

CITY OF BELLAIRE TEXAS

CHARTER REVIEW COMMISSION

JANUARY 17, 2017

Council Conference Room

Regular Session

7:00 PM

**7008 SOUTH RICE AVENUE
BELLAIRE, TX 77401**



Chair

Neil Verma

Vice Chair

Jill Almaguer

Member

James P. Avioli, Sr.

Member

Doug Christians

Member

Aaron Swerdlin

Council Liaison

Trisha S. Pollard

Staff Liaison

Alan P. Petrov

Facilitator

Charlie Zech

REGULAR MEETING – 7:00 P.M.

A Regular Meeting of the Charter Review Commission of the City of Bellaire, Texas ("CRC"), will be held at 7:00 p.m. on Tuesday, January 17, 2017, in the Council Conference Room, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401-4411, for the following purpose(s):

A. Call to Order and Announcement of a Quorum – Neil Verma, Chair.**B. Approval of Minutes:**

Consideration of and possible action regarding the approval of the minutes of the Regular Meeting of the CRC held on Thursday, January 5, 2017.

C. Public Comments.

Note: Public Comments are limited to three (3) minutes per person.

D. Council Liaison Comments – Trisha S. Pollard, Council Member.**E. Staff Liaison Comments – Alan P. Petrov, City Attorney.****F. Commission Business:**

Discussion and possible action on the following topic(s):

1. Proposed Rules of Procedure;
2. Review of Articles I – III of the Charter of the City of Bellaire, Texas; and
3. Proposed Charter Review Schedule.

G. New Business:

Any CRC member who wishes to bring New Business to the attention of the CRC shall do so at this time.

Note: Consideration of New Business shall be for the limited purpose of determining whether the matter is appropriate for inclusion on a future Agenda for the CRC or for referral to the staff liaison or facilitator for investigation.

H. Public Comments.

Note: Public Comments are limited to three (3) minutes per person.

I. Next Meeting:

Thursday, February 2, 2017 – 7:00 p.m.

J. Adjourn.

CERTIFICATE

I, the undersigned authority, do hereby certify that the agenda set forth on the preceding page regarding a Regular Meeting of the Charter Review Commission of the City of Bellaire, Texas, to be held on Tuesday, January 17, 2017, was posted on the City's official bulletin board located on an outside west wall of City Hall, 7008 South Rice Avenue, Bellaire, Texas, a place convenient and readily accessible to the general public at all times, and was posted on the following date at the stated time: Friday, January 13, 2016, at _____ a.m./p.m.

Tracy L. Dutton, TRMC
City Clerk
City of Bellaire, Texas

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City of Bellaire's ADA Coordinator, Yolanda Williams, at (713) 662-8270 or FAX (713) 662-8212.

CERTIFICATE OF REMOVAL

I, the undersigned authority, do hereby certify that the agenda set forth on the preceding page regarding a Regular Meeting of the Charter Review Commission of the City of Bellaire, Texas, to be held on Tuesday, January 17, 2017, was removed by me from the City's official bulletin board located on an outside west wall of City Hall, 7008 South Rice Avenue, Bellaire, Texas, on the _____ day of _____, 2017, at _____ a.m./p.m. I hereby certify further that said agenda remained posted continuously for at least 72 hours preceding the scheduled time of said Regular Meeting.

Tracy L. Dutton, TRMC
City Clerk
City of Bellaire, Texas



Charter Review Commission

January 17, 2017

Agenda Packet



Charter Review Commission

January 17, 2017

Agenda Item B.

**Minutes of the Regular Meeting
held on Thursday, January 5, 2017**

Minutes of the Bellaire Charter Review Commission
Thursday, January 5, 2017 at 7:00 p.m.
Council Conference Room
7008 South Rice Avenue
Bellaire, Texas 77401

Commission Members:

Neil Verma, Chair
Jill Almaguer, Vice Chair
James P. Avioli, Sr.
Doug Christians
Aaron Swerdlin

All Members of the Bellaire Charter Review Commission (the "Commission") were present with the exception of Commissioner Swerdlin. Also present were the following: Trisha Pollard, Council Liaison, Alan P. Petrov, City Attorney, Zach Petrov, Lynn McBee and Robert Riquelmy (Mr. Riquelmy left shortly after the first Public Comment).

A. Call to Order and Announcement of Quorum. Mr. Verma called the meeting to Order at 7:00 p.m. and announced that a quorum consisting of all members, with the exception of Commissioner Swerdlin, was present.

B. Approval of the Minutes of Thursday, December 15, 2016. The Commission members considered approval of the minutes of Thursday, December 15, 2016, which had been previously distributed. Ms. Almaguer noted a correction to her name.

A motion was made by Mr. Avioli and seconded by Mr. Christians to approve the minutes of Thursday, December 15, 2016 subject to the noted correction. All Commission members present voted in favor of the motion.

C. Public Comment.

1. Mr. Riquelmy suggested that the meetings of the Commission be held in the Council Chamber.
2. Ms. McBee stated that she is pulling some information together to assist the Commission. She also stated that she appreciates the two public comment sections on the agenda.

D. Council Liaison Comments. Council Member Pollard introduced herself as the Council Liaison to the Commission.

E. Staff Liaison Comments. Mr. Petrov noted that the Commission's Facilitator, Mr. Charles Zech, was on vacation, but would be attending the next Commission meeting.

