Council Considerations from 02/02/10 Meeting

PROPOSED CHARTER AMENDMENTS

The Charter Commission of the City of Frisco reports its recommendations and findings that the following Proposed Amendments to the City Charter shall be submitted to the Voters of Frisco. The Proposed Amendments are designated below in accordance with the ballot proposition number the amendment would appear as on the ballot:

PROPOSITION NO. 1

Shall the City Charter be amended throughout to correct non-substantive errors such as misspellings, punctuation, grammar and sentence structure, clarify meanings of terms and use consistent terminology, outline paragraph numbering, conform to requirements and/or provisions of state and/or federal law and/or City ordinances, and revise references to repealed or obsolete provisions of state law?

PROPOSITION NO. 2

Shall Sections 5.01 (2) (City Elections) of the Charter be amended to conform to the provisions and/or requirements of state and/or federal law?

SECTION 5.01 City Elections – Amended to read as follows:

...

(2) The regular City election shall be held annually on the ~~first~~ second Saturday in May or such other date as required by the Texas Election Code. The City Council shall be responsible for specification of places for holding such elections.

...

PROPOSITION NO. 3

Shall Sections 3.01 (2), (3), and (4) (Composition), and 3.02 (Limitations on Terms) of the Charter be amended to provide for clarification on the election of the places held by Council Members and Mayor; providing that no person shall serve as Mayor for more than three (3) successive elected terms; providing that no person shall serve as Council Member for more than three (3) successive elected terms; providing for the transition of the City Council terms from two (2) consecutive terms to three (3) consecutive terms; providing that no person shall serve as Council Member and Mayor (combined) ~~a member of the City Council~~ for more than eighteen (18) consecutive years; and providing that any Council Member or~~f~~ Mayor who is ineligible to run for office due to term limitations shall remain ineligible for a period of one (1) full term~~;~~ ~~providing for the transition of the City Council terms from two (2) consecutive terms to three (3) consecutive terms~~?

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SECTION 3.01 Composition – Amended to read as follows:

...

(2) Terms of the Council Members shall be staggered so that every year there shall be an election for two (2) of the Places as follows: Places 1 and 3; Places 2 and 4; and Places 5 and 6. The Mayor shall be elected in the same year as Places 5 and 6.

~~**(3) To initiate the three (3) year staggered terms, beginning with the May 2002 election, for Places 2, 4 and 6, there shall be a drawing of lots following the election to determine which two (2) Places shall receive two-year terms and which one Place shall receive a three- year term; thereafter all of said Places shall have three-year terms; and for the May 2003 election, for Places 1, 3 and 5 there shall be a drawing of lots following the election to determine which one Place shall receive a two-year term, and which two (2) Places shall receive a three- year term; thereafter, all of said Places shall have three-year terms. The Mayor shall have a three-year term beginning with the May 2002 election.**~~

~~**(4) To account for the transition from three (3) consecutive terms to two (2) consecutive terms, any person who is a sitting Council Member on January 1, 2002 shall be allowed to serve three (3) consecutive terms as a Council Member, regardless of the length of the terms. The term the Council Member is currently filling as of January 1, 2002, and all terms consecutively served prior to that current term shall count for purposes of determining whether three (3) consecutive terms have been served.**~~

SECTION 3.02 Limitations on Terms – Amended to read as follows:

No person shall serve as Mayor for more than ~~two (2)~~ three (3) consecutive elected terms, and no person shall serve as Council Member for more than ~~two (2)~~ three (3) consecutive elected terms. No person shall serve as a ~~member of the City Council~~ Council Member and Mayor (combined) ~~Council Member and Mayor (combined)~~ for more than ~~twelve (12)~~ eighteen (18) consecutive years. For purposes of this Section 3.02 and computing the limitations on terms:

- **(1) a Mayor or Council Member, who vacates, for any reason, City office before the end of the term for which he was elected, shall be considered to have completed that term.**
- **(2) an appointment or election to fulfill an unexpired Council Member term, or unexpired Mayor term if applicable, shall be computed as follows:**
  - **(i) if fifty percent (50%) or more of the term is remaining, it shall be included in the computation of term limits; or**
  - **(ii) if less than fifty percent (50%) of the term is remaining, it shall not be included in the computation of term limits.**

Any Council Member or Mayor, who is ineligible to run for elected City office due to the limitations on terms as provided herein, shall remain ineligible to hold an elected City office for a period of one (1) full term ~~ten (10) months~~ following the expiration of the most recent term of City office for which he or she was elected with the exception of a Council Member seeking the office of Mayor or the Mayor seeking the office of a Council Member.

