



**MINUTES
WATAUGA CITY COUNCIL
WORKSHOP MEETING
CITY HALL COUNCIL CHAMBER,
7105 WHITLEY ROAD
JANUARY 8, 2024
5:30 PM**

CALL TO ORDER

Mayor Arthur L. Miner called the meeting to order at 5:30 p.m.

ROLL CALL

The meeting convened with the following members present:

Arthur L. Miner
Jan Hill
Pat Shelbourne
Tom Snyder
Lovie Downey
Andrew Neal
Malissa Minucci
Mark Taylor

Mayor
Mayor Pro Tem/Council Member Place 7
Council Member Place 1
Council Member Place 2
Council Member Place 3
Council Member Place 4
Council Member Place 5
Council Member Place 6

and
Joshua Jones
Linda Proskey
Robert Parker
Kip Woodruff

Cristy Blackburn
Lindsey Neal

City Manager
City Secretary
Chief of Police
Chairperson, Place 7 Charter Review
Commission
Place 3 Charter Review Commission
Secretary, Place 4, Charter Review
Commission

ANNOUNCEMENTS

There were no announcements made.

PUBLIC COMMENT

No Requests for public comment were received.

PUBLIC TESTIMONY FOR ACTION ITEMS

No Requests for public testimony were received.

PRESENTATIONS

1. **Discuss the suggestions by the Charter Review Commission for the current City Charter.**

Kip Woodruff Charter Review Commission Chairperson opened the presentation.

David Berman read each of the items that the commission presented for amendments.

- a) The first one is Sec. 3.01. - Number, selection, term of the governing body. It is suggested by the Charter Review Commission to make the Council's terms of office from two years to three years. If adopted, the way it would work would be in the 2025 elections. Mayor and Council members in places 3-4 and 5 would be elected to three-year terms in 2026. Places 1, 2, 6, and 7 would then go up for election to three-year terms. 2027, there would be no election for Council that year, and after that, every three years would be skipped. That will continue with that cycle going forward.

Kip Woodruff, Charter Review Commission Chairperson, said this would save the city money and give a council member more time to settle into the position. He said the commission was unanimous on this amendment.

Councilmember Taylor pointed out that it takes a good year to get up to speed and learn newly elected members' positions. A three-year term allows a council member to make an impact.

Mayor Miner said that several cities have gone to three-year terms.

Mayor Miner asked for consensus by the Council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7

Nay – 0

- b) David Berman presented the 2nd proposed change for consideration. Amending section 3.05 vacancies and forfeiture of office and filling the vacancies. He said that there are a few changes to this section:
 - Changing the term moral turpitude to the word theft. You forfeit your office if you have been convicted of theft. We've just replaced Moral Turpitude, which was vague.
 - A council member's failure to attend a meeting can be excused for jury service; we've added the word illness and left in the word personal emergency, incapacitation, or vacation and removed the word personal from vacation. This amendment is a housekeeping item.

- The total of absences changed to four instead of 3 absences, excused or unexcused, other than jury service in any six regularly scheduled meetings, can constitute grounds for forfeiture. The problem with the language in our Charter is that it needs to be more consistent and specific about what happens when a Council member is absent. So regardless of the reasons, if the reason fits within any of the several categories in our Charter, the forfeiture of office and the vacancy occurs when the Council formally declares the seats to be vacant. The Council Member, who is the subject of the vacancy of the forfeiture proceeding, does not get to vote.

Councilmember Shelbourne asked for clarification on the forfeiture of the office if it is automatic.

David Berman, City Attorney, said that if the grounds exist, there will be a forfeiture proceeding or a hearing by the Council. The subject of that proceeding will be whether or not the events would be excused or not excuse, but it's not automatic; you are no longer on the Council even if the Council hasn't done anything to declare.

Councilmember Shelbourne asked why it went from 4 to 3 absences come from.

Kip Woodruff, Chairperson of the Charter Review Commission, said that the Charter Review Commission felt like three was better than four because four was prolonging it.

Cristy Blackburn with the Charter Review Commission stated that they went from 4 to three because meetings were being missed, and they wanted to make it more cohesive.

