

**MINUTES OF THE REGULAR MEETING OF THE CHARTER REVIEW
COMMITTEE OF THE CITY OF BAYTOWN**

November 16, 2020

The Charter Review Committee of the City of Baytown, Texas, met in a Regular Meeting on Monday, November 16, 2020, at 5:30 P.M. in the Baytown Council Chamber of the Baytown City Hall, 2401 Market Street, Baytown, Texas with the following in attendance:

Rhonda Lopez	Vice-Chairperson (In Person)
Mike Beard	Committee Member (Teleconference)
Richard Rayon	Committee Member (In Person)
Jo Ann Fenley	Committee Member (In Person)
Pi-Yi Mayo	Committee Member (Teleconference)
Jim Coker	Committee Member (In Person)
Briceida Alcaraz	Chairperson (In Person)
Karen L. Horner	City Attorney
Leticia Brysch	City Clerk

Chairperson Briceida Alcaraz convened the November 16, 2020, Charter Review Committee Meeting with a quorum present at 5:30 P.M., all members were present.

Due to the COVID 19 Disaster and the CDC's recommendation regarding social distancing measures there was limited amount of space when maintaining the required 6-foot separation from others. However, the meeting allowed for two-way communications for members of the public who were not allowed to be physically present at this meeting.

1. DISCUSSIONS

a. Discuss and take appropriate action regarding possible amendments to the Baytown City Charter, including, but not limited to, term limits and Fire Department Staffing.

Chairperson Briceida Alcaraz opened the floor to the citizens that had signed up to speak.

Mr. Thomas Parent, 6903 Hunters Way Lane, stated that as a resident of Baytown he reviewed the Charter Review Committee agenda and the agenda item regarding Fire Department staffing caught his eye as it means a lot to him since his father was a firefighter in Massachusetts back in the 1970s and 1980s. In speaking to his father about the four-man staffing, he was very passionate about it and told him about an incident that occurred during his tenure that could have cost him his life. Firefighter staffing is really important and having four guys on a fire truck allows firefighters to make entry and keep it safe, and protects people's lives as well as property. He hopes that they continue with four-man staffing and they keep it in the charter. He stated that the charter is a very important document for the city and basically our constitution. It is not about what City Council or City Administration state they are going to do, it is about what people might do in the future, and controlling how our government

works and the charter protects our citizens. He hopes there might be an opportunity with the charter review process in which they can get more citizens involved and perhaps hold a town hall meeting to talk to people about what is involved in the charter, and how our city works, and seek more input. He understands these meetings are open to the public and the agendas get posted but he thinks there should be more engagement with the community and get more people involved.

Mr. Mike Wills stated he has been a resident of Baytown for the past 17 years and a firefighter, after next month, for 25 years. He wanted to explain the reason for four-man staffing and the reason they put it in the charter. They had just created Collective Bargaining in 2000, and understood that if they put in this requirement in their bargaining, it was something that could always be taken away. It was put in the charter because that is what the citizens voted for and what they wanted. This is a reoccurring issue that keeps coming up and he does not understand why. He was on the last fire incident before implementing four-man staffing and was a new driver in 2002. The new law was created in March 2002, which requires that two firefighters stay outside, while two firefighters enter a burning structure. It is called the Two-in/Two-out Law and can be found in the Texas Administrative Code, Title 37. The reason they did the four-man staffing because that way when one truck shows up to a scene, they immediately get to go to work. He narrated the incident he was involved in before implementing the four-man staffing, which occurred off Gayla Street, the homeowner kept going inside the burning structure and the firefighters had to pull him out and he had to hold him down, which involved them breaking the law in order to put out the fire. The next fire truck did not arrive until three minutes later, which does not sound like a long time, but it is not enough time to be able to wait. He respected that the homeowner was attempted to put out the fire himself with a hose but it was for his safety that they had to hold him down. Thereafter the city made the ruling and they immediately went to four-man staffing so they could do their job efficiently.

Mr. William Frigia deferred his three-minute speaking time to Mr. Dallas Webb.

Mr. Dallas Webb, President of the Baytown Professional Firefighters Association, stated he has been a Baytown firefighter for about 15 years, which was after four-man staff had already been established. When he looks at things, he cannot imagine doing their job any other way. He provided some of the history behind implementing the four-man staffing, which the others had already spoken about. In 2001 the BPA created the NFPA 1710, which required a minimum of four people to a fire truck apparatus to maximize efficiency and safety of crews on the fireground. Not only does that standing minimize the injury and death to firefighters, but it also maximizes our safety to our citizens and how we provide that service. In 2002, when they asked the City to implement the new standard of four-man staffing, the City Manager at the time basically said no, so they had citizens vote on it and it passed by majority of votes. The firefighters always provide excellent service to our citizens and not only does it protect people on the fireground, but nowadays they deal with a lot of medical issues. On a common CPR call, it takes about six people on average; it takes two paramedics to administer the medications, it takes one person securing the person's airway, it takes two to do chest compressions, and one person keeping data so they get a proper turnover when they get to the hospital. If you remove the staffing requirement from the Charter, there is always the possibility that City Administration could take away from the citizens, which provides lesser service to them. The Association believes this is a very imperative thing to keep in the charter and the citizens voted for it to stay in the charter.

