

# DRAFT

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.

Present: Bob Senter, Chairperson  
Jose Boix, Board Member  
Lupe Cantu, Board Member  
Frank Mistretta, Board Member  
Brian Clark, Board Member  
Denise O'Brien, Board Member  
Jenny Senter, Board Member  
Mark Ciavaglia, Board Member

Absent: Thelma Bowie, Board Member  
Dedrick Johnson, Board Member  
Carlos Garza, Board Member  
Aric Owens, Board Member  
Tracy Tarpey, Board Member

Staff Present: Nicholas Finan, City Staff  
Russell F. Plackemeier, City Attorney  
Phil Roberts, City Liaison

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.  
Approval contingent upon corrections to page 5.

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.)

**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.

Don Edmonds stated that there was no need for this language anymore since earlier we clarified the chief executive officer is the Mayor.

Motioned by Mark Ciavaglia, seconded by Jose Boix to remove the language. The vote passed unanimously.

**SECTION 5. BUDGET HEARING**

[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.]

Don Edmonds stated that the language is obsolete, not required and is currently not being fulfilled by the City.

Motioned by Mark Ciavaglia, seconded by Jose Boix to remove the language. The vote passed unanimously.

**SECTION 13. ANNUAL AUDIT**

[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.]

Don Edmonds stated that this language is not required and is not being done by the City.

Motioned by Jose Boix, seconded by Jenny Senter to remove the language. The vote passed unanimously.

Jenny Senter questioned how the language will be worded on the ballot and if it will include an explanation? Don Edmonds answered that there will be no explanation on the ballot. Mark Ciavaglia stated if a committee will promote and explain. Don Edmonds stated that the City Commission will have an explanation with the report. Jenny Senter explained that she feels citizens need something to see at the time of voting. Don Edmonds stated that the way the ballot will be worded will indicate the full intent which will help voters.

**ARTICLE XIV. CITY PLANNING BOARD AND CITY ZONING COMMISSION**

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

[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.**

Don Edmonds stated that this will language just keeps the Mayor from having to be on the Commission. He can nominate himself and 1 other Commissioner or 2 other Commissioners.

Motioned by Jose Boix, seconded by Mark Ciavaglia. The vote passed unanimously.

**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.***

Don Edmonds stated that the language is totally new but is currently in Ordinance. No provision for removal so does the City want? Some discussion was had.

Jose Boix questioned why the Charter shows "appoint" and "number," but the terms, removal, etc. are by Ordinance? Mark Ciavaglia made a motion to remove the length of terms and do for all 3 terms Charter Boards. That way the Ordinance can address length and conditions and removal after appointment. Russell Plackemeier stated that the Charter says "other duties..." which would be attendance, etc. So removal's are partially addressed. Mark Ciavaglia dropped his motion after discussion. Mark Motioned to accept the recommendation as presented. Jenny seconded. The vote was unanimous.

## **SECTION 9. FRANCHISE RECORDS**

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.

Don Edmonds and Nicholas Finan explained that this can not be enforced on private companies. Motioned by Jose Boix, Seconded by Mark Ciavaglia. The vote passed unanimously.

## **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.

Jose Boix wanted universally ALL utilities as a public utility. The City cannot, by itself, determine what Public Utilities it can franchise. The Federal government and state government may limit which utilities a city may franchise or regulate.

Motioned by Mark Ciavaglia, seconded by Jose Boix. The vote passed unanimously.

## **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.***

Motioned by Mark Ciavaglia, seconded by Denise O'Brien. The vote passed unanimously.

## **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.

Motioned by Mark Ciavaglia, seconded by Jose Boix to remove the word "permanent," and accept other changes recommended. The vote passed unanimously.

## **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.]

Motioned by Jose Boix, seconded by Mark Ciavaglia. The vote passed unanimously.

- 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.

No other request were made.

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

## **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.

Mark Ciavaglia stated that the new language in the last paragraph is for when the City Attorney is not disqualified, but should seek more assistance.

Motioned by Jenny Senter, seconded by Jose Boix. The vote passed unanimously.

- 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.)

Don Edmonds explained the 3-year term limits and the States Constitution prohibition on plurality. March Ciavaglia stated that with changing back to plurality and a 2-year term. Denise O'Brien agreed.

Motion by Mark Ciavaglia, seconded by Jenny Senter to go back to a 2-year term. The vote passed unanimously.

- e. Consider and take action on the matter of term limits for the City Commission.

Postponed until March 25, 2019, meeting.

Motioned by Jose Boix, seconded by Jenny Senter. The vote passed unanimously.

- f. Consider and take action on the matter of plurality elections of the City Commission, as provided in the current Charter.

This item was considered moot because of previous item d. No vote was necessary.

5. OTHER MATTERS RELATED TO CITY CHARTER REVIEW

6. TASK/ASSIGNMENTS

7. ADJOURN

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Nicholas J. Finan  
Executive Director of Management Services