F. Commission Business.

1. The Commission then discussed the proposed Rules of Procedure for the Commission. The Commission reviewed each section with members suggesting various revisions. At the conclusion of the review, the Chair asked Mr. Petrov to revise the document based on the Commission's discussions and include it on the next meeting agenda for action.
2. Mr. Petrov presented a proposed Charter Review Schedule, which was prepared based on input from the Facilitator, and the Commissioners discussed the schedule. No formal action was taken on the schedule as it is meant to be a guide that may change as circumstances dictate.

G. New Business. None.

H. Public Comments. Ms. McBee made comments regarding the review process and scope of review.

I. Next Meeting. Tuesday, January 17, 2017 at 7:00 p.m.

J. Adjournment. A motion was made by Mr. Christians and seconded by Ms. Almaguer to adjourn the Regular Meeting. All members present voted in favor of the motion. The meeting was adjourned at 8:28 p.m.

Neil Verma, Chair



Charter Review Commission

January 17, 2017

Agenda Item F. 1.

Rules of Procedure

(Clean and Redline Versions)



**RULES OF PROCEDURE
2016 – 2017**

**CHARTER REVIEW COMMISSION
OF THE
CITY OF BELLAIRE, TEXAS**

CHARTER REVIEW COMMISSION
Rules of Procedure

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Charter Review Commission
Rules of Procedure

2016-2017

ARTICLE I
Name and Authority

Section A: Name. The name of this body is the Charter Review Commission, referred to as the "Commission" or the "CRC".

Section B: Authority. The Commission is authorized within the statutory guidelines contained in the *Texas Local Government Code* and the *Charter of the City of Bellaire, Texas, as amended November 7, 2006* ("Charter"). The Commission is created as an ad hoc Committee of the City of Bellaire, by the City Council of Bellaire, Texas ("City Council"), by Ordinance No. 16-067, as amended, pursuant to Ch. 2, *Administration, Art. VII Boards, Commissions, and Committees, Code of Ordinances, City of Bellaire*.

ARTICLE II
Object and Scope

Section A: Object. The object of the Commission shall be to conduct an independent review of the Charter and to submit a final report to the City Council on or before June 30, 2017.

Section B: Scope. The charge of the Commission shall be that specified in Ordinance Number 16-067, or said ordinance as amended.

ARTICLE III
Membership

Section A: Appointment and Term. Members are appointed by the City Council. The initial appointment of five (5) members of the Commission, all residents of the City of Bellaire, commenced on December 1, 2016, and whose terms will end on June 30, 2017, unless earlier terminated or extended by action of the City Council.

Section B: Attendance Requirements. The following rules will govern:

"Notwithstanding any other provision of the Code, any Board member shall be automatically removed if, in a given calendar year, he or she is absent from three consecutive regular meetings; a member of a Board shall be deemed absent from a meeting when he or she is not present at the meeting at least 75 percent of its duration. Upon finding of good cause, the provision of this section may be waived by a majority vote of the members of the Board." (Pursuant to Sec. 2-96 Attendance Requirement, Ch. 2 Administration, Art. VII Boards, Commissions,

and Committees, Code of Ordinances, City of Bellaire. "Board" is a general term defined in Sec. 2.91 of Ch. 2 to include Commissions and Committees.)

ARTICLE IV

Officers

Section A: Officers Named. The officers shall be Chair and Vice-Chair. The Commission shall elect the Chair and Vice-Chair at the first meeting of the newly appointed Commission.

Section B: Chair's Duties. The Chair shall be the Presiding Officer and Spokesperson for the Commission. The Chair shall preside over meetings of the Commission and shall follow the construction of authority specified herein.

Section C: Vice-Chair's Duties. The Vice-Chair shall serve as Chair in the absence of the Chair and such other duties as may be requested by the Chair.

ARTICLE V

Quorum. Voting & Proxy

Section A: Quorum Requirement. A quorum of a meeting of the Commission shall be a simple majority of the Commission, or three (3) members.

Section B: Voting. A simple majority of the entire Commission, or three (3) votes, shall be required to pass any motion or to take any action, except as contained in Sec. C, below, and Art. IX.

Section C: Vote on Final Report. A final report of the Commission shall be prepared after the Commission has completed all of its work. The report shall be approved by a majority vote of the Commission, or three (3) votes. If the report receives less than the required four (4) votes, it shall be considered a minority report and submitted to the City Council. Minority reports shall be permitted and shall be included with the report to the City Council. There shall be no restriction on minority reports.

Section D: Proxy. There shall be no proxies or proxy voting.

ARTICLE VI

Meetings

Section A: Types. There may be a variety of types of meetings that are permitted, providing that notice is posted in conformance with the requirements of the Texas Open Meetings Act of seventy-two (72) hours in advance of a meeting. The following are the meetings that may occur:

1. Regular Meetings: Such meetings are held at 7:00 p.m. on the first Thursday and third Tuesday of each month in the City Council Conference Room, First Floor of City Hall,

7008 South Rice Avenue, Bellaire, Texas or such other publicly accessible location as may be included on any agenda and publicly posted.

