



CITY OF FULSHEAR

PO Box 279 / 30603 FM 1093
Fulshear, Texas 77441
Phone: 281-346-1796 ~ Fax: 281-346-2556
www.fulsheartexas.gov

CHARTER COMMISSION MINUTES October 13, 2015

I. CALL TO ORDER

A Regular Meeting of the Fulshear Charter Commission was called to order by Chair CJ McDaniel at 6:38 p.m. on Tuesday, October 13, 2015 in Irene Stern Community Center at 6920 Katy-Fulshear Road, Fulshear Texas and all citizens were welcomed.

Members Present:

*Bill Archer
Erma Beal
Larry Beustring
John Dowdall
Cherryl Finney
C.J. McDaniel
James Molina
Kent Pool
Randy Stacy*

Members Absent:

*Ken Knapp
D.E. (Gene) Morgan
Carolyn Randle
Polly Royer*

City Staff Present:

Lynn Raymer, Executive Assistant

Others Present:

*Grady Randle, Randle Law Office
Byron Brown, Randle Law Office
Shannon Purcell, West Fort Bend Buzz*

II. QUORUM

A quorum was present.



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III. APPROVE MINUTES

Motion by Member Stacy to approve the minutes of the September 15, 2015, Charter Commission meeting.

Second by Member Pool.

Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

IV. COMMENTS FROM THE PUBLIC (for matters not on the agenda)

There were no comments from the public.

V. APPROVE DRAFT OF CHARTER SECTION

Attorney Brown is continuing to work on the draft sections for the Charter and will present the draft to the Commission at the November 10, 2015 meeting.

VI. DISCUSSION OF AND POSSIBLE ACTION ON

A. Scheduling of future meetings

Attorney Randle informed the Commission that the October 27, 2015 regularly scheduled meeting is an early voting day and that, because Irene Stern Community Center is a designated facility for voting and the machines and ballots must be secured, the Charter Commission is not able to meet at Irene Stern on this date. Therefore, October will be a 1-meeting month. The next meeting will be November 10, 2015. The following November meeting date is November 24, 2015 which is the Tuesday before Thanksgiving. Because of the holiday week, the Commission members will be polled at the November 10 meeting to determine if there will be a quorum at the November 24 meeting.

Additionally, Attorney Randle proposed presenting the Charter Commission's progress to City Council at the November 17, 2015 City Council meeting. The Commission would make an appearance before Council and present an interim report to Council. This would provide an opportunity to fine tune, and possibly complete the draft Charter by December, 2015.

Discussion by Commission members regarding the process and steps taken if Council approves or does not approve the progress. Attorney Randle provided details for both situations.

B. At Large position geographic restriction

Attorney Brown reminded the Commission that this topic was on the agenda at the previous meeting; however, no action was taken at the previous meeting due to the



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commission's request for proposed language. Attorney Brown presented the following proposed language: "No person shall be qualified for election or appointment to a Council Member position elected at large if the person resides in the same master planned community as an incumbent Council Member elected at large who is not a candidate for the same position at the same election."

Discussion regarding the intent of the geographical restriction and the terminology and language to accomplish same.

Commission members requested revised proposed language to be presented at the November 10, 2015 meeting.

No action was taken on this topic.

C. Initiative, Referendum, Recall

Attorney Brown reminded the Commission that it was decided at the last meeting that the Charter will provide for Initiative, Referendum and Recall; however, petition signature requirements were not decided at that time because the number of registered voters in the City was not immediately available to the Commission Members. Attorney Brown provided Members with Voter Turnout Statistics 2006-2015. Attorney Brown informed the Commission that the most common petition signature requirements are a percentage of registered voters or ballots cast at the last election, and a raw number, whichever is greater. Attorney Brown indicated that the same standard can be used for all three – Initiative, Referendum, and Recall—or a different percentage or raw number can be applied to each individually.

Attorney Brown reiterated the functions of Initiative, Referendum, and Recall:

Initiative: voters enact an Ordinance that was not brought about by City Council.

Referendum: voters repeal an Ordinance that City Council has adopted.

Recall: voters remove an elected official from office before his or her term has ended.

