

AGENDA

CITY OF TAYLOR, TEXAS
SPECIAL CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, 400 PORTER STREET

AUGUST 14, 2012, 6:00 P.M.

CALL TO ORDER AND DECLARE A QUORUM

REGULAR AGENDA; REVIEW/DISCUSS AND CONSIDER ACTION

1. Receive report from the Charter Review Committee.
2. Consider introducing Ordinance 2012-26 calling an election on November 6, 2012 on proposed amendments for the Home Rule Charter of the City of Taylor.
(Considerar la introducción de ordenanza 2012-26 llamar a una elección el 06 de noviembre de 2012 sobre las enmiendas propuestas para la Carta de regla de la ciudad de Taylor.)

EXECUTIVE SESSION

3. The Taylor City Council will conduct a closed executive meeting under Section 551.071 of the Texas Government Code in order to meet with its City Attorney on a matter in which the duty of the Attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas authorize and allow such a closed meeting and which Rules conflict with the Texas Open Meetings Act.
 - Legal issues associated with the Sloan Street project.
4. Consider action from Executive Session.

ADJOURN

The Council may vote and/or act upon each of the items listed in this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, whenever it is considered necessary and legally justified under the Open Meetings Act. I certify that the notice of meeting was posted in the Taylor City Hall Lobby before 6:00 pm on August 10, 2012 and remained posted for at least 72 hours continuously before the scheduled time of said meeting. I further certify that the following news media was notified of this meeting: Taylor Daily Press.

In compliance with the ADA the City Hall and Council Chambers are wheelchair accessible. Reasonable accommodations will be provided for persons attending city council meetings in need of special assistance. Please contact Susan Brock, City Clerk, at least 24 hours prior to the meeting for special assistance.

Posted By: Susan Brock Date 8/10/12
Susan Brock, City Clerk



***City Council Meeting
August 14, 2012
Agenda Item Transmittal***

Agenda Item #: 1
Agenda Title: Receive report from the Charter Review Committee.
Council Action to be taken: Receive report.
Initiating Department: City Council
Staff Contact: Jeff Straub, Assistant City Manager

1. INTRODUCTION/PURPOSE

Mr. John McDonald, Chairman of the Charter Review Committee will present a report to Council on the recommendation from the committee. These recommendations have been crafted by legal counsel into ordinance form that will allow the Council to call an election if Council should so choose.

2. DESCRIPTION/ JUSTIFICATION

Charter Review Committee Report – as commissioned by the City Council.

3. FINANCIAL/BUDGET

n/a

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Acceptance of report.

6. REFERENCE FILES

1a. Report

Charter Review Committee Report - 8/14/12

Honorable Mayor, City Council Members, Senior Staff,

This is the final report of the 2012 Taylor Charter Review Committee.

Process

The City Council appointed 13 members to the review committee, one member resigned following the organizational meeting and another resigned after attending two meetings. Every meeting was composed of a super majority and those who were absent had valid excuses. There were four committee meetings in addition to the organizational meeting.

Staff provided benchmark city charters as reference material. The benchmark cities were: Georgetown, Temple, Cedar Park, Hutto, Belton, Harker Heights, Leander, Brenham, and Round Rock.

Assistant City Manager Jeff Straub and City Attorney Ted Hejl attended each meeting providing background information and insight into each topic discussed. Senior staff presented each issue to the committee delineating the issue, background information, and a Taylor staff recommendation. The committee subsequently discussed each issue, asking questions of both staff and committee members. ALL committee members were engaged and each member of the committee was asked for comments on every issue. Discussion was completely open and enthusiastic with each member displaying a dedication, understanding, and attention to the entire Taylor community.

At the first committee meeting, a concern was voiced about the expediency of the proceedings and the deadline imposed by the City Council. The feeling was the committee was being rushed in order to meet the deadline for calling a charter election in November. One Nay vote on the final amendments was due to the Council's deadline and the feeling of lack of time for due diligence.

Once each issue had been thoroughly discussed, a committee vote was taken on each issue. Decisions were based upon a plurality vote as had been specified at the committee organizational meeting. Minutes, taken at each meeting, were subsequently distributed and reviewed by the entire committee.

"Housing keeping", items which violate state law or are inconsistent, were considered first. Potential charter amendments, identified by the Taylor City Council, were discussed next. Finally, charter items which had been sent to City staff by Taylor citizens and items brought up by committee members were discussed and acted upon.

