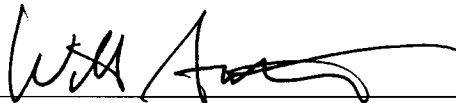



CITY COUNCIL / CHARTER COMMITTEE MINUTES

January 8, 2009

Mayor Armstrong thanked Mr. Pruitt for representing his group and explaining their proposals. He announced that the next meeting would be on January 20, 2009 at 3:30 p.m. With no further business, the meeting was adjourned at 5:47 p.m.

APPROVED:   
WILL ARMSTRONG, Mayor of the City of  
Victoria, Texas

ATTEST:   
SCARLET SWOBODA, City Secretary

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VICTORIA CITY COUNCIL  
and  
CHARTER REVIEW COMMITTEE  
January 20, 2009

CALL TO ORDER

A special meeting of the Victoria City Council and Charter Review Committee was called to order by Mayor Will Armstrong at 3:30 p.m. Tuesday, January 20, 2009 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas.

MEMBERS PRESENT

Will Armstrong, Mayor  
Philip Guittard  
Lewis Neitsch  
Paul Polasek  
David Hagan – *arrived at 3:33 p.m.*  
Jim Wyatt  
Tom Halepaska - *absent*

COUNCIL ADVISORS PRESENT

Jan Scott - *absent*  
Terry McGowan  
Sharon Steen  
Gary Middleton  
Jack A. Mullins  
Joseph Capers  
Bill Russell - *absent*

STAFF PRESENT

Charles Windwehen, City Manager  
Miles Risley, City Attorney  
Linda Champion, Assistant City Attorney  
O. C. Garza, Public Information Officer  
Scarlet Swoboda, City Secretary

**Review of City Charter and Proposed Revisions**

Mayor Armstrong advised that only discussion amongst the Committee would be allowed at this meeting.

City Attorney Miles Risley advised that the last couple of meetings centered on the proposals from “Concerned Citizens for Responsible Government.” He presented provisions that could be utilized to moderate some of the more radical aspects of their proposals.

**Repeal requirement for Anti-Election-Fraud Affidavits** – this would repeal the requirement for an individual circulating an initiative, referendum, or recall petition to sign an affidavit that they knew who signed the document and that only they circulated the document being shown. No moderation provision recommended.

## CITY COUNCIL / CHARTER COMMITTEE MINUTES

January 20, 2009

**Provide that City Secretary would no longer verify Election Petitions** – this would change the City Secretary to the Elections Administrator as the person tasked with verifying signatures on initiative, referendum, or recall petitions. No moderation provision recommended

A majority of the Committee expressed the following concerns:

1. How much would the Elections Administrator charge for this service.
2. Mandating an appointee of another elected body to perform a task for the City that is not in their realm of responsibility for whom they were appointed.
3. No guarantee that the County would do it, even if it were placed in the City Charter.
4. Future Elections Administrator may not be willing to do verifications.

Mr. Mullins commented that the Elections Administrator was the logical choice because he had voter registration information at his fingertips, and the most qualified person to do this task.

**Elected City Attorney** – Moderation Mechanism suggested: Amend Article III, Section 7 of the City Charter to authorize the City Manager and the City’s insurers to employ attorneys to represent the City in accordance with authorization of the City Council.

Mr. Risley advised that this provision would allow the City Council to hire additional attorneys to void arguments between the elected City Attorney and the City’s attorneys who would be hired by the City.

Mr. Mullins questioned why the Assistant City Attorney would not be able to handle the job if the elected City Attorney removed himself. Mr. Risley advised that the Assistant City Attorney would be obligated to do what the elected City Attorney told them to do. Also the elected City Attorney may not recuse them self.

Cm Wyatt commented that the suggested moderation provision should place the City Attorney under the City Manager section in the Charter. Mr. Risley advised that the moderation mechanism was written to preserve the authority of the City Council.

**Move election dates from May to November** - A majority of the Committee were opposed to changing the date. Some suggested that the citizens would have more input and candidates more media coverage with the election held in May.

**Term Limits** – No member of the City Council shall serve more than two terms. Mr. Risley advised that this proposed amendment would modify a portion of the City Charter that is stated in the Rojas lawsuit and court order. There would be some expense to change the language in the lawsuit and could cause problems by opening up that lawsuit again.

Mr. Middleton questioned whether a Council Member could run for Mayor after serving two terms. It was pointed out that the language in the proposed amendment did not appear to allow for that. Ms. Steen stated that there already were term limits when a voter goes to the polls and votes.

Mr. Risley advised that a modification provision could be stated “that the term limits of the City Charter shall only apply to consecutive terms of the City Council.” This would create a Section 13 of the City Charter called Term Limits, so that it would not be a section of the City Charter included in the Rojas lawsuit. A second modification provision could clarify that the term limits of the Charter would only apply to future terms of the Council Members.

Cm. Hagan commented that since there was ambiguity in this proposed amendment, the modification provisions made sense.

Mr. Middleton questioned if he filed and ran, and was successful, would someone have to sue to remove him. Mr. Risley responded that theoretically that would be possible without the abovementioned clarifications. The City could also possibly be brought into such a case.

Mr. Middleton asked if it was the intent of the petitioners to prevent someone who had served in the past from running, or those currently serving from running for another term. Cm. Hagan commented that he did not speak for the group, but suggested that a break might accomplish

## CITY COUNCIL / CHARTER COMMITTEE MINUTES

January 20, 2009

what the petitioners were wanting, without the power of incumbency. Mr. Middleton commented that he hoped people signing the petition asked the same questions he had.

