

AGENDA	Friday, February 17, 2012
Charter Revision	3:30 p.m.
Commission Meetings	Carnegie Town Hall
	235 West 10th Street

1. Call To Order

2. Approval Of Minutes

A. January 27, 2012

B. January 31, 2012

3. New Business

A. Discussion of future meeting dates

4. Adjournment

Date: 2012-02-17
SIRE Meeting ID: 1664
Meeting Type: Charter Revision Commission

YouTube:<https://youtu.be/P-i6IWUaT4A>
Agenda Item: Not Assigned
Item ID: 61878

The following document(s) are public records obtained from the
City of Sioux Falls.

NOTE: The minutes are considered DRAFT until approved or amended at the next scheduled meeting.

MINUTES

Friday, January 27, 2012

Charter Revision
Commission Meeting

3:00 PM at Carnegie Town Hall
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; Sue Roust, Interim City Clerk and Tamara Jorgensen, CMC, Assistant City Clerk

Guests: Angela Bailey, Rex Rolfing, Cheryl Rath, Rich Oksol, Sue Aguilar, Andy Traub, Tam Baker, Dave Knudson, Dean Karsky, Greg Jamison and Tracy Turbak

1. Call To Order

Commission Chair Poletes called the meeting to order at 3:00 p.m. Poletes made opening remarks which gave a brief history and explanation of the responsibilities of the Charter Revision Commission. Poletes introduced the Commission Members and city staff.

2. Approval Of Minutes

A motion was made by De Knudson and seconded by Dick Gregerson to approve the minutes. Commission Chair Poletes called for a voice vote and all members present voted yes. **Motion passed.**

A. January 4, 2012

3. Public Input

Council Chair Sue Aguilar thanked the commission for their membership on this commission and their service to the citizens of Sioux Falls. She requested that the Commission take more time for research and input from the public before adding items requiring substantive changes to the election ballot. Aguilar offered the assistance of the City Council, if needed.

Council Member Rex Rolfing also thanked the commission for their participation and in serving the City of Sioux Falls. Rolfing made comments on the following three areas: 1) the changes that have occurred in the past; 2) the need for checks and balances; 3) the

current form of government. He urged the Commission to slow down and to take more time to review the recommendations.

Andy Traub spoke regarding being asked to serve on city commissions. Traub stated that the needs and goals should include additional transparency in government. He stated that the Mayor should acknowledge that members of the Commission had donated to his campaign. Traub spoke regarding the use of Robert's Rules of Orders during the meeting held on Wednesday, January 4, 2012.

Tam Baker spoke regarding the commission's responsibilities. She stated that she watched the last Commission meeting and felt uncomfortable with the treatment given to a Council Member and stated they have a right to be heard. She discussed the importance of scheduling enough time to hear and review information presented to the Commission. Baker asked about the timeline when the Commission was appointed and reminded the Commission to be careful about how many items they place on the ballot.

I.L. Wiedermann spoke regarding Mr. Joe Kirby, his donations to Mayor Huether, and the Mayor sending personal thank you cards to those who made donations to his campaign. Wiedermann recommended that the Charter Revision Commission be disbanded because Mayor Huether appointed them and he felt like the Commission has given the Mayor anything he wanted.

Poletes stated that she has asked the City Attorney to check Robert's Rules of Order to determine if she could, as the Chair, make any motions. Pfeifle stated that the Chair does have the authority to make motions and participate in debates when it is in a smaller committee such as this one.

Theresa Stehly stated that the newly elected City Council Members have been working to redefine their roles. She stated that these people are the representatives for the citizens and she is encouraged to see the Council paying more attention to spending. She stated there needs to be a system of checks and balances. She stated the Council roles should not be restricted to 10-20 hours per week. The citizens want quality and want their Council Members to be responsive to them. She stated that the items that are being considered may lead to a 'disconnection' with the citizens.

Poletes stated that discussion at the last meeting included limiting the number of items on the ballots. She stated that many of the proposals have been approved; but the Commission would be reviewing each of them today. The deadline for getting items on the ballot for the April 10, 2012 election is February 10th. Discussion will be held today to determine which items will go on the ballot and which will require further review.

Commission Member Aanenson spoke regarding the timeline for previous meetings.

Aanenson addressed the media regarding campaign finance contributions he has made to political candidates. He stated that he has made contributions to several candidates and

asked the media to take the time to report complete information instead of focusing on one elected official.