Recommended Taylor City Charter Amendments

- 1 **Majority Vote.** Sec. 4.1 specifies council members will be elected by plurality vote which violates the Texas Constitution Article 11, Sec.11 (b) IF the term exceeds 2 years. Committee recommendation to change to majority vote was unanimous.
- 2 **Vacancies.** Sec. 4.4 is consistent with the State Constitution requiring vacancies to be filed BY ELECTION within 120 days and NOT filled by appointment. Examples of vacancies due to illness, accident, death, etc. were discussed. The committee recommended no action as the charter already dictates how to fill vacancies but requests the City Council adhere to the charter in filing any vacancy by an election within 120 days, per state law.

- 3 Election date. Sec. 6.1 states council's elections to be held on the first Saturday in May which could violate the state's uniform election date in May. There was neither clear mandate nor will to add clarifying language to the charter.
- 4 Municipal court. Article 16, Sec. 16.1 establishes a Municipal Court. In 2011 the City Council converted the Taylor Municipal Court to a court of record. Consensus opinion was to leave the charter language unchanged enabling the Council the flexibility to change the court of record back to a Municipal Court WITHOUT a charter election.
- 5 **City Manager authority.** Article 9, Sec. 9.1 generally states employees of the city shall be employed by the city manager subject to approval of the City Council. This provision violates the basic principal of the council/manager form of government. No employment has ever been "challenged" by a City Council member. Therefore, removal of this provision is recommended by a unanimous vote of the committee.
- 6 Direct election of Mayor. Temple was the only "benchmarked" city which, up until very recently, elected their mayor solely by the city council members. Much discussion centered on the expanded 'powers' bestowed upon a mayor elected by the citizenry. There was absolutely no support for expanding the 'power' of Taylor's mayor. There was some concern a mayor elected at-large would exclude minorities. The majority, by a 6-5 vote, decided to leave the election of Taylor's mayor in the power of the City Council especially if the 'powers' of the mayor position are not expanded.
- 7 Term limits. None of the benchmark cities specify term limits for council members. Discussion centered on the knowledge base and importance of experienced council members as well as the smaller talent pool in Taylor due to smaller population. There was no initiative to recommend term limits for Taylor City Council members.
- 8 **Residency requirement.** The committee unanimously determined anyone filing for or holding the position of Taylor City Council member must continuously reside in the district for at least 12 months prior to the first filing date and must continuously reside within that same district.
- 9 **Hold no other office.** The committee was adamant anyone filing for or holding a position on the Taylor City Council must NOT hold or file for another public office. The duties and time requirements for City Council are great and it was felt City business should receive the complete attention of those elected to the City Council. Concerns of perceived or real conflict of interest were also expressed. For example, a current TISD board member may NOT file for Taylor City Council without first resigning from the TISD board and vice versa. A minority opinion was expressed this requirement would preclude a qualified person from holding an appointed county or state position. This recommendation is presented to the City Council with a 10-1 vote in favor.
- 10 **City employment prohibition.** During conflict of interest discussions, it was unanimously determined the City charter should be amended to prohibit any employment by the City of Taylor of a City Council member or, for two (2) years following the Council member's last official meeting.
- 11 **City council member removal.** Taylor has an Ethics ordinance and a Council relations policy. However, neither provides an enforcement or removal procedure for violations. Legal opinion is firm: voters cannot be disenfranchised. All benchmarked cities have some process in place to remove a council member. In depth discussion presented the reasons for forced removal when necessary. Conservative, measured, steps were developed to ensure no one's rights would be violated, the process would be public, and consist of three defined steps. Violations of the Ethics ordinance or violations of the proposed City council member charter amendment would first be presented to the accused council member by a formal notice at least ten (10) days prior to a formal action. At least three (3) council members are required to

initiate the notice process. The facts in the removal proceeding must be presented in a public meeting where the council member accused is allowed to offer rebuttal remarks. Removal must be approved by the vote of four (4) council members. Deliberation of this recommendation was lengthy. All eleven (11) members voted in favor of the final ballot language.

