



CHARTER REVIEW SPECIAL COMMITTEE

Wednesday, March 24, 2021

Notice is hereby given that the Charter Review Special Committee of the City of Big Spring, Texas will meet in on Wednesday, March 24, 2021 at 5:30 pm at the City Council Chambers Located at 307 East 4th Street, Big Spring, Texas. **We welcome the public to attend the meeting via telecommunication. Citizens will be able to view the Charter Review Special Committee Meeting on Our Local Channel 17 through Suddenlink or on Our Website <http://mybigspring.com/224/Channel-17-Live>.**

MEETING ETIQUETTE

Gentlemen are requested to remove their hats inside the City Council Chambers. As a courtesy to those in attendance, please place your cell phone on “Silent” or “Vibrate.” Please, no Talking during the meetings. Take all conversations outside so that others can hear.

Note from the Office of the Attorney General – An Order Temporarily Suspending Certain Open Meetings Act (OMA) Requirements Due to COVID-19
Thank you!

Open Session

1. Call to Order Scott

Public Comment

Public Comment – Members of the public are entitled to speak on any topic. Additionally, members of the public may comment on any action item before or during its consideration. Speakers are requested to stand at the podium and state their name and address. Speakers should fill out the form at the podium and turn it into the City Secretary. Please do not exceed five (5) minutes.

2. **Public Comment – If you have public comments, please call 432-264-2411.** Scott

New Business

3. Approval of the Charter Committee Minutes from the Regular Meetings of January 27, 2021, February 24, 2021, and March 10, 2021 4-6 Scott

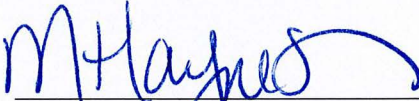
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| 4. | Discussion and Possible Action Concerning Measure C, Candidates to Reside in District from Which Elected | 7-8 | Scott |
| 5. | Discussion and Possible Action Concerning Measure D, Providing Clarity to Appointment of City Attorney, City Judge, and Independent Auditor | 9 | Scott |
| 6. | Discussion and Possible Action Concerning Measure E, Making Pronouns Gender Neutral | 10-14 | Scott |
| 7. | Discussion and Possible Action Concerning Measure F, Filling of Vacancies | 15 | Scott |
| 8. | Discussion and Possible Action Concerning Measure G, Term Limits | 16 | Scott |
| 9. | Discussion and Possible Action Concerning Measure H, Automatic Resignation | 17 | Scott |
| 10. | Discussion and Possible Action with Regard to Recommending Amendments to the City Charter, Articles IV, V, VI, and related law | | Scott |
| 11. | Discussion and Possible Action on Calling Future Meetings and Agenda Items | | Scott |

Input

- | | | | |
|-----|--------------------------------------|--|-------|
| 12. | City Manager, Mayor, and Staff Input | | Scott |
| 13. | Committee Input | | |
| 14. | Adjourn | | Scott |

I hereby certify that this agenda was posted on the official bulletin board at the City of Big Spring, City Hall Building, located outside 310 Nolan Street. Given by order of the City Council and Posted on Friday, March 19, 2021 5:35 p.m. in accordance with Title 5, Texas Government Code and Chapter 551.

In addition, this agenda and supporting documents are posted on the City of Big Spring's Website, www.mybigspring.com, in accordance with legal requirements.



 Mandy Haynes, Paralegal

PERSONS WISHING TO HAVE AN INTERPRETER SHOULD CONTACT TAMI DAVIS AT 264-2513 or tdavis@mybigspring.com. REQUESTS FOR AN INTERPRETER SHOULD BE MADE AT LEAST 72 HOURS IN ADVANCE OF THE MEETING TIME.

Agenda Removal Notice - This public notice was removed from the official posting board at the Big Spring City Hall Building, 310 Nolan Street, Big Spring, Texas on

March __, 2021 at _____ a.m./p.m. By: _____

Meeting called to order by John Scott, committee chair.

Committee members present in person were John Scott, Nati Saldivar, Troy Tompkins. Committee members attending virtually were A.J. Weaver and Elias Gamboa. Others in attendance were Mayor Shannon Thomason, Andrew Hagen, Todd Darden, Daniel Santee (designated representative for Charles Zech, who was absent).

Public Comment Period – there were none present requesting to make comments.

Old Business

Discussion Related to Prior Action with Regards to Recommending Amendments to the City Charter - Brief recap of items addressed during the previous Charter Cmte meeting.

