

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

MINUTES	Wednesday, January 4, 2012	
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; Sue Roust, Interim City Clerk and Tamara Jorgensen, CMC, Assistant City Clerk

Guests: Roger Elgersma, Cheryl Rath, Rich Oksol, Kenny Anderson Jr., Greg Jamison, and Tracy Turbak

1. Call To Order

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

2. Approval Of Minutes

A. December 16, 2011

A motion was made by De Knudson and seconded by Robert Thimjon to approve the minutes. Committee Chair Poletes called for a voice vote and all members present voted yes. Motion Passed.

3. Public Input

Roger Elgersma spoke regarding the executive/administrative powers of the Mayor. He stated that the Mayor should not have so much power that he can overrun the Council.

4. Old Business

Proposal from Joe Kirby: Less Involved
City Council

David Pfeifle, City Attorney, presented the following language as requested by the Commission:

A.

Pfeifle stated that the additions for Section 3.01 were from a pamphlet initially distributed by Janet Brekke, the first City Attorney under the new form of government. The terminology reflects what Brekke's legal research found regarding the description of the administrative duties of the mayor. Poletes stated she liked this section because it would explain what the duties are to someone running for Mayor or City Council and would assist in orientation for newly elected officials.

A motion was made by Robert Thimjon and seconded by Dennis W. Aanenson to recommend the addition to Section 3.01 as discussed.

Thimjon, Knudson, and Aanenson all expressed support for this wording change. Councilor Greg Jamison stated that the City Council has worked for a year discussing whether or not the City Council should approve all city contracts.

The City Council passed an ordinance to include contracts on the City Council Agenda and the final vote was 7-1 in favor. Jamison stated that the process works very well and cited last night's Council Meeting as having several contract reviews. There have not been any problems with this process since implementation several months ago.

He explained that the City Council has worked diligently to get the contract process changed, make this process better, to improve transparency and to build confidence in local government by showing the citizens what we are doing and how we are spending their money. The Council now has the option to review contracts in greater detail if they need to or if a citizen requests it. He stated that the proposed addition may circumvent what the City Council had recommended.

Knudson stated that the reason why she recommended the change was for future use and that she took it from state law. She does not agree that the role of the City Council should include approving contracts stating that the South Dakota Legislature does not approve state contracts. She would like to see contracts available on the city's website for citizen access. She stated it does not indicate in the City Charter that the City Council should be approving contracts.

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

Motion Passed.

B. Proposals from Legal Department Amending Sections 1.01, 2.11, 2.14 and 7.01
(b)

Pfeifle stated that he has no additional comments beyond the information he shared at the last meeting. He has talked with Council Members about expanding the role of the Board of Ethics (Section 7.01 (b)). The proposed change would allow the Board of Ethics to provide an independent oversight to review any possible election ordinance violations for current city officials. He stated that he has not received any opposition from members of the Board of Ethics or the City Council members regarding this section.

A motion was made by Robert Thimjon and seconded by Dennis Aanenson to approve the proposed changes in Section 1.01. (Powers of the City).

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

Motion Passed.

ARTICLE I. POWERS OF THE CITY

Sec. 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.

A motion was made by Dennis Aanenson and seconded by De Knudson to approve the proposed changes in Section 2.11 (Procedure).

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

Motion Passed.

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 minutes of its proceedings pursuant to state law. This These journal minutes shall be a public record to the extent required by state law.

(c) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journalminutes. 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.

A motion was made by De Knudson and seconded by Richard O. Gregerson to approve the proposed changes in Section 2.14 (Updating the Code of Ordinances).

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

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 and 2012. A motion was made by Robert Thimjon and seconded by Dennis Aanenson to approve the proposed changes in Section 7.01 (Conflicts of Interest; board of ethics).

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

Section 7.01. Conflicts of interest; board of ethics.

(a) Conflicts of interest. The use of public office for private gain is prohibited. The city council shall implement this prohibition by ordinance. Regulations to this end shall include but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official, the use of confidential information; and appearances by city officials before other city agencies on behalf of private interests. The appearance of impropriety shall be avoided. Municipal officials shall be, at a minimum, restricted from conflict of interest to the same extent that state public officials are bound by state law; provided however, that the city council may adopt an ordinance setting a stricter standard.

(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, 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.

