

NOTES	Thursday, January 10, 2013	
Charter Revision Commission Meeting	3:30 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: Dennis Aanenson (via teleconference), Pauline Poletes, Dick Gregerson and De Knudson

Members Absent: Robert Thimjon

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

## 1. Call To Order

Commission Chair Pauline Poletes called the meeting to order at 3:30 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. Determine 2013 Meeting Schedule

After discussion, the following dates were selected for future meetings with the understanding that additional dates can be added if needed. All of the meetings will start promptly at 3:30 p.m. and will be held at the Carnegie Town Hall, 235 W. 10th Street.

Thursday, March 14, 2013 Working Session Multi-Purpose Room

Thursday, May 9, 2013 Meeting Chambers

Thursday, July 11, 2013 Meeting Chambers

Thursday, September 12, 2013 Meeting Chambers

Thursday, November 14, 2013 Meeting Chambers

## 3. Review The Charter For The City Of Sioux Falls

### A. Article V. Financial Procedures (as time permits)

#### i. Public Input

Section 5.01 Fiscal year.

The fiscal year of the city shall begin on the first day of January and end on the last day of December.

Section 5.02 Submission of budget and budget message.

On or before the 1st day of August of each year, the mayor shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message.

Section 5.03 Budget message.

The mayor's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the mayor deems desirable.

Section 5.04 Budget.

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this

charter, shall be in such form as the mayor deems appropriate. The City Council may require additional information or details about the mayor's budget proposal. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding two (2) fiscal years. It shall indicate in separate sections:

(1) The proposed goals and objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, and program, purpose or activity, and the method of financing such expenditures;

(2) Proposed capital expenditures during the ensuing five (5) fiscal years, detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure; and

(3) The anticipated income and expense and profit and loss for the ensuing year for each utility or other proprietary fund operated by the city.

For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus the fund balance carried forward, exclusive of reserves.  
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 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.

Section 5.06 Reserved.

The removal of this section was approved by the voters of Sioux Falls at a municipal election held on April 10, 2012.

Section 5.07 Amendments after adoption.

(a) Supplemental appropriations. If during the fiscal year the mayor certifies that there are available for appropriation revenues in excess of those estimated in the budget or a sufficient fund balance, the City Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency appropriations. To meet a public emergency affecting life, health, property, or the public peace, the City Council or mayor may make

emergency special appropriations. Such appropriations may be made by emergency ordinance or declaration. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the Council may by such emergency ordinance or declaration authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency special appropriation was made.

(c) Reduction of appropriations. If at any time during the fiscal year it appears probable to the mayor that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the mayor shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the mayor and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one (1) or more appropriations.

(d) Transfer of appropriations. At any time during the fiscal year the City Council may by resolution transfer part or all of the unencumbered appropriation balance from one (1) department or major organizational unit to the appropriation for other departments or major organizational units. The mayor may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the Council in writing prior to the next Council meeting.

(e) Limitation; effective date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 5.08 Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised, or repealed; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Section 5.09 Administration of the budget.

The City Council shall provide by ordinance the procedures for administering the budget.

Section 5.10 Overspending of appropriations prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the mayor or the mayor's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payments made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the city for any amount so paid. Except where prohibited by law, however, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by ordinance.

Section 5.11 Capital program.

(a) Submission to City Council. The mayor shall prepare and submit to the City Council a five-year capital program no later than July 1 of each year for

consideration.

(b) Contents. The capital program shall include:

- (1) A clear general summary of its contents;
- (2) Identification of the five-year goals of the city;
- (3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
- (4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (5) Method of financing, upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
- (7) A commentary on how the plan addresses the financial sustainability of the city and the region of which it is a part; and
- (8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the city.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 5.12 City Council action on capital program.

(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 capital program and a notice stating:

- (1) The times and places where copies of the capital program 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 capital program.

(b) Adoption. The City Council, by resolution, shall adopt the capital program with or without amendment after public hearing and on or before the 30th day of September of the current fiscal year.

Section 5.13 Public records.

Copies of the budget, capital program, and appropriation and revenue ordinances shall be public records and shall be made available to the public for review at suitable locations or by suitable means in the city.

