



CHARTER REVIEW SPECIAL COMMITTEE

Wednesday, May 5, 2021

Notice is hereby given that the Charter Review Special Committee of the City of Big Spring, Texas will meet in on Wednesday, May 5, 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. Discussion and Possible Action Concerning Additional Amendment of Measure A, City Depository 4 Scott

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|----|--|---|-------|
| 4. | Discussion and Possible Action Concerning Amendment of Measure B, Board of City Development | 5 | Scott |
| 5. | Discussion and Possible Action Concerning Measure M, Mayor and Mayor Pro Tem | 6 | Scott |
| 6. | Discussion and Possible Action Concerning Measure Q, Notice of Claim | 7 | Scott |
| 7. | Discussion and Possible Action Concerning Measure S, Council Members Required to Call and Hold a Meeting | 8 | Scott |

New Business

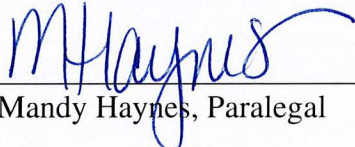
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|-----|--|---------|-----------------|
| 8. | Approval of the Charter Committee Minutes from the Regular Meeting of April 21, 2021 and April 28, 2021 | Handout | Tompkins |
| 9. | Discussion and Possible Action Concerning Amendments to Initiative, Referendum and Recall | 9-24 | Zech/
Santee |
| 10. | Discussion and Possible Action with Regard to Recommending Amendments to the City Charter, All Articles, and Related Law | | Scott |
| 11. | Discussion and Possible Action on Calling Future Meetings and Agenda Items | | Scott |

Input and Adjournment

- | | | | |
|-----|------------------------------|--|-------|
| 12. | City Manager 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, April 30, 2021 4:40 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

May ____, 2021 at _____ a.m./p.m.

By: _____

To Be added to Measure A Consistency with State Law

Sec. 10. - City depository.

~~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.

TO BE ADDED TO MEASURE B

Sec. 6. ~~Board of city development.~~

~~The council shall have the authority to appoint what shall be known and designated as a "Board of City Development" which shall be composed of fifteen (15) members, who shall serve without compensation. Said council may prescribe the qualifications and duties of such board, and their terms of office and may appropriate not exceeding ten cents (\$0.10) on the one hundred dollars (\$100.00) assessed valuation of the taxable property in the City of Big Spring, from the general fund of said city, to support the work of the board. This board shall never merge its identity with any other organization, and shall furnish the city council an itemized report of its expenditures for publication in the annual financial statement of the city.~~

Measure M

Article IV. - City Government

Sec. 4. - Mayor ~~to preside over council~~; mayor pro tempore; ~~council quorum~~.

The mayor, when present, shall preside over the council. ~~The council shall elect a mayor pro tempore who shall preside at the meetings at which the mayor is not present. Any four (4) members of the council shall constitute a quorum for the transaction of business, and shall be recognized as the head of the city government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law. The mayor may debate and discuss any matters before the city council and shall be entitled to vote on all issues with the city council. The mayor shall, when authorized as necessary by the city council, sign all official documents.~~

The city council shall elect a member of the city council to serve as mayor pro-tempore based upon criteria established by the city council. The mayor pro-tempore shall act as mayor during the absence or disability of the mayor and during such time as the office of mayor is vacant due to a death, resignation, or removal from office; but only until such time as the vacancy is filled under the provisions of this charter.

PROPOSED PROPOSITION:

An amendment to the City Charter providing for the powers and responsibilities of the Mayor and the Mayor Pro-Tempore.

MEASURE Q

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 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.~~

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

- A. ~~The City shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the City Manager within ninety (90) days after the same has been received, stating specifically in such notice when, where and how the exact injury occurred and the full extent thereof, together with the amount of damages claimed or asserted. The notice requirements provided for herein do not apply if the City has actual notice that death has occurred, or that the claimant has received some injury. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.~~
- B. ~~The City shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred and the full extent thereof, and the amount of damage sustained. The City shall never be liable for any claim for damage or injury to real property caused by negligent act or omission of its officers, servants, agents, or employees, unless the person whose real property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the amount of damage claimed. The notice requirements provided for herein do not apply if the City has actual notice that the claimant's property has been damaged. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.~~

Commented [DS1]: A covers personal injury

Commented [DS2]: B covers property damage....both A and B designate the City Manager rather than the City Council for notice as such is more appropriate

PROPOSED PROPOSITION:

An amendment to the City Charter deleting and amending those provisions which provide for notice of claim against the city for damage or injury.

