

**RECOMMENDATIONS REGARDING
CITY CHARTER
01/07/15**

INTRODUCTION

The Charter Review Commission appointed by the Council consists of the following individuals: Chair Bill Lofland, Vice Chair Nell Welborn, and Commissioners Daniel Nichols, Charles Johnson, Adan Tovar, Freddie Jackson, Bill Cecil, Bill Houser, G. David Smith, and Larry Parks.

The Charter Review commission has unanimously agreed to the proposed Technical revisions and Substantive Revisions to be placed on the upcoming May General Election ballot.

TECHNICAL REVISIONS (These revisions can be voted in one proposition because they eliminate provisions which have become inoperative because they have been superseded by state law; replace obsolete references; update terminology to current legal usage, and to eliminate obsolete transitional provisions.)

1. **Sec. 1.04 (3) Recommended by 2008 Charter Review Committee:** The applicable law is no longer the Chapter referred to in this provision.

Current Charter Language: The City Council will establish a written policy governing extension of City services to all areas. Disannexation procedures are provided in Section 42 of the Local Government code as presently written or hereafter amended. (Amended 1993)

Proposed Charter Language: The City Council will establish a written policy governing extension of City services to all areas. Disannexation procedures are provided in Section 42 of the Local Government code as presently written or hereafter amended. (Amended 1993) shall comply with the applicable provisions of the Texas Local Government Code.

2. **Sec. 3.04 (2) –** This provision outlines how and when the Mayor Pro Tem is elected by the Council. However, the provision does not address what happens if there is a vacancy in Mayor Pro Tem. The change will outline how to fill such a vacancy.

Current Charter Language: The Mayor Pro-Tem will be a Council member elected by the City Council at the first regular meeting after each election of Council members and/or Mayor. The Mayor Pro-Tem will act as Mayor during the disability or absence of the Mayor, and in this capacity will have the rights conferred upon the Mayor.

Proposed Charter Language: The Mayor Pro-Tem will be a Council member elected by the City Council at the first regular meeting after each election of Council members and/or Mayor. Should a vacancy occur, the unexpired term will be filled at the next regular council meeting after the occurrence of the vacancy. The Mayor Pro-Tem will act as Mayor during the disability or absence of the Mayor, and in this capacity will have the rights conferred upon the Mayor

3. **Sec. 3.05 (4)** - The filling of vacancy of the Mayor or the Council in this section, is inconsistent with Section 3.05 (5) which requires the person to fill the position until the next regular city election as opposed to the “unexpired term.” This change will eliminate the inconsistency. Also, the language would prohibit an appointed member of the council to vote on the appointment of another appointment to the Council.

Current Charter Language: In the event of a vacancy in the office of the Mayor, the Mayor Pro-Tem must become the Mayor, thereby vacating his Council position. Within thirty days, vacancies in the Council, other than the Mayor, will be filled by a majority vote of the remaining elected members, for the unexpired term only, and provided the successor will possess all qualifications for the position.

Proposed Charter Language: In the event of a vacancy in the office of the Mayor, the Mayor Pro-Tem must become the Mayor, thereby vacating his Council position. Within thirty days, vacancies in the Council, other than the Mayor, will be filled by a majority vote of the remaining ~~elected~~ members, ~~for the unexpired term only~~ until the next regular City election, and provided the successor will possess all qualifications for the position.

4. **Sec. 3.08 (1)** - City Charter is council-manager form of government and therefore City Manager should have authority to call for Special council meetings.

Current Charter Language: The City Council will hold at least one regular meeting each month and as many additional meetings as it deems necessary to transact the business of the City. The City Council will fix by ordinance the date and time of the regular meeting(s). Special meetings of the City Council will be held at the call of the Mayor or a majority of the Council members upon provision of public notice in accordance with state law.

Proposed Charter Language: The City Council will hold at least one regular meeting each month and as many additional meetings as it deems necessary to transact the business of the City. The City Council will fix by ordinance the date and time of the regular meeting(s). Special meetings of the City Council will be held at the call of the Mayor, City Manager or a

majority of the Council members upon provision of public notice in accordance with state law.

5. **Sec 3.11 (3)** Charter requires an Ordinance to be read at two Council meetings. State law, Section 1201.028 Government Code states that an ordinance calling for an election to issue bonds or a public security authorization shall take effect upon one reading of the ordinance
Current Charter Language: A proposed ordinance, except as related to an emergency, budget, tax, public utility rate setting, or State or Federal requirement, must be read at two City Council meetings with at least one week between readings.

Proposed Charter Language: A proposed ordinance, except as related to an emergency, budget, tax, public utility rate setting, calling for an election to issue bonds, a public security authorization or State or Federal requirement, must be read at two City Council meetings with at least one week between readings.

6. **Sec. 4.02** – Charter fails to identify who is responsible under the Charter to oversee municipal elections. Historically, City Secretary has performed these duties for the City of Rockwall.

