

FLOWER MOUND CHARTER REVIEW COMMISSION MEETING OF APRIL 28, 2016

THE FLOWER MOUND CHARTER REVIEW COMMISSION MEETING HELD ON THE 28TH DAY OF APRIL 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 Charter Review Commission (CRC) met with the following members present:

Jody Smith, Chair
Kia Mastey
Robert Rawson
Connie Smith
Tim Trotter
Amy Wallace

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

Chair Smith called the meeting to order at 6:06 p.m.

B. CONSENT ITEMS

1. Minutes from April 7, 2016

Commissioner Rawson moved to approve the April 7, 2016 minutes. Commissioner Smith seconded the motion.

VOTE ON THE MOTION:

AYES: MASTEY, RAWSON, SMITH, TROTTER, WALLACE

NAYS: NONE

C. REVIEW OF THE FOLLOWING ITEMS AS OUTLINED IN RESOLUTION NO. 08-16

1. (Item #3 in Resolution) –Review and discuss any provisions that conflict with state law or any of the Town’s Ordinances
 - a) 5.04 - Filing for office as it relates to employees as candidates for office (2013 Legislative changes)

Staff Presentation

Ms. Scott gave a presentation identifying or noting:

- 2013 legislative changes and Town Charter section 5.04 regarding filing for office as it relates to Town employment, and an opportunity for clarification with respect to 3.02.01

Ms. Scott or Ms. Dierker responded to questions from Commission members as follows:

- Clarification regarding change recommendations versus text clarifications

- Clarification regarding candidate versus Councilmember

Chair Smith summarized that this item is more on the lines of a housekeeping item.

Commissioner Smith moved to recommend that Section 3.02.01 of the Town Charter be amended to clarify that if a Town employee is elected as a Councilmember they cannot be employed by the Town. Commissioner Rawson seconded the motion.

VOTE ON THE MOTION:

AYES: MASTEY, RAWSON, SMITH, TROTTER, WALLACE

NAYS: NONE

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

1. (b) Eminent domain protection levels

Ms. Scott indicated that this is an item brought up by a member of the public.

Ms. Dierker clarified state regulations with respect to eminent domain, along with associated requirements by a municipality. She further added that there is no conflict with respect to the Town Charter and state law for this item.

Chair Smith reported having received an email on the topic and the core of the issue has to do with public versus private use.

There was discussion by the Commission regarding:

- Legal definitions of private versus public use
- Should there be greater protection or more specific definitions than what the state allows
- Interest in hearing the example presented in the email from a resident to understand the circumstances
- Interest in knowing if there are historical cases where eminent domain was used in Flower Mound for private property
- Interest in having clarification on Property Code, Chapter 21 (where Senate Bill 18 is codified)

Chair Smith opened public participation for this item.

Sharon Gentry, 2750 Bob White Ln, Flower Mound

Ms. Gentry provided background information regarding an experience the family had relative to the Town acquiring some of their property.

Ms. Dierker or Ms. Scott responded to questions or comments from the Commission regarding:

- Clarification regarding Chapter 21 of the property code
- Dates in which the Bob White item was heard by Council for the purpose of background information
- Required language relative to the type of public use
- Clarification regarding notification procedures for posted agenda items on the matter, as defined in state law, when requesting private property for public use

Chair Smith summarized that the Commission would like clarification on the definitions of public purposes, and historical data on eminent domain in the past.

Commissioner Trotter moved to continue the discussion regarding eminent domain at the May 12th meeting, with a request for staff to provide specific wording on the case in question and also previous instances when the Town might have used eminent domain for taking properties in recent history. Commissioner Smith seconded the motion.

VOTE ON THE MOTION:

AYES: MASTEY, RAWSON, SMITH, TROTTER, WALLACE

NAYS: NONE

2. (Item #5 in Resolution) – Discuss options for processing charter violations

Chair Smith provided background information noting there is currently not a clear method in which to process potential or alleged Charter violations.

