

Canton, Georgia

*110 Academy Street
Canton, Georgia 30114*



Minutes - Final - Final

Friday, March 26, 2021

10:00 AM

Charter Review Committee

Public Call In: 1-470-268-2827 PIN: 651 016 504#

City Council

1. Call to Order*Members Present:*

*Councilmember Sandy McGrew
Councilmember Brooke Schmidt
Councilmember Will Carlan
City Manager Billy Peppers
Assistant City Manager Billy Peppers
City Attorney Bobby Dyer
City Clerk Annie Fortner*

Councilmember McGrew called the meeting to order.

2. Approval of March 12, 2021 Minutes**A.** Charter Review Committee Draft Minutes - March 12, 2021 - Attachment 2A

Attachments: [Minutes - Charter Review Committee - March 12, 2021](#)

Councilmember McGrew asked for motion to approve minutes, Councilmember Schmidt made a motion to approve, seconded by Councilmember McGrew, approved unanimously.

3. Public Input

None.

4. Discussion of Articles II-VII

Councilmember McGrew requested City Attorney Bobby Dyer give an overview of the points that were sent to Committee members. Mr. Dyer discussed Mayor Grants comments concerning the language of his role in the Charter. GMA (Georgia Municipal Association) has a publication that discusses the different forms of government. They describe these forms as a weak Mayor, strong Mayor and a Manager/Council. They divided functions into executive and legislative and they are referencing who has the executive function which is a strong Mayor form. Being administrative is being able to hire and fire employees and run the day-to-day functions. He informed that not many cities have this form of government. Most cities have a weak form of Mayor government which is a Council and City Manager, which is what Canton has. The verbiage in the City Charter is not practical because it sounds like we have a strong Mayor form of government. Mr. Dyer stated that in his opinion, administrative and executive means the same thing. The Mayor is supposed to set the agenda and chair the meeting but, the Mayor has no power over the operation of the city. The City Manager has all power over the daily operations. Charter Section 2.36 was discussed to make an amendment to remove Administrative out of the language of Mayor being the Chief Executive Officer of the City with Executive and Administrative powers. Mayor Grant indicated that he was not opposed to this amendment. Mr. Dyer informed that Canton has a City Manager in the Charter also and he feels the language of the Mayors role is a Charter issue. City Manager Billy Peppers informed that Canton has had a Manager since the 1950's

and most Cities in Georgia have not had managers for approximately more than thirty (30) yrs. At that time Canton was a full-service City and that is probably why it is was set up differently.

2.23 – Nominations – Article III

Mr. Dyer informed that the Charter states the Mayor is to nominate positions of Boards, Commissions and Authorities and a discussion is needed on how to handle this. He feels the Mayor Pro Tempore should be nominated at the first meeting of the year and if not, Council can nominate. Councilmember McGrew informed that Section 2.32 of the Charter states if the Mayors nomination is not approved, then a Councilmember can make a nomination for motion approval. Mr. Dyer informed that he drafted the language but, if the nomination fails then Council can move forward with a nomination. However, he now has realized what happens if the Mayor does not nominate anyone for approval, then there would be no Mayor Pro Tempore. The language needs to be amended that a nomination must be made at some point or Council will move forward. He stated other cities have the same language. Councilmember McGrew asked for a recommendation for the language change. Mr. Dyer stated that it should be changed that the nomination be made by the first meeting or definitely by the second by saying that the Mayor shall nominate a Mayor Pro Tempore at the first organizational meeting and if not, the nomination will come from City Council. Councilmember McGrew questioned if this would be addressed in January of each year? Mr. Dyer stated yes, the Charter language can state at an organizational meeting after each election or each year. Mr. Peppers stated after every election on the first Thursday in January. This is Charter Section 2.18. Mr. Dyer stated that Council can nominate at the 2nd meeting if the Mayor does not at first one. Councilmember McGrew asked if Councilmember Carlan approved of the amendment? Councilmember Carlan agreed and stated that everyone would know what to look for at the first organizational meeting and move forward with it.

2.33 – Mr. Dyer informed that this Charter section states the Mayor Pro Tempore has authority to sign all contracts after Mayor's refusal if, contract was approved by Council. Mr. Dyer stated if the Committee agreed he would like to look at this section for revision. Councilmember McGrew noted that prior discussion has been for the City Manager to sign contracts and asked if that is separate from this language. Mr. Dyer stated yes, from the extent the Council agrees for the City Manager to sign then it is not an issue. If the City Manager is not authorized, then the Mayor must sign. Legally, once a contract is approved it is valid but sometimes contractors do not like having an unsigned contract. Councilmember McGrew questioned if the Mayors veto power comes into play with contracts? Mr. Dyer stated, no that is only with ordinances. He informed that he would put together a list of all the proposed changes for Council review.

