

**MINUTES**  
**CITY OF LIVE OAK**  
**CHARTER REVIEW COMMITTEE**  
**WILL BE HELD IN THE LIVE OAK COUNCIL CHAMBERS**  
**8001 SHIN OAK DRIVE, LIVE OAK, TEXAS 78233**  
**WEDNESDAY, NOVEMBER 7, 2012 AT 7:00 PM**

1. CALL TO ORDER

The Charter Review meeting was called to order at 7:02pm.

2. INVOCATION/PLEDGE OF ALLEGIANCE

Invocation and Pledge completed.

3. ROLL CALL

Pat Kauts

Bill Towery

Rebecca Kochan

Richard Lamothe, Chairman

Roy Schaufele, Vice Chairman

Joe Painter

Jose Perez

Julie Palmer, Executive Assistant

Charlie Zech, City Attorney

4. CONSENT AGENDA

A. Approval of Minutes: October 10, 2012

Committee Member Painter made a motion to approve the Consent Agenda; seconded by Committee Member Kochan.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schaufele, Painter and Perez, – passed  
7/0

5. NEW BUSINESS

A. Discussion and possible action regarding legal review of the City Charter and draft rewrite of Section 4.07 as requested by Charter Committee - Attorney Zech

Charter Members discussed the legal review of the City Charter and brought forth some recommendations to Charles Zech.

B. Discussion and final approval of Charter changes passed by first vote as follows:

1. **Article IV. City Council; Section 4.02 Qualifications:** Motion to change the age to serve on Council from 21 to 18.

Committee Member Towery made the motion to approve the age change to 18 to serve on Council; seconded by Committee Member Kauts.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

2. **Article IV. City Council; Section 4.07(c) Filling of Vacancies:** Motion to add verbiage to **Article 4.07(c)** to include: To fill a vacancy requires three out of four Council votes.

Committee Member Lamothe made an amended motion to read: To fill a vacancy requires three out of four *“elected”* Council votes; seconded by Committee Member Kauts.

Vote AGAINST: Kauts, Towery, Kochan, Painter and Perez

Vote FOR: Lamothe and Schauffele, Motion failed 5/2

Committee Member Kauts made a motion to approve the original recommended verbiage; seconded by Committee Member Towery. This motion does not include the section on Forfeiture. That will be a separate motion and vote.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

Attorney Zech stated to the committee that they were not finished discussing the legal review of the City Charter and did not receive any clarification from them. He indicated that they had skipped to 5.B. Discussion and Final Approval

Committee Member Schauffele made the executive decision to discuss the rewrite of **Section 4.07(b) Forfeiture.**

Committee Member Lamothe made a motion that after four (4) missed and unexcused meetings during a Council person’s term year would result in a forfeiture of their office; seconded by Committee Member Kochan.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

3. **Article IV. City Council; Section 4.01 Number, selection and term:**  
Motion to change the terms for Council from two years to three years.

Committee Member Painter made the motion to change the terms from two years to three years with two council members running each year; seconded by committee member Kauts.

Vote FOR: Kauts, Kochan, Lamothe, Schauffele, Painter and Perez – passed 6/1  
Vote Against: Towery

4. **Article IV. City Council; Section 4.10(a) Meetings and procedures:**  
Motion to delete the last sentence from Article 4.10(a).

Committee member Kauts made a motion to delete the last sentence from Article 4.10(a); seconded by Committee Member Perez

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

**5. Article II. Powers of the City; Section 2.04 Eminent Domain:** Motion to delete all but the first sentence of Article 2.04.

Committee Member Lamothe made a motion to delete all but the first sentence of Article 2.04; seconded by Committee Member Perez.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

**6. Article II. Powers of the City; Section 1.02 Extension of Boundaries:** Motion to delete (a) (b) and (c) from Article 1.02.

Committee Member Painter made a motion to delete (a), (b) and (c) from Article 1.02; seconded by Committee Member Lamothe.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

**7. Article V. City Manager; Section 5.01 (a) Appointment; qualifications; compensation:** Motion to delete the sentence in Section 5.01(a): *The City Manager must be a resident of Live Oak. The residency requirements shall be deemed to be satisfied if the city manager resides within either the territorial or extraterritorial limits of the City of Live Oak.*

Committee Member Kauts made a motion to delete the sentence in Section 5.01(a); seconded by Committee Member Towery

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

**8. Article V. City Manager; Section 5.01 (b) Powers and duties of city manager:** Motion to place the verbiage in the hands of the City's attorney regarding a super majority of votes from elected officials for the appointment and removal of the city manager.

