



FINAL REPORT

TO: Mayor Lyle Nelson & Members of the City Council, City of Bastrop
FROM: David Bragg, Chairperson, Charter Review Commission
CC: Members of the Charter Review Commission; Sylvia Carrillo-Trevino, City Manager
DATE: August 6, 2024
RE: **Recommendations regarding Possible Amendments to the Bastrop Charter**

PROCEDURAL HISTORY

Previously a General Law City (founded in 1832 and incorporated in 1837), the City of Bastrop became a Home Rule City in 2002. The Charter was last amended in 2016. The current Charter Review Commission was created by Ordinance 2024-18 on July 9, 2024. By ordinance, the Commission was created as a temporary, *ad hoc* advisory group, with the limited purpose of recommending to the City Council what (if any) modifications should be presented to Bastrop voters as amendments to the Charter. The Commission included members with very substantial experience in city business, including two former mayors, a former city attorney, and individuals with years of service on various city boards and commissions. The Commission also had the benefit of the current City Attorney's involvement, including creating documents for analysis and discussion and valuable advice and counsel.

The first meeting of the Commission was held the afternoon of Wednesday, July 17, 2024. Twelve of the thirteen members were in attendance (one remotely through videoconferencing). I was selected as its chairperson. The Commission met for approximately 3.5 hours. The meeting was conducted in compliance with the Texas Open Meetings Act, open to the public, and broadcast live. It was a very productive session that included a legal and procedural briefing from the City Attorney and the consideration of specific potential amendments.

The second meeting was conducted the afternoon of Monday, July 29, 2024. All thirteen members were in attendance (one remotely). The Commission met for about 1 hour and 15 minutes. As with the first meeting, the second was conducted in compliance with the Texas Open Meetings Act, open to the public, and broadcast live.

RECOMMENDATIONS

The following propositions were addressed by the Commission. The majority of the items were initially part of the 2022 ballot for the special election that was cancelled. Most propositions may be characterized as non-substantive clean-up edits. They are offered here in the order they would appear in the Charter.

ANNEXATION: *By a 12-0 vote, this amendment was **APPROVED** by the Commission.*

Prop. A: Shall Section 2.03 of the Charter be amended to conform with state law by removing reference to the City’s power to annex territory without consent of the inhabitants?

Explanation: Legislative changes to Texas statutory law have made it difficult to annex property without the consent of the property owners. See Texas Local Government Code Chapter 43. The suggested amendment has the Charter defer to state law and avoid conflicting language.

Amended Text: If approved, the section will read (in relevant part):

Section 2.03 - Annexation

The Council shall have the power by ordinance to fix the boundary limits of the City to provide for the alteration and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, in compliance with state law ~~with or without the consent of the territory and inhabitants annexed~~. During the annexation process, the Council shall provide an opportunity for all interested persons to be heard at public hearing(s), in conformance with state law....

RESIGN TO RUN: *By a 12-0 vote, this amendment was **APPROVED** by the Commission.*

Prop. B: Shall Section 3.06(6) of the Charter be amended to conform with state law creating a vacancy on the city council when a council member announces their candidacy for certain elected offices and the unexpired term of the council member exceeds one year and thirty days?

Explanation: The Texas Constitution has a provision commonly referred to as the *Resign to Run* rule, which automatically creates vacancies in certain elected offices if the incumbent announces they are seeking another elected office. The *Resign to Run* rule applies (in relevant part) when certain candidates for other offices have 1 year and 30 days left on their current term. The current Charter provision only references the 1 year mark, but omits the additional 30 days.

Amended Text: If approved, the section will read (in relevant part):

Section 3.06 - Vacancies, Forfeiture of Office and Filling of Vacancies.

The office of a Council Member shall become vacant upon the member's death, resignation, removal from or forfeiture of that office. A Council Member shall forfeit that office if the Council Member: ...

(6) announces his/her candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of the State of Texas or the United States other than the office then held, at any time when the unexpired term of the Council Member then held shall exceed one (1) year and thirty (30) days, such announcement or such candidacy shall constitute an automatic resignation of the Council position then held, as set forth in Article XVI, Sec. 65(b) of the Texas Constitution.

TWO READINGS: *By a 12-0 vote this amendment was NOT approved by the Commission.*

Prop. C: Shall Section 3.15(b) of the Charter be amended to authorize the city council to waive by an affirmative vote of four (4) or more Council Members the requirement that an ordinance be read in two separate meetings?

Explanation: State law does not require that all ordinances be read at two separate meetings before being adopted. However, the current Charter does. There are occasions when it would be expeditious and advantageous to dispense with the second reading (e.g., at the end of the year and during holiday seasons). This amendment allows waiver of the two-reading requirement if the waiver is approved by a super-majority vote of the City Council. The suggested amendment provides flexibility.

Amended Text: If approved, the section will read (in relevant part):

Section 3.15 - Ordinances in General.

(b) Procedure. An ordinance may be introduced and acted upon at any regular or special meeting of the Council. No ordinance shall be passed, except in cases of emergency, until the descriptive caption of the ordinance shall have been read in two separate meetings of the Council.

