



## CITIZENS CHARTER REVIEW ADVISORY COMMISSION FINAL REPORT

May 14, 2012

To: Mayor Berry and City Council  
From: Citizens Charter Review Advisory Commission  
cc: David Neeley, City Manager  
Re: Final Report and Recommendations

Dear Mayor and City Council,

On February 24, 2011, City Council approved Ordinance 2011-3318, creating the Citizens Charter Review Advisory Commission. Ten members were appointed (Jim Maness later resigned) and were directed to review the Charter in its entirety for compliance with state law and to research certain issues, such as: Council compensation; the number of Councilmembers required to place items on an agenda; terms of office; and term limits. The Commission was also charged with reviewing specific Charter provisions:

- Article III, Section 21, Vacancies
- Article IX, Nominations and Elections
- Article X, Initiative, Referendum, and Recall
- Article XI, Franchises and Public Utilities

The Commission has been meeting twice a month since their appointment, with the exception of a brief hiatus from October 5, 2011 to January 18, 2012. At their first meeting on May 4, 2011, the Commission adopted a Mission Statement: "Review the City Charter and make charter amendment recommendations, where appropriate, that will help protect the rights, powers, and benefits of all College Station residents". In addition to the items directed by Council, the Commission added to their scope three items: gender neutrality, personal interest, and clarification on whether "days" are calendar or business days. A Public Hearing was held on June 1, 2011 to solicit input from the public regarding the public's general concerns. In the course of their research, the Commission also utilized the charters from peer cities such as Bryan, Denton, Frisco, Lubbock, McKinney, Pearland, Plano, San Marcos, and Sugar Land.

With the passage of Senate Bill 100, the Commission narrowed their focus to consider an amendment to the charter that would change terms of office to four-year staggered terms for elections in May of odd-numbered years, with a limit of two consecutive terms. This recommendation was presented to the City Council, who accepted the recommendation and approved the ballot language. The Charter amendment was presented to the voters on November 8, 2011 and failed.

Since the proposition to amend the charter failed, the Council directed the Commission to continue with the original Plan of Work, working toward a November 2012 election date, with Public Hearings at the Council level, and with the proviso that if the Commission should determine they could not work within the necessary timeline, the Council would reconsider the election date. The Commission began their work in earnest in January 2012, meeting the first and third Wednesday of each month, and the fifth Wednesday as needed.



## CITIZENS CHARTER REVIEW ADVISORY COMMISSION FINAL REPORT

### Citizens Charter Review Advisory Commission Recommendations

1. The Commission strongly recommends that the Commission be involved in all Public Hearings held by the Council on the proposed amendments. The Commission believes they are better suited to answer the public's questions about the recommendations since it has been the Commission who has been working on this all year.
2. The Commission recommends that they be involved in the education process; e.g. appearing at HOA and civic group meetings. This would be a coordinated effort between the Commission and the Public Communications Office.
3. The Commission recommends the Council approve the proposed changes to the Charter as indicated in the attached redline draft.
4. The Commission recommends the Council approve the attached ballot language for the eight proposed propositions, and that the propositions be placed on the November 6, 2012 ballot.

Respectfully submitted,

Lynn McIlhaney, Chair  
Citizens Charter Review Advisory Commission

#### Membership

Lynn McIlhaney, Chair  
Terry Childers, Vice Chair  
Brian Bochner  
Chuck Ellison  
Patrick Gendron  
Paul Greer  
Gary Halter  
Tony Jones  
Buck Prewitt

### PROPOSITION NO. 1

Shall Article X (Initiative, Referendum, Recall), Sections 94 (Recall; General), 95 (Recall Procedure), 96 (Recall Petitions), and 97 (Recall Election) of the College Station City Charter be amended to require grounds for removal of Council Members by recall; provide that such grounds be included in the recall affidavit and in the recall petitions; allow the City Secretary a reasonable time to deliver the recall petition blanks; require that recall petitions be signed by qualified electors who actually voted in the election in which the person being proposed for recall was elected; clarify the City Secretary's role in examining the recall petitions; and amend the number of days allowed for an officer whose removal is sought to resign?

### PROPOSITION NO. 2

Shall Article III (The City Council), Section 21 (Vacancies) of the College Station City Charter be amended to authorize a process to be followed to call an election in the event of a vacancy in the office of Mayor and in the event of a vacancy in the office of Mayor and all Council Members?

### PROPOSITION NO. 3

Shall Article X (Initiative, Referendum, Recall), Section 83 (Power of Initiative) and Section 84 (Power of Referendum) be amended to clarify exceptions to the power of initiative and exceptions to the power of referendum, to extend the number of days in which an ordinance is subject to referendum from twenty (20) days to thirty (30) days, to extend the number of days allowed the City Secretary to examine the petitions from ten (10) days to fifteen (15) days, and to provide that the number of days specified to examine the petitions are business days?

### PROPOSITION NO. 4

Shall Article XII (General Provisions), Section 118 (Oath of Office) of the College Station City Charter be repealed and a new section added to Article IX (Nominations & Elections), providing for an oath of office?

#### PROPOSITION NO. 5

Shall a provision be added to Article XII (General Provisions) of the College Station City Charter to define business day and calendar day and the charter amended throughout to specify when business day applies and when calendar day applies?

#### PROPOSITION NO. 6

Shall Article X (Franchises & Public Utilities), Section 104 (Procedure) of the College Station City Charter be amended to require two (2) readings of the franchise ordinance to be read for passage?

#### PROPOSITION NO. 7

Shall the College Station City Charter be amended to provide for the update and modernization of Article XI (Franchises & Public Utilities)?

#### PROPOSITION NO. 8

Shall the College Station City Charter be amended to add a provision to Article XII (General Provisions) of the charter providing that the charter is to be gender neutral and amended throughout to make the charter language gender neutral; to correct non-substantive errors such as misspellings, punctuation, grammar and sentence structure; to make non-substantive changes to clarify the meaning of various charter provisions; to conform to requirements and/or provisions of current state law and/or federal law; and to remove charter language that is obsolete?

