City of Pflugerville

Minutes - Final

Charter Review Commission

Thursday, May 6, 2021	6:00 PM	100 E Main Street, Suite 500

Regular Meeting (Telephone/Video Conference)

NOTICE IS HEREBY GIVEN in accordance with order of the Office of the Governor issued March 16, 2020, the Charter Review Commission will conduct this Meeting by telephone/video conference in order to advance the public health goal of limiting face-to-face meetings to slow the spread of the COVID-19. There will be no public access to the location described above.

This Meeting Agenda, and the Agenda Packet, are posted online at https://pflugerville.legistar.com

This telephonic/video meeting will be hosted through WebEx.
Meeting Public URL: https://pflugervilletx.webex.com/pflugervilletx/onstage/g.php?MTID=e745f9a31256eaf4b718a0270fdbe4ac4
Meeting Number / Code: 187 193 0910
Dial-in Number: +1-408-418-9388 (US toll)

Public Comment will only be allowed via telephone/video conference. All speakers must register to speak at least 2 hours in advance of the meeting. All comments will occur at the beginning of the meeting under the Public Comment item. Speakers must call in at least 15 minutes prior to the meeting start in order to speak. Written comments may also be submitted 2 hours in advance of the meeting. Name and address must be included. Written comments are limited to 250 words.

To register to speak or to submit written comments, please email citysecretary@pflugervilletx.gov at least 2 hours in advance of the meeting. A recording of the telephone/video meeting will be made, and will be available to the public upon written request.

1. Call to Order

Chair McDonald called the meeting to order at 6:04pm. Charter Review Commission Members in attendance: Nicole Cortez, Mark Gladney, Gayle Heath, Sheldon Lamey, Dorothy Lee, Amanda Maedgen, Jim McDonald, Terry Newsom, Jeff Reeb, Carol Teitelman, Darelle White. Commissioner Charlie Torres joined the meeting at 7:15pm.

Charter Commission Members absent: April Griffin, Copie Hotman, Marilyn Klassen, Kensing Marquez, Elizabeth Montoya.

City staff present: Charles Zech, City Attorney; Trista Evans, Deputy City Secretary; Wade Maness, Videography Multimedia Specialist; Trey Fletcher, Deputy City Manager.

2. Public Comment

Commissioner Cortez made a statement regarding letting go of committee members who have missed three consecutive meetings.

In accordance with the Texas Attorney General's Opinion, any public comment that is made on
an item that is not on the published final agenda will only be heard. No formal action, discussion, deliberation, or comment will be made. Each person providing public comment will
be limited to 3 minutes.

3. Approval of Minutes

3A. 2021-0341 Discuss and consider action to approve the minutes of the April 1, 2021 Charter Review Commission Meeting.

Commissioner White stated for item 4D he also opposed the motion. Deputy City Secretary Evans stated she would review the video during the break to confirm. Chair McDonald stated the item would return after the break.

4. Discuss and Consider Action

4A. 2021-0342 Discuss and consider action regarding recommendations for possible amendment to the City Charter, Article VII, Initiative and Referendum.

Commissioner White stated there are some "he/she" items that will need to be included in the general amendment to change gendered pronouns. No other discussion for amendments.

4B. 2021-0343 Discuss and consider action regarding recommendations for possible amendment to the City Charter, Article VIII, Boards and Commissions.

Chair McDonald opened discussion on section 8.02 for membership qualifications, stating he heard complaints about lack of representation within the extraterritorial jurisdiction (ETJ) when they have to go to the Planning and Zoning Commission for certain approvals and wanted to discuss opening up membership on boards and commissions to the ETJ. Commissioner Reeb asked if it was possible to allow people in the ETJ to comment on what is going on in

the ETJ only. Chair McDonald stated that would be a burdensome restriction. Commissioner Newsom asked if ETJ pays taxes. Chair McDonald stated they do not. Commissioner Newsom stated he would not want those who do not pay taxes to make those choices. Commissioner Teitelman asked if the ETJ could only be on boards they get services from. Commissioner Maedgen asked if the city is having trouble filling board slots. Chair McDonald stated it is intended as a discussion for representation. Commissioner Maedgen stated to be hesitant to open it up to the ETJ. Commissioner Lamey stated if they are not paying city taxes they should not be on city boards. City Attorney Zech provided information about ETJ annexations and that the city only has control over approval of plats. There was consensus for no change to the section.

4C. 2021-0344 Discuss and consider action regarding recommendations for possible amendment to the City Charter, Article IX, Budget and Financial Administration.