2. Special Meetings: Such meetings may be called by the Chair or by a majority vote of the Commission at any meeting of the Commission. Called Special Meetings shall be subsequently posted in conformity with the Texas Open Meetings Act.

3. Town Hall Meetings: Such meetings are for the purpose of communicating directly with citizens of Bellaire to obtain opinions or comments about current or proposed provisions of the Charter. These may be scheduled in advance of work undertaken or completed by the Commission, and coordinated with the City Manager. Notice shall be posted in conformity with the Texas Open Meetings Act.

Section B: Sign-Up Forms for Speakers. Any member of the public may address the Commission and shall be provided a sign-up form to identify his/her name, address and general topic and/or specific agenda item to be addressed. Such sign-up form, when completed, shall be submitted to the Chair to enable the Chair to recognize the speaker during the agenda item requested. Speakers shall be limited to three (3) minutes each, with extensions at the discretion of the Chair.

Section C: Minutes. An electronic recording shall be preserved of the proceedings of every meeting of the Commission to serve as the official record of proceedings and shall be retained as provided by state law of all municipal meetings. Written minutes shall be provided by a consultant or staff liaison of the Commission in the absence of a consultant and shall be approved by the Commission. The minutes shall also include the names of Commissioners present and absent from each meeting. The minutes shall include the names of Commissioners and their votes on each motion voted upon. An additional video graphic record of the proceedings of meetings deemed to be of particular importance, such as Town Hall Meetings, may be requested of the City Manager by the Commission through its Chair. Minutes shall be furnished to the Commission at least five (5) days prior to their scheduled approval.

Section D: Disclosure of Communications to Commission Members. All contacts with any member of the Commission by other Commission members, Staff, Council or Citizens related to posted agenda items shall be disclosed to the full Commission at meetings. All discussion of the Commission's business shall be conducted in a public meeting of the Commission. Any written or electronic communications by Commission members related to the business of the Commission shall be copied to all members of the Commission and to the City Clerk of Bellaire who will maintain a file of such communications available for public scrutiny, pursuant to the Texas Public Information Act.

Section E: Meetings with City Staff. The Commission may schedule, through the City Manager, meetings with department heads of the City. The purpose of such meetings will be to inquire how the Charter may affect the operations of the departments.

ARTICLE VII

Meeting Agendas

Section A: Agendas. An agenda governing the topics that may be discussed at any meeting of the Commission shall be posted seventy-two (72) hours prior to the meeting time in accordance with the Texas Open Meetings Act.

Section B: Responsibility for Agendas. The Chair or, in the absence of the Chair, the Vice-Chair shall be responsible for approving agendas and ensuring that a final copy is submitted timely to the City Clerk for posting no later than seventy-two (72) hours prior to a meeting.

Section C: Adding Items to Agendas. Any member of the Commission may request an item be placed on the Agenda by presenting it under new business during a meeting, or individually by notifying the Chair by noon no less than seven (7) days prior to a scheduled meeting.

Section D: Agenda Format. The meeting agendas shall be as follows:

- A. Call to Order and Announcement of a Quorum
- B. Approval of minutes
- C. Public Comments (Limit three (3) minutes each, extensions at discretion of Chair)
- D. Council Liaison Comments
- E. Staff Liaison Comments
- F. Commission Business
- G. New Business (for inclusion on a future agenda)
- H. Public Comments (Limit three (3) minutes each, extensions at discretion of Chair)
- I. Commissioner Comments
- J. Announcement of Next Meeting
- K. Adjourn

[Public Comments on Specific Agenda Items shall be permitted prior to the consideration of any agenda item.]

Section E: Revising the Order of the Agenda During a Meeting. The order of the Agenda may be amended following agenda Item 3, by a simple majority vote of the Commission.

ARTICLE VIII

City Council and Consultants

Section A: Consultants to the Commission shall be retained, employed and dismissed only by authority of the City Council. Work of consultants shall be directed by the Commission. Recommendation for additional professional consultant assistance shall be determined and justified by the Commission and submitted to the City Council for action on such recommendation.

Section B: Reports and Communications from Consultants shall be transmitted directly to all members of the Commission within five (5) days prior to scheduled meetings.

ARTICLE IX

Civil and Parliamentary Authority

Section A: Construction of Authority. The construction of authority in all matters associated with the Commission shall be: 1) The Constitution and statutes of the United States of America; 2) The Constitution and statutes of the State of Texas; 3) the Charter of the City of Bellaire; 4) the Code of Ordinances of the City of Bellaire; 5) these Rules of Procedure; and 6) Robert's Rules of Order, Newly Revised.

Section B: Previous Question (to close debate): A motion to move the Previous Question shall be in order following a reasonable time for discussion and deliberation. Such motion shall require a second and at least a two-thirds (2/3) vote of the members present.

Section C: Unanimous (or General) Consent. The method of unanimous consent can be used either to adopt a motion without the steps of stating the question and putting the motion to a formal vote, or it can be used to take action without even the formality of a motion.

