

Charter Commission

July 16, 2013 - 5:30 p.m.

Members Present: Casey McCarthy, Chuck Stombaugh, Michael Meuers, Rod Witt, Chris Vinderslev

Members Absent: Jaclyn Ryder, Ben Stowe

Staff Present: City Attorney Alan Felix, City Clerk Kay Murphy

Chair McCarthy noted a quorum and called the meeting to order at 6:00 p.m.

Approval of Minutes

The minutes from the June 11, 2013 meeting were presented for approval. Motion by Stombaugh, seconded by Meuers, to approve the minutes as presented. Motion carried.

Council Vacancies (Sec. 2.05)

Commission members reviewed Charters from other cities. After discussion the Commission members were in favor of the following amendments to the Charter:

Section 2.05 VACANCIES. An elective office becomes vacant when the person elected or appointed, or the incumbent thereto, dies before taking office or fails to qualify, resigns in writing filed with the city clerk, is convicted of a felony, ceases to reside in the city or ward from which elected, is absent from three consecutive regular council meetings except for excused absences as defined by a five-sevenths vote of the council, or is adjudged incompetent by a court of competent jurisdiction. In each such case the council shall by resolution declare the vacancy to exist. ~~The council shall forthwith appoint an eligible person to fill the vacancy until the next regular municipal election. In the event of a tie, the council shall determine the result by lot from those having the greatest number of votes.~~

~~If the council fails to fill the vacancy within 30 days following the declaration of a vacancy, the city clerk shall call for a special election to be held not sooner than 90 days and not later than 120 days following the declaration of the vacancy.~~

In the event there are 364 days or less remaining, the City Council must appoint a qualified replacement to complete the term of the vacated seat within 30 days of the declaration of vacancy.

In the event there are 365 days or more remaining after the Council has declared a vacancy, the City Clerk shall call for a special election (Section 4.03) to be held not sooner than 90 days and not later than 120 days.

Section 4.03 SPECIAL ELECTIONS. The council may by resolution order a special election and provide all means for holding it. The city clerk shall give at least two weeks published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other city elections.

When a special election is required to fill a vacant office, the special election shall occur on a date established by the City Council. The time allowed for the filing of candidates for

such office shall be not less than 14 days. The special election, or a special primary election if needed, shall be held within 70 days of the deadline for filing. A special primary election shall be held if more than two candidates file for such office, with the two candidates receiving the most votes proceeding to the special primary election, except that if one candidate receives greater than 50 percent of all votes cast at the special primary election, that candidate shall be declared the winner and no special election shall be held. When a special primary election is held and no candidate receives greater than 50 percent of all votes cast, the special election shall be held not more than 53 days thereafter.

The Commission will review the language one more time prior to sending to the Council for their consideration.

Mid-Term Filing for Mayor

At the meeting in June, Stombaugh suggested that the Commission consider modifying the Charter to require Council members in mid-term filing for Mayor, resign their seat effective December 31.

City Attorney Felix advised the Charter Commission that the state constitution defines the eligibility requirements for candidates in municipal election, and that the Charter cannot independently contradict or contravene those eligibility requirements. In other words, the Charter cannot require currently seated councilors to resign should they chose to run for mayor midway through their term. Felix commented that his research showed that those states that do allow resign have constitutional provisions that permit as much.

Interfering with Administration (Sec. 2.09)

The Commission discussed concerns expressed regarding council members interfering with administration in violation of Section 2.09 of the City Charter. The Commission concluded that if a Commission member has a concern, that concern should be made known to the City Manager who has the ability to discuss such concerns with the council or the council member suspected of interference. Commission members expressed disappointment that current council members openly and knowingly disregard the Charter prohibition.

Next Meeting Date: September 17, 2013 at 5:30 p.m.

Adjourn

With no further business, a motion was made by Witt seconded by Stombaugh, to adjourn. Motion carried unanimously. The meeting adjourned at 6:30 p.m.

Respectfully submitted,



Kay M. Murphy
City Clerk