The requirement for considering ordinances and reading the descriptive caption thereof at two (2) separate meetings may be dispensed with: (1) where an ordinance relating to the immediate preservation of the public peace, health or safety is adopted as an emergency measure by a majority vote of the Council Members and such emergency ordinance shall take effect immediately upon its adoption and execution without a second consideration; or (2) when a majority vote of four or more Council Members determines through a separate motion that the first reading is sufficient for adequate consideration of the ordinance.

COPIES OF REGS: *By a 12-0 vote this amendment was APPROVED by the Commission.*

Prop. D: Shall Section 3.16 of the Charter be amended to reflect the fact that codes of technical regulations are available to the public digitally and free of charge?

Explanation: Technical regulations such as the *Building Bastrop Block Technical Manual* are often necessary to implement city policies regarding building and construction. State law does not require such rules to be posted online. Whether to provide technical codes online is a local policy decision. With advances in technology, it is not always necessary or feasible to print and sell hardcopy versions of the City’s Code of Ordinances. Instead, the technical codes can now be accessed by the public at-will and without fees from the City’s home page.

Amended Text: If approved, the section will read (in relevant part):

Section 3.16 Codes of Technical Regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedures and requirements governing such an adopting ordinance shall be that prescribed for ordinances generally. A copy of each adopted code of technical

regulations, as well as the adopting ordinance, shall be authenticated and recorded by the City Secretary pursuant to Section 3.17.

Copies of any adopted code of technical regulations shall be made available by the City Secretary digitally without charge through the City’s website ~~for purchase at a reasonable price.~~

COPIES OF ORDINANCES: *By a 12-0 vote, this amendment was **APPROVED** by the Commission.*

Prop. E: Shall Section 3.17(b) of the Charter be amended to reflect the fact that ordinances are available to the public digitally and free of charge?

Explanation: Ordinances are municipal rules and regulations. State law does not require ordinances be compiled into a published collection called the Code of Ordinances (i.e., codified). Whether to codify ordinances is a local policy decision. State law does not mandate how Codes of Ordinances are published when codified. Bastrop has a Code of Ordinances. With advances in technology, it is no longer necessary or feasible to print expensive hard copy versions of the City’s Code of Ordinances. Instead, the ordinances can now be accessed by the public at-will and without fees from the City’s home page.

Amended Text: If approved, the section will read (in relevant part):

Section 3.17 Authentication and Recording; Codification

(b) Codification. All City ordinances having the force of law shall be codified. The general codification shall be adopted by the Council by ordinance and shall be published online ~~in loose-leaf form~~ and shall include this Charter and any amendments thereto. The official copy of the City Code in the office of the City Secretary shall be kept up to date and properly indexed. It shall not be necessary to repeat in this codification any technical codes adopted by reference. Copies of the City Code shall be available to the public digitally without charge through the City’s website ~~furnished to City offices, placed in libraries and public offices for free public reference and made otherwise available for purchase by the public at a reasonable price fixed by the Council. Amendments to the City Code shall also be made available for purchase by the public as they become available.~~

MUNI JUDGE’S TERM: *By a 12-0 vote, this amendment was **APPROVED** by the Commission.*

Prop. F: Shall Section 5.02 of the Charter be amended to conform with state law by stating that the term of office of municipal court judges shall be provided for by ordinance?

Explanation: State law states that the city council shall provide by ordinance for the term of office of its municipal judges. The term must be for a definite term of two or four years. Tex. Gov’t Code § 30.00006(d). The Bastrop Code of Ordinances provides for a two-year term. The current Charter provision states that the term is three years. The suggested amendment brings the Charter into compliance with state law.

Amended Text: If approved, the section will read (in relevant part):

Section 5.02 - Judge of the Municipal Court.

The Municipal Court shall be presided over by a Judge(s). The Judge(s) shall be nominated by the Mayor and appointed by the Council for a term ~~provided by ordinance of three (3) years to run concurrently with the term of the office of the Mayor, or for the portion of such unexpired term as may remain at the time of the appointment.~~

PETITIONS FOR INITIATIVE REFERENDUM: *By a 12-0 vote, this amendment was **APPROVED** by the Commission.*

Prop. G: Shall Section 10.04 of the Charter be amended to conform with state law by requiring petitions calling for initiative or referendum elections to comply with the Texas Election Code?

Explanation: Texas Election Code Ch. 277 states that petitions can't be amended or supplemented (with certain exceptions) after they are filed. The current language is inconsistent with state law. The suggested amendment brings the Charter language into compliance with state law by simply referring to the applicable state statute.

Amended Text: If approved, the section will read (in relevant part):

Section 10.04 Filing, Examination and Certification of Petitions

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument.... A petition may be amended or supplemented in compliance with the Texas Election Code at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary, by filing a supplementary petition. ~~In such event, the same procedures shall then be followed by the City Secretary and Council as in the case of the original petition for the same purpose.~~

PETITIONS FOR RECALL: *By a 12-0 vote, this amendment was **APPROVED** by the Commission.*

Prop. H: Shall Section 10.08 of the Charter be amended to conform with state law by requiring petitions calling for recall elections to comply with the Texas Election Code?

Explanation: Texas Election Code Ch. 277 states petitions can't be amended or supplemented (with certain exceptions) after they are filed. The current language is inconsistent with state law. The suggested amendment brings the Charter language into compliance with state law by simply referring to the applicable state statute.

Amended Text: If approved, the section will read (in relevant part):

Section 10.08 - Recall Election.

