

Charter Review Special Committee
Meeting Minutes
Council Chambers
July 6, 2020
10:00 a.m.

Chair R. McKnight called the meeting to order at 10:02 a.m.

City Clerk Maryanne Schrader called the roll. Members present: Councilmember R. McKnight, Councilmember T. Bierbaum, and Citizen Doyle Redwine. Also, in attendance: City Attorney Clay Adkinson, and City Manager Mell Smigielski.

Mayor Bob Campbell, City Marshal James Hurley, and Deputy City Manager Carisse Lejeune were also in attendance.

Chair R. McKnight asked for a motion to approve the minutes of June 29, 2020.

Motion by Councilmember T. Bierbaum and seconded by Citizen D. Redwine to approve the minutes of June 29, 2020.

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 one was present.

Chair R. McKnight stated the committee will start with Item 5 and would turn the meeting over to Councilmember T. Bierbaum after his comments. He also distributed a set of comments entitled “The Next Steps”.

Chair R. McKnight suggested the draft should be called a “reveal”, printed in landscape mode, with comments on the right margin and providing a transmittal explaining why the Charter should be changed. He suggested an index page, and a one-page summary to give the public explanation. Additionally, he suggested the committee look over the draft consisting of twenty-two pages for inconsistencies, or to verify if anything was omitted. He recommended the draft be submitted to Council by August 10th. He also asked for thoughts on the date of the referendum and whether to present it as a simple approve or disapprove vote.

Chair R. McKnight turned the meeting over to Councilmember T. Bierbaum who started with Article VI on page 7, Limitations of City Council Powers.

City Attorney Clay Adkinson said the biggest change in Section 6.02 was the chain of command. They cleared up Item e) “The City Council, collectively and individually, shall respect the chain of command established by the City Manager, and shall abide by that process by not interfering with or attempting to exert control over or within the City’s day-to-day operations”.

City Attorney Clay Adkinson said the phrase “collectively and individually” respects the chain of command of the city manager, as the idea is the Council is following the chain of command set by the city manager. The second part “shall abide by that process by not interfering with or attempting to exert control over or within the City’s day-to-day operations”. He added the

Council still has the authority of setting policy. He concluded that Part e) wraps up what is stated in Part a – part d, as the committee wanted something very succinct and to the point.

Councilmember T. Bierbaum went on to Section 6.03, compensation. He said in part b), the only changes were for the Mayor and City Council, where compensation “will not take effect until the next general City election for those respective positions”.

Councilmember T. Bierbaum stated in part c), the compensation for the city Marshal is covered. The wording sets a threshold that Council shall not reduce the annual compensation of the City Marshal to an amount less than the amount in effect at the time the City Marshal qualified for the current term of office that is being served. However, a provision was added that by an affirmative vote of 4 – 0, a reduction in annual compensation may occur.

City Attorney Clay Adkinson stated this was needed if there is a budget reduction needed because of a budgetary restraint. He added the 4 – 0 vote is the better choice to ensure there is less chance of a potential political maneuver.

Chair R. McKnight mentioned there is nothing in the Charter regarding compensation and the part-time nature of the Mayor and Council.

Discussion ensued about the elected officials handling their duties around the clock, and whether compensation should include benefits. Currently, the Mayor and Council are paid on a part-time basis, and health benefits are not included. It was discussed whether compensation and benefits should be considered at the Charter level or by Ordinance. The committee also discussed the nature of the elected City Marshal being considered at full time pay status.

D. Redwine asked if the part-time pay issue could be misused in the future. Chair R. McKnight responded there is no distinction in the draft on full-time or part-time distinctions.

The committee discussed the fact that it may not be good to lock the Council into a part-time position, as the Charter is only reviewed every ten years.

Councilmember T. Bierbaum mentioned the definition of part-time or full-time should be defined in an Ordinance.

Mayor Campbell said the only exception is the City Marshal because a past councilmember said there was no definition of the city marshal being a full-time employee.

City Attorney Clay Adkinson said there is no distinction between the City Marshal and Chief of Police. The issue of compensation becomes an issue every election. He provided examples of how making the determination of full-time or part-time status could be a detriment. He added a large part of the job is attending Council meetings, so if the Council is efficient you have no control of actual hours expended. Compensation should be set by what you think is appropriate. He would not advise that Council be reduced to accounting for every quarter hour. It creates a

level of being pigeon-holed. In comparison with other cities, the first step in growth is increasing benefits, not pay. The voters will determine at election time who does the work or not.

