

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 25, 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 for the Charter Review Committee's March 11, 2019 meeting.
4. OVERVIEW
  - a. Consider and take action on the matter of term limits for the City Commission.
  - b. Consider and take action on a draft by consultant Don R. Edmonds of the Committee's final report to the City Commission. (See Attachment.)
  - c. Consider a memorandum from consultant Don R. Edmonds summarizing the steps that will be necessary to move the Committee's proposed amendments to a vote of the electorate in November. (See Attachment.)
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

**Texas City Charter Review Committee Agenda**

**3. a.**

Meeting Date: 03/25/2019

Submitted By: Rhomari Jackson-Glover, City Secretary

Department: City Secretary

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**ACTION REQUEST (Brief Summary)**

Consider approval of the minutes for the Charter Review Committee's March 11, 2019 meeting.

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Minutes

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# 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

**Texas City Charter Review Committee Agenda**

**4. a.**

Meeting Date: 03/25/2019

Submitted By: Rhomari Jackson-Glover, City Secretary

Department: City Secretary

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**ACTION REQUEST (Brief Summary)**

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

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Texas City Charter Review Committee Agenda**

**4. b.**

Meeting Date: 03/25/2019

Submitted By: Rhomari Jackson-Glover, City Secretary

Department: City Secretary

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**ACTION REQUEST (Brief Summary)**

Consider and take action on a draft by consultant Don R. Edmonds of the Committee's final report to the City Commission. (See Attachment.)

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Attachment

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**DRAFT**

**FINAL REPORT**

**CITY OF  
TEXAS CITY, TEXAS**

A REPORT

from the

CHARTER REVIEW COMMITTEE

to the

CITY COMMISSION

March 25, 2019

## INTRODUCTION

The voters of the City of Texas City adopted a home rule charter at an election on February 16, 1946. Prior to that time, the City operated under the general laws of the State of Texas. The original Charter was subsequently amended in a number of ways at an election on November 7, 1995.

In the years since its charter was last amended, the City has grown and changed in significant ways, and various issues have arisen within the document. These issues fall into three categories, as follows:

1. Some of its provisions have been offset or materially affected by state and/or federal legislation or by court decisions.
2. Some of its provisions are, for one reason or another, not being observed as a result of decisions by the city commission and/or city administration.
3. Some of its provisions simply need to be clarified or modified to enhance future implementation and operations.

Recognizing these issues, the city commission adopted a resolution on September 5, 2018, to subject the charter to a comprehensive review by a citizen advisory group. The committee was generally charged with the responsibility to independently review the charter and to make recommendations to the commission as to necessary amendments to this important document.

Subsequently, a charter review committee was named--to include and be chaired by Bob Senter and to include Mayor Pro Tem Phil Roberts, serving as a liaison for the city commission.

The committee held its organizational meeting on November 12, 2018, including the following members:

Bob Senter, Chairman  
Phil Roberts, Mayor Pro Tem  
Carlos Garza  
Aric Owens  
Jose Boix

Lupe Cantu  
Jenny Senter  
Mark Ciavaglia  
Dedrick Johnson  
Thelma Bowie

At this organizational meeting, the committee elected Carlos Garza to serve as its vice chairman; generally reviewed its charge; and discussed the need for a qualified public affairs consultant to assist the committee with the project, generally agreeing that this would be desirable.

At its second meeting on December 10, 2018, the committee interviewed consultant Don R. Edmonds, of Tyler, Texas, and recommended that he be retained by the city commission to guide the work of the committee going forward. The city commission subsequently accepted this recommendation; determined at his request that the mayor pro tem would serve as a non-voting

member on the committee; and agreed to enlarge the committee otherwise to include the following additional members:

Tracy Tarpey  
Frank Mistretta  
Brian Clark  
Denise O'brien

At its regular meeting on January 14, 2019, the committee proceeded with its detailed review of the charter, assisted by its consultant, and with ongoing staff support from Executive Director of Administrative Services Nick Finan and City Attorney Russell Plackemeier.

The committee has now completed its work. It has studied the current charter in detail; has considered a broad range of policy questions created by the various issues outlined above; and has developed the following recommendations for amending the city's home rule charter.

**CURRENT CHARTER ORGANIZATION AND NUMBERING,  
AS RELATED TO PROPOSED AMENDMENTS:**

Texas City's charter presently includes eighteen major articles, denoted by Roman numerals. Each article is then divided into sections, identified by Arabic numbers. Some sections are further divided into subsections, also denoted by Arabic numbers but in parentheses.

