

THE FLOWER MOUND CHARTER REVIEW COMMISSION MEETING HELD ON THE 15th DAY OF NOVEMBER, 2006 IN THE TOWN HALL COUNCIL CHAMBERS, LOCATED AT 2121 CROSS TIMBERS ROAD, TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 7:00 P.M.

The Charter Review Commission met with the following members present:

Sylvia Inboden	Chair
Kim Sharp	Commissioner
Amy Wallace	Commissioner
Marsha Gavitt	To be appointed
Chris Torley	To be appointed

with the following member absent:

Joe Freeman	Commissioner
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with the following members of Town Staff participating:

Paula Paschal	Town Secretary
Alan Lathrom	Town Attorney

A. Call to Order

Chair Sylvia Inboden called the meeting to order at 7:09 p.m.

B. Consider Approval of Minutes of the Meeting on November 8, 2006

Kim Sharp moved to approve the minutes of the November 8 meeting, and Amy Wallace seconded. Approval was unanimous.

Chair Inboden apologized for having to leave the last meeting due to illness. She made the following statements:

"I want to thank everyone who took the time to email and express their opinion on the Charter Review. I also want to thank each of you who have come here tonight. I do, however, want to clear up some incorrect information that is circulating in emails and phone messages left at my home. I have no predetermined views and all recommendations will be by consensus of the full board. #1 – I will not resign as chair of this committee as has been suggested by phone calls to my home. #2 – No councilmember nor the Mayor have directed me to change any part of the Town Charter. #3 – I do have some mixed feelings about the supermajority vote. If I believed it would be best for the majority of the citizens, I would recommend putting it on the ballot. However, saying that, I also believe that it would be too divisive for our community at this time. We really haven't had an opportunity to see if this benefits our town. I will not be recommending this change to Council, however I cannot speak for anyone else on this board. My only agenda in serving on this board is to do a fair and balanced job and I highly resent the attacks on my character."

C. Discuss Article VII "Legislation by the People, Initiative and Referendum," Article VIII "Municipal Planning and Zoning," Article X "Franchise and Public Utilities," and Article XI "General Provisions" of the Home Rule Charter

Mr. Torley asked if the votes on the issues would be by a majority or consensus.

Mr. Lathrom responded that there was no specific guideline as this Commission was purely an advisory and recommending body. The Commission could decide how they wanted to make the recommendations to the Town Council.

Section 7.02 Petition Requesting Submission for Ordinance by Initiative
Section 7.04 Council Either to Pass Ordinance or Call Election

Mr. Torley referred to the above mentioned sections and asked about the petition requirements. He felt that that the 300 signatures or 15% of the registered voters were not good amounts. He suggested that the 300 number be increased to a larger number and that the percentage be based on the number of voters in the last election rather than just the number of registered voters.

Ms. Inboden commented that Mr. Freeman had expressed the same ideas.

It was noted that the last suggested changes would also apply to Sections 7.05 and 7.15.

Section 7.08 Publication of Proposed and Referred Ordinances

Ms. Gavitt asked about the official newspaper.

Ms. Paschal responded that the Denton Record Chronicle was currently the official newspaper. She explained that state law provided for the specific requirements that a newspaper had to meet to be designated.

Section 7.16 Election Required for Municipal Utility or Public Improvement Districts (MUD or PID)

Mr. Torley asked if there were any areas in the Town that were not in a CCN (Certificate of Convenience and Necessity).

Mr. Lathrom commented that state law allowed a MUD to overlap CCNs. A PID could be created within the corporate limits of a municipality. He noted that a Tax Increment Reinvestment Zone was distinct from a MUD or PID, and had special statutory provisions.

Ms. Gavitt asked if someone could get a permit from the Texas Commission on Environmental Quality (TCEQ).

Mr. Lathrom stated there was a particular process for approval of a special district. He stated TCEQ was heavily involved in that process.

Ms. Gavitt asked about County Development Districts (CDDs). She asked if there was anything that could be done to require a full public process regarding these areas.

Mr. Lathrom stated a home rule city had all the power that the state could grant to it. He noted MUDs were "creatures" of the legislature. A home rule city did not have the ability to change the state process.

Mr. Torley commented that they had to have permission from a municipality for a development of a CDD in a municipality's extraterritorial jurisdiction. A community had to agree not to annex the territory for a certain period of time. Once approved by TCEQ, they had the ability to issue bonds.

Article VIII Municipal Planning and Zoning

Section 8.04 Park Board

Ms. Wallace had concerns about why only the Planning and Zoning Commission and the Park Board were listed in the Charter. She was in favor of either inserting all boards and commissions or taking them all out.

Mr. Lathrom commented that Chapter 211 of the Local Government Code provided for a municipal authority to appoint a Zoning Board of Adjustment. Chapter 212 stated a municipal authority could create a Planning and Zoning Commission. There was some question as to whether not the Zoning Board of Adjustment could be created by a Charter. He noted he would check on that. He added that if a municipality did not have a Zoning Board of Adjustment, the municipal authority could act as that Board. In response to Mr. Torley's question about the Oil and Gas Board, he responded that the Zoning Board of Adjustment could be used for other purposes.

Section 8.05 Amendments to the Master Plan and SMARTGrowth Program

Ms. Wallace believed the Council had only had to use the supermajority vote on one issue – The Pines. She believed the supermajority requirement should stay in the Charter.