New Business

Approval of the Charter Committee Minutes from the Regular Meeting of December 23, 2020 – No discussion/comment. Motion to approve by N. Saldivar; Second by E. Gamboa. Approved unanimously.

City Manager and Staff Input – T. Darden and A. Hagen referenced pending action by council regarding separation of duties for certain appointive city staff (City Secretary).

Discussion of Original Charter and Amendments – Discussion by A. Hagen, City Attorney regarding discrepancies caused by editorial insertions when Charter and/or Amendments thereto are transferred between various storage media, including the Unicode website. These errors have occurred as part of an ongoing codification process for the City Charter by various city staff. T. Tompkins suggested that the Zech firm “clean-up” these changes as part of their review. Mr. Santee replied that non-substantive items of this nature (*e.g.* headings/codifications/spelling/capitalizations) could be addressed by a single provision.

Discussion and Possible Action with Regards to Recommending Amendments to the City Charter, Articles I, II, III, IV, VI and Charter Law Generally

Article 1 – no changes suggested by any committee member

Article 2 – no changes suggested by any committee member. A.J. Weaver questioned if dis-annexation is permitted under the charter, and if so, is that consistent with state law. Mr. Santee clarified that state law grants certain rights and protections to citizens regarding annexation or disannexation that do not need to be duplicated in the charter. Mayor Thomason suggested that adding initiative & referendum to the charter would provide additional protections.

Article 3 – no changes suggested by any committee member.

Article 4 – changes as follows:

Sect. 1.A. - Mayor Thomason noted there is duplicative language regarding councilperson qualifications. Motion to strike by A. Weaver; second by N. Saldivar. Motion carried unanimously.

Sect. 3. - N. Saldivar noted calling a special council meeting requires three council votes; she would like to see a lesser number. A clarification was made by legal counsel that this applies to any called meeting and includes emergency meetings. After some discussion, a motion was offered: The mayor or any two councilpersons may call the council together for a special meeting. Motion by N. Saldivar; second by T. Tompkins. Motion passed unanimously.

Sect. 4 – some discussion was had regarding council’s ability to call a meeting to order and conduct business in the absence of a quorum, and whether a quorum would be based on a full council or a lesser number in case of a recall or resignation of a councilperson. The committee asked Mr. Santee to recommend some language for consideration to ensure that any council meeting, action, or business would require four members present. Mr. Santee agreed to provide same.

Sect. 5 - some discussion of Qualifications of Councilmembers, much of which centered around residency requirements as set forth in a lawsuit settlement some years ago, as set out in Sec. 5 (1). The sentiment of counsel was that current legal environment would support a change to the “at large” residency requirement. The following motion was made to amend Sec. 5 as follows:

“Sec 5 Qualifications of councilmen and councilwomen.

To be eligible as a candidate for or elected to an office of City Council, or to continue to hold any such office, a person must, in addition to meeting all other requirements for office holders as may, from time to time, be specified by the Constitution and general laws of the State of Texas

(1) Be a qualified, registered voter of the City of Big Spring; and

(2) For Mayor, be a resident of, and have resided continuously within, the corporate limits of the City of Big Spring for twelve [12] months immediately preceding the filing deadline of the regular election; and

(3) For council members, be a resident of, and have resided continuously within, the corporate limits of the city of Big Spring, and the district they intend to represent, for twelve [12] months immediately preceding the filing deadline of the regular election; and

If at any time, any member of City Council no longer possesses all of the qualifications specified in this Section, the office holder shall automatically forfeit their office.”

Motion by T. Tompkins; second by N. Saldivar. Motion carried unanimously.

Committee Input – timing of Charter update appearing on a ballot was confirmed to be slated for Nov. 2021. No further materially relevant input was offered. Chair adjourned meeting.

Measure C

Article IV

Sec. 1a. - Council.

The governing body of the City of Big Spring shall consist of six (6) councilmen and/or councilwomen and a mayor, and shall be known as the "City Council of Big Spring," hereinafter referred to as "the council" or as "the city council." The six (6) councilmen and/or councilwomen shall be elected from six (6) single member districts. The districts will be drawn by the council by ordinance as the council deems necessary. ~~Any individual who resides in the City may file for any of the six single member district places.~~

Districts One and Three will hold elections in 1993 and every three years thereafter. Districts Two, Four and Six will hold elections in 1994 and every third year thereafter. District Five will have an election in 1995 and every third year thereafter. The Mayor will run every three years beginning in 1995.