Measure S

Article IV. - City Government

Sec. 3. - Council meetings.

The city council shall meet regularly twice a month at such time and place as the council may determine. The mayor, or any ~~three (3)~~ councilman and/or councilwoman may call the council together for a special meeting. Any four (4) members of the council shall constitute a quorum for the transaction of business.

PROPOSED PROPOSITION:

An amendment to the City Charter stating the number of council members required to call and hold a meeting.

DRAFT

Measure A

Article II. – Corporate Boundaries

~~Sec. 2. – Annexation—By petition.~~

~~Whenever a majority of the property owners who are citizens of the state and inhabitants of any territory adjoining said city desire the annexation of such territory to said City of Big Spring, they may present a written petition to that effect to the council, and shall attach to said petition the affidavit of three (3) or more of their number to the effect that said petition is signed by a majority of such qualified voters; and thereupon the council may by ordinance annex such territory to the City of Big Spring, provided that said ordinance shall be read at two (2) regular meetings of the council before final passage, and be published as penal ordinances are required to be published by the terms of this~~

~~Charter. Sec. 3. – Annexation—By election.~~

~~The City of Big Spring shall have the power to extend the boundary limits of the city and to annex additional territory at any time without the consent of the inhabitants of the territory annexed, by a majority vote of the qualified voters of the City of Big Spring voting thereon at any election at which the question may be submitted; and the city council, whenever in their judgment the public interest requires, may submit such question to vote of the people, by ordinance duly passed describing the territory desired to be taken in.~~

~~Sec. 4. – Annexation—Effect of action under sections 2 and 3.~~

~~Thenceforth from the annexation of territory in the manner prescribed by either of the foregoing sections, said territory shall be a part of the City of Big Spring, and the inhabitants thereof shall be entitled to all rights and privileges of other citizens, and shall be bound by the acts, ordinances, resolutions, and regulations of the city.~~

~~Sec. 4a. – Annexation—By ordinance generally.~~

~~The city council shall have power, by ordinance, to fix the boundary limits of the City of Big Spring, and to provide for the alteration and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the city, with or without to consent of the territory and inhabitants annexed. Upon the introduction of any such ordinance, it shall be published in the form in which it may be finally passed, in a daily newspaper, published in the City of Big Spring, Texas, at least one time, and said ordinance shall not thereafter be finally acted upon until at least thirty (30) days have elapsed after the first publication thereof; and upon the final passage of any such ordinance, the boundary limits of the city shall thereafter be fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Big Spring, and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all the rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the city.~~

~~Sec. 4b. – Annexation—Ratification of prior ordinances.~~

~~All annexation ordinances heretofore passed by the city council of the City of Big Spring are hereby ratified and declared to be legal and valid.~~

Article IV. - City Government

~~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 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.~~

~~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 Spring 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.~~

~~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 the office held.~~

Article V. - Elections

~~Sec. 1. - Elections of first council.~~

~~All elections shall be held in compliance with state and federal law.~~

~~Sec. 5. - Call and notice of special elections; application of state election laws.~~

~~All special elections shall be called by the mayor upon ordinances duly passed by the council ordering such election. Due notice of such elections shall be given as required by law, and the general election laws of the state shall control in all municipal elections, except as otherwise herein provided.~~

~~Sec. 6. - Canvass of returns and declaration of election result.~~

~~The city council shall, within ten (10) days after every municipal election, canvass the returns and declare the results. In an election for councilman and/or council woman or mayor, the qualified person receiving a majority of the qualified votes for the position for which he was a candidate at such election shall thereupon be declared by the council to have been elected. In the event any candidate fails to receive a majority of the qualified~~

~~votes polled at such regular election for the office for which he is a candidate, the council shall immediately order a special election to be held not less than ten (10) days nor more than twenty (20) days after the results of the regular election shall have been declared. At such special election the names of the two (2) candidates receiving the highest number of votes cast (at) the regular election for the office for which they are candidates shall be submitted for the election and the candidate receiving the majority of votes at such special election for the position for which he was a candidate shall be declared duly elected.~~

~~Sec. 7. – Filing of candidates.~~

~~Any qualified person who desires to become a candidate for election to the city council shall file with the city secretary, at least thirty (30) days prior to the election day, an application for his name to appear on the ballot. Such application shall clearly designate the position on the council to which the candidate seeks election and shall contain a sworn statement by the candidate that he is fully qualified under the laws of Texas and the provisions of this Charter to hold the office he seeks.~~

~~Sec. 8. – Qualified electors.~~

~~All persons who are qualified electors under the general laws of the state, and who are residents of the City of Big Spring shall be deemed qualified electors.~~

Article VI. – City Officers and Employees

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

~~Until otherwise provided by the city council, the appointive officers of the city shall consist of the city manager, the chief of police, city secretary and tax collector, city attorney, city fire chief, city tax assessor, and city treasurer. 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. 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.~~

~~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.~~

~~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.