4. **Old Business**

A. **Sections 2.02, 2.03, 2.08, 3.03 and 4.03 Amendments**

Council Member Jamison spoke regarding his proposed revisions. Since the Commission has a lot of information to consider, Jamison stated he would be willing to remove some of his recommendations with the intent that two items be given further consideration. The two proposals that he would like to see reviewed further are Section 3.01 (Executive power) and Section 4.03 (Legal officer). He stated there are other City Council Members present that may wish to speak regarding Section 3.01 (Executive power) to provide additional information.

Jamison asked if the Commission would like him to review his proposals and Poletes said yes.

Jamison gave a review of Section 2.02 (Composition, eligibility, election, and terms). In the interest of time, Jamison stated he would be willing to set this item aside for review at another time.

Poletes reviewed the proposed changes to Sections 2.02, 2.03, 2.08 and 3.03.

Knudson thanked Jamison for returning to this meeting. She stated that the Commission is appointed for three years and they are not in any hurry to put anything on the ballot. She apologized for any mistakes they made. Knudson stated she would like to continue to work with Jamison regarding his first two proposals stating that the wording on the Charter can always be improved.

Gregerson stated that he does not want the additional items forced off future agendas because he does feel that they are important. Gregerson stated it was too bad that the Commission got off to a bad start by not having enough time. This was not meant to be discourteous or impolite to Mr. Jamison. There are a number of proposed amendments that are very important. Gregerson suggested that controversial items be removed and given additional review. He would like to see more time given for hearing everyone's point of view on the proposals. He recommended that items that are 'housekeeping' items move forward. Jamison expressed his appreciation for the comments and stated that he was willing to work together with the Commission on all the items and he thanked the Commission for the extra time.

Jamison discussed Section 4.03 (Legal officer). He stated he would also like to review Mr. Kirby's amendments for Section 3.01 (Executive power) with the Commission. Poletes recommended that agenda items 4A and 4B be reviewed at the same time.

Poletes suggested that Agenda item 4A (Sections 2.02, 2.03, 2.08, 3.03 and 4.03

amendments) not receive any motions at this time and that the Commission review Agenda item 4B (Section 3.01 Amendment).

Poletes asked Pfeifle to explain the process for rescinding items that have already been approved. Pfeifle stated that the following motions can be made for items previously adopted: Move to rescind in their entirety (the approval of those items) or move to amend something previously adopted. An amendment may be used to remove a few sections or portions of the proposed revisions. He reminded the commission that discussion was held at the previous meeting regarding the need to limit the number of items on the ballot. Pfeifle stated that a super majority vote would be required to add items to the ballot but only a majority vote is needed to remove an item from the ballot.

Knudson stated that she would like to hear the additional comments that Mr. Jamison had regarding Section 4.03 (Legal officer). She would like to hear additional information before anything is removed.

Jamison provided additional input on Section 4.03 (Legal officer). He stated that there was a brief discussion held at the last meeting suggesting that electing the City Attorney may be a possible solution. Another suggestion was made that the Council and the Mayor have separate Attorneys. Jamison stated that the election of a City Attorney is a process that is followed in much larger cities and would not be in the best interest of our city at this point. The two branches having their own separate Attorney for advice on ordinances and legal advice might not be productive either.

Jamison stated that a good compromise would be to have the Council involved in the potential removal of the City Attorney position. The Council would like to receive the same time and attention as the Mayor does.

Jamison stated that the City Council at times also needs advice on rules, regulations and what the law states. The City Council does not want a situation where the City Attorney is "carrying the water" for one body or the other. Having a mandate in the Charter which gives the Council the right to terminate the job will assist the City Attorney's position as well by giving him/her the needed independence. Jamison stated that other council members can attest to the need for independence. Jamison would like to see the Charter Revision Commission add this item to the ballot.

Council Chair Sue Aguilar agrees with Jamison. However, she stated she would like to see it handled in a different way. Aguilar explained that the Council has the authority to give advice and consent to appoint a person to the position. She would like to see the Council also have the authority to provide advice and consent before the position can be terminated. She stated that this would give the City Attorney the independence that they would need.

I.L. Wiedermann stated that he supports both of these suggestions. He stated that he is against the City Attorney being appointed by the Mayor and he is against the Mayor being in complete control of the City Attorney.

Council Member Dean Karsky stated that both suggestions are good ideas which would provide protection for the City Attorney. He supports the recommendation that the Council be given the authority to determine a termination and said that it should require a super majority vote of the council to do so. He stated that a combination of the two suggestions would work well.