5. New Business

A. Proposal(s) from City Departments

Finance Department: Proposed Amendments to Sections 5.05, 5.06, 5.09 and 5.11

Finance Director Tracy Turbak reviewed the handout with the proposed amendments to Article 5 of the City Charter. He stated that the proposed changes in 5.05 and 5.06 would accomplish the following: 1) The City Council would approve the budget for the appropriated funds only once and this would be done by September 30th by adopting the annual appropriations ordinance; 2) line up the publication requirements for the proprietary and trust funds to be consistent with the publication of the budget for all other city funds.

Turbak discussed Section 5.09 (Administration of budget) stating that the Charter already details the administration of the budget and he is recommending that this section be deleted.

Turbak discussed Section 5.11(Capital program) requesting that the Mayor s five-year capital program be submitted to the City Council on August 1 instead of July 1. This would coincide with the timeline for when the Mayor s annual budget is submitted to the City Council.

Thimjon asked for clarification on Section 5.05 regarding the annual appropriation ordinance and the appropriations by fund. Turbak stated that state law and the charter do not require that trust funds and proprietary funds be included in the annual appropriation ordinance.

A motion was made by Dennis Aanenson and seconded by De Knudson to approve the proposed changes in Section 5.05 (city council action on budget).

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

Motion Passed.

A motion was made by De Knudson and seconded by Robert Thimjon to approve the proposed changes in section 5.06 (Appropriation and revenue ordinances).

Sue Roust stated that if the approved items are presented to the voters separately on the ballot, there is a potential for one to pass and the other to fail. Since the two items go together, Roust urged the commission to reconsider their motions so that Sections 5.05 and 5.06 are presented on the ballot as one amendment.

A motion was made by De Knudson and seconded by Dennis Aanenson to combine Sections 5.05 and 5.06 on the ballot.

Pfeifle recommended that a substitute motion be made to combine the sections.

A substitute motion was made by De Knudson and seconded by Dennis Aanenson to combine Sections 5.05 and 5.06 on the ballot.

Discussion was held regarding repealing the vote on the previous motion.

Pfeifle suggested voting on the substitute motion to combine these two sections, then going back and reconsidering the other motion to formally undo action taken on Section 5.05.

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

Motion Passed.

A motion was made by Dennis Aanenson and seconded by De Knudson to reconsider 5.05 as a separate item.

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

Motion Failed.

Bookmark Section 5.05. City council action on budget.

(a) Notice and hearing. The city council shall publish in one (1) or more newspapers of general circulation in the city the general summary of the budget and a notice stating:

(1) The times and places where copies of the message and budget are available for inspection by the public, and

(2) The time and place, not less than two weeks after such publication, for a public hearing on the budget.

(b) Amendment before adoption. After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or

amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

(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.

Bookmark Section 5.06. Appropriation and revenue ordinances.

To implement the adopted budget of the ensuing fiscal year, the city council:

(a) Shall, no later than its final regular meeting in October of the year, introduce and adopt the annual appropriation ordinance for the ensuing fiscal year, making appropriations by fund and department or organizational unit. It is not necessary to appropriate revenue to be expended from a proprietary or trust and agency funds 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 developed and published no later than the last day of December of each year, and

(b) 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. A motion was made by De Knudson and seconded by Richard Gregerson to approve the proposed changes in Section 5.11 (Capital program).

Roust stated that she would like to hear the opinion of the two City Council Members in the audience regarding this section. This proposed amendment would shorten the time that the Council has to review both the Capital Program and the Annual Budget. She asked if changing the time from July to August would leave an adequate amount of time for the Council to review both budgets.

Jamison stated that, in the past, there is generally not enough time for the Council to review the budget. The budget is complicated with large dollar amounts. The Fiscal Committee is reviewing the process and had reviewed the whole budget approval process at their meeting yesterday. Jamison noted that he has had experience reviewing the budget but new Council Members will have a learning curve to learn this process. He is not in favor of shortening the timeline. He stated that, if it is the Commission intent to allow the Council and the public to be more informed about the budget, that this timeline should be lengthened, not shortened.

Council Member Kenny Anderson Jr. stated that the Council has struggled every year with the budget, the budget review process and reviewing the CIP (Capital Improvement Plan). Shortening the time would not allow the Council Members to review the budget properly. He does not support this motion.

Gregerson asked for the reason why this timeline was being changed from July to August. Turbak stated that the Charter currently states that the budget be submitted by August 1 and this would change the timeline for the five-year capital program to be submitted at the same time.

Gregerson asked what Turbak thought about the Council Members concern regarding the timeline. Turbak stated that there has been a significant change to the Council s involvement in the budget process in the past year in that they have hired a Budget Analyst. The Council now has a resource to rely on in terms of analyzing the Mayor s recommended budget and the capital plan. The Budget Analyst is a full time position that should be able to do a lot of the

research for the Council Members.