Commissioner Newsom opened discussion on Article 9 with a recommendation to add a section 9.10 Voter Approval of Certain Expenditures Required. Commissioner Newsom read Resolution No. 1698-19-05-14-0619 authorizing use of certificates of obligation. Commissioner Newsom stated certificates of obligation do not allow voters to vote, the proposed amendment would have no cap on emergency spending, would limit any single project to $100,000 without going to the voters. Commissioner Teitelman stated there is a state level remedy and not sure if the amendment is needed and asked for clarification on the language of the proposal. Commissioner Newsom provided some additional background information and stated that if it is more than $100,000 per item the voters should be able to vote on it.

Vice Chair Gladney stated the proposal has some merit and provided some information about certificates of obligation in 2013 stating the public pushed back and council did not seek certificates of obligation. Vice Chair Gladney stated that people want to have a say in how their money is being allocated. Commission Teitelman spoke about the state cap and asked if voters can always ask for a vote with 5% of the voters. City Attorney Zech confirmed. Commissioner Newsom stated in 2015 a bill was passed that prohibited certificates of obligation from begin used for any project citizens denied in the past three years. Commissioner Teitelman stated not seeing it as an ongoing issue. Commissioner Maedgen stated that the problem the proposed amendment would create would be greater than the problem it is trying to solve, stated that if the city's hands are tied then city business would grind to a halt. Commissioner Cortez stated agreement that the amount in the amendment is low but thinks there can be a balance where both sides win. Commission Heath spoke regarding issues related to city hall buildings and some reasons why the resolution may have been written the way it was. Chair McDonald provided some background information. Commissioner Newsom stated it does not need to be a chronic issue and should have the right to vote because it is the citizens' money.

Chair McDonald called for a vote to continue discussion. The vote was as follows: Nicole Cortez - yes, Mark Gladney - yes, Gayle Heath - no, Sheldon Lamey - yes, Dorothy Lee - no, Amanda Maedgen - no, Jim McDonald - no, Terry Newsom - yes, Jeff Reeb - yes, Carol Teitelman - no, Darelle White - yes. Discussion continued.

Commissioner Newsom stated the dollar amount is flexible and if someone else has a different proposal they can put it in, main concern is to stop the huge ticket items not to stop the city council from operating. Commissioner White stated that if any city council goes over what someone considers reasonable the recall provision is the quickest way to go and to amend the charter to say there is going to be a limitation says that the commission thinks future council will abuse it. Vice Chair Gladney stated agreement and was glad to hear openness to flexibility of amount. Commissioner Heath stated she would not know where to begin to set limits on projects. Commissioner Maedgen stated agreement not knowing where to set a limit, stating things cost more than you expect on a municipal project and does not want to tie hands. Commissioner Reeb stated hearing that certificates of obligation are rare in the city and asked what the resolution would do. Chair McDonald stated the point of the amendment is to cap the amount. Commissioner Torres stated agreement with Commissioner Maedgen, stating there is trust put into the elected officials and if they do something that is not agreed with there is something to do about it. Commissioner Newsom stated hearing it is a rare occurrence but it is in the budget. Chair McDonald stated certificates of obligation were necessary to municipal operations and would look for a motion.

Commissioner Newsom made a motion to approve the amendment as stated. Commissioner Cortez stated the amount is too low and asked for a conversation about the amount. Commissioner Newsom pulled his motion, stated he is looking for an amount. Vice Chair Gladney asked if this is something staff can look into. Chair McDonald suggested working on it now due to the short time line of the commission. Commissioner Heath stated as a growing city with so many projects would hate to put a limit on it and would not feel comfortable putting a number out. Commissioner Newsom stated the average amount of certificates of obligation over the years was roughly $4.83 million. Commissioner Maedgen suggested cap at $5 million. Commissioner Newsom stated $2.5 million. Discussion followed regarding clarification of language.

Commissioner Cortez made a motion for the proposed amendment to cap at $2.5 million. Commissioner Reeb seconded. Chair McDonald spoke in opposition stating this was an egregious constraint. Commissioner Torres spoke in opposition stating with the city growing at the rate it is it will cost money and trusts the elected officials. Commissioner Lee stated that elected officials are trusted to do the right thing and if they are not trusted they should not have been voted into office, stated looking for a solution to a problem that does not exist. Commissioner Cortez stated agreement there should be a new city hall but does not agree with the number and trusts the voters and neighbors to do what is best for the community while holding people accountable to the people they serve.

Chair McDonald called for a vote, the vote was as follows: Nicole Cortez - yes, Mark Gladney - yes, Gayle Heath - no, Sheldon Lamey - yes, Dorothy Lee - no, Amanda Maedgen - no, Jim McDonald - no, Terry Newsom - yes, Jeff Reeb - yes, Carol Teitelman - no, Charlie Torres - no, Darelle White - no. The motion failed.

Chair McDonald called a recess at 7:57pm. The meeting was called back to order at 8:12pm.

