

NOTES

Thursday, March 14, 2013

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

Working Session 235 West Tenth Street

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

Meeting notes will be available on SIRE upon completion.

Members Present: Dennis Aanenson, Dick Gregerson, Pauline Poletes, and Robert Thimjon

Members Absent: De Knudson

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

Guests: Councilors Sue Aguilar and Rex Rolfing, Mark Weber

1. Call To Order

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

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

2. Review the Charter for the City of Sioux Falls

Article VIII. Charter Amendments (as time permits)

A.

i. Public Input

Bookmark Section 8.01 Proposal of amendment.

Amendments to this charter may be framed and proposed:

- (a) In the manner provided by law, or
- (b) By ordinance of the city council containing the full text of the proposed amendment (except that sections 1.04, 1.05, 2.01, 2.02, 2.03, and 2.04 and article III cannot be so amended) and effective upon adoption, or
- (c) By report of a charter commission created by ordinance; or
- (d) By the voters of the city, when any 15 qualified voters initiate proceedings to amend the charter by filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed charter amendment. Promptly

after the affidavit of the petitioners' committee is filed the clerk shall issue the appropriate petition blanks to the petitioners' committee. The petitions shall contain or have attached thereto throughout their circulation the full text of the proposed charter amendment and must be signed by registered voters of the city in the number of at least 5 percent of the total number of registered voters at the last regular city election.

Pfeifle stated this language is verbatim from the model charter. No public input was received. No additional comments were made.

Bookmark Section 8.02 Election.

Upon delivery to the city election authorities of the report of a charter commission pursuant to section 8.01(c) or delivery by the city clerk of an adopted ordinance proposing an amendment pursuant to section 8.01(b) or a petition finally determined sufficient to propose an amendment pursuant to section 8.01(d), the election authorities shall submit the proposed amendment to the voters of the city at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one (1) or more newspapers of general circulation in the city at least 30 days prior to the date of the election. If the amendment is proposed by petition, the amendment may be withdrawn at any time prior to the thirtieth day preceding the day scheduled for the election by filing with the city clerk a request for withdrawal signed by at least two-thirds of the members of the petitioners' committee. The election shall be held not less than 60 and not more than 120 days after the adoption of the ordinance or report or the final determination of sufficiency of the petition proposing the amendment. If no regular election is to be held within that period, the city council shall provide for a special election on the proposed amendment; otherwise, the holding of a special election shall be as specified in the state election law.

Pfeifle stated this language is verbatim from the model charter. No public input was received. No additional comments were made.

Bookmark Section 8.03 Adoption of amendment.

If a majority of the registered voters of the city voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 days after the initial canvas certifying its adoption by the voters.

Council Member Rex Roling asked if this caused problems by allowing petition filers to set the date as to when an amendment would go into effect. He referenced budgetary issues as an example.

Pfeifle referenced SDCL 6-12-7:

6-12-7. Time of election on charter proposal by commission. When a commission has been selected or appointed to draft a proposed charter or an amendment to a charter, an election on the question must be held within one year after initiation of the proposed action.

Source: SL 1974, ch 52, Section/Chapter 10.

Pfeifle also referenced SDCL 6-12-8 and 6-12-10:

6-12-8. Special election on home rule charter--Exception. A special election shall be called on any question involving a home rule charter unless another election is scheduled within one hundred twenty days of the initiation of the action.

Source: SL 1974, ch 52, Section/Chapter 8; SL 2005, ch 42, Section/Chapter 1.

6-12-10. Application of general election laws. Except as provided in Section/ChapterSection/Chapter 6-12-

7 to 6-12-9, inclusive, general election laws shall govern elections on questions of adoption, amendment, or repeal of a charter.

Source: SL 1974, ch 52, Section/Chapter 7.

Bob Thimjon said the Commission may want to come back and take a look at this.

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

B.

i. Public Input

Bookmark Section 9.01 Officers and employees.

(a) Rights and privileges preserved. Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers, appointees, or employees at the time of its adoption. State law governing Change of Employee Contributions or Benefits shall apply to the city under this charter.

(b) Continuance of office or employment. Except as specifically provided by this charter, if at the time this charter takes full effect an appointive administrative officer or employee holds any office or position which is or can be abolished by or under this charter, it shall continue until the taking effect of some specific provision under this charter directing that the office or position be eliminated.

(c) Personnel system. An employee holding a city position at the time this charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in section 4.02.

Pfeifle stated this language is verbatim from the model charter. No public input was received. No additional comments were made.

Bookmark Section 9.02 Departments, offices, and agencies.

(a) Transfer of powers. If a city department, office, board, or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office, board, or agency designated in this charter, or if the charter makes no provision, designated by the city council.

(b) Property and records. All property, records, and equipment of any department, office, board, or agency existing when this charter is adopted shall be transferred to the department, office, board, or agency assuming its powers and duties, but; in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one (1) or more departments, offices, boards, or agencies designated by the city council in accordance with this charter.

Bookmark Section 9.03 Pending matters.

All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on, or dealt with by the city department, office, board, or agency appropriate under this charter.

