

NOTES

Thursday, November 8, 2012

Charter Revision Commission Meeting 3:35 PM at Carnegie Town Hall

Working Session 235 West Tenth Street

Please note there is no audio or video recording of this meeting.

Meeting notes will be available on SIRE upon completion.

Members Present: Pauline Poletes, Dick Gregerson and De Knudson

Members Absent: Dennis Aanenson and Robert Thimjon

Staff Present: David Pfeifle, City Attorney; David Bixler, Budget Analyst; Jim David, Legislative/Operations Manager; and Tamara Jorgensen, CMC, Assistant City Clerk

1. Call To Order

Commission Chair Pauline Poletes called the meeting to order at 3:35 p.m. Poletes reminded the audience that the information discussed in today's working session will be posted on the city's website as soon as the notes are completed.

David Pfeifle, City Attorney, stated that there is a copy of the Model City Charter, Eighth Edition, available for review during the meeting and will also be available at future meetings.

2. Review The Charter For The City Of Sioux Falls

A. Article II. City Council (start at Section 2.08. City Clerk)

i. Public Input

Section 2.08. City clerk.

The city council shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep the minutes of its proceedings and perform such other duties as are assigned by this charter or by the council or by state law.

Pfeifle indicated this is taken verbatim from the Model City Charter.

Poletes asked the public for input - no public input received.

Commission Member Robert Thimjon arrived at this time.

Bookmark Section 2.09. Investigations.

The city council may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a violation and punishable as provided in state law.

Pfeifle indicated this is taken verbatim from the Model City Charter.

Poletes asked the public for input - no public input received.

Gregerson asked what source grants the City Council the authority to issue a subpoena. Pfeifle responded that common law generally grants the authority to a legislative body to issue a subpoena. Gregerson asked if there was a state statute that references it. Pfeifle stated he would research it and report next time. Gregerson would like to review this section in greater detail.

Bookmark Section 2.10. Independent audit.

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, but the designation for any particular fiscal year shall be made no later than 120 days before the expiration of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Pfeifle indicated this is taken verbatim from the Model City Charter.

Poletes asked the public for input - no public input received.

Bookmark Section 2.11. Procedure.

(a) Meetings. The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. If the council meets more than once a month, it may designate which meeting is the regular monthly meeting. If they don't so designate one, the first meeting of the month is the regular monthly meeting. Special meetings may be held on the call of the mayor or of six (6) or more members and, whenever practicable, upon no less than twelve hours notice to each member. All meetings shall be public, except as allowed by state law.

(b) Rules and journal. The city council shall determine its own rules and order of business and shall provide for keeping of an accurate journal of its proceedings. This journal shall be a public record.

(c) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Five (5) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. Each council member shall have an equal vote; the mayor shall only vote as necessary to break a tie. All actions of the council shall be by a majority of those present, except no ordinances or any action calling for the expenditure of money in excess of the state bids limits for municipalities or filling of vacancies as set forth in section 2.06 shall be valid or binding unless adopted by the affirmative vote of five (5) or more members of the council.

Pfeifle indicated that sections (a) and (b) are taken verbatim from the Model City Charter. Portions of section (c) are unique to Sioux Falls. Those portions begin with the third sentence with, "Each council member shall have a vote" and continue to the end. Pfeifle stated that this portion was part of the original Charter proposed to the voters in 1994.

Pfeifle clarified that the term 'journal' in (b) refers to the minutes.

Thimjon and Knudson asked for clarification on the portion in (c) which reads "but a smaller number may adjourn from time to time" Pfeifle stated this may refer to a meeting where there is a sudden lack of a quorum. This would allow the members to leave the meeting for the purpose of returning with enough members to have a quorum. Discussion was held regarding whether to keep this statement in the Charter.

Gregerson asked for clarification on the portion in (c) that reads "expenditure of money in excess of the state bids limits" Pfeifle stated there are bid limits for municipalities as follows: \$50,000 for a public improvement project and \$25,000 for certain goods and services. Gregerson asked if the term 'bids' was correct and if you needed to have competitive bids once the dollar amount was over a certain limit.

Discussion was held regarding changing the word 'bids' to 'expenditure'.

Gregerson asked what the Competitive Bids Statutes state in reference to the Home Rule Charter. Pfeifle replied that the City follows the competitive bids statutes and has not used Home Rule authority to circumvent them.

Discussion followed regarding the bid process. Knudson stated that she was not sure that the City Council votes on professional services in expenditures. Knudson asked how the past and present City Councils pay for professional services. Pfeifle stated there is an ordinance under the purchasing section that requires the City Council to approve contracts over a certain limit. These items are presented on the Consent Agenda at the City Council Meeting(s).

Poletes asked the public for input - no public input received.

Bookmark Section 2.12. Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office, or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes, or impose or increase fees;
- (4) Grant, renew, or extend a franchise;
- (5) Regulate the rate charged for its services as a public utility;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize the conveyance or lease for a period of longer than one (1) year of any real property of the city;
- (8) Regulate land use and development;

(9) Actions to establish the conduct of elections; and

(10) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

(Ref. of 5-7-96)

Pfeifle indicated this is taken verbatim from the Model City Charter.

Poletes asked the public for input - no public input received.

Bookmark Section 2.13. Ordinances in general.

City ordinances shall be introduced, published, enacted, recorded, and codified as provided in state law; however, the city council may by ordinance amend such requirements.

Pfeifle indicated this section mandates that the City follows state law on how to do ordinances.

Poletes asked the public for input - no public input received.

Bookmark Section 2.14 Updating the Code of Ordinances.

The Code of Ordinances must be updated at least every twenty years, pursuant to the provisions of state law, as was done in 1972 and in 1992.