Knudson stated she and Council Member Aguilar had briefly discussed the advice and consent possibility.

Knudson stated that when she was a part time City Counselor that she had daily conversations with the City Attorney. She thought that the Mayor, who had more daily contact with the City Attorney, would need to have more confidence in the person appointed to that position. She stated that if there was a situation where the Mayor felt the City Attorney needed to be dismissed, that the Mayor would be in a better place to make that determination.

Aguilar responded that Council leadership has weekly meetings with the City Attorney. She stated that the City Attorney could, in many situations, be put into a difficult position as he/she is being pulled in two different directions. Aguilar stated that she feels this position deserves the independence to work for the city as a whole.

Poletes asked the Commission if they wanted to consider adding this item to the ballot. Gregerson stated that he thought the decision on whether or not items were going to be added to the ballot was going to be handled later in the meeting.

A motion was made by Gregerson and seconded by Knudson to delay any official action on controversial measures until more testimony could be taken.

Pfeifle asked for clarification regarding what items should be 'tabled' for now. He recommended delaying consideration of Section 4.03 (Legal officer) until the Commission is ready to consider the other amendments on the agenda.

B. Section 3.01 Amendment

Aanenson asked if there would need to be a motion to rescind Section 3.01 (Executive power). Poletes and Pfeifle agreed. Discussion followed.

A motion was made by Aanenson to rescind the previous motion(s) on Section 3.01 (Executive power).

Pfeifle stated the motion was to temporarily table the consideration of items under 4A, move forward with discussion of items 4B-D with any possible motions to rescind or amend something previously enacted, and then talk about item 4A again. Gregerson agreed that this is what he meant.

Vote to temporarily table the consideration of items under 4A, move forward with discussion of items 4B-D and then talk about item 4A again: Poletes called for a voice vote and all members present voted yes. Motion passed.

A motion was made by Aanenson and seconded by Thimjon to rescind action taken on Section 3.01 (Executive power) until later notice.

Thimjon stated that action taken at the previous meeting on Section 3.01 (Executive power) occurred quickly. He stated that he was surprised at the number of people who had assumed that the ballot was already written.

Thimjon stated that he has also made contributions to City Council campaigns.

Vote to rescind: Roll Call: Yeses, Robert Thimjon, Dennis Aanenson, Richard O. Gregerson, De Knudson, Pauline Poletes, 5. Noes, 0. Motion passed.

C. Sections 1.01, 2.11, 2.14 and 7.01(b) Amendments

Pfeifle discussed Sections 1.01, 2.11, 2.14, 7.01 as submitted from the Legal Department. He stated that some of the recommendations were for technical and/or housekeeping changes. Pfeifle recommended that the approval of all four of his submissions be rescinded so that only two remaining sections for consideration would be Section 1.01 (Powers of the city) and Section 7.01 (Conflicts of interest; board of ethics).

He stated that the amendments in Section 1.01 (Powers of the city) clarifies the powers the city has under the Charter and includes a sentence taken from the state constitution regarding the powers of the city under home rule. Pfeifle stated that these changes have widespread support from the City Council.

Pfeifle stated that the amendments in Section 7.01 (conflicts of interest; board of ethics) would expand the powers of the Board of Ethics to include oversight regarding possible election ordinance violations for current city officials. This item has been reviewed by the Public Services Committee and also has the unanimous support of the Board of Ethics. He stated this would provide for an independent city board to review the violations instead of the City Attorney's Office.

Pfeifle recommended an amendment to delete the prior two sections that are housekeeping in nature (Sections 2.11 and 2.14) and keep the other two recommendations (Sections 1.01 and 7.01).

Pfeifle read Sections 1.01 and 7.01(b) from his memorandum dated December 13, 2011.

Section 1.01: The National Civic League, which drafted the Model City Charter from which our Charter was fashioned, recommends that a charter should lay claim to all powers it may legally exercise under the state constitution and laws. The League also recommends that a charter should encourage courts to interpret the powers of the city as broadly as possible. The South Dakota Constitution provides that these powers are to be liberally construed, so this amendment would be consistent with the state constitution. SD Const. Art. IX, § 2. This particular amendment is taken largely from the Charter of the City of Lincoln, Nebraska.

