

MINUTES
CHARTER REVIEW COMMISSION
NOVEMBER 5, 2014 MEETING

PUBLIC HEARING - CITY COUNCIL CHAMBERS, 6:00 PM

CALL TO ORDER

Chairman Dubey called the meeting to order at 6:04 p.m. He asked the Commissioners to introduce themselves.

Commissioners Present:

Bob Dubey, Chair
Ron Taylor, Vice Chair
Gerald Bright, Commissioner
Marta Gomez Frey, Commissioner
Helene Lee, Commissioner
Jason Lemons, Commissioner
Bill McCalpin, Commissioner
John Murphy, Commissioner
Kim Quirk, Commissioner
Nancy Wilson, Commissioner
Erica Yaeger, Commissioner

City Staff Present:

Shanna Sims-Bradish, Asst. City Manager
Pete Smith, City Attorney
Aimee Nemer, City Secretary

1. Overview of Charter Review Process.

Chairman Dubey provided an overview of the Charter review process and stated the City Council's charge to the Commission:

- (a) to review the Charter for purposes of recommending amendments as necessary to cause the Charter to conform to federal and state law where conflict or inconsistencies exist;
- (b) to review the Charter for purposes of recommending amendments as necessary to clarify and condense existing Charter sections to improve the effective application of the Charter;
- (c) to review the Charter for any other provisions of the Charter as the Charter Review Commission determines necessary.

Mr. Dubey explained that in addition to this charge, the City Council requested that a final report of the Commission be submitted to the City Council by June 1, 2015. He said that the Council will review the report and consider any recommendations to determine if a Charter Amendment Election to be held on November 3, 2015, should be ordered. He further explained that the Council requested that the Commission conduct at least one Public Hearing to receive public input.

2. Conduct a Public Hearing to receive public input on the Richardson City Charter.

Chairman Dubey stated that the Commission would conduct a Public Hearing and he explained that speakers would be given three minutes to make their comments.

Comments were submitted by the following:

Charles Pratt

Mr. Pratt stated that the Commission should take a "Hippocratic oath" approach to reviewing the Charter, meaning; "First, do no harm." He stated that the Charter does not need radical change. He expressed concerns regarding the current process of direct election of the mayor stating that the election campaign expenses for this type of election make it difficult for the common person to run

for this seat. Regarding term limits and length of terms, Mr. Pratt explained that the current term limits allow for important regional influence and the current system of electing the mayor and all councilmembers at once allows for an even playing field for re-election. He further explained that rotating (or staggered) terms would cause the mayor and council to be in constant election mode.

Jean Richards, representing the League of Women Voters of Richardson (LWV)

Ms. Richards stated that the League supports staggered terms for councilmembers, a requirement to review the Charter every ten (10) years, and election of the mayor by the city council. Ms. Richards further stated that since the recently enacted Charter provision for direct election of the mayor has not been fully tested by time, the League was supportive of a maintaining this method and allowing a future Charter review commission evaluate its effectiveness. Ms. Richards provided the Commission with her complete statement and the LWV position on the City of Richardson Charter.

Charlie Newton

Mr. Newton expressed appreciation to the Commission and the appointment of Mr. Dubey as chair. He stated he would like to see the residency requirement for city council and boards and commissions expanded to 3-5 years, would like to add proclamations related to the Bible being the word of God, Jesus is the son of God, and public prayer in all places. Mr. Newton provided a statement to the Commission with specific language related to the above proclamations.

RECESS

With no further comments submitted, Chairman Dubey closed the public hearing and called for a recess at 6:23 p.m.

REGULAR MEETING – LARGE CONFERENCE ROOM, SUITE 202
IMMEDIATELY FOLLOWING PUBLIC HEARING

RECONVENE

Chairman Dubey reconvened the meeting at 6:33 p.m.

1. Consider approval of the October 15, 2014 Charter Review Commission Meeting Minutes.

Commission Action

Commissioner Yaeger moved to approve the October 15, 2014 Minutes as presented. Commissioner Frey seconded the motion. A vote was taken and passed, 11-0.

2. Review Richardson City Charter, Article I, *Incorporation and Territory* and consider any recommendations for amendments thereto.

Commission Action

Section 1.01 – Commissioner McCalpin moved to approve this section as presented with no recommended changes. Commissioner Yaeger seconded the motion. A vote was taken and passed, 11-0.

