



# CITY OF FULSHEAR

PO Box 279 / 30603 FM 1093

Fulshear, Texas 77441

Phone: 281-346-1796 ~ Fax: 281-346-2556

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## CHARTER COMMISSION MINUTES

December 8, 2015

### I. CALL TO ORDER

A Regular Meeting of the Fulshear Charter Commission was called to order by Chair CJ McDaniel at 6:35 pm on Tuesday, December 8, 2015 in Irene Stern Community Center at 6920 Katy-Fulshear Road, Fulshear Texas and all citizens were welcomed.

#### *Members Present:*

*Bill Archer*

*Erma Beal*

*John Dowdall*

*Cherryl Finney*

*Ken Knapp*

*C.J. McDaniel*

*James Molina*

*D.E. (Gene) Morgan*

*Kent Pool*

*Carolyn Randle*

*Polly Royer*

*Randy Stacy*

#### *Members Absent:*

*Larry Beustring*

#### *City Staff Present:*

*Tommy Kuykendall, Mayor*

*CJ Snipes, City Administrator*

*Michael Ross, Assistant City Administrator*

*Lynn Raymer, Executive Assistant*

#### *Others Present:*

*Shannon Purcell, West Fort Bend Buzz*

*Tricia Krenek, Council Member*

*Ramona Ridge, Council Member*

*Grady Randle, Randle Law Firm*

*Byron Brown, Randle Law Firm*



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*Stephen Gill  
Kaye Kahlich  
Georgina Ybarra  
Mary L. Smith*

## **II. QUORUM**

*A quorum was present.*

## **III. APPROVE MINUTES**

*Member Morgan indicated that a correction of the November 23, 2015 Minutes is needed. On Page 10, Item C "Departments, Offices, Agencies and Boards" it is recorded that he voted "nay" on the issue; however, Member Morgan was not present at the meeting. A request for correction to the November 23, 2015 Minutes was made.*

*MOTION by Member Stacy to approve the November 23, 2015, 2015 Minutes with the correction to Page 10, Item C "Departments, Offices, Agencies and Boards".*

*SECOND by Member Royer.*

*Motion was carried by the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

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

*No comments from the public*

## **V. APPROVE DRAFT OF CHARTER SECTION**

*Chair McDaniel referred to the Draft Charter that was provided both in electronic and paper formats to Charter Members for review. Attorney Brown asked Members if they have had an opportunity to review the Draft Charter and if they have comments or questions.*

*Member Stacy referred to the minutes of the October 13 meeting, specifically Section D, "City Council Powers, Duties and Prohibitions" subsection "Bribery", and the action taken to allow an elected official to run for office and take office if elected after 5 years of being convicted of bribery. Member Stacy indicated that he voted against that action at the time and that he still feels strongly about the issue, specifically that a conviction for bribery should permanently disqualify someone from eligibility for City office.*

*Member Stacy and Chair McDaniel referenced Section 141.001(a)(4) of the Texas Election Code, regarding eligibility for public office, and asked Attorneys Randle and*



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*Brown what "otherwise released from the resulting disabilities" means as stated in that section.*

*Attorney Brown explained that in Texas, certain civil rights, such as the right to vote or to possess a firearm, can be restored after being convicted of certain offenses, including some felonies. Some civil rights are restored automatically, and others require an application or other process. Attorney Brown stated that the right to run for public office is a right which may be restored, but that he could not confirm without further research whether it is restored automatically.*

*Attorney Randle indicated that you can address it in the Charter and, if the Commission chooses, completely bar someone from running for office if convicted of bribery.*

*Members discussed that a bribery conviction of a City official would be a worst case scenario and reflect poorly on the City both at the time of the incident and later if the person decided to run for office again after 5 years when their civil rights may have been restored.*

*MOTION by Member Stacy to amend the Charter section pertaining to bribery to preclude any candidate convicted of bribery from running for public office as Mayor or City Council.*

*SECOND by Member Kent.*

*Further detailed discussion included the possibility of offering second chances and Member Stacy indicated that he felt second chances are an option for other offenses but not for bribery. Additionally, Members discussed the possibility that a City official could unknowingly commit an act that could be charged as bribery and wondered how to handle a situation like that, including whether the City would want someone in office who does not understand what constitutes bribery.*

*Members then asked if the City runs background checks on persons running for council. Attorney Randle indicated that they are not currently run on persons running for council. Members asked if background checks could be run on persons running for council in the future. Attorney Brown indicated that running background checks has very specific requirements, and that he is not aware of any authority for a City to run background checks on persons running for office. Attorney Brown also indicated that the application for a place on the ballot includes a question pertaining to conviction of a felony.*

*Motion carried with the following vote:*



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*Ayes: Members Beal, Finney, Knapp, McDaniel, Molina, Morgan, Pool, Randle, Royer and Stacy*

*Nays: Members Archer and Dowdall*

*Attorney Brown discussed addressing each Article in the Draft Charter for approval.*

*ARTICLE I: Form of Government and Boundaries*

*MOTION by Member Molina to adopt Article I: Form of Government and Boundaries as presented in the Draft Charter*

*SECOND by Member Royer*

*Further discussion regarding Article I.*

*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

*ARTICLE II: Powers of the City*

*MOTION by Member Stacy to adopt Article II: Powers of the City as presented in the Draft Charter.*

*SECOND by Member Molina*

*Further discussion regarding Article II.*

*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

*ARTICLE III: The City Council and Mayor*

*Attorney Randle indicated that this Article would be covered later in the meeting due to topics 3.03 Number, Selection, and Terms of Council Members and 3.05 Compensation and Expenses will be addressed later in the meeting.*

*NO ACTION was taken on this topic.*

*ARTICLE IV: City Administration*

*MOTION by Member Stacy to adopt Article IV: City Administration as presented in the Draft Charter.*

*SECOND by Member Pool*

*Further discussion regarding Article IV.*

*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*



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## *ARTICLE V: Elections*

*MOTION by Member Pool to adopt Article V: Elections as presented in the Draft Charter.*

*SECOND by Member Stacy.*

*Further discussion regarding Article V.*

*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

## *ARTICLE VI: Initiative, Referendum, and Recall*

*MOTION by Member Molina to adopt Article VI: Initiative, Referendum, and Recall as presented in the Draft Charter.*

*SECOND by Member Royer.*

*Further discussion regarding Article VI.*

*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

## *ARTICLE VII: General Provisions*

*Attorney Brown indicated that the motion needed for this Article would be to approve the Article with the amendment made to 7.2 Prohibition regarding conviction of bribery.*

*MOTION by Member Pool to adopt Article VII: General Provisions with the amendment regarding bribery.*

*SECOND by Member Beal.*

*Further discussion regarding Article VII.*

*Motion carried with the following vote:*

*Ayes: Members Archer, Beal, Finney, Knapp, McDaniel, Molina, Morgan, Pool, Randle, Royer, Stacy*

*Nays: Member Dowdall*

## *ARTICLE VIII: Transitional Provisions*

*Attorney Randle indicated that this topic will be covered later in the meeting.*

*NO ACTION was taken on this topic.*

## **VI. DISCUSSION OF AND POSSIBLE ACTION ON**

### **A. *Possible Restrictions on At-Large Council Member Positions***

*Attorney Randle handed out proposed language for Section 3.03 (see Attachment 1 in these Minutes for the APPROVED and PROPOSED language) and reminded Members of*



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*Mr. Katz's letter to the Commission that was read by Council Member Mesic at a previous meeting.*

