

Note: The Minutes are considered DRAFT until approved or amended at the next scheduled meeting.

MINUTES	Friday, December 16, 2011	
City Charter Revision	3:30 PM at Carnegie Town Hall	
Commission Meeting	235 West Tenth Street	

Members Present: Dennis W. Aanenson, Richard O. Gregerson, De Knudson, Pauline Poletes, and Robert Thimjon

Members Absent: None

Staff Present: David Pfeifle, City Attorney; Cari Hanzel, Paralegal/Clerk; and Tamara Jorgensen, CMC, Assistant City Clerk

Guests: Sue Aguilar, Greg Jamison, Dean Karsky, Rex Rolwing, Tam Baker, Roger Elgersma, Rich Oksol, and Bob Sivertson

### 1. Call To Order

Commission Chair Poletes called the meeting to order at 3:30 p.m.

### 2. Approval Of Minutes

#### A. November 30, 2011

Poletes requested an amendment to the November 30, 2011, minutes under Public Input. In the ninth paragraph, she requested that 1990 be changed to 1994. A motion was made by Robert Thimjon and seconded by De Knudson to approve the minutes, as amended. Committee Chair Poletes called for a voice vote and all members present voted yes. Motion Passed.

### 3. Public Input

Roger Elgersma spoke regarding the strong Mayor/City Council form of government. Elgersma stated that he felt the Council powers should be increased instead of decreased to keep things more in balance. He stated that changes made to the City Charter are meant to last. He stated that making changes to the City Charter that would give the Mayor more power would attract bullies to the position; if you make changes to the City Charter that would require a reasonable system for debate and discussion, you would attract that type of person.

Bob Sivertson spoke regarding the voting power of the Mayor and presiding at meetings. He stated that the Council should be legislative and the Mayor's office should be executive. He stated it would not be very effective to involve the executive branch in the judicial branch.

Greg Jamison requested that the Commission review the structure of the City Attorney's Office. He explained that the Mayor appoints and can fire the City Attorney. The City Council can vote on the appointment but cannot give input on the termination of that appointment. Jamison stated both he and Sue Aguilar have served as Council Chairs and have seen conflict occur when the Council requests assistance from the City Attorney's Office that is the opposite of

what the Mayor wants done. Jamison and Aguilar will work on some language revisions and present them to the Commission for their review. He would like to see the City Attorney position act more as an Attorney for the City (defending the City, etc.) and not as an advocate for the Mayor. Jamison felt that some rewording would take this position out of the 'hot spot'. Jamison stated that the recent review of all contracts met with resistance from the Mayor and the City Attorney's Office and this could have been done a lot easier and better. He reiterated that this is a concern for the City Council.

Poletes asked what was the deadline date for items to be considered for the April 10, 2012 ballot. Pfeifle stated that December 31, 2011, is the deadline to submit proposals to the Commission. By City Charter, the Commission is required to submit a report to the City Council and the Elections official 60-120 days prior to the April election. February 10, 2012, would be the last day they could present a report to the City Clerk to get on the ballot for April 10th.

#### 4. Old Business

##### A. Proposal From Joe Kirby: Less Involved City Council

Poletes stated that at the time the City Charter was adopted, citizens wanted a strong Mayor form of government. Poletes asked the Commission if the following sentence needs to be modified to make it more specific: Section 3.01 The executive and administrative power of the city shall be vested in a mayor .

Aanenson asked what problems had occurred to make people want to change this. He felt like the City runs well the way it is now. He wanted to know if there were ongoing problems at meetings, etc. Poletes asked What is included in administrative .

Thimjon reviewed Section 2.01: All powers of the city shall be vested in the city council. The council shall act as a part-time policy making and legislative body, avoiding management and administrative duties. He feels that 2.01 should be reviewed more than Section 3.01 based on the questions that have come up today.

Gregerson stated that the words executive and administrative have been interpreted in the law a number of times. He asked for clarification on the word policy as used in the City Council section. Pfeifle stated it means setting something permanent. The City Council sets a course of action, usually by adopting an ordinance. The mayor executes and administers that course of action. Pfeifle stated that there are statutes that define what administrative is but executive is a nebulous term. He stated that policy is not defined in state law.

