



CHARTER REVIEW SPECIAL COMMITTEE

Wednesday, April 7, 2021

Notice is hereby given that the Charter Review Special Committee of the City of Big Spring, Texas will meet in on Wednesday, April 7, 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

Old Business

3. Second Discussion and Possible Action Concerning Measure I, Repeal of Personnel Disciplinary Procedures 4-5 Scott

New Business

4.	Approval of the Charter Committee Minutes from the Regular Meeting of March 31, 2021	Handout	Scott
5.	Discussion and Possible Action Concerning Measure G, Term Limits	6	Scott
6.	Discussion and Possible Action Concerning Measure H, Automatic Resignation	7	Scott
7.	Discussion and Possible Action Concerning Measure J, Repeal of Bonding Requirements for City Council	8	Scott
8.	Discussion and Possible Action Concerning Measure K, Establishing Fiscal Year of City	9	Scott
9.	Discussion and Possible Action Concerning Measure L, Rewriting Article VI, City Officers and Employees	10-14	Scott
10.	Discussion and Possible Measure Add to Measure A, Issuance of Debt consistent with State law	15-16	Scott
11.	Discussion and Possible Measure Add to Measure A, Oath of Officers to be consistent with State law	17	Scott
12.	Discussion and Possible Action Concerning Disaster Preparation, Contiguity of Government, Duties and Responsibilities of Mayor Pro Tempore, and Duties and Responsibilities of Acting City Manager and Interim City Manager		Scott
13.	Discussion and Possible Action Concerning Charter Review Committee		Saldivar
14.	Discussion and Possible Action Concerning City Council, City Manager, Staff Relations		Saldivar
15.	Discussion and Possible Action with Regard to Recommending Amendments to the City Charter, All Articles, and related law		Scott
16.	Discussion and Possible Action on Calling Future Meetings and Agenda Items		Scott

Input and Adjourn

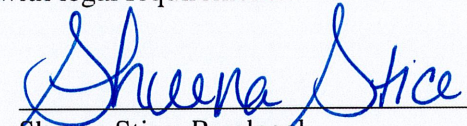
17.	City Manager, Mayor, and Staff Input		Scott
18.	Committee Input		

19. **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, April 1, 2021 2:45 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.



Sheena Stice, 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

April __, 2021 at _____ a.m./p.m.

By: _____

Measure I

~~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 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 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 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 choice; and~~
- ~~(3) Present witnesses in his 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.~~

PROPOSED PROPOSITION:

An amendment to the City deleting Article VI, Section 5 Disciplinary hearing for city employees.

Measure G

Article V.

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. Years or time of service that an official may serve in filling an unexpired term or a partial term of office, to which they were appointed, shall not be counted toward the above limitations. Years or time of service that an official may serve in filling a full term, an unexpired term or a partial term of office, to which they were elected, shall be counted toward the above limitations.

No individual shall be qualified to hold office for a period of six years from the end of 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.

For purposes of this Section The term 'office' is defined as a position created by or under authority of the laws of the United States or of the State of Texas, that is filled by the voters.

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.

Measure J

Article VI

Sec. 11. - Oath ~~and bond~~ of officers.

Every person elected by the electors of said city, or appointed by the city council or the city manager to fill any office under the city administration, shall, before entering upon the duties of such office, take and subscribe to the oath of the Constitution of Texas, and such other oaths as shall be prescribed by the council, ~~and shall furnish bond with good and sufficient security to be approved by the council in such form and amount as shall be prescribed by the council.~~

PROPOSED PROPOSITION:

An amendment to the City Charter deleting the requirement that City Council provide a bond upon being elected to office.

Measure K

Article IX. - Finances

Sec. 1. - Audit of records; establishing fiscal year; how accounts to be kept; books to be open to the public.

The city council shall cause a continuous audit of the books of account, and of all records and transactions of affairs of the city. Such audit shall embrace each fiscal year of the City, which shall be beginning October 1st of each year, and be made by a competent accountant. Such accounts shall be kept in such manner as to show fully at all times the financial condition of the city, and the books shall be open to the public for inspection, at all reasonable times.

PROPOSED PROPOSITION:

An amendment to the City Charter establishing the fiscal year of the City to begin October first of each year.

