

CITY OF ROCKPORT

MINUTES

CHARTER REVIEW COMMISSION 5:30 p.m., Thursday, November 3, 2022 Rockport Service Center, 2751 State Highway 35 Bypass

Members of the public could view the meeting via live stream. Public participation is valued and citizens wishing to express their views on any topic or agenda item could electronically submit a Citizen Participation Form in order to register to speak by going to <https://rockport.seamlessdocs.com/f/CouncilCitizenParticipation> or scanning the QR code provided on the Agenda, or if attending the meeting in person register before the meeting begins. Using the same form, citizens could also provide written comments to the City Secretary by 4:00 p.m. on the day of the meeting. The comments were read and summarized in the minutes of the meeting.

On the 3rd day of November 2022, the Charter Review Commission of the City of Rockport, Aransas County, Texas, convened in a Meeting at 5:30 p.m., at the Training Room of the Rockport Service Center and notice of meeting giving time, place, date, and subject was posted as described in V.T.C.A., Government Code § 551.041.

CHARTER REVIEW COMMISSION MEMBERS PRESENT

George “Doug” Webb
Diedra Amaya – *Via ZOOM*
J. Mark Wagnon
Donna Townsend
Thomas J. Blazek

CHARTER REVIEW COMMISSION MEMBERS ABSENT

CITY COUNCIL MEMBERS PRESENT

Katy Jackson, Council Member Ward 1

CITY STAFF MEMBERS PRESENT

Teresa Valdez, City Secretary
Vanessa Shrauner, City Manager
Kimberly Henry, Assistant to City Manager
Legal Counsel Art Rodriguez, Jr., Messer Fort & McDonald, PLLC
Tommy Saucedo, Desktops Support Technician/Acting Network Administrator
Community Planner/Building & Development Services Assistant Director

Opening Agenda

1. Call meeting to order.

City Secretary Teresa Valdez called the meeting to order at 5:30 p.m.

2. Roll Call.

City Secretary Teresa Valdez conducted roll call.

3. Administer Oaths of Office.

City Secretary Teresa Valdez administered the Oaths of Office to George “Doug” Webb, J. Mark Wagnon, Donna Townsend, and Thomas J. Blazek.

Ms. Valdez stated the Oath of Office had previously been administered to Diedra Amaya.

4. Citizens to be heard.

At this time, comments limited to three (3) minutes will be taken from the audience from persons who have signed the speaker’s card located on the table in the back of the Training Room of the Service Center and delivered to the City Secretary before the meeting begins, or written comments received by 4:00 p.m. on the day of the meeting, on any Agenda item or any subject matter, will be read and summarized in the minutes of the meeting. Persons wishing to address the Council and who have registered using the Citizen Participation Form will have up to three minutes to speak. In accordance with the Open Meetings Act, the Commission may not discuss or take action on any item that has not been posted on the agenda. While civil public criticism is not prohibited, disorderly conduct or disturbance of the peace as prohibited by law shall be cause for the chair to terminate the offender’s time to speak.

Kristie Rutledge, 1411 Dana Drive, addressed the Commission and commented: Reviewing the City Charter is a very big deal, and it will affect generations to come. I would like for this Commission to find out if the citizens of Rockport will be allowed to vote on each Charter amendment individually; there is a question here whether our Charter requires an Election. I’m questioning whether this Commission is fairly appointed with representation across the board. Allow individual taxpayers to have input at every Commission meeting- three (3) minutes on each Agenda item.

Jeff Hutt, 2201 Prairie Road, addressed the Commission and commented: Echo the fact that this is an important deal that we are talking about here; a City Charter is like a constitution – it is a contract between the people and the people who govern them. We give responsibilities and we give powers to the police and the City; we are giving away our rights. The Commission’s goal is not to make it easier for them to take our rights, or quiet the citizenry down. Your goal is to make the process as fair, honest and open for the people of Rockport. Would like to discuss one thing that would change the landscape of Rockport; move election to November to every two (2) years – and could raise terms to four (4) years. This would increase voter turnout and save money. There is also a provision in the Charter about a petition form; it requires 20 lines on the form and that makes it harder for old people to read and a change to that would make it easier for people to participate. An hour total is all the citizens have ever taken up in a whole month; is an hour too little for citizens to ask questions.

