

**Recommendation from the Charter Review Committee
Proposed Charter Amendments**

Presented to the Nacogdoches City Commission August 4, 2009

- 1. Global language changes from “City Commission” to “City Council”, from “Commissioners” to “Councilmembers” and from “At Large” to “Mayor” for all references in the charter.**

This change would bring language more current to that common in local government today.

- 2. Article II. “Corporate Powers”, Sec. 15 “Street Powers”**

Amended language for this section would provide a more fair distribution of possible costs associated with infrastructure upgrades and repair where assessment of nearby property owners is considered by the City.

Article II. “Corporate Powers”, Sections 16 “Construction of sidewalks and curbs”, Section 19 “Public works improvements” would be deleted, as they have been combined in Section 15.

Proposed language attached.

- 3. Article III. “Taxation”, Section 1 [3]**

This paragraph would be deleted, as a license is not a “tax” as indicated under this heading.

- 4. Article IV. “The City Commission”, Sec 8 “Vacancies”**

The amendment would provide a method to fill vacancies on the City Commission, via City Commission appointment, within a reasonable timeframe in order to provide continuous representation prior to the next available election date.

Proposed language attached.

- 5. Article IV. “The City Commission”, Sec 11 “Meeting of the Commission”.**

The amendment would provide a timeframe for qualifying and assuming duties of the office of Commissioner that is more in line with current election laws.

Proposed language attached.

6. Article IV “The City Commission”, Sec 15 “Emergency Measures”.

Current language requires that an emergency ordinance takes a unanimous vote of the commission. In the event of a city-wide emergency situation, this may not be possible. The amendment would require a majority vote as with any other ordinance passage.

7. Article IV “The City Commission” Sec 19 “Appointments

Would allow the city commission to appoint the city attorney for an indefinite period subject to discharge at the will of the city commission, similar to provisions for appointing and removing the city manager.

8. Article VI “Municipal Court”, Sec 2 “Judge and Clerks of the Municipal Court”

Would allow the city manager appoint the municipal court judge(s) for a two-year term.

9. Article VI. “Municipal Court” Sec 4 “Substitute Judges”

Would eliminate reference to judge appointments in this section, as it would be included in Sec 2.

10. Addition of Initiative and Referendum

Initiative and referendum procedures would allow the citizens to initiate an ordinance, or repeal an ordinance already adopted through a petition process, which would allow for all registered city voters to decide on the outcome.

The proposed language attached.

Article II. "Corporate Powers", Sec. 15 "Street Powers"

No assessment for improvements of any street may be assessed without prior notice to the owners of all property within the limits of the proposed improvement, which notice must specify with reasonable certainty the location, nature, and estimated cost of the proposed improvement, the proposed basis for division of assessment, and the time when the Commission will conduct a public hearing on the proposal. Such notice shall be in writing to each owner and delivery shall be made at least ten days before the hearing. After the hearing, the Commission shall determine by resolution whether the proposed assessment for improvements shall be made. If the Commission approves the assessment for the improvements, construction of the improvements shall begin no later than six months after the resolution is passed.

Article IV “The City Commission”, Sec. 8 “Vacancies”

The office of City Commissioner, including the At Large City Commissioner, shall become vacant upon the Commissioner’s death, resignation, removal from office, or forfeiture of office in any manner required by this Charter or State law. If any Commissioner shall file as a candidate for nomination or election to public office, except to some office under this Charter, that Commissioner shall immediately forfeit his office as Commissioner.

A vacancy on the City Commission shall be filled for the remainder of the unexpired term, if any, at the next available uniform election date following the occurrence of the vacancy; however, if the vacancy occurs more than 30 days before the next available uniform election date then, the City Commission by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the position is filled by election. The City Commission may appoint from among its members.

Article IV. "The City Commission" Sec. 11 "Meeting of the Commission"

Within 30 days after the election of the Commissioners has been declared by the City, the Commission shall meet at which time the Commissioners will qualify and assume the duties of their offices. Thereafter, the Commissioners shall meet at such time as may be prescribed by ordinance or resolution, but they shall meet at least once each month.

1 **Section ____.** Initiative and Referendum.

2
3 General Authority for Initiative and Referendum.

4
5 (1) **Initiative.** The registered voters of the city shall have power to propose
6 ordinances to the commission, and if the commission fails to adopt an
7 ordinance so proposed without any change in substance, to adopt or
8 reject it at a city election. Such power shall not extend to the budget or
9 capital program or any ordinance relating to appropriation of money, levy
10 of taxes or salaries of city officers or employees.

11
12 (2) **Referendum.** The registered voters of the city shall have power to require
13 reconsideration by the commission of any adopted ordinance, and if the
14 commission fails to repeal an ordinance so reconsidered, to approve or
15 reject it at a city election. Such power shall not extend to the budget or
16 capital program or any emergency ordinance or ordinance relating to
17 appropriation of money or levy of taxes or salaries of city officers or
18 employees.

19
20 **(b) Commencement of Proceeding; Petitioners' Committee; Affidavit.** Any
21 nine (9) registered voters of the city may commence initiative or referendum
22 proceedings by filing with the city secretary an affidavit stating they will constitute
23 the petitioners' committee and be responsible for circulating the petition and filing
24 it in proper form, stating their names and addresses and specifying the address
25 to which all notices to the committee are to be sent, and setting out in full the
26 proposed ordinance or citing the ordinance sought to be reconsidered. Petitions
27 must be submitted within one hundred twenty (120) days after filing an affidavit
28 with the city secretary.