4D. 2021-0345 Discuss and consider action regarding recommendations for possible amendment to the City Charter, Article X, Franchises and Public Utilities.

There was discussion about what constitutes a franchise. There were no recommendations.

4E. 2021-0346 Discuss and consider action regarding recommendations for possible amendment to the City Charter, Article XI, General Provisions.

Commissioner Maedgen recommended adding "gender or sexual orientation" to section 11.04 nondiscrimination. Commissioner Torres voiced agreement, asked City Attorney Zech to confirm if this can legally be added. City Attorney Zech stated it could be added. Commissioner White asked City Attorney Zech if the state and federal laws override it. City Attorney Zech stated that if the city does something discriminatory in nature federal and state law would trump and that it can be more expansive with policy, just not less.

Commissioner Maedgen made a motion to add "gender and sexual orientation" to Section 11.04. Commissioner Torres seconded the motion. All voted in favor. The motion passes.

Chair McDonald opened discussion on Section 11.03 nepotism with a recommendation to strike reference to the Government Code and add "No Councilmember." Vice Chair Gladney asked if by striking the reference to the code it is also removing the exceptions under state law. City Attorney Zech stated in the affirmative. Commissioner Heath asked for clarification on what the amendment would do. Chair McDonald stated it is for optics. City Attorney Zech provided some information on the exceptions provided in the code. Vice Chair Gladney stated it seemed to be narrow and does not seem to be an issue. Discussion followed regarding some of the exceptions. Commissioner Torres stated that with this a council person would not be in deliberation or voting on a related person, but it would not prohibit that person from serving. City Attorney Zech stated the proposed would not prohibit council from appointing relation and it does not need to state councilmember specificially. Chair McDonald stated adding "or direct appointment." Commissioner Teitelman stated it may be better for the city to restrict the insider look that this may cause. Commissioner Newsom stated it may raise some appearance of nepotism, Commissioner Lee stated agreement.

Commissioner Newsom made a motion to go forward with the edited statement to specify appointment. Commissioner Lamey seconded. Chair McDonald read the motion to amend section 11.03 to strike the Government Code statement and to start with "No officer" and adding "no direct appointment." Chair McDonald called for a voice vote, then a roll call vote. Vote was as follows: Nicole Cortez - no, Mark Gladney - no, Gayle Heath - no, Sheldon Lamey - no, Dorothy Lee - no, Amanda Maedgen - yes, Jim McDonald - yes, Terry Newsom - yes, Jeff Reeb - yes, Carol Teitelman - yes, Charlie Torres - yes, Darelle White - no. The motion failed.

4B. 2021-0343 Discuss and consider action regarding recommendations for possible amendment to the City Charter, Article VIII, Boards and Commissions.

Chair McDonald brought item 4B back to discuss his recommendations. Chair McDonald opened discussion on Section 8.02 Membership Qualifications which would clean up some of the language and make sure that membership

qualifications apply to those outside the charter and that members do not serve on multiple boards. There was no discussion, and no motion.

Chair McDonald discussed section 8.03 with a recommendation to add a statement that no councilmember or city employee shall serve as a voting member or as an officer of any board or commission created by this charter or city ordinance. Chair McDonald stated he served on PCDC while on council and he voted on things that then went to council so he voted again. He stated the change would result in council being liaisons to the boards as a resource. Commissioner Heath asked how it would impact external boards like CAMPO or CAPCOG. Chair McDonald stated it would not. Commissioner Newsom asked for clarification on the purpose. Chair McDonald stated it was so councilmembers would be liaisons and not voting members. Discussion followed regarding makeup of boards and commissions. Commissioner Newsom suggested a time out before councilmembers can serve on a board they appointed members to and cannot serve on that board for three months. Commissioner Heath stated council appoints positions every year so everyone will be taking time out. Commissioner Newsom stated it could apply if a council member loses position. Commissioner Maedgen stated concern about restricting the pool of volunteers. Commissioner Newsom stated seeing it as something that could be taken care of and could not see adding one without the other. Vice Chair Gladney asked if a sitting councilmember cannot vote does that mean an extra person needs to be added to the board. Chair McDonald stated the intended consequence would create an additional seat for citizen input.

Commissioner Teitelman made a motion to amend as stated by Chair McDonald. Commissioner Torres seconded the motion. Commissioner Newsom stated support, just wished it went farther. Commissioner Teitelman stated experience working with elected officials in a liaison role and sees it as a move in the right direction. Chair McDonald called for a voice vote, then a roll call vote. The vote was as follows: Nicole Cortez - yes, Mark Gladney - yes, Gayle Heath - no, Sheldon Lamey - yes, Dorothy Lee - no, Amanda Maedgen - yes, Jim McDonald - yes, Terry Newsom - yes, Jeff Reeb - yes, Carol Teitelman - yes, Charlie Torres - yes, Darelle White -no. The motion passes.