*Attorney Randle also indicated that argument in the Evenwel vs. Governor Abbott court case regarding one person, one vote occurred today and, although the audio recording has not come out yet, the transcript has come out and the bloggers have been very busy. Attorney Randle read aloud a comment of one Blogger, Lyle Denniston, indicating that it is particularly on point for this topic: "The Supreme Court does not shy away from being bold, at least some of the time, but sometimes the temptation is overcome by real-world practicality. That's the way the Court seemed to be leaning on Tuesday when it considered throwing out the basis for drawing election districts for thousands of state and local legislative seats across the country, and starting over with a new standard. The problem: no one had a solid idea of how to make an alternative approach actually work."*

*Attorney Randle stated that districts will not and should not be drawn in the Charter, indicating that doing so would require a Charter amendment election to redraw the districts. Therefore, drawing districts should be left to the City Council, subject to the limitations imposed by the Charter. Referring to Attachment 1, Attorney Randle referred to the PROPOSED language set out in Attachment 1, indicating that the PROPOSED language adds one sentence to the end of the section approved previously, which reads as follows: "City Council by ordinance for the at large council positions may add additional qualification for candidates or establish no more than two districts for such positions within which a candidate must reside". This language basically means that, if the voters approve the charter, the Council would have the authority to fine tune the requirements for the at-large positions to be in accordance with the law, and would be able to consult with redistricting experts in doing so.*

*Members asked what the Council did not like about the proposed language. Attorney Randle stated that he has received no feedback on this particular topic, other than Mr. Katz's comments, and deferred to the Commission Members, asking if any of them have received feedback from any of the members of City Council. Some Commission Members discussed having privately received some feedback from some members of City Council, including that some Council members did not like increasing the size of the Council to 7 members, preferring to remain a 5 member Council, but none had feedback specifically on the requirements for the at-large positions. Member Knapp also indicated that he had received feedback from Mr. Katz, and this new language appears to address his concern. Other Members asked what Mr. Katz's specific concern was, to which Member Knapp*



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*explained that his understanding of Mr. Katz' concern pertained to the language regarding a master planned community and the restriction that no 2 people could be from the same master planned community, while there was no such limitation for people who do not live in a master planned community. Member Finney expressed concern regarding the possibility that Council could decide to do what the commission is trying to avoid, specifically that there could be several Council members who reside one district or densely populated area, to which Attorney Randle indicated that you have to trust the Council. Members continued to express concern that, even with districting, it is currently possible to have the majority of Council from a densely populated area, which is not a good representation of the people in the City. Attorney Randle indicated that his best advice is to give as much flexibility to the Council as possible and to rely on them to do the right thing in the end.*

*Members continued to discuss the future growth of the City and the possibility for future City Council to base their decisions on the situation at that time. Further discussion regarding the necessity to focus on how to ensure that the minority population has an effective voice without muting other voices.*

*MOTION by Member Archer to adopt the proposed section 3.03 language which states that the City Council by ordinance for the at large council positions may add additional qualification for candidates or establish no more than two districts for such positions within which a candidate must reside.*

*SECOND by Member Knapp.*

*Further discussion regarding possible restrictions on at-large council member positions.*

*Motion carried with the following vote:*

*Ayes: Members Archer, Beal, Beustring, Dowdall, Finney, Knapp, McDaniel, Molina, Pool, Randle, Royer and Stacy*

*Nays: Member Morgan*

## **B. Financial Administration**

### **Fiscal Year**

*Attorney Brown handed out to Members a document entitled "Financial Administration (Proposed)" (see Attachment 2 to these Minutes).*

*Referring to the handout, Attorney Brown addressed the following:*

### **Section X.1 Fiscal Year**



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*Attorney Brown confirmed that the current City fiscal year is October 1 to September 30 of the following year which, according to Blodgett, is what 95% of Home Rule Charters designate as the fiscal year.*

### **Section X.2 Annual Budget**

*Attorney Brown indicated that the state law minimum is 30 days to file the budget before the beginning of the fiscal year, but that the Charter can be stricter than the state law. Smaller cities do 30-45 days, larger cities 60-90 days. City Administrator, CJ Snipes, indicated that the City begins the draft budget 60 days out. Members asked if there is something else going on during budget time that makes it difficult to complete. Mr. Snipes indicated that, ideally, a document is out for the public to review 45-60 days out but that may not always be a reality. Additionally, Council members participate in budget workshops during budget season and this year Council participated in 8 or 9 budget workshops.*

*Additionally, Mr. Snipes introduced Mr. Michael Ross as the Assistant City Administrator.*

### **Section X.3 Capital Program**

*Attorney Brown reminded Members that the City currently has a discretionary Capital Program, and that Members adopted a Capital Program requirement in the Charter. This, however, will address when it would be done allowing it to be finalized before the rest of the budget is considered. Attorney Brown indicated that the proposed timeline is suggested by the Blodgett text, and could be changed by the Commission if it so desires.*

### **Section X.3 Annual Audit**

*Attorney Brown indicated that state law requires an audit once a year; however, state law is silent regarding whether the audit is to be performed by a City employee or an outside auditor. This proposed section would require the audit to be performed by an outside auditor, and the details of the audit are as suggested by the Blodgett text.*

### **Section X.4 Purchasing and Contracts**

*Attorney Brown indicated that some cities put various limitations on the city's ability to purchase and contract; however, this language broadens it to allow Council more latitude for purchasing and contracts not in violation of state law.*

*Referring to Section X.3 (b) Chair McDaniel asked what a "limited review" of City owned refers to and if the City currently does an audit and "limited review". Mr. Snipes explained that under state law the City is required to put a valuation on all City property*





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*and it is done every year via an accounting formula that is tracked in the City's asset schedule.*

*Additionally, referring to Section X.3 (a), Mr. Snipes commented that item (3) should be formatted to follow in line under item (2), to which Attorney Brown indicated would be remedied in the Charter.*

*MOTION by Member Stacy to adopt the proposed Financial Administration section recommendations with the 30-day submission requirement for the annual City budget.  
SECOND by Member Molina.*

*Further discussion regarding Charter Review and Amendment  
Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

## **C. Qualifications for Office**

### **Unpaid Taxes**

*Reading from draft Charter Section 3.01(d) pertaining to delinquency in paying local or state taxes, Attorney Brown reminded Members that the topic was decided previously by Members but also wanted to provide Members with additional information. Attorney Brown stated that the law is unsettled on this issue because certain courts have opposing views. Specifically, the Southern District of Texas, which is a Federal trial court having jurisdiction over our area, determined in 1970 that one city which imposed a disqualification for being tax delinquent could not do that. A more recent 1995 decision from the 6<sup>th</sup> Circuit Court of Appeal, which is a Federal appeals court having jurisdiction in another area, ruled that such a disqualification was fine. Neither case is specifically binding on this Charter, but Attorney Brown wanted to bring the additional information to Commission's attention because the Charter may end up before the Southern District of Texas someday.*

*Members briefly discussed the idea.*

*No further action was taken on this topic.*

## **D. Transition to New Form of Council**

*Attorney Randle provided Members with 2 additional handouts – "Existing Ordinances and Resolutions" (Attachment 3) and "2016 Charter Adopted" (Attachment 4).*



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*Attorney Randle reminded Members that a General Law city has limited powers, while a home-rule city has broad powers; and, therefore, there is necessarily a transition that takes place. It is common practice to provide within a charter for the transition to its full implementation. Also, because the transition from general-law to home-rule occurs only once, with the initial adoption of the City's first home-rule charter, it is likely for the transition provisions to be removed at the first charter amendment election after the Charter is adopted.*

*Attorney Randle reviewed the two most recent Charters adopted in this area to provide the Charter language in Attachment 3.*

### **Existing Ordinances and Resolutions**

*Attorney Randle indicated that this provides that all laws that the City Councils from 1977 onward have passed will remain in effect, and are not subject to referendum.*

