

AGENDA

CHARTER REVIEW COMMISSION

JUNE 30, 2016

FLOWER MOUND TOWN HALL ● 2121 CROSS TIMBERS ROAD ● FLOWER MOUND, TEXAS

6:00 P.M.

A. CALL MEETING TO ORDER

B. MINUTES

1. Consider approval of June 21, 2016, minutes

C. REVIEW ITEMS OUTLINED IN RESOLUTION NO. 08-16 (COUNCIL CHARGE), OR ITEMS INITIATED BY THE COMMISSION, OR ITEMS INITIATED BY THE PUBLIC AND AS AGREED UPON BY THE COMMISSION FOR CONSIDERATION.

1. Public Hearing to discuss and consider if a proposed Charter amendment or policy recommendation is needed to enhance the Town's notification process as it relates to eminent domain.
2. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to create a process in which to use in the event a Charter violation should occur by the Mayor or a member of Council.
3. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change any provisions related to term limits or consecutive terms for elected officials.
4. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to expand the size of Council.
5. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change the current Council at large structure to single member districts (SMD), or any variation thereof.
6. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change the Parks, Arts, and Library Services (PALS) Board to the Parks Board.
7. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of "and the State Comptroller of Public Accounts at Austin" and instead add the text "and the Tarrant County Clerk's office" in Section 9.10 of the Town Charter.

8. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of "to cause only the caption of duly enacted ordinance to be published except as provided otherwise by law" from section 3.07 (w) of the Town Charter.
9. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the two references of the word "department" from section 9.14 of the Town Charter.
10. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to delete the portion of the text that states "If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town".

D. PUBLIC COMMENTS

1. Discuss and review any correspondence received from the public via charter@flower-mound.com or otherwise.

E. COORDINATION OF CALENDARS

1. Next meeting date(s):
 - Tentative July 6, 10am, Town Hall

F. ADJOURNMENT

I do hereby certify that the Notice of Meeting was posted on the bulletin board in Town Hall of the Town of Flower Mound, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: June 27, 2016, at 9:45 a.m.



Theresa Scott, Town Secretary

Pursuant to Section 551.071 of the Texas Government Code, the Charter Review Commission reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed on this agenda.

The Flower Mound Town Hall and Council Chambers are wheelchair accessible. Request for accommodations or interpretive services must be made at least 48 hours prior to this meeting by contacting the Town Secretary's Office at (972) 874-6070.

THE FLOWER MOUND CHARTER REVIEW COMMISSION MEETING HELD ON THE 21ST DAY OF JUNE 2016, AT TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

The Town Council met in a special meeting with the following members present:

Tim Trotter	Vice Chair
Kia Mastey	Member
Robert Rawson	Member
Connie Smith	Member
Amy Wallace	Member

With the following members absent:

Jody Smith	Chair
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constituting a quorum with the following members of the Town Staff participating:

Theresa Scott	Town Secretary
Ashley Dierker	Town Attorney

A. CALL MEETING TO ORDER

Vice Chair Trotter called the meeting to order at 6:01 p.m.

Vice Chair Trotter provided background information on the CRC meetings to date. In addition, he sought feedback from the Commission relative to the approach of opening up all items at once for the public hearings.

There was consensus by the Commission to open all of the public hearing items at one time, noting this approach would also allow the public additional time when speaking.

B. MINUTES

1. Consider approval of June 9, 2016, Minutes

Commissioner Smith moved to approve the minutes from the June 9, 2016 meeting. Commissioner Rawson seconded the motion.

VOTE ON THE MOTION:

AYES: MASTEY, SMITH, RAWSON, TROTTER, WALLACE

NAYS: NONE

C. REVIEW ITEMS OUTLINED IN RESOLUTION NO. 08-16 (COUNCIL CHARGE); AND REVIEW ITEMS INITIATED BY THE CHARTER REVIEW COMMISSION; AND REVIEW ITEMS INITIATED BY THE PUBLIC AND AS AGREED UPON BY THE CHARTER REVIEW COMMISSION FOR CONSIDERATION.

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Vice Chair Trotter opened items 1 – 10 below at 6:14 p.m. by reading the caption and providing a brief background for each.

1. Public Hearing to discuss and consider if a proposed Charter amendment or policy recommendation is needed to enhance the Town's notification process as it relates to eminent domain.
2. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to create a process in which to use in the event a Charter violation should occur by the Mayor or a member of Council.