5. Election of Chair.

City Secretary Teresa Valdez called for nominations for a Commission Member to serve as Chair.

MOTION: Commission Member Wagnon moved to elect Commission Member Blazek to serve as Chair of the Charter Review Commission. Commission Member Townsend seconded the motion. Motion carried unanimously.

6. Election of Vice-Chair.

Chair Blazek called for nominations for a Commission Member to serve as Vice-Chair.

MOTION: Commission Member Wagnon moved to elect Commission Member Amaya as Vice-Chair of the Charter Review Commission. Commission Member Townsend seconded the motion. Motion carried unanimously.

7. Discussion and possible action regarding rules on public testimony.

City Secretary Teresa Valdez distributed to Commission Members a copy of the City Code of Ordinances Section 2-31 which addresses “Members of the public’s participation in meetings” for the City Council.

Ms. Valdez stated this is limited to the City Council and not applicable to all boards and commission so that is the reason for this Agenda item. The Charter Review Commission can set their own rules on public testimony. Ms. Valdez explained the Commission also should decide how they want to handle written comments; it could be provided to the Commission before the meeting and there is not a need to have it read into the record, or it can be handled the same way the City Council handles it – the written comments are read, up to 3 minutes, and summarized into the minutes of the meeting.

Discussion was held among Commission Members regarding rules on public testimony for the Charter Review Commission meetings.

City Legal Counsel Art Rodriguez, Jr. informed the Commission there will also be a public hearing conducted.

MOTION: Commission Member Wagnon moved that the public be allowed to speak up to three (3) minutes per Agenda item, for a total of nine (9) minutes per meeting per person, with a total time allotted for all citizens to be heard during the meeting limited to thirty (30) minutes, and written comments to be submitted to the City Secretary by Noon on the day of the meeting, distributed to Commission Members before the meeting and will not be read at the meeting but will be attached to the Minutes of the meeting. Commission Member Webb seconded the motion. Motion carried unanimously.

8. Discuss and consider approval of meeting schedule and approach to Charter review.

City Legal Counsel Art Rodriguez, Jr., addressed the Commission and stated the City engaged Messer Fort & McDonald, PLLC to work with the Commission on the Charter review. Mr. Rodriguez called the Commission’s attention to a handout (below) and explained the charge of the Commission and stated the target date for the election is May 6, 2023. Mr. Rodriguez said

the Commission has two and one-half (2.5) months to review 12 sections of the Charter. Mr. Rodriguez added if that does not happen the Charter Amendment Election would be pushed to the November 2023 election. Mr. Rodriguez said the proposed meeting dates are November 8, 16, 30, and December 7, 14, 21.

CITY OF ROCKPORT

**CHARTER REVIEW COMMISSION
MEETING NO. 1**

TERESA VALDEZ
SECRETARY
ARTURO D. RODRIGUEZ, JR.

CITY
MESSER FORT & MCDONALD, PLLC

NOVEMBER 3, 2022

CHARTER

- Home Rule City's Constitution
- **"Home-rule cities possess the full power of self government and look to the Legislature not for grants of power, but only for limitations on their power." *Dallas Merchant's and Concessionaire's Ass'n v. City of Dallas*, 852 S.W.2d 489**
- Order of Laws
 - State Law - "No charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State" - Tex. Const. art. XI, § 5
 - City Charter
 - City Ordinance

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3 CHARGE OF COMMISSION

- (a) Inquire into the operation of the City government under the Charter and determine whether any provisions require revision. The Commission may compel the attendance of any officer or employee of the City and require submission of any City records it deems necessary to conduct the hearings;
- (b) Propose any recommendation(s) it deems desirable to insure compliance with the Charter by the government;
- (c) Propose amendments to the Charter to improve the effective application to current conditions; and
- (d) Report its findings and present its recommendations, if any, to the City Council prior to the expiration of the Charter Review Commission.
- Advisory only. Council decides what matters are presented to voters, if any.

4 PROPOSED MEETING DATES

- November 8, 16, 30
- Dec. 7, 14, 21
- Public Hearing/Target Final Report - December 21, 2022
- Jan. 10, 2023 - Council Considers Final Report
- Jan 24, 2023 - Possible Election Called on Charter Amendments
- May 6, 2023 - Uniform Election Day

Commission Member Townsend asked what the number was for a quorum.