4F. 2021-0471 Discuss and consider action regarding recommendations for possible amendment to the City Charter, Article IV, Section 4.02(b) regarding Municipal judge and associate judges.

Chair McDonald read his recommendation for Section 4.02(b) to add "No municipal or associate judge shall also be a city employee. A city employee that is appointed as a judge is deemed to have resigned from city employment immediately upon accepting the appointment." Chair McDonald provided some background stating he thinks in a larger city it is no longer necessary for associate judges to also be a city employee and wanted to add some separation and delineate clear lines of authority. Commissioner Teitelman mad a motion for the recommendation as stated. Commissioner Torres seconded the motion. Chair McDonald called for a voice vote, then a roll call. The vote was as follows: Nicole Cortez - no, Mark Gladney - no, Gayle Heath - no, Sheldon Lamey - no, Dorothy Lee - no, Amanda Maedgen - yes, Jim McDonald - yes, Terry Newsom - no, Jeff Reeb - yes, Carol Teitelman - yes, Charlie Torres - yes, Darelle White - no. The motion failed.

4G. 2021-0472 Discuss and consider action regarding recommendations for possible amendment to the City Charter, Article IV, Section 4.06 regarding Administrative Departments.

Chair McDonald provided his recommendation to add "or designated in the City's adopted annual budget ordinance" to section 4.06. Chair McDonald stated that it would allow for anything that is within the budget to be able to move forward without having to create an ordinance. Vice Chair Gladney stated the city manager could make as many administration departments or shuffle things around however they wish as long as the council approves it in the annual budget. Chair McDonald stated city managers reorganize administration departments for efficiency's sake, so instead of going to city council to ask to move they can stipulate it in the budget and provide to council that way. Vice Chair Gladney stated shifting departments can make it difficult to find specific items. Chair McDonald provided some additional background, stating the intention is for efficiency. Vice Chair Gladney stated the city manager should be going to city council to explain creation and for approval of departments. Chair McDonald stated the review process still comes up, but rather than one at a time it is under the umbrella of the annual budget. Commissioner Torres stated it seems like this would simplify things. Vice Chair Gladney stated he would not want this to cause too many departments created that would make things difficult to find. Chair McDonald stated the intention is to aggregate all the discussions within the budget discussion so it can be created as a whole. Commissioner Heath stated that then once the budget is adopted the city manager can set up whatever they want. Chair McDonald stated that if the department is identified and labeled in the budget then the city manager can create that department. Commissioner Teitelman stated not liking any of decisions being made by non-elected officials and understands the oversight of council in the budget but not sure why it makes more sense than what is done now.

Commissioner Torres moved to accept the proposed amendment as presented. Commissioner Reeb seconded the motion. Chair McDonald read the language as presented and called for a voice vote, then roll call. The vote was as follows: Nicole Cortez - yes, Mark Gladney - no, Gayle Heath - no, Sheldon Lamey - yes, Dorothy Lee - no, Amanda Maedgen - no, Jim McDonald - yes, Terry Newsom - no, Jeff Reeb - yes, Carol Teitelman - yes, Charlie Torres - yes, Darelle White - no. The motion failed.

3B. 2021-0341 Discuss and consider action to approve the minutes of the April 1, 2021 Charter Review Commission Meeting.

Chair McDonald brought item 3B back for discussion. Deputy City Secretary Evans stated that Commissioner White did also vote opposed in item 4D and would make that addition to the minutes. Commissioner White moved to approve the minutes as amended. Commissioner Teitelman seconded the motion. Vice Chair Gladney abstained due to absence from the meeting. All others voted in favor. The motion passed.

5. Discuss Only

5A. 2021-0464 Discuss report and presentation to City Council.

City Attorney Zech provided information on the process and stated staff can see what proposed amendments were approved and compile them for the commission. Commissioner Maedgen stated a search should also be completed for "chairman" when searching for gendered pronouns. City Attorney Zech stated he could create a charter as it would look if all the proposed amendments passed. Commissioner Heath requested to get an idea of how the process will work at the joint meeting. Chair McDonald stated the chair would make the report and council can ask questions, stating the recommendations from the commission cannot be denied. City Attorney Zech stated the last joint meeting will be the commission presenting the report and council may ask questions regarding why or how and the joint meeting would be the last meeting. There was consensus that there would be one more commission meeting on May 20th to discuss the joint meeting and view the approved amendments.

6. Adjourn

Chair McDonald adjourned the meeting at 10:02p.m.

Respectfully submitted,

Trista Evans
Deputy City Secretary

Approved as submitted on May 20, 2021.