

CITY COUNCIL STUDY SESSION

TO: Mayor and City Council

FROM: Mari E. Macomber, City Manager

SESSION DATE: October 5, 2015

TIME: 4:30 pm

PLACE: City Council Chambers

AGENDA:

- **TRAFFIC SAFETY/PROJECT SAFETY REQUIREMENTS**
- **SEWER PIPE LINING PROJECT**
- **CONSTITUTIONAL CHARTER CITIES**
- **PROJECT STATUS REPORT**
- **REVIEW CITY COUNCIL AGENDA**
- **REVIEW NEWSLETTERS**

TRAFFIC SAFETY/PROJECT SAFETY REQUIREMENTS

In July 2014, City Council members raised a question concerning the security measures required for barricading and securing demolition sites. At that time, information was provided to the City Council regarding what the City does require and copies of relevant codes. What the Council learned was that the City did not require contractors to fence or barricade their demolition or construction sites. It was the decision of the Council to require safety improvements. As a result, sections of the International Building Code were revised to require protection for pedestrians. The following was the action that was taken to address this matter and approved by the Council in September of last year.

Barriers and barrier design sections will be deleted from the International Building Code (IBC), and replaced with specific rules for 48" safety fencing to enclose hazardous fall areas of 30" or more within a run of 6" to 4 feet. These rules require contractors to identify these hazard areas and to use the fencing or other suitable materials to ensure that pedestrians cannot fall into the depressions.

The ordinance changes applied to all types of residential, commercial, and industrial building construction, as well as demolition. Concerns have been raised again on this issue.

City Code also regulates what is required for street and sidewalk improvements regardless of who is doing the work.

Recently, Truman hired a contractor to tear down a building on Normal Avenue. The fence was in place but minimal work was done to protect vehicles traveling down

Normal. Codes and Planning Director, Brad Selby has a recommendation for Council consideration to address demolition projects in general using a generic approach requiring the property owner/contractor to provide a safety plan.

SEWER PIPE LINING PROJECT

The 2015 budget approved by the City Council provided funds that allowed the rehabilitation of several thousand linear feet of sewer pipe through a trenchless process, known as cured-in-place pipe. This technology allows for a rehabilitation of a pipe by lining the pipe with a resin-saturated felt tube. This technique can be used on pipe 4” in diameter and larger. The amount of work that was accomplished was greater than what we can replace through trenching and much safer. Dennis Snyder, Utility Maintenance Supervisor and Len Kollars, Deputy Public Works Director will be in attendance Monday to discuss this project in more detail.

CONSTITUTIONAL CHARTER CITIES

Missouri is comprised of about 955 incorporated cities. Each incorporated city has an established form of government. Within the last 40 years, many municipalities have chosen to modify their form of government. Some of the reasons for these changes has to do with changes in Missouri law (allowance for City Administrator and expanded powers for home rule powers). In addition to these things, changes society and the expectations of the citizenry for cities to take on more and more responsibilities, as well as advancements in technology. Today, the City is responsible for working on economic development to bring in jobs and provide opportunities for the citizenry. We are required to meet environmental laws that didn't exist in the past.

As these changes and expectations occur, it is important that to insure that as Council members you have the tools in place to allow the community to be as effective as possible. So evaluating the existing form of government in place is a good thing to do to determine if it is meeting the needs of the community.

The City of Kirksville is a third class council-manager city. The council-manager form of government in Kirksville will be 44 years old on November 15, 1971. Following is a chart from the Missouri Municipal League that shows the different class of city and the corresponding form of government.

	<u>Form of Government</u>
Village	Board of Trustees
Fourth Class	Mayor-Board of Alderman
	Mayor-City Administrator-Aldermen
Third Class	Mayor-Council
	Mayor-City Administrator-Council
	Council-Manager
	Commission
Constitutional Charter	To be decided by the people
Legislative Charter	As set forth in the individual legislative charter

According to the Missouri Municipal League, the council-manager form was devised in the early twentieth century in response to a need for full-time, professional city management. At the present time, thirty-eight Missouri municipalities operate under the council-manager form. The plan has been abandoned three Missouri municipalities - Lebanon in 1946, Hannibal in 1947, Marshall in 1948 and Flat River in 1993. As of June 2007, the following cities operate under the council-manager form of government. Note the (HR), these are cities that are also home-rule charter cities.