After its initial assessment of the charter, however, the committee found that only eleven of these eighteen articles required amendatory action. This report, therefore, only addresses those articles and sections therein that are proposed to be amended. Every section in which an amendment(s) is recommended is recited in its entirety. Current charter language that is proposed to be deleted is shown as bracketed and underlined. Proposed amendatory language, if any, is shown as *italicized and in bold type*.

A brief explanation of the committee's reason for the proposed amendments follows each section or subsection and is titled "Explanatory Note."

**PROPOSED AMENDMENTS AND EXPLANATORY NOTES:**

**ARTICLE I. INCORPORATION, POWERS AND TERRITORY**

**SECTION 1. CORPORATE NAME AND STATUS**

No amendatory action proposed.

**SECTION 2. ENUMERATED POWERS NOT EXCLUSIVE**

No amendatory action proposed.

### **SECTION 3. BOUNDARIES OF THE CITY**

The boundaries of the city shall be the same as have been heretofore established and now exist and those boundaries established and changed hereafter in all annexation and disannexation proceedings of the city, filed in the office of the city secretary.

The city commission may by ordinance annex territory adjacent to the city, [with or without the consent of the owners or inhabitants of the annexed territory, and] subject to the procedural rules prescribed by the laws of the state of Texas.

The city commission, after a public hearing and a majority vote of the commission, may by ordinance pursuant to state law and this Charter disannex any property lying within and adjacent to the boundary limits of the city and lying adjacent to the city limits.

**Explanatory Note:** Annexation without the consent of property owners is invariably controversial and is severely limited in state law. It is felt that this general reference is problematic and should be eliminated.

## **ARTICLE II. GOVERNING BODY**

### **SECTION 1. THE CITY COMMISSION; TERM OF OFFICE**

No amendatory action proposed.

### **SECTION 2. QUALIFICATIONS FOR COMMISSION**

No amendatory action proposed.

### **SECTION 3. ELECTION OF COMMISSION.**

No amendatory action proposed.

### **SECTION 4. VACANCIES.**

No amendatory action proposed.

### **SECTION 5. SALARIES OF MAYOR AND COMMISSIONERS.**

The salary of the mayor shall be fixed by the commission not to exceed [five hundred] *one thousand, five hundred* dollars per month. The salary of each commissioner shall be fixed by the commission not to exceed [one hundred] *five hundred* dollars per month.

**Explanatory Note:** Compensation for the commission has not been increased since the original home rule charter was adopted, now 73 years ago. The adjustments proposed are, therefore, entirely justified and are still considerably less than the ever-increasing consumer price index in

the intervening period might suggest.

### **ARTICLE III. PROCEDURES OF THE COMMISSION; LEGISLATION**

#### **SECTION 1. MEETINGS OF THE COMMISSION**

No amendatory action proposed.

#### **SECTION 2. MAYOR AND MAYOR PRO TEM.**

At the first regular meeting after every election, held for the purpose of electing new city commissioners, the members of the city commission shall elect one of their members to serve as mayor pro tem, and he/she shall perform all the duties of the mayor in his/her absence or disability. The mayor shall preside at meetings of the commission and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him/her by this charter and the ordinances of the city. *The mayor shall serve as the chief executive officer of the city.* He/she shall be recognized as the head of the city government for all ceremonial purposes, by the courts for serving civil processes, and by the governor for purposes of military law.

In the time of public danger or emergency, the mayor shall take command of the police, maintain order and enforce the law. If a vacancy occurs in the office of mayor, or in the case of his absence or disability, the mayor pro tem shall act as mayor until a successor is elected or appointed and has qualified.

**Explanatory Note:** This is standard language in charters of home rule cities with mayor-commission systems. It is also necessary for clarification of various other sections that follow in this charter.

#### **SECTION 3. CITY SECRETARY.**

No amendatory action proposed.

#### **SECTION 4. COMMISSION RULES.**

No amendatory action proposed.

#### **SECTION 5. QUORUM.**

No amendatory action proposed.

#### **SECTION 6. INTRODUCTION AND PASSAGE OF ORDINANCES AND RESOLUTIONS.**

No amendatory action proposed.

**SECTION 7. WHEN ORDINANCES SHALL TAKE EFFECT.**

No amendatory action proposed.