## PROPOSITION NO. 1

Shall Article X (Initiative, Referendum, Recall), Sections 94 (Recall; General), 95 (Recall Procedure), 96 (Recall Petitions), and 97 (Recall Election) of the College Station City Charter be amended to require grounds for removal of Council Members by recall; provide that such grounds be included in the recall affidavit and in the recall petitions; allow the City Secretary a reasonable time to deliver the recall petition blanks; require that recall petitions be signed by qualified electors who actually voted in the election in which the person being proposed for recall was elected; clarify the City Secretary's role in examining the recall petitions; and amend the number of days allowed for an officer whose removal is sought to resign?

### **Recall; General**

Section 94. Any member of the City Council may be removed from office by recall on grounds of incompetency, official misconduct or malfeasance in office.

### **Recall Procedure**

Section 95. Any elector of the City of College Station may make and file with the City Secretary an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal setting out distinctly and specifically the ground or grounds upon which such removal is sought with such certainty as to give each officer sought to be removed notice of the matters and things with which the officer is charged. The City Secretary shall thereupon as soon as reasonable deliver to the elector making such affidavit copies of petition blanks demanding such removal. The City Secretary shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks when issued by the City Secretary shall bear the signature of that officer and be addressed to the city council, and shall be numbered, dated and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The City Secretary shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

### **Recall Petitions**

Section 96. The recall petition to be effective must be returned and filed with the City Secretary within thirty (30) days after the filing of the affidavit required in Section 95 of this Article. Each separate petition paper must set out distinctly and specifically the ground or grounds upon which removal is sought and the matters and things with which the officer is charged. The petition must be signed by qualified electors of the City who actually voted in the election in which the person being proposed for recall was elected equal in number to at least forty (40) percent of the total number of votes cast for the office in question at the last regular municipal election at which the office in question was filled and must conform to the provisions of Section 85 of this Article. No petition papers shall be accepted as part of the petition unless they bear the signature of the City Secretary as required in Section 95 of this Article.

### **Recall Election**

Section 97. The City Secretary shall ~~at one~~within fifteen (15) business days from the date of its filing, examine the recall petition to determine that the petition: sets out distinctly and specifically the ground or grounds upon which removal is sought and the matters and things with which the officer is charged, is signed by a sufficient number of electors, and is ~~and if he finds it sufficient and~~ in compliance with the ~~provisions~~procedural requirements of this article of the charter, and if finding the petition sufficient he shall ~~within five (5) days~~ submit it to the city council at the next regularly scheduled meeting with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within ~~five (5)~~seven (7) calendar days after such notice the city council shall thereupon order and fix a date for holding a recall election. Any such election shall be held not less than thirty (30) nor more than sixty (60) days after the petition has been presented to the city council, however, such election may be held at the same time as any municipal election held within such period.

## PROPOSITION NO. 2

Shall Article III (The City Council), Section 21 (Vacancies) of the College Station City Charter be amended to authorize a process to be followed to call an election in the event of a vacancy in the office of Mayor and in the event of a vacancy in the office of Mayor and all Council Members?

### **Vacancies**

Section 21. A vacancy in the City Council shall be filled by a special election which shall be called within thirty (30) days of the occurrence of such vacancy. If any such vacancy shall occur within ninety (90) days preceding a general election, then no special election shall be called; provided, however, that the unexpired term shall be filled at the next general election. In the event the Mayor is unable to order the election for any reason, the remaining members of the City Council are authorized and directed to order the election and perform all other required actions incident to the election. In the event of vacancies in the offices of Mayor and all members of the City Council for any reason, the following persons, in the order prescribed, are authorized and directed to order the election and perform all other required actions incident to the election:

1. City Manager
2. City Secretary
3. City Attorney
4. Presiding Judge of the Municipal Court

## PROPOSITION NO. 3

Shall Article X (Initiative, Referendum, Recall), Section 83 (Power of Initiative) and Section 84 (Power of Referendum) be amended to clarify exceptions to the power of initiative and exceptions to the power of referendum, to extend the number of days in which an ordinance is subject to referendum from twenty (20) days to thirty (30) days, to extend the number of days allowed the City Secretary to examine the petitions from ten (10) days to fifteen (15) days, and to provide that the number of days specified to examine the petitions are business days?

### **Power of Initiative**

Section 83. The electors shall have power to propose any ordinance, except ~~an~~ land use ordinances including but not limited to zoning or rezoning property; or ordinances appropriating money, authorizing the issuance of bonds, or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the City Council by a petition signed by qualified electors of the City equal in number to at least twenty-five (25) percent of the number of votes cast at the last regular municipal election.

### **Power of Referendum**

Section 84. The electors shall have power to approve or reject at the polls any ordinance passed by the City Council, or submitted by the City Council to a vote of the electors, such power being known as the referendum, except in the case of land use ordinances including but not limited to zoning or rezoning property; or ordinances appropriating money, authorizing the issuance of bonds, or making the annual tax levy. Ordinances submitted to the City Council by initiative petition and passed by the City Council without charge shall be subject to the referendum in the same manner as other ordinances. Within ~~twenty (20)~~thirty (30) days after the enactment by the City Council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least twenty-five (25) percent of the number of votes cast at the last preceding regular municipal election may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

### **Amendment of Petitions**

Section 87. An initiative or referendum petition may be amended at any time within ~~ten~~ (10) fifteen (15) business days after the notification of insufficiency has been sent by the City Secretary, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The City Secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the committee of petitioners of his findings, and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.



PROPOSITION NO. 4

Shall Article XII (General Provisions), Section 118 (Oath of Office) of the College Station City Charter be repealed and a new section added to Article IX (Nominations & Elections), providing for an oath of office?