Each councilman and/or councilwoman who shall be in office at the time of this Charter amendment, having been duly approved by the qualified voters of the City, shall continue in their respective positions until the expiration of their terms of office and until their successors have been duly elected and qualified.

Should Measure A and this Measure C be adopted the following underlined language shall be added to the newly adopted Article IV, Section 5:

Sec. 5. - Qualifications of councilmen and councilwomen; mayor.

To be eligible to be a candidate for, or elected to an office of City Council, or to continue to hold any such office, a person must, in addition to meeting all other requirements for office holders as may, from time to time, be specified by the Constitution and general laws of the State of Texas:

(1) Be a resident of, and have resided continuously within, the corporate limits of the City of Big Springs for twelve (12) months immediately preceding the filing deadline of the regular election; and

(2) Be a qualified, registered voter of the City of Big Spring.

(3) For the Office of Councilman or Councilwoman be a resident of and have resided continuously within the District which they intend to be elected for twelve (12) months immediately preceding the filing deadline of the regular election.

If, at any time, any member of City Council no longer possesses all the qualifications specified in this Section the office holder shall automatically forfeit their office.

Should Measure A fail to be adopted and this Measure C be adopted then the following shall be adopted with the underlined language:

Article IV Sec. 5 Qualifications of councilmen and councilwomen; mayor.

Each member of the city council, in addition to having other qualifications prescribed by law, shall be a qualified voter of the city, shall have resided for at least one year preceding his election within the corporate limits of the city, shall, if a candidate for Councilwoman or Councilman have resided for at least one year preceding his or her election within the district within which they intend to be elected, shall not be in arrears in the payment of any taxes or other liabilities due the city. If a member of the council shall cease to possess any of these qualifications, he shall immediately forfeit his office.

PROPOSED PROPOSITION:

An amendment to the City Charter requiring councilmen and councilwomen to reside within the District to which they intended to be elected.

DRAFT

Measure D

Article IV

Sec. 14. - General powers and duties.

The city manager shall see that the laws and ordinances are enforced. He shall appoint all appointive officers of the city, with the exceptions of the City Attorney, Internal Auditor and the City Judge, such appointments to be made upon the merit and fitness alone, and may remove any appointive officer at will with the exceptions of the City Attorney, Internal Auditor and the City Judge. He shall attend all meetings of the council with the right to take part in the discussion, but without the right to vote. He shall recommend in writing to the council such measures as he may deem necessary or expedient. He shall keep the council fully advised as to the financial condition and needs of the city, and perform such other duties as may be prescribed by this Charter, or which may be required of him by the council. He shall exercise control over all departments and officers created by the council.

PROPOSED PROPOSITION:

An amendment to the City Charter clarifying that the City Attorney, Internal Auditor and the City Judge are appointed by the City Council.

Measure E

Article IV

Sec. 7. - Approval or veto of ordinances and resolutions by mayor.

Any ordinance or resolution passed by the city council shall, before it takes effect, be placed in the office of the city secretary, and the mayor shall sign such ordinance or resolution if he the Mayor approves it. If the mayor shall disapprove of the enactment, he or she shall do so in writing, stating his or her objections, and such ordinance or resolution shall be returned to the city council for its further action, at a regular or special meeting, as the case may be, to be held not less than five (5) days after the mayor has disapproved the measure. If, after reconsideration, four (4) of the councilmen and/or councilwomen shall vote in favor of the passage of the measure, then such ordinance or resolution shall become effective, the disapproval of the mayor notwithstanding. If the mayor shall fail to approve or disapprove any measure within three (3) days after it is submitted to him or her, then it shall become effective without his the Mayor's signature.

Sec. 13. - City manager—appointment; term; qualifications; etc.

The city council shall appoint a city manager, who shall be the administrative head of the municipal government and shall be responsible for the efficient administration of all departments. His The City Manager's appointment shall be for a term of two (2) years, unless he be sooner removed by action of the council as provided herein, and he the City Manager shall be eligible for reappointment at the termination of any period of office. He The City Manager shall be chosen upon qualification and fitness for the exercise of the City Manager his duties. He or she may or may not be a resident of the City of Big Spring at the time of his appointment, but shall immediately establish his residence within the city upon accepting office. The city manager shall be removable at the will of the city council.

Article VI

Sec. 5. - Disciplinary hearing for city employees.