CITIES OPERATING UNDER COUNCIL-MANAGER PLAN

City	Population	City	Population
Aurora	7,014	Kirksville	17,304
Berkeley (HR)	10,063	Maplewood (HR)	9,228
Brookfield	4,769	Marceline	2,558
Cameron	8,312	Maryville	10,581
Cape Girardeau (HR)	35,349	Mexico	11,320
Charleston	4,732	Moberly	13,741
Clayton (HR)	15,935	Neosho(HR)	10,505
Columbia (HR)	88,291	Nevada(HR)	8,607
Desoto	6,735	Olivette (HR)	7,438
El Dorado Springs	3,775	Poplar Bluff	16,651
Ellisville (HR)	9,104	Richmond Heights (HR)	9,602
Excelsior Springs	10,847	St. John (HR)	6,871
Ferguson (HR)	22,406	St. Joseph (HR)	74,707
Gladstone	26,365	Sikeston (HR)	16,992
Hannibal (HR)	17,757	Springfield (HR)	151,580
Hazelwood (HR)	26,206	University City (HR)	37,428
Independence (HR)	114,345	Warrensburg	16,340
Joplin (HR)	45,504	Webster Groves (HR)	23,230
Kansas City (HR)	441,545		

Ironically, Missouri has 38 council-manager cities and 38 constitutional charter cities, 22 of the charter cities are also council-manager cities.

In early 2006, the Council was introduced the topic of home rule charter to ascertain whether or not it would be something to consider for the City of Kirksville. At the time there were a couple of things that had come up that inspired consideration of this idea: 1) Trying to address certain issues such as weeds and trash, as a City we have had to request special state legislation and have not been that successful. As a Home Rule Charter, we would not always have to do this. 2) Kirksville has historically been a very independent City, developing unique responses to community issues within the confines of what is allowed by current law. A home rule charter would allow our community some individuality. 3) It seemed that those communities with home rule charter were able to address their needs, improving efficiency and eliminating some of the red tape that otherwise would have to be followed.

Ironically, after that presentation two more issues arose that could be addressed by a charter. The first was a discussion of that Council on the number of elected City Council members. Kirksville can either have five, as we presently do, or seven city council members by implementing a ward system. A charter would allow flexibility in this area. The second issue occurred when this Council wanted to restrict the licensing and location of newsstands, news racks, etc. but was prohibited again by our statutory authority.

Included for your review is an outline of the Home Rule Charter including a brief history, the process and an outline of the responsibilities of the Charter Commission. In the information there are reasons/advantages for Home Rule Charter. A Charter Commission made up of 13-members would need to be elected from the community. It would be the responsibility of this body to develop the Charter for citizen consideration. This Commission would have a specific timeframe from which they would need to complete the proposed Charter and submit it to the voters.

Council member Biston had brought this idea back after attending the Missouri Municipal League Annual Conference. After asking if the City Council would like to know more about this, there was consensus to bring it to the Council for review.

PROJECT STATUS REPORT

If time allow, I would like to provide a summary report to the City Council of where we are with various projects.

REVIEW COUNCIL AGENDA

REVIEW COUNCIL NEWSLETTER

Attachments

- Staff Report – Construction Safety
- Staff Report – Cured In Place Pipe
- Charter Information

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Construction Safety

STUDY SESSION MEETING DATE: November 2, 2015

CITY DEPARTMENT: Codes & Planning Department

PREPARED BY: Brad Selby, Codes & Planning Director

Recently, there have been questions on the responsibilities of contractors and of the city on what is required for pedestrian safety and traffic control regarding construction activity, but more specifically with demolition activity.

Sec. 21-1 and 21-2 of the city code defines what is required for protection of the public generally when any *street or sidewalk* is being improved, constructed or repaired, either by the city, contractors, or private persons. Requirements are to rope off or barricade such parts of streets or sidewalks, to give notice that the same is being improved, repaired, etc. It is then unlawful for anyone to tear this barricade down or to walk, drive upon, etc. These areas should be "properly guarded".