Measure L

Article IV. – City Government

~~Sec. 12. – Creation or discontinuance of appointive offices and departments.~~

~~The city council shall create appointive offices when the same is deemed expedient and may divide the administration of the city's affairs into such departments as they may deem advisable and may discontinue any such appointive office or department at their discretion, except the office of city manager.~~

Article VI. - City Officers and Employees

~~Sec. 1. - Appointive officers and departments designated; consolidation of offices.~~

~~The city council may create appointive offices when the same is deemed expedient and may divide the administration of the city's affairs into such departments as they may deem advisable and may discontinue any such appointive office or department at their discretion, except the office of city manager. Until otherwise provided by the city council, the appointive officers of the city shall consist of the city manager, city finance officer, the chief of police, city secretary and tax collector, city attorney, and city fire chief, city tax assessor, and city treasurer, whose duties and powers may be prescribed by City Council not inconsistent with the Charter. In the discretion of the city council and under the limitations imposed by law, two (2) or more of the above offices may be consolidated into one.~~

~~Sec. 2. - Authority to create appointive offices; Salary of officers.~~

~~The city council may create or eliminate appointive offices when, in their discretion, necessity demands it. All salaries other than those of the council shall be fixed by the city council. The mayor shall be entitled to a monthly allowance (non-employee compensation) in the amount of \$300.00. The other members of the council shall each be entitled to a monthly allowance (non-employee compensation) in the amount of \$200.00. Additionally, subject to prior budgetary approval, the mayor and the other members of the council shall be entitled to reimbursement of all reasonable, necessary, and documented expenses incurred in the performance of their duties.~~

~~Sec. 3. - Vacancies in council.~~

~~Vacancies in the city council shall be filled by appointment by the council. If more than two (2) councilmen and/or councilwomen leave their offices vacant at the same time,~~

then the mayor, or the remaining councilmen and/or councilwomen, shall order a special election to fill such vacancies.

Commented [C1]: Revised in Measure A – Inconsistency with State Law

Sec. 4. - Chief of police.

The chief of police shall have like powers with the sheriff of the county to execute search warrants, and shall be active in quelling riots, disorders, and disturbances of the peace within the city. He shall arrest all persons who obstruct or interfere with him in the execution of the duties of his office, and when necessary to prevent a breach of the peace, or to preserve quiet and order. He shall have the authority to close, temporarily, any place or building of public resort, when necessary to prevent a breach of the peace. He shall prevent and suppress violations of the penal ordinances of the city, and he shall have and may exercise, like powers and authority as the sheriff of the county in respect to the violations of any penal laws of the state.

Commented [C2]: Revised in Measure B – Unnecessary to Charter.

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 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.

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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 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.

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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 choice; and
- (3) Present witnesses in his 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.

Commented [C3]: Proposed to be deleted in Measure I

~~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 approval of such as are found correct and his disapproval of others.~~

~~Sec. 7. – City attorney.~~

~~The city attorney shall represent the city in the "municipal court," give advice to other city officers, attend the meetings of the city council, and perform such other duties as are usually incident to the office of city attorney, or that may be required of him by the city council. The city attorney shall be appointed by the city council and shall receive such salary as may be fixed by the city council.~~

~~Sec. 8. – Fire chief.~~

~~The fire chief shall be the head of the city fire department and shall have such duties and powers as may be prescribed by the city council.~~

~~Sec. 9. - Tax assessor.~~

~~The city tax assessor shall make up the assessment of property taxed by the city, and make duplicate rolls thereof, one of which when completed, shall be delivered to the city secretary.~~

Commented [CZ4]: Deleted in Measure A – Consistency with State law

~~Sec. 9a. – Internal auditor.~~

~~The Internal Auditor, if one is appointed, shall audit the accounts, the receipts and disbursements of the city and perform such other duties as are usually incident to the office of internal auditor, or that may be required of him by the city council. The internal auditor shall be appointed by the city council and shall receive such salary as may be fixed by the city council.~~

~~Sec. 10. – City depository.~~ **[Section 10 shall be relocated to Article IX. – Finances]**