**Oath of Office**

~~Section 118. Every officer of the City shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Secretary:~~

~~“I, \_\_\_\_\_, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of \_\_\_\_\_, of the City of College Station, State of Texas, and will to the best of my ability preserve, protect and defend the constitution and laws of the United States and of this state and the charter and ordinances of this City; and I furthermore solemnly swear (or affirm) that I have not directly or indirectly paid, offered, or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment as a reward for the giving or withholding a vote at the election at which I was elected, or if the office is one of appointment, to secure my appointment. So help me God.”~~

**Oath of Office**

Every officer of the City shall, before entering upon the duties of their office, take and subscribe to an oath or affirmation, similar to that required by the Texas Constitution for state officers, before entering upon the duties of the office.

The oath or affirmation shall be in a form provided by the City Secretary, shall be given before a person authorized to administer oaths, and shall be filed and kept in the office of the City Secretary.

## PROPOSITION NO. 5

Shall a provision be added to Article XII (General Provisions) of the College Station City Charter to define business day and calendar day and the charter amended throughout to specify when business day applies and when calendar day applies?

### Calendar Day and Business Day

“Business day” as used in this Charter means Monday through Friday, except for federal or State of Texas holidays. “Calendar day” as used in this Charter means a 24-hour period (midnight to midnight) as denoted on the calendar. Any reference in the Charter to “day” without specifying calendar day or business day shall mean calendar day unless otherwise expressly provided in this charter.

### **Estimated Expenditures Shall Not Exceed Estimated Resources**

Section 59. The total estimated expenditures of the general fund and debt fund shall not exceed the total estimated resources of each fund.

The City Council may by ordinance amend the budget during a fiscal year if one of the following conditions exists:

1. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess. Before approval, the Council shall hold a public hearing on the proposed budget amendment. A notice of the time and place of a public hearing on the supplemental appropriation shall be published in the official newspaper of the City of College Station. The notice shall be placed in the newspaper at least five (5) working-business days before the date of the hearing.
2. To meet a public emergency affecting life, health and property of the public peace, the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any such notes made during a fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
3. If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to meet the amounts appropriated, he shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one or more appropriations.

### **Power of Referendum**

Section 84. The electors shall have power to approve or reject at the polls any ordinance passed by the City Council, or submitted by the City Council to a vote of the electors, such power being known as the referendum, except in the case of ordinances zoning or rezoning property, authorizing the issuance of bonds, or making the annual tax levy. Ordinances submitted to the City Council by initiative petition and passed by the City Council without charge shall be subject to the referendum in the same manner as other ordinances. Within twenty (20) calendar days after the enactment by the City Council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least twenty-five (25) percent of the number of votes cast at the last preceding regular municipal election may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

### **Filing; Examination and Certification of Petitions**

Section 86. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Secretary as one instrument. Within ten (10) business days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The City Secretary shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the City Secretary shall certify the result thereof to the city council at its next regular meeting. If he shall certify that the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

### **Amendment of Petitions**

Section 87. An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the City Secretary, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The City Secretary shall, within five (5) business days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the committee of petitioners of his findings, and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

### **Consideration by City Council**

Section 89. Whenever the City Council receives a certified initiative or referendum petition from the City Secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The City Council shall take final action on the ordinance not later than sixty (60) calendar days after the date on which such ordinance was submitted by the City Secretary. A referred ordinance shall be reconsidered by the City Council and its final vote upon such

reconsideration shall be upon the question. "Shall the ordinance specified in the referendum petition be repealed?"

**Recall Petitions**

Section 96. The recall petition to be effective must be returned and filed with the City Secretary within thirty (30) calendar days after the filing of the affidavit required in Section 95 of this Article. The petition must be signed by qualified electors of the City equal in number to at least forty (40) percent of the total number of votes cast for the office in question at the last regular municipal election at which the office in question was filled and must conform to the provisions of Section 85 of this Article. No petition papers shall be accepted as part of the petition unless they bear the signature of the City Secretary as required in Section 95 of this Article.

## PROPOSITION NO. 6

Shall Article X (Franchises & Public Utilities), Section 104 (Procedure) of the College Station City Charter be amended to require two (2) readings of the franchise ordinance to be read for passage?

### **Procedure**

Section 104. The City of College Station shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance, however, shall not be passed finally until it shall have been read at ~~three (3)~~two (2) separate regular meetings of the City Council. No ordinance granting a franchise shall pass any reading except by a vote of the majority of the City Council, and such ordinance shall not take effect until sixty (60) days after its adoption on its ~~third~~second and final reading; provided, however, that if at any time before such ordinance shall finally take effect a petition shall be presented to the City Council signed by not less than forty (40) percent of the bona fide qualified voters of the City, then the City Council shall submit the question of the granting of such franchise to a vote of the qualified voters of the City at the next succeeding general election to be held in the City, provided that notice thereof shall be published in at least ten (10) successive issues of the official newspaper of the City of College Station prior to the holding of such election. Ballots shall be used briefly describing the franchise to be voted on and the terms thereof and containing the words, "For the granting of a franchise", and "Against the granting of a franchise". The vote shall be canvassed by the city council, and should it result that a majority of those voting thereon cast their votes "For the granting of a franchise", then by order entered in its minutes, the city council shall so declare and such franchise shall at once take effect. But should a majority of the votes be cast "Against granting a franchise", then the City Council by order entered in its minutes shall so declare and such franchise shall not take effect. In case a franchise is refused by the City Council, then the matter may be submitted to the qualified voters on petition, as hereinbefore provided, and a failure to finally pass on an application within six (6) months after the filing of such application shall be construed as a refusal. The City Council in passing an ordinance granting a franchise may provide therein that it shall not take effect until the same shall have been submitted to and approved by a majority of the qualified voters voting therein at a general election. All expenses of publication shall be borne by the applicant for the franchise, who shall make a deposit in advance to cover the estimated cost of publication, the amount of the deposit to be determined by the City Manager.