Attorney Brown provided Commission Members with example petition signature requirements from other Fort Bend County cities that have a Home Rule Charter.

Commission Members discussed the advantages and disadvantages of various combinations of percentages and raw numbers.

Motion by Member Molina that Initiative and Referendum petitions require the signatures of at least 10% of registered voters or a minimum of 300, whichever is greater; and Recall petitions require the signatures of 20% of registered voters or a minimum of 300, whichever is greater.

Second by Member Pool.

Further discussion regarding Initiative, Referendum and Recall and percentages and baseline numbers.



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Motion to Amend by Member Beustring that Initiative and Referendum require 10% of registered voters and Recall require 20% of registered voters, with no minimum whole number required.

Second by Member Pool.

Motion to Amend carried with the following vote:

Ayes: All in favor

Nays: None opposed

Original Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

Attorney Brown indicated that Commission Members must also decide if a petition supplement will be permitted, i.e., if a petition is submitted and the City Secretary determines that it falls short of the required number of signatures, will there be an opportunity for the petitioner to supplement the petition? Attorney Brown stated that, for certain general-law cities, the Texas Local Government Code provides 10 days to supplement after a 10 day certification by the City Secretary.

Motion by Member Molina to allow a supplementation period of 10 calendar days following a certification period of 10 calendar days, i.e. there would be 10 calendar days for the City Secretary to determine if the petition is valid or not valid, and then 10 calendar days for the petitioner to supplement a petition determined to be not valid.

Second by Member Archer.

Further discussion regarding supplementing petition signatures, including the difference between calendar days and business days.

Motion to Amend by Member Dowdall that the 10 calendar days be amended to 10 business days.

Second by Member Finney.

Motion to amend carried with the following vote:

Ayes: All in favor

Nays: None opposed

Original Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

Attorney Brown indicated that the Commission also needs to decide whether there will be any exceptions to Initiative and Referendum, and referred to the Blodgett textbook and a handout provided earlier in the meeting. The handout lists common exceptions compiled from the Blodgett text and cities in Fort Bend County. The list is: Budget;



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Capital Expenditures; Appropriating Money; Levying Taxes; Affecting Zoning; Annexing Land; Setting Rates, Fees, Charges or Assessments; Salary or Compensation of Officers and Employees; and Granting Franchises. Attorney Brown described and defined each item on the list.

Discussion of each item on the list, including the item's function within the City.

Motion by Member Archer that all items on the list be excepted from Initiative and Referendum.

Second by Member Molina.

Further discussion regarding exceptions from Initiative and Referendum.

Motion carried with the following vote:

Ayes: Members Archer, Beal, Beustring, Dowdall, Finney, McDaniel, Molina and Stacy

Nays: Member Pool

Attorney Brown indicated that if an elected official is subject to a petition for recall, the Charter may provide an opportunity to resign from office before the City Council is required to call a recall election.

Motion by Member Stacy that the Charter provide for the person subject to the recall to have the opportunity to resign.

Second by Member Beustring.

Further discussion regarding petitions for Recall.

Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

Attorney Brown indicated that the Charter may also provide an opportunity for the City Council to adopt an initiative ordinance, and to repeal a referendum ordinance, without the need to call an initiative or referendum election.

Motion by Member Molina that the Charter provide an opportunity for City Council to adopt an initiative ordinance or repeal a referendum ordinance before calling an initiative or referendum election.

Second by Member Pool.

Further discussion regarding the initiative and referendum process.

Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

D. City Council Powers and Duties; Prohibitions



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Attorney Randle explained that there are several prohibitions suggested by the Model Charter and the Blodgett text that the Charter may apply to elected and appointed officials as well as employees of the City.

Solicitation of Subordinates

Attorney Randle explained the prohibition suggested by the Blodgett text, referred to as the "solicitation of subordinates prohibition," which provides that no City official or employee, elected or appointed, shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any subordinate City official or employee holding any compensated City position.

Motion by Member Stacy to adopt the solicitation of subordinate's prohibition.

Second by Member Pool

Further discussion regarding soliciting contributions by employees of the City.

Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

Employee Campaigning

Attorney Randle explained the prohibition suggested by the Blodgett text, referred to as the "employee campaigning prohibition," which provides that no person who holds any compensated City position shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate.

Motion by Member Dowdall to adopt the employee campaigning prohibition.

Second by Member Molina

Further discussion regarding soliciting for political parties for political purposes.

Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

Bribery

Attorney Randle explained the prohibition suggested by the Model Charter, referred to as the "bribery prohibition," which provides that no person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion, or proposed promotion.



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Motion by Member Pool to adopt the bribery prohibition.

Second by Member Stacy.

Further discussion regarding bribery.

Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

Penalties

Attorney Randle described various penalties which the Charter may impose for violating the above prohibitions, explaining that some violations may not otherwise have a penalty.

Vigorous discussion by Commission Members regarding applicable state law penalties, general penalties for municipal ordinance violations, and the ramifications of the actions.

Further discussion regarding whether there should be different penalties for first and subsequent offenses.

Motion by Member Molina that any City employee who is found to have violated any of the above prohibitions shall be terminated or suspended, at the discretion of the City Manager, and any elected or appointed official who is found to have violated any of the above prohibitions shall forfeit their office and be ineligible for election or appointment to any City office for five (5) years.

Second by Member Beustring.

Further discussion regarding penalty provisions, terminology and circumstances.

Motion carried with the following vote:

Ayes: Members Archer, Beal, Beustring, Dowdall, McDaniel, Molina, Pool

Nays: Members Finney and Stacy

Revolving Door

Attorney Randle explained the prohibition suggested by the Model Charter, referred to as the "revolving door prohibition," which provides that no Council Member shall hold any other City office or employment during the term for which the Member was elected to the Council, and no former Council Member shall hold any compensated appointive office or employment with the City until one (1) year after the expiration of the term for which the Member was elected to the Council.

Attorney Randle presented similar prohibitions contained in the charters of other cities in Fort Bend County, and described possible scenarios to which such prohibitions would apply.



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Discussion regarding the purpose of the revolving door prohibition and the advantages and disadvantages of same.

No action was taken on this topic.

Appointments and Removals

Attorney Randle explained the prohibition suggested by the Model Charter, referred to as the "appointments and removals prohibition," which provides that neither the City Council nor any of its Members shall in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but the City Council may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such officers and employees.

Attorney Randle indicated that this prohibition provides clear lines of demarcation and authority within the administration of the City, which are essential to the effective and efficient administration of a Council-Manager form of government.

Discussion regarding the purpose of the appointments and removals prohibition and the advantages and disadvantages of same.

Motion by Member Molina to adopt the appointments and removals prohibition.

Second by Member Dowdall.

Further discussion regarding the appointments and removals process, including the appointment and removal of the City Manager.

Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

Interference with Administration

Attorney Randle explained the prohibition suggested by the Model Charter, referred to as the "interference with administration prohibition," which provides that, except for inquiries and investigations authorized by the Charter, the City Council or its Members shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its Members shall give orders to any such officer or employee, either publicly or privately. Attorney Randle explained that this prohibition is a practical necessity for the Council-Manager form of government, and is therefore found in the charters of almost every city having that form of government.

Motion by Member Stacy to adopt the interference with administration prohibition.

Second by Member Beal.

Further discussion regarding interference by Council with hiring by the City Manager.



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Motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

E. City Manager Qualifications

Due to the late hour, this topic will be addressed at the November 10, 2015 meeting.

F. City Manager Powers and Duties

Due to the late hour, this topic will be addressed at the November 10, 2015 meeting.

Homework for the November 10, 2015 meeting is Chapter 15 of the Blodgett textbook.

The next meeting will be November 10, 2015 at Irene Stern Community Center.

ADJORNMENT

Motion by Member Stacy to adjourn.

Second by Member Pool.

The motion carried with the following vote:

Ayes: All in favor

Nays: None opposed

Chairman McDaniel announced at 8:39 p.m. that we are now adjourned.


C.J. McDaniel – Chairman

Attest:

Lynn Raymer – Executive Assistant