Section 7.01(b): This addition would grant the Sioux Falls Board of Ethics the jurisdiction to hear any complaints about current elected officials' conduct related to municipal elections. Other changes would need to take place in City Ordinance Chapter 14 to complete this transition for the handling of such complaints from the City Attorney to the Sioux Falls Board of Ethics. The goal is to have any such complaints heard by an independent citizen board, as is done with complaints about elected officials' alleged conflicts of interest. The Board of Ethics would be best suited to handle such complaints.

Knudson stated she would like to vote to add the four proposals from the Legal Department to the ballot but she would like to get input from the City Council Members present at this meeting. She wants to know whether or not they feel these are improvements or if they are needed changes to the Charter.

Jamison asked about the term 'current' listed in Section 7.01(b) (conflicts of interest; board of ethics). He asked if there is a stipulation for a candidate that is not a current elected official or a candidate for another office while serving. He is not sure of the reason for the word 'current'.

His other statement regards the intent of moving this responsibility from the City Attorney to the Board of Ethics. He stated that this is one of the problems/issues that the City Attorney deals with. He is placed in the awkward position of trying to enforce or investigate an ethics complaint against one of his bosses, and right now, one of the bosses has a little more power than the other. Jamison stated that his proposed amendment would remove the City Attorney from the 'hot seat'. The City Attorney could then do this job and it would not be necessary to transfer it to the Board of Ethics.

Knudson asked Pfeifle for his input regarding the current terminology in the proposed amendment. Pfeifle gave an update regarding client/constituent relationships. He stated that someone running for office would not be a 'client' of his and that someone running for office would not be held under the same scrutiny as someone already elected. The goal is to remove the City Attorney's Office from being involved in the investigation or prosecution of an election related issue. Pfeifle stated that the members of the Commission may wish to discuss at their next meeting whether they would like to change the language to 'anyone' regarding an elections ordinance issue or leave it as 'current elected officials'.

Thimjon asked when action would be taken to add items to the ballot. Poletes asked if

the Commission wanted to delay action on this item until after hearing the proposed amendments from the Finance Department. Knudson asked if Section 7.01(b) (conflicts of interest; board of ethics) could be delayed. She agrees with the Board of Ethics handling election violations but she asked if that should also apply to all candidates running for office, not just the elected officials.

A motion was made by Gregerson and seconded by Knudson to table Section 7.01(b) (conflicts of interest; board of ethics) until the Finance information is reviewed. Poletes called for a voice vote and all members present voted yes. Motion passed.

A motion was made by Knudson and seconded by Aanenson to add Sections 1.01, 2.11, and 2.14 to the ballot for April 10, 2012.

Pfeifle stated that these items have already been approved. He asked for a motion to amend the prior approval so that Sections 2.11 and 2.14 could be removed. Pfeifle recommended that the proposed amendments from the Finance Department be reviewed before final decisions are made on what items should be added to the ballot.

Poletes called for a voice vote and all members present voted yes. Motion passed.

Thimjon asked for clarification on the vote and whether or not, since the items were being added to the ballot, if it should have been a roll call vote instead. Pfeifle made the recommendation that Commissioner Knudson withdraw her earlier motion to add the items to the ballot.

A motion was made by Knudson and seconded by Aanenson to withdraw the motion to add Sections 1.01, 2.11, and 2.14 to the ballot.

A motion was made by Thimjon and seconded by Knudson to delay action on the four proposals from the Legal Department until after the proposals are heard from the Finance Department.

Poletes called for a voice vote and all members present voted yes. Motion passed.

D. Sections 5.05, 5.06, 5.09 and 5.11 Amendments

Turbak reviewed his three proposed amendments. His first recommendation was to combine Sections 5.05 and 5.06 (City Council action on the budget and Appropriation and revenue ordinances). The second recommendation was to eliminate Section 5.09 (Administration of the budget); and the third recommendation was to amend the timeline in Section 5.11 (capital program) to be changed to August 1st. Discussion followed.

Poletes asked Turbak if there were any of these amendments that he felt strongly about adding to the ballot at this time. Tracy stated he would like them all on the ballot, but his strongest preferences would be the suggested amendments to Sections 5.05 and

5.06. He does not have a strong preference on Section 5.09 (Administration of the budget). He also stated he is not here to try to reverse the Commission's earlier decision regarding changing the deadlines as indicated in Section 5.11 (Capital Program).

Roust stated there was more information regarding Section 5.09 (Administration of the budget) that needs to be reviewed. She gave an update on governmental reporting standards (Government Accounting, Auditing and Financial Reporting (GAAFR) and Governmental Accounting Standards Board (GASB)) and recommended that the proposed changes to Section 5.09 (Administration of the budget) be denied.

