

CHARTER REVIEW COMMISSION

Municipal Building Conference Room
201 West Gray
Norman, Oklahoma

Thursday - February 7, 2013
5:30 p.m.

1. Call to order and Roll Call
2. Consideration of approval of the Charter Review Commission minutes as follows:

Meeting minutes of December 20, 2012; and
Meeting minutes of January 3, 2013.
3. Continue discussion and possible action regarding Article II, Section 1, of the City Charter regarding compensation of Council members by changing verbiage from “compensation” to “stipend” and finalize language recommendation.
4. Continue discussion and possible action regarding Article III, Section 1, of the City Charter regarding the City Manager removal process, ensuring compliance with Open Meeting Act requirements, and finalize language recommendation.
5. Begin discussion and possible action regarding Article III, Section 6, of the City Charter regarding creating a mechanism under which the City Council could request information regarding a specific City Department.
6. Begin discussion and possible action regarding Article III, Section 7, of the City Charter regarding creating a requirement that a City employee take a leave of absence to run for partisan political office.
7. Adjournment.

Targeted Review 7(a) – Council Compensation



ARTICLE II, SECTION 1

Targeted Review 7(a) - Compensation



- Change language from “compensation” to “stipend”
- Article II, Section 1, Last Paragraph – Suggested change

“The Mayor and each of the Councilmembers shall receive, as ~~compensation~~ 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 ~~compensation~~ a stipend for any given calendar month.”

Targeted Review 7(b) – City Manager Removal



ARTICLE III, SECTION 1

City Manager Removal



- **Review of January CRC Discussion**
 - Although employment agreements are now the norm, “at will” status should be affirmed
 - Process should allow for Open Meeting Act requirements

Proposed Language (Attachment)



- Clarifies that City Manager is an “at-will employee”
- Provides mechanism for discussion and decision of suspension or removal that complies with Open Meeting Act (4 members may request)
- Initial request for discussion triggers Executive Session and possible companion item for immediate suspension
- After Executive Session, then removal item may be scheduled with 4 concurring Council members
- Notice and opportunity for City Manager to publicly respond remains unchanged

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Article III, Section 1 – City Manager removal process

Ideas from Commission's recent discussion on this item:

1. Termination should still be "at will" and not for cause
2. City Manager employment the last several years has been accompanied by a Contract that preserves "at will" status dictated in the Charter but also delineates financial terms of separation.
3. Concern about Open Meeting Act restrictions when a "majority of Council" would like to consider whether to continue with current City Manager.

Suggestion from City Attorney's office

Section 1. Council to appoint City Manager.

Council shall by a majority vote appoint a City Manager, who shall serve at the pleasure of the City Council as an at-will employee. He shall be chosen by the Council solely upon the basis of his executive and administrative qualification, 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 Manager, nor for two years after he ceases to be a member. The City Manager ~~shall be removable~~ may be removed or suspended at any time, upon a vote of a majority of the Council. Should at least four (4) Council members desire that a majority of Council discuss removal or suspension of the City Manager, then a notice of such a request shall be filed with the City Clerk, who shall then place an item for Executive Session of that purpose on the Agenda of the next regularly scheduled Council meeting or at a special meeting of the Council called for that purpose. Following the Executive Session, should at least four (4) Council members desire to vote on the removal or suspension of the City Manager, then such an item will then be placed on the Agenda of the next regularly scheduled Council meeting or at a special meeting of the Council called for that purpose. Before the City Manager shall be removed, he shall, if he so demands, within three days after notification of an item being scheduled to consider his intended removal, be given a written statement of the reasons, if any, alleged for his removal and the right to be heard publicly thereon at the ~~next regular~~ meeting of the Council in which the vote of the question of his removal shall be taken, but which shall be held not less than five days after such demand, prior to the final vote of the question of his removal. In the event Council should desire to suspend the City Manager 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 of the City Manager. If the Council suspends the City Manager from office pending and

during such hearing for removal, the Council ~~may suspend the City Manager from his office, and~~ may provide for the temporary performance of the City Manager's duties. The action of the Council in suspending or removing the City Manager 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. In case of absence or disability of the City Manager, the Council may designate some qualified person to perform the duties of the office during such absence or disability.

Prior Charter Review Committee recommendation

Section 1. Council to appoint City Manager.

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Targeted Review 7(c)– Council Requests for Information



ARTICLE III, SECTION 6

Background – Council-Manager Form of Government



- **Mayor recognized as head of government for ceremonial purposes; presides over meetings; signs contracts and other action items approved by Council; no regular administrative duties (11 O.S. 10-105)**
- **Council Powers (11 O.S. 10-106)**
 - Appoint and remove the city manager as provided by law
 - Enact municipal legislation
 - Raise revenue, make appropriations, regulate salaries and wages, manage the fiscal affairs of the city
 - Inquire into the conduct of any office, department or agency of the city, and investigate municipal affairs, or authorize and provide for such inquiries
 - Appoint or elect and remove its own subordinates, members of commissions and boards and other quasi-legislative or quasi-judicial officers as provided by law, or prescribe the method of appointing or electing and removing them
 - Create, change and abolish offices, departments and agencies other than those established by law, and assign additional functions and duties to certain offices, departments and agencies
 - Grant pardons for violations of municipal ordinances
- **City Manager is the chief executive officer of the City and head of the administrative branch (11 O.S. 10-113)**