Knudson stated she did not want to rush the process for the current or future City Council Members to have adequate time to review the budget information.

In her time on the Council, they had budget hearings and did not have a lot of attendance or input regarding the city budget.

Roust stated that, at Minnehaha County, there are long range plans where 4-5 year intentions of what the County departments are doing are presented a month before the budgets. The County Commission gets the overall plan for the next several years and they get to see how the budget fits into that. That compares to what the Council currently requires. They get the big picture view and a month later, they get the detailed view of the following year's budget. They are really two different things and it is in a good sequence. She also stated that whether or not you get public input, the City Council is charged with reviewing and approving the budget. By shortening the time, you make it more difficult for our elected policy makers to fully consider the budget. She encouraged the commission to give the time needed for the Council Members to give the budget a good look.

Roger Elgersma stated if the CIP was two months ahead, this five year plan would have an extra month ahead of time. He recommended that people that work on the budget arrange their schedules so this could be accomplished. This would give Council Members an extra month to review the information.

Vote to approve proposed changes to 5.11: Roll Call: Yeses, Dennis Aanenson, 1. Noes, Robert Thimjon, Richard O. Gregerson, De Knudson, Pauline Poletes, 4.

Motion Failed.

A motion was made by De Knudson and seconded by Dennis Aanenson to approve the proposed changes in Section 5.09 (Administration of the budget).

Thimjon asked if this procedure was covered in other areas of the Charter and if this was just for clarification purposes. Turbak stated that this section states that the City Council shall provide by ordinance the procedures for administering the budget. His research shows that the Council has not done that. The administration of the budget and the process is laid out in the Charter. He stated he feels that the Charter already does what this particular passage would do.

Gregerson asked how the process is handled without an ordinance. Turbak stated that in Section 5.09 the City Council would adopt procedures for administering the budget by ordinance and that he has not seen where the City Council has ever done that. Gregerson asked what procedure has the Council followed instead if they have not been submitting ordinances. Turbak stated the Charter states that the Council adopts the budget by ordinance each year. He does not know what procedures you would put into an ordinance that are not already in the Charter. Turbak stated it does no harm to leave the section in there, but he did not see that it served a purpose.

Roust stated that the Council has approved ordinances in Chapter 2 -

Administration, Article V - Financial Regulations, Revenues and Special Funds, Department of Finance. The Council has approved these ordinances regarding the administration of the budget. The Charter sets out the adoption of the budget very clearly.

Roust urged the commission to look at the number of proposed revisions that they are going to put on the ballot. She stated there have never been more than 10 and we are getting to that amount with more proposals to hear. This becomes a consideration when you think about voter understanding of all the potential changes on the ballot.

Anderson Jr. stated that on the two Councils he has served on, the Council has worked with the Administration on the budget and the CIP. He stated that there have not been any ordinance changes in this time because there has always been that cooperation. Anderson Jr. requested that the commission not approve the change to this portion of the Charter.

Knudson asked for additional clarification from Turbak on this section. She felt that this information has already been covered in other areas of the Charter. She asked why this recommendation had been made to the Commission. Turbak stated that when he reviewed Article V of the Charter, when he came to this section of the Charter he felt like it did not serve any particular purpose. He stated that the procedures for administrating the budget are laid out thoroughly in the Charter as it is today.

Pfeifle stated that the revision proposed in Section 3.01 refers to specific duties including the administration of the budget. He suggested that Section 5.09 is in conflict with the action taken on the proposal for Section 3.01. He stated that there has been a lot of cooperation between the Council and the Administration on the budget. He stated the Council still has the power of the purse and that there are other safeguards in the Charter. He suggested repealing Section 5.09.

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

(4-13-04, § E; 4-8-08, § D)

Bookmark Section 5.09. Administration of the budget.

The city council shall provide by ordinance the procedures for administering the budget.

Gregerson stated that the number of issues added to a ballot was discussed by previous Charter Revision Commissions as well. This is a concern because if you get too many issues on the ballot it can be confusing to the voters. He stated that the voters don't have time to study the issues.

Poletes asked if this was something that they could address in their next meeting on January 27th.

Thimjon stated that it would make sense, after the commission is done, to take the listing and prioritize it. He encouraged the Commission to present the changes in such a way that they have the best way of passing and moving forward so we don't overwhelm the voters with minor changes.