For private projects, the International Building Code regarding demolition states that, "The work of demolishing any building shall not be commenced until pedestrian protection is in place as required by this chapter." Means of egress, vacant lots, water accumulation, utility connections, and fire safety are all discussed. The codes allow for the governing authority to determine whether fences are to be built, or signs installed, walkways, etc.

In the past, we have required enclosed walkways to be constructed (Pickler's Famous). Durable fences have been required also (Cochran building). In other instances, parts of the streets have been closed and fenced (Miller building).

I believe that different situations and circumstances do not lend themselves to specific requirements intended to cover all demolition projects. If council believes that additional attention should be given, we could add the following statement to all demolition permits:

"The Contractor is required to submit a Safety Plan for each demolition permit to the Codes Department, either verbally or in writing to address pedestrian safety and traffic control. The Codes & Planning Director, or his designee, will approve the plan or require modification of the plans to protect the walking or driving public. Failure to comply could cause a suspension of operations until the plan requirements are met."

The Codes Department would then be responsible for determining what is required based on distance from the building to the sidewalk (if there is one), height of the structure, the building materials, traffic volume on the adjacent street, etc.

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Cured-In-Place Pipe Lining (CIPP)

STUDY SESSION MEETING DATE: November 2, 2015

CITY DEPARTMENT: Public Works Utilities Department

PREPARED BY: Len Kollars, Deputy Public Works Director / City Engineer

Over time sewer mains deteriorate and leak ground water into the collection system thus causing overflow conditions at the waste water plant as well as backup into basements. In the past the City relied on conventional methods such as remove and replace problematic sewer mains. This year the PW Department contracted its first sewer main lining project. The Cured-In-Place Pipe Lining (CIPP) is a rehabilitation method of lining existing sewer pipe material such as cast iron, clay tile, Orangeburg, PCV, and ABS pipe with polyethylene interior coating. This trenchless technology eliminates the costly trench excavation and removal and replacement of street pavements, driveways, and sidewalks and extends the life of a sewer main.

The savings in construction costs allows the PW Utility Department to rehabilitate older sewer mains that are structurally sound and hydraulically sufficient. The project results from this year's contract with Insituform Technologies, USA, LLC are C.I.P.P. lining of 4,577 L.F. of 8" diameter existing sanitary sewer piping. Includes cutouts for service lines. Also included is the lining of three separate manholes totaling 33 vertical feet of lining. Includes Pre and Post Construction Internal CCTV sewer pipe inspection videos. The Notice to Proceed was issued June 15, 2015 and final acceptance was made October 27, 2015.

The original contract cost was \$161,789.7, Change Order #1 Final amount decrease of -\$15,850.50, revised contract amount \$145,939.20. The 2015 Wastewater Capital budget amount was \$200,000.

Funds are included in the proposed 2016 budget for Continue sewer main lining and rehabilitation work for 2016.

Home Rule Charter

At various times during the past several years the idea of Kirksville becoming a home rule charter city has come up. It has mostly been at times when we have wanted to make changes that have required legislative action (i.e. weed and trash ordinance) and we thought it would be nice not to have to go through the Missouri General Assembly to get those local changes made. It was also raised recently when some citizens felt that the City Council should have more members. Under state statute the only way a city of the third class can increase the number of members on their council was to go to a ward system, where some of the councilmen would be selected by ward. Under a home rule charter, we would have more flexibility to set the number of council members and how they are selected. Since the issue has been raised several times, we have begun looking into the process and the opportunities for becoming a charter city.

In reviewing the possibility of Kirksville becoming a charter community and being governed by a home rule charter, several community charters were reviewed. Those most helpful for this review were the charters for the City of Neosho, the City of Nevada, and the City of Cape Girardeau as they all have the council-manager form of government, as does Kirksville. Also helpful in this review was a *Model Charter for Missouri Cities*, an informational document that was commissioned by the Missouri Municipal League. The model was created for the two most common forms of government in Missouri, mayor-council and council-manager.