Section D: Manner of Presentation of Main Motions for Amendment to the City Charter. All items brought before the Commission as a proposed amendment to the City Charter shall be presented in writing and shall have the existing portion of the Charter identified by Article, Section and Subsection. That portion which is to be deleted shall be printed and designated in ~~strikeout font format~~ and that portion which is to be added shall be printed and designated in **bold and underlined format**. The proposed change shall be followed by one or more points delineating the rationale. All such proposals shall be E-mailed or mailed by USPS to the Commission members not less than five (5) days before any meeting of the Commission in which such proposal shall be discussed. All main motions shall be made by a member of the Commission. Discussion shall not occur until a motion is made for its adoption.

ARTICLE X

Amendments to Rules of Procedure

Amendments by Existing Commission. The initial adoption of the rules of procedure shall require a simple majority vote. An amendment to bring these Rules of Procedure in compliance with superior statute, rule, procedure or other authority may be considered without previous notice; otherwise, amendments may be made by a simple majority vote provided that previous notice of the proposed amendment is given at least five (5) days before a meeting of the Commission.

ADOPTION OF RULES OF PROCEDURE

Adopted by the Charter Review Commission of the City of Bellaire on January 17, 2017.

Attest:

Neil Verma, Chair



**RULES OF PROCEDURE
2016 – 2017**

**CHARTER REVIEW COMMISSION
OF THE
CITY OF BELLAIRE, TEXAS**

CHARTER REVIEW COMMISSION
Rules of Procedure

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Charter Review Commission
Rules of Procedure

2016-2017

ARTICLE I
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Object and Scope

Section A: Object. The object of the Commission shall be to conduct an independent review of the Charter and to submit a final report to the City Council on or before June 30, 2017.

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ARTICLE III
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Section A: Appointment and Term. Members are appointed by the City Council. The initial appointment of five (5) members of the Commission, all residents of the City of Bellaire, commenced on December 1, 2016, and whose terms will end on June 30, 2017, unless earlier terminated or extended by ~~future~~ action of the City Council.

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and Committees, Code of Ordinances, City of Bellaire. "Board" is a general term defined in Sec. 2.91 of Ch. 2 to include Commissions and Committees.)

ARTICLE IV

Officers

Section A: Officers Named. The officers shall be Chair and Vice-Chair. The Commission shall elect the Chair and Vice-Chair at the first meeting of the newly appointed Commission.

Section B: Chair's Duties. The Chair shall be the Presiding Officer and Spokesperson for the Commission. The Chair shall preside over meetings of the Commission and shall follow the construction of authority specified herein.

Section C: Vice-Chair's Duties. The Vice-Chair shall serve as Chair in the absence of the Chair and such other duties as may be requested by the Chair.

ARTICLE V

Quorum, Voting & Proxy

Section A: Quorum Requirement. A quorum of a meeting of the Commission shall be a simple majority of the Commission, or three (3) members.

Section B: Voting. A simple majority of the entire Commission, or three (3) votes, shall be required to pass any motion or to take any action, except as contained in Sec. C, below, and Art. IX.

Section C: Vote on Final Report. A final report of the Commission shall be prepared after the Commission has completed all of its work. The report shall be approved by a 75% majority vote of the Commission, or four (4) three (3) votes. If the report receives less than the required four (4) votes, it shall be considered a minority report and submitted to the City Council. Minority reports shall be permitted and shall be included with the report to the City Council. There shall be no restriction on minority reports.

Section D: Proxy. There shall be no proxies or proxy voting.

ARTICLE VI

Meetings

Section A: Types. There may be a variety of types of meetings that are permitted, providing that notice is posted in conformance with the requirements of the Texas Open Meetings Act of seventy-two (72) hours in advance of a meeting. The following are the meetings that may occur:

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77008First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas or such other publicly accessible location as may be included on any agenda and publicly posted.

2. Special Meetings: Such meetings may be called by the Chair or by a ~~two-thirds~~ (2/3)majority vote of the Commission at any meeting of the Commission. Called Special Meetings shall be subsequently posted in conformity with the Texas Open Meetings Act.

3. Town Hall Meetings: Such meetings are for the purpose of communicating directly with citizens of Bellaire to obtain opinions or comments about current or proposed provisions of the Charter. These may be scheduled in advance of work undertaken or completed by the Commission, and coordinated with the City Manager. Notice shall be posted in conformity with the Texas Open Meetings Act.

Section B: Sign-Up Forms for Speakers. Any member of the public may address the Commission and shall be provided a sign-up form to identify his/her name, address and general topic and/or specific agenda item to be addressed. Such sign-up form, when completed, shall be submitted to the Chair to enable the Chair to recognize the speaker during the agenda item requested. Speakers shall be limited to three (3) minutes each, with extensions at the discretion of the Chair.

Section C: Minutes. An electronic recording shall be preserved of the proceedings of every meeting of the Commission to serve as the official record of proceedings and shall be retained as provided by state law of all municipal meetings. Written minutes shall be provided by a consultant or ~~by a member~~staff liaison of the Commission in the absence of a consultant and shall be approved by the Commission. The minutes shall also include the names of Commissioners present and absent from each meeting. The minutes shall include the names of Commissioners and their votes on each motion voted upon. An additional video graphic record of the proceedings of meetings deemed to be of particular importance, such as Town Hall Meetings, may be requested of the City Manager by the Commission through its Chair. Minutes shall be furnished to the Commission ~~within~~at least five (5) days prior to ~~at~~their scheduled ~~meeting~~approval.