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.~~

PROPOSED PROPOSITION:

Amendments to the City's home rule charter amending by deletion or revision to require and ensure compliance with state law.

Measure R

Article XI. - Recall of Councilmen and/or Councilwomen

Section 1. - General authority; signature requirements.

The qualified voters of the City shall have the power to petition for recall of the Mayor or any Council Member. A petition demanding that the question recall be submitted to the voters shall be filed with the city secretary pursuant to this Article. In the case of a recall of the Mayor, said petition must contain the number of valid signatures totaling at least ten percent (10%) of the qualified voters registered to vote at the last regular city election, but in no case to be signed by less than one hundred (100) qualified voters of the City. In the case of a recall of a City Council Member, said petition shall be signed by qualified voters in such District equal in number to at least ten percent (10%) of the qualified voters registered to vote within their respective District at the last regular city election, but in no case to be signed by less than one hundred (100) qualified voters of the District.

Section 2. - Commencement of recall petitions; petitioners' committee; affidavit.

- A. Any two (2) qualified voters may commence recall proceedings by filing with the City Secretary an 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 name of the individual to be recalled.
- B. In case of the recall of a Council Member, the petitioners' committee shall be comprised of qualified voters of the council member's district sought to be recalled and, in the case of the recall of the Mayor, the petitioners' committee shall be comprised of any qualified voter of the City. The petition shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the reason for the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) with which the individual's recall is predicated. If there be more than one reason, said petition shall distinctly and specifically state each reason upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) on which the recall is predicated.
- C. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended from time to time.
- D. Petitions shall be returned to the Office of the City Secretary for filing within sixty (60) days after filing of the affidavit of petitioners committee and no signature on said petition shall have been affixed prior to the filing of the affidavit of petitioners committee.
- E. Each signer of such petition shall personally sign his/her name thereto in ink or indelible pencil and shall write after his/her name his/her place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year his/her signature was affixed. The signatures on petitions shall be verified by oath in the following form:

STATE OF TEXAS

COUNTY OF HOWARD

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Signature _____

Sworn _____ and subscribed before me this _____ day of _____ / / 20_____.

NOTARY PUBLIC, STATE OF TEXAS

My _____ commission _____ expires: _____ / / _____

Section 3. - Certificate of city secretary; supplementation; presentation to council; council review.

- A. *Certificate of City Secretary.* Within 30 working days after the petition (the "Original Petition") is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that 30 working day period send a copy of the certificate to the petitioners' committee by certified mail return receipt requested or by hand delivery to a committee member.
- B. *Supplementation.* A petition certified insufficient for lack of the required number of valid signatures may be supplemented once if the petitioners' committee files a notice of intention to supplement with the City Secretary within three working days after receiving the copy of the Certificate of the City Secretary. The supplementary petition shall be filed within the time specified in Subsection 3 C. Such supplementary petition shall comply with the requirements of Subsections 2 B and D, and within ten (10) working days after the supplementary petition is filed, the secretary shall complete a certificate as to the sufficiency of the petition as supplemented and send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition.
- C. *Tolling.* Upon the submission of the Original Petition to the City Secretary the 60-day time line for submission as provided for in Section 2 D shall be tolled. The petitioners committee shall submit the supplementary petition to the City Secretary within the remaining tolled 60-day deadline, said remaining time to be calculated from receipt of the certificate of insufficiency by the petitioner's committee or committee member as applicable. No signature on said supplementary petition shall have been affixed prior to the receipt by the petitioners committee of the certificate of insufficiency.
- D. *Presentation to Council.* The City Secretary shall, at the next regular Council meeting in compliance with the Texas Open Meetings Act after completion of certification of the petition

or supplementary petition, present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

Section 5. - Public hearing to be held on recall petition.

A. *Right to Request Hearing.* The individual whose removal is sought may, within five (5) working days after such recall petition has been presented to the City Council, request that a special meeting be held to permit him/her to present a response to the reasons for recall specified in the recall petition. In this event, the City Council shall order such special meeting to be held, no more than thirty (30) and no less than fifteen (15) days before early voting.

