

AGENDA

CHARTER REVIEW COMMISSION

JUNE 21, 2016

FLOWER MOUND TOWN HALL ● 2121 CROSS TIMBERS ROAD ● FLOWER MOUND, TEXAS

6:00 P.M.

A. CALL MEETING TO ORDER

B. MINUTES

1. Consider approval of June 9, 2016, Minutes

C. REVIEW ITEMS OUTLINED IN RESOLUTION NO. 08-16 (COUNCIL CHARGE).

REVIEW ITEMS INITIATED BY THE CHARTER REVIEW COMMISSION.

REVIEW ITEMS INITIATED BY THE PUBLIC AND AS AGREED UPON BY THE CHARTER REVIEW COMMISSION FOR CONSIDERATION.

1. Public Hearing to discuss and consider if a proposed Charter amendment or policy recommendation is needed to enhance the Town's notification process as it relates to eminent domain.
2. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to create a process in which to use in the event a Charter violation should occur by the Mayor or a member of Council.
3. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change any provisions related to term limits or consecutive terms for elected officials.
4. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to expand the size of Council.
5. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change the current Council at large structure to single member districts (SMD), or any variation thereof.
6. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change the Parks, Arts, and Library Services (PALS) Board to the Parks Board.
7. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of "and the State Comptroller of Public Accounts at Austin" and instead add the text "and the Tarrant County Clerk's office" in Section 9.10 of the Town Charter.

8. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of "to cause only the caption of duly enacted ordinance to be published except as provided otherwise by law" from section 3.07 (w) of the Town Charter
9. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the two references of the word "department" from section 9.14 of the Town Charter.
10. Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to delete the portion of the text that states "If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town".

D. PUBLIC COMMENTS

1. Discuss and review any correspondence received from the public via charter@flower-mound.com or otherwise.

E. COORDINATION OF CALENDARS

1. Next meeting date(s):
 - Thursday, June 30, 6pm, Town Hall (**Public Hearing**)
 - Tentative July 6, 10am, Town Hall

F. ADJOURNMENT

I do hereby certify that the Notice of Meeting was posted on the bulletin board in Town Hall of the Town of Flower Mound, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: June 17, 2016, at 3:45 p.m.



Theresa Scott, Town Secretary

Pursuant to Section 551.071 of the Texas Government Code, the Charter Review Commission reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed on this agenda.

The Flower Mound Town Hall and Council Chambers are wheelchair accessible. Request for accommodations or interpretive services must be made at least 48 hours prior to this meeting by contacting the Town Secretary's Office at (972) 874-6070.

THE FLOWER MOUND CHARTER REVIEW COMMISSION MEETING HELD ON THE 9TH DAY OF JUNE 2016, AT TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

The Town Council met in a special meeting with the following members present:

| | |
|---------------|--------|
| Jody Smith | Chair |
| Robert Rawson | Member |
| Connie Smith | Member |
| Tim Trotter | Member |
| Amy Wallace | Member |

with the following members absent:

| | |
|------------|--------|
| Kia Mastey | Member |
|------------|--------|

constituting a quorum with the following members of the Town Staff participating:

| | |
|---------------|-------------------------------|
| Theresa Scott | Town Secretary |
| Betsy Elam | Town Attorney |
| Tammy Wilson | Executive Director of Finance |

A. CALL MEETING TO ORDER

Chair Jody Smith called the meeting to order at 6:08 p.m.

B. MINUTES

1. Consider approval of May 26, 2016, Minutes

Commissioner Rawson moved to approve the minutes from the May 26, 2016 meeting. Commissioner Trotter seconded the motion.

VOTE ON THE MOTION

AYES: TROTTER, WALLACE, SMITH, RAWSON

ABSENT: MASTEY

C. REVIEW ITEMS OUTLINED IN RESOLUTION NO. 08-16 (COUNCIL CHARGE):

1. 1. Discuss and consider any provisions that would improve efficiencies and/or result in a cost savings for the Town (Item #4 in Resolution)
 - a) Charter Section 9.14 relative to changing the text from transfer of funds from the department level to the fund level

§9.14. Transfer of Appropriations.
During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one ~~department~~ fund to another ~~department~~ fund, and to re-

estimate revenues and expenditures. If the Town Council determines it is in the best interest of the Town to apply for and accept a private, county, state or federal grant of funds for a particular purpose, the Council's action in accepting the award of said grant and any corresponding expenditures shall constitute a budget appropriation in the amount of said grant funds.

Tammy Wilson, Executive Director of Finance

Ms. Wilson provided background information on the request and noted the change would eliminate budget amendments coming to Council for minor items if the Town Manager had the approval to transfer between departments instead of just at the division level. She also provided some examples as to how this change would be beneficial from an efficiency perspective.

Ms. Wilson responded to questions from the Commission as follows:

- If there is dollar value amount associated with this change
- Clarification that any transfers would not be between funds, but within a fund

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

There was Commission discussion on the topic regarding:

- Liked the provision from the Carrollton Charter:
 - That the specific violation be put in writing prior to any action being taken
 - Steps they take in that Council makes the decision
 - Would like to see similar in Flower Mound, but with a change to the verbiage that fits Flower Mound, and more specifically, since it is an elected position, that any trial be set up in a public hearing format, and then when it reaches to the point where a vote is necessary, it should be a majority vote
- Liked Carrollton and Richardson in that its official misconduct and you get a public hearing
- How would a public hearing be handled as it relates to any transgressions that occur in closed session, or as a result of closed session, and how would you prove that anything was done wrong without divulging confidential information
- Proposed language that could be used

Chair Smith summarized that the Commission is showing a general interest in using the Carrollton Charter as a basis for crafting language for a Flower Mound Charter amendment.