2.35 (d) – Mr. Dyer informed that this section states the Mayor is the Chief Executive Officer of the City and ask that the Committee think about adding the power of the Mayor to have the ability to suspend the City Manager. This has happened prior and if there is a need for them to be removed at least through an investigation process, you need for the Mayor to be able to do this because of the delay in setting a Council meeting. The language could be to add the ability to suspend a City Manager pending a City Council Meeting. Councilmember Carlan asked if notice would be given to Council immediately that the Mayor is going to suspend. Mr. Dyer stated, yes. Mr. Peppers questioned if the Mayor Pro Tempore has the same power as the Mayor in his absence. Mr. Dyer stated I

think not unless the Mayor is disabled. If the Mayor Pro Tempore acts improperly Council takes intervene. Mr. Peppers questioned the definition of Mayors 'absence' and Pro Tempore takes over. With technology being so different now does absence mean being out of town. Mr. Dyer informed that the absence of the Mayor when running the day-to-day operations of City, the Mayor can give direction over the phone if absent. If in a situation where there was concern with the Mayor being legally absent so that Pro Tempore can act, the City Council would have to meet and vote to change the decision. Mr. Peppers asked if the Mayor is out of town for the weekend is Mayor Pro Tempore Chief Executive Officer? He questioned the language of absence and gave scenarios of how things could be. Mr. Dyer stated that this was a good point and needs to be given some thought. Absence probably meant for a meeting but, absence needs further description. Councilmember Carlan stated what if absence was removed all together in the language and use disability. If Council can call and ask the Mayor something, then he is not disable. If he is absent from a meeting or unable to communicate or refuses to act that is when the Mayor Pro Tempore can act. Councilmember McGrew questioned what if the Mayor and Manager are together with this type of situation, what action is needed from Council. They would call a Meeting and if the Mayor did not go to the meeting then the Mayor Pro Tempore would hold the Meeting probably after twenty -four (24) hours. Mr. Peppers informed that it might be easier to outline these items in the City Manager's contract. Council would hold an investigation and deal with it through the contract because it states with or without cause. Councilmember McGrew thanked Mr. Peppers for having this conversation and being objective since he is in this position. Mr. Peppers informed that his concern is if someone in the position and they have a situation where the Mayor is out of town and the Mayor Pro Tempore does something just because he has the authority to with the Mayor out of town. Mr. Dyer informed the Mayor can suspend the City Manager, but the Mayor Pro Tempore cannot. Mr. Peppers stated the Charter is clear that the Mayor Pro Tempore does not have veto power and agrees the Mayor Pro Tempore does not have the right to suspend the Manager and that should be made clear in the language as well. Mr. Peppers questioned if contracts should give specific reasons for the things that happen for you to expect to be asked to leave. Mr. Dyer stated contracts should not list things but, just default to "without cause". He further stated that very rarely are City Managers fired without cause. To define cause in a contract is very difficult.

Article III - Mr. Dyer informed that Citizen Committees needs to be defined. This should be put into an ordinance and not the Charter. He also agrees with Mr. Peppers that this can be done in a resolution. Some Committees are formed without goals or a purpose. Training was held at City Hall for Committees, Boards and Authorities concerning open meetings. Also, in Article III the nomination is for Boards, Attorneys and the City Clerk but not necessarily at organizational meetings. The City Attorney and City Clerk because their position is ongoing, they are not appointed annually, but if there is a vacancy of the Attorney and Clerk the Mayor starts the nomination with Council approval. Mr. Peppers stated where you have the termination or death of a Clerk and no immediate process for hiring of new Clerk, does the Manager start the Human Resource process or is Council going to direct staff. He further stated that he had been in a situation where the Clerks position was vacant for months, and the Managers office was serving as the Clerk and had to pick up the responsibilities. That is a lot of additional duties. The Charter originally put in just recording minutes but there is a whole professional side that Council does not see opposed to seventy (70) years ago being a note taker. Mr. Dyer stated that members of

Boards, Commissions and Authorities are to be nominated by Mayor and approved by Council. He will think through if the Mayor refuses to nominate someone and the Boards and Authorities are demanding to act and the Mayor will not, he will make it clear and put some type of deadline in the language. Councilmember McGrew asked if the Committee was good with these changes? They stated, yes. Mr. Dyer asked if sixty (60) days was good after vacancy to nominate? Councilmember Carlan asked if there would be a provision for an interim if there was a sixty (60) day wait for appointment of a new Clerk? Mr. Dyers stated, yes. This can be discussed at the next meeting and create a process. The Mayor will lose nomination power after sixty (60) days and will have to go back to Council approval. Mr. Dyer informed that the Charter states the City Clerk is nominated by Council and asked for discussion of whether the Clerk should be under the City Manager or City Council? Mr. Peppers gave scenarios of the City Clerk being under the City Manager and City Council. He stated that both ways are not a bad decision as long as there is good communication between the City Manager, City Clerk, City Council and the City Attorney. Councilmember McGrew asked the City Clerk for her opinion and perspective. Ms. Fortner stated that she has not worked in other municipalities to know other situations. She also has not spoken with other Clerks that report to the City Manager, all are reporting to City Council. Mr. Dyer informed that he feels most City Councils wants to hire the City Clerk because the functions of a Clerk are not for the most part, for regular employees.