Mr. Rodriguez answered three (3) members were required for a quorum.

Commission Member Wagon said he is unavailable on November 16th and 30th.

Commission Member Townsend said she is unavailable on November 30th.

Brief discussion was held among Commission Members.

City Secretary Teresa Valdez stated November 8th is a Joint Meeting with the City Council and that meeting has already been posted.

MOTION: Commission Member Townsend moved to schedule the Charter Review Commission meetings for November 8th, 16th, and 30th, and December 7th, 14th, and 21st at 5:30 p.m. at the Rockport Service Center. Commission Member Webb seconded the motion. Motion carried unanimously.

9. Begin section by section review of City Charter.

Mr. Rodriguez said he has already received some comments and if comments are received from Council, staff or he has specific comments on a Section they will be highlighted as the Commission reviews the Sections. Mr. Rodriguez stated he and staff had selected three (3) Sections of the City Charter to be reviewed today because they are less controversial. Mr. Rodriguez presented the following Sections (below) to be reviewed by the Commission.



5 ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

SECTION 1.01 – FORM OF GOVERNMENT

- The municipal government provided in this Charter shall be known as the Council-Manager form of government. Under its provisions the City Council, consisting of the Mayor and Councilpersons elected by and responsible to the people, shall appoint a City Manager (who shall be responsible to the City Council for the administration of the government of the City). All powers of the City shall be vested in the City Council and shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by ordinance, the State Constitution or the statutes of this State.

6

Mr. Rodriguez stated staff is proposing no changes to Article I, Section 1.01 – Form of Government.

The Commission reviewed Section 1.01- Form of Government. It was the consensus of the Commission that no changes be proposed to Article I, Section 1.01.

7 SECTION 1.02 – BOUNDARIES OF THE CITY

- The boundaries of the City of Rockport, Texas, are those heretofore established and now existing or those boundaries as may be changed by ordinance and proceedings of the City enacted in accordance with this Charter.

Mr. Rodriguez stated Section 1.02 -Boundaries of the City is straightforward.

Commission Member Webb stated the City limits goes on for miles and yet the City did not take in a certain area.

City Manager Vanessa Shrauner stated those areas not in the City limits can come into the City through voluntary annexation, they can ask to be annexed, but the City cannot annex them against their wishes. Ms. Shrauner explained State law changed two years ago regarding this.

It was the consensus of the Commission that no changes be proposed to Article I, Section 1.02.

SECTION 1.03 – EXTENSION OF BOUNDARIES

- (1) The boundaries of the City of Rockport, Texas, may be enlarged and extended by the annexation of additional territory. The City Council, by proper ordinance in accordance with State law, has power to annex additional territory adjacent to or contiguous with the city limits with or without the consent of the residents and/or the owners of the territory annexed.
- (2) Upon completion of the annexation procedure, the annexed territory shall become a part of the City, and said land and its residents shall be entitled to all the rights and privileges provided by the City for its citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the City.

8

Mr. Rodriguez called the Commission's attention to Section 1.03 – Extension of Boundaries and stated staff has a recommended change for the Commission to consider. Mr. Rodriguez explained State Law has changed substantially with the ability to annex; involuntary annexation has essentially been removed. Mr. Rodriguez called the Commission attention to the handout (below) showing some possible changes.

Discussion was held among the Commission and Mr. Rodriguez.

Commission Member Webb stated if the language in the Charter is not removed then the City is not in compliance with State Law.

SECTION 1.03 – EXTENSION OF BOUNDARIES – POSSIBLE CHANGES

- (1) The boundaries of the City of Rockport, Texas, may be enlarged and extended by the annexation of additional territory. The City Council, by proper ordinance in accordance with State law, has power to annex additional territory adjacent to or contiguous with the city limits with or without the consent of the residents and/or the owners of the territory annexed.
- Possible - (1) The boundaries of the City of Rockport, Texas, may be enlarged and extended by the annexation of additional territory. The City Council, by proper ordinance in accordance with State law, has power to annex additional territory adjacent to or contiguous with the city limits with or without the consent of the residents and/or the owners of the territory annexed.
- City of Allen - The city council shall have the power by ordinance to fix the boundary limits of the City of Allen, and to provide for the alteration and extension of said boundary limits and the annexation of additional territory lying adjacent to the city, with or without the consent of the inhabitants of the territory annexed. Upon final passage of an annexation ordinance in the original or amended form, the boundary limits of the city shall thereafter be as fixed in such ordinance and when any additional territory has been so annexed, the same shall be a part of the City of Allen and the property situated therein shall bear its pro rata part of the taxes levied by the city, and thereafter the inhabitants thereof shall be entitled to all the rights and privileges of all citizens of the city, and shall be bound by the acts, ordinances, resolutions and regulations of the city.