Ms. Elam responded to questions from the Commission or offered comments as follows:

- Can a Town employee be charged with a Charter violation
- Any case law examples relative to things that come out of closed session
- Some concerns with the use of the word “court” and it may not be necessary (and could potentially be changed to “public hearing”)
- Would not recommend opening up the ability to bring a charge forward by employees or the citizens

Ms. Scott sought clarification relative to who would hold the ability to bring a charge forward (i.e. public, employees, or mayor/council to mayor/council). Chair Smith clarified that it would be council members to mayor and if it involved the mayor it would probably be to the mayor pro tem if the mayor is being charged against.

3. Discuss and consider provisions as it relates to elected officials as follows:

a) Term limits (allowing for a clock reset in the event a member of Council runs for the office of Mayor)

There was Commission discussion as follows:

- Leaning toward keeping the recent Charter change “as is” because it allows an individual to give a one year break, and then they can come back
- If there is a change that allows the clock to be reset if someone runs for mayor - wouldn’t want that to be the reason they run (to keep their seat on Council)
- Don’t like the idea of term limits at all, including the option the option of resetting the clock
- If there have been any issues or public opinion on this provision
- There hasn’t been enough time to let the current provision take effect given it just started in 2013

b) Three year terms

There was Commission discussion as follows:

- The general pros and cons associated with having 3 year terms
- If you have a great councilmember they’ll get reelected
- Three years can be a long time if you don’t have a strong and positive council member
- If cost savings is a factor
- The risk with three year terms associated with a resignation and that if that happens in two years there would be a need for an election
- The impact is more about the mayor or councilmember not having to go through the reelection process as often

- For the length of terms and whether they are limited – if we were starting from scratch to build a Charter for the Town, would strongly support three year terms with no term limit, but there are provisions in place that are working and for the term limits it hasn't been in place long enough

c) Enlarging the size of Council

There was Commission discussion as follows:

- Background information relative the no changes in seats for several years
- Whether the Mayor should have the option to vote
- How if the mayor has the last vote in a situation of a tie you always end up with an aye or nay on the matter
- Interest level of adding two additional seats

d) Single member versus at large districts

Chair Smith provided an overview of the Town's current at large structure.

Ms. Wallace indicated there is a need for someone to represent the east side of Town so they can understand the unique set of circumstances that are existent with non HOA neighborhoods. She pointed out that if you live in a non HOA you understand that code enforcement in Flower Mound on the east side is a joke. She added that if you don't live there you don't understand it. She recommended at least 4 districts, similar to LISD, with the rest of Council serving at large.

There was Commission discussion on the topic regarding:

- The philosophy of the Town is that your representing everyone instead of potentially dividing the Town by geography
- Interest in getting feedback from the public relative to whether they are a supporter of single member districts or council at large seats
- Personal experience when campaigning and outreach efforts at that time
- There are enough divisions of thoughts that if you bring in more potential divisiveness that could be a problem more than an advantage
- A seat at large forces an elected official to look at all of the opinions of the citizens as opposed to making sure a particular district gets "a piece of the pie"
- People are already representing their neighborhood --- the issues of the neighborhood they live in are at the forefront of their mind
- Analysis of other cities and how single member versus at large is not necessarily associated with population, but more on the lines of demographics

- One of the issues facing the older non HOA neighborhoods is that homes are being turned over into rentals, and the associated problem of absentee landlords
- Concerns regarding the perception of making the town seem as its divided with the east side versus west side, and there is enough division already without adding to it – we are Flower Mound, we are one Town and we need to represent ourselves as one Town and not an “us versus them”, “east or west”, “north or south” mentality.

4. Discuss and consider removal or modification of Charter Section 8.04 regarding the Parks, Arts, and Library Services Board (Item #7 in Resolution)

There was general consensus to remove the arts and library text from the name.

D. OTHER ITEMS OUTLINED IN RESOLUTION NO. 08-16 (COUNCIL CHARGE)

Discuss and consider:

- Charter Section 9.10 regarding the procedure of filing the budget with the State Comptroller
- Charter Section 3.07(w) regarding the publication of ordinance captions in the newspaper

There was no additional discussion on the above referenced topics.

E. ITEMS INITIATED BY CHARTER REVIEW COMMISSION MEMBERS

There were no new items presented by the Charter Review Commission.

F. PUBLIC PARTICIPATION

| | | |
|-----------------------|---------------------------|---|
| <p>Laura Dillon</p> | <p>6013 Rock Cove</p> | <p>Ms. Dillon offered comments as follows:</p> <ul style="list-style-type: none"> • Supports no change to term limits (regardless of position) • For single member districts she pointed out communication is an issue when trying to contact non HOA neighborhoods. She gave the example of being a democratic precinct chair for precinct 3031 & the difficulty that exist in contacting those neighborhoods because there is not an HOA board that she can reach out to who can send an email to those residents. She stated being in support of a 4 district representation given the amount of non-HOA neighborhoods on the east side. |
| <p>Randall Wilson</p> | <p>3005 Oak Meadow Dr</p> | <p>Mr. Wilson offered comments as follows:</p> <ul style="list-style-type: none"> • His past experience as a CRC Chair and encouraged the CRC members to be cautious about communicating a firm opinion prior to getting all briefings and holding public hearings. He stated it is not time to tell the entire Town that you’ve made up your mind, otherwise, what’s the point in having a public |

