

DATE: March 8, 2019  
TO: Charter Review Committee (CRC)  
FROM: Don R. Edmonds  
SUBJECT: Three-year terms for members of the city commission.

At its last meeting, on February 11<sup>th</sup>, the CRC tentatively decided to propose in its final report that the terms for the members of the city commission be lengthened from two years to three years.

However, on further inquiry by Nick and Rusty to the Secretary of State's office about the potential effects of this change, we've determined that this action would necessitate consequential additional changes in the current charter.

This is so because Art. XI, Sec. 11(b) in the Texas Constitution provides home rule cities whose governing bodies serve three-year terms must be elected by a majority voting process. It further provides, in Sec. 11(c) that vacancies in such governing bodies must, except in certain circumstances, also be filled by a majority vote of the electorate at an election called within 120 days of the occurrence of the vacancy. The potential effects of these provisions on the current charter are summarized as follows:

They would affect the current charter provision in Art. II, Sec. 3 that specifies that the two at-large commission positions will be filled by the two candidates receiving the highest number of votes—that is by a plurality. With three-year terms, all candidates for these positions would have to file specifically to serve in "Place 1" or "Place 2" on the ballot and then prevail by a majority of the votes cast in each place—this according to the Secretary of State.

They would also affect the current charter provision in Art. II, Sec. 4 that generally empowers the commission to appoint a qualified citizen to any vacancy occurring on the commission. With three-year terms this appointive power would only come to play if the vacancy occurs within 12 months of the term's expiration.

It would also materially affect Art. IV, Sec. 5 of the charter, which currently reads:

"At any regular or special municipal election the candidates for the office of mayor or commission, to the number to be elected, who shall have received the greatest number of qualified votes cast at any such election shall be declared elected."

In summary, since becoming a home rule city Texas City has always elected members of its commission by a plurality vote. A central tenet here is to avoid runoff elections. And the commission has always had the power to fill a vacancy that occurs on the commission, again avoiding the expense and delay required by a special election. For these reasons, I would

recommend that the CRC generally reconsider this matter since it may concern some of the committee who favored the three-year term proposal. So, it is being placed on the agenda for our March 11<sup>th</sup> meeting.

I apologize to the CRC for not being aware of the constitutional provision impacting the three-year term option. As it happens, I've just never run into this particular issue in any of my past projects. Interestingly, this provision in the Texas Constitution as to three-year terms is not mentioned in TML's guidebook on home rule charters, published in 2008.