Section D: Disclosure of Communications to Commission Members. All contacts with any member of the Commission by other Commission members, Staff, ~~Councilor~~ CitizenCouncil or Citizens related to posted agenda items shall be disclosed to the full Commission at meetings. All discussion of the Commission's business shall be conducted in a public meeting of the Commission. Any written or electronic communications by Commission members related to the business of the Commission shall be copied to all members of the Commission and to the City Clerk of Bellaire who will maintain a file of such communications available for public scrutiny, pursuant to the Texas Public Information Act.

Section E: Meetings with City Staff. The Commission may schedule, through the City Manager, meetings with department heads of the City. The purpose of such meetings will be to inquire how the Charter may affect the operations of the departments.

Section F: ~~Revising the Order of the Agenda During a Meeting.~~ ~~The order of the Agenda may be amended following agenda Item 3, by a simple majority vote of the Commission.~~

ARTICLE VII **Meeting Agendas**

Section A: Agendas. An agenda governing the topics that may be discussed at any meeting of the Commission shall be posted seventy-two (72) hours prior to the meeting time in accordance with the Texas Open Meetings Act.

Section B: Responsibility for Agendas. The Chair or, in the absence of the Chair, the Vice-Chair shall be responsible for approving agendas and ~~to ensure~~ensuring that a final copy is submitted timely to the City Clerk for posting no later than seventy-two (72) hours prior to a meeting.

Section C: Adding Items to Agendas. Any member of the Commission may request an item be placed on the Agenda by presenting it under new business during a meeting, or individually by notifying the Chair by noon no less than seven (7) days prior to a scheduled meeting.

Section D: Agenda Format. The meeting agendas shall be as follows:

- ~~1. Call to Order~~
- A. ~~2. Certification and Announcement of a Quorum and names of members present and absent~~
- B. ~~3. Approval of minutes~~
- C. ~~4. Disclosure of Communications Received by Public Comments (Limit three (3) minutes each, extensions at discretion of Chair)~~
- D. ~~Council Liaison Comments~~
- E. ~~Staff Liaison Comments~~
- ~~C.F. Commission Members Business~~
- G. ~~5. General New Business (for inclusion on a future agenda)~~
- ~~D.H. Public Comments (Limit three (3) minutes each, extensions at discretion of Chair)~~
- ~~6. Reports from Consultants~~
- ~~7. Unfinished Business (specifically listed, if any)~~
- ~~8. New Business:~~
 - ~~a. posted individually~~
 - ~~b. unposted, to be placed on next meeting agenda under Unfinished Business for deliberation~~
- I. ~~9. General Public Commissioner Comments (Limit three (3) minutes each, extensions at discretion)~~
- E.J. ~~Announcement of Chair)~~Next Meeting
- ~~10. Announcements~~
- ~~11. Adjournment~~
- K. Adjourn

[Public Comments on Specific Agenda Items shall be permitted prior to the consideration of any agenda item.]

Section E: Revising the Order of the Agenda During a Meeting. The order of the Agenda may be amended following agenda Item 3, by a simple majority vote of the Commission.

ARTICLE VIII

City Council and Consultants

~~**Section A: Reports to City Council.** Written reports, requests and/or recommendations may be submitted at any time, as the Commission deems appropriate. All reports shall be submitted no later than the Wednesday preceding a regularly scheduled Monday Council meeting (first and third Mondays each month, except on holidays).~~

~~**Section B:**~~**Section A: Consultants** to the Commission shall be retained, employed and dismissed only by authority of the City Council. Work of consultants shall be directed by the Commission. Recommendation for additional professional consultant assistance shall be determined and justified by the Commission and submitted to the City Council for action on such recommendation.

~~**Section C:**~~**Section B: Reports and Communications from Consultants** shall be transmitted directly to all members of the Commission within five (5) days prior to scheduled meetings.

ARTICLE IX

Civil and Parliamentary Authority

Section A: Construction of Authority. The construction of authority in all matters associated with the Commission shall be: 1) The Constitution and statutes of the United States of America; 2) The Constitution and statutes of the State of Texas; 3) the Charter of the City of Bellaire; 4) the Code of Ordinances of the City of Bellaire; 5) these Rules of Procedure; and 6) Robert's Rules of Order, Newly Revised.

Section B: Previous Question (to close debate): A motion to move the Previous Question shall be in order following a reasonable time for discussion and deliberation. Such motion shall require a second and at least a two-thirds (2/3) vote of the members present.

Section C: Unanimous (or General) Consent. The method of unanimous consent can be used either to adopt a motion without the steps of stating the question and putting the motion to a formal vote, or it can be used to take action without even the formality of a motion.

Section D: Manner of Presentation of Main Motions for Amendment to the City Charter. All items brought before the Commission as a proposed amendment to the City Charter shall be presented in writing and shall have the existing portion of the Charter identified by Article, Section and Subsection. That portion which is to be deleted shall be printed and designated in ~~strikeout font format~~ and that portion which is to be added shall be printed and

designated in **bold and underlined format**. The proposed change shall be followed by one or more points delineating the rationale. All such proposals shall be E-mailed or mailed by USPS to the Commission members not less than five (5) days before any meeting of the Commission in which such proposal shall be discussed. All main motions shall be made by a member of the Commission. Discussion shall not occur until a motion is made for its adoption.