B. *Right to Response.* At any special meeting held under this Section the individual whose removal is sought shall have a thirty (30) minute period to state their response to the recall petition. There shall be no public participation in the special meeting and no other items of business shall be a part of the special meeting.

Section 6. - Calling of recall election.

If the individual whose removal is sought does not resign, then the City Council shall for the next available uniform election date, order an election for holding such recall election. If, after the recall election date is established, the officer vacates his/her position, the election shall be cancelled, in accordance with State Law.

Section 7. - Ballots in recall election.

Ballots used at recall elections shall conform to the following requirements:

A. With respect to each individual whose removal is sought, the question shall be submitted: "Shall _____ be removed from the office of _____ by recall?"

B. Immediately below each such question, there shall be printed the following words, one above the other, in the order indicated:

"Yes"

"No"

Section 8. - Result of recall election.

If a majority of the votes cast at a recall election shall be "No", that is against the recall of the individual named on the ballot, the individual shall continue in office for the remainder of his/her unexpired term, subject to recall as provided herein. If a majority of the votes cast at such election be "Yes", that is for the recall of the individual named on the ballot, the individual shall, regardless of any technical defects in the recall petition, be deemed removed from office upon passing of the resolution canvassing the election, and the vacancy shall be filled by the City Council as provided for by this Charter.

Section 9. - Recall restrictions.

No petition shall be filed for the recall of an individual within 180 days of the date of the individual's election to City Council or within 180 days before the end of the individual's term on City Council.

~~Sec. 1. — Generally.~~

~~The city councilmen and/or councilwomen shall be subject to recall and removal from office by the qualified electors of the city, and the procedure to effect such removal shall be as set out in the following sections.~~

~~Sec. 2. — Petition to be filed; number of signatures required on petition.~~

~~A petition demanding that the question of removing such officer be submitted to the electors shall be filed with the city secretary. Such petition shall be signed by a number of qualified voters of the city at least equal to thirty five percent (35%) of the votes cast at the last regular city election, but in no case to be signed by less than one hundred (100) qualified voters of the city.~~

~~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 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 name thereto in ink or indelible pencil, and shall write thereon, after his name, his 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 presence.~~

~~Sec. 5. — Return of petition; notice to officer affected; ordering election.~~

~~The recall petition shall be returned and filed with the city secretary within thirty (30) days after the issuance thereof. He shall immediately submit the same to the city council and shall notify the officer or officers sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice is given, the city council shall thereupon order a recall election to be held not less than ten (10) nor more than twenty (20) days from the time of the expiration of the five (5) days allowed the official affected to resign.~~

~~Sec. 6. — Ballots at election; effect of election.~~

~~The ballot at such recall election shall conform to the following requirements, with respect to each person whose removal is sought; the question shall be submitted: "Shall (name of person) be removed from the office of City Councilman and/or City Councilwomen immediately following said question there shall be printed on the ballots in separate lines, in the order here set out, the words: "For the recall of (name of person.)" "Against the recall of (name of person.)" Should a majority of the votes cast at such recall election be for the recall of any officer named on the ballot, he shall be deemed removed from office. If the majority of the votes be against the removal of any officer, he shall continue in office, not subject to recall until the expiration of at least three months from the date of the unsuccessful recall election.~~

~~Sec. 7. — Failure of council to act.~~

~~In case the city council shall fail or refuse to receive the recall petition, order the recall election, or discharge any and other duties with reference to such recall, then the county judge of Howard County shall discharge any of such duties herein provided to be discharged by the city council.~~

~~Sec. 8. — Filling of vacancies created by recall.~~

~~If three or more members of the city council are sought to be recalled at one election, the names of candidates to fill the vacancies proposed to be created by the election shall appear upon the ballot. Such vacancies as result from the election shall be filled by declaring elected to such offices the candidates receiving the greatest number of votes, giving the longest terms to the candidates receiving the greatest number of votes. If less than three officers are sought to be removed at such recall election, such vacancies as result from the said election shall be filled by appointment by the remaining members of the council.~~

~~Sec. 9. — Canvass of returns and declaration of result of election.~~

~~The returns of any recall election shall be canvassed and the results thereof declared by the members or member of the council not sought to be removed. If all are sought to be removed, the county judge of Howard County shall canvass the returns and declare the results.~~

PROPOSED PROPOSITION:

An amendment to the City Charter amending the process recall.

