

SCAPPOOSE CITY CHARTER REVIEW COMMITTEE
Council Chambers at City Hall
33568 E. Columbia Avenue

Wednesday, March 25, 2009 at 7:00 p.m.

Call to Order

City Manager Hanken called the meeting to order.

Present: Larry Meres City Council Member, Devra Herмосilla Citizen at large, Craig Frasier Citizen at large, Prudie White Budget Committee Member, Loren Holm Budget Committee Member, Jon Hanken City Manager and Legal Counsel Andy Jordan.

Excused: Chair Ingham

Approval of Minutes from March 5, 2009

Prudie White moved and Craig Frasier seconded the motion to approve the minutes for the Scappoose City Charter Review Committee meeting minutes of March 5, 2009. Motion passed (5-0). Larry Meres, aye; Devra Herмосilla, aye; Craig Frasier, aye; Prudie White, aye and Loren Holm, aye.

Discussion of Current Charter ~ Andy Jordan, City Attorney

City Attorney Jordan stated City Manager Hanken has told you that the charter hadn't been amended for a long time and that is true. He feels there is a good reason for that and that is it is a pretty good charter. He explained he represents 13 or 14 cities and most of the charters are different. He explained there has been a "model" charter passed out to this committee that many cities use and the reason they use it is because it is very vanilla. He explained it essentially says in 5 pages or less you can do what ever you want. He explained the current City of Scappoose charter does practically the same thing. It was written before that model charter was prepared but essential it does the same thing, it essentially says you can do what ever is legal.

Councilor Meres asked about a possible court case on neither a Mayor or a Councilor may be employed by the City and we just faced that with an employee wanting to be on the Council. City Attorney Jordan replied that is up to you. He explained there are potential conflict of interest issues. He stated you can adopt that or not.

There was discussion on including language in the charter that an employee could not be on the Council.

Prudie White asked City Attorney Jordan other than election laws does the City have to follow Columbia County Statues if no specific statues exists for the City of Scappoose Ordinance. City Attorney Jordan replied it is State Statue. No city has to comply with any County Ordinances unless the City Council of the City has agreed to comply with that.

Councilor Meres liked the section in Aurora's City Charter: COUNCIL AND MAYOR

IMMUNITY. No council member or mayor may be held liable for words uttered in any meeting of the council, its sub-committees, commissions and boards. City Attorney Jordan replied that is the law anyway. He stated people put that in their Charter to emphasize it and probably to dissuade people from filing lawsuits against you. Devra Herмосilla stated that is not necessary to have in writing but it is not necessarily a bad thing. City Attorney Jordan explained he doesn't know if a Judge would pay any attention that law. He thinks a Judge would likely enforce State Law, which is very similar. Councilor Meres explained he doesn't care, he just thought it was interesting and he was unaware of that. He stated if the committee wants to put that in the Charter he is fine with that.

Prudie White discussed the issue of a quorum. She asked what if there are vacant seats. There was discussion on taking "entire" out of the sentence. Craig Frasier asked about the section that talks about the Council consisting of a Mayor and 6 council members.

Prudie White asked if the Council has two vacancies to be filled and they just haven't been filled is that still a 7 person Council? City Attorney Jordan replied if there are vacancies, his interpretation is, you have 6 members.

Prudie White asked City Attorney Jordan that he mentioned that he thinks we have a pretty good charter so it is just a matter of clarifying some items. City Attorney Jordan replied yes that is his view; it is a very flexible charter. He explained he has seen a lot of charters that really restrict the ability of the Council to do things and he thinks that is a bad way to do business.

City Manager Hanken explained under Council Rules regarding vacancies; it talks about the process but not a time frame.

Devra Herмосilla talked about the wording regarding quorum: It could read current members of the Council. Prudie White suggested taking out the work entire. City Attorney Jordan replied you could say a quorum is the majority of the current membership of the Council.

Councilor Meres addressed the issue of something's he feel are very important and the whole Council should be there to vote on or address the issue. City Manager Hanken explained there is an informal process that in the past if a Council member hasn't been able to attend a meeting and there was something on the agenda that was very important they spoke with the Mayor and he has tabled that issue. Councilor Meres feels it works currently but what about in the future. Prudie White doesn't feel we can micro manage the charter. Devra Herмосilla explained there is also a provision in Section 11 that allows you to request the attendance of absent members so if you were at there you could ask that it be tabled until all the members can be there.

City Attorney Jordan explained in Section 11 it should read required not request because the whole point of that sentence is where you have 7 person Council, quorum is 4, 3 people show up and you know a councilor is staying home precisely for the purpose of killing the quorum. So this should say require so you can have the Police Chief go over to the councilors house and have him/her come to the meeting. He explained you can make them vote but at least you have a quorum. He explained the point of that sentence it to have a quorum. Prudie White explained there is another option of having the councilor there which is via phone.

Craig Frasier asked if regarding required/request is a type o. City Attorney Jordan replied I bet it is a type o because request is meaningless.

The general consensus of the committee is they would like to change Section 11 to read: The quorum is the majority of the “**current**” members of the Council. A quorum is required to conduct business; however, a smaller number may meet and “**require**” the attendance of the absent members in manner provided by ordinance.

Craig Frasier asked about Section 14 ~ regarding appointing committee members. City Manager Hanken read Section 8 Appointments under Council Rules. Appointments are made by the Mayor with consent of Council. City Attorney Jordan explained the Council could also decided that the Mayor just does it on his own. Craig Frasier explained his point is checks and balances, the Mayor can appoint but a Council can object if they wish, if they haven’t given up that power. City Attorney Jordan explained the Charter says the Mayor can appoint committees, the Council has implemented that by saying okay the Mayor can appoint committees but he has to get out consent. He explained under the current rules the Mayor would need to get a majority vote to make the appointment.