- 12 **Street maintenance utility.** Staff presented reasons for the enormous task of maintenance and rebuilding Taylor's streets. References to the Street Inventory document, current City budget, and required revenue fairly quickly illustrated the magnitude of the tasks faced by the City Council. However, the committee asked the focus be solely on streets and NOT on a larger utility authority as it was felt additional utilities' focus could confuse the voters and raise concern about future Council actions. There was a minority opinion expressed this authority should have a ten-year life span. The committee unanimously agreed to allow the City Council to seek voter authorization to initiate a revenue stream DEDICATED TO ONLY THE STREET MAINTENANCE component. The committee was likewise unanimous that any funds raised should NOT be directed to reconstruction or rehabilitation of any streets in the Street Inventory identified as having already failed. To do so would undermine the faith and confidence of both this committee and the voters. Once the amendment language was finalized, and subsequent vote of the committee was taken. The proposed ballot language passed the committee with 9 Aye, 2 Nay. One nay vote expressed concern whether or not the voters could be properly informed if an election were held in November.
- 13 Initiative/referendum. Citizen input and one committee member recommended Taylor adopt initiative/referendum power on ALL City Council actions not just ordinances. All benchmark cities have higher voter percentage requirements to initiate this process and greatly restrict which council actions are subject to initiative. Discussion centered on the difference between representative and direct city government. Sentiment was expressed the City Council is going a good job and does not need additional oversight. Initiative has not worked in California. Motion to leave the Taylor charter as is passed 8-1.
- 14 Expand City Council to seven. Discussed expanding the council with the addition of two (2) additional at-large positions. City attorney expressed great angst due to the Department of Justice power over the City as a result of the minority lawsuit in the '80s and reluctance Justice would accept such a change. Smaller talent pool and difficulty is securing qualified candidates was also discussed. Vote to expand the City Council failed 4-5.
- 15 Limit City Council 'powers'. Minority opinion expressed desire to limit the budgetary and other powers of the City Council, restricting even those bestowed on Home Rule cities by the state. Representative vs. direct democracy government arguments presented. Position received very limited support and no vote was taken.
- 16 Quorum. Discussion surrounded definition of 'quorum' and Robert's Rule of Order especially in the event more than one council member recuses themselves. Example was given of same situation caused by illness or accident. Motion was presented to require at least three (3) council members be present and voting in order for any City business to be conducted. Killeen was presented as example where, due to recall, a quorum was no longer possible and virtually all city business came to a halt. Motion failed 4-5.
- 17 Budget. A minority opinion was presented requesting the City budget should not be altered or amended during the year as priorities and requirements changed. No support. Motion died for lack of a second.
- 18 Taxation. Limit on tax increases and tax rate. Some cities have charter ceilings on the tax rate; however, the ceilings are many times the existing tax rate so as to be meaningless. Other restrictions and limitations already in state law. Limited discussion as there was no committee support for this proposal.

- 19 Ethics. Discussion centered on additions of specific ethics criteria into the charter. Example of the YMCA board/Taylor Rec center vote was cited. City Ethics ordinance already clearly specifies ethics requirements/limitations. No support to propose additional restrictions; in fact, a minority opinion was presented the current ethics ordinance is too restrictive.

Summary

The committee demonstrated exceptional harmony, enthusiasm, dedication, understanding, and attention to entire Taylor community. Everyone participated in the discussions and I believe all members have a sense of ownership in the process and final results. I believe the entire process was open and all viewpoints, even those controversial, were presented and discussed in a professional manner.

Proposed amendments #1-4, and #6 passed the committee with 10 Aye and 1 Nay vote. Proposed amendment #5 passed 11 Aye, -0- Nay and #7 passed 9 Aye, 2 Nay.

I believe the 2012 Taylor review committee has exceeded all the goals established by the City Council. I am very proud to have been selected to chair and represent this committee of dedicated, hardworking, citizens. I believe the committee's work is complete. Your work and that of the City staff now begins.

On behalf of the entire 2012 Taylor review committee, I respectfully ask the Taylor City Council to accept our report

Respectfully submitted,

John M. McDonald – Charter Review Committee Chair



***City Council Meeting
August 14, 2012
Agenda Item Transmittal***

Agenda Item #: 2
Agenda Title: Consider introducing Ordinance 2012-26 calling an election on November 6, 2012 on proposed amendments for the Home Rule Charter of the City of Taylor.

Council Action to be taken: Introduce or pass and take no action

Initiating Department: City Administration

Staff Contact: Jeff Straub, Assistant City Manager

1. INTRODUCTION/PURPOSE

The city is required to adopt an ordinance to call a Charter Election. To meet the August 20, 2012 deadline for a November 6th election, the ordinance must be introduced and passed prior to the August 20, 2012 deadline. If introduced at this meeting, the ordinance could potentially be passed at the August 16 meeting, adhering to the deadline to call a November election.