Measure T

Article [REDACTED] - INITIATIVE, REFERENDUM AND RECALL

Section 1. - General authority.

- A. Initiative. The qualified voters of the City shall have power to propose ordinances to the Council. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or common law.
- B. Referendum. The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or common law.

Section 2. - Commencement of initiative and referendum petitions; petitioners' committee; affidavit.

- A. Any two (2) qualified voters may commence initiative or referendum proceedings by filing with the City Secretary an 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 or citing the ordinances sought to be reconsidered.
- B. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended from time to time.
- C. Petitions shall be returned to the Office of the City Secretary for filing within sixty (60) days after filing of the affidavit of petitioners committee and no signature on said petition shall have been affixed prior to the filing of the affidavit of petitioners committee.
- D. Each signer of such petition shall personally sign his/her name thereto in ink or indelible pencil and shall write after his/her name his/her place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year his/her signature was affixed. The signatures on petitions shall be verified by oath in the following form:

STATE OF TEXAS

COUNTY OF HOWARD

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day

and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Signature _____

Sworn and subscribed before me this _____ day of _____ / / 20_____.

NOTARY PUBLIC, STATE OF TEXAS

My _____ commission _____ expires: _____ / / _____

Section 3. – Initiative and referendum petitions; certificate of city secretary; supplementation; presentation to council; council review.

- A. Certificate of City Secretary. Within 30 working days after the petition (the "Original Petition") is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that 30 working day period send a copy of the certificate to the petitioners' committee by certified mail return receipt requested or by hand delivery to a committee member.
- B. Supplementation. A petition certified insufficient for lack of the required number of valid signatures may be supplemented once if the petitioners' committee files a notice of intention to supplement with the City Secretary within three working days after receiving the copy of the Certificate of the City Secretary. The supplementary petition shall be filed within the time specified in Subsection 3 C. Such supplementary petition shall comply with the requirements of Subsections 2 B and D, and within ten (10) working days after the supplementary petition is filed, the secretary shall complete a certificate as to the sufficiency of the petition as supplemented and send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition.
- C. Tolling. Upon the submission of the Original Petition to the City Secretary the 60-day time-line for submission as provided for in Section 2 C shall be tolled. The petitioners committee shall submit the supplementary petition to the City Secretary within the remaining tolled 60-day deadline, said remaining time to be calculated from receipt of the certificate of insufficiency by the petitioner's committee or committee member as applicable. No signature on said supplementary petition shall have been affixed prior to the receipt by the petitioners committee of the certificate of insufficiency.
- D. Presentation to Council. The City Secretary shall, at the next regular Council meeting in compliance with the Texas Open Meetings Act after completion of certification of the petition or supplementary petition, present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

Section 10. - Initiative; requirements specific to petition for initiative; procedure.

- A. A petition for initiative must contain the number of valid signatures totaling at least 10 percent of the total number of registered voters registered to vote at the last regular City election, and shall otherwise comply with the requirements for petitions in this Article. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance.
- B. Upon presentation to the City Council, it shall become the duty of the City Council, within sixty (60) days after the date the petition was finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election to be held on the next available uniform election date, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance.
- C. If a majority of the qualified electors voting on a proposed initiative ordinance vote for the ordinance, it shall be considered adopted upon the canvassing 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.

Section 11. - Referendum; requirements specific to petition for referendum; procedure; effect prior to election.

- A. A petition for referendum must contain the number of valid signatures totaling at least 10 percent of the total number of registered voters registered to vote at the last regular City election, and shall otherwise comply with the requirements for petitions in this Article.
- B. Upon presentation to the City Council, it shall become the duty of the City Council, within sixty (60) days after the date the petition was finally determined sufficient, to either repeal the referred ordinance or to call for an election to be held on the next available uniform election date, at which the qualified voters of the City shall vote on the question of repealing the referred ordinance.
- C. If a majority of the qualified electors voting on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results.
- D. A petition for referendum on the same subject matter may only be submitted once every three (3) years.

Section 12. - Initiative and referendum; form of ballots.

The ballots used when voting upon initiative or referendum shall set forth their nature sufficiently to identify them and shall also set forth, upon separate lines, the words:

"For the Ordinance"

or

"Against the Ordinance"

Section 13. - Ordinances passed by popular vote, repeal or amendment.

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three years from the date said ordinance became effective and then only by an affirmative vote of two-thirds of the City Council.

PROPOSED PROPOSITION:

An amendment to the City Charter adding provisions for initiative and referendum.