Poletes reminded the Commission that Sections 5.05, 5.06 and 5.09 were approved at the January 4, 2012, meeting and that Section 5.11 was not approved.

A motion was made by Knudson to only combine and add Sections 5.05 and 5.06 to the ballot.

Discussion was held regarding rescinding action taken on Section 5.09 (Administration of the budget).

A motion was made by Knudson and seconded by Gregerson to combine and add Sections 5.05 and 5.06 on the April 10, 2012, ballot.

Thimjon asked about the action taken at the January 4th meeting. Pfeifle reviewed the minutes from the January 4, 2012 meeting and stated that there was a motion to add 5.05 and 5.06 to the ballot. Pfeifle also stated that Section 5.09 (Administration of the budget) had been approved, but no vote was taken to add it to the ballot.

Pfeifle recommended that the Commission amend the motion to direct the City Attorney to draft ballot language, including the City Attorney's explanation, for the Commission to consider regarding the proposals for Sections 5.05 and 5.06. This information could be reviewed at the next meeting.

A motion, to amend the main motion, was made by Knudson and seconded by Thimjon to request that the City Attorney prepare specific ballot language regarding combining Sections 5.05 and 5.06 for review at the next meeting.

Vote to approve: Roll Call: Yeses, Robert Thimjon, Dennis Aanenson, Richard O. Gregerson, De Knudson, Pauline Poletes, 5. Noes, 0. Motion passed.

Poletes asked the Commission if they would like to use the next meeting to determine which items will be added to the ballot.

Knudson stated that she would like to review the information as soon as the City Attorney has the language to be reviewed. Pfeifle stated he could draft the City Attorney's explanations rather quickly. Pfeifle recommended scheduling a meeting for next week. He would have the ballot language available for review regarding the

combinations of Sections 5.05 and 5.06.

Poletes asked the commission if they wanted to take action on any of the other items.

Thimjon recommended taking action under New Business for items to go on the ballot.

Knudson stated she would like more time to review the legal recommendations. Discussion followed regarding the Board of Ethics. Pfeifle stated the four items from the legal department were approved to move forward, but not for placement on the ballot. He discussed the terminology regarding current elected officials or have it encompass all candidates as well.

A motion was made by Thimjon and seconded by Aanenson to request that the City Attorney draft two language scenarios for Section 7.01(b) (conflicts of interest; board of ethics).

Thimjon stated this would allow some time for additional review.

Vote to approve: Roll Call: Yeses, Robert Thimjon, Dennis Aanenson, Richard O. Gregerson, De Knudson and Pauline Poletes, 5. Noes, 0. Motion passed.

A motion was made by Thimjon and seconded by Aanenson to request that the City Attorney draft language for the ballot for Section 1.01 (Powers of the city) .

Vote to approve: Roll Call: Yeses, Robert Thimjon, Dennis Aanenson, Richard O. Gregerson, De Knudson, Pauline Poletes, 5. Noes, 0. Motion passed.

Discussion was held regarding Section 4.03 (Legal officer). Gregerson stated that he would like to have more time to review and receive more input on this item before action is taken. Thimjon stated that he would also like more time to review this item.

After discussion, the next Charter Revision Commission scheduled their next meeting for Tuesday, January 31, 2012, at 3:00 p.m. The agenda will include reviewing proposed ballot language along with the City Attorney's explanation.

Poletes asked if the Commission wanted to review any of the proposals from the Legal Department or from Council Member Jamison.

Thimjon asked if items could be discussed under New Business for items that go on the ballot.

5. **New Business**

Gregerson wanted to clarify that he may not always agree with the items that are being added to the ballot. He wanted to clarify that items are being recommended for the ballot because they feel the issues are so important that the citizens need to review and vote on

them.

6. **Adjournment**

A motion was made by Knudson and seconded by Gregerson to adjourn the meeting at 4:55 p.m. Poletes called for a voice vote and all members present voted yes. **Motion passed.**

Tamara Jorgensen, CMC
Assistant City Clerk

Date: 2012-02-17
SIRE Meeting ID: 1664
Meeting Type: Charter Revision Commission

YouTube:<https://youtu.be/P-i6IWUaT4A>
Agenda Item: Not Assigned
Item ID: 61883

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City of Sioux Falls.

NOTE: The minutes are considered DRAFT until approved or amended at the next scheduled meeting.