Ms. Scott noted that the process outlined in the packet is basically using the City of Carrollton's statutes. She asked for input from the CRC relative to:

- 1) re-election eligibility if the mayor or a councilmember should get expelled.
- 2) should there be a grace period from the time a member of Council takes office before a complaint can be filed

3. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change any provisions related to term limits or consecutive terms for elected officials.
4. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to expand the size of Council.
5. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change the current Council at large structure to single member districts (SMD), or any variation thereof.
6. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change the Parks, Arts, and Library Services (PALS) Board to the Parks Board.
7. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of "and the State Comptroller of Public Accounts at Austin" and instead add the text "and the Tarrant County Clerk's office" in Section 9.10 of the Town Charter.
8. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of "to cause only the caption of duly enacted ordinance to be published except as provided otherwise by law" from section 3.07 (w) of the Town Charter.
9. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the two references of the word "department" from section 9.14 of the Town Charter.

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10. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to delete the portion of the text that states "If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town".

The following individuals either spoke in support or opposition, or had questions / comments related to the items: *Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.*

F = For; A = Against; Q = Question; C = Comment

	Public Hearing Items									
	1 Emin. Dom.	2 Discipline Process	3 Term limits	4 Expand size	5 SMD	6 PALS	7 Budget filing	8 Caption to paper	9 Xfer of funds	10 Employee running for office
Paul Stone, 709 Lake Bluff Dr		F			A					
Carol Kohankie, 4312 Lauren Way		F	F	F	F					
Janvier Scott Werner, 2829 Bob White Ln	F	F	A	A	A					
Sharon Gentry, 2750 Bob White Ln	F	A	A	A	A					
Sandeep Sharma, 2504 Stillwater Ct			C		A	F				
Kathy Blair, 5113 Forest Hill	F	F	F		A			Q		
Warner Watkins, 2800 London Ln			A	F		F				
Shyron Shenko, 5001 Rippy		A	F							
Marsha Gavitt, 6501 Meadowcrest	F	F	A	A	A	F				
Annette Weir, 3208 Druid Way						F				
Sue Ridnour, 2709 Skinner Dr						F				
TOTAL	4-F	5-F 2-A	3-F 4-A 1-C	2-F 3-A	1-F 6-A	5-F	-	-	1-Q	-

Vice Chair Trotter closed the public hearing at 7:16 p.m.

Vice Chair Trotter announced that the next public hearing will be Thursday, June 30th.

Vice Chair Trotter summarized the feedback received and asked the Commission if they had any additional thoughts on the items.

Each offered their appreciation for those that came to the meeting to offer their comments, and Commissioner Rawson offered comments relative to the discussions about charter violations.

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D. PUBLIC COMMENTS

Ms. Scott pointed out two emails were received.

E. COORDINATION OF CALENDARS

Vice Chair Trotter announced that the next meeting date(s) are Thursday, June 30, 6pm, Town Hall (Public Hearing), and tentatively July 6, 10am, Town Hall.

F. ADJOURNMENT

Vice Chair Trotter adjourned the meeting at 7:28 p.m. on Tuesday, June 21, 2016, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

TIM TROTTER, VICE-CHAIR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 01

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment or policy recommendation should be recommended to enhance the Town's notification process as it relates to eminent domain.**

BACKGROUND INFORMATION: This item is a result of comments made by a citizen during public participation, and more specifically, as it relates to a recent property acquisition case on Bob White Lane.

The Charter Review Commission received the following information on the topic:

- legal input regarding the state law requirement of a 30 day initial offer letter, 14 day final offer letter, and 72 hour agenda posting
- Historical review of condemnation proceedings (5/12/16 CRC packet)

TOWN CHARTER § 2.03. - Eminent Domain.

The Town shall have full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by the Constitution or laws of the State of Texas. The power of eminent domain hereby conferred shall include the right of the Town to take the fee and easement in the lands so condemned, and such power and authority shall include the right to condemn public and private property for such purposes. The Town shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purposes, even though not specifically enumerated herein or in this Charter.

State Law reference— Eminent domain, V.T.C.A., Local Government Code § 251.001 et seq.

TOWN CHARTER § 2.04. - Power to Acquire Property for Public Purposes.