### **Officers and Employees**

*Attorney Randle indicated that this provides that all Officers and Employees will remain in their jobs. All elected officials will also continue to fill their offices.*

### **Pending Matters**

*Attorney Randle indicated that this provides for the continuation of contracts signed by the City and other rights currently enforceable against the City.*

### **Matters of Submission to Electors**

*Attorney Randle indicated that this provides that the Charter will be submitted to the voters in its entirety because it is not practicable for any individual subject to be voted on separately. Attorney Randle gave examples of how the subjects of the proposed Charter are intertwined.*

*Members asked how long the current Council serves and Attorney Randle reminded them that Council members serve 2 years and can serve consecutive terms with no limit. Attorney Randle also indicated that a previous councilmember, Mr. JB Collins, served the City for 28 years which was 14 consecutive terms. However, if the Charter passes, that would not occur again. There would be a limit of 3 consecutive terms, or 6 consecutive years.*

*MOTION by Member Molina to accept the language on the transition plan as outlined.  
SECOND by Member Archer.*



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*Further discussion regarding transition, including the transition to the new composition of council.*

*Member Finney asked for clarification of the procedure to adopt the Charter. Attorney Randle stated that there has been some confusion over whether City Council gets to vote on the Charter—they do not. They do vote on whether to call a charter election, but state law requires that they call the election after the Charter Commission completes its work. Attorney Randle stated that he believes the confusion is over the difference between the adoption of a new charter and the amending of an existing charter.*

*Attorney Randle referred to the minutes of the last meeting that were approved earlier at this meeting, specifically the discussion that amendments proposed by the Charter Review Commission can, under state law, be vetoed by City Council unless the Charter provides otherwise. Attorney Randle reminded Members of the decision made at the previous meeting that all amendments proposed by the Charter Review Commission will go to the voters.*

*As clarification, Attorney Randle reiterated that the original Charter has to be submitted to the voters. An amendment proposed by a Charter Review Commission can either go to Council for a vote on whether to submit it to the voters, or it can go directly to the voters, whichever the Charter provides. Amendments initiated by petition go directly to the voters, and Council cannot veto that.*

*Members requested clarification of Section 8.07(d) in the draft of the proposed Charter. Attorney Randle stated that Section 8.07(d) is what requires amendments proposed by the Charter Review Commission to go directly to the voters, which the Charter Commission decided at the last meeting. Attorney Randle also provided clarification that, once the Charter is passed, it will remain as it is for at least 2 years. After 2 years Council can submit proposed amendments to the voters by their own motion.*

*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

*Referring to 2016 Charter Adopted (Attachment 4), Attorney Randle explained the two charts titled "Present" and "Future" explaining that, according to the proposed Charter, Members adopted staggered elections. Attorney Randle explained that the transition from a 5 member, at large, without place, non-majority winning City Council to a 5*



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*member Council, by district, with residence and 2 at large, staggered voting would look like the chart presented.*

*Attorney Randle stressed that if a current Council member was elected for 2 years, they will serve the two years. This transition plan will not change that for the May elected Council member or Mayor. In 2016, the Mayor and 3 Council members will have 2 full years because they are running under the current system. If, on the same Election Day, the Charter is approved, the districts will need to be created. From May 2016 until about January 2017, the Council will work with the districting experts to create districts in the City. In 2017 it will be the City's first at large election and 2 districts.*

*Members asked if the districts had to be completed in that time and Attorney Randle confirmed that it must be completed in that time. Members also asked how it will be determined which two districts will be the first 2 districts to run. Attorney Randle indicated that the City Council, with the assistance of the districting experts, will determine that.*

*Attorney Randle also indicated that in 2018 one district will serve a shortened 1 year term to get the voting even. This will be determined by drawing straws. Members asked if there was another way to determine which person would serve the shortened term and were advised that historically, drawing the short straw has been the method used. Members asked if the one year term would could against the term limits of the person that drew the short straw and Attorney Randle indicated that it would not.*

*MOTION by Member Molina to adopt the transition method plan presented by Attorney Randle, including the use of drawing straws for the 1 year term.*

*SECOND by Member Stacy.*

*Further discussion regarding compensation for members of City Council. Member Pool asked how it would be determined who would be drawing straws to which other Members explained that the straws would be drawn by the 3 recently elected Council members.*

*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

### **E. Comments of City Council Compensation**



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*Attorney Randle indicated that Council members brought topics to his attention that they would like to be addressed again by the Charter Commission. One of the topics was compensation for Council members.*

*Members discussed the advantages and disadvantages of compensation for Council, with some Members feeling strongly that they should not be compensated and other feeling that they should. Indicating that City of Katy Council are compensated \$400 per month, per Council member, Member Dowdall expressed his support of compensating Council members and retracting his previous position of non-compensation due to the amount of work and time that is spent on behalf of the City and the compensation for the Mayor.*

*Chair McDaniel reminded Members of their previous decision that, by super majority, the Council will determine the Mayor's pay.*

*Members discussed various options of compensation and asked the attorneys for the pay scale for other cities. While Attorney Randle was obtaining the information, Attorney Brown explained that many other cities that do provide compensation for Council also have a provision that the compensation or increase in compensation does not go into effect until the next election cycle. Chair McDaniel requested clarification of the process to which Attorney Brown explained that Council would pass a Resolution setting their compensation but the compensation would not begin for them until the next election. The Council does not know if they are setting their own compensation because they could be voted out in the next election.*

*Attorney Randle described the compensation provided for the City Councils or Commissions in other home-rule cities in Fort Bend County.*

*Member Archer asked, for the cities that compensate their councils, if there is a provision in the Charter for a future increase in compensation. ACA Michael Ross provided information that, for the city he previously worked, when the Council determined that an increase would be appreciated, they requested a Charter amendment and put it on the ballot for the voters' approval.*

*Attorney Randle read the compensation provision from the City of Richmond's Home Rule Charter, which states: "Compensation of the City Commission shall be Seventy-Five Dollars (\$75.00) per month and the compensation for the Mayor shall be Seventy-Five Dollars (\$75.00) per month. Any subsequent increases shall be determined and approved*



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*by a vote of the citizens at a regular election to amend this Charter. No increase in such compensation shall take effect until the beginning of the terms of Mayor and/or Commission Members elected at the next general election. The City Commission and Mayor shall also be entitled to reimbursement for actual expenses incurred in the performance of official duties with the approval of the City Commission at a public meeting."*

*Members asked Mr. Snipes if the City can afford compensation for the Council to which Mr. Snipes indicated that, with some budget adjustments, it would be possible.*

*Members discussed the amount of time that Council is required to be away from their family for City work. Compensation amounts were discussed amongst Members and confirmed that Council members are compensated for City related expenses. Members also discussed the ability of Council to propose an amendment for compensation to the Charter in 2 years and submit to the voters.*

*Member Royer indicated that the topic of compensation came up because one or more Council members indicated that babysitting expenses were incurred for being a Council member and Member Royer questioned if that expense would be considered an expense reimbursable by the City. Other Members vigorously opposed that idea expressing that child care expenses are not reimbursed when working at other jobs and, if child care expenses were a concern or burden, then it may not be the right time to be on Council. Members continued to vigorously discuss the advantages and disadvantages of Council compensation.*

*Members also indicated that there has been a lack of dialogue from Council regarding the Charter on any issue.*

*MOTION by Member Morgan to allow the Charter as written with no compensation for Council.*

*SECOND by Member Stacy.*

*Further discussion regarding compensation for members of City Council. Members felt that the Council has more authority than the Mayor and believe they should be compensated some amount.*