All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the Council at its next regular meeting. A petition may be amended or supplemented in compliance with the Texas Election Code. ~~If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition.~~

P&Z MEMBERSHIP: After being tabled at the first meeting of the Commission, this amendment was **NOT approved** by the Commission. In the Commission’s second meeting, a motion was made to leave the number of Planning and Zoning Commissioners as stated in the Charter and this motion was approved on a vote of 12-0.

Prop. I: Shall Section 12.01 of the Charter be amended to provide that the number of Planning and Zoning commissioners shall be established by ordinance?

Explanation: State law does not specify the membership of a Planning and Zoning Commission; thus, it is a matter of local preference. The current size of the P&Z under the Charter is 9. This amendment removes reference to the size of the P&Z from the Charter and allows the City Council to set the size of the P&Z by ordinance.

Amended Text: If approved, the section will read (in relevant part):

Section 12.01 - Planning and Zoning Commission.

There shall be established a Planning and Zoning Commission which shall consist of ~~nine (9)~~ residents, serving staggered three-year terms.

Any vacancy on the Commission shall be filled by the Council for the remainder of the unexpired term in question. Members of the Commission shall serve without compensation and may be removed by the Council at its sole discretion. The Commission shall annually elect a Chair and a Vice Chair from among its membership. A majority of members shall constitute a quorum. The Commission shall keep minutes of its proceedings and such minutes shall be of public record.

OUTDATED TRANSITIONS: By a 12-0 vote, this amendment was **APPROVED** by the Commission.

Prop. J: Shall Sections 14.03 and 14.04 of the Charter be repealed in their entirety as outdated, transitional provisions that are now irrelevant?

Explanation: These provisions are surplus language included as part of the 2010 Charter amendments as an explanation regarding the implementation of that collection of modifications, which included increasing terms of office from 2 to 3 years. They no longer have any relevance to the current Charter and will not affect any future amendments.

~~Section 14.03—Submission of Charter Amendment to Election.
The City Council, in preparing these Charter Amendments, finds and declares that it is impracticable to segregate each subject so that the voter may vote "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to properly function it is necessary that it should be amended as set forth on the seven (7) separate ballots presented. For this reason, the City Council directs that the ballot provisions related to these Charter Amendments be voted upon as set forth on the seven (7) ballot propositions presented, and that these amendments shall be submitted to the qualified voters of the City at an election to be held on the 2nd day of November, 2010. The various Charter Amendments approved by a majority of the qualified voters, voting at this election, shall become the~~

~~Amended Charter of the City of Bastrop on the date the Council enters an order in the records of the City declaring that the various approved Charter Amendments are adopted and the Home Rule Charter is, thus, Amended to include the ballot changes approved by the voters of the City of Bastrop. No amendments to the Charter are intended nor shall same be made other than those specifically approved by the voters in the upcoming election, and as noted herein.~~

~~Section 14.04—Transitional Elections/Staggered Terms.~~

~~In order to provide for a smooth transition from the former two-year terms for all Council Members to the three-year staggered terms set forth in Charter Section 3.02, the following transitional election rules shall be applied:~~

~~(1) Staggering Terms. At the first Council meeting following the approval by the electorate of three-year terms of office pursuant to the Amended Charter, then-sitting Council Members, including the Mayor, shall draw lots to determine which Council places and/or Mayoral position shall be subject to a transitional length term of office, in order to provide for staggering of terms, the objective being that as stated in Section 3.02; specifically that each year, two (2) Council places, including the Mayoral position, shall be up for election for 3-year terms of office.~~

~~(2) Implementation of Staggered Terms. No City Council Member shall be required to draw lots that would result in a transitional term of less than two years or exceeding four years to accomplish the staggering of terms as set forth herein.~~

~~(3) Deadline for Accomplishing Staggering Terms. The City Council shall accomplish staggering the terms of office for all Council Member places and the Mayoral position on or before the General Election that will occur in 2015.~~

GENDER-SPECIFIC TERMS: *By a 12-0 vote, this **modified** amendment was **APPROVED** by the Commission.*

Prop. K: Shall the Charter be amended throughout to replace gender -specific language with gender-neutral terminology?

Explanation: The Charter is replete with gender-specific terms, including:

- his,
- his or her,
- his/her,
- him,
- him/her

The suggested amendment makes a uniform series of non-substantive edits throughout the Charter.

Amended Text: If approved, the gender-specific wording listed above will be replaced **throughout the Charter** with **his/her or him/her**, as appropriate in context.

Editor's Note: This is the end of Amendments originally contemplated in 2022

####

Editor's Note: The propositions below are temporarily numbered. State law mandates that local ballot propositions be lettered. Propositions submitted to the voters by the City Council will be lettered in the Election order.

BOARD APPOINTMENTS: *By a vote of 11-1, this amendment was **APPROVED** by the Commission.*

Prop. 1: Shall Section 3.01 of the Charter be amended to clarify that the Mayor appoints candidates to serve on boards (committees, commissions, task forces, etc.) and the Council confirms the appointment?

Explanation: Traditionally the Charter has been interpreted to grant the Mayor the authority to appoint members to boards subject to Council's confirmation. It would be useful to provide clarity given imprecise language in Sections 3.01(5) and 3.08. *In the alternative*, interest has been expressed in the notion of authorizing appointments to be made by the Mayor or two Council Members subject to confirmation by the full Council.