The Town of Flower Mound shall have the power to acquire by condemnation either private or public property located inside or outside the corporate limits for public purposes; for the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, water sheds, dams, the laying, building, maintenance and construction of water mains and any necessary appurtenances or facilities which will furnish to the inhabitants of the Town an abundant supply of wholesome water; for sewerage plants and systems; rights-of-way for water and sewer lines; parks, playgrounds and schools, hospitals, fire stations, police stations, burial grounds and cemeteries, incinerators or other garbage disposal plants; streets, boulevards and alleys or other public ways; town jails, town halls and other municipal buildings; any right-of-way needed in connection with any property used for any purpose hereinabove named; for the straightening or improving of the channel of any stream, branch or drain and for any other municipal purpose. The procedure to be followed in any condemnation proceeding authorized herein shall be in accordance with the provision of the State law with reference to eminent domain. The provisions of V.T.C.A. Property Code, Chapter 21, shall apply to such proceedings, or such proceeding may be under any

other State law now in existence or that hereafter may be passed governing or relating to the condemnation of land for public purposes by the Town.

(Amend. of 5-15-2004)

ATTACHMENTS:

1. None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to eminent domain.
- B. Move to recommend Council consider a policy change to introduce an enhanced notification process beyond the state law requirements for any impacted property owner(s).
- C. Move to recommend a Charter amendment to include language that enhances the notification process beyond the state law requirements for any impacted property owner(s).



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 02

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to create a process in which to use in the event a Charter violation should occur by the Mayor or a member of Council.**

BACKGROUND INFORMATION: This item is one of the nine charges presented by Council to the Charter Review Commission (CRC) for review (Discuss options for processing charter violations).

The CRC received various documents to assist in the deliberations on this matter, including:

- a) Survey of benchmark cities and whether they have procedures for removal in place (6/9 packet)
- b) The Town Attorney's office provided a memo with examples of Charter violation incidents (5/26 packet)

Discussions by the CRC indicated that various members liked:

- ability to file for a specific violation
- receiving a written sworn complaint followed by a public hearing
- verbal or written warning initially (for some violations)
- clear & concise process (Richardson)
- use of censorship instead of just taking it to a vote to expel a member
- Supermajority vote to pass
- Carrollton might serve as a basis to work from
- Use of an outside investigator to allow for an impartial/nonpolitical review

And some of the CRC members had concerns/questions regarding:

- Use of outside investigator - associated cost
- Whether CRC should provide an actionable plan to determine a resolution or should that task be with Council
- Handled as public hearing vs public meeting
- Actual steps that would happen if a Charter violation should occur

