

NOTICE: ANY SUBJECT APPEARING ON THIS AGENDA, REGARDLESS OF HOW THE MATTER IS STATED, MAY BE ACTED UPON BY THE BOARD OF DIRECTORS OF THE TEXAS CITY CHARTER REVIEW COMMITTEE.

CITY OF TEXAS CITY
CHARTER COMMITTEE REVIEW MEETING

AGENDA

MONDAY, MARCH 11, 2019 - 5:30 P.M.
NESSLER CIVIC CENTER - ALAMO ROOM
2010 5th Avenue North
Texas City, TX 77590

PLEASE NOTE: All in attendance are required to remove hats and/or sunglasses (dark glasses) during meetings and to also silence all cell phones and electronic devices.

1. WELCOME
2. ROLL CALL
3. APPROVAL OF MINUTES
 - a. Consider approval of the minutes of the Charter Review Committee meeting of February 11, 2019.
4. OVERVIEW
 - a. Consider and take action on certain amendments proposed in Arts. XI, XIV, XVII and XVIII of the charter, as recommended by consultant Don R. Edmonds. (See attachment.)
 - b. Consider and take action on other amendments or matters of interest in Arts. XI, XIV, XVII, and XVIII on the part of members of the committee.
 - c. Consider and take action on the revision of the proposed amendatory language in Art. IX, Sec. 1- Legal Department. (See attachment.)
 - d. Consider and take action on a memorandum from the consultant regarding the tentative approval of a proposal to lengthen commission terms from two years to three years. (See attachment.)
 - e. Consider and take action on the matter of term limits for the City Commission.
 - f. Consider and take action on the matter of plurality elections of the City Commission, as provided in the current Charter.
5. OTHER MATTERS RELATED TO CITY CHARTER REVIEW

6. TASK/ASSIGNMENTS

7. ADJOURN

Rhomari D. Leigh
Admin. Assistant

Texas City Charter Review Committee Agenda

3. a.

Meeting Date: 03/11/2019

Submitted By: Rhomari Jackson-Glover, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider approval of the minutes of the Charter Review Committee meeting of February 11, 2019.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Minutes

**CITY OF TEXAS CITY
CHARTER COMMITTEE REVIEW MEETING**

**Monday, February 11, 2019 - 5:30 P.M.
NESSLER CIVIC CENTER – ALAMO ROOM
2010 5th Avenue North
Texas City, TX 77590**

Time called to order: 5:30 P.M.

Present: Chairperson Bob Senter
 Board Member Thelma Bowie
 Board Member Lupe Cantu
 Board Member Tracy Tarpey
 Board Member Frank Mistretta
 Board Member Denise O'Brien
 Board Member Carlos Garza
 Board Member Jose Boix
 Board Member Mark Ciavaglia
 Board Member Dedrick Johnson

Absent: Board Member Aric Owens
 Board Member Jenny Senter
 Board Member Brian Clark

Staff Present: City Staff Nicholas Finan
 City Attorney Russell Plackemeier
 City Liaison Phil Robert

Attendees: Henry Gomez

1. WELCOME

2. ROLL CALL

3. APPROVAL OF MINUTES

 a. Consider approval of the minutes from the Charter Review Committee meeting on January 14, 2019.

 A **MOTION** was made by Board Member Carlos Garza

 AND **SECONDED** by Board Member Denise O'Brien approval contingent upon the correct spelling of Carlos Garza's last name.

Vote: 13 - 0 CARRIED

4. OVERVIEW

- a. Consider and take action on the matter of lengthening the terms of office for the Mayor and City Commissioners from two years to three or four years.

Dedrick Johnson asked if there had been any problems with a 2-year term? Dedrick Johnson and Jose Boix indicated they were in favor of keeping the 2-year term. Frank Mistretta felt that the term should be 3 years and not staggered. Carlos Garza stated that he also liked 2-year term but if it was switched to 3 years, it should not be staggered. Carlos Garza asked if State Law requires staggering if you change the term limit to 3 years? The answer is no. Thelma Bowie stated that strategic planning and to allow more time to get acclimated to the position, the limit should be 3 years. Phil Roberts stated that 2 years is costly in time and in money. Mark Ciavagli stated 3 years and not staggered. Denise O'Brien stated that 2 years is too short, she is also not opposed to 4-year limits. Denise stated that she like staggering to provide more consistency. Tracey Tarpey stated the limit should at least be 3 years with no staggering. Lupe Cantu stated the limit should be 3 years with no staggering. Those in favor of staggering mostly felt that no candidate had an advantage running at the same time as Mayor to get more voter turnout.