Mr. Risley advised that a third modification provision would allow the Committee to establish their own term limits provision that was not in the Rojas lawsuit, and could be an alternative to the petitioner's proposal. It would say the members of the City Council shall be limited to *(blank)* consecutive terms in each district and position, the term limits of this Charter shall only apply to future terms. Cm. Wyatt suggested letting the petitioner's proposal be voted up or down on the ballot. Some of the other Committee Members thought the clarification statement should be placed on the ballot as well.

Cm. Hagan commented that he had spoken with other attorney's who do municipal litigation and they concurred with Mr. Risley that the language was ambiguous, even though the intention of the group was such that it would not be retroactive, it could be cleaner.

Mayor Armstrong suggested combining the modifications to apply to only consecutive future terms of the City Council. There was lengthy discussion concerning when the term limits would begin for current Council Members.

Mr. Risley presented another possible modification provision consideration, which would allow for term limits, but would allow a candidate to bypass those term limits if the candidate obtained the signatures of at least 5% of the voters. Cm. Hagan was opposed to that suggestion. Mr. McGowan suggested that it should be left up to the will of the people, which was what he had been hearing all along. Mr. Mullins commented that it cut the floor out of term limits and 5% was a small slice of the people. Several of the Committee Members commented that it was no different than the 5% allowed for the proposed Charter amendments. The majority had no objection to placing that modification provision on a ballot.

Mr. Risley presented another modification which would allow a candidate with no opponents who have filed *(blank)* days before filing deadline to bypass term limits. It was noted that it was very common in Victoria for the City Council incumbents to have no opponents. It was the consensus to leave that modification out.

**Reduce percentage for Initiative, Referendum, and Recall Petitions from 10% to 5% of the voter** – There was no modification provision recommended. Some suggested letting the voters vote it up or down. Cm. Wyatt was opposed to lowering it because 10% was a good percentage, suggesting that changing it would cause problems in the future and it would be expensive.

Mr. Mullins commented that the State Legislature changed Charter petition requirements to 5% a number of years ago. Cm. Wyatt responded that what could happen is the City would have to start holding election after election, and the State sends very little money.

**Prohibition on Expenditure of Public Funds for Indicted Officials** – this would prohibit the City Council from appropriating or expending any public funds for or on behalf of any current or former indicted City officials unless approved by a vote of the people.

Mr. Risley advised that the language in the proposed amendment did not limit it to legal fees. It could imply that the City would have to terminate someone who was indicted in the past and found not guilty. That would be a violation of the regulations of the Equal Opportunity Commission and might be a violation of the equal protection clause of the United States Constitution. It would probably get the City sued, the City would probably lose, and then would have to pay significant damages.

Mayor Armstrong commented that the language was so ambiguous that it could get the City in a lot of trouble. He was not going to tell the Police and Fire officers that they were on their own until it goes to a vote. Cm. Hagan commented that every employee currently stands alone, stating that never in the history of Victoria had any other employee ever been reimbursed for criminal legal fees. He commented that the difference was the nature and importance of the people indicted this time, they were given a privilege not afforded to other employees. He suggested that if the Committee wanted to amend this, it should say we will not pay legal fees for any criminally indicted

**CITY COUNCIL / CHARTER COMMITTEE MINUTES**

**January 20, 2009**

City official ever. Mr. Mullins commented that there was a lot of case law drawing clear distinction between officials and employees.

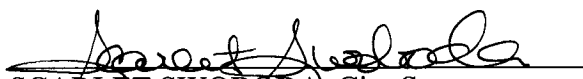
Mr. Risley presented a modification provision that would provide that the prohibition on payment to the inductees did not require termination of previously indicted officials. That means if a Police Officer were indicted and found not guilty the City would not have to fire them. A proposed amendment would specify that said section prohibition on expenditure of public funds for indicted officials solely prohibits the expenditure of City funds for the criminal defense of indicted City officials and does not prohibit compensation to City officials for their services.

Cm. Polasek commented that the decision of whether or not to pay any fees should be left up to the City Council. Cm. Wyatt commented that under some circumstances the Council needs to support their officials.

Mr. Risley presented another moderation provision which would allow the legal fees of innocent officials to be reimbursed after their case was no longer pending. Mr. Mullins commented that no one was ever found innocent.

Mayor Armstrong announced that the next meeting would be held on Thursday, January 22, 2009 at 3:30 p.m. With no further business, the meeting was adjourned at 4:50 p.m.

APPROVED:   
 WILL ARMSTRONG, Mayor of the City of  
 Victoria, Texas

ATTEST:   
 SCARLET SWOBODA, City Secretary

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**VICTORIA CITY COUNCIL**  
**January 20, 2009**

**CALL TO ORDER**

A regular meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 5:02 p.m. Tuesday, January 20, 2009 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas. The pledge of allegiance was said, and all citizens were welcomed.

**MEMBERS PRESENT**

Will Armstrong, Mayor  
 Philip Guittard  
 Lewis Neitsch  
 Paul Polasek  
 David Hagan  
 Jim Wyatt

**MEMBERS ABSENT**

Tom Halepaska

**STAFF PRESENT**

Charles E. Windwehen, City Manager  
 Miles Risley, City Attorney  
 Linda Champion, Assistant City Attorney  
 Gilbert P. Reyna, Jr., Director, Finance  
 Lynn Short, Director, Public Works  
 Dayna Williams-Capone, Assistant Director, Library  
 John Kaminski, Director, Development Services  
 Bruce Ure, Police Chief  
 Vance Riley, Fire Chief  
 Doug Cochran, Director, Parks and Recreation  
 Rick Henrichs, Director, IT  
 Jerry James, Director, Environmental Services  
 Roy Boyd, Deputy Chief of Police  
 Darryl Lesak, Asst. Director Environmental Services  
 Scarlet Swoboda, City Secretary