a regional area and not just Norman. Communities where facilities exist include Noble, Newcastle, Moore, and South Oklahoma City. He said the Board has discussed increasing the membership from nine to 11 to allow for representation from some of the other communities NRHS serves.

Commissioner Vinyard said he would be willing to support the request if it was limited to two members from a community where NRHS has a facility and that Norman retain nine members. At the request of Chairman Thompson, Commissioner Cubberley provided to makeup of the current Board. The Commission directed the City Attorney to prepare language for their consideration at the next meeting. Commissioner Hackelman suggested adding language regarding the diversity of the communities NRHS represents.

Discussion took place with Commissioners Cubberley, Pipes and Eller had a conflict when it comes to making recommendations on NRHS since Commissioners Cubberley and Pipes currently service on the Board and Member Eller works as Chaplain at NRHS. City Attorney Walker said there could be a potential conflict that would require they disclose their association, but there would not be a pecuniary conflict since they all serve as volunteers.

Items submitted for the record

1. Current Charter Provisions for Article XX – Reapportionment
2. Reapportionment/Ward Boundary Creation and Review Process

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Item 4, being:

DISCUSSION REGARDING THE RELATIONSHIP BETWEEN NORMAN REGIONAL HOSPITAL AND THE CITY OF NORMAN FOR EQUITABILITY OF BENEFIT VERSUS BURDEN TO THE RESPECTIVE PARTIES.

Commissioners had asked if Councilmember Petrone could attend tonight's meeting to explain her concerns regarding the relationship between Norman Regional Hospital and the City of Norman. Chairman Thompson said he contacted Councilmember Petrone and her response was what are the city's taxpayers and City government getting in return for the current relationship, e.g., cheaper health care?

Item 2, continued:

YEAS:	Commissioners Ali, Bates, Cubberley, Dillingham, Griffith, 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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Items 3, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING ARTICLE VI, SECTION 1, OF THE CITY CHARTER TO CONSIDER INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF NORMAN REGIONAL HOSPITAL AUTHORITY FROM NINE TO ELEVEN MEMBERS.

Ms. Kathryn Walker, City Attorney, said Norman Regional Hospital System (NRHS) now has facilities in a regional area, not just Norman, and communities where facilities exist include Noble, Newcastle, Moore, and South Oklahoma City. She said the Charter Review Commission (CRC) has discussed increasing the membership from nine to 11 to allow for representation from some of the other communities NRHS serves. She said in the March 2020, meeting, Commissioners asked Staff to draft language to state, "The Mayor, with the approval of the City Councilmembers, shall appoint a Board of Norman Regional Hospital Authority consisting of eleven registered voters who shall serve for a term of three years. At least nine of the board members shall be Norman residents. A maximum of two members may be appointed from other communities in which the Norman Regional Hospital Authority operates at least one facility." She said the CRC also expressed a strong sentiment that board diversity should be a priority and guiding principle for board composition.

Ms. Walker reminded everyone Commissioners Cubberley and Pipes currently service on the Board and Member Eller works as Chaplain at NRHS. She said this disclosure does not prohibit them from participating in the discussion or from voting on the item.

Vice-Chairman Thompson moved to approve the language change to the Charter, which motion was duly seconded by Commissioner Dillingham;

Items submitted for the record

1. Draft language for Charter Review Commission Article IX –Hospital.

Item 3, continued:

and the question being upon approving the language change to the Charter, 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 the language change to the Charter was approved.

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Item 4, being:

CONTINUED DISCUSSION AND POSSIBLE ACTION REGARDING THE RELATIONSHIP BETWEEN NORMAN REGIONAL HOSPITAL AND THE CITY OF NORMAN FOR EQUITABILITY OF BENEFIT VERSUS BURDEN TO THE RESPECTIVE PARTIES.

Chairman Thompson said he spoke with Councilmember Petrone regarding her reason for wanting the CRC to discuss the item and she wanted to know what the city's taxpayers and City government are getting in return for the current relationship, e.g., cheaper health care?

Vice-Chairman Cubberley said over time the hospital has gone from a municipal entity to a public trust for the benefit of community, but the main benefit is the City no longer has to operate the hospital and more importantly, the City is no longer responsible for hospital finances and debt. He said the biggest benefit to the community is control because through appointment of board members the City still has local control over the hospital system. He said the Board makes decisions regarding the hospital and its services and that decision making authority is locally controlled, but at the same time it is community members making decisions for the community. He said the Board is very cognizant of community needs and Council has the opportunity to periodically change the face of the Board through appointments.

Ms. Brenda Hall, City Clerk, said at the last meeting, Commissioner Cubberley highlighted the Norman Regional Health System Community Benefit Report that talks about the benefits to the community and Chairman Thompson asked that this report be included in the next quarterly report to 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 11th 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

Date Signed Petition Submitted to Clerk	Ward or Mayor	Minimum Number of Signatures Required	30 day review	60 day review	90 day review
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.