| | | |
|----------------|--------------------|--|
| | | <p>hearing if you've already given the impression that you've already made up your mind. He further outlined the process that boards and commission use relative to hearing briefings, asking questions, etc.</p> <ul style="list-style-type: none"> • Term limits – his preference would be to have it repealed • Adding seats – he noted it effects the supermajority, but didn't have an opinion one way or the other, and liked the idea of the mayor voting so you know how they feel about a particular issue • Terms – he was in support of keeping the two year terms and he gave a strategy example of a past council candidate who didn't spend a lot of money and won • Single member districts – he indicated not being in favor of it because it divides a community on several levels, including budget items. It pits the Town against each other. He provided a historical review of the Town prior to Bridlewood and Wellington subdivisions being built, and a specific example of an outreach to members of Council to demonstrate his point. He further added that the only person it benefits is the politicians that don't have to spend as much money to get elected for those little areas. • Public funding of charities and businesses and special interest groups (aka community support funding to non-profits) – doesn't think the Town should be taking taxpayer money from citizens and committing it to businesses and special interest groups and charities. He indicated he would be in favor of an amendment to the Charter to prohibit this use. In this way it would let the citizens of Flower Mound decide if they want to continue to fund these groups. He further added it should be private individuals who fund those groups and not taxpayers. • Public funding – there should be an amendment to the Charter to prohibit the Town staff and council from budgeting and spending money to argue for ballot initiatives. |
| Sandeep Sharma | 2504 Stillwater Ct | <p>Mr. Sharma offered comments as follows:</p> <ul style="list-style-type: none"> • Background information on his experience serving during the last CRC • Single member districts – there are pros and cons that need to be taken into account <ul style="list-style-type: none"> ○ Pro – smaller area and can focus on that as well as balanced representation, and easier to get elected if zoned, and would have representation from the east side ○ Con – the Council can get very polarized because there could be conflicting agendas or objectives ○ The general analysis is that Town's that are 100,000 or more tend to go toward districting, which means if it's done now, we may have to do redistricting again |

| | | |
|--|--|--|
| | | <ul style="list-style-type: none"> ○ It shouldn't prevent someone to run for a particular part of the Town ○ If we don't think there is enough representation from different parts of the Town, one thing Council can do is make a good faith effort to have people from different precincts be on the boards and commissions because you would still get a voice from the various areas of Town channeling in to the Council ● 3 Year Terms – He gave background information from the last time the subject was discussed during Charter Review. He stated another option is that Council stays as is, however, the Mayor could possibly have a three year term so that person can serve like the glue when Council members are changing ● Enlarging of Council – adding one councilmember is not a bad idea because 1) it increases the probability of having more people come forward from different parts of Town that might not be represented, and 2) if you look at the averages from the benchmark cities it was 6 councilmembers and 1 mayor ● He offered his comments relative to the process |
|--|--|--|

G. PUBLIC COMMENTS

Chair Smith noted that the CRC received two emails since the last meeting, and she summarized the comments for each.

H. ADDITIONAL FUTURE AGENDA ITEMS FOR CONSIDERATION

Chair Smith brought up the request from the public related to Charter amendments as follows:

1. To prevent the Council from using taxpayer dollars toward non-profit organizations

There was a brief discussion on the topic as follows:

- Background information regarding the process associated with community support funding
- If the voters object to policies that are currently in place by their elected representatives they can make that felt in a number of ways, and ultimately electing officials that will follow policies that they are in favor of and questioning if it makes sense to hamstring future people in the Town (Council and citizens) based on what they choose to do based on perceptions here and now
- Past recollection of the vetting process that the non-profits have to go through

Chair Smith summarized that there is no interest by the CRC to bring the discussion forward for future consideration.

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

- The current amount of community support funding
 - The Town's current budget
2. Not using taxpayer dollars to support specific issues

Ms. Elam noted that state law already prohibits a municipality from spending funds for or against a measure, or for or against a candidate. She noted that Flower Mound staff has their office review any publication that is made regarding the election. The Town is permitted to have purely factual information. She also noted the ethics commission is very strict in enforcing these rules.

There was a brief discussion on the topic noting that any literature that was distributed for or against a matter usually was from private committees that use their funding.

I. COORDINATION OF CALENDARS

Chair Smith summarized the following meeting dates:

1. Next meeting date(s):

- Tuesday, June 21, 6pm, Town Hall **(Public Hearing)**
- Thursday, June 30, 6pm, Town Hall **(Public Hearing)**

Ms. Scott pointed out a revised timeline for the CRC which includes presenting a final report to Council on July 18th. She stated that the reason for the change is due to the first Council meeting being August 4th (to accommodate the budget).

After some discussion regarding setting a tentative July date, it was decided that a daytime option might work out the best. Chair Smith asked Ms. Scott to provide the CRC members with those date/time options.

J. ADJOURNMENT

Chair Smith adjourned the meeting at 8:05 pm, Thursday, June 9, 2016, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

JODY SMITH, CHAIR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 01

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment or policy recommendation should be recommended to enhance the Town's notification process as it relates to eminent domain.**

BACKGROUND INFORMATION: This item is a result of comments made by a citizen during public participation, and more specifically, as it relates to a recent property acquisition case on Bob White Lane.

The Charter Review Commission received the following information on the topic:

- legal input regarding the state law requirement of a 30 day initial offer letter, 14 day final offer letter, and 72 hour agenda posting
- Historical review of condemnation proceedings (5/12/16 CRC packet)

TOWN CHARTER § 2.03. - Eminent Domain.