ARTICLE X

Amendments to Rules of Procedure

Amendments by Existing Commission. The initial adoption of the rules of procedure shall require a simple majority vote. An amendment to bring these Rules of Procedure in compliance with superior statute, rule, procedure or other authority may be considered without previous notice; otherwise, amendments may be made by a ~~single~~simple majority vote provided that previous notice of the proposed amendment is given at least five (5) days before a meeting of the Commission.

ADOPTION OF RULES OF PROCEDURE

Adopted by the Charter Review Commission of the City of Bellaire on
| January 17, 2017.

Attest:

| Neil Verma, Chair



Charter Review Commission

January 17, 2017

Agenda Item F. 2.

Review of Articles I - III of the Charter

(Excerpts from Articles I – III of the *Charter of the City of Bellaire, Texas*, and from the *Texas Transportation Code*, Title 5, Railroads, Subtitle C, Railroads Generally, Chapter 112, Powers and Duties of Railroads)

Article I, Section 5

“Liability of the City. The City of Bellaire shall not be liable for personal injury or property loss or damage from any cause, including the negligence of City officials or City employees, in the performance of governmental functions, including the operation of the water system, the collection and disposition of garbage, the sewer system, the fire department, or any other governmental office, department or agency created by or operating under this Charter.”

I would recommend deleting this Section as inconsistent with State law and for the purpose of preventing future inconsistencies with state law or erosion of immunities.

Article I, Section 6

(a) “ General Provisions. The City shall have the 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, except as provided in subsection (b) and (c). In all cases where the City seeks to exercise the power of eminent domain, it may be controlled, as nearly as practicable, by the laws governing the condemnation of property by railroad corporations in this State, the City taking the position of the railroad corporation in any such case. The City may also exercise the power of eminent domain in any other manner authorized or permitted by the Constitution and laws of this State, or in the manner and form that may be provided by ordinance of the governing body of the City, except as provided in subsection (b) and (c). The power of eminent domain hereby conferred shall include the right of the City to take the fee in the lands so condemned; and such power and authority shall include the right to condemn public property for such purposes.”

I would recommend deleting the underlined sentence as it is inconsistent with the requirements of State Law and ambiguous as to implementation.

Article II, Section 2

“In addition, all candidates or persons elected to office as Mayor or City Councilman of the City of Bellaire shall meet all other requirements for office holders as may, from time to time, be specified by the Constitution and general laws of the State of Texas. If, at any time, any person holding the office of Mayor or City Councilman of the City of Bellaire no longer possesses all of the qualifications specified in this Section or is convicted of a felony or an offense involving moral turpitude while in office, such office shall immediately and automatically become vacant.”

While the underlined appears to be clear, there will often times be differences of opinions between the elected officer and the governing body as to whether an individual possesses all the qualifications of his or her office. I would recommend clarifying how such a determination would be made or include the qualifications removal provision in Article II, Section 16 with the amendment to that Section as further discussed herein.

Article II, Section 4

“[The Mayor] shall sign, after authorization by a majority of the City Council, all contracts and conveyances made or entered into by the City, and all bonds issued under the provisions of this Charter.”

The requirement cited is, at minimum, ambiguous as to its requirements and, dependent upon how it is interpreted, inconsistent with the Council/Manager form of government. The wording of the section does not make clear whether the Mayor must sign all documents, but must first get authority to do so or whether the Mayor shall only sign those documents as authorized thereby leaving the signature of any other documents to others, i.e., the City Manager.

Article II, Section 5

“The City Council shall elect a Mayor Pro Tempore, who shall act as, and have all the powers of the Mayor during the absence or disability of the Mayor, and if a vacancy should occur in the office of Mayor, shall become Mayor until the next regular election, at which election a Mayor shall be elected to fill the full or unexpired term, as the case may be.”

As currently expressed it is ambiguous as to how this Section is to be implemented. It is unclear as to whether the Mayor Pro Tem’s place be vacated upon the assumption of the office of the Mayor.

Article II, Section 14

“The City Council shall appoint a Municipal Court Judge to serve a term as it shall prescribe and such other associate judge or judges as it shall determine to be necessary and appropriate, for such terms as it shall provide.”

As drafted this section is inconsistent with Texas Government Code Section 29.005. I would recommend revising for consistency with State law.

Tex. Gov’t Code Ann. § 29.005 (West)

The judge of a municipal court serves for a term of office of two years unless the municipality provides for a longer term pursuant to Article XI, Section 11, of the Texas Constitution. A municipal court judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the appointing authority, continue to serve for another term of office beginning on the date the previous term of office expired.

Tex. Const. art. XI, § 11

(a) A Home Rule City may provide by charter or charter amendment, and a city, town or village operating under the general laws may provide by majority vote of the qualified voters voting at an election called for that purpose, for a longer term of office than two (2) years for its officers, either elective or appointive, or both, but not to exceed four (4) years; provided, however, that tenure under Civil Service shall not be affected hereby; provided, however, that such officers, elective or appointive, are subject to Section 65(b), Article XVI, of this constitution, providing for automatic resignation in certain circumstances, in the same manner as a county or district officer to which that section applies.