## PROPOSITION NO. 7

Shall the College Station City Charter be amended to provide for the update and modernization of Article XI (Franchises & Public Utilities)?

### **Control Over and Powers With Reference to City Property**

Section 102. The ownership, right of control and use of streets, highways, alleys, parks, public places and all other real property of the City of College Station is hereby declared to be inalienable to the city, except by ordinances passed by vote of the majority of the governing body of the City, as hereinafter provided; and no franchise or easement involving the right to use same, either along, across, over or under the same, shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the City, its governing body, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance.

The City of College Station shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person or corporation, the franchise or right to use the property of the city, as defined in the preceding paragraph, for the purpose of furnishing to the public any general public service, ~~including heat, water, light, power, telephone service, refrigeration, steam, manufacture and distribution of ice, and the carriage of passengers or freight, within the city and its suburbs, over the streets, highways, and property of the City, or for any other purposes~~ whereby a general service is to be furnished to the public for compensation or hire, to be paid to the franchise holder, whereby a right to use the streets, highways or other property of the City is necessary or proper; and generally to fix and regulate the rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of College Station consistent with state law.

### **Limitations**

Section 103. No exclusive franchise or privilege shall ever be granted; nor a franchise, nor a privilege to commence at any time after six (6) months subsequent to the taking effect of the ordinance granting the same; and no franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, except as provided by the terms of this charter; ~~nor, except as hereinafter provided, shall any franchise be granted to any person, firm or corporation, their associates, assignees or successors, to acquire the physical property, rights or franchise of another person, firm or corporation to whom or which a franchise has already been granted by the city, whereby the rights and properties held and used under such franchise are assigned to any other person, firm or corporation which holds a franchise from the city extending beyond the time of the expiration of the franchise of the person, firm or corporation selling such physical properties, rights or franchises; provided, however, that when it shall appear that the public welfare will be promoted by permitting or requiring the properties of two or more companies doing the same character of business to be under one common ownership the city may, in granting a franchise for such properties, allow or require the ownership of such properties to become vested in one ownership or one corporation, provided that no debts or obligations of any of the companies so consolidated shall be assumed by the corporation, person or association of persons acquiring the ownership of such properties except such debts and obligations of said companies, or either of them as could at the time of the creation of such~~

~~indebtedness, lawfully be created under the Constitution and laws of the State of Texas; and only to the extent that the assumption of such indebtedness is permitted under the provisions of the ordinance granting such franchise and the amount of such indebtedness shall be fixed or limited in such ordinance and the same shall not thereafter be increased except by such actual moneys as may hereafter be expended pursuant to the rules and regulations to be formulated by the city council from time to time.~~

### **Term and Conditions**

Section 105. No determinate or fixed-term franchise shall ever be granted for a longer term than twenty-five (25) years; nor shall any right, privilege or franchise now in existence be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance in violation or evasion of this prohibition shall be absolutely void; provided, however, that any corporation, person or association of persons now holding any franchise under any charter, charters or ordinances of the City of College Station may, with the consent of the city council surrender such franchise or franchises, subject to the provisions of the City Charter then in force, ~~and take a new franchise under such charter, or a new franchise may be granted to a new company or another person with the privilege of acquiring the properties of such franchise holder upon the surrender of the franchise rights then held. No subsidiary franchise or franchises of any character appertaining or relating to any other franchise holder, or to any person, firm or corporation acting directly or indirectly for such franchise holder, shall be granted, and any such grant in violation of this prohibition shall be absolutely void to the extent of the excess in time beyond the life of such main franchise. No franchise, privilege or easement shall ever be used or operated so as to extend or enlarge any other franchise or privilege granted by the City except upon surrender of such original franchise as herein provided, and any violation of this prohibition shall operate as a forfeiture of each and all such franchise privileges or easements.~~ No holder of a franchise heretofore or hereafter granted shall have a right (unless such right is granted in the franchise) to transfer or assign its properties and franchise to any other person, firm or corporation without the consent of the city council by ordinance, and such consent when given shall not operate as the granting of a franchise or as a new franchise.

The City Council shall have the power to compel all persons, firms or corporations operating any public utilities in the city, whether operating under existing franchises, or franchises that may be hereafter granted, to extend their service, lines, pipes, etc., if the person to be benefited by such extension will pay the cost thereof, or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the investment, after making the customary allowance for depreciation.

All public utility franchises in the City of College Station shall be held whether expressed in the ordinance or not, subject to the right of the city, each of the following being a condition:

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (2) To require an adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency.

- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4) To prescribe the form of accounts kept by such utility; provided, that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, their successor or successors, this shall be deemed sufficient compliance with this paragraph.
- (5) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility.
- (6) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.
- (7) To fix and regulate the price and rates for the service to be performed under the franchise as may be permitted by state law.
- (8) To require such compensation and rental as may be permitted by the laws of the State of Texas.

Every public utility franchise hereafter granted shall be subject to the terms and conditions of this charter, whether such terms and conditions are specifically mentioned in the franchise or not.

#### **Utility Rates and Charges**

Section 106. Consistent with state law, ~~The City Council shall have the power by ordinance to fix and regulate the price, of water, gas, electric lights, electric power and steam heat, and to regulate and fix the fares, tolls and charges of local telephone service and charge of all public buses, carriages, hacks and vehicles of every kind, whether transporting passengers, freight or baggage; and generally to fix and regulate the~~ rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of College Station that are subject to this Article.

#### **Franchise Records**

Section 113. ~~Within six (6) months after this charter takes effect every public utility and every owner of a public utility franchise shall file with the City Council, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of College Station.~~ The City shall ~~compile and~~ maintain a public record of public utility franchises.