- A. Complaints. Before a complaint against a city employee may be considered by the charging party as defined in subsection B(4.) of this section, the complaint must be placed in writing and signed by the person making the complaint. A copy of the signed complaint must be presented to the affected city employee no later than one hundred and eighty (180) days after the complaint is filed and before any disciplinary action may be taken against the affected city employee. The charging party is hereby restricted to his the original written statement and charges against the city employee, which shall not be amended, and no act or acts may be complained of by said charging party which did not happen or occur within one hundred eighty (180) days immediately preceding the date of disciplinary action by the city manager.

B. Disciplinary Action. If disciplinary action is taken against a city employee who has been employed as an employee for more than three hundred and sixty-five (365) days, and has exhausted all internal appeal procedures, the employee is entitled to a public hearing before a Retired District Judge on the written statement and charges against the employee and the disciplinary action taken. In this charter provision:

- (1.) "Retired District Judge" means a qualified neutral to which authority has been delegated to hear appeals of disciplinary action against an employee.
- (2.) "Employee" means any paid employee of the city of Big Spring except the City Manager and department heads.
- (3.) "Disciplinary action" includes termination, suspension, and demotion.
- (4.) "Charging Party" means the city manager, director, department head or city employee with the authority and power to file written disciplinary charges.

To obtain the hearing, an employee must file a written request to the city secretary no later than the fifteenth (15th) day after the date on which the city employee received the written statement and charges from the charging party.

The employee and the charging party shall forthwith endeavor to select a mutually agreeable Retired District Judge. If the parties are unable to agree upon a Retired District Judge within ten (10) days after the city employee files his or her appeal, the parties shall promptly request that a judge of the 118th judicial district court appoint a Retired District Judge. If an appointment cannot be made, provider service can name a Retired District Judge to hear the disciplinary action.

The parties shall set the earliest date possible that is available to the Retired District Judge for a hearing. If the Retired District Judge cannot hear the case within forty-five (45) days of his the selection, the parties shall request another judge.

Each Party shall pay one-half of any deposit required by the Retired District Judge. The deposits from each party will be applied to the fees and expenses of the Retired District Judge. The remaining fees and expenses of the Retired District Judge shall be borne by the "non-prevailing party," if any, as determined by the Retired District Judge. Each party shall pay the costs of their own witnesses.

The employee is entitled to:

- (1) Examine any document, paper, book, or material considered in the formation of the charges if necessary to establish a proper defense;
- (2) Be represented by counsel or by a person of his their choice; and
- (3) Present witnesses in his their defense and cross-examine any adverse witness.

The hearing must be fair and impartial, and the Retired District Judge shall determine if the facts justify the disciplinary action taken against the employee. The Retired District Judge may consider only the evidence presented at the hearing. Disciplinary action may not be taken against an employee without good and reasonable cause.

The Retired District Judge shall either uphold the disciplinary action, dismiss it, or reduce it. The decision of the Retired District Judge is final and binding on all parties.

Sec. 6. - City secretary.

The city secretary shall attend the meetings of the city council, and shall keep accurate minutes of the proceedings in books to be provided for that purpose; shall correctly enroll and attest all ordinances and resolutions of the city council and properly record the same; shall take charge of, preserve and keep in good order all books, records, papers, documents, and files the custody of which is not confided to some other (treasurer), and keep accurate account thereof in a book to be provided for that purpose; shall be general accountant of the city and shall keep regular accounts of the receipts and disbursements of the city, showing under proper heads each cause of receipt or disbursement; shall keep a register of bonds and other evidences of indebtedness issued by the city, of all evidences of indebtedness due and payable to the city, noting the particulars thereof; shall, before each meeting of the council, examine all claims and accounts filed against the city, and note his or her approval of such as are found correct and his or her disapproval of others.

Sec. 14. - Hiring and firing of employees.

All employees of the city shall be hired by the city manager or under his or her direction, and he may discharge such employees at will.

ARTICLE VIII

Sec. 2. - Bonds generally.

All bonds shall be issued and sold in conformity with the general laws of the state regulating the issuance and sale of bonds, and shall specify for what purpose they are issued. When any bonds are issued by the city a fund shall be provided for the purpose of paying the interest and creating a sinking fund to redeem said bonds, which fund shall not be used for any other purpose, and the custodian of the funds of the city shall honor no drafts upon said fund except to pay interest upon or redeem the bonds for which it was provided; provided, however, the city council shall have the power to invest the sinking funds in United States bonds, Texas state or county bonds, or bonds of the City of Big Spring, or other municipality, or any school district. Said bonds shall be issued for a period of time not to exceed forty years, shall be signed by the mayor, countersigned by the city secretary, and both principal and interest shall be payable at such places and times as may be fixed by the ordinance of the council. All such bonds

shall be submitted to the attorney general of the state for his approval and to the comptroller for registration as provided by law.