A **MOTION** was made by Board Member Thelma Bowie
 AND **SECONDED** by Board Member Lupe Cantu lengthen the terms from 2 years to 3 years.

Vote: 6 - 4 CARRIED

- NAY: Board Member Denise O'Brien
- Board Member Carlos Garza
- Board Member Jose Boix
- Board Member Dedrick Johnson

- b. Consider and take action on the matter of staggering the terms of the Mayor and City Commissioners.

Vote:

Denise O'Brien- Stagger	Mark Ciavaglia- No Stagger
Mark Ciavaglia- No Stagger	Thelma Bowie- No Stagger
Lupe Cantu- No Stagger	Carlos Garza- No Stagger
Dedrick Johnson- No Stagger	Jose Boix- Stagger, but okay with no stagger
Tracey Tarpey- No Stagger	Bob Senter stated no Motion necessary

Since everyone except Denise O'Brien was not in favor of staggering, and since it is currently not staggered, no one made a motion. It will remain that all commission seats will come to term at the same time and not be staggered.

- c. Consider and take action on certain amendments proposed in Arts. IV, V, and IX of the charter, as recommended by consultant Don R. Edmonds.

ARTICLE IV. NOMINATIONS AND ELECTIONS
SECTION 3. NOMINATIONS

[if such person desires to have his/her name placed upon the ballot for the office of mayor such person shall pay to the city secretary a filing fee of twenty-five dollars at the time of filing written request, and if such person desires to have his/her name placed upon the ballot for the office of commissioner such person shall pay to the city secretary a filing fee of fifteen dollars at the time of filing written request.]***all such persons shall pay to the city secretary a filing fee of twenty-five dollars at the time at filing his/her request.*** [All filing fees paid to the city shall be used to defray, in whole or in part, the expense of holding the election.]

Don Edmonds stated that he felt the fee should be consistent for all candidates and that once the

money is received it really cannot be shown to go towards the election.

Carlos Garza is in favor of the change. Motioned by Carlos, seconded by Lupe Cantu. Passed Unanimously.

ARTICLE V. RECALL
SECTION 1. GENERAL PROVISIONS
least ~~[fifty]~~ *thirty*

Lupe Cantu stated recalls should not be made easy. Frank Mistretta stated 50% is not high. Mark Ciavaglia stated the level of seriousness for recalls should not be taken lightly. Carlos Garza stated that there is no need to change this section. If a few people get upset like in Hitchcock someone could easily get a petition with the lower percentage. No motion was made as everyone liked to keep this section as is.

SECTION 2. RECALL ELECTION ORDERED
as provided in state law. [Any such election shall be held not less than forty-five nor more than sixty days after the petition has been presented to the commission, and at the same time as any other special or general election held within such period; but if no such election is to be held within such period, the commission shall call a special election to be held within the time aforesaid.]

No discussion. Motioned by Dedrick Johnson, seconded by Thelma Bowie to accept change. Carlos Garza asked if the City can call a special election on a uniform election date, Nicholas Finan sated he will research it. The vote passed unanimously.

ARTICLE XI. LEGAL DEPARTMENT
SECTION 1. CITY ATTORNEY; QUALIFICATIONS

(3) give advice in writing when so requested by the commission, the mayor, [and/or chief executive officer] or the director of any department;

Don Edmonds stated that with the change at the beginning of charter identifying the Mayor as the Chief Executive Officer, this is not necessary and looks like a conflict.

Motioned by Lupe Cantu, seconded by Dedrick Johnson. the vote passed unanimously.

(8) prepare a written report to the commission, first in 2025, and thereafter at intervals not exceeding five years as to the need for revision of this charter, with special attention given to conflicts, if any, between the charter and state law and recommending such amendments to the charter as may seem necessary for legal, administrative, or other reasons.