Proposed Charter Language to add to Section 4.02 (2):

(h) Schedule and oversee all City elections in accordance with the Texas Election Code and any other applicable law.

7. **Sec. 4.04 (6)** - Charter provision states that only elected council members may vote to remove the City Attorney. All council members, whether elected or appointed should have the authority to remove the City Attorney.

Current Charter Language: The City Attorney may be removed by a majority vote of the elected City Council.

Proposed Charter Language: The City Attorney may be removed by a majority vote of the elected City Council.

8. **Sec. 5.02 (f)** of the City Charter shall be DELETED in order to comply with newly adopted state law. Therefore, the following language will be deleted.

~~“No employee of the City will continue in such position after filing for an elective office provided for in this Charter.”~~

9. **Sec. 7.15 (1)** – State law requires bidding of contracts in excess of \$50,000.

Current Charter Language: The City Council may by ordinance, give the City Manager general authority to contract for expenditure without further approval of the Council for all budgeted items not exceeding limits set by the Council. All contracts for expenditures involving more than the set limits must be expressly approved in advance by the Council. All contracts or purchases involving more than the limits set by the Council must be let to the lowest bidder whose submittal is among those responsive to the needs of the City after there has been opportunity for competitive bidding as provided by law or ordinance. The City Council, or City Manager in such cases as he/she is authorized to contract for the City, will have the right to reject any and all bids.

Proposed Charter Language: “The City Council may by ordinance, give the City Manager general authority to procure and contract for expenditure without further approval of the Council for all budgeted items not exceeding limits set by the Council and the procurement conducted in accordance with state law.” All contracts for expenditures involving more than the set limits must be expressly approved in advance by the Council. All contracts or purchases involving more than the limits set by the Council must be let to the lowest bidder whose submittal is among those responsive to the needs of the City after there has been opportunity for competitive bidding as provided by law or ordinance. The City Council, or City Manager ~~in such cases as he/she is authorized to contract for the City,~~ will have the right to reject any and all bids.

10. **Sec. 7.16 (3)** – Multi-year contracts for goods and services that carry from one fiscal year to another currently require a new ordinance, which require two readings.

Current Charter Language: This prohibition will not be construed to prevent the making or authorizing of payments, or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance.

Proposed Charter Language: This prohibition will not be construed to prevent the making or authorizing of payments, or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance City Council.

11. **Sec. 7.18** – Remove the requirement of publishing the summary of the audit in a newspaper. Rationale: Costly and burdensome. Option is once Council approves the Audit; place a copy of the Audit on City’s website.

Current Charter Language: At the close of each fiscal year, and at such other times as may be deemed necessary, the City Council must call for an independent audit to be made of all accounts of the City by a certified public accountant. No more than five consecutive annual audits must be completed by the same firm. The certified public accountant selected must have no personal interest, directly or indirectly in the financial affairs of the City or any of its officers. The report of audit, with the Auditor's recommendations will be made to the City Council. Upon completion of the audit, the summary must be published immediately in the newspaper of record of the City and copies of the audit placed on file in the City Secretary's office as a public record.

Proposed Charter Language: At the close of each fiscal year, and at such other times as may be deemed necessary, the City Council must call for an independent audit to be made of all accounts of the City by a certified public accountant. No more than ~~five~~ four consecutive annual audits must be completed by the same firm. The certified public accountant selected must have no personal interest, directly or indirectly in the financial affairs of the City or any of its officers. The report of audit, with the Auditor's recommendations will be made to the City Council. Upon completion of the audit, the ~~summary must be published~~ complete audit and summary must be immediately posted on the City's website ~~in the newspaper of record of the City~~ and copies of the audit placed on file in the City Secretary's office as a public record.

12. **Sec. 11.13 (g)** – include “independent contractors” as those who are not employees of the City with council members. Exclude volunteer fire department because under IRS regulations, if volunteer fire fighters receive any compensation, even a small stipend, they are considered employees.

Current Charter Language: "Employee" will refer to any person who is employed and paid a salary by the City including those individuals on a part-time basis, but does not include City Council members or members of the volunteer fire department.

Proposed Charter Language: "Employee" will refer to any person who is employed and paid a salary by the City including those individuals on a part-time basis, but does not include City Council members, uncompensated volunteers or independent contractors ~~or members of the volunteer fire department.~~

13. **Sec. 11.16** – Recommend the deletion of this section in its entirety since the original Charter has been adopted and this transitional language has become obsolete.

SUBSTANTIVE REVISIONS (These revisions are substantive changes and the law requires that they each be voted on by separate proposition.)

1. **Sec 4.03 (3)** – This provision requires the Mayor to act as Municipal Judge when the Municipal Judge is not available. This provision is very rare in modern city charters and raises a potential conflict.