The Town shall have full 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. The power of eminent domain hereby conferred shall include the right of the Town to take the fee and easement in the lands so condemned, and such power and authority shall include the right to condemn public and private property for such purposes. The Town shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purposes, even though not specifically enumerated herein or in this Charter.

State Law reference— Eminent domain, V.T.C.A., Local Government Code § 251.001 et seq.

TOWN CHARTER § 2.04. - Power to Acquire Property for Public Purposes.

The Town of Flower Mound shall have the power to acquire by condemnation either private or public property located inside or outside the corporate limits for public purposes; for the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, water sheds, dams, the laying, building, maintenance and construction of water mains and any necessary appurtenances or facilities which will furnish to the inhabitants of the Town an abundant supply of wholesome water; for sewerage plants and systems; rights-of-way for water and sewer lines; parks, playgrounds and schools, hospitals, fire stations, police stations, burial grounds and cemeteries, incinerators or other garbage disposal plants; streets, boulevards and alleys or other public ways; town jails, town halls and other municipal buildings; any right-of-way needed in connection with any property used for any purpose hereinabove named; for the straightening or improving of the channel of any stream, branch or drain and for any other municipal purpose. The procedure to be followed in any condemnation proceeding authorized herein shall be in accordance with the provision of the State law with reference to eminent domain. The provisions of V.T.C.A. Property Code, Chapter 21, shall apply to such proceedings, or such proceeding may be under any

other State law now in existence or that hereafter may be passed governing or relating to the condemnation of land for public purposes by the Town.

(Amend. of 5-15-2004)

ATTACHMENTS:

1. None.

RECOMMENDATION/MOTION OPTIONS:

- A.** Move to make no changes as it relates to eminent domain.
- B.** Move to recommend Council consider a policy change to introduce an enhanced notification process beyond the state law requirements for any impacted property owner(s).
- C.** Move to recommend a Charter amendment to include language that enhances the notification process beyond the state law requirements for any impacted property owner(s).



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 02

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to create a process in which to use in the event a Charter violation should occur by the Mayor or a member of Council.**

BACKGROUND INFORMATION: This item is one of the nine charges presented by Council to the Charter Review Commission (CRC) for review (Discuss options for processing charter violations).

The CRC received various documents to assist in the deliberations on this matter, including:

- a) Survey of benchmark cities and whether they have procedures for removal in place (6/9 packet)
- b) The Town Attorney's office provided a memo with examples of Charter violation incidents (5/26 packet)

Discussions by the CRC indicated that various members liked:

- ability to file for a specific violation
- receiving a written sworn complaint followed by a public hearing
- verbal or written warning initially (for some violations)
- clear & concise process (Richardson)
- use of censorship instead of just taking it to a vote to expel a member
- Supermajority vote to pass
- Carrollton might serve as a basis to work from
- Use of an outside investigator to allow for an impartial/nonpolitical review

And some of the CRC members had concerns/questions regarding:

- Use of outside investigator - associated cost
- Whether CRC should provide an actionable plan to determine a resolution or should that task be with Council
- Handled as public hearing vs public meeting
- Actual steps that would happen if a Charter violation should occur