History – In 1875, Missouri became the first state to adopt a constitutional home rule provision. On October 5, 1971, the voters of Missouri overwhelmingly adopted a proposed amendment to the Constitution that broadened the home rule provision. It now authorizes cities with a population of 5,000 or more to adopt or frame a charter, and the powers of a constitutional charter city are now defined as “all powers which the general assembly of the State of Missouri has authority to confer upon any city, provided such powers are consistent with the Constitution of this State, and are not limited or denied either by the charter as adopted, or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law.”

The Charter – A city charter is a basic legal document for a city government. The charter does not need to include all of the details necessary for the day-to-day operation of the city, but should provide a basic framework within which such procedures and functions can be developed by the elected representatives of the people. Home rule status has numerous advantages including:

- Government can be as close to the citizens as possible and the city charter can be adjusted to local conditions
- Municipal officials have greater flexibility in responding to citizens needs for public services without waiting for state legislative authorization
- Home rule cities have greater choice over governmental organization and more control over officials and employees
- Home rule cities can develop more efficient administration because they are not bound by many state restrictions

- Home rule tends to lighten the burden of the General Assembly by reducing the number of bills directly affecting cities. Home rule cities have increased flexibility because each may determine the following:
 - Number of council members and terms of office
 - Ward or at-large elections
 - Number of elected and appointed officials
 - Form of government – council – manager or mayor – council. The duties of the mayor may be increased or decreased.
 - The duties of elected officials may be increased or decreased.
 - Power, responsibilities and membership of various city boards, such as the park board, may be modified.

- Increased powers because a home rule city does not need to rely on the state legislature to grant them powers and authority in areas such as:
 - Taxation, perhaps even for an earnings tax
 - Business licenses, such as on real estate agents, mobile home parks or rental apartments
 - More flexible procedures for hiring and dismissing personnel
 - Provide for initiative, referendum and recall
 - Conduct own local elections
 - Establish conditions under which elective offices are vacated, including excessive absenteeism
 - Emergency powers, for example, to permit the mayor to declare a curfew during times of natural disaster or riots
 - Flexibility in establishing fiscal procedures to conform to local tradition and preference
 - Provision for capital improvements budget
 - Conditions and terms of granting utility franchises

In summary, a home rule city has more choice in its governmental organization and likely will develop a more efficient administration because of the absence of state restrictions or inattention to new municipal responsibilities.

The Process – The process for adopting a Home Rule Charter

The provisions governing the adoption of a home rule charter are set forth in Article 6, Section 19, of the State Constitution:

1. City must have more than 5,000 inhabitants
2. City legislative body may submit an ordinance to the voters on the question: “Shall a commission be chosen to frame a charter?”

3. A petition signed by 10% of the qualified voters of the city, filed with the City Council, then the City Council must submit question in 2, above.
4. Election to be held in conjunction with the next city election if more than 60 days after effective date of ordinance, or at next general election. If the petition calls for a special election and is signed by 20% of qualified voters, then at a special election to be held not less than 60 nor more than 90 days after filing of petition.
5. The number of electors required to sign any petition shall be based on the total number of electors voting in the last general municipal election.
6. Candidates for commission are nominated by petitions signed by not less than 2% of the qualified voters (1,000 signatures are sufficient for nomination), and candidates stand for election together with the proposition. Candidates' names appear on the ballot without party designation.
7. If election is affirmative by a simple majority, the 13 candidates receiving the most votes constitute the commission. Members of the commission fill any vacancies that might occur.
8. All necessary expenses of the commission shall be paid by the city.
9. The charter framed by the commission shall be submitted to the voters at an election held at a time fixed by the commission, but not less than 30 days subsequent to completion of the charter nor more than one year from the date of the election of the commission.
10. The charter maybe submitted to the voters as a unit or in alternative parts.
11. The charter is adopted if approved by a simple majority, and the alternative parts that receive the highest vote are adopted.
12. Amendments to an adopted charter may be submitted by:
 - a. A commission as provided for the adoption of a charter;
 - b. The City Council;
 - c. By a petition of not less than 10% of the qualified voters, filed with the City Council.

Charter Commission – The following is an outline of decisions that need to be made by a charter commission, when creating a charter. **

- I. Powers
 - a. Should the City assume the broadest scope of powers possible? If not, what powers are to be denied the City?