9

MOTION: Commission Member Wagnon moved to recommend that the language “adjacent to or contiguous with the city limits with or without the consent of the residents and/or owners of the territory annexed” be removed from Section 1.03 (1). Commission Member Townsend seconded the motion. Motion carried 4:0.

FOR MOTION: Commission Member Wagnon, Commission Member Townsend,
Commission Member Amaya and Commission Chair Blazek.

ABSTAIN: Commission Member Webb.

10 SECTION 1.04 – CONTRACTION OF BOUNDARIES

- (1) If, after two and one-half (2-1/2) years from the date of annexation, the newly annexed territory is not receiving the standard governmental and proprietary services of the City, as specified by State law, then a majority of the qualified voters residing within said annexed territory may petition the governing body of the City to disannex said territory.
- (2) The petition shall be started, circulated, certified and presented consistent with the procedural rules of Sub Chapter G of Chapter 43, V.T.C.A. Local Government Code, and Article VI of this Charter. If there are fewer than twenty (20) qualified voters residing within the annexed area, the Petitioners Committee may be fewer than ten (10) members so long as it consists of a majority of the qualified voters within the territory proposed for disannexation.
- (3) A petition to the City Council for disannexation shall be filed with the city secretary no later than thirty (30) days following the date of filing of the required affidavit by the Petitioners' Committee.

Mr. Rodriguez called the Commission's attention to Section 1.04 – Contraction of Boundaries.

11 SECTION 1.04 – CONTRACTION OF BOUNDARIES

~~POSSIBLE CHANGES~~

- Tracks Closely Local Government Code Sec. 43.141
- Local Government Code Sec. 43.142 - A home-rule municipality may disannex an area in the municipality according to rules as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by this chapter.

12 SECTION 1.04 – CONTRACTION OF BOUNDARIES

~~POSSIBLE CHANGES~~

- Belton - Section 2.01. - Boundaries. The boundaries and limits of the City shall, until changed in the manner herein provided, be the same as have heretofore been established and as exist on the date of the adoption of this Charter. The boundaries and territorial limits of the City may from time to time by ordinance be fixed, decreased, modified or extended, and property may be annexed into the City or disannexed from the City, with or without the consent of any voter or of any landowner in the affected area.
- Garland - Sec. 6. Exclusion and discontinuance of territory. The Council may, in its exclusive discretion by ordinance, exclude from the City any territory within the corporate limits of the City when and if at least sixty (60) percent of the inhabitants thereof qualified to vote for members of the Council shall present a verified petition requesting that such territory be discontinued as a part of the City and tender to the City Secretary with such petition a sum of money equivalent to that percentage of the then outstanding indebtedness of the City for bonds and warrants and a fair proportion of the then existing budget which the assessed value of all property within such territory on the tax rolls of the City next preceding the presentation of such petition bears to the total assessed value of all property on the said rolls. The Council shall never, regardless of the facts and circumstances, be required to discontinue any territory as a part of the City except at its exclusive discretion expressed by ordinance.

Commission Member Wagon asked what happens once a petition is filed. Commission Member Wagon expressed he thought this should be clarified in the Charter.