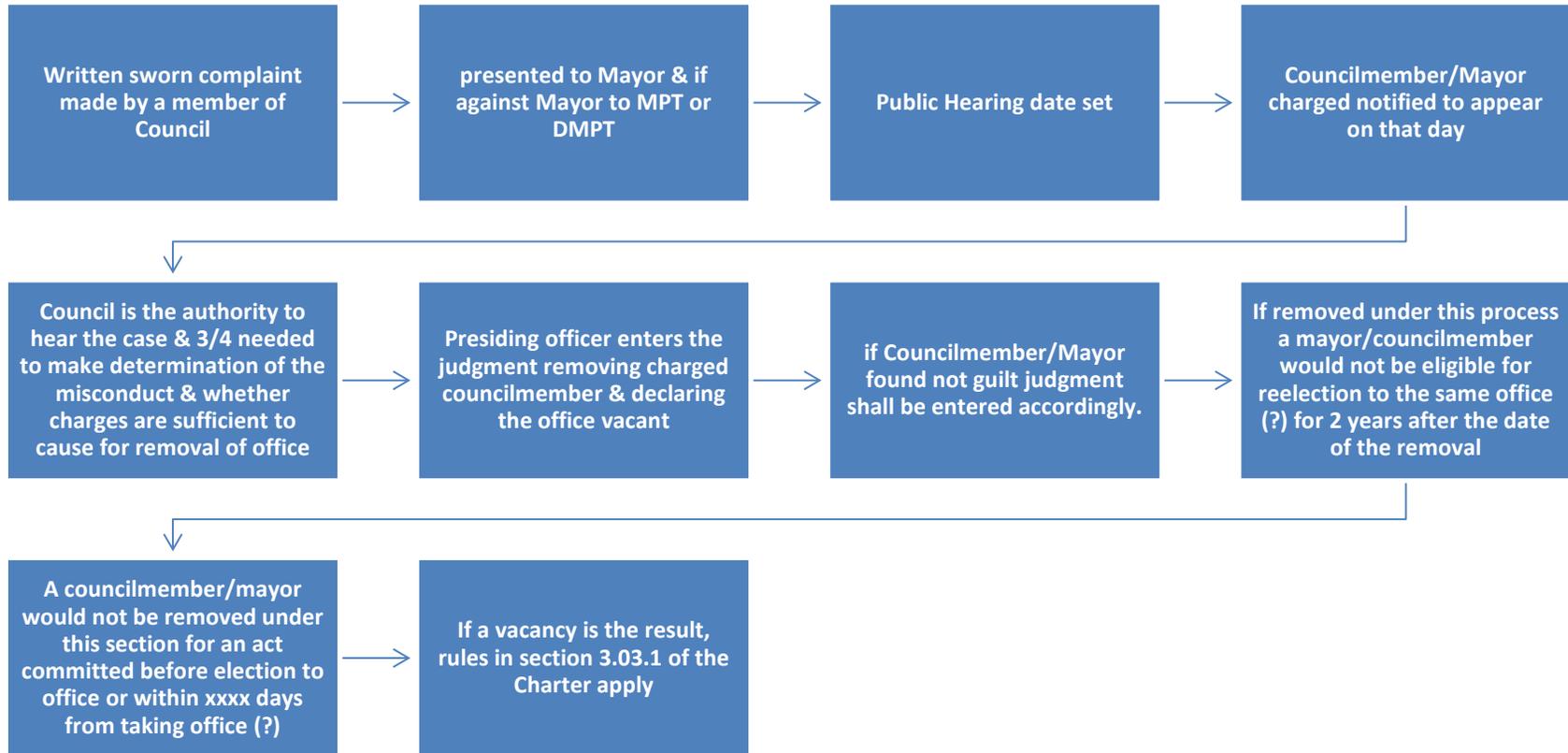
ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to a process for handling Charter violations by the Mayor or a member of Council.
- B. Move to recommend Council consider crafting language to address Charter violations by the Mayor or a member of Council.
- C. Move to recommend Council consider a Charter amendment to address Charter violations by the Mayor or a member of Council outlined as follows:
 - 1) A written sworn complaint must be filed by a member of council and presented to the mayor; and if the complaint is made against the mayor, the complaint is presented to the Mayor Pro Tem or Deputy Mayor Pro Tem
 - 2) A copy of the complaint would be given to the charged councilmember/mayor
 - 3) A public hearing date would be set to hear the case & the mayor/councilmember charged would be notified to appear on that day
 - 4) A majority of the councilmembers is sufficient to hear the case; however an affirmative vote of at least three-fourths (supermajority) of all members of the Town Council would be required to find the charged councilmember/mayor guilty of the charges contained in the complaint and find that the charges are sufficient cause for removal from office
 - 5) The presiding officer of the Town Council shall enter a judgment removing charged councilmember and declaring the office vacant. If the councilmember is found not guilty, judgment shall be entered accordingly. Note, the MPT or DMPT would serve as the presiding officer in the event the complaint is charged against the Mayor
 - 6) If removed under this process, a mayor/councilmember would not be eligible for reelection to *the same office*(?) for two years after the date of the removal.
 - 7) A councilmember would not be removed under this section for an act committed before election to office or *within _____ days from taking office* (?).
 - 8) In the event a vacancy occurs the rules in section 3.03.1 (Vacancies) of the Town Charter would apply

Option C visual overview of process:



APPLICABLE TOWN CHARTER REFERENCE § 3.02.2. - Forfeiture of Office.

A councilperson shall forfeit his office if he:

- (1)Lacks at any time during his term of office any qualifications for the office prescribed by this Charter or by Texas law; or
- (2)Is convicted in any court of (1) a felony, or (2) a Class A or Class B misdemeanor, or (3) a crime involving moral turpitude, or
- (3)Fails to attend three (3) consecutive regular meetings of the Council without first being excused by the Council; or
- (4)Willfully violates any express prohibition of this Charter.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 03

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change any provisions related to term limits or consecutive terms for elected officials.**

BACKGROUND INFORMATION: This item is one of the nine charges presented by Council to the Charter Review Commission (CRC) for review (Review and discuss provisions related to term limits and consecutive terms for elected officials). While discussing term limits and consecutive terms, the CRC also held discussions on the topic of three year term limits.

The CRC received various documents to assist in the deliberations on this matter, including:

- Benchmark cities comparison as it relates to term limits
 - How 3 years allows a member of Council to get past the learning curve
 - Legalities associated with having 3 year terms including an election needing to be within 120 days of a vacancy (5/26 packet)
 - Information related to the longest and average time an elected official has served
- Discussions by the CRC to date included:
 - How 3 years allows a political break and could make the mayor/council more productive as they are not thinking about a reelection soon after the 1st year
 - 3 years is a compromise compared to some cities having 4+
 - Residents decide the term limits when they go to the polls
 - 3 year versus a 2 year time commitment could be a factor in getting people to come forward to run
 - Is 2 years an appropriate amount of time to have influence in the community
 - concerns that if there was a change someone might run for Mayor just because their term as a Councilmember is soon to expire, ultimately extending their term to 12 years, and that would not be desired
 - The limited amount of time the current provision has been in place in that it just took effect in 2013 (not enough time to give it a chance to work to consider changing it)
 - Voter turnout in Nov versus May
 - Important to limit the amount of power and influence anyone should have in the community
 - The option of eliminating term limits altogether
 - How the current provision allows a member of council to give a one year break and then they can come back

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A.** Move to make no changes as it relates to term limits.
- B.** Move to recommend Council consider a Charter amendment to allow for a term limit clock reset should a member of Council run for Mayor; in essence extending the term for three additional terms of two years each for a total of six years
- C.** Move to recommend Council consider a Charter amendment to allow for terms consisting of three years instead of two years

TOWN CHARTER REFERENCE

§ 3.01. - Number, Selection, Term.