Issues Raised Before 2005 CRC



- **Prior City Managers were not responsive to Council's concerns regarding particular Departments or Employees**
- **One suggestion was for Council to directly supervise Department Heads**
 - Change in form of government
 - Changes Council's role from policy makers to daily supervisors
 - Infuses politics into day to day City operations
- **One suggestion was to clarify Council's authority to require the City Manager to answer questions or concerns about a specific City department.**

Information Currently Available to Council Regarding Day to Day Operations



- **Charter, Article III, Section 4 - the City Manager is required to submit a monthly report to Council**
- **Charter Article III, Section 6 - Council may direct the Manager to investigate charges of misconduct or incompetence against any City employee and to report the result of the investigation**
- **Practices Under Current City Manager**
 - Annual or semi-annual review of City Manager
 - Provides weekly reports
 - Council Sub-Committee currently review operational policies

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Article III, Section 6 - Council requesting information regarding a specific City Departments

Background:

This issue was raised before the 2005 Charter Review Commission primarily because prior City Managers were not responsive to Council's concerns regarding particular Departments or employees. One suggestion from the Commission's discussions was for Council to directly supervise Department Heads. Concerns were raised that this would in effect, be a change in the form of government from Council-Manager to Strong Mayor. There were also concerns with changing Council's role from that of policy makers to daily supervisors. Finally, some felt that having Department Heads directly supervised by the City Council would infuse politics into day to day City operations. Eventually, the 2005 Commission settled on clarifying Council's authority to require the City Manager to answer questions or concerns about a specific City department.

Proposed language from 2006:

Section 6. Council not to interfere in appointments, removals or administration.

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from office by the City Manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative services of the City, except that the Council may direct the manager, by resolution, to investigated charges of misconduct or incompetence against any City employee and to report the result thereof. Provided, the Council may, by majority vote, direct the City Manager to investigate and report to the Council with respect to specific concerns or questions regarding performance and/or the operation of any Department. The City Councilmembers shall deal with the administrative services solely through the City Manager, and neither the Councilmembers nor any of them thereof shall give orders to any subordinate of the City Manager either publicly or privately. Violation of any of the provisions of this section by the Councilmembers or any of them shall constitute grounds for removal.

Targeted Review No. 7(d) – Employees Running for Partisan Political Office



ARTICLE III, SECTION 7

Background



- 2006 – After the 2005 CRC report, 4 Councilmembers proposed additional Charter language changes, including an amendment to Article III, Section 7 addressing employees running for partisan political office
 - Assistant City Attorney-Republican candidate for District Attorney
 - Assistant to the City Manager –Republican candidate for State House
- Council asked CRC to review a proposal drafted by 4 Councilmembers
- CRC voted 4-2 that no changes be made to Article III, Section 7

How the issue was handled prior to 2005?



- **Candidate/Employee advised considering the following –**
 - City equipment should not be used for political activity
 - Time needed away from the employee's regular job duties for political activity
 - Amount of accrued vacation or compensatory time available to the employee for time away from work for political activity
 - Whether leave without pay will be needed for political activity
 - Ability of affected department or division to continue with the City functions in the employee's absence

Proposal Rejected by 2005/2006 CRC



- **Section 7. – Political activity prohibited.**

Any employee of the City may actively engage in political activities. Provided, the political activity in which the employee participates shall be exercised only during off-duty hours and while not in uniform. Candidacy for an elected partisan political office is incompatible with the nonpartisan nature of city employment. An employee who runs as a partisan candidate for elected public office shall take a leave of absence from his or her official duties upon filing with the Oklahoma Ethics Commission. Any federal statutes restricting political activities of City employees shall supersede the provisions of this section as to such employees. The City does hereby reserve the right to establish employment requirements requiring City employees to refrain from filing as a candidate for City office while employed by the City.

Current Personnel Manual (Section 300.7)



- **Formalizes approach utilized in previous examples**
- **City equipment should not be used for political activities (phones, fax machine, copier, office supplies)**
- **Cannot engage in partisan political activities while on duty or while in uniform**
- **Leave away from work for political activity must be considered for approval by City Manager based on the following considerations –**
 - Time needed away from the employee’s regular job duties for political activity
 - Amount of accrued vacation or compensatory time available to the employee for time away from work for political activity
 - Whether leave without pay will be needed for political activity
 - Ability of affected department or division to continue with the City functions in the employee’s absence
- **Sick leave and administrative leave cannot be used for political activity**
- **Recent Examples –**
 - City Attorney – non-partisan District Judge – 2010
 - Police Captain – partisan County Commissioner - 2012

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Article III, Section 7 - City employee's run for partisan political office.

Background:

After the 2005 CRC made its report to Council on whether to amend the Charter in the areas in which it was asked to review, four Councilmembers presented Council with additional Charter changes. One of the proposals would have required City employees running for partisan political office to take a leave of absence upon filing for office with the Oklahoma Ethics Commission. The CRC discussed the proposed language and recommended that it not go forward.

Prior to 2005, the City had a provision in the Personnel Manual that mirrored the Charter language, but in August 2005, that provision was overhauled to set out requirements that ensured City resources or services would not be jeopardized by a run for partisan political office.

Proposed language rejected by CRC in 2006:

Section 7. – Political activity prohibited.

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