2. DESCRIPTION/ JUSTIFICATION

3. FINANCIAL/BUDGET

4. TIMELINE CONSIDERATIONS

August 20th is the last date to call an election for November 6,

5. RECOMMENDATION

6. REFERENCE FILES

2a. Ordinance 2012-26

ORDINANCE NO. 2012-26

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TAYLOR, WILLIAMSON, COUNTY, TEXAS, ORDERING AN ELECTION ON PROPOSED AMENDMENTS FOR THE HOME RULE CHARTER OF THE CITY OF TAYLOR PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE; PROPOSING AMENDMENTS TO THE HOME RULE CHARTER OF THE CITY OF TAYLOR; PROVIDING FOR EARLY VOTING; AND PROVIDING AN EFFECTIVE DATE.

Whereas, the City Council has reviewed the Home Rule City Charter of the City of Taylor to determine the necessity for any amendments thereto; and,

Whereas, the City Council desires to conduct an election on proposed amendments on November 6, 2012.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAYLOR, WILLIAMSON COUNTY, TEXAS, THAT:

SECTION 1. The hereinafter proposed amendments to the Home Rule Charter of the City of Taylor, Williamson County, Texas, are a part of this Ordinance and shall be submitted to the City's qualified voters for their approval or disapproval at an election to be held on the uniform election date for a City election November 6, 2012.

SECTION 2. The notice of the charter election shall be posted on the bulletin board used to publish notice of the City Council meeting, be published in a newspaper of general circulation published in the City and must include a substantial copy of the proposed amendments. The notice must be published on the same day in each of two successive weeks, with the first publication occurring before the fourteenth day before the date of the election. A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the notice shall make a record of the time of posting, stating the date, and the place of posting, which shall be the bulletin board used to post notice of City Council meetings.

SECTION 3. The election of the proposed charter amendments shall be conducted in accordance with the Texas Election Code, adopted by the Legislature.

SECTION 4. The voting hours for Election Day on November 6, 2012, will be from 7:00 a.m. to 7:00 p.m. at the following locations:

- District 1: City Hall, 400 Porter Street
- District 2: Taylor Public Library, 801 Vance Street
- District 3: Taylor Volunteer Fireman's Hall, 304 Carlos Parker Blvd.
- District 4: Northside Elementary School Board Room, 2500 North Drive

SECTION 5. The early voting by personal appearance shall be conducted at any polling place in Williamson County including the Taylor City Hall, 400 Porter Street, from October 22 to November 2, 2012. Applications for ballot by mail shall be received and processed by the Williamson County Elections Administrator, 301 SE Inner Loop, suite 104, Georgetown, Texas 78626. Applications for ballots by mail must be received no later than the close of business on October 30, 2012.

SECTION 6. The City Clerk is hereby authorized and directed to publish and post, in the time and manner prescribed by law, all notices required to be so published and or posted in connection with the conduct of the election. The Williamson County Election contracting officer shall designate the election judges for this election.

SECTION 7. The Williamson County Elections Contracting Officer shall serve as Elections Administrator for the election. Presiding Election Judges and an Alternate Presiding Election Judge appointed to serve at the polling places and the early voting clerk and deputy early voting clerks shall be those election officials furnished by the Williamson County from the list of proposed election judges listed as per an agreement.

SECTION 8. Each charter amendment submitted must contain only one subject, and the ballot shall be prepared in a manner that the voters may vote "for" or "against" on any amendment or amendments without voting "for" or "against" on all of the amendments. Each such proposed amendment, if approved by the majority of the qualified voters voting in the election, shall become a part of the Home Rule City Charter of the City of Taylor, Texas.

SECTION 9. The ballot propositions for the proposed amendments to the Home Rule City Charter are as follows:

PROPOSITION 1

Shall Article 4, Section 4.1 of the Taylor City Charter be amended to require that Council members be elected by a majority vote.

PROPOSITION 2

Shall Article 4, Section 4.2 of the Taylor City Charter be amended to require candidates seeking election to the City Council to continuously reside in the district from which they seek election or in the City if running at large for one year prior to the first filing date for the office.