## PROPOSITION NO. 8

Shall the College Station City Charter be amended to add a provision to Article XII (General Provisions) of the charter providing that the charter is to be gender neutral and amended throughout to make the charter language gender neutral; to correct non-substantive errors such as misspellings, punctuation, grammar and sentence structure; to make non-substantive changes to clarify the meaning of various charter provisions; to conform to requirements and/or provisions of current state law and/or federal law; and to remove charter language that is obsolete?

### **Gender Neutrality**

Whenever used in this Charter, a word referring to the masculine gender only shall extend and be applied to females, and where applicable, to firms, partnerships and corporations, unless otherwise expressly provided in this Charter.

### **Extension of City Limits by the City Council**

Section 7. The City Council shall have the power to fix, by ordinance, the boundary limits of the City of College Station, and to provide for the extension of such boundary limits and the annexation of additional territory lying adjacent to the City, with or without the consent of the inhabitants of such area to be annexed, in accordance with applicable state annexation laws. The City Council shall have the power to detach, by ordinance, any territory, with or without the consent of the inhabitants of such area to be detached, in accordance with applicable state annexation laws. When any territory shall be so annexed, the same shall be a part of the City and the inhabitants thereof shall be entitled to all the rights and privileges of all the citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City. When territory has been detached, the same shall no longer be a part of the City.

### **Eminent Domain**

Section 8. The City shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the power conferred upon it by this charter or by the constitution or laws of the State of Texas. ~~In all cases where the City seeks to exercise the power of eminent domain, it may be controlled, as nearly as practicable, by the laws governing the condemnation of property of railroad corporations in this state, the City taking the position of the railroad corporation in any such case.~~ The City may also exercise the power of eminent domain in any other manner now or hereafter authorized or permitted by the constitution and laws of this state, or in the manner and form that may be provided by ordinance of the governing body of the City. The power of eminent domain hereby conferred shall include the right of the City to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purpose, even though not specifically enumerated herein or in this charter.

### **Number, Selection, Term**

Section 17. The City Council shall be composed of the Mayor and six (6) Councilmen-Council Members and be known as the "City Council of the City of College Station."

(a) The Mayor and other members of the City Council shall be elected from the City at large.

(b) The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no regular administrative duties. The Mayor shall be entitled to vote on all matters under consideration by the City Council.

(c) Each ~~Councilman~~ Council Member, unless sooner removed under the provisions of this Charter, shall serve for a term of three (3) years, beginning with the first meeting of the Council following ~~their~~his election, and ending with the first meeting of the Council three (3) years later, or until ~~their~~his successor has been elected and duly qualified. The Mayor, unless sooner removed under the provisions of this Charter, shall serve for a term of three (3) years, beginning with the first meeting of the Council following ~~their~~his election and ending with the first meeting of the Council three (3) years later, or until ~~their~~his successor has been elected and duly qualified.

(d) No person shall be deemed elected to an office unless that person receives a majority of all the votes cast for such office. The Council shall, upon declaring the official results of the election, order a run-off election for each office to which no one was elected. In the run-off election, the two candidates who received, in the preceding election, the highest number of votes for each office to which no one was elected, shall be voted on again by the qualified voters, and the candidate who receives the majority of the votes cast for such office in the run-off election shall be elected to such office.

~~(e) In 2004, the regular elections for Places 4 and 6 shall continue to have two (2) year terms. In 2006, and subsequent years, the regular elections for Places 4 and 6 shall be for three (3) year terms. In 2004, and subsequent years, the regular elections for the Mayor and Places 1, 2, 3, and 5 shall be for (3) three year terms.~~

~~(e)~~(e) Beginning in 1999, there shall be no limit to the total number of terms served by the Mayor or ~~Councilmen~~ Council Members; however, no person shall be eligible to be elected to serve in the capacity of the ~~Councilman~~ Council Members for consecutive regular terms totaling more than six (6) years; nor shall any person be eligible to be elected to serve in the capacity of Mayor for consecutive regular terms totaling more than six (6) years.

### Qualifications

Section 18. The Mayor and ~~Councilmen~~ Council Members shall be citizens of the United States and qualified voters of the State of Texas; shall have resided for at least one (1) year next preceding the election, at which they are candidates, within the corporate limits of the City of College Station; and shall not be disqualified by reason of any provision of any other section of this Charter. A member of the City Council ceasing to possess any of the qualifications specified in this section, or any other section of this Charter, or convicted of a felony while in office, or who absents ~~himself~~ themselves from three (3) consecutive regular Council meetings without consent of the Council, shall immediately forfeit ~~his~~their office.

### Presiding Officer; Mayor

Section 20. The Mayor shall preside at meetings of the City Council and shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties. He or she shall be entitled to vote upon all matters considered by the City Council, but ~~he~~ shall have no veto power. The City Council shall elect a Mayor Pro Tem from its membership who shall act as Mayor during the absence or disability of the Mayor.

#### **Vacancies**

Section 21. A vacancy in the City Council shall be filled by a special election which shall be called ~~within thirty (30) days of the occurrence of such vacancy in accordance with state law~~. If any such vacancy shall occur within ninety (90) days preceding a general election, then no special election shall be called; provided, however, that the unexpired term shall be filled at the next general election. No such election shall be held sooner than thirty (30) days from the date it is called.

#### **Appointment and Removal of City Manager**

Section 23. The City Council shall appoint an officer of the City who shall have the title of City Manager and who shall have the powers and perform the duties set forth in this charter. No ~~Councilman~~ Council Members shall receive such appointment during the term for which ~~they~~ he shall have been elected, nor within one year after the expiration of ~~their~~ his term.

The salary of the City Manager shall be fixed by the City Council, and ~~the City Manager~~ he shall hold office at its pleasure; but if ~~the City Manager~~ he is removed at any time after six (6) months following his or her appointment, he or she may demand written charges and a public hearing thereon before the City Council prior to the date on which ~~the~~ his final removal shall take effect, but pending such hearing the City Council may suspend ~~the City Manager~~ him from office. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the City Council.