- II. The Council
 - a. Number of councilmen
 - b. Election at large, by districts, or by a combination of the two
 - c. Qualifications of councilmen
 - d. Terms of office for councilmen, staggered or concurrent terms, method of staggering terms
 - e. Compensation; expenses
 - f. Will the mayor be elected at large or by the members of the council?
 - g. Will the mayor have the right to vote? Will he be given any administrative duties? Will he be given a veto?
 - h. What prohibitions will be written into the charter?
 - i. Under what circumstances will a councilman forfeit his office?
 - j. How will council vacancies be filled?
 - k. Will the city clerk answer solely to the council or work under the supervision of the city manager or mayor?
 - l. Under what circumstances can special meetings be called?
 - m. Will the order in which votes are cast be rotated each time there is a roll call vote?
 - n. What procedure will be required for the adoption of an ordinance?
 - o. What are the requirements for adoption of an emergency ordinance?
 - p. How often and how will the ordinances be codified and kept up to date?

- III. City Manager (Mayor)
 - a. Will the charter provide for an appointed city manager or an elected mayor as the chief executive of the City?
 - b. If there is to be a city manager,
 - i. Will he be given a contract setting forth compensation, term of office or conditions of employment?
 - ii. Should the charter provide an express procedure for his removal?
 - iii. Powers and duties
 - c. If there is to be a strong mayor,
 - i. Term of office
 - ii. Qualifications
 - iii. Salary
 - iv. Under what circumstances would the mayor forfeit his office?
 - v. Filling of vacancies
 - vi. Powers and duties, especially whether he will be given a veto
 - vii. Administrative assistant to the Mayor
 - 1. How chosen
 - 2. Relationship with mayor
 - 3. Salary

- IV. Administrative Organization and Personnel System
 - a. Will the details of administrative organization be dealt with in the charter or in an administrative code?

- b. Will the departments, boards and commissions be listed in the charter? If so, will the creation of other departments, boards and commissions be limited except as required by law?
 - c. Will the details of the personnel system be dealt with in the charter or in a personnel code?
- V. Financial Procedures
- a. How far in advance of the new fiscal year should the budget be submitted?
 - b. To what extent should the charter specify what must be contained in the budget?
 - c. Should the charter require the development of a capital program? If so, when should it be submitted and what should it contain?
 - d. What requirements are necessary to provide citizens with information about the proposed budget? How can the views of interested citizens best be obtained?
 - e. Should the charter require that all sales of bonds be by sealed bids?
- VI. Nomination and Election
- a. When should the regular city election be held?
 - b. What requirements should be satisfied by those desiring to run for the City Council and other elected offices?
 - c. Should elections be non-partisan?
 - d. Is the city to be divided into wards and districts? If so, the number and boundaries must be agreed upon. What provisions should be made for changes in district or ward boundaries?
- VII. Initiative and Referendum
- a. Will provision be made for initiative, referendum and recall?
 - b. What procedures should be required for the collection, filing, and checking of signatures?
 - c. What subjects should be excluded from initiative and referendum?
 - d. How many signatures should be required in order to initiate or refer a measure or bring about a recall election?
 - e. How much time should be given to file a referendum petition after adoption of an ordinance?
 - f. Should provision be made for withdrawal of an initiative, referendum or recall petition?
- VIII. Franchises
- a. What limitations on franchises should be written into the charter?
 - b. Should the question of issuing franchises be submitted to the voters?
- IX. General Provisions
- a. What activities should be prohibited?
 - b. Should the charter require the giving of notice within a specified period of time as a prerequisite to suit against the city because of negligence?

X. Transitional Provisions and Schedule

- a. What provisions are necessary or desirable to ease the transition to the constitutional charter form of government?

**The charters for the City of Neosho, City of Nevada, and the City of Cape Girardeau all follow this outline almost to the letter.