Mayor Miner asked for consensus by the council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7
Nay - 0

- c) David Berman, City Attorney, read the amendment to 3.06, which is a housekeeping item. Rather than saying that the mayor shall be recognized as the ceremonial and governmental head of the city, suggesting it is changed to read, The mayor should be recognized as the official and ceremonial head of the city.

Mayor Miner asked for consensus by the council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7
Nay - 0

- d) David Berman, City Attorney, read the amendment to 11.01 and said this is a fundamental change. Currently, to be on the Planning and Zoning Commission, you have to be a city resident and own real property within the city. The new language

strikes the requirement of owning real estate within the city, but they would still need to be residents.

Mayor Miner reminded everyone that this was on the last charter amendment and was voted down even though it is illegal.

Mayor Miner asked for consensus by the council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7

Nay – 0

- e) David Berman, City Attorney, read the amendment to 12.02. The Charter for the City of Watauga has historically contained a provision with heightened requirements for franchise ordinances. Most but not all Public Utilities are franchisees. Most cities will require some type of franchise agreement and will get franchise fees from those agreements. Currently, to franchise a public utility, there has to be an ordinance; it must be read twice at two separate meetings and can only be adopted after 30 days have expired after the first time it's read. It can't be adopted until at least 30 days have elapsed after its final passage, and then it has to be published once a week for four consecutive weeks. Those are heightened requirements that make it extremely difficult for a franchisee to be franchised. Understand that we still retain and always will retain the authority to grant or deny a franchise. This makes it more difficult for the council and staff to grant a franchise we want to grant. Also, being this difficult opens it up to mistakes in the process, which a franchise competitor could say was invalid at that point. This amendment makes granting a franchise easier and more effective.

Councilmember Taylor pointed out the cost savings in advertising.

Lindsey Neal asked if they discussed it in the Charter Review Commission because she didn't have a record.

Mayor Miner said it wasn't discussed; this is a housekeeping item.

Mayor Miner asked for consensus by the council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7

Nay – 0

- f) David Berman, City Attorney, read the amendment to 13.01. This initial charter provision authorized the original charter to be submitted to the voters for election. It is no longer needed since the charter has been adopted. The recommendation is to reserve 13.01 for future expansion.

Mayor Miner asked for consensus by the council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7

Nay – 0

- g) David Berman, City Attorney, read the amendment to 14.03 Nepotism. Continuous employment would exclude someone from appointing someone to a position if they've been in that position for at least two years. Two years doesn't apply to the city; six months does. This is a housekeeping change that brings us in line with the Texas Government Code of the nepotism provisions in that statute.

Mayor Miner asked for consensus by the council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7

Nay - 0

- h) David Berman, City Attorney, read the amendment to 14.04. The Charter says that the Council shall require bonds of all municipal officers and employees to receive or disperse any funds of the city. The word shall is to be replaced with the word may. The Council may require bonds of officers and employees of the city. This gives the Council the flexibility to require or not require bonds.

Mayor Miner asked for consensus by the Council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7

Nay - 0

- i) David Berman, City Attorney, read the amendment to 14.05. He said a specific incident or circumstance did not generate this change. It slightly changes the language to heighten the requirements to protect the city. This provision reaffirms the existence of our sovereign and governmental immunity and exemptions from liability and imposes formal requirements for notices of claims against the city.

Mayor Miner asked for consensus by the council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7

Nay - 0

- j) David Berman, City Attorney, read the amendment to 14.17. The recommendation keeps the text of the Charter provision the same. It's simply to change the heading. Now, it says Charter to become effective notwithstanding some section or portion thereof being valid, it should say invalid. He believed this was a typographical error when the Charter was first adopted.

Mayor Miner asked for consensus by the council to move forward with the suggestion for amendment.

Yea - Place 1, 2, 3, 4, 5, 6, 7

Nay - 0

- k) Mayor Miner read the amendment to 7.06. This amendment would change the residency restrictions of the city manager. The city manager need not be a resident of the city when appointed. But shall become a resident of the city within 12 months after commencement of employment and thereafter shall continue to reside within

the city during his or her tenure in office provided, however, that if he or she resides within 7 miles of City Hall at the time of appointment, they may retain residency at that location. The current charter states the city manager need not be a resident of the city when appointed, however. He or she shall become a resident within 12 months after commencement of employment and shall thereafter continue to reside within the city during his or her tenure in office. The time period for the city manager may be extended for an additional period not to exceed six months upon the affirmative vote of the city council.