ARTICLE XI

Sec. 3. - Issuance of petition; elector's affidavit required.

Petition for such recall shall be procured only from the city secretary. Prior to the issuance of such petition, there shall be filed with the city secretary an affidavit by one or more qualified electors stating the name or names of the officer or officers sought to be removed, and stating briefly, to the best knowledge and belief of affiant or affiants, the nature of the dereliction of the officer or officers sought to be removed. The city secretary shall record the number of such petition issued, the date of issuance thereof, and the affidavit required above. He shall certify under the seal of his or her office on such petition the name of the elector to whom issued and the date of its issuance, and no petition not properly issued and certified as herein required shall be considered in determining whether or not a recall election shall be held.

Sec. 4. - Method of signing petition; circulator's affidavit.

Each signer of a recall petition shall sign his their name thereto in ink or indelible pencil, and shall write thereon, after his their name, his their street number or place of residence within the city. The circulator of said petition shall attach an affidavit thereto stating the number of signers to said petition, and that each signature is genuine and was made in his circulator's presence.

ARTICLE XII

Sec. 9. - Notice of claim against city for damage or injury.

Before the City of Big Spring shall be liable on account of any damage or injury to person or property, the person who is injured, or whose property is damaged, or some one on his their behalf, shall give notice, in writing, to the city council within thirty (30) days after the occurrence of the alleged injury or damage, stating specifically in such notice when, where and how the injury or damage was sustained and setting forth the extent of the injury or damage and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of sixty (60) days after the filing of such notice, in order that the city council may investigate the merits of any claim and make any adjustment it may deem advisable.

PROPOSED PROPOSITION:

An amendment to the City Charter providing for gender neutral pronouns.

DRAFT

Measure F

Sec. 2. - Filling of vacancies.

In the event of a vacancy in the office of City Council, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, if there are 180 days or more remaining on the term of the vacated office, the City Council shall call a special election to fill such vacancy. If there are fewer than 180 days remaining in the term of the vacant office, the City Council may, by majority vote of the remaining Members of City Council, at its discretion, appoint a new Council Member to fill such vacancy or call a special election to fill such vacancy.

~~If a vacancy occurs neither councilmen and/or councilwomen or mayor, the remaining members of the council, by a majority vote, shall appoint a qualified resident to fill such office for the remainder of the term of such vacancy. The successor must possess all qualifications required for the office. Where more than one vacancy shall develop at one time, then a special election shall be called and members of the council, elected at such special election shall fill such office for the remainder of the term for the place to which each has been elected. If such vacancies occur within ninety (90) days of a general election, then no special election shall be called.~~

PROPOSED PROPOSITION:

An amendment to the City Charter authorizing City Council to either appoint an individual to a vacancy or call a special election to fill a vacancy when there are less than 180 days remaining in the term of the office to be filled.

Measure G

Sec. 3a. - ~~Council member term limits~~ Limitations on Service in Office.

No current or future elected official shall serve more than two (2) consecutive terms of office. However, years or time of service that an elected official may serve in filling an unexpired term or a partial term of office shall not be counted toward the above limitations.

No individual shall be qualified to hold office for a period six years from the end any second consecutive term.

~~No member of the council may run for election to the same council position more than two (2) consecutive times. No person may be appointed or elected to the council in a general election or in a special election as provided by section 2 of this article within two (2) full terms of having previously held a council position.~~

PROPOSED PROPOSITION:

An amendment to the City Charter clarifying the existing prohibition that no individual may serve more than two consecutive terms of office on City Council or hold office within six years from the end of any two consecutive terms.

Measure H

Sec. 3b. - General restriction Appointment to and candidacy for election to office constitutes resignation of office.

If any City elected official shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any other city, county, state or federal office then such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law and this Charter in the same manner as other vacancies for office are filled.

If any City elected official shall be appointed to any other city, county, state or federal office then such appointment shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law and this Charter in the same manner as other vacancies for office are filled.

~~No member of the council may retain office while seeking election or appointment to any other city, county, state or federal office.~~

PROPOSED PROPOSITION:

An amendment to the City Charter clarifying the existing requirement that any individual is appointed to or who becomes a candidate for any local, state or federal office shall automatically resign their City Council position.