Amended Text: If approved, the section will read (in relevant part):
Section 3.01 - Powers and Duties.

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

(5) provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and ~~confirm the Mayor's appointment of appoint~~ the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law; ...

MAYOR PRO TEM: *This amendment was **NOT** approved by the Commission.*

Prop. 2: Shall Section 3.01 of the Charter be amended to provide for the position of Mayor Pro Tem to alternate annually among the City Council members?

Explanation: Currently the Charter requires the City Council to select a Mayor Pro Tem annually. The Charter grants the Council the ability to appoint the same member to serve as Mayor Pro Tem continually (i.e., year after year). There has been interest expressed in requiring the position to change annually so that Council Members can have an opportunity to serve on a rotating basis.

Amended Text: If approved, the section will read (in relevant part):

Section 3.08 - Mayor and Mayor Pro Tem.

The Mayor shall preside over the meetings of the Council and perform such other duties consistent with the office as may be imposed on the Mayor by this Charter and all ordinances and resolutions passed in pursuance thereof. The Mayor may not vote, except in elections, to break a tie and as otherwise provided in this Charter. The Mayor shall have no veto power. The Mayor shall appoint members to all City boards and commissions, subject to confirmation by the Council. The Mayor shall also be recognized as the chief presiding officer of the City. The Mayor shall also be recognized as the head of the City by all courts for the purpose of serving civil processes, by the Governor for the purpose of enforcing military law and for all ceremonial purposes.

At the first meeting of the Council following the City's general election, the Council shall elect one of its members to serve a one-year term as Mayor Pro Tem of the City. In the absence or disability of the Mayor to perform the duties of that office, the Mayor Pro Tem shall perform all such duties, and while acting as Mayor Pro Tem may not vote, except in elections and to break a tie. The position of Mayor Pro Tem shall alternate annually in a manner that provides all willing Council Members the opportunity to serve.

COUNCIL COMPENSATION: *By a vote of 12-0, this amendment was **APPROVED** by the Commission at its second meeting.*

Prop. 3: Shall Section 3.07 of the Charter be amended to compensate the Mayor at a rate of \$400 per month and Council Members at \$250 per month?

Explanation: Currently the Charter specifies particular amounts of compensation for the Mayor and City Council Members. The question of a raise has arisen. An increase will not go into effect for an individual (Mayor or Council Member) until they are elected (or re-elected if an incumbent).

Amended Text: If approved, the section will read (in relevant part):

Section 3.07 - Compensation and Expenses.

The Mayor shall be compensated in the amount of ~~\$150~~ \$400 per month and each of the other Council Members shall be compensated in the amount of ~~\$75~~ \$250 per month. Sitting Mayors and Council Members at the time of a compensation increase shall be ineligible to receive the additional funds until re-elected. Council Members may receive reimbursement for necessary expenses incurred in the performance of their duties of office, according to policies to be determined by the Council.

CHARTER REVIEW: *By a vote of 10-1, this **modified** amendment was **APPROVED** by the Commission.*

Prop. 4: Shall Section 3.09 of the Charter be amended to mandate that the City Council must appoint a Charter Review Commission every six years?

Explanation: Currently the Charter requires that at least every six years the Council must consider whether the Charter needs to be revised. Interest has been expressed in the notion of going the extra step to mandate that a Charter Review Commission be appointed to

conduct that assessment. Neither state law nor the Charter mandates that the Council appoint a Charter Review Commission (i.e., it's optional).

Amended Text: If approved, the section will read (in relevant part):

Section 13.09 - Charter Amendment.

Proposed amendments to this Charter shall be framed and submitted to the voters of the City in the manner prescribed by state law.

The Council shall, at intervals not to exceed six (6) years, formally consider the need for revision(s) to the Charter by appointing a citizens Charter Review Commission excluding City employees and Council Members. This review shall be based on a written report from the City Manager, with special attention given to conflicts, if any, between the Charter and state law, and recommending such amendments to the Charter as may seem necessary for legal, administrative or other reasons.

QUORUM: By a vote of 11-2, this *modified* amendment was **APPROVED** by the Commission.

Prop. 5: Shall Section 3.13 of the Charter be amended to specify that 3 members of the Council shall constitute a quorum?

Explanation: Typically, a quorum of a governing body is a *simple majority* of the entirety of the voting members. Under the Charter, the Council is comprised of five Council Members and a Mayor (who votes only in instances of a tie). Often in that situation a quorum would be three. Our Charter currently sets the quorum at four.

Amended Text: If approved, the section will read (in relevant part):

Section 3.13 - Rules of Procedure.

The Council shall determine its own rules of procedure and order of business. Four members of the Council shall constitute a quorum to do business.; and a-Three voting members of the Council shall constitute a quorum for all other purposes of the Texas Open Meetings Act. A majority vote of those attending any meeting at which there is a quorum present shall be sufficient to adopt any ordinance or resolution, except as otherwise provided in this Charter. The vote upon the passage of all ordinances and resolutions shall be taken by "ayes" and "nays," and the vote of each Council Member present shall be entered on the minutes of the meeting.

All meetings of the Council, except for executive sessions authorized by state law, shall be open to the public, and minutes of all proceedings of such open meetings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute the archives of the City.

CITY MANAGER RESIDENCE: By a vote of 13-0, this *modified* amendment was **APPROVED** by the Commission.