Kip Woodruff, Chairperson of the Charter Review Commission, said that the thinking behind the 7-mile radius is if you were to hire a city manager from North Richland Hills or someplace. They are already living within those 7 miles; they probably wouldn't want to come and relocate 3 or 4 miles. The commission also felt 12 months was enough time to move within the city.

Mayor Pro Tem Hill clarified that the commission said that if they do not live within 7 miles of Watauga when hired, they must move within the Watauga city limits.

Councilmember Shelbourne asked for clarification on whether there was an extension and what would happen if the city manager did not move into the city within 12 months.

David Berman, City Attorney, stated that the recommendation was to remove the 6-month extension. Also, technically, the appointee would no longer hold the qualifications of office when the 12-month period expired. They would be considered an interim or a holdover until the council could appoint somebody else. If the council does nothing and the city manager does not hold the qualifications of the office, they could still do the bulk of the city manager's functions, but to the extent that they signed anything, their signature wouldn't be valid because they didn't have the qualifications to serve as the city manager. When the 12-month period was coming up and about to expire, the council would need to do something about it and take action somehow so that that would not happen. Councilmember Taylor wanted to clarify, when they appoint a candidate for the office of City manager if they are not currently living within 7-miles of the City Hall at the time of appointment, they get 12 months to relocate within the city of Watauga. Based on the Charter if the City Council does not take action well. Then the City Council, in violation of the Charter. So, it's incumbent upon the council to take action to find a different candidate for that position. And if they don't, as the council, we are failing to follow the terms of the Charter.

Mayor Pro Tem Hill wanted clarification that at 12 months, if the council takes no action to terminate the city manager, they will be made an interim city manager. Then, if the person doesn't vacate the office, anything they sign is invalid because they don't have the requirements to be the city manager if the City Council hasn't taken action.

David Berman, City Attorney, replied that if the person designated as city manager loses the qualifications under our charter to serve as the city manager, then official acts are invalid. Official acts include signing documents for the city, engaging in contracts, spending funds within the city manager's stationary ability, and signing letters that commit the city to certain things; his official actions are not valid under

those circumstances. However, nothing would be valid or invalid for other duties like personnel management, so those are fine.

Mayor Pro Tem Hill wanted to know if something needs to be in place that designates who is qualified to sign documents and contracts under those circumstances.

David Berman, City Attorney, replied it is already in the charter, which outlines the duties and functions of the mayor and the city manager.

Kip Woodruff, Chairperson of the Charter Review Commission, asked if it would be appropriate to include that a formal notice will be given to the city manager at nine months, informing them that they have 3-months left. He felt that there may be a need for a schedule.

Mayor Miner stated that The Commission was presented with four different options. Ranging from doing away with requirements altogether to 12 months, and one of the options allows two six-month extensions. He wants something concrete in the charter that tells what happens if the requirements are unmet. Currently, there is nothing in there.

David Berman, City Attorney, mentioned that they did canvas other cities to see what they were doing, and it came out to be about 50/50 for the residency requirement. He also said that you don't have to have the requirement in the Charter that requires the city manager to be your resident of the city; you could have it in a contract.

Councilmember Neal stated that he believes this is an archaic piece of legislation. He does not feel that it needs to be a requirement in this age of technology. If there is an emergency, the fire and police chief and other directors will be there, and they are not required to live in the city. The city is only four square miles, so there is not a lot of housing to choose from. Also, this requirement cuts down on the potential pull of future city managers.

Kip Woodruff, Chairperson of the Charter Review Commission, agreed with Councilmember Neal.

Councilmember Minucci doesn't feel it is essential for the city manager to live in the city because there are employees around who are close and can respond in an emergency. She thinks this could be something put into a contract instead of the Charter. She wanted to know when the amendment would go into effect if passed. David Berman, City Attorney, said the Charter provision becomes effective once we adopt an ordinance following the successful election, so the earliest would be June.