Article II, Section 16

“The Council shall be the judge of the election and qualifications of its members, and shall have the power to remove any member for malfeasance or nonfeasance in office, after public hearing, by a two-thirds (2/3) vote of the whole Council; for such purpose it shall have power to subpoena witnesses and require the production of records.”

For purposes of efficiency and ensuring a fair hearing I recommend either, adopting a hearing process within the Charter or mandating that the City Council adopt a hearing process by ordinance in order to ensure that a hearing process is in place prior to any necessary use of the removal provision.

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V.T.C.A., Transportation Code § 112.051

§ 112.051. Entry onto Private Property

Effective: April 1, 2011

[Currentness](#)

(a) A railroad company is entitled to make an examination and survey for the company's proposed railway, to be performed as necessary to select the most advantageous route for the proposed railway, and, subject to Subsection (c), may enter on the lands or waters of any person or corporation for that purpose.

(b) A railroad company is responsible for any damages arising from an examination or survey under this section.

(c) Except for the purposes of performing a lineal survey, a railroad company may not enter on private real property for the purpose of condemning the property or any material on the property for any purpose until the company agrees with and pays the owner of the property all damages that may be caused to the owner's property by the condemnation of the property and by the construction of the company's road.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#).

V. T. C. A., Transportation Code § 112.051, TX TRANSP § 112.051

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V.T.C.A., Transportation Code § 112.052

§ 112.052. Acquisition of Property for Change, Relocation, or Abandonment of Railroad Line

Effective: April 1, 2011

[Currentness](#)

(a) Subject to Subsection (b), a railroad company or a receiver of a railroad that changes, relocates, or abandons a line of railroad in this state may acquire by condemnation or otherwise land for:

(1) right-of-way;

(2) depot grounds;

(3) shops;

(4) roundhouses;

(5) water supply sites;

(6) sidings;

(7) switches;

(8) spurs; or

(9) any other purpose connected with or necessary to the building or operating of the line of railroad, as changed, relocated, or abandoned.

(b) Property acquired under this section must be declared for and charged with public use.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#).

V. T. C. A., Transportation Code § 112.052, TX TRANSP § 112.052
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V.T.C.A., Transportation Code § 112.053

§ 112.053. Condemnation of Property: When Railroad Company and Owner Disagree

Effective: April 1, 2011

[Currentness](#)

(a) A railroad company may acquire property by condemnation if the company cannot agree with the owner for the purchase of the property and the property is required for any of the following purposes:

- (1) the incorporation of the railroad;
- (2) the transaction of company business;
- (3) depots, station buildings, and machine and repair shops;
- (4) the construction of reservoirs for the water supply;
- (5) the right-of-way, or new or additional right-of-way;
- (6) a change or relocation;
- (7) a roadbed;
- (8) the shortening of a line;

(9) the reduction of grades;

(10) the double tracking of the railroad or the construction and operation of tracks; or

(11) any other purpose connected with or necessary to the building, operating, or running of the railroad.

(b) A railroad company may not, under this section, condemn property that is located more than two miles from the company's right-of-way.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#).

V. T. C. A., Transportation Code § 112.053, TX TRANSP § 112.053
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V.T.C.A., Transportation Code § 112.054

§ 112.054. Condemnation of Property: Certain Terminal Switching Railroads

Effective: April 1, 2011

[Currentness](#)

(a) This section applies only to the condemnation of property for a terminal switching railroad that:

(1) handles fewer than 10,000 but more than 3,000 carloads a year; and

(2) operates in a single county that:

(A) has a population of 110,000 or more;

(B) is not adjacent to the Texas border; and

(C) does not contain a portion of a national forest.

(b) The power to condemn property given to a railroad company under this subtitle or Subtitle D, including [Section 112.052](#) or [112.053](#), does not apply to any property used for or designated under local zoning regulations for residential use unless the use of the condemned property is authorized under or in conformity with local zoning or development regulations.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#).

§ 112.054. Condemnation of Property: Certain Terminal..., TX TRANSP § 112.054

V. T. C. A., Transportation Code § 112.054, TX TRANSP § 112.054

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V.T.C.A., Transportation Code § 112.055

§ 112.055. Right-of-Way Acquired by Condemnation

Effective: April 1, 2011

[Currentness](#)

(a) A right-of-way that a railway company in this state acquires by condemnation does not include a fee simple estate in public or private land.

(b) A right-of-way that a railway company acquires by condemnation is not lost on forfeiture or expiration of the railway company's charter. The right-of-way remains subject to an extension of the charter or the grant of a new charter, and a new condemnation of the way is not required.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#).

V. T. C. A., Transportation Code § 112.055, TX TRANSP § 112.055

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V.T.C.A., Transportation Code § 112.056

§ 112.056. Condemnation of Property for Certain Roads

Effective: April 1, 2011

[Currentness](#)

(a) Subject to Subsection (b), a corporation created to build, maintain, and operate a line of railroads to a mine, gin, quarry, manufacturing plant, or mill may acquire by condemnation land necessary for the right-of-way for a road connecting the mine, gin, quarry, manufacturing plant, or mill to the nearest line of railroad.

(b) The corporation may condemn property under this section only if the corporation declares itself a common carrier and its railroads public highways, placing the road under the control of the department.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#).