Pfeifle stated that there is still the opportunity for this commission to approve the final proposed ballot that would go to the City Clerk. There will still be an opportunity at the next meeting to revisit this issue and if there are some items that are of less priority or importance to give to the voters, they can be removed from the list. Poletes asked if these items could be considered next year. Knudson stated it was important for the commission to provide adequate information to the public and be available to explain our proposals for voters to be well informed before they vote.

B. Potential Proposals from City Council

Council Member Greg Jamison presented five proposed amendments to the Charter.

Article 2 City Council

Section 2.02. Composition, eligibility, election, and terms.

Proposed Revision:

(a)Composition. There shall be a city council composed of the mayor and eight (8) members. Three (3) council members shall be nominated and elected by the voters of the city at large, and five (5) shall be nominated and elected by the voters of each of the five (5) council districts, as provided in article VI.

Section 2.03. Mayor.

Proposed Revision:

The mayor shall serve as a member of the city council. as specified by this charter. In the absence of the mayor for purposes of city council meetings, the

city council shall designate one (1) of its members as acting mayor, with the duties but not the powers of that office. In case of emergencies or for purposes of day-to-day administrative duties and functions if the mayor is temporarily unavailable, the mayor shall propose to designate an interim successor by executive order, listing not less than three (3) nor more than seven (7) interim successors. The selection of interim successors in the executive order shall be at the mayor's discretion from among department heads or city employees; however, the number and order of proposed interim successor designees shall not be effective without the advice and consent of the city council.

Jamison stated that Sections 2.02 and 2.03 are related. He stated that he is not here to strip the Mayor of power or responsibility but that he wants to improve local government. Jamison asked if the Commission has had a chance to review the information provided.

Jamison stated that Article 2.02 is designed to clarify who are the members of the City Council. Article 2.02 and 2.03 need to be done in tandem in order to specify that the Mayor is a member of the Council as specified in the Charter. The proposed changes do not affect the three roles that the Mayor currently holds which are: the power to veto, to vote in case of a tie and to preside at the regular council meetings.

Jamison cited examples of activity in which the Mayor has not participated but, under current Charter, could have. Examples are: the selection of a replacement City Council Member in the event of a resignation; and appointment or reviews of previous and current City Clerks and staff employees. Jamison would like to clarify specifically when the Mayor is a part of the Council. Jamison asked the Commission if they would like to review each item individually or all at once. He asked for feedback on this section.

Aanenson asked if this contradicts the decisions they have made on a previous section (3.01) regarding a less involved City Council.

Jamison stated that it is troublesome to be after some items on the agenda. He asked Aanenson if he read Section 3.01, would he interpret it as meaning that the Mayor has the right to hire all city employees, on the Council side and the Administration side. Jamison stated that this has never been the practice since this form of government started. If the Mayor were involved in disciplining the Council's staff without acknowledging or doing any of the evaluations throughout the year, it wouldn't make sense. If the voters approve the amendments to Section 3.01, there will be struggles with clarification later on.

Knudson asked Jamison what this amendment would fix. Jamison stated it was merely clarification that when people refer to the City Council, they are referring to a body of 8 that were elected for those positions. He stated that when the Council receives emails, the Mayor is not included in those listings. The 3 roles that indicate when the Mayor is a part of the City Council are now listed specifically in the Charter.

Knudson stated that she understood that personnel issues or staff issues remain within the City Council. Jamison stated that it is not outlined in the Charter that when the Council replaces one of its members, only the Council is involved in that process. Knudson stated that she understands that the changes are not meant to minimize the Mayor's responsibility. In the time that she was on the City Council, when it was time to elect the Chair or Vice Chair, it was never an issue and likewise handling a vacancy on the Council. This works now without a charter change. She agrees that there are places where the Mayor is not involved, should not be involved and has not been involved.

Jamison stated these proposed changes would prevent problems from occurring. Although this has been the practice of previous Mayors, this prevents future Mayors from being involved in everything the Council does. Knudson stated that if future Mayors were out of bounds that the Council Chair and Vice Chair would handle that. Jamison stated that his intents are for clarification so that this type of situation would never occur. He stated that future Mayors and future Council Members could read the Charter and clearly understand their

roles. He stated that clarification is what he is after. Poletes asked the Commission if they would like to review each item and vote. Thimjon asked if all five could be reviewed at one time.

Section 2.08. City clerk.

Proposed Revision:

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. The city clerk can only be appointed and removed by a super majority vote of the city council.

Jamison stated that the proposed change to Section 2.08 would make clear what it would take to hire or terminate the City Clerk. This would create a united Council in the appointment or dismissal of the City Clerk.