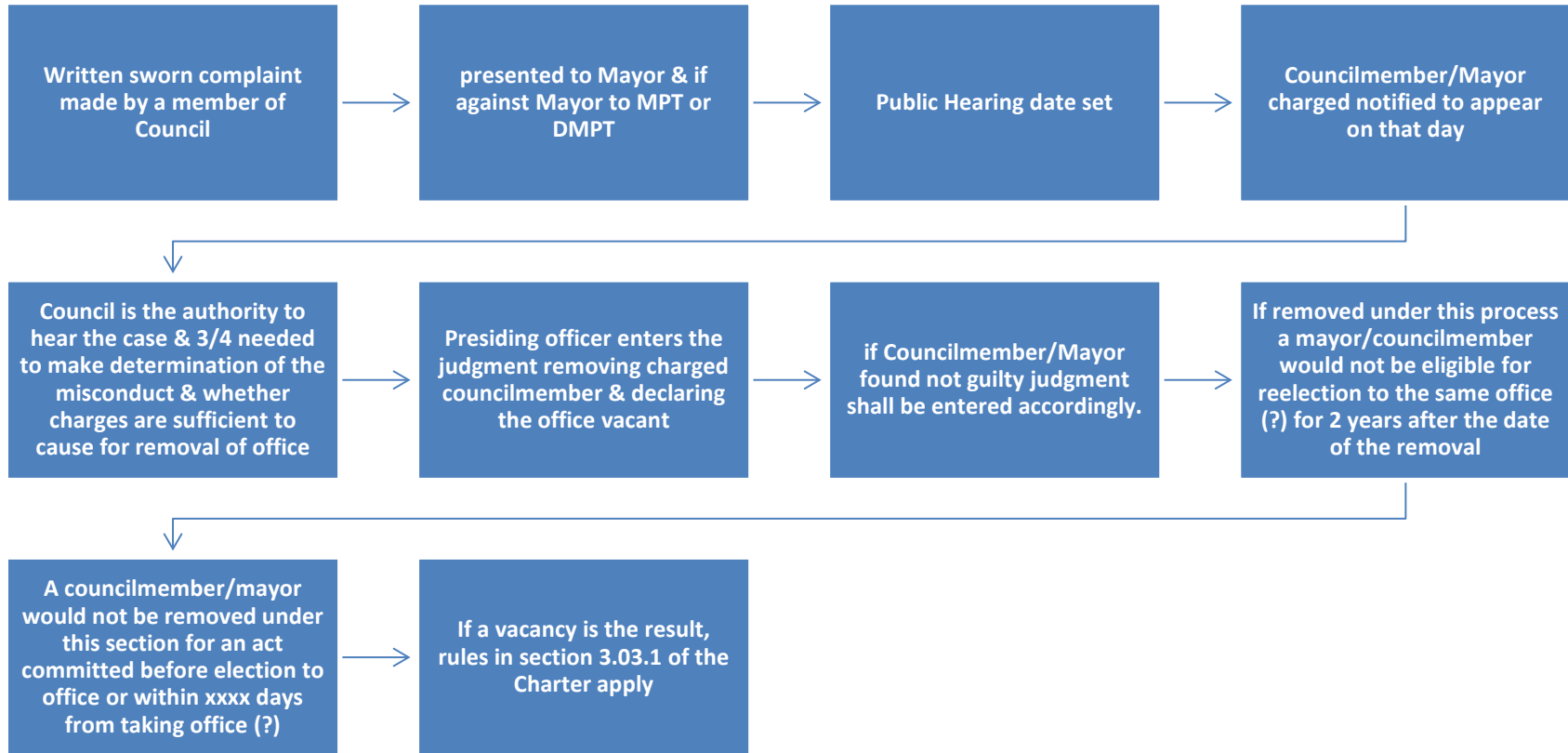
ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to a process for handling Charter violations by the Mayor or a member of Council.
- B. Move to recommend Council consider crafting language to address Charter violations by the Mayor or a member of Council.
- C. Move to recommend Council consider a Charter amendment to address Charter violations by the Mayor or a member of Council outlined as follows:
 - 1) A written sworn complaint must be filed by a member of council and presented to the mayor; and if the complaint is made against the mayor, the complaint is presented to the Mayor Pro Tem or Deputy Mayor Pro Tem
 - 2) A copy of the complaint would be given to the charged councilmember/mayor
 - 3) A public hearing date would be set to hear the case & the mayor/councilmember charged would be notified to appear on that day
 - 4) A majority of the councilmembers is sufficient to hear the case; however an affirmative vote of at least three-fourths (supermajority) of all members of the Town Council would be required to find the charged councilmember/mayor guilty of the charges contained in the complaint and find that the charges are sufficient cause for removal from office
 - 5) The presiding officer of the Town Council shall enter a judgment removing charged councilmember and declaring the office vacant. If the councilmember is found not guilty, judgment shall be entered accordingly. Note, the MPT or DMPT would serve as the presiding officer in the event the complaint is charged against the Mayor
 - 6) If removed under this process, a mayor/councilmember would not be eligible for reelection to *the same office*(?) for two years after the date of the removal.
 - 7) A councilmember would not be removed under this section for an act committed before election to office or *within _____ days from taking office* (?).
 - 8) In the event a vacancy occurs the rules in section 3.03.1 (Vacancies) of the Town Charter would apply

Option C visual overview of process:



APPLICABLE TOWN CHARTER REFERENCE § 3.02.2. - Forfeiture of Office.

A councilperson shall forfeit his office if he:

- (1)Lacks at any time during his term of office any qualifications for the office prescribed by this Charter or by Texas law; or
- (2)Is convicted in any court of (1) a felony, or (2) a Class A or Class B misdemeanor, or (3) a crime involving moral turpitude, or
- (3)Fails to attend three (3) consecutive regular meetings of the Council without first being excused by the Council; or
- (4)Willfully violates any express prohibition of this Charter.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 03

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change any provisions related to term limits or consecutive terms for elected officials.**

BACKGROUND INFORMATION: This item is one of the nine charges presented by Council to the Charter Review Commission (CRC) for review (Review and discuss provisions related to term limits and consecutive terms for elected officials). While discussing term limits and consecutive terms, the CRC also held discussions on the topic of three year term limits.