Knudson stated that, in her tenure on the City Council, sometimes there would be conflict and confusion about their real role. She feels that it would benefit future City Council members and future Mayors if the City Council role was more defined.

Knudson stated that the municipal section of state law does define administration quite clearly. She read from SDCL 9-20-19: The mayor s executive and administrative power shall be as defined by South Dakota law and

shall include, but not be limited to the following: appointing directors, hiring employees, supervising staff, disciplining employees, terminating employees, negotiating and awarding contracts, supervising the delivery of services, administration of the budget, administration of the Capital Plan, preparing the budget, preparing the Capital Plan, assignment of duties and responsibilities to staff, and enforcement of city ordinances.

Poletes asked if a draft should be proposed to add this wording to section 3.01 Executive Power.

Knudson made a motion and Thimjon seconded the motion to add this terminology to Section 3.01 after the sentence that reads The executive and administrative power of the city shall be vested in a mayor .

Gregerson stated that the way our government is set up is, in a way, confrontational because of the division of power. He stated that, as far as administrative and executive, we have decided that we want that division of power.

Aanenson stated he would like this item tabled for further review before votes are taken. Discussion occurred. Pfeifle clarified that the motion was for him to submit a draft of a proposed language change and that the vote was not to accept the change at this time. He can have a definition of policy for the January meeting and a concrete definition of what administrative means and the commission could have more discussion at that point in time.

Aanenson stated that would be acceptable to him. Knudson clarified that she meant for Pfeifle to draft the language for discussion purposes. Knudson also agrees that there is some confrontation between executive and legislative branches and agrees that this is the way it should be. She stated that, from her experience, she feels it would be helpful for new Council Members to understand what their role is and that it does take some time to learn this when you are a new Council Member.

Gregerson stated that the statute referenced pertains to cities that have not adopted a Home Rule Charter and this is something that should be considered when drafting proposed language. Knudson asked Pfeifle for his comments regarding this item. Pfeifle stated that the chapters that refer to Initiative and Referendum apply to the City as well. Pfeifle stated that he views this as a good place to start as far as what an administrative decision is.

Poletes called for a roll call vote. Roll Call: Yeses, Gregerson, Aanenson, Knudson, Poletes, Thimjon, 5. Noes, 0. Motion Passed.

#### B. Proposal From Joe Kirby: Ranked Choice or Instant Run-Off Voting

Poletes stated that she had served on the Resolution Board for the most recent election. A number of ballots could not be counted because they were mismarked. She stated she had a concern that if this could occur with a simple yes or no vote, what would happen when there is ranking on the ballot. Poletes stated that the costs and the number of departments these changes would impact (including state, county and municipal offices) may warrant more time and review than what this Commission can do in the timeline allowed.

Thimjon stated that the research that is available shows that Ranked Choice Voting (RCV) works well when there are only 3-4 candidates. However, when there are more candidates it does not work as well. The goal is that the winner receives a majority vote. When there are a large number of candidates, this may not happen.

Knudson stated she appreciated receiving the concept from Mr. Kirby and was amazed at the number of emails received against RCV. Knudson stated she has not received any information or feedback from anyone regarding this item stating that RCV would be a good idea and worth considering.

Aanenson stated that his research showed there were a lot of issues and lawsuits in cities where RCV was implemented. Aanenson reviewed cities that used RCV and how the cities are being run now. He cited Minneapolis as being one of the cities and now they are one of the highest taxed cities in the United States. Aanenson stated he looks for success stories and does not think this is a good thing for us to change.

Pfeifle stated that he had spoken with Sue Roust about this proposal. The initial advantage to RCV is that it would save the City some money by not having to conduct a run-off election. A disadvantage is that new software would be needed to implement these changes.

Pfeifle stated that Roust is serving as an Interim City Clerk and that the city would have a new elections officer in the near future. This subject would need additional work and review. Pfeifle stated that Hanzel had contacted election officers for the cities of Minneapolis and St. Paul and it was clear in her discussions that there are a lot of questions that need to be answered first before we could implement or be ready to implement RCV. Discussion was held regarding whether this was a subject that was within the scope for review by the City Charter Revision Commission, particularly in the amount of time they have available. As the Commission members are serving three-year terms, there may be more time available in the future to review this information.