The Council shall consist of six members, a Mayor and five (5) Councilpersons, elected from the Town at large, by place or position, in the manner provided in Article V, for a term of two years or until their successors have been elected and take office as provided in Article V.

§ 3.02. - Term Limits.

Beginning with the Town Council election to be conducted on the second Saturday in May, 2013, neither the Mayor nor any member of the Town Council elected from and after said date shall be elected for more than three (3) full consecutive terms of two (2) years each for any place or position on the Town Council.

(Ord. No. 15-12, (Prop. 1, approved at referendum 5/12/2012), and adopted 5/21/2012 added 3.02 to create term limits)



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 04

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to expand the size of Council.**

BACKGROUND INFORMATION: This item was brought up by the Commission and coincides with the Council charge of "Based upon the Commission's review and the public's input, consider and identify recommendations for amendments to the Town Charter"

The topic of single member districts prompted much of the discussion given they are closely related.

The CRC received various documents to assist in the deliberations on this matter, including:

- Benchmark cities comparison as it relates to number of members (6/9 packet)
- Council calendar demonstrating commitment in the community and region beyond the dais
- A report from the Texas Municipal League demonstrating number of seats for cities with a similar population base
- Cost associated with a councilmember

Discussions by the CRC to date included:

- How the current Council structure has been in place for several years
- Whether the mayor should have the option to vote more often
- Whether or not one or two additional seats should be added

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to expanding the size of Council.
- B. Move to recommend Council consider a Charter amendment to add _____ (one, two) additional Council member(s) beginning with the Town Council election to be conducted in May, 20____ (year)

TOWN CHARTER REFERENCE

§ 3.01. - Number, Selection, Term.

The Council shall consist of six members, a Mayor and five (5) Councilpersons, elected from the Town at large, by place or position, in the manner provided in Article V, for a term of two years or until their successors have been elected and take office as provided in Article V.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 05

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Discuss and consider if a proposed Charter amendment should be recommended to change the current Council at large structure to single member districts (SMD), or any variation thereof.

BACKGROUND INFORMATION: This item was brought up by the Commission and coincides with the Council charge of "Based upon the Commission's review and the public's input, consider and identify recommendations for amendments to the Town Charter"

The CRC received various documents to assist in the deliberations on this matter, including:

- Survey of benchmark cities & whether they were comprised of at large or district seats
- Precinct by precinct reporting (voter turnout for the Town's 16 precincts in recent elections)
- Link to video where Syd Falk, Bickerstaff Heath Delgado Acosta LLP, Austin, Tx, who gave a presentation on the subject to the 2013/14 CRC, including a presentation by Denton County Elections Administration staff relative to operations and logistics associated with single member districts (11/19/13)
- Map demonstrating where elected officials lived over the course of several years
- Audio excerpt from when the topic of SMD was discussed by the CRC on 2/16/12
- A report noting that out of the 75 board/commission positions, 35 members reside on the east side of Town and 40 on the west side; recognizing, however, place of residency is never a factor when considering applicants

Discussions by the CRC to date included:

- Concerns that issues such as what citizens experience in non HOAs are not understood by elected officials that don't live in those areas
- The philosophy of the Town is that your representing everyone instead of potentially dividing the Town by geography
- Interest in getting feedback from the public relative to whether they are a supporter of single member districts or council at large seats
- Personal experience when campaigning and outreach efforts at that time
- There are enough divisions of thoughts that if you bring in more potential divisiveness that could be a problem more than an advantage
- A seat at large forces an elected official to look at all of the opinions of the citizens as opposed to making sure a particular district gets "a piece of the pie"
- People are already representing their neighborhood --- the issues of the neighborhood they live in are at the forefront of their mind
- Analysis of other cities and how single member versus at large is not necessarily associated with population, but more on the lines of demographics
- One of the issues facing the older non HOA neighborhoods is that homes are being turned over into rentals, and the associated problem of absentee landlords
- Concerns regarding the perception of making the town seem as its divided with the east side versus west side, and there is enough division already without adding to it – we are Flower

Mound, we are one Town and we need to represent ourselves as one Town and not an "us versus them", "east or west", "north or south" mentality.

ATTACHMENTS:

None.

Cautionary Note: In considering single member districts - redistricting may be necessary in conjunction with the U.S. Census to maintain a substantially equal population between single member districts to be in compliance with federal laws, and other legalities.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to changing the structure from the current at large structure.
- B. Move to recommend Council consider a Charter amendment to change the current structure from an at large structure to incorporate a single member district system for all council seats.
- C. Move to recommend Council consider a Charter amendment to change the current structure from an at large system and establish a framework for a hybrid at-large/single member system that would include:
 - 1) _____ at large seats
 - 2) _____ single member district seats that would include the following geographic areas _____, and establish a timeline for the completion of the districting process, as well as a criteria to be used in drawing the boundary lines.*

TOWN CHARTER REFERENCE

§ 3.01. - Number, Selection, Term.

The Council shall consist of six members, a Mayor and five (5) Councilpersons, elected from the Town at large, by place or position, in the manner provided in Article V, for a term of two years or until their successors have been elected and take office as provided in Article V.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 06

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to change the Parks, Arts, and Library Services (PALS) Board to the Parks Board.**

BACKGROUND INFORMATION: This item is part of the charge from Council – “review and discuss removal of the provisions relating to the Parks, Arts, and Library Services Board.”