In the commentary of the *Model City Charter* it gives some guidance that a charter commission could use in charter formation. For example, it states that smaller city councils are more effective. Seven is suggested as the optimum number of councilmen, five is suggested as the minimum that should be considered, and more than nine is only considered appropriate for very large cities. It also asserts that electing a council entirely by wards tends to encourage a narrow view of the city's problems. This guidance is helpful, as some groups have suggested that we need to add members to the Kirksville City Council and this document gives some guidance to doing that. It also gives some examples as to what other Missouri cities have done.

Bridgeton	8 members; four from each ward
Hannibal	9 members; 6 elected by ward; 3 elected at-large
Florissant	9 members; all elected at-large
Joplin	9 members; all elected at-large
Webster Groves	7 members; mayor and 6 councilmen all elected at-large

Once the City Council has had the opportunity to review this information and decide what other questions they would like to have answered, we can do further research and bring information back to the Council. I have not copied any of the charters I mentioned here, but will be happy to do so if you would like to see them. Also, they are all available for you to view on-line if you would prefer to do that.

City of Sikeston

http://www.sikeston.org/sikestonnew/uploads/FINAL_DRAFT_4_2_2002.pdf

City of Neosho

<http://neoshomo.org/DocumentCenter/View/3171>

CONSTITUTIONAL CHARTER CITIES

In 1875, the Missouri Constitution led the nation in providing that the state's largest municipalities could provide their own structure of government by drafting home rule charters for approval by the voters. For many years, St. Louis and Kansas City were the only constitutional charter cities in the state. In 1946, the voters approved a constitutional amendment to permit home rule status for municipalities over 10,000 population. Between 1946 and 1971, twenty municipalities drafted and adopted home rule charters, in addition to the previously adopted charters in St. Louis and Kansas City. In 1971, the voters approved another amendment that broadened home rule powers and lowered the population requirement from 10,000 to 5,000. The amendment provided that:

"Any city which adopts or had adopted a charter for its own government, shall have all powers which the General Assembly of the State of Missouri has authority to confer upon any city, provided such powers are consistent with the Constitution of this State and are not limited or denied either by the Charter so adopted or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law."

The thirty-eight constitutional charter or home rule cities have selected a wide variety of governmental structures. Although the majority of home rule cities have adopted the council-manager form, others provide for the mayor-council form or the mayor-city administrator-council form.

The following information was obtained from Ballotpedia*The Encyclopedia of American Politics Missouri allows municipal charter cities and counties. There are 114 total counties in Missouri. Of those 114:

- 110 are subject to General law
- 4 are subject to Charter/Home rule

There are 955 total municipalities in Missouri. Of those 955, 911 of them are General Law municipalities, 38 are Home rule charter cities, and 6 continue to operate under a state granted Special legislative charter.

Types of local government

Local government in Missouri consists of 114 counties, 312 townships, and 955 cities and villages. In addition, there are 1837 special districts and 534 independent school districts.

Further classifications:

Cities and villages are classified as:

- Constitutional charter cities: A city must have a population over 5,000 to adopt a charter. 38 cities have done so.
- Special legislative charter cities and towns: of which there are 6 remaining
- Third class city (3,000-29,999 population at time of incorporation): of which there are 56
- Fourth class city (500-2,999 population at time of incorporation): of which there are approximately 550
- Village (fewer than 500 population at time of incorporation): of which there are approximately 300 (#'s as of 2007)

The modern trend of home rule charters provides a municipality with more autonomy over local affairs. While this can be advantageous from the perspective of the municipality, the manner in which this local power has been used has caused some to desire a return to or to remain as a general law county or municipality.

Advantages

Four main advantages of home rule charters commonly cited are:

- the reduction of legislative interference in city affairs
- it permits citizens to determine the form and administrative organization of their local government
- the state legislature is relieved of the time-consuming burden of special legislation, and can devote its exclusive attention to state problems
- it permits citizens to have a greater voice in the determination of local government policies and thus encourages many more citizens to become interested in and participate in local affairs.

Disadvantages

Four main disadvantages of home rule charters commonly cited are:

- frequent changes in the charter may cause instability in local government
- home rule allows local political and interest groups increased freedom from state supervision and interference
- the system makes the solution of region-wide problems more difficult as a local government could refuse to participate
- due to proposal to amend the charter, ballots may become excessive in length and discourage citizens from casting a vote on each referred issue.