Poletes acknowledged the presence of Tracy Turbak, Finance Director, and asked if he had any additional input regarding Article V. Turbak stated that he did not have anything to add, but would be willing to answer any questions. There were no questions asked.

Poletes asked the public for input. Input received as follows:

Council Member Greg Jamison stated he would like to address the Charter Commission regarding items he would like to review and discuss. He asked when would be the appropriate time to come forward. After discussion, Jamison was told that the meetings will be moved to the Chambers soon and he could address the Commission at that time. The Working Sessions are not designed for taking action or making any decisions. Jamison thanked the Commission and stated he would return when the meetings return to the Chambers.

Citizen Theresa Stehly stated she would like to address the Charter Commission.

Stehly said that any discussions that lead to decisions should be web streamed. She asked if there are possibilities for people to get a copy of the notes. Pfeifle responded that the Working Session notes are available on the website at [www.siouxfalls.org](http://www.siouxfalls.org). Stehly indicated that people appreciate viewing the entire dialogue. Poletes responded that after the Working Sessions are completed, the Charter Revision Commission Meetings will move back into the Carnegie Town Hall Chambers and will be web streamed again.

Stehly said she would like to see the composition of the Park Board revised to include a representative from every district in the city, similar to the way the City Council is set up. She asked for clarification on how to proceed with this suggestion. Knudson and Pfeifle explained that the Park Board is made up of volunteers who respond to advertised vacancies and are appointed by the Mayor with advice and consent of the City Council. The Parks Board serves in

an advisory capacity only and is not a rule making body. Pfeifle recommended to Stehly that she work with the City Council to make proposed ordinance changes.

Pfeifle noted at this time that Dick Gregerson had previously asked that further review occur on whether the City has the ability to issue subpoenas. Pfeifle said that state statute allows the City to issue subpoenas. Pfeifle also noted the South Dakota Supreme Court decision in Daily vs. City of Sioux Falls suggested reforms to the City's Administrative Appeal procedures, including the power to subpoena witnesses for administrative appeal hearings. By the time of the Daily decision, those reforms had already been adopted by the City.

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

##### ii. Public Input

###### Section 4.01 General provisions.

(a) Creation of departments. The mayor may establish city departments, offices, or agencies in addition to those created by this charter by filing an executive order which may also provide that any funds previously appropriated to perform a function which is being transferred may thereby be transferred to the new major organizational unit performing such function, with such order becoming effective after the expiration of 25 days from the date it is filed, unless action is taken to nullify the executive order by a vote of six (6) or more members of the City Council. The mayor may prescribe the functions of all departments, offices, and agencies, except that no function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

(b) Direction by mayor. All departments, offices, and agencies under the direction and supervision of the mayor shall be administered by one (1) or more officers appointed by and subject to the direction and supervision of the mayor. The appointment by the mayor of any officer or employee having final authority over more than five (5) percent of the city's employees or budget shall only be effective with the advice and consent of the Council. The mayor may appoint one (1) person as the head of two (2) or more departments.

De Knudson would like to hear from City Council Members and Department Directors (and anyone else) if the Charter is working or if there suggestions for improvement. She stated that she has not heard from anyone about proposed changes to the Charter.

Poletes asked the public for input no public input received.

###### Section 4.02 Personnel system.

(a) Appointments and promotions. All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness.

(b) Civil service system. The City Council shall provide by ordinance for the establishment, regulation, and maintenance of a civil service system governing personnel policies necessary to effect the administration of the employees of the city's departments, offices, and agencies. The City Council shall provide by ordinance for classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, civil service appeal procedures to address grievances of employees, and relationship with employee organizations.

Pfeifle stated this section is identical to the Model Charter. He stated that the Human Resource Department does not recommend any changes. No discussion from the Charter Revision Commission at this time.

Poletes asked the public for input no public input received.

###### 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.

Pfeifle stated the City Attorney was originally appointed by the Mayor. In 2000, the voters approved an amendment which also required the advice and consent of the City Council for this appointment.

Poletes asked the public for input. Input received as follows:

Council Member Sue Aguilar stated that she would like a revision to this section to state that any termination of this position should include the advice and consent of Council. She indicated that this position serves the Mayor, the City Council, the City Departments, Offices and Agencies and the public. Aguilar said this would provide additional checks and balances for this position, ensure that the position is independent of the Mayor and the Council, and provide credibility with some of the elected Councilors. Aguilar stated she does not want to see an unfair termination as a result of this position reviewing an issue and making a recommendation that is not in agreement with the Administration.

