

## Information MEMORANDUM

**TO:** Mayor & City Council

**FROM:** Norman McNickle, Interim City Manager

**DATE:** February 1, 2016

**SUBJECT:** Charter Review Committee

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Attached is the first report from the Charter Review Committee, which was established by the Council on December 7, 2015.

The report addresses election sequencing and term limits and brings forward recommendations regarding both.

Council will be asked to take action on the committee recommendations under Resolutions and / or Ordinances later on the agenda.

FIRST REPORT OF THE CHARTER REVIEW ADVISORY COMMITTEE  
FEBRUARY 1, 2016

On December 7, 2015, the Mayor and City Council established a citizens committee to meet with the City Attorney and review sections of the existing Charter ("Committee"). Five persons were appointed: Jeremy Bale, James Beckstrom, Kevin Clark, Tamara Mix and Denise Weaver. Vice Mayor Pat Darlington was selected to serve as the City Council liaison.

The Committee convened its first meeting on December 17, 2015. The first item of business was review of Article VI, Elections. The Committee examined provisions governing the sequencing of elections and term limits for elected officials. After additional meetings in January 2016, the Committee voted to forward this first report and accompanying recommended amendments to the City Council for review and possible submission to the voters on the April 2016 general election ballot.

*Election Sequencing:* Article VI of the City Charter provides for an annual nonpartisan election of Council members and the Mayor. Under the current version, two Council seats are up for election annually except when the Mayor's seat is up for election.

Section 6-1 requires the calling of annual primary and general elections. A primary election is held whenever three or more candidates file for a single seat. No primary is required if only two candidates file for the same seat; these races are scheduled for the general election. Section 6-3 provides that the two candidates receiving the most votes in the primary election have their names placed on the general election ballot. If one candidate in the primary election receives more than fifty percent of the vote, that candidate is "ipso facto" elected, and there is no need for a general election for that seat.

Since 2000, nine primary elections have been held (Attachment "A"). In six of these elections, one of the Council candidates received more than fifty percent of the vote, making a general election ballot for that seat unnecessary.<sup>1</sup> However, a general election was held for the other Council seat in five of those election cycles. The City paid the Payne County Election Board to conduct each of those eleven elections.

A related problem involves the actual scheduling of municipal elections. In 2004, the Oklahoma Legislature adopted SB 1346, which effectively preempted municipal authority to determine candidate and issue election dates.<sup>2</sup> A 2015 amendment to this statute reduced the number of available dates for municipal elections. The amendment further complicates matters by adjusting the available election dates if the election is held during an "even/odd" numbered year, or the same year as a "presidential preference" primary or the gubernatorial/state office election cycle. This amendment actually forced the Council to schedule the 2016 election candidate filing date for December 2015, six weeks before the traditional February period. A total of three candidates filed for the two open seats. Whether this low participation was the result of the forced scheduling change is unknown.

The Committee questioned the need for a nonpartisan municipal primary election. It concluded that the frequency of elections and scheduling issues could be reduced significantly if the Charter was amended by deleting the requirement of a primary election in favor of an "if needed" runoff election held only if no

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<sup>1</sup> It could be argued that the number is actually seven. In 2010, one candidate missed an outright majority by only fifty-three votes. 3919 total ballots were cast in that race.

<sup>2</sup> Codified at 11 O.S. §13-103. This statute incorporates by reference 26 O.S. §3-101, which provides for election scheduling. It has been amended four times since 2011.

candidate garners fifty percent of the general election vote. This is the model presently utilized by Stillwater Public Schools and several other Oklahoma cities, including Norman, Enid, Ponca City, Bartlesville, Muskogee, Shawnee and Bixby.

The proposed amendment deletes the reference to a primary election in Charter Section 6-1 and adds a requirement for a runoff election. Charter Section 6-3 requiring a primary election is deleted in its entirety. Charter Section 6-4 providing for a general election is amended by adding a runoff election requirement if no candidate receives fifty percent of the vote and establishes the mechanical requirements for the runoff election. The reference to primary election is deleted in Charter Section 6-6 and replaced with a reference to the runoff election.