The committee decided to remain silent on the issue of full-time or part-time.

Councilmember T. Bierbaum went on to Section 6.04 which had no major changes.

City Attorney Clay Adkinson mentioned in part b), we expanded it and added “The City Manager, shall have the authority to organize the various departments and their relationship to other departments of the City, in the manner that the City Manager best deems necessary to serve the interests of the City”. He explained it defines departmental relationships because as we grow there is always a fire/police relationship. He added, the city manager should be able to define the relationships because it is a day-to-day operation, and he knows what works together.

City Manager M. Smigielski stated for part a), he was concerned about the wording in activating or deactivating a department.

City Attorney Clay Adkinson said the intent in the statute is where it states, “any department that exists”, so the point was to talk about eliminating a division not a department. He explained it referred to eliminating departments such as the City Clerk or Police department, you would have to have a 5-0 vote of the Council.

After further discussion, City Manager M. Smigielski, said he is in the process of changing the names internally from “department” to “division”.

City Attorney Clay Adkinson suggested changing the word internally before the Charter is adopted to eliminate the confusion.

Councilmember T. Bierbaum moved to Article VII. He stated on a), we need to change the time for the meetings, since we just amended it at the last meeting.

Chair R. McKnight asked about changing the wording to begin after 4:00 p.m. Discussion ensued on time zone, GMT, and ZULU options. Chair R. McKnight suggested using “local prevailing time”.

Discussion ensued on whether the time should be set by Charter or by Ordinance.

City Manager M. Smigielski voiced concern about having it read “prescribed by Ordinance or set by City Council”.

City Attorney Clay Adkinson suggested removing the language “or set forth or determined by City Council” and retain “Prescribed by Ordinance”. He added we will bring a written policy to set meeting times to Council.

- a) The City Council shall meet at such time and place as prescribed by ordinance. ~~or set forth or determined by City Council, provided that Council shall meet once a month to begin after 5 p.m.~~

Chair R. McKnight called for a Break at 10:59 a.m. Meeting resumed at 11:05 a.m.

Councilmember T. Bierbaum noted if you look at 8.02 b), it was clarified in 8.02 a).

Councilmember T. Bierbaum moved to Article 8 defining Ordinances and Resolutions. He included Section 8.01 Part c), the Citizen Initiative. They gave flexibility in case someone came up with multi-subject proposals. He went over the last sentence with emphasis on the last line – “Upon presentation of a proposed ordinance with sufficient signatures, as verified by the City Clerk, the proposed ordinance shall be presented to the City Council to determine if the City Council wishes to proceed with the process for ordinance adoption, with any conditions the City Council may choose to impose, or if the Council wishes to reject the proposal”. The provision provides the staff the ability to separate the proposals into separate subjects.

City Attorney Clay Adkinson said we would be remiss to try to add language subject to the City Clerk, City Manager or City Attorney, as the citizen could state the staff was trying to shut them down, but is our job to let Council know if it violates the single subject rule. It gives Council the option to proceed with or without conditions. It gives the citizen a chance to be heard. Some cities require a statement of financial impact, it gives the Council the ability to decide the financial impact to the city regarding enforcement.

Councilmember T. Bierbaum mentioned the veto process in e) “Upon adoption, each ordinance shall be presented to the Mayor by the City Clerk for their approval or veto”.

- e. If vetoed by the Mayor, the City Council may override said veto by four (4) affirmative votes of the City Council.”

Chair R. McKnight asked if we give a time limit that the mayor can veto an ordinance.

City Attorney Clay Adkinson said the time limit is not currently considered, although it is appropriate if Council wants to set a time.

Discussion ensued on how long the Mayor could hold on to an ordinance and whether it should be in the Charter or by Ordinance. It was discussed whether it should be within two weeks or the next regularly scheduled Council meeting.

City Attorney Clay Adkinson suggested wording signing the Ordinance “within two weeks from the date of adoption the Mayor shall either execute or veto an Ordinance or resolution, and if the Mayor fails to execute or veto within the time frame, the City Clerk shall ask the Mayor Pro-Tem to execute the Ordinance”.

In reply to Chair R. McKnight, City Attorney Clay Adkinson said the time the Ordinance becomes effective is on the date stated in the Ordinance.