Knudson asked how this position is established in other municipalities similar in size to the City of Sioux Falls. Jim David, Legislative/Operations Manager for the City Council, will be conducting research in this area and will report back to Council Member Sue Aguilar. Gregerson noted that this section was discussed last year. Aguilar noted this issue came forward when she was serving on Council Leadership and was meeting with the City Attorney on a weekly basis. Gregerson stated that one of the ways to circumvent this impression would be to have the City Attorney's position become an elected position. Gregerson stated that this would solidify the thinking that this position represents all of the people.

Gregerson asked if the Charter Revision Commission can amend the Charter by ordinance. Pfeifle stated that an ordinance can be passed by the Council and be submitted to the voters to amend the Charter or the Charter Revision Commission can do a report that calls for a vote.

Gregerson read the following into the record:

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.

Gregerson, in referencing the questions regarding the Park Board, stated he thought that the Charter Commission could change ordinances. Discussion followed. Gregerson asked if there could be additional review on SDCL 9-38-10. Pfeifle read that statute into record:

Park board in municipality of first class--Qualifications and terms of members--Salaries of board members. All municipalities of the first class may create by ordinance a park board. The ordinance creating the board shall specify the number, the qualifications, the term of office of the members, the frequency of board meetings, the officers to be selected and a description of their duties, the number of members necessary for a quorum, and the scope of the board's authority.

The salaries of the members of the board shall be fixed by such ordinance and be paid as provided for in the ordinance.

Pfeifle stated that commentary in the Model Charter suggests keeping the departments and boards as fluid as possible so that changes could be made by ordinance rather than requiring a Charter amendment, which takes more time. He suggested that the Charter Revision Commission watch what action the Council takes on this subject and, if it is not resolved there, the Charter Revision Commission could review it again.

Stehly asked if the Charter indicates that the Council shall have different

districts, then why can't the Park Board have districts? Pfeifle responded by clarifying that the Charter sets up the basic structure of city government. The Park Board was created by ordinances passed by the Council pursuant to state law and serves as a volunteer advisory board only.

#### Section 4.04 Planning.

Consistent with all applicable federal and state laws with respect to land use, development, and environmental protection, the City Council shall:

- (1) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;
- (2) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan; and
- (3) Adopt development regulations, to be specified by ordinance, to implement the plan.

No discussion from the Charter Revision Commission at this time.

Poletes asked the public for input no public input received.

### C. Article VI. Elections (as time permits)

#### iii. Public Input

#### ARTICLE VI. ELECTIONS

##### Section 6.01 City elections.

(a) Regular elections. The regular city election shall be held in even numbered years. Conduct of the election shall be in accordance with provisions of state law. The date of the city election shall be set by ordinance as the second Tuesday in April. The city may combine its election with that of the Sioux Falls School Board.

(b) Registered voter defined. All citizens legally registered under the constitution and laws of the State of South Dakota to vote in the city shall be registered voters of the city within the meaning of this charter.

(c) Conduct of elections. All elections provided for by the charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation and shall declare whether seeking an at-large or district seat. Candidates for district seats must reside within the district. No person shall be eligible for elective municipal office unless a nominating petition is first filed. Nominating petitions shall conform in all respects to the provisions of South Dakota state law, except that the deadline for filing shall be no later than 5:00 p.m. on the last Friday in February. The mayoral and at-large Council candidate nominating petitions shall be signed by not less than 200 registered voters of the city. The Council district nominating petitions shall be signed by not less than 50 registered voters of the city. Council district nominating petitions shall be signed by registered voters who shall reside in the Council district thereof, and who shall be eligible to vote for the nominee. For the conduct of city elections, for the prevention of fraud in such elections, and for the recount of ballots in cases of doubt or fraud, the City Council shall adopt ordinances consistent with law and this charter, and the election authorities may adopt further regulations consistent with law and this charter and the ordinances of the Council. Such ordinances and regulations pertaining to elections shall be publicized in the manner of city ordinances generally.

Pfeifle stated the Model Charter notes this section creates non-partisan elections even when state law allows for municipal elections with party affiliation. The commentary also mentions other voting methods.