Ms. Gavitt stated the supermajority requirement did not prevent amendments, it only required the extra vote. The wording of this section was meant to insure that Town business could be handled at all times, especially if there was a vacancy on the Council, or one member had to abstain.

Article X Franchises and Public Utilities

Section 10.02 Franchise: Powers of Town Council

Mr. Torley asked if language could be added to the Charter that guarantees a prohibition of co-mingling the General Fund and Utility Fund. Recognizing that there are

annual transfers, he asked if there could be a percentage cap of what can be transferred. He felt there needed to be a firewall so that Utility Fund monies could not be used to generate revenues in the General Fund.

Section 10.06 Consent of Property Owners

Ms. Gavitt asked if a sentence could be added that would require the Town to facilitate a public meeting before a public utility was installed or repaired in order to mitigate any potential damage by the utility. She stated she was just looking for open communication.

Mr. Lathrom commented that was really not a Charter issue. The Town did not have standing to force a utility to fix a certain problem. Additionally, the Town could not use public funds for purely private purposes. He noted the state had taken away many of the regulatory powers of cities regarding utilities.

Article XI General Provisions

Section 11.03 Personal Interest

Mr. Torley asked when the Mayor could transact business on behalf of the Town, and Ms. Paschal responded that the business would have to be first approved by the Town Council.

Mr. Lathrom stated this section prohibited a Councilmember from owning property that was sold to the Town. Additionally, Councilmembers were prohibited by the Government Code and the Town's Ethics Ordinance from participating in and voting on an item when they had a substantial interest in the item, as defined by state law.

Mr. Torley asked for the definition of "willfull violation."

Mr. Lathrom stated it would impose the burden of proof on the Town to establish if there was a willful violation. Criminal penalties would be involved. A person could not use public office or position for personal gain (Penal Code).

Section 11.05 Town Not Required to Give Security or Execute Bond

Ms. Gavitt asked if this section could be broken into two sentences, and Mr. Lathrom stated he would check on that with regard to the Texas Civil Practices and Remedies Code.

Section 11.10 Accepting Gifts, Favors or Privileges

Mr. Torley asked if this section could possibly be replaced by a disclosure section.

Mr. Lathrom stated an ordinance or resolution could be done to require disclosure on the part of the Council. State law had a \$50 threshold on gifts, and the Town's was at \$20.

Mr. Torley thought it was a good idea to have a form to fill out in case someone even thought they might have violated a rule. A determination could be made by an Ethics Board.

Ms. Paschal noted that the Council had discussed the possibility of creating an Ethics Board for the Town.

Section 11.12 Property Not Exempt from Special Assessments

Ms. Gavitt asked if land trusts could get caught up in this section.

Mr. Lathrom commented that since the late 1970's not all non-profits were totally tax exempt.

Section 11.15 Retirement System and Social Security; Group Insurance

Mr. Lathrom stated that members of the Council and Boards and Commissions could not buy insurance through the Town – it was only offered to employees. However, the Town did have errors and omissions insurance on the volunteer positions when acting in their official capacity.

Mr. Torley suggested having a definition section in the front of the Charter to clarify certain meanings of words and phrases throughout the Charter.

Section 11.19 Charter Review Commission

Ms. Inboden commented that Mr. Torley and Ms. Gavitt would be officially appointed as replacement members by the Town Council at the next Council meeting.

Mr. Torley suggested that the next Commission be comprised of five regular members and two alternates.

Section 11.20 Review of the Charter

Ms. Gavitt stated the Charter Review Commission was very important. She suggested that the Charter Review Commission have the same type of guidelines regarding meetings and minutes that were used by the Town Council.

Ms. Paschal responded that this type of guideline was not something that should be contained in the Charter. She noted the minutes were summary minutes, as were done for the Council. She added that this Charter Review Commission had agreed at the very beginning to be informal and carry out their charge in that manner.

Mr. Lathrom commented that the Commission was purely advisory, and was going above and beyond by following the Open Meetings Act, posting agendas and preparing minutes.

Ms. Wallace suggested having a review of the Charter every five years instead of every three years.

D. Comments From the Audience

Carol Kohankie suggested adding the Environmental Conservation Commission to the Charter. She commented the Town was looking at setting up an independent trust, and as a 501(c)3 entity, it could raise funds. She added that there were issues of taxes and conservation easements to consider. She also asked if a bond election could be held to raise funds for land preservation.

Mr. Lathrom commented there could be a problem with trying to exempt one specific entity. In response to Mr. Torley, he did not believe the Town could own a trust, and he would check on that.

Dennis McKaige agreed with the previous comments about the number of signatures on petitions for recall, etc. He also felt this might be the time to include language in the Charter that would clear up any misunderstandings about the supermajority vote.

E. Discuss Items to Review for the Next Meeting

Ms. Paschal stated the first public hearing would be on December 2. She would provide the Commission with a list of the items that they had wanted to bring up for discussion during the hearings.

Mr. Torley asked about adding to Section 3.09, language that would prohibit Town employees from interfering with Town Councilmembers. Additionally, he wanted to discuss Section 5.04 regarding the announcement of one's candidacy for office.

F. Announce Next Meeting Date/Time/Location

December 2, 2006 at 10:30 a.m. in the Town Hall Council Chambers

G. Adjourn

The meeting was adjourned at 9:12 p.m.

**TOWN OF FLOWER MOUND, TEXAS
CHARTER REVIEW COMMISSION**

Sylvia Inboden, Chair

ATTEST:

Paula Paschal, TRMC, Town Secretary