

CITY OF BELLAIRE TEXAS

CHARTER REVIEW COMMISSION

FEBRUARY 21, 2017

Council Conference Room

Regular Meeting

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

Charles E. 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, February 21, 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, February 2, 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. Review of Running Compilation of Amendments as of February 2, 2017; and
2. Review of Articles VI and VII.

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, March 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, February 21, 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, February 17, 2017, 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, February 21, 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

February 20, 2017

Agenda Packet



Charter Review Commission

February 20, 2017

Agenda Item B.

**Minutes of the Bellaire
Charter Review Commission
dated
February 2, 2017**

Minutes of the Bellaire Charter Review Commission

Thursday, February 2, 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. Also present were the following: Trisha Pollard, Council Liaison, Alan Petrov, City Attorney, Zachary A. Petrov, Assistant City Attorney, Charlie Zech, Facilitator, Lynn McBee, and Robert and Elaine Riquelmy (Robert and Elaine 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 was present.
- B. Approval of the Minutes of Tuesday, January 17, 2017.** The Commission members considered approval of the minutes of Tuesday, January 17, 2017, which had been previously distributed.

A motion was made by Mr. Avioli and seconded by Mr. Christians to approve the minutes of Tuesday, January 17, 2017 with a revision to the spelling of a person's name. All Commission members present voted in favor of the motion.

C. Public Comment.

1. Mr. Riquelmy requests that the Commission meet in Council Chambers and proposes to include single member districts in the Charter.
2. Ms. McBee asked if there is a cumulative document of revisions to the Charter as revisions are approved.

D. Council Liaison Comments. Council Member Pollard stated that she had no comments.

E. Staff Liaison Comments. Mr. Alan Petrov stated there were no Staff Comments at this time.

F. Commission Business.

1. The Commission then reviewed the Facilitator's proposed edits to Articles I through Article II, Section 15 of the City Charter.

Article I. Section 9. At the conclusion of the discussion of Article I, Section 9, the consensus was to amend Article I, Section 9 to include the Facilitator's language to allow the City to disannex property. All Commission members voted in favor of the motion.

Article II. Section 3. At the conclusion of the discussion of Article II, Section 3, Compensation of Members of the City Council, Mr. Christians proposes the Mayor receive \$400 per month and City Council Members receive \$300 a month. Mr. Christians voted in favor of the motion, the remaining Council members voted against increasing compensation of the Mayor and Members of City Council. Mr. Swerdlin proposes a change in the language to include the ability for Council to change the compensation, but any increase must be put to the voters. Mr. Verma, Ms. Almaguer, Mr. Avioli and Mr. Swerdlin voted in favor of changing the language to include ability for Council to change compensation, but any increase must be put to the voters and Mr. Christians voted against the motion.

Article II. Section 6. At the conclusion of the discussion of Article II, Section 6, the consensus was to amend Article II, Section 6, to concur with the Texas Constitution relating to vacancies in Council. All Commission members voted in favor of the motion.

Article II. Section 11. At the conclusion of the discussion of Article II, Section 11, the consensus was to amend Article II, Section 11, by adopting the Facilitator's language to make the provision clearer. All Commission members voted in favor of the motion.

Article II. Section 15. At the conclusion of the discussion of Article II, Section 15, the consensus was to amend Article II, Section 15, to add a reference to open meetings act. All Commission members voted in favor of the motion.

2. The Commission then reviewed Article II, Section 16 through Article V of the City Charter.

Article II. Section 16. At the conclusion of the discussion of Article II, Section 16, a motion was made to condense the Facilitator's proposed language for Article II, Section 16. Mr. Verma, Mr. Swerdlin and Ms. Almaguer voted in favor of the motion and Mr. Christians and Mr. Avioli voting against the motion. After further discussions, the consensus was then to amend Article II, Section 16 to add the facilitator's proposed language in a condensed form. All Commission members voted in favor of the motion.

Article II. Section 17. At the conclusion of the discussion of Article II, Section 17, the consensus was to amend Article II, Section 17, by removing "Journal" from the title of Article II, Section 17 and removing the last sentence of the Section. Mr. Verma, Mr. Christians, Mr. Avioli and Mr. Swerdlin voted in favor of amendment. Ms. Almaguer voted against the amendment.

Article II. Section 20. At the conclusion of the discussion of Article II, Section 20 the consensus was to amend Article II, Section 20. Mr. Christians proposed increasing the fine from \$200 to \$300. All Commission members voted in favor of the motion.