Poletes noted in subsection (c) that Candidates for district seats must reside within the district. Poletes asked if it was necessary to add Candidates for At-Large district seats must reside in the city. Discussion was held about reviewing city ordinances for clarification. Hogstad responded that she will review the ordinances for that answer.

Knudson asked for feedback from the City Clerk's Office for any suggestions on

how to improve future elections. Hogstad responded that she does not have any suggestions at this time.

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

Section 6.02 Council districts: adjustment of districts.

(a) Number of districts. There shall be five (5) City Council districts.

(b) Districting commission; composition; appointment; terms; vacancies; compensation.

(1) There shall be a districting commission consisting of five (5) members. No more than three (3) commission members may belong to the same political party. The City Council shall appoint five (5) members, one member from each of the city's five (5) districts. These five (5) members shall, with the affirmative vote of at least three (3) members, choose one of their members who shall serve as chairperson.

(2) No member of the commission shall be employed by the city or hold any other elected or appointed position in the city.

(3) The City Council shall appoint the commission no later than one (1) year and five (5) months before the first general election of the City Council after each federal decennial census. The commission's term shall end upon adoption of a districting plan, as set forth in section 6.02(c).

(4) In the event of a vacancy on the commission by death, resignation, incapacity or moving out of the district within 30 days of his or her appointment, the City Council shall appoint a new member enrolled in the same political party and from the same city district from which his or her predecessor was selected, to serve the balance of the term remaining.

(5) No member of the districting commission shall be removed from office by the City Council except for cause and upon notice and hearing.

(6) The members of the commission shall serve without compensation except that each member shall be allowed actual and necessary expenses to be audited in the same manner as other city charges.

(7) The commission may hire or contract for necessary staff and may require agencies of city government to provide technical assistance. The commission shall have a budget as provided by the City Council.

(c) Powers and duties of the districting commission; hearings; submissions, and approval of plan.

(1) Following each decennial census or upon reliable evidence that the city's population has increased more than 15% since the last redistricting, the commission shall consult the City Council and shall prepare a plan for dividing the city into districts for the election of Council members. In preparing the plan, the commission shall be guided by the criteria set forth in section 6.02

(d). The report on the plan shall include a map and description of districts recommended.

(2) The commission shall hold one (1) or more public hearings not less than 30 days before it submits the plan to the City Council. The commission shall make its plan available to the public for inspection and comment not less than 30 days before its public hearing.

(3) The commission shall submit its plan to the City Council not less than nine (9) months before the first general election of the City Council after each decennial census.

(4) The plan shall be deemed adopted by the City Council unless disapproved within 21 days by the vote of the majority of all members of the City Council. If the City Council fails to adopt the plan, it shall return the plan to the commission with its objections, and with the objections of individual members of the Council.

(5) Upon rejection of its plan, the commission shall prepare a revised plan and shall submit such revised plan to the City Council no later than 21 days after the initial plan is rejected. Such revised plan shall be deemed adopted by the City Council unless disapproved within 14 days by the vote of two-thirds of all of the members of the City Council and unless, by a vote of two-thirds of all of its members, the City Council votes to file a petition in the Circuit Court,

Minnehaha County, for a determination that the plan fails to meet the requirements of this charter. The City Council shall file its petition no later than 10 days after its disapproval of the plan. Upon a final determination upon appeal, if any, that the plan meets the requirements of this charter, the plan shall be deemed adopted by the City Council and the commission shall deliver the plan to the city clerk. The plan delivered to the city clerk shall include a map and description of the districts.

(6) If in any year population figures are not available at least one (1) year and five (5) months before the first general election following the decennial census, the City Council may by local law shorten the time periods provided for districting commission action in subsections (2), (3), (4), and (5) of this section.

(d) Districting plan; criteria. In preparation of its plan for dividing the city into districts for the election of Council members, the commission shall apply the following criteria which, to the extent practicable, shall be applied and given priority in the order in which they are herein set forth.

(1) Districts shall be equal in population except where deviations from equality result from the application of the provisions hereinafter set forth, but no such deviation may exceed five (5) percent of the average population for all City Council districts according to the figures available from the most recent census.

(2) Districts shall consist of contiguous territory.

(3) No voting precinct (as set by the counties) shall be divided in the formation of districts.