Pfeifle indicated this is taken verbatim from the Model City Charter.

Knudson asked if updating the codes every 20 years was frequent enough. Pfeifle stated state law does not allow recodification any more frequently than once every five years and that every 20 years is mandated.

Poletes recommended adding '2012' to this paragraph.

Poletes asked the public for input - no public input received.

B. Article III. Mayor(as time permits)

ii. Public Input

Bookmark Section 3.01. Executive power.

The executive and administrative power of the city shall be vested in a mayor.

Pfeifle indicated this terminology is unique to Sioux Falls because the Model Charter talks about a City Manager. Poletes stated that the subject of defining the term 'administrative' has come up before. Thimjon would like to consider this again but stated that the Commission members will need to be aware of the Charter and City Ordinances as well.

Poletes asked the public for input. Cheryl Rath spoke regarding Section 3.01 in the Model City Charter. Pfeifle explained there is a terminology change between 'City Manager' and 'Mayor'. Rath stated that pages 56-61 of the comments in the Model Charter refer to options for the office of Mayor.

Poletes asked the public for any additional input - no additional public input

received.

Bookmark Section 3.02. Election and qualifications of mayor.

The mayor shall be elected for a term of four years by a direct vote of the people at the regular city election. No mayor shall serve more than two (2) full or partial terms consecutively; however, the mayor may immediately thereafter be eligible to be a candidate for council member. The mayor's terms shall begin on the third Monday of May following the official canvass of the mayor's election and shall continue until a successor has been elected and takes office.

Pfeifle indicated this section was amended in 2000 to extend the time for when the Mayor officially takes office. It provides for a three to four week window for a transition period. Poletes noted that the terminology "the third Monday of May" will need to be updated also.

Poletes asked the public for input - no public input received.

Bookmark Section 3.03. Mayor's duties and responsibility.

The mayor shall, at the beginning of each calendar year, and may at other times give the council information as to the affairs of the city and recommend measures considered necessary and desirable. The mayor shall preside at meetings of the council, represent the city in intergovernmental relationships, appoint with the advice and consent of the council the members of the citizen advisory boards and commissions, present an annual state of the city message, and perform other duties specified by the council and by article III. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law.

Pfeifle indicated that portions of this are taken from the Model City Charter.

Poletes asked the public for input - no public input received.

Knudson asked if the Charter Revision Commission has heard from any members of the public since the last meeting. There have not been any comments received.

Bookmark Section 3.04. Mayor's power to veto legislation.

Within four (4) business days after the adjournment of any council meeting, the city clerk shall present to the mayor the record of proceedings of the meeting and all ordinances and resolutions adopted at the meeting. The mayor, within seven days of receipt of an ordinance or resolution, shall return it to the city clerk with or without approval, or with a veto. If an ordinance or resolution is vetoed, the mayor shall attach a written statement explaining the reasons for the veto. Ordinances or resolutions vetoed by the mayor shall be considered at the next regular meeting of the council, and the council may pass the ordinance or resolution over the veto by the affirmative vote of six of its members. The effective date of an ordinance or resolution passed over the mayoral veto shall not be less than 20 days after the date of publication. The mayor's veto power shall extend to disapproving or reducing individual appropriation items in the budget or any ordinance or resolution, except appropriations for auditing or investigating any part of the executive branch. The mayor shall not have the power to veto any emergency ordinance.

Pfeifle indicated this section was amended in 2000 to include "or resolution" after "the ordinance" when referencing a veto of an item.

Poletes asked the public for input - no public input received.

Item 2D was heard at this time.

C. Article IV. Departments, Offices, and Agencies(as time permits)

iii. Public Input

Due to time limitations and the presence of Tracy Turbak, Finance Director, to address Article V, this Article was not reviewed. This Article will be scheduled for review at the working session scheduled for Thursday, January 10, 2013, at 3:30 p.m.

D. Article V. Financial Procedures(as time permits)

iv. Public Input

Tracy Turbak, Director of Finance, gave an overview of the budget process and procedures for the City. He gave a background on the timing of the budget:

- * Note: The Operating Budget is the one year plan.
- * Note: The Capital Budget is the five year plan.
- * November/December: Departments begin working on their budgets and Capital program.
- * March/April: Departments submit their recommended budgets and Capital program to the Finance Department. The Finance Department consolidates the information and does projections on the availability of revenue to fund these future capital projects.
- * May: The Finance Department holds meetings with the Mayor and with individual departments to review their operating and capital plans.
- * By the end of June: The Finance Department has their recommended Capital program prepared and delivered to the City Council. By Charter, it has to be done by the end of June.
- * By the end of July: The rest of the recommended budget for the upcoming year (referred to as the Operating Budget) is finalized and given to the City Council (no later than the first of August).
- * Capital Budget (five year plan): The City Council has July, August and September to review the information before approving at the end of September.
- * Operating Budget (one year plan): The City Council has August and September to review the information before approving at the end of September.
- * The City Council holds Working Sessions to review the information and can request department directors to participate to answer questions or provide additional information.

Pfeifle stated there is a PowerPoint presentation by Janelle Zerr of the Finance Department that provides a detailed outline of all of the different groups in the community that are also involved in the budget process. This item was presented to the Fiscal Committee on June 5, 2012, and is available for viewing at www.siouxfalls.org.

The next working session is scheduled for Thursday, January 10, 2013, at 3:30 p.m. The Agenda will begin with Article V followed by Article IV.

3. Adjournment

A motion was made by Commission Member De Knudson and seconded by Commission Member Robert Thimjon to adjourn the working session at 4:30 p.m. A voice vote was taken and all members present voted yes. Motion passed.

Tamara Jorgensen, CMC

Assistant
City Clerk