#### **Council Not to Interfere In Appointments or Removals**

Section 24. Neither the City Council nor any of its members shall direct the appointment or removal of any person ~~to or his removal~~ from office by the City Manager or by any of ~~the City Manager's~~ his subordinates; provided, however, that the appointment or dismissal of department heads shall be subject to the approval of the City Council. Except for the purpose of inquiry in accordance with Section 36 of this charter, the City Council and its members shall deal with the administrative service solely through the City Manager, and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

#### **Administrative Departments**

Section 26. There are hereby created the following administrative departments: Finance, Police, Fire and Public Works. The City Council may, ~~if it deems it advisable~~ upon the advice of the City Manager, consolidate into one department not more than two of the departments hereby established; and by ordinance may create, change and abolish offices, departments or agencies other than the offices, departments and agencies established by this Charter.

### **City Secretary**

Section 27. The City Council shall appoint an officer of the City who shall be the City Secretary, who may be removed from office by the Council. The City Secretary or Assistant City Secretary shall give notice of Council meetings, shall keep a journal of its proceedings, shall authenticate by ~~their~~his signature and record in full in a book or books kept and indexed for that purpose all ordinances and resolutions, and shall perform such other duties as the City Council shall assign to ~~the City Secretary~~him and those elsewhere provided for in the Charter.

The City Secretary shall have the power to appoint an assistant or assistants, if ~~they~~deemed necessary ~~by him~~, subject to the approval of and at such compensation as may be fixed by the City Council and such assistant or assistants may be removed from office by the City Secretary.

### **City Attorney**

Section 29. The City Council shall appoint an officer of the City who shall be the City Attorney, who may be removed from office by the Council. The City Attorney shall be a competent and duly licensed attorney, who shall reside in the City of College Station.

The City Attorney shall represent the City in all litigation. ~~The City Attorney~~He shall be the legal advisor of and attorney and counsel for the City and all officers and departments thereof.

The City Attorney shall have power to appoint an assistant or assistants, if ~~the City Attorney~~deemed necessary ~~by him~~, subject to the approval of and at such compensation as may be fixed by the City Council; and such assistant or assistants may be removed from office by the City Attorney.

### **City Internal Auditor**

Section 30. The City Council may appoint an officer of the City to be the City Internal Auditor, who may be removed from office by the Council. The City Internal Auditor shall carry out the audit functions and shall perform such other duties ~~as assigned by~~ the City Council ~~shall assign to him~~. The City Council may also enter into a contract for the duties of City Internal Auditor, to be carried out by an outside firm, if it so chooses.

The City Internal Auditor shall have the power to appoint an assistant or assistants, if ~~they~~deemed necessary ~~by him~~, subject to the approval of and at such compensation as may be fixed by the City Council; and such assistant or assistants may be removed from office by the City Internal Auditor. ~~—New Section created by the approval of voters at Charter amendment election held on May 13, 2006.~~

### **Procedure for Passage of Ordinances**

Section 35. Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided, however, that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten (10) days from the date of its passage. The City Secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance imposing a penalty, fine

or forfeiture for a violation of the provisions thereof, to be published in the official newspaper of the City of College Station at least twice within ten (10) days after the passage of such ordinance. The City SecretaryHe shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, however, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as may be otherwise provided by this charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the City Council, but it shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as it deems advisable, and such printed code, when adopted, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

#### **Housing Authority**

Section 38. The City Council may create a housing authority of such number, and terms and compensation of members as it may determine and may delegate to that authority such powers relating to the planning, construction, reconstruction, alteration, repair, maintenance or operation of housing projects and housing accommodations as it may deem wise consistent with state law.

#### **Qualifications**

Section 40. The City Manager shall be chosen by the City Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of the his office as hereinafter set forth. At the time of their his appointment the City Manager he need not be a resident of the City or State, but during their his tenure of office they he shall reside within the City.

#### **Powers and Duties**

Section 41. The City Manager shall be the chief executive officer and the head of the administrative branch of the city government. The City Manager He shall be responsible to the City Council for the proper administration of all affairs of the City, and to that end he shall have power and shall be required to:

- (1) Appoint and, when necessary for the good of the service, remove all officers and employees of the City except as otherwise provided by this Charter and except as the City Manager he may authorize the head of a department to appoint and remove subordinates in such department.
- (2) Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption.

- (3) Prepare and submit to the City Council at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
- (4) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him desirable and proper.
- (5) Perform such other duties as may be prescribed by this charter or required ~~of him~~ by the City Council.

#### **Absence of City Manager**

Section 42. To perform the City Manager's duties during ~~his~~ temporary leave of absence or disability, the Mayor may designate by letter filed with the City Secretary a qualified administrative officer of the City to serve for the City Manager. Concerning out of town business, illness, or vacation the City Manager may be delegated authority to designate an individual to serve in the absence of the City Manager.

#### **Director of Departments**

Section 43. At the head of each administrative department there shall be a director ~~who.~~ He shall be an officer of the City and shall have supervision and control of the department subject to the City Manager.

Two or more departments may be headed by the same individual; the City Manager may head one or more departments, and directors of departments may also serve as chiefs of divisions.

#### **Effective Date of Budget; Certification; Copies Made Available**

Section 55. Upon final adoption, the budget shall be filed with the City Secretary and such other officials as may be designated by state law. The final budget shall be printed, or otherwise reproduced, and a reasonable number of copies shall be made available for the use of all offices, departments and agencies, and for the use of interested persons and civic organizations.

#### **Contingent Appropriation**

Section 58. Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three (3) percent of the total budget expenditure, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of, and distributed by, the City Manager ~~and distributed by him~~, after approval by the City Council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the departments or activities for which the appropriations are made.

#### **Estimated Expenditures Shall Not Exceed Estimated Resources**

Section 59. The total estimated expenditures of the general fund and debt fund shall not exceed the total estimated resources of each fund.