Article II. Section 21. At the conclusion of the discussion of Article II, Section 21, the consensus was to amend Article II, Section 21, to add a requirement that the notice of the audit be placed on the City's website. All Commission members voted in favor of the motion.

Article III. Section 1. At the conclusion of the discussion of Article III, Section 1, a motion was made by Mr. Christians and seconded by Ms. Almaguer to amend Article III, Section 1 to postpone action on the Section and to review City Manager bond requirements for other cities. All Commission members voted in favor of the motion.

Article III. Section 2. At the conclusion of the discussion of Article III, Section 2 the consensus was to amend Article III, Section 2, to include the Facilitator's language authorizing the City Manager to sign contracts and bond documents when directed to by City Council. All Commission members voted in favor of the motion.

G. New Business. The Commission will continue review of Articles VI through VII at the next meeting.

H. Public Comments. None.

I. Next Meeting. Tuesday, February 21, 2017 at 7:00 p.m.

J. Adjournment. A motion was made by Mr. Swerdlin and seconded by Mr. Christians to adjourn the Regular Meeting. All members present voted in favor of the motion. The meeting was adjourned at 9:26 p.m.

Neil Verma, Chair



Charter Review Commission

February 20, 2017

Agenda Item F. 1.

**Running Compilation
of Amendments
as of February 2, 2017**

ARTICLE I. - INCORPORATION; FORM OF GOVERNMENT CORPORATE AND GENERAL POWERS

Sec. 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~~ **except as set forth in the Texas Civil Practices and Remedies Code, Title 5, Governmental Liability, Chapter 101 tort claims.**

Sec. 6. - Eminent Domain.

- (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.
- (b) Limitations to Eminent Domain. The City's power of eminent domain shall be limited to the taking of private property exclusively for the ownership and the use by the City. Eminent Domain shall be prohibited in those cases.
- (1) in which the taking is motivated by economic development which involve the intent to resell any interest in the property acquired; and
 - (2) which involve a joint venture or a collaborative arrangement with a private entity.
- (c) Exceptions to Limitations. The limitations in subsection (b) of this section are not intended to apply to
- (1) a non-adverse (or a willing and friendly) condemnation or a condemnation when the majority of partial interest owners consider the condemnation to be non-adverse; and
 - (2) a condemnation necessary to cure the cloud on title to real estate or any other condition where a condemnation is deemed necessary in lieu of the transfer of title from a willing seller.

Sec. 7. - Street Powers **and Improvements.**

The City of Bellaire shall have **exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the City, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise and shall also include, but not be limited to, the right to supervise, regulate and otherwise control, locate, relocate, remove, or prohibit the location of, all utility pipes, lines, wires, or other property. In addition, the City shall have** the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate and/or restrict the use thereof; and require the removal from the streets, sidewalks, alleys and other public property or places of all obstructions, trespasses and/or encroachments of every nature or character.

~~Sec. 8. - Street Improvements.~~

~~The City of Bellaire shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the City, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise. The provisions of Chapter 106, 40th Legislature, First Called Session, Acts of 1927, together with existing amendments and all such amendments as hereinafter may be made, are expressly adopted and made a part of this Charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the City shall also include, but not be limited to, the right to supervise, regulate and otherwise control, locate, relocate, remove, or prohibit the location of, all utility pipes, lines, wires, or other property.~~

Sec. 9. - Extending **and Contracting** City Limits by Action of the City Council.

The City Council shall have power by ordinance to fix the boundary limits of the City of Bellaire, and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said City, with or without the consent of the territory and/or inhabitants annexed. Upon the passage of such an ordinance by the city council one time, it shall be published in the official newspaper of the City of Bellaire one time. After at least thirty (30) days have elapsed from the date of such publication, said ordinance in original or amended form as said city council in its judgment may determine, shall be acted upon again, and if passed the territory so annexed shall thereupon become a part of the City of Bellaire, and any inhabitants thereof shall be entitled to all rights and privileges of other citizens of said City, and shall be bound by the acts, ordinances, resolutions and regulations of said City.

Any amendment to an ordinance annexing additional territory shall be advertised at least ten (10) days before final passage of the annexing ordinance, but any amendment eliminating from any such annexing ordinance property proposed to be annexed in the original ordinance or any amendment thereto need not be advertised.

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

Sec. 11. - Garbage Disposal.

The City Council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all **recycling**, garbage, trash and rubbish within the City of Bellaire, and shall further have the right to fix charges and compensation to be charged by the City for the removal of **recycling**, garbage, trash and rubbish, and to provide rules and regulations for the collection of such charges and compensation.