Current Charter Language: In the event of failure of the City Judge to perform his duties, the Mayor must act in his place and stead (and in the event of a vacancy, until a City Judge is appointed by the Council to fill the vacancy). If the Mayor acts as a City Judge, he/she must be compensated at the same salary, if any, as the City Judge for whom he/she is acting.

Proposed Charter Language: ~~In the event of failure of the City Judge to perform his duties, the Mayor must act in his place and stead (and in the event of a vacancy, until a City Judge is appointed by the Council to fill the vacancy). If the Mayor acts as a City Judge, he/she must be compensated at the same salary, if any, as the City Judge for whom he/she is acting~~ The City Council may also appoint Associate City Judge(s) that meet the same qualifications as the City Judge of the Municipal Court who will work in the absence of the City Judge. Associate City Judge(s) will be appointed to a term of two years and may be appointed to additional consecutive terms upon completion of their term of office. The appointment of Associate City Judge(s) may be terminated by the City Council. The Associate City Judge(s) will receive compensation as may be determined by the City Council.

Sec. 3.06 POWERS OF THE CITY COUNCIL (b)

Current Charter Language: Appoint and remove the Municipal Judge.

Proposed Charter Language: Appoint and remove the Municipal Judge and Associate City Judge(s).

2. **Sec. 5.04 (3) Recommended by 2008 Charter Review Committee:** Current Charter has no language as to when newly elected Council members will be sworn in to take office.

Proposed Charter Language: (3) Each newly elected person to the City Council shall be inducted into office at the first City Council meeting following the official canvassing of the election. At such meeting, the oath shall be administered in accordance with state law.

3. **Sec. 6.07 (1) Recommended by 2008 Charter Review Committee:** A review of the amount of time needed by the City Secretary to verify signatures was insufficient.

Current Charter Language: Within ten days after the petition is presented, the City Secretary must complete a certificate of sufficiency or insufficiency. Sufficiency must be determined by compliance with this Article.

Proposed Charter Language: Within ~~ten~~ twenty-one days after the petition is presented, the City Secretary must complete a certificate of sufficiency or insufficiency. Sufficiency must be determined by compliance with this Article

4. **Sec. 7.02 Recommended by 2008 Charter Review Committee:** Changing the date from the first to the fifteenth day of the eleventh month of the fiscal year allows the City Manager to submit the proposed budget to Council by the 15th of August. This timeframe is more realistic in terms of obtaining necessary data from the appraisal district regarding the tax roll and its impact on the budget

Current Charter Language: On or before the first day of the eleventh month of the fiscal year, the City Manager must submit to the Council a budget for the ensuing fiscal year and an accompanying message.

Proposed Charter Language: On or before the ~~first~~ fifteenth day of the eleventh month of the fiscal year, the City Manager must submit to the Council a budget for the ensuing fiscal year and an accompanying message.

5. **Sec. 7.06 Recommended by 2008 Charter Review Committee:** Changing the provision that Council adopts a budget for the upcoming year ten days prior to the beginning of the new fiscal year to instead allow for the adoption of said budget by the last day of the current fiscal year allows the Council the fullest length of time possible to adopt the new budget.

Current Charter Language: After public hearing, the Council must analyse the budget, making any additions or deletions which they feel appropriate, and must, at least ten days prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of the full membership of the Council. Should the City Council take no final action on or prior to such day, the current budget must be in force on a month to month basis until a new budget is adopted.

Proposed Charter Language: After public hearing, the Council must analyze the budget, making any additions or deletions which they feel appropriate, and must ~~, at least ten days prior to the beginning of the next fiscal year,~~ adopt the budget prior to the beginning of the next fiscal year by a favorable majority vote of the full membership of the Council. Should the City Council take no final action on or prior to such day, the current budget must be in force on a month to month basis until a new budget is adopted.

6. **Sec. 8.01 (5)** – Clarify that action by Council is required to remove a member of a board, commission or committee if they fail to attend three consecutive regular meetings.

Current Charter Language: Any member of a board, commission or committee who is absent from three consecutive regular meetings without explanation acceptable to a majority of the other members must forfeit his position on the board, commission or committee.

Proposed Charter Language: Any member of any City board, commission or committee who is absent from three consecutive regular meetings without explanation acceptable to the City Council ~~a majority of the other members,~~ shall must forfeit his position on the board, commission or committee and be removed by the City Council.

7. **Develop new Sec. 11.16 - Recommended by 2008 Charter Review Committee:** Provides a procedure for operation of the city government in case of a disaster.

Proposed Charter Language: Sec. 11.16 Disaster Clause

In case of disaster when a legal quorum of the elected City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City elected official, if no elected official remains, within twenty-four (24) hours of such disaster, the City Manager shall appoint a Council to act during the emergency and call a City election as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet. If City Manager is not available due to death or injury, the County Judge of Rockwall County shall appoint a Council to act during the emergency and call a City election as provided in the Texas Election Code, for election of a required quorum.