Bookmark Section 9.04 State and municipal laws.

(a) In general. All city ordinances, resolutions, policies, orders, codes, and regulations which are in force when this charter becomes fully effective remain effective, except as stated in subsection (b).

(b) Exceptions. All city ordinances, resolutions, orders, and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the constitution and law of the State of South Dakota permit, all laws relating to or affecting this city or its agencies, officers, or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.

(c) The term "city commission" in all city ordinances, resolutions, policies, orders, and regulations which are in force when this charter becomes fully effective is hereby replaced by the term "city council."

Bookmark Section 9.05 Schedule.

(a) First election. At the time of its adoption, this charter shall be in effect to the extent necessary in order that the first election of mayor and members of the city council may be conducted in accordance with the provisions of this charter. The first election shall be held on November 8, 1994 or the first available Tuesday after that as determined by election officials. The Sioux Falls city officials to be designated shall prepare and adopt temporary regulations applicable only to the first election and designed to insure its proper conduct and to prevent fraud and provide for recount of ballots in cases of doubt or fraud.

The term of the two at large council members receiving the most votes among the at large candidates in the first election shall be four (4) years. The term of the at large council member receiving the third largest vote counts among the at large candidates shall be two (2) years.

The terms of the two council members receiving the most votes among the five (5) elected by the five (5) districts in the first election shall be four years. The term of the other three council members elected by district shall be two (2) years.

The five (5) districts for the first election and until the redistricting required after the 2000 census, shall be as follows:

(1) The southwest district shall be comprised of the following complete precincts: 4-4, 4-5/6, 10-1/7, 10-3/5 and 11-1, 10-4, and 10-6.

(2) The southeast district shall be comprised of the following complete precincts: 3-4, 3-6, 3-7/8, 3-9, 9-5, 9-6, 9-8/9, 10-2 and 12-1.

(3) The northwest district shall be comprised of the following complete precincts: 4-3, 5-2, 5-3, 5-4, 6-1, 6-2, 7-1, 7-3, and 11-2/3.

(4) The northeast district shall be comprised of the following complete precincts: 7-2, 7-4, 8-1, 8-2, 8-3, 9-1, 9-2, 9-4, and 9-7.

(5) The central district shall be comprised of the following complete precincts: 1-1, 2-1, 2-2, 3-1, 3-2, 3-3, 3-5, 4-1, 4-2, 5-1, and 9-3.

(b) Time of taking full effect. The charter shall be in full effect for all purposes on and after January 1, 1995.

(c), (d) Reserved.

(e) Initial expenses. The initial expenses of the mayor and city council shall be paid by the city on vouchers signed by the mayor.

(f) Salary of mayor and council members. The mayor's salary having been established in the amount of \$75,000 by this provision in 1995, each other council member shall receive an annual salary in the amount of fifteen (15) percent of the mayor's salary. The mayor's salary shall automatically be adjusted annually for inflation or deflation with each other council persons salary thereafter adjusted to be equal to fifteen (15) percent of the mayor's new adjusted salary. No meeting fees shall be paid to the mayor nor city council members.

(Ref. of 5-7-96; 4-11-00, Section/Chapter H)

Bookmark Section 9.06 Separability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provision to other persons or circumstances shall not be affected thereby.

Thimjon stated that Section IX had to do with when the original charter was adopted and Sioux Falls went from a Commission Form of Government to the Charter Form of Government. He asked if the items in Section IX were indeed done and if this needed to be reviewed.

Council Member Sue Aguilar asked if the Section IX language needed to be kept in the charter.

Citizen Mark Weber asked what would happen if the current form of government is no longer valid. Thimjon stated this language is about this form of government coming in, not going out. The new type of government would address the transition.

Pfeifle said that Section 9.04 needs to remain based on the transition from 1994-1995.

Dick Gregerson questioned how it is handled if an amendment to the charter is in conflict with State Law. Discussion followed.

Pfeifle read Section 9.06 and stated this was verbatim from the model charter. Aguilar asked if anything in Article IX been amended or modified. Pfeifle responded that only Section 9.05(h) on salaries has been amended.

Thimjon stated the next step in this process will be to take a look at those sections that are worthy of further discussion. The Commission can rank the sections and ask for public input on these topics, including comments from

the City Council and/or the Mayor. He touched on a couple of the topics which included the day and date of a newly-elected Council member taking the oath and another one is meeting attendance.

Pfeifle stated that the notes on SIRE of the meetings will identify those topics. Staff will provide the resource to review these issues and get these on the agenda for the next meeting.

Aguilar asked when the appropriate time would be for a member of the public or Council to bring forward a proposal for discussion. Thimjon responded that once the Commission goes back to the 'formal' meetings, any of those meetings would be a good time for public input.

Aguilar asked if the Commission would like to be notified of upcoming topics. Poletes stated they would appreciate the heads up and could prioritize those items that need to be discussed.

3. Adjournment

A motion was made by Gregerson and seconded by Thimjon to adjourn the meeting. Yeses, four. Noes, none.

Commission Chair Poletes adjourned the meeting at 4:05 p.m.

Lorie Hogstad, CMC

City Clerk