

MINUTES, NOVEMBER 21, 2016; 1:00 PM
CITY OF FAIR OAKS RANCH HOME RULE CHARTER COMMISSION
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas

I. ROLL CALL

Attendees: B. Sparks, C. Fothergill, D. Deleranko, F. Trapasso, B. Regan, R. Nichols, J. Merritt, G. Maxton, D. Pearson, T. Jaster, and J. McConnell.

With a quorum present, President Nichols opened the meeting at 1:00 PM.

II. CITIZENS/GUEST FORUM PRESENTATIONS

No citizens/guest requested to be heard

III. CONSENT AGENDA

A. November 7, 2016 Home Rule Charter Commission Meeting Minutes as amended per November 14, 2016 discussion.
Minutes approved by Commission Consensus.

IV. CONSIDERATION/DISCUSSION ITEMS

The consideration items below are brought back for discussion from the November 7, 2016 Home Rule Commission Meeting.

B. Review, consideration and possible action on Term Limits, City Council salary and number of Council Places.

Section 3.01 A – Number, Selection, and Term.

Motion: Made by B. Regan, seconded by B. Sparks to change the number of Council Members from six (6) to five (5). “The membership of City Council (Members of City Council) shall be composed of the Mayor and ~~six (6)~~ five (5) Council Members”.

Vote: 2-9, Motion Failed (D. Deleranko, C. Fothergill, T. Jaster, G. Maxton, J. McConnell, J. Merritt, R. Nichols, D. Pearson, and F. Trapasso dissenting).

The membership of City Council remains as written: 1 Mayor and 6 Council Members.

Section 3.07 A – Compensation of Members.

Motion: Made by B. Regan, seconded by J. Merritt to adopt language from Sec 3.05 of Cibolo Charter regarding compensation: “Compensation of the City Council and the Mayor, and any subsequent increases, shall be determined and approved by the vote of the citizens at a regular election. No increase in such compensation shall take effect until the commencement of the terms of Mayor and/or Council Members elected at the next general election.”

Vote: 5-6, Motion Failed (D. Deleranko, T. Jaster, J. McConnell, D. Pearson, B. Sparks and F. Trapasso dissenting).

Section 3.08 A – Term Limits.

Motion: Made by B. Regan to change the timeframe for eligibility to take office from 3 years to 1 year. “No Council Member shall be eligible to take office for a period of ~~three (3) years~~ *one (1) year* from the end of a second consecutive Term of Office.

Motion died due to lack of a second.

Motion: Made by T. Jaster, seconded by B. Regan to remove Term Limits for Council Members, excluding the Mayor.

Vote: 3-8; Motion Failed (D. Deleranko, C. Fothergill, G. Maxton, J. McConnell, J. Merritt, D. Pearson, B. Sparks, and F. Trapasso dissenting).

Terms Limits remain as written.

A. Review, consideration and possible action on previously approved charter provision and transitional provisions.

As previously discussed at the November 7, 2016 Home Rule Commission Meeting, Committee members agreed to review section by section, discuss areas of concern, and make changes where applicable.

City Attorney Zech reminded that non-substantive changes were made to the language in the charter to maintain consistency. He will note these changes to the committee during the review process.

I.-FORM OF GOVERNMENT AND POWERS

Section 4.06 A – Tie Votes.

City Attorney Zech identified new language added: “Except as provided for herein”. Section currently reads “*Except as provided for herein*, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held.”

A non-substantive change was brought to City Attorney Zach’s attention in section B – The word “That” should read “The”. “~~That~~ *The* Mayor shall supervise the casting of lots.”

Section 5.02 – City Attorney.

A non-substantive change was brought to City Attorney Zach’s attention in section A – The word “attorney’s” should read “attorneys”. “The City Attorney or such other ~~attorney’s~~ *attorneys*’ selected by the City Attorney with the approval of the City Council shall represent the City in all legal matters.”

Section 5.04 A- City Secretary.

City Attorney Zech identified a non-substantive change in the language. The word “or” has been replaced by “and may”: “The City Council shall appoint, *and may* ~~or~~ remove without cause, the City Secretary upon the affirmative vote of a majority of the City Council.

Change approved by consensus.

Section 5.04 C- City Secretary.

Motion: Made by C. Fothergill, seconded by D. Pearson that the position of the City Secretary shall report administratively to the City Manager and shall be hired and fired by the City Manager.

Vote: 7-4, Motion Fails (D. Deleranko, J. McConnell, B. Sparks, and F. Trapasso dissenting).

Section 5.05 C- Other Departments, Offices, and Agencies.

City Attorney Zech identified a non-substantive formatting change. The second sentence originally located in Section B has been moved to the newly created Section C.

- B. The City Council may, if it deems it advisable, consolidate the departments hereby established.
- C. The City Council by ordinance may create, change, and abolish offices, departments, or agencies other than the offices, departments and agencies established by this charter.

Change approved by consensus.

Section 6.04 – Requirements specific to Petitions for Recall.