Craig Frasier asked if there is a vacancy of the Council and there is a tie vote, what happens then. City Attorney Jordan replied the Council just keeps voting until someone gets majority of the votes and that is the way it should be. Craig Frasier discussed the different ways for voting and he explained he would like to see a different system.

Prudie White explained she likes the idea of having precincts. She thinks if we are going to get people involved in our City Government and volunteering for our committees they need to feel they can come to their representative and talk about issues and that representative can talk to that person about getting involved in a specific way. She thinks that is lacking here.

City Attorney Jordan discussed creating districts or zones but that wouldn’t have anything to do with precincts. He explained the districts or zones would have to be equal. He explained most cities that have districts do so for the purpose of preventing one area of town form essentially controlling that city.

Loren Holm explained he personally would prefer to have somebody that lives in his area represent him because they are aware of issues in his part of town.

Devra Hermosilla asked City Attorney Jordan if this committee did want to have districts what would that entail. City Attorney Jordan replied a lot of work unless you created 4 districts which are the precincts and then have 4 councilors running for districts and two at large, which would be very simple. Loren Holm agrees with Devra Hermosilla regarding creating 4 districts. Councilor Meres talked about making districts and assigning a councilor to that area.

The consensus of the group was to move on and come back and make a decision.

Councilor Meres addressed the issue of councilors having 8 years in terms and mayors should have 4 terms (total of 8 years) and then step aside for 2 years and then they can rerun. He wants new blood and he wants turn over. He wants the involvement of the community. He wants to see

new ideas and fresh faces.

Prudie White explained she doesn't like the idea of the mayor's term only being 2 years.

Loren Holm and Devra Hermosilla agree with Councilor Meres regarding have term limits. Prudie White agrees with the new person coming on changes the dynamics of the whole group and gives you a different look at what's going on, so she also agrees with that.

Craig Frasier explained he would argue; a forest is made up of old trees and new trees and you need that institutional memory that you get from those people who have been there for a while and if you are continuing turning over you are going to lose that. He feels then the people that are going to have the institutional memory are going to be your employers and your staff that you hire and therefore you get none democratic leadership possibly. He also explained there are terms limits and every 4 years he can toss out a councilor or every 2 years he can toss out the mayor.

Loren Holm explained with Mr. Frasier's first point that is where it is important when you set the terms limits that you don't set them too short, that you have the old growth in there. Eventually old growth you have to cut down.

Craig Frasier explained he has just never like terms limits.

City Attorney Jordan explained in the City of Lake Oswego there was a mayor who was doing a lot for the City and right in the middle of doing some terrific things for the City of Lake Oswego and she could run for mayor again because of term limits.

Craig Frasier explained he feels it takes time for people to learn.

Loren Holm and Prudie White agree with Councilor Meres that the term limits should be considered down the road. Loren Holm explained he feels the terms should be considered down the road along with the districting and along with the position term longevity, he feels that should all be out on the table. He would like to talk to his neighbors, get feed back from the community on what they feel about these issues. He is hoping the committee is receptive to who he talks to.

Devra Hermosilla explained she feels 4 years for a mayor seems more appropriate than 2 years and term limits are probably a good idea generally but she feels 8 years is probably too short so maybe 12 years.

City Attorney Jordan explained you recall there was a Supreme Court case where the Supreme Court said it was okay for a city to condemn property then turn right around and sell it to a developer well that create a big furor all across the country. In your charter was the reaction to that but it was an over reaction. He explained what it says is you can't condemn property for the sole purpose of economic development we'll that is very broad and that may limit your ability to actually do economic development. He explained what the State Law says is you can't condemn property when your intent is simply to turn it over to another developer. He stated that is a much narrower situation then condemning property for economic development. He explained cities condemn property for economic development all the time and in his opinion they should be able to. So his suggestion is that they limit this as the State Law rather than the broad prohibition in

that is in our Charter. Devra Herмосilla thinks we should adopt this idea to change the language to more consistent with what is actually the law. Craig Frasier explained he probably agree he is just thinking as a voter “What is that Council trying to do now?” City Attorney Jordan replied that is exactly what they will think. Craig Frasier stated what we will have to state is that we want to do is make the State Law at the County and hopefully enough people will understand. Prudie White replied we could state it that way in the Charter that it will be consistent with State Law. Devra Herмосilla replied we could just state that “Consistent with State Law” instated of everything else. She explained if we are trying to say something that is the same thing that the Law elsewhere says and we are trying to keep up with the Law just to actually put that in the language or according with the ordinance, or consistent with State Law, so that it doesn’t become inconsistent later. City Attorney Jordan replied another way of looking at it is that it is already State Law and you don’t need it at all.

The general consensus of the committee is to suggest: The City shall exercise the power of eminent domain consistent with state law.

Identification issues for next meeting

There was a discussion on having a public hearing in a couple of meetings and have City Attorney Jordan present.

Councilor Meres asked City Manager Hanken what have we nailed down tonight?

City Manager Hanken stated the committee wants to add language related to no employees can serve as mayor as per the model city charter, you want to look at language related to the council immunity, you want to make a verbiage change in section 11 to: The quorum is the majority of the “**current**” members of the Council. A quorum is required to conduct business; however, a smaller number may meet and “**require**” the attendance of the absent members in manner provided by ordinance, you want to look at the possibility of districts, you want to amend under Chapter 2 Section 4 to read: The City shall exercise the power of eminent domain consistent with state law. Loren Holm explained we discussed term limits and position term longevity, both the Mayor and the Council.

The next meeting Scappoose City Charter Review Committee will be on April 15, 2009.

Adjournment

The meeting was adjourned.

Minutes typed by:
Susan M Reeves, CMC, City Recorder