ARTICLE II. - THE COUNCIL

Sec. 2. - Qualifications.

To be eligible to be a candidate for, or elected to, office as Mayor or City Councilman of the City of Bellaire, or to continue to hold any such office, a person must:

- (1) Be a United States citizen;
- (2) Be twenty-one (21) years of age or older on the first day of the term to be filled at the election;
- (3) Have not been determined mentally incompetent by a final judgment of a court;
- (4) Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) Have resided continuously in the State of Texas and within the corporate limits of the City of Bellaire for twelve (12) months immediately preceding the filing deadline of the regular election; and
- (6) Be a qualified, registered voter of the State of Texas, County of Harris.

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, after a public hearing and determination by City Council pursuant to Section 16 be declared immediately and automatically become vacant.

Sec. 3. - Compensation of Members of the City Council.

The Mayor shall receive as compensation for his services the sum of Seventy-five Dollars (\$75.00) per month.

Each Councilman shall receive as compensation the sum of Ten Dollars (\$10.00) for each meeting of the City Council attended by him, provided that no Councilman shall receive a greater compensation than Fifty Dollars (\$50.00) per month.

The rate of compensation may be changed by the Council; however, no increase in the rate of compensation shall take effect unless ratified by a majority of the voters in the next regular City election. The City shall pay or reimburse reasonable expenses incurred by the Mayor or Council Members in the performance of specific duties, limited to the amount appropriated for such expenses in the current budget.

Sec. 5. - Mayor Pro Tempore.

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 act as, and have all the powers of the, 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. The Mayor Pro Tempore's office shall not be considered vacant during any such time he or she is acting as the Mayor.

Sec. 6. - Vacancies in Council.

Vacancies in office of Mayor Council, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, shall be filled by a candidate possessing all of the qualifications outlined in Section 2 of this Article, at an election called for that purpose pursuant to the provisions of the Texas Constitution and the Texas Election Code.

In the event of a vacancy in the office of City Councilmember, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, if there are 365 days or more remaining on the term of the vacated office, the City Council shall call a special election to fill such vacancy. If there are fewer than 365 days remaining in the term of the vacant office, the City Council may, by majority vote of the remaining Members of City Council, at its discretion, leave the office vacant, appoint a new Councilmember to fill such vacancy or call a special election to fill such vacancy.

Sec. 11. - Council Not to Interfere in Appointments or Removals.

Neither the Council nor any of its members shall direct the appointment of any person to office, and such power is confided solely to the City Manager. The City Council shall have no power to remove any person appointed by the City Manager and shall have only the power to appoint and/or remove the City Manager. The Council shall deal with the administrative service solely through the City Manager, and

~~neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.~~

Neither the City Council nor the Mayor or any Councilmember shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in this Charter. However, the City Council may, at a properly noticed meeting, express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees. Further, except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council, Councilmembers and the Mayor shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor Councilmembers nor the Mayor shall give orders to any such officer or employee, either publicly or privately.

Sec. 13. - City Clerk.

The Council shall appoint ~~some person to serve as~~ **the City** Clerk of the Council. He shall give notices of its meetings, shall keep the official copy of this Charter and the journal of the Council's proceedings, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign to him.

Sec. 14. - Municipal Court.

There is hereby established a Municipal Court of the City of Bellaire. The City Council shall appoint a Municipal Court Judge to serve a **term of office of two (2) years. 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 City Council, continue to serve for another term of office beginning on the date the previous term of office expired.** term as it shall prescribe and **The City Council shall appoint** such other associate judge or judges as it shall determine to be necessary and appropriate, for such terms as it shall provide. Such judge(s) may be removed for incompetency, misconduct or malfeasance. The compensation for the judge(s) of the Municipal Court shall be fixed by the City Council. The City Council shall have the power to make temporary or relief appointments of Municipal Court Judges, in the event of emergencies, for shorter periods of time than provided for the term(s) of the Municipal Court Judge and associate judge(s).

All costs and fines imposed by the Municipal Court, or by any court in cases appealed from judgments of the Municipal Court, shall be paid into the city treasury for the use and benefit of the City.