29
30 **(c) Petitions.**

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32 (1) **Number of Signatures.** Initiative and referendum petitions must be
33 signed by registered voters of the city equal in number to at least fifteen
34 percent (15%) of the total number of registered voters at the time the
35 petitioners file the affidavit to circulate a petition with the city secretary, or
36 2,500 registered voters, whichever is greater.

37
38 (2) **Form and Content.** All papers of a petition shall be uniform in size and
39 style and shall be assembled as one instrument for filing. Each signature
40 shall be executed in ink or indelible pencil and shall be followed by the
41 address of the person signing. Initiative and referendum petitions shall
42 contain or have attached thereto throughout their circulation the full text of
43 the ordinance proposed or sought to be reconsidered.

44
45 (3) **Affidavit of Circulator.** Each paper of a petition shall have attached to it
46 when filed an affidavit executed by the person circulating it stating that he

47 or she personally circulated the paper, the number of signatures thereon,
48 that all signatures were affixed in his or her presence, that he or she
49 believes them to be the genuine signatures of the persons whose names
50 they purport to be and that each signer had an opportunity before signing
51 to read the full text of the ordinance proposed or sought to be
52 reconsidered.

53

54 **(d) Procedure after Filing.**

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56 **(1) Certificate of Secretary; Amendment.** Within thirty (30) days after the
57 petition is filed, the city secretary shall complete a certificate as to its
58 sufficiency, specifying, if it is insufficient, the particulars wherein it is
59 defective and shall promptly send a copy of the certificate to the
60 petitioners' committee by registered mail. A petition certified insufficient
61 for lack of the required number of valid signatures may be amended once
62 if the petitioners' committee files a notice of its intention to amend it with
63 the clerk within two days after receiving the copy of the certificate and files
64 a supplementary petition upon additional papers within ten days after
65 receiving the copy of such certificate. Such supplementary petition shall
66 comply with the requirements of paragraphs (2) and (3) of § ____ (c).
67 Within five (5) days after it is filed the city secretary shall complete a
68 certificate as to the sufficiency of the petition as amended and promptly
69 send a copy of such certificate to the petitioners' committee by registered
70 mail as in the case of an original petition. If a petition or amended petition
71 is certified sufficient or insufficient the city secretary shall promptly present
72 his or her certificate to the commission and the certificate shall then be a
73 final determination as to the sufficiency of the petition.

74

75 **(e) Referendum Petitions; Suspension of Effect of Ordinance.** When a
76 referendum petition is filed with the city secretary, the ordinance sought to be
77 reconsidered shall be suspended from taking effect. Such suspensions shall
78 terminate when:

79

- 80 (i) There is a final determination of insufficiency of the petition, or
- 81 (ii) The petitioners' committee withdraws the petition, or
- 82 (iii) The commission repeals the ordinance, or
- 83 (iv) The referendum to repeal the ordinance fails.

84

85 **(f) Action on Petitions.**

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87 **(1) Action by Commission.** When an initiative or referendum petition has
88 been finally determined sufficient, the commission shall promptly consider
89 the proposed initiative ordinance in the manner provided or reconsider the
90 referred ordinance by voting its repeal. If the commission fails to adopt a
91 proposed initiative ordinance without change in substance within sixty (60)
92 days or fails to repeal the referred ordinance within thirty (30) days after

93 the date the petition was finally determined sufficient, it shall submit the
94 proposed or referred ordinance to the voters of the city.

95
96 (2) **Submission to Voters of Proposed or Referred Ordinances.** The
97 commission shall call an election for the first available uniform election
98 date under the Texas Election Code. Copies of the proposed or referred
99 ordinance shall be made available at the polls, and the full text shall be
100 published in a newspaper of general circulation within the City at least
101 twelve (12) days, and not more than fifteen (15) days prior to the election.
102

103 (3) **Withdrawal of Petitions.** An initiative or referendum petition may be
104 withdrawn at any time prior to the fifteenth (15th) day preceding the day
105 scheduled for a vote of the city by filing with the city secretary a request
106 for withdrawal signed by at least two-thirds of the petitioners' committee.
107 Upon the filing of such requests the petition shall have no further force or
108 effect and all proceedings thereon shall be terminated.
109

110 **(g) Results of Election.**

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112 (1) **Initiative.** If a majority of the registered voters voting on a proposed
113 initiative ordinance vote in its favor, it shall be considered adopted upon
114 certification of the election results and shall be treated in all respects in the
115 same manner as ordinances of the same kind adopted by the commission.
116 If conflicting ordinances are approved at the same election, the one
117 receiving the greatest number of affirmative votes shall prevail to the
118 extent of such conflict. The commission may not reconsider the approved
119 initiative ordinance for twenty-four (24) months, after which it would
120 require an affirmative vote of four (4) city commission members to amend
121 or repeal an ordinance, or to present such amendments to the voters,
122 unless by referendum.
123

124 (2) **Referendum.** If a majority of the registered voters voting on a referred
125 ordinance vote against it, it shall be considered repealed upon certification
126 of the election results. The commission may not reconsider the repealed
127 ordinance for twenty-four (24) months, after which it would require an
128 affirmative vote of four (4) city commission members to amend or repeal
129 an ordinance, or to present such amendments to the voters, unless by
130 initiative.