Section 1.02 – Commissioner Lemons moved to approve this section as presented with the recommended changes. Commissioner Frey seconded the motion. A vote was taken and passed, 11-0.

Section 1.03 – The Commission discussed the use of the words “inhabitants,” “citizens,” and “residents.” Commissioner McCalpin moved to approve the section as presented with recommended changes and the

additional change of the word “citizens” to “residents” in the last sentence. Commissioner Murphy seconded the motion. A vote was taken and passed, 11-0.

The Commission discussed the inconsistency of the rules of capitalization for the word “city.” The Commission determined to address grammatical changes at the end of the review process.

3. Review Richardson City Charter, Article II, *Powers of the City of Richardson* and consider any recommendations for amendments thereto.

Commission Action

Section 2.01 – Commissioner Bright moved to approve this section as presented with no recommended changes. Commissioner McCalpin seconded the motion. A vote was taken and passed, 11-0.

Section 2.02 – Commissioner Quirk moved to approve this section as presented with no recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 11-0.

Section 2.03 – Commissioner McCalpin moved to approve this section as presented with no recommended changes. Commissioner Yaeger seconded the motion. A vote was taken and passed, 11-0.

4. Review Richardson City Charter, Article 20, *Prohibitions* and consider any recommendations for amendments thereto.

Commission Action

Section 20.01 – The Commission discussed the clarity of the sentence in this section. Commissioner Yaeger moved to approve as presented with recommended changes and the additional change of adding a semi-colon behind the phrase “...authorized by this Charter or state law...” and to change the word “authorized” to “provided” in the phrase “...except as authorized by state law.” Commissioner Murphy seconded the motion. A vote was taken and passed, 11-0.

Section 20.02 – Commissioner Lemons moved to approve this section as presented with the recommended changes. Commissioner McCalpin seconded the motion. A vote was taken and passed, 11-0.

Section 20.03 – Commissioner Murphy moved to approve this section as presented with the recommended changes and the additional change of deleting the word “absolutely” before the word “void.” Commissioner Quirk seconded the motion. A vote was taken and passed, 11-0.

Section 20.04 – Commissioner McCalpin suggested deleting this section since it is mandated by state law. The Commission discussed the pros and cons of deleting the section. Commissioner Lemons moved to delete “...public halls, parks, or public works...” and replace with “property, real and personal,” Commissioner Bright seconded the motion. A vote was taken and passed, 11-0.

Section 20.05 – Commissioner Quirk moved to approve the deletion of this entire section as presented and recommended. Commissioner Lee seconded the motion. A vote was taken and passed, 11-0.

5. Review Richardson City Charter, Article 21, *Effective Dates and Effects of Adoption* and consider any recommendations for amendments thereto.

Commissioner Dubey noted that the correct title for Article 21 is *General Provisions*.

Commission Action

Section 21.01 – Commissioner Wilson moved to approve this section as presented with no recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 11-0.

Section 21.02 – Commissioner Murphy moved to approve this section as presented with no recommended changes. Commissioner Bright seconded the motion. A vote was taken and passed, 11-0.

Section 21.03 – Commissioner Frey moved to approve this section as presented with no recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 11-0.

Section 21.04 – The Commission discussed the use and meaning of the phrase “pleasure grounds.” Commissioner Yaeger moved to delete “...parkways or pleasure grounds.” and replace with “open space or other recreational activities.” Commissioner Frey seconded the motion. A vote was taken and passed, 11-0.

Section 21.05 – Commissioner Frey moved to approve this section as presented with no recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 11-0.

Section 21.06 – Commissioner Yaeger moved to approve this section as presented with no recommended changes. Commissioner McCalpin seconded the motion. A vote was taken and passed, 11-0.

Section 21.07 – Commissioner Quirk pointed out that the word “therefor” is an archaic spelling. The Commission determined to address spelling and grammatical changes at the end of the review process. Commissioner Bright moved to approve this section as presented with no recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 11-0.

Section 21.08 – Commissioner Frey moved to approve this section as presented with no recommended changes. Commissioner Lee seconded the motion. A vote was taken and passed, 11-0.

6. As necessary discuss planned review of Richardson Charter for next scheduled meeting.

Commissioner Dubey distributed a revised Schedule of Review noting a change in the order discussion topics.