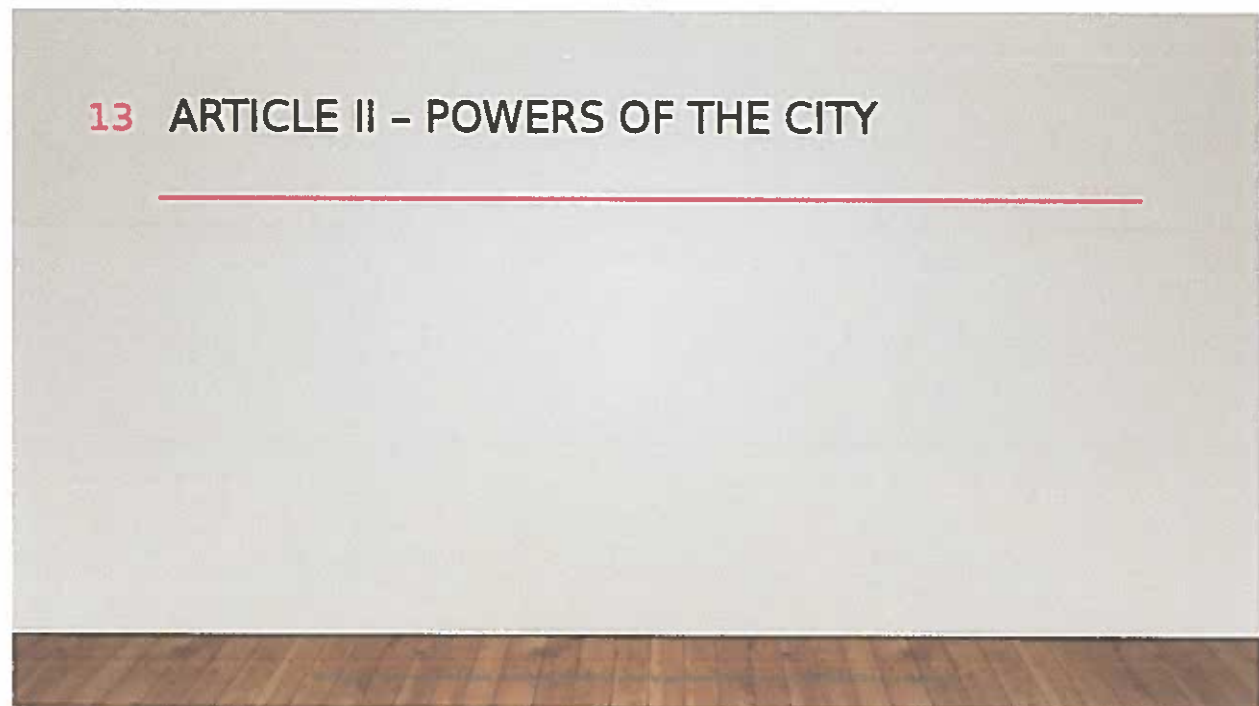
Mr. Rodriguez answered this tracks very closely Texas Local Government Code Section 43.141 and there is a more robust explanation in Section 43.142. Mr. Rodriguez stated there is an opportunity to follow Section 141 model or basically say “disannexation according to law at that time.”

Commission Member Webb said it states they can petition if not receiving City services and asked for an explanation of that petition provision.

Commission Chair Blazek recognized City Council Member Jackson in the audience.

Council Member Jackson stated that later in the Charter it deals with how the City Council is to deal with all petitions.

It was the consensus of the Commission that this Section be brought back to the next Commission meeting with recommendations by staff for further discussion and consideration.



Mr. Rodriguez stated Article II Section 2.01 – General Powers of the City is also straight forward, and staff has no recommended changes.

14 GENERAL POWERS OF THE CITY

- **Sec. 2.01 General Powers of the City.**
- (1) The City shall be an incorporated Home Rule City, with full power and rights of self-government, as provided by the Constitution and laws of this State. These powers and rights shall include, but not be restricted to the following:
 - (a) To enact, establish and enforce codes, licenses and ordinances for the maintenance of good government and the interest and well being of its inhabitants.
 - (b) To cooperate with the government of the State of Texas, or any agency or any political subdivision thereof, the government of the United States or its agencies, for any lawful purpose for the advancement of the interests, safety, convenience and welfare of its inhabitants.
 - (c) To exercise the right of eminent domain, the right of extraterritorial jurisdiction and to have exclusive dominion over all public property in any manner permitted by the Constitution and laws of the State of Texas.
 - (d) To contract and be contracted with, to sue and be sued, to buy, sell, lease, mortgage, hold, manage and control such property as its interests require.
 - (e) To establish, maintain, improve, alter, abandon, or vacate public streets, rights-of-way, sidewalks, alleys, squares, parks and other public ways, and to police the use thereof.