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To account for the transition from two (2) consecutive terms to three (3) consecutive terms, the term that each person on the City Council is currently filling, as of January 1, 2010, and all terms consecutively served prior to that current term shall count for purposes of determining whether three (3) consecutive terms have been served.

PROPOSITION NO. 4

Shall Section 3.07(4) (Powers of the City Council) and Section 4.02 (1) (City Secretary) of the Charter be amended to provide that the City Manager rather than the City Council shall appoint or remove the City Secretary?

SECTION 3.07 Powers of the City Council – Amended to read as follows:

...

(4) ~~Appoint and remove the City Secretary~~ *Reserved*.

...

SECTION 4.02 City Secretary -- Amended to read as follows:

(1) The City ~~Council~~ Manager shall appoint or remove~~, without cause,~~ the City Secretary~~, upon the affirmative vote of a majority of the full membership of the City Council~~.
~~(2) The City Council shall fix the compensation of the City Secretary, and the City Secretary's compensation may be amended, from time to time, in accordance with the City Secretary's experience, qualifications and performance.~~
(~~3~~2) The City Secretary shall:

...

(G) Perform such other duties as may be required by the City ~~Council~~ Manager consistent with this Charter and the laws of the State of Texas.

PROPOSITION NO. 5

Shall Section 3.09(1) (Meetings of the City Council) of the Charter be amended to provide that the City Council may, in its sole discretion, determine to hold only one (1) regular monthly meeting two (2) months out of the calendar year?

SECTION 3.09 Meetings of the City Council – Amended to read as follows:

(1) The City Council shall hold at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City; provided, however, the City Council may, in its sole discretion, determine to hold one (1) regular

monthly meeting two (2) months out of the calendar year. The City Council shall fix by ordinance the date and time of the regular meetings.

...

PROPOSITION NO. 6

Shall Section 3.10 (Quorum) of the Charter be amended to clarify that if a certain percentage of affirmative votes to pass a measure to be approved by City Council is required, the number of affirmative votes must be measured against the entire qualified City Council, not just the number present and voting?

SECTION 3.10 Quorum - Amended to read as follows:

SECTION 3.10 Quorum and Voting
Four (4) Council Members shall constitute a quorum for the purpose of transaction of business. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the City Council present. If a certain percentage of affirmative votes to pass a measure is required, the number of affirmative votes must be measured against the entire qualified City Council, not just the number present and voting.

PROPOSITION NO. 7

Shall Section 4.06 (2) (F) (Personnel System) of the Charter be amended to require that the Personnel rules prepared by the City Manager and presented to the City Council for adoption shall include a procedure for the giving and receiving of gifts by City employees?

SECTION 4.06 Personnel System – Amended to add the following:

...
(2)
...

(F) Procedure for the giving and receiving of gifts by City employees.

PROPOSITION NO. 8

Shall Section 5.02 (2) (A), and (C) (Filing for Office) of the Charter be amended to provide that the candidates for elective City office shall be at least eighteen (18) years of age at the time of the election for which they are filing; and the required residency minimum for elective office be clarified to be for at least one (1) year~~twelve (12) months~~ immediately preceding the filing date?

SECTION 5.02 Filing for Office – Amended to read as follows:

...

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2) Candidates for elective City offices shall meet the following qualifications:

(A) Shall be at least ~~twenty-one (21)~~ eighteen (18) years of age at the time of the election for which they are filing;

...

(C) Shall have resided within the corporate limits of the City, or recently annexed territory, for at least one (1) year~~twelve months~~ ~~prior to~~ immediately preceding the filing date;

...

PROPOSITION NO. 9

Shall Sections 6.02 (Petitions for Recall) and 6.13 (Initiative) of the Charter be amended to clarify petition signature requirements by qualified voters, designating the percentage of required signatures be at least thirty (30) percent of the number of votes cast at the last regular mayoral election, specifying that the requirements for information on each signer of the petition be as set forth in the Texas Election Code; and making the requirements for initiative petitions the same as in recall elections?

SECTION 6.02 Petitions for Recall – Amended to read as follows:

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing duties of City Secretary, which said petition must be signed by qualified voters of the City of at least thirty percent (30%) of the number of votes cast at the last regular ~~City~~ mayoral election, or one hundred and fifty (150), whichever is greater. Each ~~signer of such~~ signature on a recall petition shall conform to the requirements for information as set forth in the Texas Election Code, as amended ~~.personally sign his or her name thereto in ink or indelible pencil, and shall write after his or her name his or her place of residence, giving the name of the street and number, or place of residence, and shall also write thereon the day, the month, and the year his or her signature was affixed~~.

