

## **2018 CHARTER COMMISSION**

### **Report and Recommendations to City Council on Charter Amendments**

The City Charter requires the City Council to appoint a Charter Commission at least every five years to review City operations and recommend to the Council whether changes in the Charter should be made. On November 6, 2018, the Council appointed David Gornet, Stewart Jacobson, Tom DeMont, I.S. “Jack” Molho and Carla Mondt to serve on the 2018 Charter Commission. The Council appointed David Gornet to serve as Chairperson.

#### **Commission Proceedings.**

The Commission first met on November 14, 2018. The Commission held a total of 8 meetings, all of which were open to the public and for which notice was given as provided by the Open Meetings Act. The City included information on the Commission on its website under [www.sugarlandtx.gov/crc](http://www.sugarlandtx.gov/crc) shortly after the Commission was appointed. A number of posts were made to social media and sent to local Home Owner’s Associations inviting the public to provide comments or suggestions in writing, by email, or in person on Charter issues to review. The Commission’s minutes of its meetings were posted on the City’s website throughout the process. The Mayor, five Council members, the City Manager, the City Attorney and the Independent Ethics Review Board provided comments to the Commission about issues to consider. During the Public Comment portion of the Commission’s meeting, the Commission received comments from one citizen. The Commission held two public hearings, the first on January 23, 2019, and the second on March 4, 2019. No one appeared to address the Commission at either public hearing.

The Commission’s recommendations on Charter revisions are by Article with a brief explanation of each revision. Following the recommended revisions are non-Charter recommendations that the Commission has provided for Council consideration. Not included in this report are the Commissions’ recommendations on stylistic and grammar revisions.

#### **Charter Commission Recommendations.**

##### **1. Article I. General Provisions.**

The Commission recommends no changes to this Article.

##### **2. Article II. The Council.**

###### **(a) Section 2.01 – Election and Term and Section 2.03 Term Limitations.**

The Charter currently provides for two-year terms of office with a maximum of four consecutive terms or nine years in office. The Commission recommends that the Charter

be amended to provide for three-year terms and a maximum of two consecutive terms, or six years in office. Additionally, the Commission recommends that the language be revised to clarify that terms served as a district council member and as an at-large council member will be aggregated for the purpose of term limits, but that the time served in those positions will not apply toward the term limitation for the position of mayor (that position will still have maximum of six years). If approved at the May 2020 election, the Commission recommends that the change commence with the election of district council members in 2021 and the mayor and at-large members in 2022. The Commission recommends that sections 2.01 and 2.03 be combined.

In discussing the length of council terms, the Commission cited the length of time that a new member of council needs to learn the business of the city. The Commission believed that when serving two-year terms, incumbent council members spend a disproportionate percentage of their term learning their role and campaigning for re-election.

The Commission is not recommending an increase in the number of council seats.

(b) Section 2.02 – Qualifications.

The Commission recommends that the term “maintain a residence” be clarified to require that a candidate/council member’s address be verified with their Texas driver’s license or Texas ID card and voter registration card. Additionally, the Commission recommends that language be added to clarify that the mayor and at-large council members must reside within the city during their terms of office.

(c) Section 2.06 – Vacancies.

The Commission discussed the length of time required for a new member of council (elected or appointed) to become acquainted with the business of the city and recommended that section 2.06(b) be revised to provide council with discretion as to whether a vacancy of less than twelve months should be filled. The Commission suggests that 2.06(b) be revised to read as follows:

(b) If, at the time of the vacancy, less than twelve (12) months remain on the term, the council ~~shall~~ may ~~within thirty (30) days of the vacancy~~ appoint a qualified person to fill the vacancy.

(d) Section 2.08 – Council meetings.

The current Charter requires council to meet twice a month on the first and third Tuesdays unless the Tuesday is a designated holiday. The Commission recommends that the Charter be revised to require council meetings occur twice a month without designating a day. Instead, the Commission proposes that council adopt a 12-month calendar of the upcoming

year's meeting dates by the end of December. Any changes to the calendar after December may occur only in extenuating circumstances and upon a majority vote of council.

The current Charter requires four affirmative votes by council to approve an item. In 2016, Texas law was amended to require a supermajority vote to approve the city's tax rate. The Commission recommends the Charter be revised to address this change in law. The Commission also recommends that language be added to require a member of council to vote "aye" or "nay" on an item unless they are prohibited to do so by law. This revision would mirror the requirement of Boards and Commissions as is currently codified in section 2-41 of the Code of Ordinances.