Commissioner Wilson inquired how public comments would be reviewed and addressed by the Commission. City Attorney Pete Smith suggested that comments be reviewed during discussion of the corresponding topic. He suggested that topics that are not in the Charter be discussed at the end of the review process.

ADJOURN

With no further business, Vice Chair Taylor moved to adjourn the meeting at 7:53 p.m., seconded by Commissioner McCalpin. The motion passed unanimously.

Bob Dubey, Chair

ATTEST:

CITY SECRETARY

ARTICLE 1. - INCORPORATION AND TERRITORY

Section 1.01. - Corporate name.

All inhabitants of the City of Richardson, Dallas and Collin counties, Texas, as the boundaries and limits of said city are herein established or may hereafter be established, shall be a body politic, incorporated under, and to be known by, the name and style of the "City of Richardson," with such powers, rights and duties as herein provided.

Section 1.02. - Boundaries.

The ~~bounds and limits~~ boundaries of the City of Richardson shall be those as established and described in ordinances duly passed by the city council of the City of Richardson in accordance with state law. The city secretary shall maintain an official map of the City's boundaries ~~at all times keep a correct and complete description as required by state law with recent annexations or disannexations.~~

Section 1.03. - Additional territory.

The city may from time to time alter its boundaries by annexing any territory adjoining its present or future boundaries in any size or shape desired in any manner provided by state law. In addition ~~thereto~~, the city may annex additional territory lying adjacent to the city with or without the consent of the territory and the inhabitants of the territory annexed where the same is not inconsistent with ~~the~~ state law. Such annexations shall be accomplished by ordinance providing for the alteration and extension of the boundary limits, which ordinance shall describe the territory to be annexed. ~~and shall be published one (1) time in a local newspaper. Amendments reducing the area may be incorporated into the proposed ordinance without the necessity of publishing said amendments and without the necessity of republication of said ordinance as amended. The proposed ordinance shall not thereafter be finally acted upon until at least thirty (30) days have elapsed after the publication thereof; and upon the final passage of any such ordinance, the boundaries of the city shall thereafter be as fixed in such ordinance. The additional territory annexed shall be a part of the city and the property situated therein shall bear its pro rata part of the taxes levied by the city as provided by state law. The inhabitants thereof shall be entitled to all rights and privileges of all the citizens and shall be bound by the acts, ordinances and resolutions of the city. Any territory annexed shall become a part of the city, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the city subject to state and local laws and regulations.~~

Comment [p1]: Chapter 41 Texas Local Government Code requires the city secretary to maintain an official map of the boundaries.

Comment [p2]: Texas Local Government Code contains detailed procedures for annexation. The above language is not required and imposes requirements not found in state law.

ARTICLE 2. - POWERS OF THE CITY

Section 2.01. - Specific powers.

The city shall have all powers that now are or hereafter may be granted to municipalities by the Constitution or laws of the State of Texas, and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, and when not prescribed therein, in such manner as may be provided by ordinance or resolution of the city council of the City of Richardson.

Section 2.02. - General powers adopted.

The enumeration of particular powers in the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof the city shall have and may exercise all other powers which, under the Constitution and laws of the State of Texas, it would be competent for the Charter specifically to enumerate. The City of Richardson shall have and exercise all powers conferred upon cities by what is known as the Home Rule Amendment to the Constitution of the State of Texas and the enabling Act relative thereto, and all other laws passed by the Legislature of the State of Texas relating thereto or which may hereafter be passed by said Legislature in relation to such matters.

Section 2.03. – Eminent Domain ~~Power to acquire property for public purposes.~~

The city shall have the full power, authority and right to exercise the power of eminent domain in any manner authorized or permitted by the Constitution and the laws of the State of Texas when necessary or desirable to carry out any of the powers conferred upon by this charter or by the Constitution and laws of the State. The power of eminent domain hereby conferred shall include the right of the city to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The city shall have and possess the power of eminent domain for any municipal or public purposes even though not specifically enumerated in this charter. ~~The City of Richardson shall have the power to acquire by condemnation either private or public property located inside or outside of the corporate limits for the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, water sheds, dams, the laying, building, maintenance and construction of water mains and the laying, erection, establishment or maintenance of any necessary appurtenances or facilities which will furnish to the inhabitants of the city an abundant supply of wholesome water; for sewerage plants and systems; rights of way for water and sewer lines; parks, playgrounds and schools, hospitals, fire stations, police stations, burial grounds and cemeteries, incinerators or other garbage disposal plants, streets, boulevards and alleys or other public ways, city jails, city halls and other municipal buildings or any right of way needed in connection with any property used for any purpose hereinabove named; for the straightening~~

Comment [p3]: Modern and concise description of eminent domain powers of the city.