In 2014 there was Council action to shift the responsibilities of the arts and library services duties from the PALS Board to the Cultural Arts Commission (previously known as the Public Arts Committee). This change was primarily due to park items dominating the agenda because of the level of activity. There were typically minimal or no items related to the art and library functions. This change allowed some members of the PALS Board to shift to the CAC where their interests were more aligned, and also allowed library staff to utilize their time more efficiently.

Currently there are two governing documents that have the arts and library functions defined (PALS Ordinance No. 106-07 and CAC Resolution No. 19-14). In order to change the PALS Ordinance to reflect what is actually happening now, there would need to be a name change and an update of the duties and responsibilities (parks functions only). Council has indicated a preference not to make any changes to the Ordinance given the current reference of the PALS Board in the Charter.

The CRC received various documents to assist in the deliberations on this matter, including:

- Ordinance defining the organization and structure of the PALS Board
- Resolution defining the organization and structure of the Cultural Arts Commission
- Input from the Town Attorney’s office relative to no legal requirement to have the board name spelled out in the Charter

Discussions by the CRC to date included:

- How the item is more on the lines of a clean up to match the Town’s current practice

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to changing the name of PALS as referenced in the Charter.

- B.** Move to recommend Council consider a Charter amendment to change the name of Parks, Arts, and Library Services to the Parks Board.

- C.** Move to recommend Council consider a Charter amendment to remove the name of the Parks, Arts, and Library Services to Parks Board in its entirety.

TOWN CHARTER REFERENCE

§ 8.04. Parks, Arts, and Library Services Board.

The Town Council shall at its discretion appoint seven (7) citizens and qualified voters of the Town of Flower Mound, who shall constitute its Parks, Arts, and Library Services Board, and who shall serve at the pleasure of the Town Council for such term as may be established by ordinance. The Parks, Arts, and Library Services Board shall perform such duties as the Town Council may direct.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 07

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of "and the State Comptroller of Public Accounts at Austin" and instead add the text "and the Tarrant County Clerk's office" in Section 9.10 of the Town Charter.

BACKGROUND INFORMATION: This item is part of the charge from Council – "review and discuss any provisions that conflict with state law or any of the Town's Ordinances."

There is currently not a state legal requirement to submit a copy of the Town's budget to the state comptroller's office. This was confirmed with both the Town Attorney and a representative from the state comptroller's office. The comptroller's office indicated that it is believed to simply be an old provision that was since rescinded.

Filing requirements for the budget are defined by Texas Local Government Code section 109.009(d) as indicated below:

Sec. 102.009. LEVY OF TAXES AND EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE. (a) The governing body of the municipality may levy taxes only in accordance with the budget.

(b) After final approval of the budget, the governing body may spend municipal funds only in strict compliance with the budget, except in an emergency.

(c) The governing body may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the governing body amends the original budget to meet an emergency, the governing body shall file a copy of its order or resolution amending the budget with the municipal clerk, and the clerk shall attach the copy to the original budget.

(d) After the adoption of the budget or a budget amendment, the budget officer shall provide for the filing of a true copy of the approved budget or amendment in the office of the county clerk of the county in which the municipality is located.

The CRC received various documents to assist in the deliberations on this matter, including:

- Legal input

Discussions by the CRC to date included:

- How the item is more on the lines of a clean up to include both Denton and Tarrant counties in the text and take out the comptroller's office as a filing entity given there is not a legal requirement to submit the budget or any amendments to them

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to changing the text in Section 9.10 of the Town Charter.
- B. Move to recommend Council consider a Charter amendment to remove the text of “and the State Comptroller of Public Accounts at Austin” and instead add “and the Tarrant County Clerk’s office” from/to section 9.10 of the Town Charter.

TOWN CHARTER REFERENCE

§ 9.10. Effective Date of Budget; Certification of Copies; Copies Made Available.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the Town Secretary, the County Clerk of Denton County, and the State Comptroller of Public Accounts at Austin. The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and organizations.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 08

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the text of “to cause only the caption of duly enacted ordinance to be published except as provided otherwise by law” from section 3.07 (w) of the Town Charter

BACKGROUND INFORMATION: This item is part of the charge from Council – “review and discuss any provisions that would improve efficiencies and/or result in a cost savings for the Town.”

Currently the Town Secretary’s office submits the caption of enacted ordinances that contain a fine or penalty clause after every Council meeting to the Denton Record Chronical. By statute, given the Town is a Home Rule Municipality; there is not a legal requirement to publish these captions in the newspaper of record.

Note, Section 4.03.1 (1) of the Town Charter requires the captions of enacted ordinances be recorded in the minutes. In addition, these same Ordinances are captured in their entirety on the Town’s website via the electronic [MuniCode Book](#).

Removing this text (requirement) would equate to an average savings of \$1,400 per year for the Town, and improve efficiencies in the Town Secretary’s Office by eliminating this task.

The CRC received various documents to assist in the deliberations on this matter, including:

- Legal input
- Expense statements

Discussions by the CRC to date included:

- How the item is more on the lines of a clean-up to remove this text since this procedure is already being done in two other places.

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A. Move to make no changes as it relates to changing the text in Section 3.07 of the Town Charter.
- B. Move to recommend Council consider a Charter amendment to remove the text of “to cause only the caption of duly enacted ordinances to be published except as provided otherwise by law” from section 3.07 (w) of the Town Charter.

TOWN CHARTER REFERENCE:

§ 3.07.Powers of the Council.