*Motion failed with the following vote:*

*Ayes: Members Stacy, McDaniel, Molina and Morgan*

*Nays: Members Archer, Dowdall, Finney, Knapp, Pool, Randle, Royer*



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*MOTION by Member Archer to table the discussion until the next meeting.  
Further discussion regarding table of the discussion indicated that Members would like to complete this discussion and process of the Charter.  
Motion failed for lack of a second.*

*MOTION by Member Pool to compensate City Council members \$300 per Council member per month and include the Richmond language which establishes how subsequent increases will be voted.*

*SECOND by Member Finney*

*Further discussion regarding compensation for City Council.*

*Motion carried with the following vote:*

*Ayes: Members Pool, Royer, Dowdall, Finney, McDaniel, Archer and Randle*

*Nays: Members Archer, Molina, Stacy and Morgan*

*Chair McDaniel discussed the next meeting date of Thursday, December 17 and the schedule conflicts that have presented themselves. A recommendation was made to meet on Wednesday, December 16 and Members agreed.*

*Referring to Draft Charter Section 3.05(b) which refers to the Mayor's compensation, Members were reminded that it takes a Council super-majority to increase the Mayor's compensation. Members felt that the Mayor's compensation should follow the same language that will be used for the Council and retain the current compensation of \$800 per month.*

*MOTION by Member Morgan for Mayor's compensation to continue at \$800 per month and to follow the same Council language pertaining to compensation increases.*

*SECOND by Member Molina.*

*Further discussion regarding Mayor Compensation.*

*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

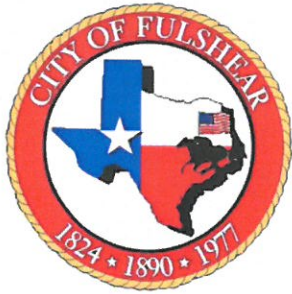
### **ARTICLE III: The City Council and Mayor**

*Chair McDaniel referred to Article III and indicated that the floor would entertain a motion to approve this article with the amendments just approved.*

*MOTION by Member Pool to adopt Article III: The City Council and Mayor with the amendments approved during this meeting.*

*SECOND by Member Molina*

*Further discussion regarding Article III.*



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*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*

### **Prohibition**

*Attorney Randle returned to the topic of Prohibitions of the Council regarding not appointing employees, not dictating to employees, not telling employees what to do and reminded Members that the Charter is being drafted as a City Manager form of government which means that the City Manager is the CEO of the City. A Council member provided Attorney Randle with the feedback regarding this topic and Members agreed that they like this Prohibition the way they approved it and do not want to make any changes.*

*No action was taken on this topic.*

### **Size of Council**

*Attorney Randle received feedback from a Council member regarding the size of Council as drafted in the proposed Charter and asked Members if they would like to visit the topic again. Members indicated that they do not wish to visit this topic again.*

*No action was taken on this topic.*

### **On Other Charter Provisions**

*Attorney Randle asked Members if they would like to visit any other Charter Provisions again and Members indicated that they do not wish to visit any other Charter Provisions again.*

*No action was taken on this topic.*

### **F. Final Approval of Charter**

*Attorney Randle indicated that the next meeting is scheduled for Wednesday, December 16, 2015, and asked Members if they would like to have final approval of the Charter and a workshop with the Council on this date. Members agreed that it would be a good idea to invite Council to the meeting. Chair McDaniel then informed Commission Members that there is a potential City Council agenda item for the upcoming Tuesday, December 15, 2015 meeting requesting that Attorney Randle be removed from the Charter Commission, a new lawyer be appointed, and new Charter Commission Members appointed. Chair McDaniel indicated that, if passed, everything that has been*





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*accomplished to this point would have to be reviewed by a new lawyer. Chair McDaniel encouraged all Charter Members to be present at the meeting. Members expressed great dissatisfaction with this potential issue and their displeasure that some of the Council Members were not present at Charter meetings and did not provide any feedback through the process. Council Member Krenek encouraged all Charter Members to be present at the upcoming December 15 Council Meeting. Member Stacy indicated that his office is in Fulshear and his door is always open and he has not spoken to any Council Member who has voiced any opposition to any of the work that has been done, and that he has not been approached at all. Chair McDaniel indicated that the agenda has not been published yet, but he has been advised that it is requested to be added to the Agenda.*

*Attorney Randle indicated that he will have the language for this meetings amendments in the Draft Charter complete. However, if he is not authorized to be at the Wednesday, December 16 meeting, he will not attend that meeting. Member Molina asked if it is on the agenda next Tuesday to obtain a new lawyer to review what has been accomplished thus far, when that will take effect and if Council can just stop a Committee that was appointed because they do not like the direction it is going. Members expressed great displeasure that Council has remained silent through the process and has not offered feedback either through the 3 Minute Citizen Comment portion of the meeting, or to any Charter member in particular, or any other manner, but now are making it so that the Charter process will not go any farther. Attorney Randle indicated the possible issue may be a lack of confidence due to the confusion over the procedure to adopt the Charter. Members indicated that it has nothing to do with the Committee and substance of the Charter and do not understand the grounds for the issue and reason for stopping the process.*

*Members asked what the process is for speaking at the Tuesday, December 15 City Council meeting and were advised by other Members that they simply sign up to speak when they arrive. Attorney Randle indicated that if Council delays this, it is possible that the Charter will miss the February deadline and, in the election, there could be new Council members or even a new Mayor and may go on in November or may not.*

*Member Stacy asked what ground this could be delayed, indicating that the process is close to being complete and asked if the Commission could get the rest of the way without the Attorneys. Attorney Randle indicated that the law says that once the Commission has completed their work, the clock starts. The clock is the completion of*



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*the commission work then Council has to call an election for the next formal Election Day.*

*Chair McDaniel reminded Members that the object is for Council to support the document and Members indicated that they feel they have supported the Council in the document.*

*Members asked what the process would be if this issue is included in the City Council Agenda and Attorney Randle indicated he is unsure if Council will request to go into Executive Session or not, but he is not sure what they will do.*

*Attorney Randle reminded Members of two points: (1) the long game is the May election and the Charter passing. And, let's try to remove as many political issues off the table and meet in a workshop with City Council, they cannot argue that they have been shut out of the process. Members expressed that the Council has not been shut out of the process the entire 6 months. Attorney Randle encouraged Members to meet with Council with the goal of a reconciliation. (2) A compromised position is if Council's lack of confidence is so great over Attorney Randle's statement in June, is to get a second opinion but not to stop the clock. The second opinion would be on the Charter document. Having two attorneys look at the document is a benefit.*

*Mayor Kuykendall spoke to Charter Members and expressed his gratitude for Members service to the City, excellent service, and thoughtful decisions to get the Charter right. Mayor also said that understanding that this turn of events creates a bit of a stir, but to focus on the long term and indicated that it is important that we trust in Council as we are putting full trust in the Council through this document.*

*Council Member Krenek indicated that it would be beneficial to issue an invitation to City Council to the Wednesday, December 15 meeting for a joint meeting and work shop because that is where Council Members have the ability to dialogue in Open Meeting forum.*

*MOTION by Member Molina to meet on Wednesday, December 16, 2015 for a joint Charter Commission meeting and workshop with Council.*

*SECOND by Member Pool.*

*Motion carried with the following vote:*

*Ayes: All in favor*

*Nays: None opposed*



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*The next meeting will be Wednesday, December 16, 2015 at 6:30pm at Irene Stern Community Center.*

### **VII. ADJORNMENT**

*MOTION by Member Archer to adjourn at 9:38pm.*

*SECOND by Member Stacy.*

*The motion was carried by the following vote:*

*Ayes: All Members*

*Nays: None*

*Chairman McDaniel announced that we are now adjourned.*

  
C.J. McDaniel – Chairman

Attest:

  
Lynn Raymer – Executive Assistant

**TABLE OF CONTENTS**

PREAMBLE.....