Ms. Dierker pointed out the language in the Charter (Section 3.02.2) relative to forfeiture and the Commission could consider a procedure for the Council to hold a hearing and vote on the forfeiture.

Ms. Dierker or Ms. Scott responded to questions from the Commission as follows:

- Council's decision making authority regarding the individual that committed the alleged violation
- The due process involved
- Any provision in state law dealing with Charter violations for Home Rule cities
- How an office can be forfeited as defined in the Charter and clarification considerations
- What is the legal definition of moral turpitude
- Ethics Ordinance violation language and the difference associated with fines versus removal of office
- What is the percentage of voters required for a recall petition and what is the average voter turnout

There was discussion by the Commission as follows:

- If the Charter is clear as to what constitutes Charter violations
- What type of Charter violations are commonly processed in other communities
- Interest in having the public weigh in on any hearing related to any alleged violations so it's not used as a way to remove any individuals that have been elected

- If there is a warning initially for any violations

Chair Smith opened public participation for this item.

Paul Stone, 709 Lake Bluff Dr, Flower Mound

Mr. Stone offered his comments regarding options that could be used regarding a process in handling violations of the Charter. He also shared with the Commission some research he conducted relative to procedures associated with handling violations of the Town Charter, and more specifically from the cities of Addison and Carrollton.

Sharon Gentry, 2750 Bob White Ln, Flower Mound

Ms. Gentry pointed out a recall petition allows the voters to participate instead of Council having the option to remove someone. She cautioned the Commission that any procedures would have to be very detailed to not result in the appearance of undoing an election.

Chair Smith summarized that the Commission has the option to simply present it as something to look into, or to be more specific regarding the scope.

Ms. Scott offered to provide the Commission with feedback relative to if the Town's benchmark cities address the issue of a process in handling alleged violations of their Charters.

There was consensus to continue the discussion regarding processing charter violations at the May 12th meeting.

3. (Item #7 in Resolution) – Review and discuss removal of the provisions relating to the Parks, Arts, and Library Services Board

Ms. Scott provided background information regarding the reference to the PALS Board in the Charter and how there are duplicate duties as defined by Ordinance for the PALS Board as well as the Cultural Arts Commission.

Ms. Scott or Ms. Dierker responded to questions from the Commission as follows:

- Would funding be impacted relative to tax revenues if there is a Charter change in removing the arts and library text
- Clarification that there still would be a Parks Board and that it would be just a change in the name

Commissioner Trotter suggested the Commission hold off on making any recommendations at this time.

Chair Smith summarized the accomplishments of the meeting as follows:

- reviewed item # 3 and suggested a change to the verbiage in Section 3.02.1
- sending a recommendation forward to delete the last sentence of section 5.04
- reviewed and analyzed eminent domain protection levels
- discussed options for processing Charter violations
- discussed removing the provisions associated with the arts and library functions of the PALS board

D. PUBLIC PARTICIPATION

Chair Smith opened the floor for any comments from the public.

No one spoke.

E. PUBLIC COMMENTS

Chair Smith indicated that the Commission did receive one email from the public and it was addressed during when the topic of eminent domain was discussed.

F. ADDITIONAL FUTURE AGENDA ITEMS FOR CONSIDERATION

Chair Smith outlined the remaining items from the charge that have not been discussed. There was consensus of the Commission to bring forward those items at the next meeting of May 12th (items # 4 & 6 of the charge), in addition to continuing the discussion on the other pending items.

There was consensus to have an agenda item for the selection of a vice chair.

G. COORDINATION OF CALENDARS

Chair Smith announced that the next meeting is scheduled for May 12th, 6pm, at Town Hall.

H. ADJOURN MEETING

Chair Smith adjourned the meeting at 8:04 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

JODY SMITH, CHAIR

ATTEST:

THERESA SCOTT, TOWN SECRETARY