The City Council may by ordinance amend the budget during a fiscal year if one of the following conditions exists:

1. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess. Before approval, the Council shall hold a public hearing on the proposed budget amendment. A notice of the time and place of a public hearing on the supplemental appropriation shall be published in the official newspaper of the City of College Station. The notice shall be placed in the newspaper at least five (5) working days before the date of the hearing.
2. To meet a public emergency affecting life, health and property of the public peace, the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any such notes made during a fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
3. If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to meet the amounts appropriated, ~~the City Manager~~ shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken ~~by him~~ and ~~his~~ recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one or more appropriations.

### **Municipal Elections**

~~Section 77. The regular city election shall be held on an annual date set by ordinance by the City Council, or as otherwise provided by law, at which time members of the Council shall be elected to fill those offices that become vacant that year. The City Council shall fix the hours and the place for holding such special election. The City Council may by resolution, order a special election, fix the time and place for holding same, and provide all means for holding such special election. In the order, ordinance, or resolution of the City Council calling any election at which more than one Councilman shall be elected, the City Council shall in calling such election provide for a separate place on the ballot for each vacant seat to be filled at such election, designating the Mayor, and such Places as Place No. 1, 2, 3, 4, 5, or 6. If an unexpired term is to be filled at such election, the Place for the unexpired term shall be so designated. Regular municipal elections shall be held on a uniform election date set out in state law. Special elections shall be ordered in compliance with applicable state law.~~

### **How to Get Name on Ballot**

~~Section 79. Any qualified person may have his name placed on the official ballot as a candidate for Councilman or Mayor at any election held for the purpose of electing Councilmen or Mayor by filing with the City Secretary at least forty-five (45) days prior to the date of election a sworn application in substantially the following form:~~

~~“I, \_\_\_\_\_, do hereby certify that I am a candidate for the office of \_\_\_\_\_, and request that my name be printed upon the official ballot for that particular office in the next city election. I am a qualified voter of the State of Texas and am and have been a bona fide resident of the City of College Station, Texas, for at least one (1) year. I am not disqualified or ineligible to serve on the City Council if elected.~~

~~I reside at \_\_\_\_\_, Precinct \_\_\_\_\_, College Station, Texas. Signed \_\_\_\_\_.”~~ Any qualified person who desires to become a candidate in a general election to a place on the City Council, shall file with the City Secretary an application for his or her name to appear on the ballot in accordance with the Texas Election Code. Such application shall clearly designate the place on the Council to which the candidate seeks election and shall contain the candidate’s sworn statement of compliance with the qualifications for holding the office sought under the laws of Texas and the provisions of the Charter.

### **Council Official Ballots**

Section 80. The full names of all candidates for the city council as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballot without party designation. If two candidates with the same surnames, or with names so similar as to be likely to cause confusion, are nominated, the addresses of their places of residence shall be placed with their names on the ballot. The order of the names on the ballot shall be determined by lot. ~~The official ballot shall be printed not less than twenty (20) days before the date of election.~~

### **Laws Governing City Elections**

Section 81. ~~All City elections shall be governed, except as otherwise provided by this charter, by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto; and in the event there should be any failure of the general laws or of this charter to provide for some feature of the city elections, then the City Council shall have the power to provide for such deficiency; and no informalities in conducting a City election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable and the Charter and ordinances of the City.~~ All City elections shall be governed by the constitution of the State of Texas, general laws of the state, this charter, and ordinances of the City, in the order named

### **Canvassing Election**

Section 82. Returns of elections, general and special, shall be made by the election officers to the City Council ~~not later than the second Wednesday next following such election, when on any date permitted by the Texas Election Code, at which time~~ the City Council shall canvass the returns and declare the results of the election.

### **Power of Initiative**

Section 83. The electors shall have power to propose any ordinance, except an ordinance zoning or rezoning property, appropriating money, authorizing the issuance of bonds, or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the City Council by a petition signed by



qualified electors of the City equal in number to at least twenty-five (25) percent of the number of ~~votes east~~voters voting at the last regular municipal election.

### **Power of Referendum**

Section 84. The electors shall have power to approve or reject at the polls any ordinance passed by the City Council, or submitted by the City Council to a vote of the electors, such power being known as the referendum, except in the case of ordinances zoning or rezoning property, authorizing the issuance of bonds, or making the annual tax levy. Ordinances submitted to the City Council by initiative petition and passed by the City Council without charge shall be subject to the referendum in the same manner as other ordinances. Within twenty (20) days after the enactment by the City Council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least twenty-five (25) percent of the number of ~~votes east~~voters voting at the last preceding regular municipal election may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

### **Form of Petitions; Committee of Petitioners**

Section 85. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that they~~he~~, and ~~he~~they only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in ~~his~~their presence, and that ~~he~~they believes them to be the genuine signatures of the persons whose names they purport to be.

### **Filing; Examination and Certification of Petitions**

Section 86. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Secretary as one instrument. Within ten (10) days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The City Secretary shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing the~~his~~ examination of the petition, the City Secretary shall certify the result thereof to the city council at its next regular meeting. If the City Secretary~~he~~ shall certify that the petition is insufficient, he ~~or she~~ shall set forth ~~in his~~by certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the~~his~~ findings.

### **Amendment of Petitions**

Section 87. An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the City Secretary, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The City Secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, ~~he~~ shall file ahis certificate to that effect ~~in his office~~ as City Secretary and notify the committee of petitioners of ~~the~~ his findings, and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

### **Submission to Electors**

Section 90. If the City Council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition therefor; or if the City Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors ~~not less than thirty (30) days nor more than sixty (60) days from the date the city council takes its final vote thereon. The City Council may, if no regular election is to be held within such period, provide for a special election~~ at an election to be held on the next uniform election date authorized by state law for municipal elections.