Bob Senter stated that Denise was spot on in making sure we have this language for consideration. He thinks this is necessary.

Carlos Garza stated that he feels this should be the purview of Mayor and City Commission, not City Attorney. Thelma Bowie stated she thinks this should be assigned to a special person and schedule. Dedrick Johnson stated the City Attorney should not be assigned this task but the Mayor and City Commission. Mr. Johnson also said that 5 years gets them through 2 legislative sessions. Bob Senter agreed with Thelma Bowie and that the Mayor and Commissioners will review the report but it should be assigned to a single person and City Attorney is best for this. Mark Ciavaglia is in favor of City Attorney, but suggested adding wording "to be acted upon." Bob Senter requested to bring back wording and decide at the next meeting.

Mark Ciavaglia stated that at the next meeting he'd like to discuss:

The commission shall be authorized to employ special counsel to assist the city attorney in important legal matters or to represent the city in any legal matter in which the city attorney is disqualified. Any special counsel appointed by the city attorney shall be subject to the confirmation of the city commission in advance of any such appointment.

- d. Consider and take action on other amendments or matters of interest in Arts. IV, V, and IX on the part of members of the Committee.

5. OTHER MATTERS RELATED TO CITY CHARTER REVIEW

6. TASK/ASSIGNMENTS

Nicholas Finan and Mark Ciavaglia will look into Special Counsel.

Don Edmonds will provide new wording for Article XI. Section 1(8).

Nicholas Finan and Russell Plackemeier will confirm information regarding special elections.

7. ADJOURN

Bob Senter closed the meeting.

Time Adjourned: 7:00 p.m.

Nicholas Finan
Executive Director of Management Services

Texas City Charter Review Committee Agenda

4. a.

Meeting Date: 03/11/2019

Submitted By: Rhomari Jackson-Glover, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on certain amendments proposed in Arts. XI, XIV, XVII and XVIII of the charter, as recommended by consultant Don R. Edmonds. (See attachment.)

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Attachment

CITY OF TEXAS CITY
PROPOSED AMENDMENTS TO THE CITY CHARTER

ARTICLES XI, XIV, XVII and XVIII

(Note: Current charter to be deleted is [bracketed and underlined]).

All amendatory language is *italicized and in bold face*).

ARTICLE XI. FINANCE ADMINISTRATION

SECTION 1. DIRECTOR OF FINANCE

There shall be a department of finance, the director of which shall be [the chief executive officer or a person] appointed by the chief executive officer and confirmed by a majority of the city commission. The director of finance shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control. The department of finance shall have authority and shall be required:

(1) To prepare the budget, as outlined in sections 3, 4 and 5 of this article and to assist the chief executive officer in its execution after authorization by the commission as required by section 6.

(2) To maintain accounting control over the finances of the city government, for which purpose it is empowered to operate a set of general accounts embracing all the financial transactions of the city, and such subsidiary accounts and cost records as may be required by ordinance or by the chief executive officer for purposes of administrative direction and financial control; to prescribe the forms of receipts, vouchers, bills, or claims to be filed by all departments and agencies of the city government; to examine and approve all contracts, orders, and other documents by which the city incurs financial obligations, having ascertained before approval that the moneys have been duly appropriated and allotted to meet such obligations and will become available when the obligations have become due and payable; to audit and approve all bills, invoices, payrolls, and other evidences of claims, demands or charges against the city government and to determine the regularity, legality, and correctness of such claims, demands, or charges; to make monthly reports on all receipts and expenditures of the city government, to make monthly reports on funds, appropriations, allotments, encumbrances, and authorized payments, to the chief executive officer, the commission, and the head of the department or agency directly concerned; to inspect and audit any accounts or records of financial transactions which may be maintained in any department or agency of the city government apart from or subsidiary to the general accounts; and to perform such other duties pertaining to the financial records of the city government as the commission may require by ordinance.

SECTION 2. FISCAL YEAR

No amendatory action proposed.

SECTION 3. CITY BUDGET

No amendatory action proposed.

SECTION 4. FILING OF BUDGET

No amendatory action proposed.