The City Council shall, by ordinance, appoint a **Court** Clerk of the Municipal Court and as many Deputy **Assistant Court** Clerks as shall be necessary. The **Court** Clerk of said Court or any Deputy **City Assistant Court** Clerk shall have power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by clerks of courts in issuing process of said courts and conducting the business thereof. In the event of the absence or unavailability of the **Court** Clerk or Deputy **Assistant Court** Clerk to serve, any Judge of the Municipal Court may appoint a temporary replacement who shall have the same powers and duties as herein provided for the **Court** Clerk or any Deputy **Assistant Court** Clerk.

Sec. 15. - Meetings of Council.

The City Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the Council shall be subject to the Texas Open Meetings Act open to the public; special meetings shall be called by the City Clerk upon request of the Mayor, City Manager, or a majority of the members of the Council.

Four (4) members of the Council, of whom the Mayor shall be counted as one, shall constitute a quorum for the transaction of business. The affirmative vote of four (4) members shall be required for the transaction of business. A smaller number may adjourn from time to time.

Sec. 16 - Council to be Judge of Qualifications of its Members; Hearings; Process.

A. General. The Council shall be the judge of the election and qualifications of its members, and shall have the power to investigate and 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 administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance.

B. Hearings Process for Forfeitures of Office and Prohibitions.

- 1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;**
- 2. The office holder subject to any investigation and/or hearing under this section shall be entitled to written notice of the specific allegations made against them;**
- 3. A special meeting shall be called to hold the hearing; the office holder who is the subject of the hearing shall not sit at the dais and shall not participate in deliberation or vote; and City Council shall adopt by ordinance rules of procedures to be followed which rules shall not be amended or repealed for a particular public hearing after written notice has been provided to the office holder; except and unless, agreed to by the office holder;**
- 4. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals; the individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals; and City Council may ask questions of any individual; and**
- 5. No public comment shall be allowed unless agreed to by a majority vote of the members of City Council present and rules for public comment, if allowed, shall be set by City Council.**

Sec. 17. - Rules of Procedure; Journal.

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings and the journal shall be open to public inspection.

Sec. 20. - Investigation by Council.

The Council shall have the power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigations as to municipal affairs, and for the purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed Two Hundred (\$200.00) ~~Three Hundred (\$300.00)~~ Dollars for each offense.

Sec. 21. - Independent Audit.

Prior to the end of each fiscal year, the Council shall designate a certified public accountant who, as of the end of that fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government, and shall submit a sworn report to the Council. Notice shall be given ~~provided by publication in~~ **on** the official newspaper **website** of the City of Bellaire that the annual audit is on file at the City Hall for inspection. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain accounts or record of the City business, but, within specifications approved by the Council, shall post-audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government. Such accountants may make monthly checks, or a general audit at more frequent intervals as the Council may direct.

ARTICLE III. - THE CITY MANAGER

Sec. 2. - The City Manager; Powers and Duties.

The City Manager shall be the chief executive officer and the head of the administrative branch of the City government. He shall be responsible to the Council for the proper administration of all affairs of the City and to that end he shall have the power and shall be required to:

- (a) Appoint and remove all officers and employees of the City appointed by him, except as otherwise provided by this Charter, and except as he may authorize the head of a department to appoint and remove subordinates in such department;
- (b) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;
- (c) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- (d) Keep the Council advised of the financial condition and future need of the City and make such recommendations as may seem to him desirable; and
- (e) Sign all documents, contracts and conveyances made or entered into by the City, and all bonds, pursuant to any relevant policy adopted by City Council, except where the City Council has authorized the Mayor to sign said document as provided for in Article II Section 4 of this Charter.**
- (ef) Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter.



Charter Review Commission

February 20, 2017

Agenda Item F. 2.

Articles VI and VII

ARTICLE VI

I would defer any opinions regarding Article VI to the City's bond counsel.

ARTICLE VII

As a general matter most of Article VII includes requirements you would typically find in an adopted policy manual not in a City Charter. In addition many of the requirements may not be consistent with the current practice of the City. I would encourage City Staff to provide input into the efficiencies and consistency with current practice of many of the provisions provided for in Article VII particularly Sections 4 and 6. As examples:

1. Does the Finance Director collect the City's taxes or does the City contract with the county to provide those service?
2. Does the Finance Director "examine all contracts, orders and other documents by which the city government incurs financial obligations, and certify that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable" as required by Section 6?
3. Does the City Manager certify that all contracts entered into by the City have a sufficient unencumbered balance in the respective office, department or agency for the contract as required by Section 11?