### **Form of Ballot for Initiated and Referred Ordinances**

Section 91. Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this charter shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance; and if a paper ballot, shall have ~~below to the left of~~ the ballot title the following propositions, one above the other in the order indicated: “FOR ~~THE ORDINANCE~~” and “AGAINST ~~THE ORDINANCE~~” and shall otherwise comply with state law. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have ~~to the left of below it~~ the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.

### **Recall Procedure**

Section 95. Any elector of the City of College Station may make and file with the City Secretary an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. The City Secretary shall thereupon deliver to the elector making such affidavit copies of petition blanks demanding such removal. The City Secretary shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks when issued by the City Secretary shall bear the signature of that officer and be addressed to the city council, and shall be numbered, dated and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The City Secretary shall enter in a record to be

kept in the City Secretary's office the name of the elector to whom the petition blanks were issued and the number issued to said person.

### **Recall Election**

Section 97. The City Secretary shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this article of the charter, the City Secretary shall within five (5) days submit it to the city council with the City Secretary's certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice the city council shall thereupon order and fix a date for holding a recall election to be held on the next uniform election date authorized by state law for municipal elections. ~~Any such election shall be held not less than thirty (30) nor more than sixty (60) days after the petition has been presented to the city council, however, such election may be held at the same time as any municipal election held within such period.~~

### **Ballots in Recall Election**

Section 98. Ballots used at recall elections shall conform to the following requirements.

- (1) With respect to each person whose removal is sought the question shall be submitted "Shall (name of person) be removed from the office of councilman by recall?"
- (2) Immediately ~~below to the left of each~~ such question there shall be printed the two following ~~propositions~~responses, one above the other, in the order indicated:

~~"FOR~~For the recall of (name of person)"

~~"Against the recall of (name of person)~~AGAINST"

### **Results of Recall Election**

Section 99. If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, that officer shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an election be for the recall of the officer named on the ballot, that officer shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as in other vacancies.

### **Limitations on Recalls**

Section 100. No recall petition shall be filed against a ~~Councilman~~Council Member within six (6) months after they takes office, nor in respect to an officer subjected to a recall election and not removed thereby, until at least six (6) months after such election.

### **Procedure**

Section 104. The City of College Station shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance, however, shall not be passed finally until it shall have been read at three (3) separate regular meetings of the City Council. No ordinance granting a franchise shall pass any reading except by a vote of the majority of the City Council, and such ordinance shall not take effect until sixty (60) days after

its adoption on its third and final reading; provided, however, that if at any time before such ordinance shall finally take effect a petition shall be presented to the City Council signed by not less than ~~forty (40)~~ten (10) percent of the ~~bona fide qualified registered~~ voters of the City, then the City Council shall submit the question of the granting of such franchise to a vote of the qualified voters of the City at the ~~next succeeding general election to be held in the City~~next uniform election date prescribed by state law that allows sufficient time to comply with other requirements of law, provided that notice thereof shall be published in at least ~~ten (10)~~twenty (20) successive issues of the official newspaper of the City of College Station prior to the holding of such election. ~~Ballots shall be used~~The ballot shall briefly describing the franchise to be voted on and the terms thereof and containing the words, “For ~~the granting of a franchise~~”, and “Against ~~the granting of a franchise~~” to the left of the language and shall otherwise comply with state law. The vote shall be canvassed by the city council, and should it result that a majority of those voting thereon cast their votes “For” the granting of a franchise”, then by order entered in its minutes, the city council shall so declare and such franchise shall at once take effect. But should a majority of the votes be cast “Against” granting a franchise”, then the City Council by order entered in its minutes shall so declare and such franchise shall not take effect. In case a franchise is refused by the City Council, then the matter may be submitted to the qualified voters on petition and an election held under the procedures, as hereinbefore provided, ~~and a~~ failure of the City Council to finally pass on an application within six (6) months after the filing of such application shall be construed as a refusal. The City Council in passing an ordinance granting a franchise may provide therein that it shall not take effect until the same shall have been submitted to and approved by a majority of the qualified voters voting therein at a general election. All expenses of publication shall as it relates to this section be borne by the ~~applicant for the franchise~~petitioner, who shall make a deposit in advance to cover the estimated cost of publication, the amount of the deposit to be determined by the City Manager.

### **Personal Interest**

Section 115. No member of the City Council or any officer or employee of the City shall have a financial interest direct or indirect or by reason of ownership of stock in any corporation, 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 as an officer or employee; provided, however, that the provisions of this section shall only be applicable when the stock owned by the officer or employee exceeds one (1) percent of the total capital stock of the corporation. Any willful violation of this section shall constitute malfeasance in office and any officer or employee guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge expressed or implied of the person or corporation contracting with the City shall render the contract voidable by the City Council or City Manager. The prohibitions of this section shall not be applicable to city employee who applies for and or receives housing assistance or any other assistance that is offered to the general public under the same terms and conditions that the assistance is offered to other citizens. ~~Approved by voters 11-04-2008~~

### **Relatives of Officers Shall Not be Appointed or Employed**

Section 117. No person related within the second degree of affinity, or within the third degree of consanguinity, to members of the City Council or the City Manager shall be appointed or employed to any office, position or service in the City.

**Notice of Injury or Damage**

Section 119. The City shall never be liable for any personal injury, whether resulting in death or not, unless the person injured, or someone in theirhis 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 or injury, shall file a notice in writing with the City Secretary within ninety (90) days after the same has occurred, stating specifically in such notice when, where and how the exact injury occurred, the full extent of the injury, the amount of damages claimed or asserted, and a list of persons, if known, who witnessed the injury. The City shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged, or someone in theirhis behalf, shall file a claim in writing with the City Secretary within ninety (90) days after said damage or injury occurred, stating specifically when, where and how the damage or injury was sustained. The person giving notice under this Section shall subscribe theirhis name to the notice under oath that the statements and facts contained in said notice are true and correct.