SECTION 5. BUDGET HEARING

The city commission shall each year provide for a public hearing on such budget, which hearing shall take place on some date to be fixed by the city commission not less than fifteen days subsequent to the time such budget is filed as provided in this section, and prior to the time the city commission makes its tax levy. Public notice of the hour, date and place of such hearing shall be given by the city commission by publication in the official newspaper for at least two issues immediately preceding the date of said hearing, and any taxpayer of the city shall have the right to be present and participate in such hearing. At the conclusion of such hearing, the budget as prepared by the finance department shall be acted upon by the city commission. The city commission shall have the authority to make such changes in the budget as in their judgment the law warrants and the best interest of the taxpayers of the city demand. When the budget has been finally approved by the city commission, the budget as so approved shall be filed with the city secretary and taxes levied only in accordance therewith, and no expenditure of the funds of the city shall thereafter be made except in strict compliance with such adopted budget, except that in case of grave public necessity, emergency expenditures to meet unusual and unforeseen conditions, which could not, by reasonably diligent thought and attention, have been included in the original budget, may from time to time be authorized by the city commission, as amendments to the original budget. In all cases where such amendment to the original budget is made, a copy of the order or resolution of the city commission amending such budget shall be filed with the city secretary and attached to the budget originally adopted. [Immediately after the adoption of said budget, and all amendments thereto, the chief executive officer shall file or cause to be filed, a true copy of said approval budget, and all amendments thereto, in the office of the county clerk of Galveston County, Texas, and with the state comptroller at Austin, Texas.] In the preparation of the budget, the chief executive officer shall have the authority to require the heads of all departments to furnish such information as may be necessary for the chief executive officer to have in order that the budget covering the expenditures of the city may be properly prepared.

SECTION 6. TRANSFER OF APPROPRIATIONS

No amendatory action proposed.

SECTION 7. MONEY TO BE DRAWN FROM TREASURY IN ACCORDANCE WITH APPROPRIATION

No amendatory action proposed.

SECTION 8. CONTRACTS AND PURCHASES

No amendatory action proposed.

SECTION 9. CUSTODY OF CITY MONEYS

No amendatory action proposed.

SECTION 10. ISSURANCE OF BONDS

No amendatory action proposed.

SECTION 11. LOANS IN ANTICIPATION OF BOND SALES

No amendatory action proposed.

SECTION 12. TEMPORARY BORROWING

No amendatory action proposed.

SECTION 13. ANNUAL AUDIT

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the city government and corporations established by the city. The certified public accountants, appointed by the commission, shall have no personal interest, directly or indirectly, in the financial affairs of the city or any of its officers. The scope of the audit shall require a limited review of city-owned property and the results shall be reported with each annual audited financial report. Upon completion of the annual audit, the combined balance sheet thereof shall be published in the official newspaper of the city within thirty (30) days of commission acceptance of such audit. Copies of all audits shall be placed on file with the city's public library, the director of finance and the city secretary.

ARTICLE XIV. CITY PLANNING BOARD AND CITY ZONING COMMISSION

SECTION 1. CITY PLANNING BOARD ESTABLISHMENT, MEMBERSHIP, DUTIES, AND TERMS

The commission may at any time after the adoption of this Charter establish and maintain a city planning board of five members to serve without compensation and to have such powers and duties as the commission may prescribe relative to city planning in accordance with state law. The commission by duly enacted ordinance may increase the specified number of board members. One of the members of the planning board shall be the mayor, another shall be a member of the commission designated by the commission upon recommendation of the mayor. *Two of the members of the planning board shall also be members of the city commission, who shall be appointed by the commission upon the recommendation of the mayor.* Each member appointed shall be appointed for a term of four years. Any vacancy in and during the unexpired term of an appointed member shall be filled by the commission upon recommendation of the mayor. The chief executive officer shall provide the planning board with the necessary clerical

help, office equipment, and supplies.

SECTION 2. CITY ZONING COMMISSION ESTABLISHMENT, MEMBERSHIP, DUTIES, AND TERMS

The commission may at any time after the adoption of this Charter establish and maintain a city zoning commission of five members to serve without compensation and to have such powers and duties as the commission may prescribe relative to city zoning in accordance with state law. The commission by duly enacted ordinance may increase the specified number of board members. Members of the board shall be appointed by the commission, upon the recommendation of the mayor. Each member appointed shall be appointed for a term of two years. Any vacancy in and during the unexpired term of an appointed member shall be filled by the commission upon recommendation of the mayor. The chief executive officer shall provide the zoning commission with the necessary help, office equipment, and supplies.