MINUTES

Tuesday, January 31, 2012

Charter Revision
Commission Meeting

3:00 PM at Carnegie Town Hall
235 West Tenth Street



Members Present: Dennis W. Aanenson, De Knudson, Pauline Poletes and Robert Thimjon. Richard O. Gregerson attended the meeting through a telephone conference call.

Members Absent: None

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

Guests: Sue Aguilar, Greg Jamison, Rich Oksol, Dean Karsky, Cheryl Rath, Rex Rolwing, I.L. Wiedermann and David Bixler.

1. **Call To Order**

Commission Chair Pauline Poletes called the meeting to order at 3:00 p.m.

2. **Public Input**

There was none.

3. **Old Business**

A. **Discussion of Jurisdiction of the Sioux Falls Board of Ethics for Hearing Complaints on Possible Election Ordinance Violations by Either All Candidates for City Office or Any Current Officials' Conduct**

Pfeifle stated that he has been reviewing procedures that other states have implemented regarding their Ethic Boards. Based on this research, Pfeifle is recommending that the Board of Ethics should handle all ethic violation complaints against all candidates whether they are currently elected or not.

Poletes asked for feedback from the public and the Council Member regarding this item. Council Member Jamison stated that he concurs with the changes and that the City Council does not have any concerns about it.

Knudson requested an update from the City Attorney regarding the proposed changes for the benefit of the listening audience.

Pfeifle stated that the Commission is reviewing whether or not to expand the

scope of the Board of Ethics to include reviewing complaints regarding election ordinance violations for either current elected officials or someone running for offices.

I. L. Wiedermann spoke regarding an ethics complaint during the last election. He asked if the Commission was 'fixing this' process so this does not have to go before the Attorney General's office in Pierre. He stated that the City Attorney was familiar with the case he was referencing. Wiedermann stated that the City Attorney said he could not handle the item and the Attorney General's Office in Pierre said they could not handle the item either.

Pfeifle stated that this amendment would allow an independent citizen board to handle complaints and review violations. It would remove this authority from the City Attorney's office and give it to the Board of Ethics.

Roust asked Pfeifle to explain the other areas where changes to the Board of Ethics authority are being considered. There are ordinances coming before the City Council that will move complaints regarding campaign finance reporting to the Board of Ethics. Pfeifle added that changes to the Fraud Control Policy are being considered as well. He stated that the Board of Ethics unanimously recommended these changes. There is also support from the Public Services Committee of the City Council.

Knudson asked the City Attorney to remind the listening public about the composition of the Board of Ethics. Pfeifle stated that the Board of Ethics is composed of five citizens who are recommended by the Mayor and appointed under advice and consent of the City Council. This board reviews complaints of ordinance violations. They also review violations that may be considered a 'conflict of interest'.

B. Consideration of Official Ballot for the April 10, 2012 Election

Pfeifle reviewed the draft of the official ballot. Charter Amendment A amends Section 1.01 (Powers of the city). The proposed change would delineate all powers the City of Sioux Falls may legally exercise under the state constitution and laws. The language regarding liberally construing the City's powers is taken from the South Dakota Constitution, Art. IX, Section 2.

Knudson asked for clarification on what part of this language was taken from the City Charter for Lincoln, Nebraska and from the state constitution. Pfeifle stated that every paragraph, except for the last paragraph, is taken from the Charter for Lincoln, Nebraska. The final paragraph is taken from the states constitution.

Knudson asked Pfeifle to read Charter Amendment A for the listening public.

Charter Amendment A

Shall Section 1.01 be amended to read:

Section 1.01. Powers of the city. The city shall have the right and power to exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever that it is possible for it to have at the present and in the future under the constitution of the State of South Dakota, except as prohibited by the state constitution or restricted by this charter, and to exercise any powers which may be implied thereby, incidental thereto, or appropriate to the exercise of such powers, all powers possible for a city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.

The city shall also have the right and power to exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever that now are, or hereafter may be, granted by the laws of the State of South Dakota to all cities or applicable to cities of the first-class, provided that such laws are not inconsistent with this charter.

The city shall have the right and power to make such ordinances, by-laws, rules, and regulations, except as prohibited by the state constitution or restricted by this charter, as may be necessary or expedient for maintaining the peace, good government, and welfare of the city, its trade commerce, and manufacturing, and for preserving order, securing persons or property from violence, danger, and destruction, for protecting public and private property, for promoting the public health, safety, convenience, comfort, morals and general interests and welfare of the inhabitants of the city and to enforce all such ordinances by providing for the fine or imprisonment, or both the fine and imprisonment, of those convicted of violations thereof.