~~Before July 1st after each even-numbered year's regular election, the city council shall select a city depository from among the banks of the city, such selection to be made in the manner prescribed by the statutes of the state and said city depository shall keep such records and make such reports to the council and do and perform such other duties as may be required by general law, and as may be required by the city council.~~

~~Sec. 11. - Oath and bond of officers.~~

Commented [CZ5]: To be amended in Propositions A and J

Every person elected by the electors of said city, or appointed by the city council or the city manager to fill any office under the city administration, shall, before entering upon the duties of such office, take and subscribe to the oath of the Constitution of Texas, and such other oaths as shall be prescribed by the council, and shall furnish bond with good and sufficient security to be approved by the council in such form and amount as shall be prescribed by the council.

~~Sec. 12. – Amendment of duties of office.~~

~~The city council may alter, add to, or change the duties of any office.~~

~~Sec. 13. - Qualification of council and initial appointment of officers.~~

Within five (5) days after the first city council shall have been declared elected as heretofore provided, said council shall meet in the city hall and qualify as city councilmen and/or councilwomen by taking the oath of office. As soon as practicable they shall elect a city manager, with duties and powers as provided in this Charter. The city manager, as soon as possible, shall proceed to appoint the officers provided for in this Charter, unless the council shall do away with some of such offices, and shall appoint persons to fill such other offices as the council may create. All such appointments shall be made subject to the approval of the city council as herein provided.

Commented [C6]: Deleted in Measure B – Unnecessary to Charter.

~~Sec. 14. - Hiring and firing of employees.~~

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

PROPOSED PROPOSITION:

An amendment to the City Charter reorganizing and clarifying those provisions in the City Charter related to employees and officers.

To Be added to Measure A Consistency with State Law

Article VIII. - Bonds and Warrants of Indebtedness

All debt issuances of the City of Big Spring shall be issued consistent with the requirements of state law.

~~Sec. 1. - General authority of council relative to indebtedness.~~

~~The city council shall have the power to appropriate so much of the general revenue of the city as may be necessary for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the streets, purchasing, improving, or maintaining the sewers, waterworks plant, parks, and such other public utilities or municipal purposes as the city council may from time to time deem expedient. In furtherance of any and all of these subjects and objects, the council shall have the right and power to borrow money upon the faith and credit of the city; and the city may issue coupon bonds therefor, either optional or serial, or otherwise, in such sum as may be deemed expedient, and to bear interest not to exceed six percent (6%) per annum, payable annually or semi-annually.~~

~~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.~~

~~Sec. 3. - Warrants.~~

~~The city council shall have the right and power to issue interest bearing warrants upon the faith and credit of the city for the purpose of paying the accrued indebtedness of the city. The council shall, at the time of issuance of such warrants, provide a special fund to meet the annual requirements of the warrants. The act of the council in issuing said~~

~~warrants shall be in the form of an ordinance and in compliance with the general law of the state governing the issuance of city warrants.~~

~~Sec. 4. Election prerequisite to issuance of bonds.~~

~~Before the issuance of any bonds the same shall be submitted to a vote of the qualified property tax payers voters of the city as required by the general laws of the state.~~

To Be added to Measure A Consistency with State Law

Article VI

Sec. 11. - Oath and bond of officers.

Every person elected by the electors of said city, or appointed by the city council or the city manager to fill any office under the city administration, shall, before entering upon the duties of such office, take and subscribe to such oath(s) as may be required by state law. ~~the oath of the Constitution of Texas, and such other oaths as shall be prescribed by the council,~~ and shall furnish bond with good and sufficient security to be approved by the council in such form and amount as shall be prescribed by the council.

Current Requirements of the Texas Constitution:

ARTICLE 16. GENERAL PROVISIONS

Sec. 1. OFFICIAL OATH OF OFFICE. (a) All elected and appointed officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God."

(b) All elected or appointed officers, before taking the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, shall subscribe to the following statement:

"I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God."

(c) Members of the Legislature, the Secretary of State, and all other elected and appointed state officers shall file the signed statement required by Subsection (b) of this section with the Secretary of State before taking the Oath or Affirmation of office prescribed by Subsection (a) of this section. All other officers shall retain the signed statement required by Subsection (b) of this section with the official records of the office.