The CRC received various documents to assist in the deliberations on this matter, including:

- Benchmark cities comparison as it relates to term limits
 - How 3 years allows a member of Council to get past the learning curve
 - Legalities associated with having 3 year terms including an election needing to be within 120 days of a vacancy (5/26 packet)
 - Information related to the longest and average time an elected official has served
- Discussions by the CRC to date included:
 - How 3 years allows a political break and could make the mayor/council more productive as they are not thinking about a reelection soon after the 1st year
 - 3 years is a compromise compared to some cities having 4+
 - Residents decide the term limits when they go to the polls
 - 3 year versus a 2 year time commitment could be a factor in getting people to come forward to run
 - Is 2 years an appropriate amount of time to have influence in the community
 - concerns that if there was a change someone might run for Mayor just because their term as a Councilmember is soon to expire, ultimately extending their term to 12 years, and that would not be desired
 - The limited amount of time the current provision has been in place in that it just took effect in 2013 (not enough time to give it a chance to work to consider changing it)
 - Voter turnout in Nov versus May
 - Important to limit the amount of power and influence anyone should have in the community
 - The option of eliminating term limits altogether
 - How the current provision allows a member of council to give a one year break and then they can come back

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to term limits.
- B. Move to recommend Council consider a Charter amendment to allow for a term limit clock reset should a member of Council run for Mayor; in essence extending the term for three additional terms of two years each for a total of six years
- C. Move to recommend Council consider a Charter amendment to allow for terms consisting of three years instead of two years

TOWN CHARTER REFERENCE

§ 3.01. - Number, Selection, Term.

The Council shall consist of six members, a Mayor and five (5) Councilpersons, elected from the Town at large, by place or position, in the manner provided in Article V, for a term of two years or until their successors have been elected and take office as provided in Article V.

§ 3.02. - Term Limits.

Beginning with the Town Council election to be conducted on the second Saturday in May, 2013, neither the Mayor nor any member of the Town Council elected from and after said date shall be elected for more than three (3) full consecutive terms of two (2) years each for any place or position on the Town Council.

(Ord. No. 15-12, (Prop. 1, approved at referendum 5/12/2012), and adopted 5/21/2012 added 3.02 to create term limits)



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 04

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to expand the size of Council.**

BACKGROUND INFORMATION: This item was brought up by the Commission and coincides with the Council charge of "Based upon the Commission's review and the public's input, consider and identify recommendations for amendments to the Town Charter"

The topic of single member districts prompted much of the discussion given they are closely related.

The CRC received various documents to assist in the deliberations on this matter, including:

- Benchmark cities comparison as it relates to number of members (6/9 packet)
- Council calendar demonstrating commitment in the community and region beyond the dais
- A report from the Texas Municipal League demonstrating number of seats for cities with a similar population base
- Cost associated with a councilmember

Discussions by the CRC to date included:

- How the current Council structure has been in place for several years
- Whether the mayor should have the option to vote more often
- Whether or not one or two additional seats should be added

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A.** Move to make no changes as it relates to expanding the size of Council.
- B.** Move to recommend Council consider a Charter amendment to add _____ (one, two) additional Council member(s) beginning with the Town Council election to be conducted in May, 20____ (year)

TOWN CHARTER REFERENCE

§ 3.01. - Number, Selection, Term.

The Council shall consist of six members, a Mayor and five (5) Councilpersons, elected from the Town at large, by place or position, in the manner provided in Article V, for a term of two years or until their successors have been elected and take office as provided in Article V.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 05

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Discuss and consider if a proposed Charter amendment should be recommended to change the current Council at large structure to single member districts (SMD), or any variation thereof.

BACKGROUND INFORMATION: This item was brought up by the Commission and coincides with the Council charge of "Based upon the Commission's review and the public's input, consider and identify recommendations for amendments to the Town Charter"

The CRC received various documents to assist in the deliberations on this matter, including:

- Survey of benchmark cities & whether they were comprised of at large or district seats
- Precinct by precinct reporting (voter turnout for the Town's 16 precincts in recent elections)
- Link to video where Syd Falk, Bickerstaff Heath Delgado Acosta LLP, Austin, Tx, who gave a presentation on the subject to the 2013/14 CRC, including a presentation by Denton County Elections Administration staff relative to operations and logistics associated with single member districts (11/19/13)
- Map demonstrating where elected officials lived over the course of several years
- Audio excerpt from when the topic of SMD was discussed by the CRC on 2/16/12
- A report noting that out of the 75 board/commission positions, 35 members reside on the east side of Town and 40 on the west side; recognizing, however, place of residency is never a factor when considering applicants