ARTICLE I. FORM OF GOVERNMENT AND BOUNDARIES.....

ARTICLE II. POWERS OF THE CITY .....

ARTICLE III. THE CITY COUNCIL AND MAYOR.....

ARTICLE IV. CITY ADMINISTRATION.....

ARTICLE V. ELECTIONS .....

ARTICLE VI. INITIATIVE, REFERENDUM, AND RECALL .....

ARTICLE VII. GENERAL PROVISIONS .....

ARTICLE VIII. TRANSITIONAL PROVISIONS .....

## **PREAMBLE**

We the people of the City of Fulshear, Texas, under the constitution and laws of the State of Texas, in order to secure the benefits of local self-government and to provide for an honest and accountable council-manager government do hereby adopt this Charter and confer upon the City the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, diversity and inclusiveness, and regional cooperation.

## **ARTICLE I. FORM OF GOVERNMENT AND BOUNDARIES**

### **Section 1.01. FORM OF GOVERNMENT.**

(a) The City shall have a “Council-Manager” form of government.

(b) All powers of the City shall be vested in the Council, hereinafter referred to as the “City Council,” which shall enact local legislation, adopt budgets, determine policies, and appoint the City Manager. The City Manager shall answer to the City Council for the execution of the laws and the administration of the government of the City.

**Section 1.02. BOUNDARIES.** The boundaries of the City shall be the same as existed prior to the adoption and ratification of this Charter and as are more fully set out and described by the official city map of the City.

## **ARTICLE II. POWERS OF THE CITY**

**Section 2.01 GENERAL POWERS.** The City shall have the power of local self-government to the fullest extent permitted by law, and shall have all powers possible for a city to have under the constitution and laws of the State of Texas as fully and completely as though they were specifically enumerated in this Charter, with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare, and good order of the City and its inhabitants.

**Section 2.02 INTERGOVERNMENTAL RELATIONS.** The City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the Government of Texas or any agency thereof, with the Federal Government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful municipal purpose.

**Section 2.03 AUTHORITY TO ANNEX AND DISANNEX.**

(a) The City shall have the power to fix the boundaries of the City, to extend the boundaries of the City and annex area adjacent to the City, and to exchange area with other cities.

(b) Any area of the City may be disannexed pursuant to any procedure allowed under state law whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes. The City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter.

#### Section 2.04 AUTHORITY TO GRANT FRANCHISES.

(a) The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except as may be provided by this Charter or other law, and no act or omission by the City Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise, or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property.

(b) To the full extent allowed by law, the City may require that any person, utility, or company making use of City streets, highways, sidewalks, alleys, parks, public squares, or other public places of the City to provide any service to the public first obtain the written consent of the City by license, permit, franchise, ordinance, or otherwise, which may be subject to certain terms and conditions at the discretion of the City Council.

(c) To the full extent allowed by law, the City may regulate the rates, charges, fees, operations, and services of any person, utility, or entity providing water, wastewater, electricity, natural gas, telephone, telecommunications, cable television, taxicab, bus, solid waste, transportation, or similar service to the public within the City.

### **ARTICLE III. THE CITY COUNCIL AND MAYOR**

Section 3.01 QUALIFICATIONS. The Mayor and each Council Member shall meet and maintain the following qualifications to be eligible for office:

(a) Be a United States citizen;

(b) Be twenty-one (21) years of age or older on the first day of the term to be filled;

(c) Have resided continuously in the corporate limits of the City for twelve (12) months on the first day of the term to be filled at the election;

(d) Not be delinquent in paying any local, state, or federal taxes;

(e) Not be indebted to the City; and

(f) Satisfy any other eligibility requirements prescribed by this Charter or other law for the office for which they are a candidate.

Section 3.02 JUDGE OF QUALIFICATIONS. The City Council is the final judge of all elections and of the qualifications of its members and of any other elected officials of the City.

Section 3.03 NUMBER, SELECTION, AND TERM OF COUNCIL MEMBERS. The membership of the City Council shall be composed of seven (7) Council Members, two (2) of which shall be elected at large by majority vote, and five (5) of which shall be elected by majority vote of a single-member district in which they must reside. Council Members shall serve a two (2) year term unless sooner removed under the provisions of this Charter or other law. A person may not serve more than three (3) consecutive terms as a Council Member, provided that partial terms shall be excluded from such limitation.

Section 3.04 SELECTION AND TERM OF MAYOR. The mayor shall be elected at large by majority vote, and shall serve a two (2) year term unless sooner removed under the provisions of this Charter or other law. A person may not serve more than three (3) consecutive terms as Mayor, provided that partial terms shall be excluded from such limitation.

Section 3.05 COMPENSATION AND EXPENSES.

(a) Council Members shall not receive any compensation, but shall be reimbursed for travel and out-of-pocket expenses incurred in the performance of official duties.

(b) The Mayor shall receive compensation in an amount to be determine by at least a two-thirds (2/3) supermajority of the full City Council, and shall be reimbursed for travel and out-of-pocket expenses incurred in the performance of official duties.

Section 3.06 GENERAL POWERS AND DUTIES OF THE CITY COUNCIL. All powers of the City shall be vested in the City Council, except as otherwise provided by law or by this Charter, and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law or by this Charter. By way of illustration but not limitation, the powers and duties of the City Council shall include the following:

(a) The City Council may make investigations into the affairs of the City and the conduct of any City department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence; and

(b) The City Council shall determine the boundaries of all districts necessary for the election of each Council Member required by this Charter to be elected by district, and shall revise such boundaries from time to time as may be required by law.

Section 3.07 PROHIBITIONS.

(a) Neither the City Council nor any Council Member shall in any manner control or demand the appointment or removal of any administrative officer or employee of the City 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, removal, or both, of such officers and employees.

(b) Except for inquiries and investigations authorized by this Charter, the City Council and each Council Member shall deal with officers and employees of the City who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor any Council Member shall give orders to any such officer or employee, either publicly or privately.

Section 3.08 POWERS AND DUTIES OF THE MAYOR. Except as otherwise provided by this Charter or other law, the Mayor shall have the following powers and duties:

(a) The Mayor shall nominate, and by and with the approval of the City Council, shall appoint the members of all boards and commissions of the City, and may remove the same at any time; and

(b) The Mayor shall annually address the City Council as to the State of the City.

Section 3.09 CITY COUNCIL MEETINGS.

(a) The Mayor and the City Council shall meet on a regular monthly basis (regular meeting) at a time and place determined by resolution of the City Council.

(b) The Mayor may call a special meeting on the Mayor's own motion and shall call a special meeting on the application of three (3) Council Members or the City Manager.

(c) Unless otherwise provided by this Charter or other law, each vote, order, decision, or other action taken by the City Council shall require the affirmative vote of a majority of the full City Council, provided that any abstention not required by law shall be counted as a vote against the matter under consideration, and provided that the Mayor shall have the right to cast the deciding vote in the case of a tie, but shall not otherwise have any right, power, or authority to vote against or veto any action taken by the City Council. For purposes of this subsection, a majority shall mean an integer greater than one-half of the full City Council, provided that any



one or more Council Members required by law to abstain from voting on a particular matter shall be excluded for purposes of determining the majority.

(d) The City Council shall adopt rules of procedure governing all meetings of the City Council, which shall provide for comments from the public at all regular meetings, subject to such limitations as may be imposed by the City Council.

(e) The City Manager shall place an item on the agenda of the next regular meeting of the City Council if requested to do so at a time other than during a City Council meeting by either the Mayor or by a concurrence of two (2) Council Members, and shall place an item on the agenda of a subsequent meeting if a motion to do so is made and seconded during any City Council meeting.