~~or improving of the channel of any stream, branch or drain and for any other municipal purpose. The procedure to be followed in any condemnation proceeding hereunder and authorized herein shall be in accordance with the provisions of the state law with reference to eminent domain. The provisions of the Texas Property Code shall apply to such proceedings, or such proceedings may be under any other state law now in existence or that hereafter may be passed governing and relating to the condemnation of land for public purposes by a city.~~

ARTICLE 20. - PROHIBITIONS

Section 20.01. - Church and school property assessments.

No property of any kind, church, school or otherwise, in the City of Richardson shall be exempt from any of the special taxes and assessments authorized by this Charter or state law, except as authorized by state law for local improvements.

Section 20.02. - Notice of damage or injury.

The City of Richardson shall never be liable for any personal injury, whether resulting in death or not, or for damage to real or personal property unless the person who is injured or whose property is damaged or someone in such person's 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 or city secretary within six (6) months after the day that the incident giving rise to the claim for damage or injury occurred~~the same has been received~~, stating specifically in such notice when, where and how the exact injury, death or property damage occurred and the full extent thereof, together with the amount of damages claimed or asserted. ~~The City of Richardson 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 such person's behalf, shall file a claim in writing with the city manager or the city secretary within six (6) months after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the full extent thereof, and the amount of damage sustained. The City of Richardson shall never be liable for any claim for damage or injury to real property caused by the 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 such person's behalf, shall file a claim in writing with the city manager or city secretary within six (6) months 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 City of Richardson shall never be liable on account of any damage or injury to person or to personal property arising from or occasioned by any defect in any public street, highway, alley, grounds or public work of the City of Richardson unless the specific defect causing the damage or injury shall have been actually known to the city manager, or to the designated officer of the city at least twenty four (24) hours prior to the occurrence of the injury or damage, or unless the attention of the city manager or the designated officer of the city shall have been called thereto by a notice thereof in writing at least twenty four (24) hours prior to the occurrence of the injury or damage and proper diligence has not been exercised to rectify the defect. The notice herein required to be given to the city manager or designated officer of the city of the specific defect causing the damage or injury shall apply where the defect arose from any omission of the city itself, through its agents, servants or employees, or acts of third parties.~~ Provided, however, nothing herein contained shall be construed to mean that the City waives any rights, privileges, defenses or immunities which are provided under the common law, the constitution and general laws of the State of Texas.

Comment [p4]: Eliminated redundant language and made consistent with state law.

Comment [p5]: Added to clarify and emphasize that the requirement to provide notice does not waive any defenses or immunity provided by the law.

Section 20.03. - Execution, garnishment and assignment.

Except as provided by state or federal law, The property, real and personal, belonging to ~~said the~~ city shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to ~~said the~~ city, in the hands of any person, be liable to garnishment on account of any debt it may owe or funds it may have on hand due any person, nor shall the city or any of its officers or agents be required to answer to any writ of garnishment on any account whatsoever, nor shall ~~the said~~ city be liable to the assignee of any wages of any officer, agent or employee of ~~the said~~ city, whether earned or unearned, upon any claim or account whatsoever, and as to the city and such assignment shall be absolutely void.

Section 20.04. - Liens on public property.

No lien of any kind can ever exist against the public halls, parks or public works of the City of Richardson.

~~Section 20.05. - Notice of claims.~~

~~All contractors or subcontractors engaged in any public works of the City of Richardson are hereby required to notify the city of all claims they may have on account of such work against the city, and when such notice has been given, the city shall retain an amount from any funds due the contractors sufficient to satisfy all claims; provided that such notice may be given at any time after such indebtedness becomes due and before final settlement; and provided, further, that no contractor or subcontractor shall issue checks on or on account of any public works of said city.~~

Comment [p6]: Clean up and to conform to state law regarding child support or spousal maintenance, and wage garnishment.

Comment [p7]: Section is not necessary as notice of claim is covered by section 20.02 and by state law governing public works contracts.

ARTICLE 21. - GENERAL PROVISIONS

Section 21.01. - Personal financial interest.