Discussions by the CRC to date included:

- Concerns that issues such as what citizens experience in non HOAs are not understood by elected officials that don't live in those areas
- The philosophy of the Town is that your representing everyone instead of potentially dividing the Town by geography
- Interest in getting feedback from the public relative to whether they are a supporter of single member districts or council at large seats
- Personal experience when campaigning and outreach efforts at that time
- There are enough divisions of thoughts that if you bring in more potential divisiveness that could be a problem more than an advantage
- A seat at large forces an elected official to look at all of the opinions of the citizens as opposed to making sure a particular district gets "a piece of the pie"
- People are already representing their neighborhood --- the issues of the neighborhood they live in are at the forefront of their mind
- Analysis of other cities and how single member versus at large is not necessarily associated with population, but more on the lines of demographics
- One of the issues facing the older non HOA neighborhoods is that homes are being turned over into rentals, and the associated problem of absentee landlords
- Concerns regarding the perception of making the town seem as its divided with the east side versus west side, and there is enough division already without adding to it – we are Flower

Mound, we are one Town and we need to represent ourselves as one Town and not an "us versus them", "east or west", "north or south" mentality.

ATTACHMENTS:

None.

Cautionary Note: In considering single member districts - redistricting may be necessary in conjunction with the U.S. Census to maintain a substantially equal population between single member districts to be in compliance with federal laws, and other legalities.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to changing the structure from the current at large structure.
- B. Move to recommend Council consider a Charter amendment to change the current structure from an at large structure to incorporate a single member district system for all council seats.
- C. Move to recommend Council consider a Charter amendment to change the current structure from an at large system and establish a framework for a hybrid at-large/single member system that would include:
 - 1) _____ at large seats
 - 2) _____ single member district seats that would include the following geographic areas _____, and establish a timeline for the completion of the districting process, as well as a criteria to be used in drawing the boundary lines.*

TOWN CHARTER REFERENCE

§ 3.01. - Number, Selection, Term.

The Council shall consist of six members, a Mayor and five (5) Councilpersons, elected from the Town at large, by place or position, in the manner provided in Article V, for a term of two years or until their successors have been elected and take office as provided in Article V.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 06

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change the Parks, Arts, and Library Services (PALS) Board to the Parks Board.**

BACKGROUND INFORMATION: This item is part of the charge from Council – “review and discuss removal of the provisions relating to the Parks, Arts, and Library Services Board.”

In 2014 there was Council action to shift the responsibilities of the arts and library services duties from the PALS Board to the Cultural Arts Commission (previously known as the Public Arts Committee). This change was primarily due to park items dominating the agenda because of the level of activity. There were typically minimal or no items related to the art and library functions. This change allowed some members of the PALS Board to shift to the CAC where their interests were more aligned, and also allowed library staff to utilize their time more efficiently.

Currently there are two governing documents that have the arts and library functions defined (PALS Ordinance No. 106-07 and CAC Resolution No. 19-14). In order to change the PALS Ordinance to reflect what is actually happening now, there would need to be a name change and an update of the duties and responsibilities (parks functions only). Council has indicated a preference not to make any changes to the Ordinance given the current reference of the PALS Board in the Charter.

The CRC received various documents to assist in the deliberations on this matter, including:

- Ordinance defining the organization and structure of the PALS Board
- Resolution defining the organization and structure of the Cultural Arts Commission
- Input from the Town Attorney’s office relative to no legal requirement to have the board name spelled out in the Charter

Discussions by the CRC to date included:

- How the item is more on the lines of a clean up to match the Town’s current practice

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A.** Move to make no changes as it relates to changing the name of PALS as referenced in the Charter.

- B.** Move to recommend Council consider a Charter amendment to change the name of Parks, Arts, and Library Services to the Parks Board.

- C.** Move to recommend Council consider a Charter amendment to remove the name of the Parks, Arts, and Library Services to Parks Board in its entirety.

TOWN CHARTER REFERENCE

§ 8.04. Parks, Arts, and Library Services Board.

The Town Council shall at its discretion appoint seven (7) citizens and qualified voters of the Town of Flower Mound, who shall constitute its Parks, Arts, and Library Services Board, and who shall serve at the pleasure of the Town Council for such term as may be established by ordinance. The Parks, Arts, and Library Services Board shall perform such duties as the Town Council may direct.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 07

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of "and the State Comptroller of Public Accounts at Austin" and instead add the text "and the Tarrant County Clerk's office" in Section 9.10 of the Town Charter.