Available Election Dates	Filing Date Options	Notice to Election Board
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.

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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
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NAYES:	Commissioners Eller and McBride
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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
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NAYES:	None
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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 II, Section 2 – 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.

Background:

Currently, in Article II Section 2, the Norman Charter requires that a councilmember candidate reside in Norman for six months prior to filing for office. There is not a specific ward residency requirement in the Charter at this time. A ward residency requirement for councilmember candidates has not been considered by past CRCs. The proposed change first appeared in the Resolution No. R-1819-66 drafted in December of 2018.

A chart comparing Norman’s current ward residency requirement with other cities’ policies was provided to the CRC for review at its August 12, 2019 meeting. The Committee discussed whether requiring a candidate to live in the ward for six months was too long, but most members expressed support for the requirement, citing the ability to know the ward better the longer one has lived in the ward. Concern was expressed, however, that in the case of reapportionment, someone could have lived in a neighborhood for more than six months, but be ineligible to serve merely because the Ward boundaries changed. In Article XX, Section 5 of the Charter, it states that in the case of reapportionment, “the new wards and boundaries will supersede the previous wards and boundaries for the next primary and general election, and for all other purposes on the day on which the terms of the Councilmembers elected that year begin.”

Some committee members also asked whether it was possible to define residency and/or domicile. Although it is difficult to find a definition of residency in a similar context, Oklahoma courts have recognized that the term “resident” is not an ambiguous term, that is, its meaning is clear to a layperson. *Shelter Mutual Insurance Company v. American Hallmark Insurance Company of Texas*, 330 P.3d 1229 (Okla. Civ. App. 2014). Black’s Law Dictionary defines “residence” as living or dwelling in a certain place permanently or for a considerable length of time. By its plain reading, language requiring residency in the ward for 6 months would mean living or dwelling in a location within the ward for 6 months. Conversely, Black’s Law Dictionary defines “domicile” as the place at which a person is physically present and that the person regards as home; a person’s true, fixed, principal, and permanent home, to which that person intends to return and remain even though currently residing elsewhere.

At its September 9, 2019 meeting, the CRC voted unanimously to recommend the proposed language set forth below.

Language adopted by the CRC:

Section 2. - Term of office.

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For purposes of filing and election to the positions of City Council, only persons who have been duly registered to vote in accordance with state law within the City of Norman and reside within the ward for which they seek election for the six months prior to the date of the municipal election ~~and reside in the ward from which they seek election, on the date of their filing,~~ shall

be eligible to seek election to the City Council. If a candidate's ward designation has changed in the six months prior to the election due to reapportionment, then the requirement of six months durational residency shall be waived, although the candidate is still required to live in the newly established boundaries of the ward for which he or she seeks office.

For the purpose of filing and election to the position of Mayor, only persons who have been duly registered to vote in accordance with state law within the City of Norman for the six months prior to the date of the municipal election, shall be eligible to seek election as Mayor.

Item 7, being:

DISCUSSION 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 Charter currently requires that a Councilmember candidate reside in Norman for six months prior to filing for office. There is not a specific ward residency requirement in the Charter at this time. She said Staff has provided a chart of comparable cities for Mayor and Council residency requirements.

Member Stawicki said there should be some type of residency timeframe, but six months may be a bit long and suggested half that time. He said sometimes people decide to run for Council at the last minute and may not have that intent six months before the election. He made his decision to run for Council the day before the filing period opened; however, he had lived in his ward for years.

Vice-Chair Cubberley said it would seem to be a disservice to the ward if someone is able to move into the ward at the last minute then file for office in that ward. He said wards are different and have their own quirks and interests. He said a person running for a specific ward should have an understanding of that ward so six months is not an unreasonable time to get to know the area.

Member Jennings said she likes the six month rule because she lives on the east side and several of the poorest Norman residents live there so having no limit marginalizes poor people. She said it is an advantage for wealthier folks to move into a ward for a month or so to see how things go and then leave if they choose to leave. She said six months give someone time to learn the neighborhood and getting a true sense of that part of the City.

Member Jungman felt the voters could decide who they want for Council in their ward so he would not change anything.

Member Eller agrees with Vice-Chairman Cubberley that wards are different and have different needs so he supports living in a ward six months before being able to run for Council in that ward.

Member Jungman said he has a problem with government telling people they cannot run for office. He said the requirement to live in Norman for at least six months prior to filing is good enough.

Member McBride said he supports a requirement for living six months in a ward, but he would like to see if there is language that could address what would happen to a person if there were a ward boundary change. If that person ended up in a different ward where they had not lived in for six months, would that adversely impact that person?

Member Vinyard asked how residency is defined in the Charter because given some of the questions tonight, this needs to be addressed.

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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.

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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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 11.

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.

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 December 2, 2019
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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.