

Charter Review Special Committee
Meeting Minutes – Communications Media Technology
April 30, 2020

Councilmember R. McKnight called the meeting to order at 10:02 a.m. using Communications Media Technology Via Zoom. City Manager M. Smigielski called the roll and Councilmember R. McKnight, Councilmember T. Bierbaum, and citizen Doyle Redwine were present for the Zoom session.

Those present in Chamber: City Manager Mell Smigielski, City Clerk Maryanne Schrader and IT Administrator J. Deckard. Also, in attendance remotely: City Attorney Clay Adkinson.

Chair R. McKnight asked for a motion to approve the minutes of April 22, 2020.

Motion by Citizen D. Redwine and seconded by Councilmember T. Bierbaum to approve the minutes of April 22, 2020.

Roll Call Vote: Councilmember R. McKnight, aye; Councilmember T. Bierbaum, aye; and citizen Doyle Redwine, aye. All ayes. Motion carried.

Next, Chair R. McKnight asked for Citizens Comments. No comments were noted.

Chair McKnight began with Article VII, Meetings of the City Council starting with Section 7.01. He cautioned that we need to ensure anything we place in this section will need to be added into the Council policies and procedures that the City Manager is working on for Council.

Councilmember T. Bierbaum said basic guidelines need to be revised and believes Section 7.02 is sufficient.

Chair R. McKnight introduced Section 7.01 and discussion ensued on using the word “regularly” and in circumstances where an Ordinance requires two public hearings and public comments, as it could take 30-45 days to amend an Ordinance.

City Attorney C. Adkinson stated “once per month” could be dropped. The word “regularly” would be to set the meetings. He added that if Council changed the regularity of Council meetings, the ordinance would have to be amended to specify a set meeting schedule.

In response to a question from City Manager M. Smigielski, City Attorney Clay Adkinson stated it is better to change dates and times by Resolution, not by Ordinance.

Councilmember T. Bierbaum asked for clarification on when the Council was newly elected, they were given the opportunity to change the meeting schedule. City Attorney Clay Adkinson explained that in Section 2-101 of the Code, the regularly scheduled meeting date shall be determined after the first meeting after the annual election. So, at that time Council could have changed the date and/or time by a motion. However, in order to change the meeting date outside of the first meeting after the election, you would have to go through the ordinance amendment process.

The committee discussed the difference between the regular “standing” meeting that occurs routinely and special meetings. City Attorney Clay Adkinson explained the Special Meetings are in the Code under Section 2-103 that are called outside of regularly scheduled meetings. He suggested using, “as prescribed by Ordinance or set forth or determined by the City Council”. He added placing “provided that we shall meet at least once a month” after the comma after the phrase “The City Council shall meet at such time and place as prescribed by ordinance or set forth or determined by City Council”. He also mentioned keeping the language consistent and using the word “regular” as opposed to “standing”. He added that the language would be better placed in an Ordinance or Resolution, as opposed to placing it in the Charter.

Further discussion ensued on the regularly scheduled meeting, so City Attorney Clay Adkinson suggested City Council shall meet “at least once a month”.

Chair R. McKnight determined from the discussion that b) can remain, as written. Regarding c) Councilmember T. Bierbaum said we should leave it as written. After discussion on the merits of the frequency of meetings, City Attorney Clay Adkinson said the point of part c) it is to require that at least one of the standing meetings happens after 5 p.m. because of citizens work schedule. The committee determined after the suggestion from Councilmember T. Bierbaum to remove part c) at the end of part a), and state “provided Council shall meet once a month after 5 p.m.

City Manager M. Smigielski stated he would like Council to consider one meeting in the morning and one in the evening. He preferred that it not be tied to a Charter issue, as he thinks it is more of a policy issue.

Councilmember R. McKnight stated that the meetings after 5 p.m. gives the citizen’s a level of confidence that Council will protect their ability to participate after hours. He suggested having the first meeting in December at 5:01 to work around the issue. The consensus was to leave the time and date in the Charter.

Chair R. McKnight introduced Section 7.02 under part a) The City Council shall determine its own rules and order of business. After discussion, City Attorney Clay Adkinson suggested adding “set by Ordinance or Resolution”. He added there are some policies that the Council operates under that would be required to adopt by Ordinance, as there are set guidelines that must be adopted by Ordinance.

Chair R. McKnight introduced Section 7.03, Quorum requirements. Discussion ensued on the term “quorum” and “present”. City Attorney Clay Adkinson said we should not add the word “present”. He explained a quorum is those present, and the majority of all councilmembers shall constitute a quorum. The “present” could create problems. He recommended defining “quorum” in the glossary of terms.

After consideration by the committee, they determined the verbiage should be the majority vote of the city council is required to enact and Ordinance or Resolution. City Attorney Clay Adkinson added Council cannot have a meeting without a quorum.

After discussion on the word “quorum”, Chair R. McKnight stated he was fine with the elimination of those words “quorum” and “present” from part b).

