

## CHARTER REVIEW COMMISSION

Municipal Building Conference Room  
201 West Gray  
Norman, Oklahoma

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

1. Call to order and Roll Call
2. Consideration of approval of the Charter Review Commission minutes of February 7, 2013.
3. 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.
4. Continue 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.
5. Continue 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.
6. Begin review of 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.
7. Begin review of Article XVII, Section 2 to consider whether employee compensation language needs to be modernized.
8. Begin review of Article XX to consider amending or updating the Reapportionment Commission process or procedure.
9. Review whether or not there should be a scheduled review of the Charter within the Charter itself.
10. Adjournment.

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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.
4. Concern that language giving specific timeframes for a City Manager to receive reasons for removal and make demand for hearing changed the character of employment from “at will” to “for cause”.

### Language Based on Feedback from February Meeting

#### **Section 1. Council to appoint City Manager.**

Council shall by a majority an affirmative vote of five (5) members 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. 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. The City Manager shall be removable may be removed or suspended at any time, upon an affirmative vote of a majority five (5) members 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. Before the manager shall be removed, he shall, if he so demands, within three days after notification of an intended removal, be given a written statement of the reasons alleged for his removal and the right to be heard publicly thereon at the next regular meeting of the Council 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 or remove 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 or removal of the City Manager. If the Council suspends or removes the City Manager from office pending and during such hearing, 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 manager, the Council may designate some qualified person to perform the duties of the office during such absence or disability.

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Continued Discussion

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 investigate ~~x~~ 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.

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Continued Discussion

## 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.**

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.

### Other Approaches:

- National Civic League, Model City Charter, 8<sup>th</sup> Edition, Section 7.02 (4) and (5)
- Existing State Law, 11 O.S. 22-101.1
- Norman Public Schools – do not allow campaigning by an employee during work hours or use of school facilities for distributing material. All campaign work must be done outside of school hours and property
- City of Tulsa, Charter, Article X, Section 10.1 and 10.2
- City of Lawton, Code, Section 17-2-10-221
- City of Moore, Charter, Article VI, Section 6-8
- City of Stillwater, Charter, Article VI, Section 6-8