Knudson stated that she would prefer a majority vote be used. Jamison stated the intention is to create a higher threshold so that things do not turn into something they are not intended to be. Terms of Council members change frequently, coalitions change, people change and the opinions change about the value of those people. Having six involved in the dismissal of the appointed clerk really creates a higher threshold and furthers clarifies the process. New hires would understand what it takes for appointment or removal from the position.

Knudson stated that it is difficult to get united fronts in Government, on anything.

A motion was made by Aanenson and seconded by Knudson to close the debate on Section 2.08. Poletes called for a voice vote and all members present voted yes.

Motion Passed.

Article 3 Mayor

Proposed Revision:

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 the regular monthly and special city council 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.

Jamison stated the proposed amendments to Section 3.03 clarifies when the Mayor can preside at meetings.

A motion was made by Aanenson and seconded by Thimjon to postpone indefinitely discussions on Sections 2.02, 2.03 and 3.03.

Knudson asked Aanenson for clarification on what the motion means. Aanenson stated that he has experience with Robert's Rules of Order and stated the following: Postpone Indefinitely is to kill the motion. The motion cannot be reintroduced at this meeting. It would have to be discussed at another meeting.

Knudson asked if the intent of the motion was for the commission to spend time on this item at the January 27th meeting. Aanenson stated that a majority vote would be required to discuss this at the next meeting, but it cannot be

discussed further at this meeting.

Knudson made a substitute motion that the meeting adjourn for the day.

Aanenson stated that she could not make another motion until action is taken on the current motion.

Vote to postpone indefinitely: Roll Call: Yeses, Robert Thimjon, Dennis Aanenson, Richard O. Gregerson, Pauline Poletes, 4. Noes, Knudson, 1.

Motion Passed.

Article 4 Departments, Officers and Agencies

Section 4.03. Legal officer.

Proposed Revision:

Section 4.03. Legal officer.

There shall be a legal officer of the city appointed by the mayor effective with the advice and consent of the council. The legal officer shall serve as chief legal advisor to the city council, the mayor and all city departments, offices and agencies, shall perform any other duties prescribed by state law, by this charter or by ordinance, and shall handle or monitor the representation of the city in legal proceedings. The legal officer can be removed by a super majority vote of the city council.

Jamison stated Section 4.03 was his most important amendment. The proposed amendment would give the City Council the ability to remove the City Attorney with a super majority vote. He stated there has been a long time struggle with the Council and the City Attorney s Office regarding the ability of the Council to receive the same service as the Mayor receives. The Mayor has the ability to hire and fire this position, but the Council only has the ability to approve the appointment of that position. By adding this amendment, with a vote of six, the ability to hire and remove would give the City Attorney s Office notice that the Council should be served as well as the Mayor is being served. Gregerson asked if the Mayor wanted to fire the City Attorney, could he do so under this language? The answer was yes. This amendment is designed for the City Attorney to serve in a more independent role while serving both the Mayor and the Council. Jamison stated that past and existing Councils have had problems with this and have been handcuffed on issues because they do not have their Chief Legal Counsel available to them. He is requesting assistance from the commission to solve a problem that has been ongoing for the City Council.

Gregerson asked if you really want the position to be independent, should it be an elected position. Discussion followed. Jamison thought the problem could be solved with this slight change to the Charter.

Aanenson stated he did not agree with Jamison s issues. He stated that if there was an issue with the Legal Counsel or the City Clerk that it should be referred to an Ethics Board that is outside of the City Council and a committee that would have to have approval by the Mayor to do it. He stated this would make more sense than what he had been reading here.

Jamison stated that the City Council does have the ability to have a vote of no confidence . However, this still does not help them and does not help the City Attorney. The City Attorney position answers to the Mayor and only to the Mayor. Jamison stated that all the Council is asking for, by Charter, is that he serve as the Chief Legal Counsel for the Mayor and the City Council.

Aanenson stated that he did not think it would be beneficial to go to eight people to terminate an employee and that he would be wasting a lot of hours, time and energy and would have many different opinions. He stated that this would contradict action that was taken regarding Section 3.01, and adding this item to the ballot may confuse the voters. He stated that the City should be run as a business and the Mayor is in charge.

Poletes asked for a motion that Sections 4.03 (legal officer) and 2.08 (city clerk) be added to the January 27, 2012 Agenda. Aanenson stated that there was

no action needed on these items.

6. Adjournment

A motion was made by Aanenson and seconded by Gregerson to adjourn the meeting at 5:04 p.m. Poletes called for a voice vote and all members present voted yes. Motion Passed.

Tamara Jorgensen, CMC
Assistant City Clerk