**SECTION 8. AUTHENTICATION AND PUBLICATION OF ORDINANCES AND RESOLUTIONS.**

Upon its final passage, each ordinance or resolution shall be authenticated by the signatures of the mayor and of the city secretary and shall be systematically recorded in a manner approved by the commission. Any ordinance may also be authenticated by the signatures of the city secretary and three members of the commission. **[Every]** *The caption of every* ordinance imposing any penalty, fine, or forfeiture shall, after passage thereof, be published in one issue of the official paper; and proof of such publication shall be made by the printer or publisher of such paper, making affidavit before some officer authorized by law to administer oaths, and filed with the person performing the duties of city secretary and said affidavit shall be prima facie evidence of such publication and promulgation of such ordinance in courts of the state; and such ordinance so published shall take effect, and be in force, from and after ten days after publication thereof, unless otherwise expressly provided. Ordinances not required to be published shall take effect, and be in force, from and after the passage, unless otherwise provided.

The commission shall, as soon as practicable after the commencement of each fiscal or municipal year, enter into a contract with a public newspaper of the city as the official paper thereof, and to continue as such until another is selected, and shall cause to be published therein all ordinances, notices, and other matters required by this charter or by the ordinances of the city to be published.

**Explanatory Note:** The city does not currently comply with the existing language. The proposed language is in accordance with state law and is considerably more economical.

**ARTICLE IV. NOMINATIONS AND ELECTIONS**

**SECTION 1. MUNICIPAL ELECTIONS**

No amendatory action proposed.

**SECTION 2. COMMISSON RULES**

No amendatory action proposed.

**SECTION 3. NOMINATIONS**

Any qualified voter under Article II, Section 2 of the city desiring to have his/her name placed upon the official ballot for any election may do so by filing with the city secretary a written request for that purpose, signed by himself, at least thirty days prior to the date of said election; provided however, 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.]*

**Explanatory Note:** The differentiation as to filing fees for mayoral candidates (\$25) and for other commission candidates (\$15) is considered to be inequitable and unnecessary. All such fees are simply treated as general fund revenues and are not, in actuality, seen as defraying election costs.

#### **SECTION 4. BALLOTS**

No amendatory action proposed.

#### **SECTION 5. ELECTION OF COMMISSION BY PLURALITY**

No amendatory action proposed.

#### **SECTION 6. LAWS GOVERNING ELECTIONS**

No amendatory action proposed.

#### **SECTION 7. CANVASSING ELECTIONS**

No amendatory action proposed.

### **ARTICLE V. RECALL**

#### **SECTION 1. GENERAL PROVISIONS**

No amendatory action proposed.

#### **SECTION 2. RECALL ELECTION ORDERED**

If a recall petition, or amended petition as defined in Article VIII, Section 3, shall be certified by the city secretary to be sufficient the city secretary shall at once submit it to the commission with the city secretary's certificate to that effect and notify the member whose removal is sought of such action. If the member of the commission whose removal is sought does not resign within five days after such notice, the commission shall thereupon fix a day for holding a recall election *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.]

In case of a recall election for a district commissioner, only qualified voters residing in the subject commissioner's district shall be eligible to vote in the recall election.

**Explanatory Note:** The language proposed to be deleted has been outdated by changes in state law that restrict home rule cities from holding elections except on two uniform election dates each year, in May and November.

### **SECTION 3. BALLOTS IN RECALL ELECTIONS**

No amendatory action proposed.

### **SECTION 4. RESULT OF RECALL ELECTION**

No amendatory action proposed.

### **SECTION 5. LIMITATIONS ON RECALL PETITIONS**

No amendatory action proposed.

## **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 offenses 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.

**Explanatory Notes:** (a) The “and-or” reference in subsection (3) is a confusion that suggests that the mayor and the chief executive officer could be two different persons, contrary to basic provisions in the charter. (b) To assure that the overall condition of the charter is periodically reviewed by the commission, it is considered appropriate to formally assign that responsibility to the city attorney. (c) The proposed change as to the appointment of a special counsel is for the purpose of clarification.

## 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.

**Explanatory Note:** The language deleted is thought to be outdated. With the growth in size and complexity of the city since adopting the original charter, it is entirely impractical to provide that the mayor might opt to serve as the director of finance.

## **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.

**Explanatory Note:** The deleted language is outdated, not required by state law, and is not being currently complied with by the city.

## **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.

**Explanatory Note:** The deleted language is outdated, not required by state law, and is not being currently complied with by the city.