Chair R. McKnight went to part c). Discussion ensued on the difference between unanimous and supermajority. City Attorney Clay Adkinson said supermajority is what the Council says it should be – 80%, 75%, 2/3, etc.? He recommended that this part be a placeholder. In response to Chair R. McKnight, City Attorney Clay Adkinson said the city does not have listing of those examples that requires a supermajority vote.

Councilmember T. Bierbaum said his intent on writing part c) is there are several areas in the Charter where supermajority is located. His intent is to define as a number such as 4 out of 5, when a supermajority is called. He added he wants to define that everyone must vote. He mentioned his understanding of a unanimous vote is the Council voted the same way.

City Manager M. Smigielski said a supermajority vote means if you have a 5-member council, you need 4 members to vote for the issue, as all are required to vote on all issues unless you have a reason to abstain.

Discussion continued the definition of a supermajority vote, and City Attorney Clay Adkinson responded that Council could define the number required, such as “that when a supermajority vote is required or unanimous vote is required for any action, all member of the City Council must be present to vote”. The definition for supermajority would constitute 4 out of 5 of the City Council. The definition for a unanimous vote is defined as 5 – 0.

Several scenarios were presented on a member leaving the room or not showing up for a vote.

Councilmember T. Bierbaum said he believes there are certain issues that come before the Council that all members need to be present for, so some issues should be tabled until the entire Council is present. He is not dictating a unanimous decision with everyone present. City Attorney Clay Adkinson said there is nothing that provides that all members to be present now.

Discussion continued regarding the vote requirement, and the numbers of members present. Councilmember T. Bierbaum said he can compromise with four members present and vote unanimously.

City Attorney Clay Adkinson said he will meet with Councilmember T. Bierbaum to address the issue of ensuring that three members present could not enact something. He stated he would bring something back to the committee.

Chair R. McKnight requested a three-minute recess at 11:17 a.m., and resumed the meeting at 11:21 a.m.

Chair R. McKnight went on to Section 8.

City Attorney Clay Adkinson stated on part b), the committee should consider adding the City Manager and maybe City Attorney. Discussion ensued on who present items to the Council, as the wording does not conform to reality. The City Manager suggested the language be broadened. Councilmember T. Bierbaum said he wanted the language concise, however, it makes sense to include the City Manager. City Attorney Clay Adkinson suggested adding “City Manager or his designee”.

Discussion ensued on defining the Citizen Initiative. City Attorney Clay Adkinson said it is set by a process laid out by State Statute. The State law sets the process, so there is no reason to have the Citizen Initiative in the Ordinance process. The intent is if the citizen cannot find a councilmember or mayor to bring an Ordinance forward, it currently does not go on the agenda. He asked the committee to keep in mind that the Ordinance must meet all requirements under law and pass staff or legal review. He mentioned the definition should fall under Code not in the Charter. You are better off having a councilmember move the item forward.

City Attorney Clay Adkinson mentioned the Citizen Initiative is not in the Code. However, Chair R. McKnight said he likes the idea of citizen involvement in the initiative process. He prefers giving the citizen’s the ability to bring something forward.

City Attorney Clay Adkinson explained citizens can get on the agenda under comment for consideration, if they have no one who wants to champion their cause. The citizen can propose an item, but they cannot adopt it. He brought several points to the committee to consider: How would we see if the citizenry gets the number of votes to do something; how would the staff oversee the initiative to determine the appropriateness under law; how would that play out and how will it be received?

Citizen D. Redwine replied that the public would want the staff to work with the citizen to assist in making it legal. He added the involvement of the attorney and staff would need to work with the citizen.

Chair R. McKnight said the citizen initiative is an excellent marketing component for the Charter referendum. He suggested providing a fact sheet on expectations of the citizen initiative. He said it is an excellent approach of spurring involvement and ensuring a minority opinion can be heard.

City Attorney Clay Adkinson explained there is a disconnect, as the citizens do not understand they have to have signatures to adopt, and it must be the Council to adopt it into law. City Attorney Clay Adkinson further explained if the Council wants the Citizen Initiative added, we would create an ordinance and shall require the same number of signatures as a Charter amendment. He added Florida law does not allow for in “as prescribed by Florida law” in this instance.

Chair R. McKnight announced the consensus is to keep the citizen initiative.

Chair R. McKnight went to part e), whether supermajority in the last sentence applies.

City Attorney Clay Adkinson explained the supermajority references the quorum needed and went over the mayor having veto power. He said it would be beneficial to spell out in the Charter on how an override occurs. He suggested writing our own language to be consistent with Florida statute.

In wrapping up, Chair R. McKnight said the vote will be determined in part e) and in part g), codification every six months is reasonable.

Chair R. McKnight closed citizen comments after hearing none.

Chair R. McKnight asked about scheduling the next meeting, and it was set for May 6th from 12:30 p.m. – 2:00 p.m. with the committee to take up the Resolutions section in 8.02.

Chair R. McKnight adjourned the meeting at 12:03 p.m.

Approved:



Robert McKnight, Chair



Minutes submitted by,
Maryanne Schrader, City Clerk