*Term Limits:* Article VI also establishes "succession" term limits for the mayor and councilors. According to Section 6-1, neither the mayor nor a councilor may be elected to more than two consecutive three year terms of office. Under this provision, if a mayor or councilor is elected to successive terms, he or she may not stand for re-election to a third term without sitting out the next election cycle for that particular seat regardless of whether the second term is completed. This prohibition applies whether the second term was for a different office (i.e., councilor elected mayor) or if the mayor or councilor failed to complete his or her term of office. An exception applies for time served completing the unexpired term of a sitting mayor or councilor.

The current limitation was adopted in 1984. Prior to that date, the Charter did not restrict incumbent succession in office. The reason for adoption of the succession limitation is unknown. Official records only indicate that a previous Charter Review Committee recommended submitting the question to the voters.

Of the thirty most populous cities in Oklahoma, seven (including Stillwater) have charter provisions limiting incumbent re-election (Attachment "B"). Lawton and Del City limit incumbents to three consecutive three year terms. Midwest City's Charter limits incumbent re-election to three successive three year terms as council member and/or mayor (in any order). Enid imposes a blanket "eight consecutive years in succession" limitation. Yukon limits the mayor and council members to two consecutive four year terms. The Altus Charter sets different term limits for the mayor and council, and caps service at sixteen years when an incumbent serves in both capacities. The McAlester Charter imposes a twelve year "terminal" limit on service similar to the constitutional provision applicable to members of the Oklahoma Legislature.

The Charter Review Committee was unable to identify any particular benefit conferred by the present succession limits. No twenty-first century Stillwater mayor has served more than a single term in office,<sup>3</sup> and the voters have refused unpopular councilors a second term (Attachment "C"). Several incumbents have actually been denied a full six years of office because of the consecutive election trigger. A councilor who wants to run for mayor must choose between sacrificing eligibility or "term out" and wait one election cycle to run.

The Committee discussed anecdotal evidence that term-limited tenure complicates implementation of long term policy initiatives because of constant governing body turnover. It also explored the concern that short term limits prevent development of robust institutional knowledge within the council and hinders fully constructive engagement with long and short tenured staff.

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<sup>3</sup> Only one Mayor has served two full terms in succession since the adoption of the term limit provision. Mayor Terry Miller served from 1991-1997. Mayor Mike Henson completed a full term from 1997 to 2000, and was elected to a second full term in 2000. She died (2000) before completing her second term.

Despite the case against retaining the existing Charter term limit, the Committee does not recommend repealing it. Rather, the Committee proposes that the current succession limit be replaced by a twelve (12) year terminal limit similar to the constitutional provision governing the tenure of Oklahoma legislators. Under this arrangement, councilors and the mayor may serve a combined total of twelve years in office in any order or at any time until eligibility is exhausted.

The proposed amendment applies to service of officials elected after January 1, 2017. Pre-2017 service by a former or sitting mayor or councilor is not included in any eligibility computation. The existing exception for time served completing an unexpired term of a sitting mayor or councilor will remain. However, the proposed amendment does prohibit election to “partial terms.” This will disqualify any candidacy of an individual who is unable to complete a full term in office because of previous (post-2017) service.

The Committee also recommends lengthening Council terms of office to four (4) years. Former mayors and councilors often observe that it takes a minimum of two years following election to gain just a basic knowledge of how the city and the various trusts operate, leaving only the third year and one subsequent term to fully participate in governing.

In support of lengthening Council terms, the Committee finds: (1) four year election cycles reduce the annual loss of Council tenure and collective knowledge; (2) longer terms promote stability and continuity of policy; and (3) with longer terms, more Council members are fully engaged because they are comfortable with their understanding of basic doctrine and process.

Four year council and mayoral terms are found in the charters of fifteen of the thirty most populous cities in Oklahoma (Attachment “D”). 11 O.S. §6-208, the provision governing the statutory “council-manager” form of government in Oklahoma (Broken Arrow, Jenks), also provides for four year council and mayoral terms. Thirteen city charters provide for three year terms; two city charters establish two-year terms. The Tulsa City Charter sets council member terms at two years, four years for the mayor.

The Committee recommends that this amendment become effective concurrent with the proposed term limit revision. The chart below describes how implementation will occur.