ARTICLE XVII. PUBLIC UTILITIES AND FRANCHISES

SECTION 1. POWERS OF THE CITY

No amendatory action proposed.

SECTION 2. FRANCHISES; POWERS OF THE COMMISSION

No amendatory action proposed.

SECTION 3. TERM OF FRANCHISE

No amendatory action proposed.

SECTION 4. RIGHT OF REGULATION

No amendatory action proposed.

SECTION 5. CONSENT OF PROPERTY OWNERS

No amendatory action proposed.

SECTION 6. REVOCABLE PERMITS

No amendatory action proposed.

SECTION 7. EXTENTIONS

No amendatory action proposed.

SECTION 8. OTHER CONDITIONS

No amendatory action proposed.

SECTION 9. FRANCHISE RECORDS

Within six months after this Charter takes effect every public utility and every owner of a public utility franchise shall file with the city, as may be prescribed by ordinance, certified copies of all the franchises owned or claimed, or under which such utility is operated. The city shall compile and maintain a public record of public utility franchises [and of all public utility fixtures in the streets of] *operating within* the city.

SECTION 10. ACCOUNTS OF MUNICIPALLY OWNED UTILITIES

No amendatory action proposed.

SECTION 11. PUBLIC UTILITIES

The commission shall have the power and shall be authorized to regulate, by ordinance, the rates and compensation to be charged by all persons, companies, or corporations, using the streets, alleys or public grounds of the City of Texas City, and engaged in furnishing water, gas, [telephone,] light, power, electricity or sewerage service to the public, and also to prescribe rules and regulations under which such commodities shall be furnished, and service rendered, and to fix penalties to enforce such charges, rules and regulations. The governing body shall not prescribe any rate or compensation which will yield more than a fair return upon the fair value of the property used and useful in rendering such services to the public, but which return in no event shall ever exceed 8% per annum.

SECTION 12. STREET RENTAL

No amendatory action proposed.

ARTICLE XVIII. MISCELLANEOUS PROVISIONS

SECTION 1. PUBLICITY OF RECORDS

No amendatory action proposed.

SECTION 2. PERSONAL INTEREST

No amendatory action proposed.

SECTION 3. COMPENSATION AND TENURE OF OFFICERS AND EMPLOYEES

No amendatory action proposed.

SECTION 4. OFFICIAL BONDS

No amendatory action proposed.

SECTION 5. OATH OF OFFICE

No amendatory action proposed.

SECTION 6. SPECIAL PROVISION FOR GARBAGE DISPOSAL

No amendatory action proposed.

SECTION 7. LIMITATION OF LIABILITY FOR DAMAGES

No amendatory action proposed.

SECTION 8. POWER OF CONDEMNATION AND SPECIAL ASSESSMENT

No amendatory action proposed.

SECTION 9. PROVISION RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution of cost bill; *and no lien of any kind shall ever exist against any such property owned by the city except that the lien be created or authorized by this Charter or state law.* The funds belonging to the city in the hands of any person, firm or corporation, shall not be liable to garnishment; nor shall the city be liable to garnishment on account of any debt it may owe for funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors, *except as required by state or federal law.*

SECTION 10. POWER OF THE CITY TO ENFORCE ORDINANCES

No amendatory action proposed.

SECTION 11. MEANING OF WORDS AND DESIGNATIONS

No amendatory action proposed.

SECTION 12. SAVING CLAUSE

No amendatory action proposed.

SECTION 13. ORDINANCES

No amendatory action proposed.

SECTION 14. POWER TO OWN AND CONSTRUCT

No amendatory action proposed.

SECTION 15. AMENDING THE CHARTER

No amendatory action proposed.

SECTION 16. MEETINGS OF BOARDS, COMMITTEES AND COMMISSIONS

All permanent boards [, committees] and commissions established in this Charter [or by the city commission] shall meet at least once quarterly and submit the minutes of their meetings to the city commission. All meetings shall be held in accordance with Article III, Section 1 of this Charter. The need for other boards, committees and commissions appointed by the city commission will be reviewed annually by the chief executive officer, and appropriate recommendation for their continuance made to the city commission.