Prop. 6: Shall Section 4.01 of the Charter be amended to remove the requirement that the City Manager to reside within the City Limits?

Explanation: Current and previous City Managers have reported that it is difficult to procure housing that meets their needs within the City Limits due to the limited supply. This amendment removes residency restrictions (leaving limitations [if any] to the City Council).

Amended Text: If approved, the section will read (in relevant part):

Section 4.01 - Appointment, Qualifications and Compensation of the City Manager.
The Council shall appoint a City Manager for an indefinite term, who shall be the chief administrative officer of the City. The City Manager shall be chosen by the Council by a majority vote of its entire membership and solely on the basis of executive and administrative training, experience, ability and character and without regard to political consideration.

~~The City Manager need not be a resident of the City at the time of appointment but shall reside within the City while in office.~~

The City Manager shall receive such compensation as may be fixed by the Council.

NUMBER OF COUNCIL MEMBERS: *By a vote of 6-7, this amendment was **NOT** approved by the Commission.*

Prop. 7: Shall Section 3.02 of the Charter be amended to increase the number of City Council Members from 5 to 6 members?

Explanation: Currently the Charter sets the number of City Council Members at 5. With the growth of the City there was interest in increasing the among of representatives serving on the Council.

Amended Text: If approved, the section will read (in relevant part):

Section 3.02 – Number, Selection and Terms of Office

The legislative and governing body of the City shall be composed of a Mayor and ~~five (5)~~ six (6) members and shall be known as the "City Council of the City of Bastrop."

MAYOR’S VOTE: ***Not Acted Upon:** A motion was made but failed for lack of a second, so this amendment was **NOT** approved by the Commission.*

Prop. 8: Shall Section 3.08 of the Charter be amended to enable the Mayor to vote on matters before the City Council?

Explanation: Currently the Charter states that the Mayor may not vote on matters before the City Council unless there is a tie. There was discussion of allowing the Mayor to vote on all motions made as is allowed in some other cities. In this instance, the Commission conversed briefly on the topic but because the motion was not seconded no vote occurred.

Amended Text: If approved, the section will read (in relevant part):

Section 3.08- Mayor and Mayor Pro Tem.

The Mayor shall preside over the meetings of the Council and perform such other duties consistent with the office as may be imposed on the Mayor by this Charter and all ordinances and resolutions passed in pursuance thereof. The Mayor may ~~not make motions and vote on matters before the City Council, except in elections, to break a tie and as otherwise provided in this Charter.~~ The Mayor shall have no veto power.

PROCEDURAL NOTE

In creating the Commission, the City Council dictated that the Commission shall comply with rules of procedure for the City Council and Boards and Commissions, except that a three-quarter (3/4) super-majority vote determines whether the motion passes or fails. See Ordinance 2024-18, Section 7. At its meeting, the Commission determined that the Council’s intent was that the super-majority requirement apply to the full membership (13) not just those present (thus, 10 votes were necessary to approve a recommendation to the Council). At the first meeting of the Commission, one member unavoidably was absent leaving a Commission of only twelve voting members; however, that member and all others were present at the second meeting, so that there were thirteen voting members. There also are items on which the total votes change from one item to the next. This was due to a temporary lost connection with the Commissioner who had to attend the meeting via Zoom.

CONCLUSION

The second meeting of the Commission concluded without any future business identified for possible consideration at another date. No future meetings were scheduled. A motion was made and approved for the Commission to adjourn. The Commission’s work is complete (subject to further direction from the City Council).

When ordering an election on the issue of amending the Charter based on recommendations from the Commission, the City Council retains the discretion to select which propositions (*if any*) to place on the ballot for the voters.

Voters may approve or reject each proposition on the ballot.

CHARTER REVIEW COMMISSION MINUTES

Monday, July 29, 2024

DRAFT

Pursuant to the Texas Government Code, Chapter 551, the City of Bastrop Charter Review Commission met on Monday, July 29, 2024, at 12:00 p.m. at the Bastrop City Hall, 1311 Chestnut Street, Bastrop Texas. Commissioners present in person: Alex Henley, Connie Schroeder, Debbie Moore, Bernie Jackson, Richard Martin, David Bragg, Jimmy Crouch, Dock Jackson, Ken Kesselus, Judy Enis, Chris Kirby, and Joe Grady Tuck. Commissioner present via Zoom: Robin Peyson. City Staff present: Alan Bojorquez, City Attorney; Sylvia Carrillo-Trevino, City Manager; Ann Franklin, City Secretary; and Victoria Psencik, Assistant City Secretary.

CALL TO ORDER

At 12:00 p.m. Chair David Bragg called the meeting to order with, a quorum present.

MINUTE APPROVAL

- 2A. Consider action to approve Charter Review Commission minutes from the July 17, 2024, meeting.

A motion was made by Commissioner Dock Jackson to approve the July 17, 2024 meeting minutes, seconded by Commissioner (unsure), motion was approved on a 13-0 vote.

ITEMS FOR INDIVIDUAL CONSIDERATION

- 5A. Consider and act on a recommendation to the City Council of any of the items presented for discussion.