It was the consensus of the Commission that no changes be recommended for Article II, Section 2.01 – General Powers of the City.

15 SECTION 2.02 – PUBLIC IMPROVEMENTS

- The City shall have the power to construct and maintain, within or outside its corporate limits (which include but are not limited to) streets, utilities, canals, waterways and other flood control facilities and sanitary, water and storm drainage facilities in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements, and shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by the inhabitants of the City.

Mr. Rodriguez said staff has no recommended changes to Section 2.02 – Public Improvements.

It was the consensus of the Commission that no changes be recommended to Section 2.02 – Public Improvements.

Kristie Rutledge said citizens did not have the opportunity to review the items the Commission are discussing tonight. Ms. Rutledge asked that an Agenda Packet be prepared for distribution to the public.

City Manager Vanessa Shrauner stated the City Charter is part of the Agenda Packet and there is not a need to distribute the City Charter each time since it is available on the City’s website. Ms. Shrauner expressed a particular Section will not be specifically listed or distributed in order for the Commission to continue to move forward.

Mr. Rodriguez stated the Commission has a lot of work to do and tying them to any one Section may not be the best use of our time.

16 SECTION 2.03 – MISCELLANEOUS POWERS

- The City shall have the power to establish and maintain ordinances and regulations governing the use of lands within the City and to enforce by all lawful means said ordinances and regulations, within and outside its corporate limits. The City shall have the power to authorize, regulate and inspect all construction and existing structures within or outside its limits, consistent with State statutes, and to establish and enforce ordinances and regulations concerning their use, construction and reconstruction. The City shall have the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade.

Mr. Rodriguez said staff had no recommended changes to Section 2.03 – Miscellaneous Powers.

Commission Member Townsend asked what it meant by “outside its corporate limits”.

Mr. Rodriguez answered there are some State statutes where a City can regulate outside its corporate limits; subdivisions is one of those.

It was the consensus of the Commission to recommend no changes to Section 2.03 -Miscellaneous Powers.

17 ARTICLE IX – BOARDS AND COMMISSIONS

- (1) The City Council shall create, establish or appoint, as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the City Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the City. The City Council shall, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter.
- (2) Individuals who are qualified voters in the City may be appointed to serve on one (1) or more board, commission or committee. The City Council may, by ordinance or resolution, consolidate the functions of the various boards, commissions or committees provided for in this Charter. Except as otherwise provided in this Charter, members of any such board, commission or committee shall serve without compensation but may be reimbursed for actual expenses as approved by the City Council.

18 ARTICLE IX – BOARDS AND COMMISSIONS (CONT.)

- (3) All boards, commissions or committees of the City shall keep and maintain minutes of any proceedings held and shall submit a written report of such proceedings to the City Council.
- (4) No officer of the City nor any person who holds a compensated appointive position with the City shall be appointed to any board, commission or committee created or established by this Charter other than in an advisory capacity.
- (5) Any member of a board, commission or committee who is absent from three (3) consecutive regular meetings without explanation acceptable to a majority of the other members shall forfeit his position on the board, commission or committee.

Mr. Rodriguez called the Council's attention to Article IX – Boards and Commissions.

Kristie Rutledge stated applications for the Charter Review Commission were not made available to the general public. Ms. Rutledge expressed a provision should be in the Charter that all Boards and Commission should be open to the general public.

19 ARTICLE IX – BOARDS AND COMMISSIONS

- Qualified Voters v. Property Owners

Mr. Rodriguez said there was a question as to whether this Article should say “Qualified Voters” or “Property Owners”.

Discussion was held among Commission Members.

Ms. Rutledge stated it should be “qualified voters.”

It was the consensus of the Commission that no changes be recommended to Article IX – Boards and Commissions.

10. Discussion and recommendations for future Agenda items.

Mr. Rodriguez said there will be a Joint Meeting with the City Council on November 8, 2022, and if there is sufficient time, there may be some review of other Sections of the Charter. Mr. Rodriguez asked that if Commission Members have any changes or thoughts on the Charter they email them to the City Secretary or him in advance so staff can research and be prepared to respond to questions.

11. Adjournment.

At 7:04 p.m., the meeting adjourned.



APPROVED:

Tom Blazek, Chair

ATTEST:


Teresa Valdez, City Secretary