## **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.

**Explanatory Note:** The current charter language mandates, with the word "shall," that the mayor is to serve personally as one of two members of the commission on this board. The proposed language eliminates that mandate, although it does not preclude the mayor from appointing himself, with the concurrence of the commission.

### ***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.*

**Explanatory Note:** Many home rule charters provide for a combined planning and zoning commission, while others have separate bodies for these functions, but almost all of them

provide in their charters for zoning one way or another. This is not currently the case in Texas City. In view of the importance of zoning regulation and its connection with planning processes, it is proposed to amend the charter in this way.

## **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. EXTENSIONS**

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.

**Explanatory Note:** The deleted language is an overstatement. For a variety of reasons, such detailed information is not currently available to 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.

**Explanatory Note:** State law has eliminated the ability of home rule cities to regulate telephone services.

**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.*

**Explanatory Note:** At one time, home rule cities were wholly exempt from these legal processes. That is no longer the case. The proposed additional language is necessary as a result of certain changes in state and federal law and certain court decisions.

## **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.

**Explanatory Note:** The current language is considered to be awkward and difficult to interpret. The proposed deletions are intended to clarify the provision.

### **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.]

**Explanatory Note:** This provision is no longer germane to the current charter.

### **CONCLUSIONS AND RECOMMENDATIONS**

By unanimous decision of the undersigned members of the review committee, it is felt that these proposed amendments will benefit the City of Texas City in its many policy-making and administrative processes in the future. It is, therefore, recommended that the city commission, following its review of this report, place these proposed amendments on the ballot for voter consideration at a special election to be called on November 5, 2019.

It is further recommended that preceding this election, a public information effort be undertaken to fully acquaint the electorate with the reasons for and the benefits of the various amendments proposed. The committee stands ready to assist with this effort upon the commission's request and as appropriate.

It has been an interesting challenge and a distinct honor to serve our community in this way. We look forward to favorable action on this report and its recommendations by the commission and, in turn, by Texas City citizens.

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**Bob Senter**  
Chairman

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**Carlos Garza**  
Vice Chairman

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**Phil Roberts**  
Mayor Pro Tem

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**Dedrick Johnson**

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**Mark Ciavaglia**

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**Thelma Bowie**

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**Jose Boix**

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**Aric Owens**

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**Lupe Cantu**

---

**Jenny Senter**

---

**Tracy Tarpey**

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**Frank Mistretta**

---

**Brian Clark**

---

**Denise O'brien**





**Texas City Charter Review Committee Agenda**

**4. c.**

Meeting Date: 03/25/2019

Submitted By: Rhomari Jackson-Glover, City Secretary

Department: City Secretary

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**ACTION REQUEST (Brief Summary)**

Consider a memorandum from consultant Don R. Edmonds summarizing the steps that will be necessary to move the Committee's proposed amendments to a vote of the electorate in November. (See Attachment.)

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Attachments**

Attachment

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**DATE:** March 22, 2019  
**TO:** Charter Review Committee (CRC)  
**FROM:** Don R. Edmonds  
**SUBJECT:** Steps involved in bringing the CRC's final report to the electorate.

The purpose of this memorandum is to summarize, for your information, the various steps and processes that will ensue beginning with the submission of the CRC's final report to the city commission. The calendar for these events is necessarily approximate, but this will give you an idea of how this matter will proceed.

<u>Action</u>	<u>Timing</u>
1. Approval of CRC of its final report.	March 25, 2019
2. Submission of report to city commission	April 17, 2019
3. Study and consideration by commission to determine which (if not all) of the proposed amendments will be submitted to the voters.	April 17, 2019 to May 15, 2019
4. Adoption of a resolution by the commission ordering a special election on the proposed amendments on November 5, 2019.	May, June, or July 2019 (or as determined by County)
5. Development of election ballot by city secretary and city attorney.	July to August 7, 2019
6. Translation to Spanish of CRC final report and ballot.	July to August 7, 2019
7. Enter into agreement with County to run City Special Election	August 21, 2019
8. Public information effort to gain support for the proposed amendments, to include public hearings, news stories, mailings, civic club presentations, etc.	August, September, October 2019
9. Conduct of election by Galveston County election office.	November 5, 2019 (early voting roughly two weeks prior)

10. Canvass by commission of election results.

November 20, 2019  
(or as required by County  
and State)

11. Printing and codification of amended  
charter.

To be determined

We will discuss these matters with you in greater detail at our upcoming meeting.