All powers shall be exercised in the manner prescribe in this charter, or if not prescribed herein, in such manner as shall be provided by ordinance. Notwithstanding any other provisions of this charter, all powers may now and in the future be exercised outside the limits of the city to the extent permitted by law.

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

City Attorney's Explanation of Amendment A:

The proposed change would delineate all powers the City of Sioux Falls may legally exercise under the state constitution and laws. The language regarding liberally construing the City powers is taken from the South Dakota Constitution, Art. IX, § 2.

Φ Yes A vote "Yes" will change city charter.

Φ No A vote "No" will leave the city charter as it is.

Poletes asked for a motion on Amendment A.

A motion was made by Aanenson and seconded by Thimjon to adopt Amendment A as read by the City Attorney.

Vote to approve: Roll Call: Yeses, Robert Thimjon, Dennis Aanenson, Richard O. Gregerson, De Knudson, Pauline Poletes, 5. Noes, 0. Motion passed.

Pfeifle read Charter Amendment B for the benefit of the listening audience.

Charter Amendment B

Shall Section 5.06 be deleted and shall sections 5.05 (c) and (d) be amended to read:

- (c) Adoption. The city council shall adopt the annual appropriation ordinance for appropriated funds for the ensuing fiscal year budget on or before the 30th day of September of the fiscal year currently ending. . The annual appropriation ordinance shall make appropriations by fund and department or organizational unit. It is not necessary to appropriate funds to be expended from a proprietary or trust fund if the fund is not supported or subsidized by revenue derived from the annual appropriated tax levy. However, an annual budget for these funds shall be adopted by resolution on or before the 30th day of September of the fiscal year currently ending and published at the same time as publication of the annual appropriation ordinance. If the city council fails to adopt the budget by this date, the budget proposed by the mayor shall go into effect.
- (d) The city council shall adopt any other ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

City Attorney's Explanation of Amendment B:

The proposed change would combine two somewhat redundant sections of the Charter into one section. It also would change the deadline for approval of the annual appropriation ordinance to September 30 of each year, rather than October. State law requires the City Finance Director to certify the annual tax levy to the County Auditor no later than October 1st. This results in a situation where the Finance Director must certify the annual tax levy to the County Auditor before the tax levy has been established by the City Council. The proposed language change would rectify the situation by requiring the annual appropriation ordinance, including the tax levy, to be approved prior to October 1st thereby allowing the Finance Director to comply with state law. The proposed change would also change the timing of publication of budgets for proprietary and trust funds to be consistent with publication of all other budgets, which would streamline the overall budget process by establishing consistent publication requirements for budgets of all funds rather than waiting until December to publish budgets for the proprietary and trust funds.

Φ Yes A vote “Yes” will change city charter.

Φ No A vote “No” will leave the city charter as it is.

Discussion was held regarding the county's deadline for disclosing the tax amount. Thimjon asked if the change in the timeline will put any undue stress on the City Council regarding the budget or certifying the taxes. Jamison responded that the timeline would be fine and that the change would ensure better information for the budget process

A motion was made by Thimjon and seconded by Aanenson to add Charter Amendment B to the ballot, as presented.

Vote to approve: Roll Call: Yeses, Robert Thimjon, Dennis Aanenson, Richard O. Gregerson, De Knudson, Pauline Poletes, 5. Noes, 0. Motion passed.

Charter Amendment C, Section 7.01, Conflicts of interest, board of ethics was discussed.

Charter Amendment C

Shall Section 7.01(b) be amended to read:

Section 7.01. Conflicts of interest; board of ethics.

- (b) Board of ethics. The city council shall, by ordinance, establish an independent board of ethics to administer and enforce violations of the conflict of interest and financial disclosure ordinances as well as determine violations of Sections 2.05 (a), and (b), 6.01(c) for current elected officials, [or 6.01(c) for any candidates for an elected city office,] and 7.02 (a) (3), (4), and (5) of this Charter and related ordinances. No member of the board may hold elective or appointed office under the city or any other government or hold any political party office. Insofar as possible under state law, the city council shall authorize the board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint, refer cases for prosecution, impose administrative fines, and to hire independent counsel. The city council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it.

City Attorney’s Explanation of Amendment C:

The proposed change would grant the Sioux Falls Board of Ethics the jurisdiction to hear any complaints about current elected official’s [or any candidates for an elected city office] conduct related to municipal elections, removing jurisdiction from such complaints that is currently with the City Attorney.