#### Section 3.10 VACANCIES.

(a) If for any reason a single vacancy exists among the Mayor and the members of the City Council, then a majority of the remaining Council Members may fill the vacancy by appointment.

(b) If two or more vacancies among the Mayor and the members of the City Council exist at the same time, then a special election shall be ordered to fill the vacancies.

(c) A person elected or appointed to fill a vacancy serves until the next regular election at which the affected office is to be elected (partial term).

(d) If the Mayor or a Council Member is absent for three (3) consecutive regular meetings, then the Mayor's or Council Member's office, as applicable, is considered vacant unless:

- (1) They are sick and the absence is excused afterward; or
- (2) They have first obtained a leave of absence at a regular meeting.

### **ARTICLE IV. CITY ADMINISTRATION**

#### Section 4.01. CITY MANAGER QUALIFICATIONS, APPOINTMENT, AND COMPENSATION.

(a) The City Council shall appoint, by at least a two-thirds (2/3) supermajority of the full City Council, a City Manager who shall be chosen solely on the basis of executive and administrative training, experience, and ability. The City Manager may not be required to reside within the City.

(b) The City Manager shall have an employment contract with the City of Fulshear, which shall be approved by at least a two-thirds (2/3) supermajority of the full City Council, shall be for

an indefinite term, shall fix the compensation of the City Manager, and shall provide for review of the City Manager at least once but not more than twice per year.

(c) The City Manager may be removed only by at least a two-thirds (2/3) supermajority of the full City Council, and no hearing shall be required prior to the removal of the City Manager.

#### Section 4.02. CITY MANAGER POWERS AND DUTIES.

(a) The City Manager shall be the chief executive officer of the City, responsible to the City Council for the management of all City affairs placed in the City Manager's charge by or under this Charter.

(b) The City Manager shall:

- (1) Appoint and suspend or remove all City employees and appointive administrative officers provided for, by, or under this Charter, except as otherwise provided by this Charter or other law, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any administrative officer subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- (2) Direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this Charter or other law;
- (3) Attend all meetings of the City Council. The City Manager shall have the right to take part in discussion but shall not vote;
- (4) See that all laws, provisions of this Charter, and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the City Manager's direction and supervision, are faithfully executed;
- (5) Prepare an annual budget designed to accomplish the goals and objectives established by the City Council, submit it to the City Council for approval and be responsible for its faithful administration after adoption;
- (6) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (7) Make such other reports as the City Council may require concerning operations;
- (8) Keep the City Council fully advised as to the financial condition and future needs of the City;
- (9) Make recommendations to the City Council concerning the affairs of the City and facilitate the work of the City Council in developing policy;
- (10) Provide staff support services for the Mayor and Council Members; and
- (11) Assist the City Council to develop long term goals for the City and strategies to implement these goals;
- (12) Encourage and provide staff support for regional and intergovernmental cooperation;

- (13) Promote partnerships among City Council, staff, and citizens in developing public policy and building a sense of community;
- (14) Perform such other duties as are specified in this Charter or may be required by the City; and
- (15) Prepare the agenda of each meeting of the City Council in accordance with this Charter and the rules of procedure adopted by the City Council.

Section 4.03. ACTING CITY MANAGER.

(a) The City Manager shall designate a qualified employee or officer of the City to be the Acting City Manager, who shall act as the City Manager in the absence of the City Manager.

(b) Neither the Mayor nor any Council Member may be designated as the Acting City Manager.

(c) If the City Manager's absence exceeds sixty (60) days, then the City Council may remove the Acting City Manager designated by the City Manager and designate a new Acting City Manager, who shall act as City Manager until the City Council either designates a new Acting City Manager or appoints a new City Manager.

Section 4.04. CITY ATTORNEY.

(a) The City Council shall appoint, by at least a two-thirds (2/3) supermajority of the full City Council, a licensed attorney of the State of Texas to be the City Attorney, who shall be subject to the direction and supervision of the City Council.

(b) The City Attorney may be removed only by at least a two-thirds (2/3) supermajority of the full City Council.

Section 4.05. MUNICIPAL JUDGE. The City Council shall appoint the Municipal Judge.

Section 4.06. CHIEF OF POLICE. The City Manager shall appoint and remove the Chief of Police with the approval of the City Council, who shall be subject to the direction and supervision of the City Manager.

Section 4.07. CITY SECRETARY. The City Manager shall appoint and remove the City Secretary with the approval of the City Council, who shall be subject to the direction and supervision of the City Manager.

Section 4.08. CHIEF FINANCIAL OFFICER. The City Manager shall appoint and remove the Chief Financial Officer of the City with the approval of the City Council, who shall be subject to the direction and supervision of the City Manager.

Section 4.09. **BOARDS AND COMMISSIONS; QUALIFICATION.** Except as otherwise provided by this Charter or other law, each candidate for appointment as a member of a board or commission shall have resided within the corporate limits of the City, or within territory annexed prior to the appointment, for at least six (6) months preceding the appointment.

Section 4.10. **PLANNING AND ZONING COMMISSIONS.** The City Council shall create a Planning Commission and a Zoning Commission, and may combine or, after being combined, separate the same at its discretion.

## **ARTICLE V. ELECTIONS**

Section 5.01. **GENERAL ELECTION DATE.** All general elections of the City shall be held on the May uniform election date.

Section 5.02. **TERMS TO BE STAGGERED.** Terms of the City Council and Mayor shall be staggered as follows:

- (a) One (1) Council Member elected at large, two (2) Council Members elected by single-member districts, and the Mayor shall be elected in even-numbered years; and
- (b) One (1) Council Member elected at large and three (3) Council Members elected by single-member districts shall be elected in odd-numbered years.

## **ARTICLE VI. INITIATIVE, REFERENDUM, AND RECALL**

Section 6.01. **GENERAL AUTHORITY.**

(a) The registered voters of the City shall have the power to enact ordinances through the initiative process set forth in this Charter. Such power shall not extend to the enactment of ordinances relating to the adoption or amendment of the City budget or any capital expenditure; the appropriation of money; the levying of taxes; the adoption or amendment of a comprehensive plan; the adoption, amendment, or repeal of zoning districts or regulations; the annexation or disannexation of land; the setting of rates, fees, charges, or assessments; the setting of salary or compensation of officers or employees; or the granting of franchises.

(b) The registered voters of the City shall have the power to repeal ordinances through the referendum process set forth in this Charter. Such power shall not extend to the enactment of ordinances relating to the adoption or amendment of the City budget or any capital expenditure; the appropriation of money; the levying of taxes; the adoption or amendment of a comprehensive plan; the adoption, amendment, or repeal of zoning districts or regulations; the annexation or

disannexation of land; the setting of rates, fees, charges, or assessments; the setting of salary or compensation of officers or employees; or the granting of franchises.

(c) The registered voters of the City shall have the power to remove the Mayor or any Council Member from office through the recall process set forth in this Charter. Such power shall not be exercised within six (6) months of the election of the person sought to be removed and no person shall be subject to more than one (1) recall election per term.

#### Section 6.02. PETITIONS FOR INITIATIVE, REFERENDUM, AND RECALL, GENERALLY.

(a) Any registered voter of the City may commence initiative, referendum, or recall proceedings by filing with the City Secretary a petition as required by this Article, provided that, in the case of a petition for recall, the registered voter must file with the City Secretary a notice of intent to circulate a petition before circulating the petition. The notice of intent to circulate a petition required by this subsection must be filed at least six (6) months after the election of the person sought to be removed, and must be filed prior to the date of signing of each signature contained in the petition.