A motion was made by Commissioner Ken Kesselus to reconsider Proposition 5 (Shall Section 3.13 of the Charter be amended to specify that 3 members of the Council shall constitute a quorum?), seconded by Commissioner Dock Jackson, motion was approved on a 10-2 vote. Commissioner Joe Grady Tuck and Chris Kirby voted nay. Unable to hear Commissioner Robin Peyson's vote.

A motion was made by Commissioner Jimmy Crouch to amend Section 3.02 to increase the size of the City Council to 7 by adding one new City Council member and the Mayor only votes in the event of a tie, seconded by Commissioner Chris Kirby, motion failed on a 6-7 vote. Those voting yay: Commissioners Jimmy Crouch, Ken Kesselus, Robin Peyson, Chris Kirby, Dock Jackson, and Joe Grady Tuck. Those voting nay: Commissioners David Bragg, Judy Enis, Alex Henley, Bernie Jackson, Debbie Moore, Connie Schroeder, and Richard Martin.

**CITIZEN COMMENT(S) (spoke after motion was made but before the motion's vote)
Marie Blazek**

A motion was made by Commissioner Ken Kesselus to approved Proposition 5 - Section 3.13 of the Charter be amended to specify that 3 voting members of the Council shall constitute a quorum under the Open Meetings Act but 4 are required to conduct business, seconded by Commissioner Connie Schroeder, motion was approved on a 11-2 vote. Commissioner Joe Grady Tuck and Chris Kirby voted nay.

Commissioner Robin Peyson left at 12:52 pm.

A motion was made by Commissioner Debbie Moore to leave the number of Planning and Zoning Members as it stands in the Charter, seconded by Commissioner Dock Jackson, motion was approved on a 12-0 vote. Commissioner Robin Peyson was not present.

A motion was made by Commissioner Joe Grady Tuck to allow the Council to set their own compensation, if any, with the caveat that it would not benefit them during their term of office, only applied after re-election, motion died for lack of a second.

A motion was made by Commissioner Dock Jackson to amend Section 3.07 of the Charter to compensate the Mayor at a rate of \$400 per month and the Council Members at a rate of \$250 per month and sitting Council Members at the time of a compensation increase shall be ineligible to receive additional funds until re-elected, seconded by Commissioner Jimmy Crouch, motion was approved on a 12-0 vote. Commissioner Robin Peyson was not present.

WORKSHOP

4A. Discussion of items presented and any additional items the commission may want to consider.

No additional items were presented.

Adjourned at 1:15 p.m. without objection.

APPROVED:

ATTEST:

David Bragg, Chair

Victoria Psencik, Assistant City Secretary

ORDINANCE NO. 2024-18

CREATION OF CHARTER REVIEW COMMISSION

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING THE CREATION OF A CHARTER REVIEW COMMISSION; APPOINTING INITIAL COMMISSIONERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Bastrop, Texas (the “City”), desires to review its Home-Rule Charter (“Charter”); and

WHEREAS, the City has the ability to amend its Charter under Chapter 9 of the Texas Local Government Code and the Charter; and

WHEREAS, Section 13.09 of the Charter requires that the Charter be reviewed periodically; and

WHEREAS, the Mayor and City Council seek citizen input and City staff guidance regarding what, if any, modifications should be made to the Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, THAT:

Section 1. The Charter Review Commission is hereby created as a temporary, *ad hoc* advisory group, with the limited purpose of recommending to the City Council what (if any) modifications should be presented to Bastrop voters as amendments to the Charter.

Section 2. Notwithstanding the City of Bastrop Code of Ordinances, Section 1.04.002: **(a)** the Commission shall have 13 members; **(b)** Commissioners’ terms shall expire upon dismissal by the City Council, or August 13, 2024, whichever shall occur first; and **(c)** Commissioners shall be registered voters of the City.

Section 3. Having been nominated by the Mayor and/or members of the City Council, appointed by the Mayor, and confirmed by the City Council, the initial Commissioners shall be those named in *Attachment “A”*.

Section 3. The City Secretary is designated as the staff liaison to the Commission. The City Manager and the City Attorney shall work with the City Secretary and the Charter Review Commission to prepare a report to the City Council.

Section 5. The Charter Review Commission shall give a report summarizing its

recommendations to the City Council no later than August 13, 2024.

Section 6. The City Council intends to call a special election for November 2024 to allow voters to approve or disapprove the proposed amendments to the Charter .

Section 7. The Charter Review Commission shall comply with rules of procedure for the City Council and Boards and Commissions, except that a three-quarter super - majority vote determines whether the motion passes or fails.

Section 8. Should any portion or part of this Ordinance be held for any reason invalid or unenforceable by a court of competent jurisdiction, the same shall not be construed to affect any other valid portion hereof, but all valid portions hereof shall remain in full force and effect.

Section 9. This Ordinance shall be in full force and effect from and after its passage. Upon approval and execution, this Ordinance shall repeal, replace, and supersede any prior version and be deemed final (subject to any subsequent amendment as allowed by law).

Section 10. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

DULY ORDAINED & ADOPTED on First Reading by the City Council of the City of Bastrop, Texas, on the 11th day of June, 2024.

DULY ORDAINED & ADOPTED on Second Reading by the City Council of the City of Bastrop, Texas, on the 25th day of June, 2024.


DULY ORDAINED & ADOPTED on Third Reading by the City Council of the City of Bastrop, Texas, on the 9th day of July, 2024.