Chairperson Briceida Alcaraz opened the floor for discussion to the two committee members connected via teleconferencing. Committee Member Pi-Yi Mayo stated he was not in favor of making a recommendation to remove the Firefighter staffing requirement from the charter.

Committee Member JoAnn Fenley stated that she served on the past Charter Committee and was shocked that this item was brought up again for discussion because at the last charter review process they turned it down and believes it should stay in the charter, otherwise, it would be unsafe for the citizens.

Committee Member Mike Beard commented that he had brought the item up in the past, however, it was not a safety issue, but a budgetary item that should be left to the City Council and the Department Heads, because otherwise you take the right of the citizens to affect the budget. However, when this committee was formed, he specifically asked if this item would come up for discussion and was told probably not. As far as he is concerned, he would not support a proposal going forward as it would be a waste of time.

Committee Member Richard Rayon stated he appreciated the firefighters for their service, and commented that he worked at a chemical plant in Deer Park for 49 years, and agreed with the speakers that three minutes could save somebody's life, it is really important, and believes that it should be left as is.

City Clerk Leticia Brysch stated that staff had received an email from one of the committee members from the direction from their council member for the Firefight staffing requirement and term limits in section 22.1 be brought for discussion, this was not a staff initiative. Staff put it on the agenda and for the spirit of transparency they put section 22.1 because they know it is such a high interest and emotional item, so that people could come and speak. It is the prerogative of every Charter Review Committee member to bring up any item in the charter for discussion and staff will listen and answer any questions. Staff does not have a recommendation regarding this item.

A motion was made by Committee Member JoAnn Fenley to not make any amendments to section 22.1 of the charter to Council, and was seconded by Committee Member Jim Coker. The vote was as follows:

Ayes: Chairperson Briceida Alcaraz, Committee Member Rhonda Lopez, Committee Member Mike Beard, Committee Member Richard Rayon, Committee Member Jo Ann Fenley, and Committee Member Pi-Yi Mayo

Nays: None

Approved

Chairperson Briceida Alcaraz then opened the floor for discussion on term limits. City Clerk Leticia Brysch stated that staff had updated a survey, which has been presented in the past to the previous charter review process, as it pertains to what other cities comparable to us do as it relates to council term limits.

Committee Member Mike Beard stated that he is a huge proponent of term limits and for two charter review committees it was a hundred percent voted on to pass it through the Council, however, it has never gotten past Council in the process. Personally, he likes the opportunity that after a certain amount

of time that they need to move on and believes not having term limits on local government limits the opportunity for some of the other participants in the community. He would support an amendment for term limits and moving forward in the process.

Committee Member Pi-Yi Mayo stated that generally he is not a proponent of term limits and believes term limits at this level happen at the ballot box. His reasoning for that is that term limits might be necessary in much broader elections where the amount of money that a person gains as an incumbent really has an affect on their ability to make decisions, but because of the single member district going door to door and shaking hands with people and talking in the community is far more important than any type of signage, so money is not as an important a thing so he does not think it gives an incumbent as in raising money. The fact that many council members have been re-elected many times over indicates that evidently, they have been doing what their citizens want. He would not be in favor of any proposed amendment. Committee Member JoAnn Fenley agreed with Mr. Mayo, in that if the elected official is doing a good job then the citizens want for them to continue serving and it may take an elected official several terms to accomplish their goals, and if they are not, then the citizens will vote somebody else in.

Committee Member Mike Beard stated that they had done a citizen survey a couple of years back regarding term limits and the votes came back 50/50. He is always willing to put something pass the voters and let them decide what they want to do.

Chairperson Briceida Alcaraz asked Mr. Thomas Parent, one of the previous speakers, if he could answer questions from the committee members and he agreed. Committee Member Richard Rayon asked Mr. Parent for his opinion on the matter of term limits. Mr. Parent answered that there is definitely the consideration that term limits can be imposed by the voters, the incumbents would have the advantage because if the incumbent is doing a good job, he will be incredibly hard to beat. If the incumbent is not doing a good job then it opens it up for a challenger so it is up to the voters. When you look at what other cities have in regards to term limits, how many of our council members would have even hit those term limits? He does not think there is any in the past twenty years that would have even hit the term limits.

Chairperson Briceida Alcaraz believes that a new person brings new ideas and helps people not lug and get things done. If an elected official is doing a good job then the public will vote accordingly. City Clerk Brysch stated that the committee does not have to make a decision tonight. Vice-chairperson Rhonda Lopez commented that she is definitely a proponent of term limits and would like for this to be taken further in discussion and like Mr. Beard suggested, even put out a survey. City Clerk Brysch clarified that as it relates to surveys, staff does not actually survey the citizens until there is more than one item that requires a vote. The outreach and the public forums and the public hearings occur when they actually have a slate of where they are going with things before it gets submitted to Council, which typically happen in February or March. It is scheduled for Council to receive the report on behalf of the Charter Review Committee in May in order to give them enough time to receive the report and then take action. They have to call their charter special election no later than the first regular meeting in August.