(b) At least one signer of the petition must swear or affirm before a notary public or other person authorized to administer oaths that each signature on the petition was made by the person whose signature it purports to be, and that oath must be memorialized on the petition.

(c) A petition is valid if:

- (1) The petition complies with the applicable requirements of this Article and Chapter 277, Texas Election Code; and
- (2) The petition is filed after the notice of intent to circulate a petition is properly filed under subsection (a), if applicable.

(d) Not later than the 10th business day after the date a petition is filed, the City Secretary shall review the petition and determine whether the petition is valid. If the City Secretary determines the petition is valid, the City Secretary shall attach a certificate to the petition stating that the petition is valid and submit the petition and certificate to the City Council as soon as practicable. If the City Secretary determines that the petition is not valid:

- (1) The City Secretary shall attach a certificate to the petition stating the facts supporting the determination that the petition is not valid;
- (2) The City Secretary shall notify the person who filed the petition of the City Secretary's determination;
- (3) The City Secretary shall return the petition to the person who filed it; and
- (4) The petition may be amended or supplemented and resubmitted not later than the 10th business day after the date of the certification under Subdivision (1). The

City Secretary shall determine the validity of a petition resubmitted under this subdivision in the same manner as the original submission except that, if the City Secretary determines the petition is not valid, then the petition may not be further amended or supplemented.

Section 6.03 PETITIONS FOR INITIATIVE, SPECIFICALLY.

(a) A petition for initiative must contain the signatures of at least ten percent (10%) of the registered voters of the City, and must set forth in full the text of the ordinance sought to be enacted.

(b) Upon a valid petition and certificate being submitted to the City Council by the City Secretary, the City Council shall hold a public hearing on the matter as soon as practicable, at which any resident of the City may be heard. At the conclusion of the public hearing, the City Council shall either:

- (1) Adopt the ordinance set forth in the petition without any change in substance; or
- (2) Order an initiative election to be held on the first uniform election date that occurs seventy-eight (78) days after the date of the order.

Section 6.04 PETITIONS FOR REFERENDUM, SPECIFICALLY.

(a) A petition for referendum must contain the signatures of at least ten percent (10%) of the registered voters of the City, and must cite and attach the ordinance sought to be repealed and any and all amendments thereto.

(b) Upon a valid petition and certificate being submitted to the City Council by the City Secretary, the City Council shall hold a public hearing on the matter as soon as practicable, at which any resident of the City may be heard. At the conclusion of the public hearing, the City Council shall either:

- (1) Repeal the ordinance cited and attached to the petition and any and all amendments thereto; or
- (2) Order a referendum election to be held on the first uniform election date that occurs seventy-eight (78) days after the date of the order.

Section 6.05 PETITIONS FOR RECALL, SPECIFICALLY.

(a) A petition for recall must contain the signatures of at least twenty percent (20%) of the registered voters of the City, must state the full name and title of the person whose removal is sought, and must state the reasons for seeking removal.

(b) Upon a valid petition and certificate being submitted to the City Council by the City Secretary, the City Council shall hold a public hearing on the matter as soon as practicable, at which only the person whose removal is sought may be heard. Unless the person whose removal

is sought resigns prior to the conclusion of the public hearing, at the conclusion of the public hearing, the City Council shall order a recall election to be held on the first uniform election date that occurs seventy-eight (78) days after the date of the order.

#### Section 6.06 INITIATIVE, REFERENDUM, AND RECALL ELECTIONS.

(a) The ballot for an initiative election shall be printed to permit voting for or against the ordinance sought to be enacted, and shall set forth the nature of the ordinance sufficiently to identify it. If less than a majority of the votes received at the initiative election are in favor of the ordinance, the ordinance is void. If a majority of the votes received are in favor of the ordinance, the ordinance shall be deemed enacted and become effective upon the passing of the resolution canvassing the election, and the City Council may only amend the ordinance pursuant to subsequent initiative proceedings, and may only repeal the ordinance pursuant to subsequent referendum proceedings.

(b) The ballot for a referendum election shall be printed to permit voting for or against the ordinance sought to be repealed, and shall set forth the nature of the ordinance sufficiently to identify it. If a majority of the votes received at the referendum election are in favor of the ordinance, the ordinance remains in effect. If less than a majority of the votes are in favor of the ordinance, the ordinance shall be deemed repealed and become void upon the passing of the resolution canvassing the election, and the City Council may only reenact the ordinance pursuant to subsequent initiative proceedings.

(c) The ballot for a recall election shall be printed to permit voting for or against the removal of the person sought to be remove, and shall state the full name and title of the person. If less than a majority of the votes received at the recall election are in favor of removal of the person named on the ballot, the person remains in office. If a majority of the votes received are in favor of the removal of the person, the person's office shall be deemed vacant upon the passing of the resolution canvassing the election, and the vacancy shall be filled in the manner prescribed by this Charter for filling such vacancy. A person removed by recall may not be appointed to fill the vacancy and may not be a candidate in any election called to fill the vacancy.

Section 6.07 RELIEF BY WRIT OF MANDAMUS. If any officer or employee of the City fails or refuses to perform any duty required under this Article, any citizen may file with the appropriate court for a writ of mandamus to force the officer or employee to perform such duty.

### **ARTICLE VII. GENERAL PROVISIONS**

Section 7.01. CONSTRUCTION. This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City in the same manner as the Constitution of Texas is

construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City to expressly grant to the City, shall be construed to be granted to the City by this Charter.

Section 7.02. GENERAL PROHIBITIONS.

(a) No employee or official of the City, whether 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 official or employee holding any compensated position with the City.

(b) No person who holds any compensated position with the City 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.

(c) No person who seeks appointment or promotion with respect to any position or office of the City shall directly or indirectly give, render, or pay any money, service, or other thing of value to any person for or in connection with his or her test, appointment, proposed appointment, promotion, or proposed promotion.

(d) Any employee who is found to have violated any provision of this section 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 provision of this section shall forfeit their office and be ineligible for election or appointment to any office of the City for five (5) years.

Section 7.03. EXEMPTION FROM BOND, UNDERTAKING, OR SECURITY. It shall not be necessary in any action, suit, appeal, or proceeding in which the City is a party for any bond, undertaking, or security to be executed by or on behalf of the City, but all such actions, suits, appeals, or proceedings shall be conducted in the same manner as if bonds, undertaking, or security had been given.

Section 7.04. LIABILITY COVERAGE FOR CITY OFFICIALS. The City shall provide liability coverage to all officials and officers in an amount to be determined by the City Council to provide protection for any claim, judgment, or litigation arising out of the official's or officer's actual or alleged error or misstatement of fact or omission or neglect or breach of duty, including misfeasance, malfeasance, or nonfeasance, by the official or officer in the discharge of their duties with the City, individually or collectively, or any matter claimed against them solely by reason of their being or having been City officials or officers.



Section 7.05. SEVERABILITY. If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of a section so held invalid may appear.

Section 7.06. NON-SUBSTANTIVE REVISIONS.

(a) The City Council may, without approval of the voters, adopt an ordinance that makes the following types of revisions to this Charter:

- (1) Renumbering, revising titles, and rearranging parts thereof;
- (2) Correcting errors in spelling, grammar, cross-references, and punctuation; and
- (3) Revising language to reflect modern usage and style.

(b) A revision adopted under this section is not intended to and is not to be interpreted as making any substantive change in any Charter provision.

Section 7.07. CHARTER REVIEW COMMISSION.

(a) Five (5) years after the adoption of this Charter and every five years thereafter, the City Council shall appoint a Charter Review Commission composed of thirteen (13), fifteen (15), or seventeen (17) members from a pool of qualified applicants. Appointment shall be made at the first regular meeting following the anniversary date of the Charter's adoption. The Charter Review Commission shall serve for six (6) months, or a longer term if extended by the City Council, and shall meet at least once each month during its term.