THE CITY OF BASTROP, TEXAS:



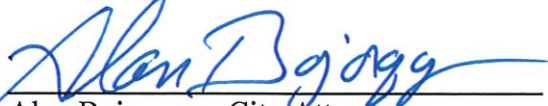
Lyle Nelson, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

**Initial Commissioners comprising the
2024 – 2025
City of Bastrop Home Rule Charter Commission**

- 1. David Bragg
- 2. Jimmy Crouch
- 3. Judy Enis
- 4. Alex Henley
- 5. Bernie Jackson
- 6. Dock Jackson
- 7. Ken Kesselus
- 8. Chris Kirby
- 9. Richard Martin
- 10. Debbie Moore
- 11. Robin Peyson
- 12. Connie Schroeder
- 13. Joe Grady Tuck



STAFF REPORT

MEETING DATE: August 13, 2024

TITLE:

Interim City Secretary's recommendation to supplement the Charter Review Committees findings as it relates to procedures for recall.

AGENDA ITEM SUBMITTED BY:

Submitted by: Irma Parker, Interim City Secretary

BACKGROUND/HISTORY:

The Office of the City Secretary worked diligently through a petition for the recall of Mayor Lyle Nelson. The effort was complex and laborious as there was not sufficient guidance in the existing Charter to assist staff or the public.

This addition to the list of potential Charter Review committee recommendations seeks to add guidance and structure to voter-initiated items such as recall.

FISCAL IMPACT:

None

RECOMMENDATION:

Include in the list for possible voter action in November.

ATTACHMENTS:

1. Proposed edits to the Charter.

ARTICLE X INITIATIVE, REFERENDUM AND RECALL

Section 10.01 Power of Initiative.

The people of the City reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this charter or state law, except an ordinance appropriating money or authorizing the levy of taxes or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the city equal in number to at least twenty (20) percent of the number of registered voters residing in the city at the time of the last regular city election. A petition signature is invalid if the signer signed the petition earlier than the 180th day before the date the petition is filed.

(Sec. 10.01 amnd. by Ordinance 2016-19 adopted 8/16/16)

Section 10.02 Power of Referendum.

The people of the City reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the city equal in number to at least twenty (20) percent of the number of registered voters residing in the City at the time of the last regular City election, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance so specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided. A petition signature is invalid if the signer signed the petition earlier than the 180th day before the date the petition is filed.

(Sec. 10.01 amnd. by Ordinance 2016-19 adopted 8/16/16)

Section 10.03 Form of Petition for Initiative and Referendum.

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative and referendum petitions need not all be appended to one paper, but to each separate paper there shall be attached a statement of the circulator that he/she personally circulated the foregoing paper, that all the signatures appended thereto were made in his/her presence and that he/she believes them to be the genuine signatures of the persons whose names they purport to be. Each signer of any such petition shall sign his/her name in ink, shall indicate after his/her name his/her place of residence by street, street number and zip code, shall indicate his/her voter registration certificate number and shall record the date of signature.

Section 10.04 Filing, Examination and Certification of Petitions.

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument. Within thirty (30) days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition has been signed by a sufficient number of qualified electors and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. The City Secretary shall certify the result of

this examination to the Council at its next regular meeting. If the City Secretary shall certify that the petition is insufficient, the certificate shall specify the particulars in which it is defective and shall at once notify in writing the person filing the petition of this finding. A petition may be amended at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary, by filing a supplementary petition. In such event, the same procedures shall then be followed by the City Secretary and Council as in the case of the original petition for the same purpose.

Section 10.05 Council Consideration and Submission to Voters.

When the Council receives an authorized initiative petition, certified by the City Secretary to be sufficient, the Council shall either (a) pass the initiated ordinance without amendment within twenty (20) days after the date of the certification to the Council; or (b) submit the initiated ordinance without amendment to a vote of the qualified voters of the City at a regular or special election to be held on a uniform election date of the state of Texas, but not less than ninety (90) days from the date that the City Secretary certifies the submission to the Council.

When the Council receives an authorized referendum petition, certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance. If, upon such reconsideration, such ordinance is not repealed, it shall be submitted to the voters of the City at a regular or special election to be held on a uniform election date of the state of Texas, but not less than ninety (90) days from the date that the City Secretary certifies the submission to the Council.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

Section 10.06 Ballot Form and Results of Election.

Ordinances submitted to the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall have below the ballot title the following proposition, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot.

If a majority of electors voting on a proposed initiated ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 10.07 Power of Recall.

The people of the City reserve the power to recall the Mayor or any other member of the Council and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least twenty-five (25) percent of the number of registered voters residing in the City at the time of the last regular municipal election of the City demanding the removal of the Mayor or other member of the Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

Section 10.08 Recall Election.

All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the Council at its next regular meeting. If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition. In that event, the same procedures shall then be followed by the City Secretary and the Council as in the case of an original petition. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

The Council Member whose removal is sought by a recall petition may, within five (5) days after such petition has been certified and presented to the Council, request in writing that a public hearing be held to permit him/her to present facts pertinent to the charges specified in the petition. In this event, the Council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

If the Council Member whose removal is sought does not resign, the Council shall order a recall election and fix a date for such election, the date of which shall not be less than ninety (90) days from the date the petition was submitted to the Council or from the date of the public hearing if one was held, whichever is later, or at the earliest date thereafter permitted by the state election code.