Seat	Current Term		Next Term		Following Term	
	Years	Ends	Years	Ends	Years	Ends
1	3	2016	3	2019	4	2023
2	3	2016	3	2019	4	2023
3	3	2017	3	2020	4	2024
4	3	2017	4	2021	4	2025
5/Mayor	3	2018	4	2022	4	2026

All sitting Councilors will complete their current term of three years. In 2017, the person elected or re-elected to Seat Three shall serve a term of three years. The person elected or re-elected to Seat Four shall serve a term of four years. Upon full implementation in 2020, voters will annually elect or re-elect one Councilor. Every fourth year, two Council seats will be up for election or re-election.

ATTACHMENT A

SUMMARY OF CITY OF STILLWATER ELECTION RESULTS-SELECTED YEARS 2000-2015

Year	Primary Election	General Election	Special Election
2001	March 6-#5 Mayor (3 Candidates) Brown won 50%	April 3-#1	None
2002	March 5-#3 (3 Candidates)	April 2-#3 and #4	None
2003	March 4-#5 Mayor (3 Candidates) Lacy won 50%	None	None
2004	March 2-#1 (3 Candidates)	April 6-#2	None
2007	March 6-#1 (3 Candidates)	April 3-#2	May 8-Tax
2008	March 4-#3 (3 Candidates) March 4-#4 (3 Candidates)	April 1-#3 and #4	None
2010	March 2-#1 (3 Candidates) Weaver won 50%		None
	March 2-#2 (3 Candidates)	April 6-#2	May 11-Recall
2011	March 1-#4 (3 Candidates)	April 5-#3	None
2012	March 6-#5 Mayor (3 Candidates) Bartley won 50%	None	None

ATTACHMENT B

TERM LIMITS--SURVEY OF THIRTY LARGEST OKLAHOMA CITIES (BY POPULATION)<sup>1</sup>

City	Term Limits	City	Term Limits	City	Term Limits
Oklahoma City	No	Muskogee	No	Sand Springs	No
Tulsa	No	Ponca City	No	Duncan	No
Norman	No	Bartlesville	No	Del City	Yes <sup>2</sup>
Lawton	Yes <sup>3</sup>	Shawnee	No	Altus	Yes <sup>4</sup>
Broken Arrow	No <sup>5</sup>	Ardmore	No	Claremore	No
Edmond	No	Yukon	Yes <sup>6</sup>	Mustang	No
Midwest City	Yes <sup>7</sup>	Bixby	No	McAlester	Yes <sup>8</sup>
Moore	No	Owasso	No	Bethany	No
Enid	Yes <sup>9</sup>	Sapulpa	No	El Reno	No
<i>Stillwater</i>	Yes	Jenks	No <sup>10</sup>	Ada	No

<sup>1</sup> United States Census 2014 Estimates.

<sup>2</sup> "No elected officer shall serve more than three (3) consecutive four (4) year terms in the same office."

<sup>3</sup> Three "consecutive" three year terms.

<sup>4</sup> "[T]he mayor may serve four (4) consecutive terms in office, a council member may serve three (3) consecutive terms in office, if the mayor also served a council member the total number of combined consecutive years in office as both mayor and council member shall not exceed sixteen (16)."

<sup>5</sup> Broken Arrow has a statutory "council-manager" form of government. Title 11, Oklahoma Statutes imposes no term limits.

<sup>6</sup> Two "consecutive" four year terms.

<sup>7</sup> "[L]imited to consecutively serving, in any order three (3) consecutive [four year] terms as mayor and three (3) consecutive [four year] terms as councilmember."

<sup>8</sup> "No more than 12 years may be served as Mayor, Councilman, or a combination thereof. A Mayor or Councilman elected or appointed to serve less than a full term shall not have that partial term counted in the 12 year limitation."

<sup>9</sup> "[N]o more than eight(8) years in succession" exclusive of "time served by appointment or election to fill a vacancy in an unexpired term."

<sup>10</sup> Jenks has a statutory "council-manager" form of government. Title 11, Oklahoma Statutes imposes no term limits.