City Attorney Karen Horner asked the committee members what length of time they would prefer as far as term limitations, would it be three consecutive terms as a council member and then if they decide to run for mayor would it be another three consecutive terms? Or would they need to wait in between terms? Or what about unexpired terms? Committee Member Beard stated that personally he would be

in favor of the term limits being for three 3-year terms, or nine years, regardless if it is for a council member or mayor positions, they are all elected positions.

A motion was made by Committee Member JoAnn Fenley that the discussion pertaining to term limits be discussed further at a future meeting, and was seconded by Vice-chairperson Rhonda Lopez. The vote was as follows:

Ayes: Chairperson Briceida Alcaraz, Committee Member Rhonda Lopez, Committee Member Mike Beard, Committee Member Richard Rayon, Committee Member Jo Ann Fenley, and Committee Member Pi-Yi Mayo

Nays: None

Approved

Committee Member Pi-Yi Mayo wished to comment, and there may have been some controversy, as to when the term of an elected council member begins and ends because his understanding is that there is a certain time when they are supposed to take, when the election results are canvassed, when their term is suppose to start and then they have a swearing in ceremony. The only place where it is mentioned, and Ms. Horner may know of another place, is section 25 of the charter. He would like to propose an amendment in section 25, if that is where it should be in unless staff has another suggestion, specifying when the term of a person ends if they lost the last election like 11:59 p.m. and then the term of the new person beginning at 12:00 or 12:01 a.m., on the day it starts. City Attorney Horner stated that she has been with the city for 27 years and does not remember there being any controversy on this topic, not that it could not have happened but it never got to their office necessarily, because the charter is clear that you cannot take office until after you qualify for office, which means taking your oath and you cannot take your oath until after the election results are canvassed. The issue that we have is that the date is not always the same every year. Another issue that we have is that as soon as someone qualifies for office, and have been canvassed and declared the winner, they can assume office. We are consistent with most other cities do as shown on the survey provided, so to have a specific date and time would be very unusual and she would not recommend it because the new council member could jump in and take over as soon as they qualify for office. Some of the other cities in their charter state that the new elected official would take office as soon as the next regular meeting after the canvass, while others like City of Bellaire state the first regular meeting in January. In Baytown, they take office as soon as they are sworn in after the canvassing of the election results. It helps in preparation of new ideas, moving forward, so that you do not have someone that is going to sitting on council, not really interested or maybe not even attending anymore because they know they are not going to be continuing in that capacity.

City Clerk Leticia Brysch stated that for the majority of the time, once we canvass, the council member can choose to get sworn in immediately thereafter and from that moment forward they are the council member for all intents and purposes. The only reason there is a concern in creating a system of dates in the charter is because it moves them away from what they have always wanted to do, which is to defer to state law in regards to anything pertaining to election. As the election administrator, it makes things more difficult when you start adding other items than what the state mandates. The swearing in would not occur in the middle of a council meeting after the election results are canvassed.

There was a brief discussion in regards to when the newly elected official should start executing their duties as council member versus waiting until the next regular council meeting and felt there was a need to address it and receive a clarification. City Attorney Karen Horner read excerpt from section 25 of charter, which states that “After canvassing the results of the election, the council shall meet at the usual place for holding meetings, and the newly-elected members shall qualify and assume the duties of office,” which indicates they would assume their duties at the next meeting. Committee Member Pi-Yi Mayo stated that is how he read it, but a while ago they stated that they assume duties when they take the oath, and not when the next meeting starts, two very different things. Committee Member Mike Beard suggested seeking outside counsel for clarification purposes. City Attorney Karen Horner stated that she could reach out to some of the former city attorneys and do research and will present clarifying language to the committee at a future meeting. Committee Member Pi-Yi Mayo suggested to the other committee members that they should think about what they believe should be the direction they should take regarding this item.

2. BUSINESS ITEMS

- a. Consider setting date, time and location of the next Charter Review Committee Meeting, along with any related tasks and processes.**

Several of the committee members were in favor of moving forward with the charter review process and agreed that they should meet in December in order to present their committee report to Council in a timely manner.

A motion was made by Committee Member JoAnn Fenley to schedule the next Charter Review Committee meeting for Monday, December 14th, at 5:30 p.m., in the Baytown Council Chamber at City Hall, and was seconded by Vice-Chairperson Rhonda Lopez. The vote was as follows:

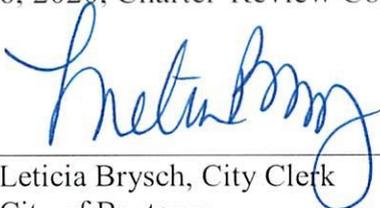
Ayes: Chairperson Briceida Alcaraz, Committee Member Rhonda Lopez, Committee Member Mike Beard, Committee Member Richard Rayon, Committee Member Jo Ann Fenley, and Committee Member Pi-Yi Mayo

Nays: None

Approved

4. ADJOURN

With there being no further business to discuss, Chairperson Alcaraz adjourned the November 16, 2020, Charter Review Committee Regular Meeting at 6:37 P.M.


Leticia Brysch, City Clerk
City of Baytown