Chair R. McKnight mentioned that the word, Mayor Pro-Tem, is not mentioned or specified in the Charter. City Attorney replied that in Section 2-107, it spells out the wording as Mayor Pro-tempore, so a similar designee of the Council could be added, such as Chair of the Counsel.

Councilmember T. Bierbaum summarized he will add two weeks and Mayor Pro-Tem or designee. **The Mayor or Mayor Pro-Tempore shall sign the Ordinance within two weeks from the date of adoption the Mayor shall either execute or veto an Ordinance or resolution, and if the Mayor fails to execute or veto within the time frame, the City Clerk shall ask the Mayor Pro-Tem execute the Ordinance.**

Councilmember T. Bierbaum went on to Article IX stating it was straightforward with a ten-year review by the Charter Review Committee.

Councilmember T. Bierbaum stated in Article X, the Mayor section on vacancy and compensation was moved up in one concise place. He said the Mayor was defined as the head of the Executive Branch.

City Attorney Clay Adkinson said part f) was the big change in that the Mayor and City Manager will work collaboratively together, and the Mayor will not interfere with the City Manager as the chief administrative officer. In part g) the Mayor will serve as the primary liaison but not required to attend every board meeting. He added he cleaned up part h), will require appropriate use of the meeting procedure and orderly conduct. It was done to have the Mayor comply with laws related to the conduct of public meetings and hearings.

In response to the question posed by Chair R. McKnight on part i), the wording of veto – “The Mayor shall have no vote in matters of the City Council yet shall have power of veto pertaining to the adoption of city ordinances and resolutions as provided in this Charter. City Attorney Clay Adkinson offered that it should read **“veto and return, respectively, before pertaining to the adoption of city ordinances and resolutions as provided in this Charter”**. City Attorney Clay Adkinson said a member of the Executive branch does not have the power to veto something that is not law or policy.

Mayor Campbell asked about civil obedience in the meeting, he asked if we should have a city law enforcement officer attend. City Marshal J. Hurley said it is mentioned in his section. Councilmember T. Bierbaum said we should add part f) City Marshal or designee should attend Council meetings. After discussion, City Attorney Clay Adkinson suggested including in part 11.01 a) by ordinance.

The committee agreed that the rest of the City Marshal section was good.

Councilmember T. Bierbaum went on to City manager Section 12.04 b) and talked about the vacancy area.

Discussion ensued on appointing an interim city manager. City Attorney Clay Adkinson mentioned the City Council must appoint the city manager within six months following a vacancy.

For 13.04 b), discussion ensued on the wording: "The City Council shall, at the first meeting following a vacancy in the position of City Clerk shall initiate a hiring process to identify and select a new City Clerk, and at that meeting, shall approve or reject the appointment of an interim City Clerk, as recommended by the City Manager".

Mayor Campbell said the City Manager hires the City Clerk, so the City Manager should appoint the interim City Clerk.

City Attorney Clay Adkinson said the City Manager should fill the position within six months. He added he could have an interim up to six months but then he would need to hire a permanent City Clerk.

Councilmember T. Bierbaum said to simplify the process and state the City Manager will fill the vacancy of the City Clerk within six months.

Discussion ensued on the procedure to educate groups on the Charter.

Chair R. McKnight suggested adding annotations in the right column, as it solidifies reasons why the Charter revision was done. He said the annotations would be brief and help clean it up. It gives clarification and rationale.

Councilmember T. Bierbaum said the editorial annotations should come back before the committee, it should be short and succinct, and about whether it should be a special referendum or on the regular election.

The committee discussed placing it in a general or special election and allow time for campaign and education.

In response to citizen D. Redwine, City Manager M. Smigielski said the cost of a Special Election is about \$3,000 to \$5,000.

Chair R. McKnight suggested meeting within the next ten days to incorporate the changes in the draft. He offered to prepare a draft cover letter to include a history and index. He will start preparing some annotations and read it carefully for any ambiguous, inconsistencies or omitted anything vital to the Charter.

Councilmember T. Bierbaum said he will complete the final draft copy and get it to the City Clerk by July 13th. The committee discussed several possible dates and decided to meet on July 24th at 9:30 through noon.

Chair R. McKnight adjourned the meeting at 11:57 a.m.

Approved:



Robert McKnight, Chair



Minutes taken by Maryanne Schrader, City Clerk
Proper notice having been duly given