ATTACHMENT C

STILLWATER MAYORS AND COUNCILORS—2000 TO PRESENT

Name	Office (elected)	Election Year(s)	Reason for Leaving Office
Mike Henson	Mayor	1997, 2000	Died before second term expired
Bud Lacy	Councilor	1996, 1999	Term Expired-Ineligible Term Limits
Tom Cleveland	Councilor	1998	Term Expired-Did Not Seek Reelection
Larry Brown <sup>1</sup>	Mayor	1999, 2001	Term Expired-Ineligible Term Limits
Martha McMillian <sup>2</sup>	Councilor	2000, 2002	Term Expired-Ineligible Term Limits
Chuck Thomas	Councilor	1999, 2001	Term Expired-Ineligible Term Limits
Jack Reed	Councilor	2001	Resigned-Health
Ruth Ann Kennedy	Councilor	2002, 2005	Term Expired-Ineligible Term Limits
Bud Lacy	Mayor	2003	Term Expired-Reelection Unsuccessful
Tom Cleveland <sup>3</sup>	Councilor	2004	Term Expired-Did Not Seek Election
Tom Dugger	Councilor	2004, 2007	Term Expired-Ineligible Term Limits
Tom Williams	Councilor	2004, 2007	Term Expired-Ineligible Term Limits
Hank Moore	Councilor	2005	Term Expired-Reelection Unsuccessful
Roger McMillian	Mayor	2006	Term Expired-Reelection Unsuccessful
Darrell Dougherty	Councilor	2008	Term Expired-Reelection Unsuccessful
Chuck Hopkins	Councilor	2008, 2011	Term Expired-Ineligible Term Limits
Nathan Bates	Mayor	2009	Term Expired-Did Not Seek Reelection
Joe Weaver	Councilor	2010, 2013	Incumbent-Ineligible Term Limits
John Bartley	Councilor	2010	Elected Mayor 2012
Cody Scott	Councilor	2011	Term Expired-Reelection Unsuccessful
John Bartley	Mayor	2012	Term Expired-Ineligible for Reelection
Philip Pena <sup>4</sup>	Councilor	2012	Term Expired-Election Unsuccessful
Gina Noble	Councilor	2013	Elected Mayor 2015
Pat Darlington	Councilor	2014	Incumbent-Reelection Eligible
Miguel Najera	Councilor	2014	Incumbent-Reelection Eligible
Gina Noble	Mayor	2015	Incumbent-Ineligible Term Limits
Alane Zannotti <sup>5</sup>	Councilor	2015	Incumbent-Reelection Eligible

<sup>1</sup>Appointed to serve the unexpired term of Mayor Mike Henson in 2000; elected to full term in 2001.

<sup>2</sup>Elected to serve unexpired term of Larry Brown in 2000; reelected in 2002 to full term. She was ineligible to seek second full term under former Charter provision that counted election to partial terms in succession limitation.

<sup>3</sup>Appointed to serve the unexpired term of Councilor Jack Reed. He was eligible to seek election to one full term under former charter provision referred to in Footnote 2.

<sup>4</sup>Appointed to serve the unexpired term of Councilor John Bartley after he was elected Mayor in 2012. Councilor Pena was eligible to seek two full terms under the current Charter provision. He was defeated in the 2013 election for the seat by Gina Noble.

<sup>5</sup>Appointed to serve the unexpired term of Councilor Gina Noble after she was elected Mayor in 2015. Councilor Zannotti was *ipso facto* elected to a full term December 2015 when no one filed against her for the seat. She is eligible to seek reelection in 2018 under the current Charter provision.

ATTACHMENT D

TERM OF OFFICE--SURVEY OF THIRTY LARGEST OKLAHOMA CITIES (BY POPULATION)<sup>1</sup>

City	Council	Mayor	City	Council	Mayor	City	Council	Mayor
Oklahoma City	4	4	Muskogee	4	4	Sand Springs	3	3
Tulsa	2	4	Ponca City	3	3	Duncan	3	3
Norman	3	3	Bartlesville	2	2	Del City	4	4
Lawton	3	3	Shawnee	4	4	Altus	4	4
Broken Arrow	4	4	Ardmore	3	3	Claremore	4	4
Edmond	4	4	Yukon	4	4	Mustang	3	3
Midwest City	4	4	Bixby	4	4	McAlester	4	4
Moore	4	4	Owasso	3	3	Bethany	4	4
Enid	4	4	Sapulpa	4	4	El Reno	3	3
<i>Stillwater</i>	3	3	Jenks	4	4	Ada	2	2

<sup>1</sup> United States Census 2014 Estimates.