SECTION 17. CONFLICTS OF INTEREST

No amendatory action proposed.

SECTION 18. RULES OF PROCEDURE

No amendatory action proposed.

SECTION 19. AUTHORITY TO REARRANGE AND RENUMBER

No amendatory action proposed.

SECTION 20. SUBMISSION OF ORIGINAL CHARTER TO ELECTORS

This Charter shall be submitted to the qualified voters of the City of Texas City at an election to be held for that purpose on the 16th day of February, 1946, and if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Texas City, and after the returns have been canvassed, the same shall be declared adopted and the city commission shall file an official copy of the Charter with the records of the city. The commission shall furnish the mayor a copy of said Charter, which copy of the Charter as adopted, authenticated, and certified by his signature and the seal of the city,

shall be forwarded by the mayor to the secretary of state of the State of Texas and shall show the approval of such Charter by a majority vote of the qualified voters voting at such election.

In not less than thirty days prior to such election the city commission shall cause the city secretary to mail a copy of this Charter to each qualified voter of the City of Texas City.]

Texas City Charter Review Committee Agenda

4. c.

Meeting Date: 03/11/2019

Submitted By: Rhomari Jackson-Glover, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on the revision of the proposed amendatory language in Art. IX, Sec. 1- Legal Department. (See attachment.)

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Attachment

DATE: February 22, 2019
TO: Charter Review Committee
FROM: Don R. Edmonds
SUBJECT: Revised amendatory provisions in Art. IX, Sec. 1.

At our committee meeting on February 11, several concerns were raised about certain proposed amendatory language in Art. IX, Sec. 1, dealing with responsibilities of the city attorney. After further discussion with Carlos Garza, Mark Ciavaglia, Nick and Rusty, this article is now proposed to be amended as follows and subject to your reconsideration:

ARTICLE IX. LEGAL DEPARTMENT

SECTION 1. CITY ATTORNEY; QUALIFICATIONS

The head of the department of law shall be the city attorney who shall be appointed by the commission. The city attorney shall be an attorney at law who shall have practiced in the State of Texas for at least three years. The city attorney shall be the chief legal adviser of and attorney for the city and all departments and offices thereof in matters relating to their official powers and duties. It shall be the city attorney's duty, to:

- (1) perform all services incident to the department of law;
- (2) attend meetings of the commission whenever requested by the commission to do so;
- (3) give advice in writing when so requested by the commission, the mayor, [and/or chief executive officer] or the director of any department;
- (4) prosecute or defend, as the case may be, all suits or cases to which the city may be a party;
- (5) prosecute all offense against the ordinances of the city and for such offenses against the laws of the state as may be required by law;
- (6) prepare all contracts, bonds, and other instruments in writing in which the city is concerned, or to endorse approval of the form and correctness thereof; [and]
- (7) perform such other duties of a legal nature as the commission may by ordinance require;
- (8) ***prepare a written report for the attention and appropriate action of the commission, first in 2025 and thereafter at intervals not exceeding five years as to the need for revision of this charter, with special attention given to conflicts, if any, between the charter and state law and recommending such amendments to the charter as may seem necessary for legal, administrative, or other reasons.***

In addition to the duties imposed upon the city attorney by this charter or required by ordinance or resolution of the commission, the city attorney shall perform any duties imposed by law upon the chief legal officer of municipalities.

[The commission shall be authorized to employ special counsel to assist the city attorney in important legal matters or to represent the city in any legal matter in which the city attorney is disqualified.] ***Upon recommendation of the city attorney, the commission shall be authorized to employ special counsel to assist the city attorney in important legal matters or to represent the city in any legal matter.*** Any special counsel appointed by the city attorney shall be subject to the confirmation of the city commission in advance of any such appointment.

Administratively, the city attorney shall report to the chief executive officer or his/her designated representative.

Texas City Charter Review Committee Agenda

4. d.

Meeting Date: 03/11/2019

Submitted By: Rhomari Jackson-Glover, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on a memorandum from the consultant regarding the tentative approval of a proposal to lengthen commission terms from two years to three years. (See attachment.)

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Attachment

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 11th, 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 11th 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.