Motion: Made by F. Trapasso, seconded by J. McConnell to change the percentage of qualified voters from 30 percent to 25 percent “Before the question of a recall shall be submitted to the qualified voters of the City a petition, containing at least ~~30~~ 25 percent of the number of qualified voters registered to vote at the last general City election, demanding such question to be so submitted shall first be filed with the Office of the City Secretary pursuant to this Article.

Amended Motion: Made by Bill Sparks, seconded by J. Merritt to change the percentage of qualified voters from 25 percent to 20 percent “Before the question of a recall shall be submitted to the qualified voters of the City a petition, containing at least ~~25~~ 20 percent of the number of qualified voters registered to vote at the last general City election, demanding such question to be so submitted shall first be filed with the Office of the City Secretary pursuant to this Article.

Vote: 3-8, Motion Failed (D. Deleranko, C. Fothergill, T. Jaster, G. Maxton, J. McConnell, R. Nichols, D. Pearson, and B. Regan dissenting).

Main Motion:

Vote: 10-1; Motion Passed (B. Regan dissenting).

Section 6.10 A – Initiative; Requirements specific to Petitions for Initiative; Procedure.

Motion: Made by F. Trapasso, seconded by J. McConnell to change the percentage of valid signatures from total number of registered voters from 20 percent to 15 percent “A petition for initiative must contain the number of valid signatures totaling at least ~~20~~ 15 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article.

Amended Motion Made by B. Sparks to change the percentage of valid signatures from total number of registered voters from 15 percent to 10 percent.
Motion died for lack of a second.

Main Motion:

Vote: 9-2; Motion Passed (T. Jaster and B. Regan dissenting).

Section 6.11 A – Referendum; Requirements specific to Petitions for Referendum; Effect Prior to Election.

Motion: Made by F. Trapasso, seconded by J. McConnell to change the percentage of valid signatures from total number of registered voters from 20 percent to 15 percent: “A petition for referendum must contain the number of valid signatures totaling at least ~~20~~ 15 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article.

Vote: 11-0; Motion Passed.

J. McConnell provided the following language to be considered for establishing a Public Utilities Commission (Section 7.16): “City Counsel shall establish a Public Utilities Commission. The Commission shall conservatively ensure the City has ample supply of water and adequate wastewater treatment capacity for all planned and projected growth in the comprehensive plan. The Commission shall investigate and prepare reports to City Council on Water supply and use, wastewater capacity and other utility matters including power supplies.”

Motion: Made by J. McConnell, seconded by J. Merritt to establish Section 7.16 – Public Utilities Commission.

Discussion ensued regarding establishing a committee outside of City staff to oversee the water and wastewater services provided by the City to ensure the adequacy of supply and future growth provisions. City Attorney Zech stated that Texas Local Government Code states that Cities have the authority to run their own municipal utility systems, but that the City Council has the final say. A Commission could be created and act in an advisory capacity to City Council, but ultimately City Council makes the decisions.

Vote: 7-4, Motion Failed (D. Deleranko, T. Jaster, G. Maxton, and D. Pearson dissenting).

Section 8.05 – Transitional Provisions

A discussion ensued regarding the method of appointment of the new council seat (Place Six) contingent on the passing of the Charter. Questions as to whether the council would appoint the new council member since less than 1 year would remain in the proposed seats' term – current language in Charter calls for Place Six elections to occur in 2018. City Attorney Zech read from the State Law for Term of Office exceeding two years in Home Rule and General Law Cities:

“A municipality so providing the term exceeding two (2) years, but not exceeding four (4) years for any of its non-civil service officers must elect all of the members of this governing body by a majority vote in a call by voters in a municipality.

Any vacancy or vacancies occurring in such governing body shall not be filled by appointment, but must be filled by majority vote of the qualified voters of a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur, except that a municipality may provide by charter or charter amendment procedure for filling a vacancy occurring on its governing body for an unexpired term of 12 months or less.”

Motion: Made by J. Merritt, seconded by B. Sparks that Council appoint the new council member (Place Six) during the transitional period. Language to be provided by City Attorney Zech.

Vote: 11-0, Motion Passed.

City Attorney Zech recalled language in the Charter which dictates provisions for terms less than 1 year. He will review notes and bring back findings at next meeting.

V. ADJOURNMENT

The Charter Preamble as provided by D. Deleranko will be brought back for review, consideration and possible action at the next scheduled meeting.

A discussion arose regarding timeline for finalizing Charter. Draft Charter will be updated, checked for consistency, and the final document will be provided to Commission for consideration. Anticipate public meetings in January with goal to make modifications as needed and to present Charter to Council by mid-February.

Due to a prior engagement, City Attorney Zech requested that the next Commission Meeting be rescheduled for December 12, 2016. President Nichols adjourned the meeting at 3:18 PM.

Rich Nichols

Rich Nichols, Commission President

ATTEST:

Christina Picioccio

Christina Picioccio, City Secretary