No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or services, except on behalf of the city and any officer or employee guilty thereof shall thereby forfeit such person's office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the city council shall render the contract involved voidable by the city manager or the city council.

Section 21.02. - City contracts—Appropriations and Executionspecifications.

No contract shall be entered into by the city council until after an appropriation has been made therefor, ~~nor in excess of the amount appropriated, and all contracts shall be made upon specifications;~~ and no contract shall be binding upon the city unless it has been signed by the ~~mayor or~~ city manager, ~~or city manager designee, and attested by the city secretary, and the expense thereof charged to the proper appropriation;~~ and whenever the contract charged to any appropriation equals the amount of said appropriation, no further contracts shall be executed. All contracts, of whatever character, pertaining to public improvements, or the maintenance of public property of said city, involving an outlay of as much as ten thousand dollars (\$10,000.00) shall be based upon plans and specifications to be prepared and submitted to and approved by the city council, and said plans and specifications shall disclose clearly each item constituting a material element entering into the cost of the subject matter of the contract; and after approval by the city council, advertisements for the proposed work or matters embraced in said proposed contract shall be made, inviting competitive bids for the work proposed to be done, which said advertisement shall be published in a local newspaper at least once.

Section 21.03. - Bid opening.

The City shall comply with state law regarding purchasing and contracting of municipalities including provisions relating to notice of contracts, advertisements for notice, requirements for taking sealed bids or proposals on specifications for public improvements or purchases, the manner of opening bids and the award of contracts. ~~All bids submitted shall be sealed, shall be opened as provided for by ordinance of the city, and shall remain on file in the office of the city secretary and [shall] be open to public inspection for at least forty eight (48) hours before any award of said work is made to any competitive bidder. The city council shall determine the most advantageous bid for the city, and shall enter into contract with the party submitting the lowest secure bid; and if in the opinion of the city council none of said bids is satisfactory, then the city council may have said work done by day labor, and a detailed statement of all such work done by day labor, showing the cost of same, shall be filed with the city council. Pending the advertisement of the work or contract~~

Comment [p8]: Amendment to conform to state law. Added the mayor since some contracts require mayor signature rather than city manager signature. State law does not require city secretary attestation of mayor or manager signature on contracts. Some contracts are by purchase orders. Not necessary to have city secretary attest the signature of the mayor or city manager. Not necessary to state the threshold amounts as state law will govern and the threshold amounts triggering competitive bidding have changed over the years and could change in the future.

~~proposed, specifications therefor shall be on file in the office of the city secretary, subject to the inspection of all parties desiring to bid.~~

Comment [p9]: Amendment to conform to state law.

Section 21.04. - Acquisition of land for parks.

The City of Richardson may acquire and appropriate land inside or outside of the City of Richardson for use as parks, parkways or pleasure grounds.

Section 21.05. - Public library.

The city shall establish and maintain a public library or libraries within the city free to the residents of the City of Richardson and to cooperate with any person, firm or corporation under such terms the city council may prescribe for the establishment of such public library or libraries, and to that end the city council shall appropriate annually out of the general revenue of the city a fund for the support and maintenance of the public library.

Section 21.06. - Building permits.

The City of Richardson shall have power to prohibit the erection or construction of any building or structure of any kind within the City of Richardson without a permit first having been issued by the city for the construction or erection of such building or structure, and may authorize a fee to be charged for such permit, and in pursuance of said authority may authorize the inspection by the city of all buildings or structures during the progress of their construction and may require that all buildings shall be constructed in conformity with the building regulations which exist in said city or which shall hereafter be passed.

Section 21.07. - Condemnation of dangerous structures.

Whenever, in the opinion of the city council, any buildings, fence, shed, awning or structure of any kind or part thereof is liable to fall down and injure persons or property, the city council may order the owner or agent of the same or occupant of the premises to take down and remove the same within such time as it may direct, and may punish by fine all persons failing so to do. The city council shall have the additional power to remove the same at the expense of the city on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land, and the same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction. The city council shall have full power to condemn all dangerous buildings or obstructions of any kind and may provide regulations therefor by ordinance.

Section 21.08. - Bonds of city official, employee or department director.

In addition to any bonding provision herein provided, the city council may require any city official, department director or city employee, before entering upon such person's duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas, and approved by the city council, as surety thereon, said bond to be in such amount

as the council may demand, payable to the City of Richardson, and conditioned for the faithful performance of the duties of the office; premium of such bond to be paid by the city.