PROPOSITION 3

Shall Article 4, Section 4.2 of the Taylor City Charter be amended to require that no Council member shall file for or hold any other publicly elective or appointed office.

PROPOSITION 4

Shall Article 4, of the Taylor City Charter be amended to add Section 4.6 entitled "No City Employment" to prevent any City Council member from having paid employment with the City during office and for two years after termination of office.

PROPOSITION 5

Shall Article 4 of the Taylor City Charter be amended to add a new Section 4.7 entitled "Removal From Office" allowing the City Council to approve by a majority vote consideration for removal of a Councilmember because of gross immorality, habitual drug or alcohol intoxication or use, incompetency, corruption, misconduct, malfeasance of office or failure of office qualifications imposed by this Charter, provided action to remove is taken in a subsequent City Council meeting, the Councilmember considered for removal has been given a prior ten day written notice of the subsequent meeting in which final action for removal is to be taken and the vote for removal is approved by four Council Members.

PROPOSITION 6

Shall Article 9, Section 9.1 of the Taylor City Charter be amended to allow the City Manager to hire and remove employees of the City.

PROPOSITION 7

Shall the Taylor City Charter be amended to add a new Charter Article entitled "City Street Maintenance Utility" allowing the City Council authority to establish a public street maintenance utility to collect funds which funds shall be used exclusively for City street corrective and preventive maintenance.

PASSED, APPROVED, and ADOPTED on the _____ day of _____, 2012.

Don Hill, Mayor

ATTEST:

Susan Brock, City Clerk

APPROVED AS TO FORM:

Ted W. Hejl,
City Attorney

CERTIFICATE

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

I, Susan Brock, being the current City Clerk of the City of Taylor, Texas, do hereby certify that the attached is a true and correct copy of Ordinance No. 2012-26, passed and approved by the City Council of the City of Taylor, Texas, on the _____ day of _____, 2012, and such Ordinance was duly introduced, passed, approved and adopted at meetings open to the public and notices of the meetings, giving the dates, places, and subject matter thereof, were posted as prescribed by Government Code Section 551.043.

Witness my hand and seal of office this _____ day of _____, 2012.

Susan Brock
City Clerk



***City Council Meeting
August 14, 2012
Agenda Item Transmittal***

Agenda Item #: 3
Agenda Title: Executive Session.
Council Action to be taken: Consult with City Attorney
Initiating Department: City Administration
Staff Contact: Jim D. Dunaway, City Manager
Ted Hejl, City Attorney

1. INTRODUCTION/PURPOSE

This Executive Session is called to consult with City Attorney.

2. DESCRIPTION/ JUSTIFICATION

The Taylor City Council will conduct a closed meeting under Section 551.071 of the Texas Government Code in order to meet with its City Attorney on a matter in which the duty of the Attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas authorize and allow such a closed meeting and which Rules conflict with the Texas Open Meetings Act.

3. FINANCIAL/BUDGET

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

6. REFERENCE FILES

3a. Executive Session form

TAYLOR CITY COUNCIL
CERTIFIED AGENDA - EXECUTIVE SESSION

1. OPEN MEETING ANNOUNCEMENT

The City of Taylor City Council convened in Open Session, declared a quorum on August 14, 2012 and has posted an Official Agenda indicating the need for an Executive Session. The Council will now adjourn into Executive Session pursuant to the Texas Open Meetings Act, Government Code Section:

- | | | |
|-------------------------------------|---------|--|
| ☒ | 551.071 | To consult with its attorney regarding a matter in which the duty of the attorney to the City conflicts with the Open Meetings Act. |
| ☐ | 551.072 | To conduct deliberations regarding the purchase, exchange, lease, or value of real property. |
| ☐ | 551.074 | To discuss personnel matters |
| ☐ | 551.087 | To conduct economic development negotiations and consider financial or other incentives to a business prospect that the City seeks to have locate in or near the City of Taylor. |

Any action resulting from the Executive Session will be taken in Open Session immediately following the Executive Session.

2. BACK TO OPEN SESSION

The time is now _____ and we will reconvene into Open Session. No action or vote was taken on any matter discussed in Executive Session.

CERTIFICATION

I, Donald R. Hill, Mayor of the City of Taylor, do hereby certify that this Agenda of an Executive Session of the City Council is a true and correct record of the proceedings.

WITNESS my hand this the _____ day of _____, 2012

Donald R. Hill, Mayor