V. T. C. A., Transportation Code § 112.056, TX TRANSP § 112.056

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V.T.C.A., Transportation Code § 112.057

§ 112.057. Construction on or Near Certain Waterways or Roads

Effective: April 1, 2011

[Currentness](#)

(a) A railroad company may construct the company's road across, along, or on any stream of water, water course, street, highway, turnpike, or canal where the route of the company's railway intersects or touches the stream, water course, street, highway, turnpike, or canal.

(b) The railroad company shall:

(1) restore the stream, water course, street, highway, turnpike, or canal to its former state or to a state in which its usefulness is not unnecessarily impaired; and

(2) keep the crossing in repair.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#).

V. T. C. A., Transportation Code § 112.057, TX TRANSP § 112.057

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V.T.C.A., Transportation Code § 112.058

§ 112.058. Intersection of Rail Line and Road or Street

Effective: April 1, 2011

[Currentness](#)

Sections 112. 051, 112.053, 112.054, 112.055, 112.057, 112.059, and 112.061 do not affect a law that requires a railroad company to provide a proper crossing at each intersection of a road or street.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011.](#)

V. T. C. A., Transportation Code § 112.058, TX TRANSP § 112.058

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V.T.C.A., Transportation Code § 112.059

§ 112.059. Crossings of Public Roads

Effective: June 19, 2015

[Currentness](#)

(a) Each railroad company in this state shall place and keep the portion of the company's roadbed and right-of-way over or across which a public county road runs in proper condition for the use of the traveling public.

(b) A railroad company is liable for a penalty of \$10 for each week the company does not comply with the requirements of this section if:

(1) the overseer of a public road gives written notice to the company's person responsible for maintaining the area where the work is needed; and

(2) the company fails to complete the work or repairs within 30 days after the date written notice is given under Subdivision (1).

(c) A county attorney, on the making of an affidavit of the facts by any person, shall immediately institute a suit against the railroad company to recover the penalty provided by this section. A county attorney's wilful failure or refusal to comply with this subsection is sufficient cause for the county attorney to be removed from office unless it is evident that the suit could not have been maintained.

(d) A proceeding under this section shall be conducted in the name of the county and in the same manner as a proceeding in a civil suit.

(e) Repealed by [Acts 2015, 84th Leg., ch. 1141](#) (S.B. 287), § 4(3).

(f) If the county is cast in the suit, the county may not be charged costs.

(g) A penalty collected under this section shall be deposited in the road and bridge fund of the county in which the suit is brought.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#). Amended by [Acts 2015, 84th Leg., ch. 1141 \(S.B. 287\), § 4\(3\), eff. June 19, 2015](#).

V. T. C. A., Transportation Code § 112.059, TX TRANSP § 112.059
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V.T.C.A., Transportation Code § 112.060

§ 112.060 Conversion of Property in Custody of Railroad Company

Effective: April 1, 2011

[Currentness](#)

(a) A railroad company in this state or a receiver of a railroad company in this state may not confiscate or otherwise convert to the company's or receiver's own use, in whole or in substantial part, a carload shipment of any article or commodity of freight traffic received by the company or receiver for transportation and delivery without the express consent of the owner or consignee of the shipment.

(b) An act of an agent, officer, or employee of a railroad company or receiver under this section that is within the apparent scope of the agent's, officer's, or employee's duties or authority with respect to the confiscation or conversion is considered to be an act of the company or receiver.

(c) This section does not apply to a conversion of freight that has been damaged or intermingled with other freight in wrecks, or to refused or unclaimed freight, that the railroad is unable to deliver.

(d) In addition to all other remedies or penalties that may be provided by law, a railroad company or receiver that violates this section is subject to:

(1) a penalty in favor of the state of not less than \$125 or more than \$500; and

(2) an additional penalty in favor of the owner or consignee of the converted shipment equal to twice the amount of the purchase price of the converted shipment.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#).

V. T. C. A., Transportation Code § 112.060, TX TRANSP § 112.060

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V.T.C.A., Transportation Code § 112.061

§ 112.061. Suit Involving Railroad Company Property

Effective: April 1, 2011

[Currentness](#)

(a) If a railroad company is sued for property occupied by the company for railroad purposes or for damages to property occupied by the company for railroad purposes, the court in which the suit is pending may determine all matters in dispute between the parties, including the condemnation of the property, on petition or cross bill by the defendant requesting that remedy.

(b) A plea for condemnation under Subsection (a) is considered an admission of the plaintiff's title to the property.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011.](#)

V. T. C. A., Transportation Code § 112.061, TX TRANSP § 112.061

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V.T.C.A., Transportation Code § 112.062

§ 112.062. Railroad Company Property Subject to Execution; Characterization of Rolling Stock

Effective: April 1, 2011

[Currentness](#)

(a) All or any part of a railroad company's real and personal property is subject to execution and sale in the same manner as the property of individuals.

(b) No portion of a railroad company's real or personal property is exempt from execution and sale.

(c) The rolling stock and all other movable property belonging to a railroad company is considered personal property.

Credits

Added by [Acts 2009, 81st Leg., ch. 85, § 2.03, eff. April 1, 2011](#).

V. T. C. A., Transportation Code § 112.062, TX TRANSP § 112.062

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