Knudson stated that RCV may not be allowed under current state law. Pfeifle stated this subject would need to be discussed at length with the county auditors and also with the Secretary of State and the Elections Board. There are many questions that need to be answered beyond the scope of what this commission can do and he recommended tabling this subject for now. Knudson made a motion and Gregerson seconded it to table the discussion of Ranked Choice Voting. A voice vote was called and all members present voted yes. Motion Passed.

## 5. New Business

### A. Potential Proposals From The City Council

### B. Potential Proposals From City Departments

Pfeifle made several comments on the December 13, 2011, memo regarding the legal department's proposed amendments to the City Charter. Poletes asked about the procedure for considering these changes at the next meeting. Pfeifle stated that a super majority vote (4 yeases) would be required on these items before submitting them as part of the report to the Council and the elections officer of the city. Section 1.01: The language in this section was taken from the City of Lincoln, NE, which is also a Home Rule City Charter city.

Section 2.11. The word Minutes would replace the word Journal in subsections (b) and (c).

Section 2.14. This section would delete 1972 and in and add and 2012 to this section, which requires codification every twenty years.

Section 7.01. This change would give the Ethics Board the responsibility to hear any complaints regarding current elected officials conduct related to

municipal elections. Currently, Chapter 14 states that this responsibility lies with the City Attorney s Office.

Knudson stated that a more independent group policing this sounds logical. Knudson stated that the previous Public Services Committee that she served on spent a lot of time trying to improve the ethics ordinances. Knudson asked Pfeifle if there were any current City Council Members who have expressed any dissatisfaction with the proposed changes. Pfeifle said he has not heard any opposition to it. Pfeifle stated that the Board of Ethics will be present at the Public Services Committee Meeting on Monday, January 9, 2012, to review this item.

Poletes stated these changes will be reviewed at the next meeting. She asked if there would be additional revisions to review at any future meetings. Pfeifle stated that he thought there may be one more city department that may bring forward some proposed changes but they are not ready to present at this time. He thought these changes would be presented at the January 4th meeting.

Knudson made a motion and Thimjon seconded it to move the proposals from the City Attorney s Office regarding sections 1.01, 2.1, 2.14 and 7.01(b) to the City Charter Revision Commission meeting on Wednesday, January 4, 2012, for further consideration. Poletes called for a voice vote and all members present voted yes. Motion Passed.

Knudson asked where the listening public could locate a copy of the City Charter. Pfeifle stated the information is available on the city s homepage at [www.siouxfalls.org](http://www.siouxfalls.org) on the left hand side of the screen. Citizens can also select the drop down box for the City Clerk s Office to review the City Charter information.

Jamison spoke regarding the less involved city council . Jamison stated that this form of government was developed through the merging of a council form of government and a city manager. It merged the Mayor position with the city manager s role and gave the Mayor s position the power and strength that the city manager would have. They deleted the city manager spot and put the mayor in it, which is why it is called the strong mayor . Jamison stated that this is why there are so many problems throughout the City Charter where they show the Council including the Mayor, because he was supposed to be in that group as a ceremonial mayor only. That is why there is confusion about when and why the mayor is involved in some of the decisions of the council. If you see some of those conflicts in the City Charter, Jamison thinks that is how it started. He stated that there is conflict with the separation of policy makers and administration but it is generally constructive conflict.

Pfeifle stated his office has received quite a few submissions from the public regarding the instant runoff election issue, and they have been posted to the city s website. The number received could tax our computer system, and there is also a concern about copywrite infringement for publishing the articles. Pfeifle suggested that we require future submissions that reference newspaper articles to provide a link to the appropriate site so we are not reproducing the article on our website.

Future Charter Revision Commission Meetings are scheduled for: Wednesday, January 4, 2012, at 3:30 p.m., and Friday, January 27, 2012, at 3:30 p.m. The meetings will be held at the Carnegie Town Hall, 235 W. 10th Street in the Carnegie Chambers.

6. Adjournment

A motion was made by Knudson and seconded by Aanenson to adjourn the meeting at 4:40 p.m. Committee Chair Poletes called for a voice vote and all members present voted yes. Motion Passed.

Tamara Jorgensen, CMC  
Assistant City Clerk