BACKGROUND INFORMATION: This item is part of the charge from Council – "review and discuss any provisions that conflict with state law or any of the Town's Ordinances."

There is currently not a state legal requirement to submit a copy of the Town's budget to the state comptroller's office. This was confirmed with both the Town Attorney and a representative from the state comptroller's office. The comptroller's office indicated that it is believed to simply be an old provision that was since rescinded.

Filing requirements for the budget are defined by Texas Local Government Code section 109.009(d) as indicated below:

Sec. 102.009. LEVY OF TAXES AND EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE. (a) The governing body of the municipality may levy taxes only in accordance with the budget.

(b) After final approval of the budget, the governing body may spend municipal funds only in strict compliance with the budget, except in an emergency.

(c) The governing body may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the governing body amends the original budget to meet an emergency, the governing body shall file a copy of its order or resolution amending the budget with the municipal clerk, and the clerk shall attach the copy to the original budget.

(d) After the adoption of the budget or a budget amendment, the budget officer shall provide for the filing of a true copy of the approved budget or amendment in the office of the county clerk of the county in which the municipality is located.

The CRC received various documents to assist in the deliberations on this matter, including:

- Legal input

Discussions by the CRC to date included:

- How the item is more on the lines of a clean up to include both Denton and Tarrant counties in the text and take out the comptroller's office as a filing entity given there is not a legal requirement to submit the budget or any amendments to them

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to changing the text in Section 9.10 of the Town Charter.
- B. Move to recommend Council consider a Charter amendment to remove the text of “and the State Comptroller of Public Accounts at Austin” and instead add “and the Tarrant County Clerk’s office” from/to section 9.10 of the Town Charter.

TOWN CHARTER REFERENCE

§ 9.10. Effective Date of Budget; Certification of Copies; Copies Made Available.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the Town Secretary, the County Clerk of Denton County, and the State Comptroller of Public Accounts at Austin. The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and organizations.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 08

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of "to cause only the caption of duly enacted ordinance to be published except as provided otherwise by law" from section 3.07 (w) of the Town Charter

BACKGROUND INFORMATION: This item is part of the charge from Council – "review and discuss any provisions that would improve efficiencies and/or result in a cost savings for the Town."

Currently the Town Secretary's office submits the caption of enacted ordinances that contain a fine or penalty clause after every Council meeting to the Denton Record Chronical. By statute, given the Town is a Home Rule Municipality; there is not a legal requirement to publish these captions in the newspaper of record.

Note, Section 4.03.1 (1) of the Town Charter requires the captions of enacted ordinances be recorded in the minutes. In addition, these same Ordinances are captured in their entirety on the Town's website via the electronic [MuniCode Book](#).

Removing this text (requirement) would equate to an average savings of \$1,400 per year for the Town, and improve efficiencies in the Town Secretary's Office by eliminating this task.

The CRC received various documents to assist in the deliberations on this matter, including:

- Legal input
- Expense statements

Discussions by the CRC to date included:

- How the item is more on the lines of a clean-up to remove this text since this procedure is already being done in two other places.

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to changing the text in Section 3.07 of the Town Charter.
- B. Move to recommend Council consider a Charter amendment to remove the text of "to cause only the caption of duly enacted ordinances to be published except as provided otherwise by law" from section 3.07 (w) of the Town Charter.

TOWN CHARTER REFERENCE:

§ 3.07.Powers of the Council.

All powers of the Town and the determination of all matters of policy shall be vested in the Town Council. Without limitation of the foregoing and among the other powers that may be exercised by the Town Council, the following are hereby enumerated for greater certainty:

- (w) To name and designate an Official Newspaper for the Town of Flower Mound, Texas and to cause only the caption of duly enacted ordinances to be published except as provided otherwise by law.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 09

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the two references of the word "department" from section 9.14 of the Town Charter.**

BACKGROUND INFORMATION: This item is part of the charge from Council – “review and discuss any provisions that would improve efficiencies and/or result in a cost savings for the Town.”

Currently if the situation arises where funds need to be transferred within a fund, the process is to bring forward a budget amendment item for Council consideration. The Finance Department has indicated that a change to allow the Town Manager authorization to transfer funds between a fund would eliminate budget amendments coming to Council for minor items, such as if there is a cost savings gained in a particular department due to personnel changes, and with Town Manager authorization, those funds could be immediately allocated elsewhere as needed within the same fund.

