

MEMORANDUM

To: Members of the City Commission

From: Lisa Agnor, City Manager

Date: July 26, 2016

Subject: Report and discussion regarding the process required to revise the City Charter

This item has been placed on the agenda at the request of Commissioner Hurta, and will be discussed at the meeting. Information regarding this item, provided by the City Attorney, is attached.

Marshall City Charter Facts:

The current Charter was written and approved in 1909. The Texas Legislature actually adopted the Home Rule enabling statute in 1913 that officially authorized Texas cities to adopt Home Rule Charters without specific legislative approval. Marshall's Charter has been amended several times over the years but the majority of the original charter remains in place today.

Summary of the new Charter Process:

The first step in the process of adopting a new charter for the City is to provide for the election of a charter commission in accordance with Chapter 9 of the Local Government Code. The City Commission must adopt an ordinance by a vote of not less than two-thirds of its membership to submit this question to a vote of the citizens: "Shall a commission be chosen to frame a new charter?" The election must be held on one of the two uniform general election dates in May or November.

In addition, the statute requires that the same election provide for the election of a charter commission to draft a proposed charter, if a majority of the qualified voters voting on the question of choosing a charter commission approve the question. The two questions of framing a new charter and selecting the members of the charter commission should be asked in separate questions but they may be on the same ballot. For a city the size of Marshall the commission must consist of 15 members. If the ballot is approved, the elected charter commission is tasked with creating a proposed charter to be presented to the voters at the next uniform election date.

Once the charter commission develops and approves the proposed charter, it notifies the City Commission and submits its proposed charter to them and to the citizens of the city. The city commission has no authority to change any of the work of the elected charter commission.

The City Commission will then call for a city wide election on the issue of approval or disapproval of the new charter. No later than 30 days prior to the election, the City must mail a copy of the proposed charter to each registered voter in the city.

Copy with highlights of the applicable Local Government Code provisions:

CHAPTER 9. HOME-RULE MUNICIPALITY

Sec. 9.001. **ADOPTION OR AMENDMENT OF HOME-RULE CHARTER.** This chapter applies to the adoption or amendment of a municipal charter by a municipality authorized to do so by Article XI, Section 5, of the Texas Constitution.

Sec. 9.002. **SELECTION OF CHARTER COMMISSION.** (a) The governing body of the municipality may, by an ordinance adopted by at least a two-thirds vote of its membership, order an election by the voters of the municipality on the question: "Shall a commission be chosen to frame a new charter?" The governing body shall by ordinance order the election if presented with a petition signed by at least 10 percent of the qualified voters of the municipality.

(b) The election ordinance shall provide for the election to be held on the date of the municipality's next general election scheduled after the 30th day but on or before the 90th day after the date the ordinance is adopted. However, if no general election is scheduled during that period that allows sufficient time to comply with other requirements of law, the election shall be ordered for the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs after the 30th day after the date the ordinance is adopted and published in a newspaper published in the municipality.

(c) The ballot at the election on the question prescribed by Subsection (a) shall also provide for the election from the municipality at large of a charter commission to draft a charter if a majority of the qualified voters voting on the question of choosing a charter commission approve the question. The commission must consist of at least 15 members, but if it has more than 15 members it may not have more than one member for each 3,000 inhabitants of the municipality. The ballot may not contain any party designation.

Section only applies to first charter elections.

~~(d) The provisions of Subsections (a), (b), and (c) regarding the selection of a charter commission do not apply to the first charter election in a municipality if:~~

~~(1) (A) the governing body of the municipality selects a charter commission;~~

~~(B) a charter commission is selected at a mass meeting; or~~

~~(C) the mayor of the municipality appoints a charter commission; and~~
~~(2) the charter commission has proceeded with the formation of a charter for the municipality.~~

Sec. 9.003. VOTE ON CHARTER. (a) The charter prepared by the charter commission shall be submitted to the qualified voters of the municipality at an election to be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs on or after the 40th day after the date the charter commission completes its work. The governing body of the municipality shall provide for the submission of the charter at the election to the extent that the provisions for submission are not prescribed by general law.

(b) Before the 30th day before the date of the election, the governing body of the municipality shall order the municipal clerk or the municipal secretary to mail a copy of the proposed charter to each registered voter of the municipality.

(c) The charter commission shall prepare the charter so that to the extent practicable each subject may be voted on separately.

Sec. 9.004. CHARTER AMENDMENTS. (a) The governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. The governing body shall submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality or 20,000, whichever number is the smaller.

(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30th day after the date the ordinance is adopted.

(c) Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must:

- (1) include a substantial copy of the proposed amendment;
- (2) include an estimate of the anticipated fiscal impact to the municipality if the proposed amendment is approved at the election; and

(3) be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

(d) An amendment may not contain more than one subject.

(e) The ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments.

(f) The requirement imposed by Subsection (c)(2) does not waive governmental immunity for any purpose and a person may not seek injunctive relief or any other judicial remedy to enforce the estimate of the anticipated fiscal impact on the municipality.

Sec. 9.005. ADOPTION OF CHARTER OR AMENDMENT. (a) A proposed charter for a municipality or a proposed amendment to a municipality's charter is adopted if it is approved by a majority of the qualified voters of the municipality who vote at an election held for that purpose.

(b) A charter or an amendment does not take effect until the governing body of the municipality enters an order in the records of the municipality declaring that the charter or amendment is adopted.

Sec. 9.006. CONCURRENT ELECTIONS. This chapter does not prevent the voters at an election to adopt a charter or an amendment to a charter from electing at the same election persons to hold office under the charter or amendment.