Attorney Zech did not include this in his draft.

Committee Member Kauts made a motion to postpone this Section until the next meeting; seconded by Committee Member Towery

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

**9. Article V. City Manager; Section 5.03 Acting City Manager:** Motion to revise the verbiage to read (in the second sentence): *subject to approval of the super majority of council*, in keeping in accordance with other revised sections of the charter.

Committee Member Perez made an amendment to correct the verbiage in Section 5.03 stating that instead of four elected Council Members, to make it three; seconded by Committee Member Kauts

After further discussion, Committee Member Perez withdrew his previous amendment.

Committee Member Painter made a motion to drop the term “**elected**” from Section 5.03 Acting City Manager; seconded by Committee Member Towery

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

Attorney Zech advised the Committee Members that he still needed direction regarding his legal review. Committee Member Painter recommended going through each section with Attorney Zech.

**Section 4.05 Mayor:** Attorney Zech recommended to delete the word “legislative” reading “The Mayor may debate and discuss any matters before council...”; seconded by Committee Member Kochan

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

**Section 4.05 Mayor:** Attorney Zech inquired about the Mayor signing contracts and recommended revising the verbiage so that Council can give authority for individuals to sign official documents.

There was consensus for Attorney Zech to rewrite and will discuss at the next meeting.

**Section 4.07:** Already discussed

**Section 4.08 Prohibitions:** Attorney Zech discussed this intent of this Section and stated that it does not define “public office”. He recommended giving a definition of Public Office in this section. There was a consensus for Attorney Zech to bring back a provision that says that this prohibition is consistent with state law.

**Section 7.08 Purchase Procedure:** Attorney Zech recommended deleting and that it serves no purpose in the charter, since you must comply with state law.

Committee Member Kauts made the motion to delete as suggested by Attorney Zech; seconded by Committee Member Towery.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schaufefe, Painter and Perez, – passed 7/0

**Section 8.01 Planning and Zoning:** Attorney Zech again recommended deleting this from the charter since you must comply with state law.

Committee Member Schaufefe made a motion to delete as suggested by Attorney Zech; seconded by Committee Member Kochan.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schaufefe, Painter and Perez, – passed 7/0

**Section 9.01 City Election:** Attorney Zech recommended rewording Section 9.01 and delete b & c.

Committee Member Painter made a motion to reword Section 9.01 and delete b and c; seconded by Committee Member Kauts

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schaufefe, Painter and Perez, – passed 7/0

### **Section 10.07 Results of Election**

Committee Member Towery made a motion to accept the verbiage as set out by the City Attorney to include the period of three (3) years; seconded by Committee Member Kauts.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Painter and Perez, – passed 6/0  
Vote AGAINST: Schaufefe

### **Section 12.01 Personal Financial Interest**

Committee Member Perez made a motion to remove the words **direct** and **indirect** from Section 12.01; seconded by Committee Member Painter.

After further discussion, Committee Member Perez withdrew his previous motion.

Committee Member Kauts recommended to reword this section so that it states that employees will be handled by the personnel policy and officers will be handled by state law. Attorney Zech said he would present the revised verbiage at the next meeting; seconded by Committee Member Towery.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schaufefe, Painter and Perez – passed 7/0

**Article XIII Transitional Provisions:**

Committee Member Kauts made a motion to delete all the transitional provisions as unnecessary; seconded by Committee Member Kochan.

Vote FOR: Kauts, Towery, Kochan, Lamothe, Schauffele, Painter and Perez, – passed 7/0

C. Discussion and possible action to include next meeting date – December 12, 2012

It was unanimously agreed to hold the next meeting dates on Wednesday, December 12, 2012 @ 7:00 pm and the final meeting date on Friday, December 14<sup>th</sup> at 6:00 pm.

Chairman Lamothe asked that Committee Member Schauffelle present the final charter revision changes to Council at the January 8, 2013 City Council meeting. Committee Member Schauffelle agreed.

6. CITIZEN COMMENTS

A. Comments by citizens on issues discussed by the Committee.

None

7. ADJOURNMENT

As there was no further business, Committee Member Kauts made a motion to adjourn; seconded by Committee Member Kochan. The meeting was adjourned at 9:06 pm.

ATTEST:

  
Julie Palmer, Executive Assistant

ATTEST:

  
Richard Lamothe, Chairman