- | | |
|-------|---|
| Φ Yes | A vote “Yes” will change city charter. |
| Φ No | A vote “No” will leave the city charter as it is. |

Pfeifle recommended that the following terminology be removed from the amendment and replaced with simply “6.01 (c)”: "6.01(c) for current elected officials," and "or 6.01(c) for any candidates for an elected city office." This would allow the City Council to adopt ordinances which would address all conduct related to municipal elections including potential future issues with lobbyists and PAC’s.

Thimjon asked how this change would affect the City Attorney's explanation for Amendment C.

Pfeifle reviewed the explanation as shown and recommended replacing the shaded language with the following terminology: "any possible violations of law for”.

Pfeifle explained that Charter Section 6.01 references the conduct of Elections and that City Ordinance Chapter 14 references ordinances that the Council has adopted governing the conduct of elections.

Discussion was held regarding the terms 'municipal' and 'city' being used in the Charter.

A motion was made by Thimjon and seconded by Knudson to add Amendment C to the ballot as revised with the City Attorney’s explanations.

Vote to approve: Roll Call: Yeses, Robert Thimjon, Dennis Aanenson, Richard O. Gregerson, De Knudson, Pauline Poletes, 5. Noes, 0. Motion passed.

C. Consideration of Summary Report prior to April 10, 2012, Ballot Proposals

The timeline for the submission of the report was discussed. Roust stated that the ballot language needs to be submitted to the City Clerk's Office by February 10.

**CHARTER REVISION COMMISSION SUMMARY REPORT
PRIOR TO APRIL 10, 2012, BALLOT PROPOSALS**

The fifth Sioux Falls Charter Revision Commission, appointed in October 2011 by the Mayor with the advice and consent of the City Council, has conducted five public meetings since November 2011 in order to assist them in preparing a report of proposed revisions to the City's Charter in 2012. The Commission is prepared to deliver the proposed revisions to City election authorities for placement on the upcoming April 10, 2012 ballot.

During the course of their public meetings, the Charter Revision Commission considered various Charter revision proposals brought forward by city departments, council members, Charter Revision Commission members and/or citizens. After review and discussion about the various proposals, the Commission decided that some of the issues which were raised warranted further review and were therefore either withdrawn or taken under advisement for further research and discussion by the Commission following the upcoming election. After discussion and debate, the Commission affirmatively voted to advance three proposed measures which, following delivery and filing with the City Council and City Clerk, will be presented to the public for further consideration and, ultimately, to be voted on by city voters.

One proposed revision will further delineate the powers of the City under its Charter, consistent with the South Dakota Constitution. Another proposed revision will combine two somewhat redundant sections of the Charter relating to the publication and passage of the city's annual appropriation ordinance. The last proposal will expand the jurisdiction of the Sioux Falls Board of Ethics to hear complaints regarding candidates for elected city office and current elected officials on conduct related to municipal elections as directed by the City Ordinances.

Each of these proposed revisions will be presented in the form of Charter Amendments to city voters for their consideration in the upcoming city election. City voters have previously approved revisions to the City Charter in 1996, 2000, 2004, 2008, and 2010. The City's Charter is the broad governing document for the conduct of local municipal government in Sioux Falls.

A motion was made by Thimjon and seconded by Aanenson to submit the report and the ballot language prior to the February 10, 2012, deadline.

Pfeifle asked if this motion also includes the proposed amendments. Thimjon stated yes.

Vote to approve: Roll Call: Yeses, Robert Thimjon, Dennis Aanenson, Richard O. Gregerson, De Knudson, Pauline Poletes, 5. Noes, 0. Motion passed.

4. **New Business**

Discussion was held regarding the schedule for future Charter Revision Commission Meetings. The minutes from the January 27 and January 31, 2012, meetings need to be approved prior to the ordering of the ballots for the April 10, 2012 election.

The next meeting is scheduled for Friday, February 17, 2012, at 3:30 p.m. The meeting will be held at the Carnegie Town Hall at 235 W. 10th Street.

Future meeting schedules for the Charter Revision Commission will also be discussed at this meeting.

5. **Adjournment**

A motion was made by Knudson and seconded by Aanenson to adjourn the meeting at 3:57 p.m.

Poletes called for a voice vote and all members present voted yes. **Motion passed.**

Tamara Jorgensen, CMC
Assistant City Clerk