Currently the Charter provides for less than a quorum to act when there are insufficient members of council available due to "death or disability." The Commission finds the quoted language to be outdated and limiting, and recommends that the Charter be revised by deleting "or disability" and adding "incapacitation, disqualification, resignation or recall."

(e) Section 2.10 Communication through city manager.

The current Charter prohibits council members from providing direction or orders to city employees. The Commission recommends that the language be revised to more accurately reflect the recommendation of the 2013 Charter Commission and to clarify that a council member cannot request that another individual make a request of an employee on their behalf. The Commission recommends the following language:

Neither the council nor any of its individual members nor anyone at the request or behest of a member of council may interfere with the daily operations of the city nor may they direct or give orders to any officer or employee who is subject to the direction and supervision of the city manager except through the city manager.

And the deletion of existing language:

~~The city council and 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 council nor its members shall give orders to any such officer or employee, either publicly or privately.~~

(f) New section related to Disqualifications of members of council.

The Commission, upon recommendation of the Independent Ethics Review Board, suggests that a new section related to disqualifications be added to further the purpose and intent of the city's Code of Ethical Conduct and the duties of the Independent Ethics

Review Board. The new section would provide that a member of council automatically resign from his/her position upon conviction of a felony or crime of moral turpitude.

The Commission recommends that attendance at regular council meetings be a stated requirement and that the unexcused absence of more than 25% of meetings in any 12-month period or of 4 consecutive meetings be grounds for automatic resignation.

(g) New section related to Judge of qualifications.

The Commission recommends that the Charter be amended to provide that the council be the judge of its members' qualifications. The Commission recommends language similar to those in other Texas cities, to read as follows:

The council is the judge of the election and whether the qualifications set herein and by law have been met by its members and of the grounds for the forfeiture of their offices. For these purposes, the council has the power to subpoena witnesses, administer oaths and require the production of evidence. Decisions by the council as to election and qualifications will be considered final.

(h) New section related to Resign to run.

During three separate meetings, the Commission discussed adding a resign to run provision to the Charter. The Commission was in agreement that the requirement should be added, however it was divided three to two as to whether the provision should apply only to external public offices or if it should apply to both internal and external public offices. The Commission also discussed the application of Article 16, section 65 of the Texas Constitution that states that any public official that announces their candidacy or becomes a candidate for another public office automatically resigns from their office if their unexpired term exceeds one year and 30 days. The Commission recognized that this provision applied automatically to cities with terms of office exceeding two years and that this provision would become automatic if the citizens voted to extend council terms to three years.

### 3. Article III. Initiative, Referendum and Recall.

After reviewing the voter turnout for past elections and after considering the various types of elections the city holds (or can hold), it is recommended that the signature requirement be based upon the number of qualified voters in the city as of the petition date rather than those voting in the last election. With this change, the Commission recommends reducing the percentage of signatures required to 15% for all three petition types. Additionally, the Commission recommends that section 3.02(c) be revised to state that the petition forms must be obtained from the City Secretary. This revision would assist the Committee of Petitioners by providing them with a

document that clearly states the petition requirements and can include the minimum number of signatures required as of the date the form was provided by the City Secretary's office. This revision would also aid the City Secretary's review of the petition.

4. Article IV. Administration Offices and Departments.

While the Commission has no recommended revisions to this Article, the Commission does recommend that Council consider enacting an ordinance to change the Municipal Court from a General Court to a Court of Record. Among other things, this change would grant the Municipal Court greater authority for code enforcement cases and would allow the City to retain any fines recovered from cases appealed to County Court.

5. Article V. Municipal Planning and Zoning.

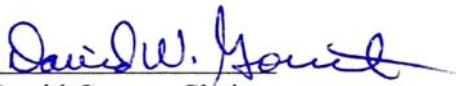
The Commission recommends no changes to this Article.

6. Article VI. Municipal Finance.

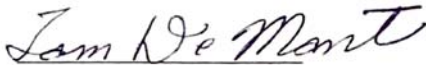
The Commission recommends no changes to this Article.


In closing, the Commission wishes to thank the City Council for giving us this opportunity serve on this important Commission.


Respectfully Submitted:

  
David Gornet, Chair

  
Stewart Jacobson

  
Tom DeMont

  
I.S. "Jack" Molho

  
Carla Mondt