Section 10.09 Recall Ballot.

Ballots used in recall elections shall read as follows: "SHALL (name of person or persons) BE REMOVED FROM THE CITY COUNCIL BY RECALL?" Below such question there shall be printed the following as to each person named:

"FOR THE REMOVAL OF (name of person.)"

"AGAINST THE REMOVAL OF (name of person.)"

Section 10.10 Results of a Recall Election.

If a majority of the votes cast at a recall election shall be against removal of a Council Member named on the ballot, that member shall continue in office. If a majority of the votes cast at such election be for the removal of the Council Member named on the ballot, the Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. A Council Member thus removed shall not be a candidate to succeed himself/herself in an election called to fill the vacancy created.

Section 10.11 Limitations on Recall.

No recall petition shall be filed against the Mayor or any other Council Member within six (6) months after he/she first takes office, nor within six (6) months after an election for his/her recall, nor within six (6) months of the end of his/her term.

Section 10.01 General Authority for Initiative, Citizen Referendum, and Recall.

- (1) **Initiative.** The registered voters of the city shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.
- (2) **Citizen Referendum.** The registered voters of the city shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, but such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes or zoning.
- (3) **Recall.** The registered voters of the city shall have power to recall elected officials of the city, but no recall petition shall be filed against any official within six months after the official takes office, nor, in case of a member subjected to a recall election and not removed, until at least six months after the election.

Section 10.02 Commencement of Proceeding; Petitioners' Committee; Affidavit

Any five registered voters may commence initiative, citizen referendum, or recall proceedings by filing with the city secretary affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance, citing the ordinance sought to be reconsidered, or stating the name and title of the officer sought to be recalled accompanied by a statement, not to exceed 200 words, of the reasons for the recall. Grounds for recall should relate to and affect the administration of the official's office and be of a substantial nature directly affecting the rights and interests of the public. Promptly after receipt of a recall petition, the city secretary shall serve, by certified mail, a copy of the affidavit on the elected officer sought to be recalled. Within 10 days of service of the affidavit, the elected officer sought to be recalled may file a statement with the city secretary, not to exceed 200 words, in response. Promptly after the affidavit of the petitioners' committee is filed, and the response, if any, of the elected official sought to be recalled is filed, the city secretary shall issue the appropriate petition blanks to the petitioners' committee.

Compliance with Texas Ethics Commission regarding Specific or General Purpose Committee filings shall be required. The city secretary shall provide reporting forms and dates of submittal as required.

Section 10.03 Petitions

- (1) **Number of Signatures.** Initiative and citizen referendum petitions must be signed by registered voters of the city equal in number to at least 20 percent of the total number of registered voters to vote at the last regular election. Recall petitions must be signed by registered voters of the city equal in number to at least 25 percent of the total number of registered voters residing in the city at the time of the last regular city election
- (2) **Form and Content.** The city secretary shall provide the petition format in compliance with Texas Election Code. Initiative and citizen referendum petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Recall petitions shall contain the name and title of the official sought to be recalled, the statement of grounds for the recall, and the response of the official sought to be recalled, if any. If no response was filed, the petition shall so state.

Time for Filing Referendum and Recall Petitions. Referendum petitions must be filed within 30 days after adoption by the council of the ordinance sought to be reconsidered. Recall petitions must be filed within **[40 to 160]** days of the filing of the petitioners' affidavit initiating the recall procedure.

Section 10.04 Procedure after Filing

- (1) **Certificate of Clerk; Amendment.** Within thirty days after the petition is filed, the city secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within two days after receiving the copy of his or her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements this Article, and within five days after it is filed the city secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review, within the time required, the city secretary shall promptly present the certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.
- (2) **Council Review.** If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition. A council member who is the subject of a recall petition shall not be eligible to act in the determination of sufficiency or insufficiency of the petition.

(3) Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 10.05 Referendum Petitions; Suspension of Effect of Ordinance

When a referendum petition is filed with the city secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (i) There is a final determination of insufficiency of the petition, or
- (ii) The petitioners' committee withdraws the petition, or
- (iii) The council repeals the ordinance, or
- (iv) Thirty days have elapsed after a vote of the city on the ordinance.

Section 10.06 Action on Petitions

(1) Action by Council. When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in this Article or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within sixty days or fails to repeal the referred ordinance within thirty days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city. The council shall promptly order a recall election to occur within [30, 90, 120] days of the date the recall petition was finally determined sufficient.

(2) Submission to Voters of Proposed or Referred Ordinances. The vote of the city on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(3) Withdrawal of Petitions. An initiative, referendum, or recall petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city secretary a request for withdrawal signed by at least two-thirds of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect, and all proceedings thereon shall be terminated.

Section 10.07 Results of Election

(1) Initiative. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) Referendum. If a majority of the registered voters voting on a referred ordinance vote against

it, it shall be considered repealed upon certification of the election results.

3. Recall. Ballots used at recall elections shall read: —

"SHALL (name of person or persons) BE REMOVED FROM THE CITY COUNCIL BY RECALL?" Below such question there shall be printed the following as to each person named:

"FOR THE REMOVAL OF (name of person.)"

"AGAINST THE REMOVAL OF (name of person.)"

A Council Member thus removed shall not be a candidate to succeed himself/herself in an election called to fill the vacancy created.