Article IV – Mr. Dyer stated that the Municipal Court Judge under State law is to require a minimum one-year term. This change was not made in the City Charter. Also, the Judge removal can be done by state law and will be addressed.

4.11 – Mr. Dyer informed that he was proposing to add two new powers as other Charters. The first is state law crime violations can be prosecuted in City Court but can choose to send to State court. – Also, would like to put into the Charter so arguments cannot be made. The second is to authorize the abatement of nuisances and traffic violations.

Article V – Mr. Dyer informed that he is proposing to delete Election Code Section 5.13 concerning plurality votes. Also, under Section 5.14 proposed to amend vacancy for special election to appointment or either delete. Mr. Dyer suggested removing because of redundancy.

Article VI – Mr. Dyer recommended to add the City Manager signing possibilities to Section 6.31.

Mr. Dyer stated that Mr. Peppers asked about environmental court. Mr. Dyer stated the City should delete the reference to code and environmental court. This was never clear and needs to be removed. This would be done by State law and does not need to be in Charter.

Councilmember Carlan asked to discuss the different powers of Municipal Court and the ability to set cash bonds. He wanted to consider removing cash bonds because if someone is arrested, taken to jail they go before a judge and he will set a bond for them. This is what your bond will be to get out of jail. By paying you can be released or stay in jail until your hearing, or a judge lowers the bond. He stated that his concern is if they went to court, serving sentence or acquitted, making money to get out of jail is disproportionately for poor people who would

have to stay in jail for the same offense that someone with money is able to pay and be released. With state court misdemeanors or felonies, we would have no control. Councilmember Carlan stated that he knows the City would lose revenues for bond forfeitures, for not showing up on their court date. He feels that it is important to get the conversation started. He asked that Mr. Dyer clarify Canton being different from other courts. Mr. Dyer stated that he mostly agrees about the cash bonds but, smaller cities are not as bad because they act fairly but with some, it is subject to abuse. Canton Municipal Court knows who is in jail and makes sure they are out if appropriate, because we have to pay the County jail for each City inmate. We have an incentive to get them out and get them to court quickly. Mr. Dyer stated that he is not sure this is a huge issue in Canton. The City Charter does not eliminate the power to set cash bonds unless we plan to set exactly what we want to do. The solution might be in policies instead of the Charter. If someone has a City ordinance violation, it is a citation only, no bonds. Traffic offenses, marijuana and trespassing cases have cash bonds. Mr. Peppers informed that there are no issues with being incarcerated for a lengthy time because the County is sending monthly reports which identifies the charge and how long they are in jail for, and now we are given a fee schedule. He further stated that City inmates are really minimal. Mr. Dyer informed that cash bonds are mostly for traffic offenses. Bond forfeitures are mostly made by out of state individuals. Mr. Peppers informed that we also started fingerprinting a couple of years ago where prior we were having them done at the County. With them being done in house, we know how long someone stays in jail. Councilmember Carlan stated that he agreed to leave in charter and hope to adopt other policies to address the issue. Councilmember Carlan asked what is the total of bond forfeitures that the City receives? Mr. Ingram stated he would get that information for Council.

Councilmember Schmidt informed that she was asked by a citizen to address the term limits of Mayor and Council. Mr. Dyer informed that this must be done through Legislature. An effort was made and the legislative delegation for Cherokee county required unanimous vote from City Council before they introduced a change. It was a unanimous vote from Council, but the Mayor would not sign it and they saw that as not being a unanimous vote and would not present the local legislation. To enact term limits, you would propose for City Council to vote to request local legislation to change the Charter to put in term limits. Start Council local legislative delegation which needs to be on board to send to General Assembly for Legislature to adopt them. Councilmember McGrew questioned would Council recommend terms to legislative delegation? Mr. Dyer stated, yes. Councilmember McGrew asked Brooke if citizen gave suggestions of what they wanted or just to discuss? Councilmember Schmidt stated, not in a specific way. They did not give any term limits. Councilmember McGrew asked if any other changes were going to legislature? Mr. Dyer informed that the election portion would have to, concerning to fill a vacancy if everyone agrees to ask legislature to adopt as a whole, not in part. Council could take this specific change next year. Councilmember McGrew questioned if Mr. Dyer will bring changes back to Committee or to City Council. Mr. Dyer informed that he anticipated having one more meeting to discuss all the changes. Councilmember McGrew asked if this could be done in two weeks? Mr. Dyer asked if the Committee wanted a list of changes or specific language of changes? A list would be easy but, if writing them he would need more time. Councilmember McGrew informed that a list that state the section and what the changes are would be sufficient at this point. Mr. Dyer stated that he would redline changes from current language, have changes underlined and show

*deletions. He further stated yes, he should be able to get it completed.
Councilmember McGrew informed the next Committee meeting will be on April
16th at 10:00 a.m.*

5. Public Input

None.

6. Adjourn

Motion to adjourn made by Schmidt and seconded by McGrew.