(b) The Charter Review Commission must establish its own rules of procedure, which must require that a quorum consists of a majority of its members and that an affirmative vote of a majority of all members present is necessary to act.

(c) The Charter Review Commission shall:

- (1) Inquire into the operations of City government and review the Charter to determine whether it requires revision. Public hearings may be held and the commission shall have the power to compel the attendance of City officers or employees and to require the submission of City records necessary to its inquiry and review;
- (2) Propose any recommendations it deems desirable to ensure compliance with Charter provisions by City departments;
- (3) Propose any Charter amendments it deems desirable to improve the effective application of the Charter to current conditions; and
- (4) Make a written report of its findings and recommendations to the City Council.

(d) The City Council shall receive and have published in the City's official newspaper the Charter Review Commission's final report. It shall consider any recommendations and, if any

amendments are presented, shall order the amendment or amendments submitted to the voters of the City.

Section 7.08. COMPREHENSIVE PLAN.

(a) The City Council shall adopt and implement a comprehensive plan to guide, regulate, and manage the future development within the corporate limits and the extraterritorial jurisdiction of the City, and to assure the most appropriate and beneficial use of land, water, and other natural resources, consistent with the public interest.

(b) The comprehensive plan shall be reviewed and adopted no less than every five (5) years.

Section 7.09. DISASTER CLAUSE. In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, shall, within twenty-four (24) hours of such disaster, request the highest surviving officers of the Fort Bend County Commissioners Court to appoint a number of residents of the City equal to the number necessary to make a quorum to act during the emergency as the City Council. The newly appointed City Council shall call a City election within 15 days of their appointment, or as provided in the Texas Election Code, for election of the vacant offices, if for good reasons it is known a quorum of the present City Council will never again meet. If it is determined that a quorum of the present City Council will meet again, the appointed Council Members shall serve in their position until such time as the present Council Members may begin serving.

Section 7.10. NOTICE OF CLAIM. The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within 120 days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

Section 7.11. POWER TO SETTLE CLAIMS. The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City, including suits by the City to recover delinquent taxes, after consulting with the City Attorney.

Section 7.12. SERVICE OF PROCESS AGAINST THE CITY. All legal process against the City shall be served upon the City Manager.

**ARTICLE VIII. TRANSITIONAL PROVISIONS**



# Attachment 1

(e) Not be indebted to the City; and

(f) Satisfy any other eligibility requirements prescribed by this Charter or other law for the office for which they are a candidate.

Section 3.02 JUDGE OF QUALIFICATIONS. The City Council is the final judge of all elections and of the qualifications of its members and of any other elected officials of the City.

Section 3.03 NUMBER, SELECTION, AND TERM OF COUNCIL MEMBERS. The membership of the City Council shall be composed of seven (7) Council Members, two (2) of which shall be elected at large by majority vote, and five (5) of which shall be elected by majority vote of a single-member district in which they must reside. Council Members shall serve a two (2) year term unless sooner removed under the provisions of this Charter or other law. A person may not serve more than three (3) consecutive terms as a Council Member, provided that partial terms shall be excluded from such limitation.

Section 3.04 SELECTION AND TERM OF MAYOR. The mayor shall be elected at large by majority vote, and shall serve a two (2) year term unless sooner removed under the provisions of this Charter or other law. A person may not serve more than three (3) consecutive terms as Mayor, provided that partial terms shall be excluded from such limitation.

Section 3.05 COMPENSATION AND EXPENSES.

(a) Council Members shall not receive any compensation, but shall be reimbursed for travel and out-of-pocket expenses incurred in the performance of official duties.

(b) The Mayor shall receive compensation in an amount to be determined by at least a two-thirds (2/3) supermajority of the full City Council, and shall be reimbursed for travel and out-of-pocket expenses incurred in the performance of official duties.

Section 3.06 GENERAL POWERS AND DUTIES OF THE CITY COUNCIL. All powers of the City shall be vested in the City Council, except as otherwise provided by law or by this Charter, and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law or by this Charter. By way of illustration but not limitation, the powers and duties of the City Council shall include the following:

(a) The City Council may make investigations into the affairs of the City and the conduct of any City department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence; and

# PROPOSED

Section 3.03 NUMBER, SELECTION, AND TERM OF COUNCIL MEMBERS. The membership of the City Council shall be composed of seven (7) Council Members, two (2) of which shall be elected at large by majority vote, and five (5) of which shall be elected by majority vote of a single-member district in which they must reside. Council Members shall serve a two (2) year term unless sooner removed under the provisions of this Charter or other law. A person may not serve more than three (3) consecutive terms as a Council Member, provided that partial terms shall be excluded from such limitation. City Council by ordinance for the at large council positions may add additional qualification for candidates or establish no more than two districts for such positions within which a candidate must reside.

# Attachment 2

## Financial Administration (Proposed)

Section X.1. FISCAL YEAR. The Fiscal Year of the City shall be from October 1 through September 30.

Section X.2. ANNUAL BUDGET. The City Manager shall submit the annual budget to the City Council no later than [30/45/60/90] days before the beginning of the Fiscal Year.

Section X.3. CAPITAL PROGRAM.

(a) The City Manager shall prepare and submit to the City Council a five (5) year Capital Program at least three (3) months prior to the final date for submission of the budget. The Capital Program shall include:

- (1) A clear general summary of its contents; and
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity
- (3) of such improvements; and (3) Cost estimates, method of financing, and recommended time schedules for each such improvement.

(b) The City Council shall give notice of a public hearing on the proposed Capital Program and shall hold said hearing in the same manner as for the annual budget. The hearing for the proposed Capital Program and the notice of same may be in conjunction with the annual budget. The City Council shall, by resolution, adopt the Capital Program with or without amendment after the public hearing and on or before the last day of the current fiscal year.

Section X.4. 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 City Council, 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 the City Council acceptance of such audit. Copies of all audits shall be placed on file with the the City Secretary.

Section X.5. PURCHASING AND CONTRACTS. All sales of City property, purchases made, and contracts executed by the City shall be made in accordance with the requirements of the constitution and laws of the State of Texas.



# Attachment 3

## **Existing Ordinances and Resolutions.**

At the time of initial adoption of this Charter, all existing ordinances, resolutions, regulations, and other prior actions of the City Council, not in conflict with this Charter, shall remain in effect without being subject to the provisions of this Charter for referendum.

## **Officers and Employees.**

Upon adoption of this Charter, the present persons filling elective offices on the City Council will continue to fill those offices for the terms for which they were elected. Term limits, as referenced herein, shall not be imposed for terms preceding adoption of this Charter or for terms less than one year.

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption. Upon adoption of this Charter, the person presently serving as the City Administrator shall be deemed to be the City Manager, subject to the provisions of this Charter.

Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such position or office until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

## **Pending Matters.**

All rights, claims, actions, orders, franchises, contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office, or agency appropriate under this Charter.

## **Manner of Submission to Electors.**

In preparing this Charter, the Charter Commission finds and decides that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety.





# Attachment 4

2016  
Charter adopted  
Last election under old system

Even Year  
Mayor  
Councilmember 1  
Councilmember 2  
Councilmember 3

Districts Created  
2017

Odd Year  
@Large  
District  
District

2018

@Large  
District  
District  
Mayor  
District\*

\*1 year term

2019

@Large  
District  
District  
District

2020

@Large  
District  
District  
Mayor

Present

Even Year	Odd Year
Mayor	Councilmember 4
Councilmember 1	Councilmember 5
Councilmember 2	
Councilmember 3	

Future

Even Year	Odd Year
@Large	@Large
Mayor	District
District	District
District	District