Cristy Blackburn with the Charter Review Commission stated that whatever is decided will go on the ballot and must be voted on. She agrees that the residency requirement is not needed in the Charter.

Councilmember Taylor agreed with Cristy Blackburn that no matter what they decide, this is ultimately in the hands of the voters. His viewpoint is that if someone outside the metroplex wants to be the city manager in Watauga, they need to move here to see the wants and needs of the citizens. However, if someone lives in Tarrant

County at the time of appointment, why would they have to uproot everything to move into Watauga?

Kip Woodruff, Chairperson of the Charter Review Commission, feels that the council needs to be unanimous in their decision and have a good, solid approach for the voters.

Councilmember Snyder says he agrees the city manager needs to live nearby but doesn't feel it needs to be in the Charter; it could be in a contract.

Mayor Pro Tem Hill asked the attorney if it is harder to take action when you have a contract violation and if that needs to go to court, whereas a violation of our Charter would only involve the action of the City Council.

David Berman, City Attorney, said it would be handled the same way. If the city manager violated the Charter or contract, the council would terminate that person's employment, and either way, the city could get sued or not get sued. Both positions are just as strong.

Councilmember Downey agrees with Councilmember Snyder and Mayor Pro Tem Hill. She feels it should be a contract because it can be more tailored to the candidate and the city's needs. You can't do that with the Charter. She feels that the residency requirement should be removed entirely.

Mayor Miner said if they take this out of the residency requirement from the Charter and it fails, they will be right back to where they are today; we have a Charter that says he has 12 months to move to the city. We can give them one six-month extension, and then you're in the big void again; there needs to be something concrete.

Mayor Miner asked for consensus by the council to move forward with the suggestion for amendment.

Yea - Place 1

Nay -Place 2, 3, 4, 5, 6, 7

Mayor Miner said that they need to go back and figure out how they are going to word this.

David Berman, City Attorney, said while we're still proceeding in this workshop, the Council could come up with a consensus that would support a repeal of this provision in its entirety. Nothing else in this Charter provision besides the city manager's residency requirements imposes any obligations on the city council. The residency could be done by ordinance instead of contract. The Council could repeal it, but it has more of a permanency to it. As opposed to a Charter provision that handcuffs the Council and city managers and tells you what you have to do and can't do, you may want to consider repealing the provision altogether.

Mayor Miner said the suggestion is to eliminate the residency requirement.

Councilmember Taylor agrees to remove the charter residency requirement altogether.

Mayor Pro Tem Hill asked if they placed on the ballot to remove the charter residency requirement and if it does not pass. Is there still the option of creating an ordinance that specifies it in the contract? Or will that all be gone if the voters don't approve of removing this from the Charter?

David Berman, the City Attorney, said if this is brought forth as a ballot proposition to repeal section 7.06 of the City Charter, the voters do not pass. Then, this Charter provision stays exactly as it is. If the voters do pass it, then 7.06 would be repealed, meaning there is no residency requirement by Charter. The Council then has the option to do that by ordinance or by contract.

Mayor Miner asked for consensus by the Council to move forward with the repeal of section 7.06.

Yea - Place 1, 2, 3, 4, 5, 6, 7

Nay - 0

Councilmember Taylor asked if this had to come back to the Council for a vote.

David Berman, the City Attorney, commented that This is a workshop we have a consensus on now. We will have ballot propositions when we do the order calling for the election. What we discussed this evening will be outlined with a series of ballot propositions. You will be obligated to vote on it.

Mayor Miner said there will be a town hall before this for citizens to come and ask questions.

ITEMS FOR FUTURE AGENDAS

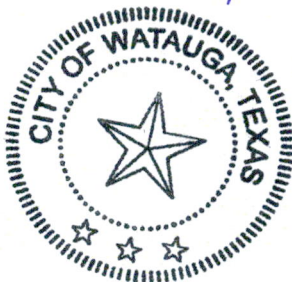
There were no items for the future agenda.

ADJOURNMENT

Mayor Miner adjourned the meeting at 6:44 pm and stated that the regular council meeting would commence at 6:50 pm.

Approved: this 22 day of January, 2024

Signed: this 24 day of January, 2024



ATTEST:

APPROVED:

Arthur L. Miner /s/
Mayor