All powers of the Town and the determination of all matters of policy shall be vested in the Town Council. Without limitation of the foregoing and among the other powers that may be exercised by the Town Council, the following are hereby enumerated for greater certainty:

- (w) To name and designate an Official Newspaper for the Town of Flower Mound, Texas and to cause only the caption of duly enacted ordinances to be published except as provided otherwise by law.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 09

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: **Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to remove the two references of the word "department" from section 9.14 of the Town Charter.**

BACKGROUND INFORMATION: This item is part of the charge from Council – “review and discuss any provisions that would improve efficiencies and/or result in a cost savings for the Town.”

Currently if the situation arises where funds need to be transferred within a fund, the process is to bring forward a budget amendment item for Council consideration. The Finance Department has indicated that a change to allow the Town Manager authorization to transfer funds between a fund would eliminate budget amendments coming to Council for minor items, such as if there is a cost savings gained in a particular department due to personnel changes, and with Town Manager authorization, those funds could be immediately allocated elsewhere as needed within the same fund.

- a) Charter Section 9.14 relative to changing the text from transfer of funds from the department level to the fund level

§9.14. Transfer of Appropriations.

During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one ~~department~~ fund to another ~~department~~ fund, and to re-estimate revenues and expenditures. If the Town Council determines it is in the best interest of the Town to apply for and accept a private, county, state or federal grant of funds for a particular purpose, the Council’s action in accepting the award of said grant and any corresponding expenditures shall constitute a budget appropriation in the amount of said grant funds.

The CRC received various documents to assist in the deliberations on this matter, including:

- A discussion with the Town’s Executive Director of Finance (6/9 meeting)

Discussions by the CRC to date included:

- How the item doesn’t change the actual budget and that authority still remains with Council
- How the change would just be between a single fund and not multiple funds and the safeguard with that

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

- A.** Move to make no changes as it relates to changing the text in Section 9.14 of the Town Charter.
- B.** Move to recommend Council consider a Charter amendment to remove the two references of the word "department" from section 9.14 of the Town Charter.



CHARTER REVIEW COMMISSION AGENDA ITEM NO. 10

REGULAR ITEM

DATE: June 21, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Public Hearing to discuss and consider if a proposed Charter amendment should be recommended to delete the portion of the text that states "If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town".

BACKGROUND INFORMATION: This item is part of the charge from Council – "review and discuss any provisions that conflict with state law or any of the Town's Ordinances."

This item is being included with the 6/21 and 6/30 packet for informational purposes only given CRC action was taken on 4/28/16.

The following information on the subject was provided by the Town Attorney's Office:

The following prohibition in the Charter was preempted by the Legislature in 2013:

§ 5.04. - Filing for Office.

Each candidate for an elective office shall meet the qualifications set forth in § 3.02.1 of this Charter. If a member of any board appointed by the Council shall announce candidacy or becomes a candidate for election to any Town elected office, he may continue to serve on that board until elected. If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town.

The 2013 legislation reads as follows:

SUBCHAPTER C. EMPLOYEES AS CANDIDATES FOR OFFICE

Sec. 150.041. PROHIBITED MUNICIPAL ACTIONS. (a) In this section, "candidate" has the meaning assigned by Section 251.001(1), Election Code.

(b) A municipality may not prohibit a municipal employee from becoming a candidate for public office.

(c) A municipality may not take disciplinary action against a municipal employee, including terminating the employment of the employee, solely because the employee becomes a candidate for public office. However, the employee is still expected to fulfill all the duties and responsibilities associated with their municipal employment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1104 (H.B. 3739), Sec. 2, eff. June 14, 2013.

This prohibition would also preempt any provision in the PARM governing *candidacy* for public office. With that said, the PARM (or Charter) may prohibit campaigning while in uniform or on work time.

In addition, language prohibiting employment with the Town upon taking office, does not appear to be preempted by the 2013 legislation. The Town currently addresses this scenario in §3.02.1 of the Town Charter:

§ 3.02.1. - Qualifications.

Each member of the Council shall be a qualified voter of the Town, shall be twenty-one (21) years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable, have been a resident of the Town for at least one (1) year prior to election date, shall not be employed by the Town, and shall hold no other public office except that of Notary Public or a member of the National Guard, military reserve or Coast Guard reserve.

(Ord. No. 33-07, (Prop. 1, approved at referendum 5/12/2007), and adopted 5/21/2007, deleted § 3.02, which pertained to qualifications and derived from Amend. of 5-15-2004. Similar provisions have been enacted as § 3.02.1; Ord. No. 15-12, (Prop. 2, approved at referendum 5/12/2012), and adopted 5/21/2012)

With that said, §3.02.1 of the Town Charter may not be applied to prevent an employee from becoming a candidate for public office. As a result, the Council may wish to clarify §3.02.1 such that upon taking office, a newly elected Councilmember – who is an employee of the Town – shall forfeit employment with the Town.

The CRC received various documents to assist in the deliberations on this matter, including:

- Legal input

Discussions by the CRC to date included:

- How the item is to clean-up a provision that conflicts with state law

ATTACHMENTS:

None.

RECOMMENDATION/MOTION OPTIONS:

No additional action is needed by the CRC since the following motion was presented on and received a 5-0 on 4/28/16:

Commissioner Trotter moved to recommend that Section 5.04 of the Town Charter be amended by deleting the portion of the text as follows: "If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town". Commissioner Rawson seconded the motion.

VOTE ON THE MOTION:

AYES: MASTEY, RAWSON, SMITH, TROTTER, WALLACE

NAYS: NONE