STAFF NOTES

ARTICLE VI. – BORROWING FOR CAPITAL IMPROVEMENTS

Bond Counsel Review of Article VI:

Response from City Clerk:

Alan P. Petrov, City Attorney, currently serves as the City of Bellaire's Bond Counsel in accordance with a "Legal Service Agreement" the City has with his firm, Johnson Petrov LLP. The current contract term is from December 1, 2016, to November 30, 2017, and extends month-to-month thereafter (Ordinance No. 16-073).

City Attorney Petrov will provide insight to the Charter Review Commission as to bond counsel review.

ARTICLE VII. – FINANCE ADMINISTRATION

- 1. Does the Finance Director collect the City's taxes or does the City contract with the county to provide that service?**

Response from City Clerk:

The position "Finance Director" was changed to "Chief Financial Officer" with the adoption of the fiscal year 2007 budget of the City of Bellaire, Texas, on September 11, 2006 (Ordinance No. 06-075). The effective date of the budget was October 1, 2006. This does not necessarily mean that the title should change in the Charter, just that any references below will refer to the position as "Chief Financial Officer."

On June 3, 2002, the City Council of the City of Bellaire, Texas (City Council), entered into an "Agreement for Tax Assessment and Collection Services" with Harris County, Texas, for the collection of taxes owing to the City of Bellaire, Texas (Ordinance No. 02-038). The agreement has been revised and renewed over the years by various ordinances. As of this date, February 17, 2017, Harris County, Texas, is still collecting property taxes for the City of Bellaire.

- 2. Does the Finance Director "examine all contracts, orders, and other documents by which the city government incurs financial obligations, and certify that moneys have been appropriated**

and allotted and will be available when the obligations shall become due and payable” as required by Section 6?

Response from City Clerk:

The Chief Financial Officer does examine all contracts, orders, and other documents by which the city government incurs financial obligations through the City's financial system, Incode (purchasing module). If an approval through our financial system can be termed “certifying,” then I would say that the Chief Financial Officer certifies the City's contracts to ensure monies have been appropriated/budgeted.

- 3. Does the City Manager certify that all contracts entered into by the City have a sufficient unencumbered balance in the respective office, department or agency for the contract as required by Section 11?**

The City Manager is required to approve contracts and can see evidence of the Chief Financial Officer's review and approval through the City's financial system, Incode (purchasing module). As above, if an approval through our financial system can be termed “certifying,” then I would say the City Manager certifies the City's contracts to ensure monies have been appropriated/budgeted.



Charter Review Commission

February 20, 2017

Article II Proposed Revisions

Article II

Sec. 3. - Compensation of Members of the City Council.

The Mayor shall receive as compensation for his services the sum of Seventy-five Dollars (\$75.00) per month.

Each Councilman shall receive as compensation the sum of Ten Dollars (\$10.00) for each meeting of the City Council attended by him, provided that no Councilman shall receive a greater compensation than Fifty Dollars (\$50.00) per month.

The rate of compensation may be changed by the Council; however, no increase in the rate of compensation shall take effect unless ratified by a majority of the voters in the next regular City election. The City shall pay or reimburse reasonable expenses incurred by the Mayor or Council Members in the performance of specific duties, limited to the amount appropriated for such expenses in the current budget.

Sec. 15. - Meetings of Council.

The City Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the Council shall be **subject to the Texas Open Meetings Act** ~~open to the public~~; special meetings shall be called by the City Clerk upon request of the Mayor, City Manager, or a majority of the members of the Council.

Four (4) members of the Council, of whom the Mayor shall be counted as one, shall constitute a quorum for the transaction of business. The affirmative vote of four (4) members shall be required for the transaction of business. A smaller number may adjourn from time to time.

Sec. 17. - Rules of Procedure; Journal.

The Council shall determine its own rules and order of business. ~~It shall keep a journal of its proceedings and the journal shall be open to public inspection.~~

Sec. 20. - Investigation by Council.

The Council shall have the power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigations as to municipal affairs, and for the purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed ~~Two Hundred (\$200.00)~~ **Three Hundred (\$300.00)** Dollars for each offense.

Sec. 21. - Independent Audit.

Prior to the end of each fiscal year, the Council shall designate a certified public accountant who, as of the end of that fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government, and shall submit a sworn report to the Council. Notice shall be given **provided by publication in on** the official newspaper **website** of the City of Bellaire that the annual audit is on file at the City Hall for inspection. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain accounts or record of the City business, but, within specifications approved by the Council, shall post-audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any

other office, department or agency of the city government. Such accountants may make monthly checks, or a general audit at more frequent intervals as the Council may direct.