- a) Charter Section 9.14 relative to changing the text from transfer of funds from the department level to the fund level

§9.14. Transfer of Appropriations.

During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one ~~department~~ fund to another ~~department~~ fund, and to re-estimate revenues and expenditures. If the Town Council determines it is in the best interest of the Town to apply for and accept a private, county, state or federal grant of funds for a particular purpose, the Council’s action in accepting the award of said grant and any corresponding expenditures shall constitute a budget appropriation in the amount of said grant funds.

The CRC received various documents to assist in the deliberations on this matter, including:

- A discussion with the Town’s Executive Director of Finance (6/9 meeting)

Discussions by the CRC to date included:

- How the item doesn’t change the actual budget and that authority still remains with Council
- How the change would just be between a single fund and not multiple funds and the safeguard with that

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A.** Move to make no changes as it relates to changing the text in Section 9.14 of the Town Charter.
- B.** Move to recommend Council consider a Charter amendment to remove the two references of the word "department" from section 9.14 of the Town Charter.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 10

REGULAR ITEM

DATE: June 30, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to delete the portion of the text that states "If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town".**

BACKGROUND INFORMATION: This item is part of the charge from Council – "review and discuss any provisions that conflict with state law or any of the Town's Ordinances."

This item is being included with the 6/21 and 6/30 packet for informational purposes only given CRC action was taken on 4/28/16.

The following information on the subject was provided by the Town Attorney's Office:

The following prohibition in the Charter was preempted by the Legislature in 2013:

§ 5.04. - Filing for Office.

Each candidate for an elective office shall meet the qualifications set forth in § 3.02.1 of this Charter. If a member of any board appointed by the Council shall announce candidacy or becomes a candidate for election to any Town elected office, he may continue to serve on that board until elected. If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town.

The 2013 legislation reads as follows:

SUBCHAPTER C. EMPLOYEES AS CANDIDATES FOR OFFICE

Sec. 150.041. PROHIBITED MUNICIPAL ACTIONS. (a) In this section, "candidate" has the meaning assigned by Section 251.001(1), Election Code.

(b) A municipality may not prohibit a municipal employee from becoming a candidate for public office.

(c) A municipality may not take disciplinary action against a municipal employee, including terminating the employment of the employee, solely because the employee becomes a candidate for public office. However, the employee is still expected to fulfill all the duties and responsibilities associated with their municipal employment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1104 (H.B. 3739), Sec. 2, eff. June 14, 2013.

This prohibition would also preempt any provision in the PARM governing *candidacy* for public office. With that said, the PARM (or Charter) may prohibit campaigning while in uniform or on work time.

In addition, language prohibiting employment with the Town upon taking office, does not appear to be preempted by the 2013 legislation. The Town currently addresses this scenario in §3.02.1 of the Town Charter:

§ 3.02.1. - Qualifications.

Each member of the Council shall be a qualified voter of the Town, shall be twenty-one (21) years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable, have been a resident of the Town for at least one (1) year prior to election date, shall not be employed by the Town, and shall hold no other public office except that of Notary Public or a member of the National Guard, military reserve or Coast Guard reserve.

(Ord. No. 33-07, (Prop. 1, approved at referendum 5/12/2007), and adopted 5/21/2007, deleted § 3.02, which pertained to qualifications and derived from Amend. of 5-15-2004. Similar provisions have been enacted as § 3.02.1; Ord. No. 15-12, (Prop. 2, approved at referendum 5/12/2012), and adopted 5/21/2012)

With that said, §3.02.1 of the Town Charter may not be applied to prevent an employee from becoming a candidate for public office. As a result, the Council may wish to clarify §3.02.1 such that upon taking office, a newly elected Councilmember – who is an employee of the Town – shall forfeit employment with the Town.

The CRC received various documents to assist in the deliberations on this matter, including:

- Legal input

Discussions by the CRC to date included:

- How the item is to clean-up a provision that conflicts with state law

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

No additional action is needed by the CRC since the following motion was presented on and received a 5-0 on 4/28/16:

Commissioner Trotter moved to recommend that Section 5.04 of the Town Charter be amended by deleting the portion of the text as follows: "If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town". Commissioner Rawson seconded the motion.

VOTE ON THE MOTION:

AYES: MASTEY, RAWSON, SMITH, TROTTER, WALLACE

NAYS: NONE