(4) The number of districts which include territory in more than one (1) county shall be as few as possible.

(5) Consistent with the foregoing provisions, the aggregate length of all district boundaries shall be as short as possible.

(e) Effect of enactment. The new City Council districts and boundaries as of the date of enactment shall supersede previous Council districts and boundaries for all purposes of the next regular city election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Council members elected at that regular city election take office.

Knudson asked if any of the Districting Commission members have been contacted or if anyone knew of any recommended changes to the Charter. Hogstad stated that she has not received any requests from the Districting Commission.

Hogstad stated that she had been in contact with Jeff Schmitt, Chief Planning and Zoning Official, and he has stated there will not be a need for redistricting again until 2018.

Poletes asked the public for any additional input no other public input received.

Section 6.03 Initiative and referendum.

The powers of initiative and referendum are hereby reserved to the electors of the city. The provisions of the election law of the State of South Dakota, as they currently exist or may hereafter be amended or superseded, shall govern the exercise of the powers of initiative and referendum under this charter

No discussion from the Charter Revision Commission at this time.

Poletes asked the public for input no public input received.

#### D. Article VII. General Provisions (as time permits)

##### iv. Public Input

#### ARTICLE VII. GENERAL PROVISIONS

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), 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.

Pfeifle stated this section has been amended a few times to expand the board's jurisdiction in regards to the types of complaints it may address. Pfeifle stated these updates and the standards of conduct adopted by the Council are above and beyond what the Model Charter does.

Knudson asked about changes that were made to the Board of Ethics. She asked if the changes were working. Pfeifle stated that the Council adopted recent revisions to the Board of Ethics ordinances with the goal of providing more transparency when complaints or decisions become public. It also provides for a public hearing in front of the Council if there are allegations against any of the nine elected officials. Pfeifle stated that voters should be pleased with how it will function in the future.

Poletes asked the public for input no public input received.

Section 7.02 Prohibitions.

(a) Activities prohibited.

(1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, gender, age, handicap, religion, country of origin, or political affiliation.

(2) No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under the provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules, and regulations.

(3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or in connection with any test, appointment, proposed appointment, promotion, or proposed promotion.

(4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose to be used in conjunction with any city election from any city employee.

(5) No city employee shall, directly or indirectly, contribute money or anything of value to or render service in behalf of the candidacy of any candidate for nomination or election to any city office. Elected officials and spouses of city employees acting on their own behalf are exempt from this prohibition. The expression of private or personal views concerning candidates for political office is not prohibited hereby.

(b) Penalties. Any person violating this section shall be ineligible for a period of five (5) years following such violation to hold any City elected or appointed office or board. If the person violating this section is a city officer or employee, said violation shall be sufficient cause for the suspension, demotion or termination of employment of the officer or employee. The City Council may establish by ordinance any further penalties as it may deem appropriate.

Pfeifle stated the 2004 amendment added that spouses of city employees may contribute money to a campaign for city offices. Pfeifle stated that the Seventh Edition of the Model Charter did not have any sections regarding campaign finance issues however the Eighth Edition did. Pfeifle noted those changes were addressed under state law and also the City Council has adopted campaign finance rules through ordinance.

Poletes asked the public for input.

Stehly asked Pfeifle what would happen if a City Council member violated a city ordinance such as tree trimming. Pfeifle responded that the City Council member would be treated the same as any other citizen. Discussion followed with Stehly providing other hypothetical examples of ordinance violations. Pfeifle explained that ordinance violations would be considered a civil offense in nature but can be punished as a Class 2 misdemeanor. Discussion followed regarding levels of severity and how a complaint can be filed for the Board of Ethics consideration. The Board of Ethics could then determine if a particular complaint has merit.

E. Article VIII. Charter Amendments (as time permits)

v. Public Input

Due to time constraints, this article will be reviewed at the next scheduled Working Session on Thursday, March 14, 2013.

F. Article IX. Transition/Separability Provision (as time permits)

vi. Public Input

Due to time constraints, this article will be reviewed at the next scheduled Working Session on Thursday, March 14, 2013.

4. Adjournment

Commission Chair Poletes adjourned the meeting at 5:00 p.m.

Tamara Jorgensen, CMC

Assistant City Clerk