SECTION 6.13 Initiative -- Amended to read as follows:

Following a review by the City Attorney for enforceability and legality, qualified voters of the City may initiate legislation by submitting a petition addressed to the City Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City of at least thirty percent (30%) of the number of votes cast at the last regular ~~City~~ mayoral election, or one hundred and fifty (150), whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in this Article, and shall be verified by oath in the manner and form provided for recall petitions in this Article. The petition may consist of one (1) or more copies as permitted for recall petitions. Such

petition shall be filed with the person performing the duties of City Secretary. Within twenty-one (21) days after the filing of such petition, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the City Council. Upon presentation to the City Council, it shall become the duty of the City Council, within two (2) regularly scheduled City Council meetings after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held within thirty (30) days thereafter and/or on a date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election. Any election order so issued shall comply fully with the Texas Election Code. Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the sixty-fifth (65th) day after the petition was presented to the City Council.

PROPOSITION NO. 10

Shall Sections 9.01(1) (2) and (3) (Organization), 9.03 (Procedure), and 9.04 (The Comprehensive Plan: Procedure and Legal Effect) of the Charter be amended to clarify the establishment, qualifications and structure of the Planning and Zoning Commission and provide that the City Council may adopt by ordinance the procedures for appointment of members, length of member terms, meetings, and other operational matters of the Planning and Zoning Commission; clarifying that a majority of the voting Planning and Zoning Commission members shall constitute a quorum; and revising the procedure for the submission of rules and regulations adopted by the Planning and Zoning Commission to the City Council ?

SECTION 9.01 Organization – Amended to read as follows:

~~(1)~~ There is hereby established a Planning & Zoning Commission which shall consist of at least seven (7) members who shall be <u>qualified voters of the City and</u> appointed by the City Council to staggered terms ~~of two (2) years~~ in accordance with the <u>then</u> existing zoning ordinance. <u>The length and number of terms shall be established in accordance with the then existing zoning ordinance.</u> ~~The Commission members shall be qualified City voters. No member shall serve on the Commission for more than three (3) completed consecutive terms, exclusive of any unexpired term to which the member may have been appointed to fill due to a vacancy on the Commission. Any vacancy occurring during the unexpired term of a member shall be filled by the City Council for the remainder of the unexpired term. In July of each year, the Commission shall elect from its members a Chairman, Vice Chairman, and Secretary to serve for one (1) year beginning in that month. Members of the Commission may be removed, without cause, by an affirmative vote of a majority of the full membership of the City Council.~~

~~(2) The Commission shall meet at least once a month. The Commission shall keep minutes of its proceedings which shall be of public record. Minutes will be recorded by the Commission Secretary. The Commission shall serve without compensation.~~

~~(3) Four (4) voting Commission members shall constitute a quorum for the purpose of transaction of business. No action or recommendation of the Commission, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the Commission members present. The Chairman shall not be considered a voting member of the Commission, except in the case of a tie, he or she shall cast the deciding vote, but shall have no power to veto.~~

...

SECTION 9.03 Procedure – Amended to read as follows:

(1) **~~Each August, a~~All rules and regulations adopted by the Commission shall be forwarded in writing to the City Manager who shall submit them to the City Council with the City Manager's recommendations. The City Council may amend, adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the Commission may modify them and submit such modified rules and recommendations to the City Council.**

...

SECTION 9.04 The Comprehensive Plan: Procedure and Legal Effect – Amended to read as follows:

...

(3) **Following the adoption by the City Council of the Comprehensive Plan, and any revisions thereto, it shall serve as a guide to all future City Council action concerning land use and development regulations and expenditures for capital improvements. Any proposal which deviates from the Comprehensive Plan regarding land use and development regulations shall not be authorized until and unless the location and extent thereof shall have been submitted to and approved by the Commission. In case of denial, the Commission shall communicate its reasons to the City Council, which shall have the power to overrule such denial with a vote of three- fourths (3/4ths) of the Council Members present, or four (4) votes, whichever is greater, and upon such overruling, the City Council or the appropriate office, department or agency shall have authority to proceed.**

PROPOSITION NO. 11

Shall Section 9.06 (Sale of Liquor Prohibited in Residential District) be added to the Charter to provide that the sale of liquor by a person holding a package store permit, as described by the Texas Alcoholic Beverage Code, is prohibited in any zoning district which allows, in whole or in part, residential development?

SECTION 9.06 Sale of Liquor Prohibited in Residential Districts – Added as follows:

SECTION 9.06 Sale of Liquor Prohibited in Residential Districts

The sale of liquor, as defined in the Texas Alcoholic Beverage Code, as amended, shall be prohibited by a person or entity holding a package store permit, as described in the Texas Alcoholic Beverage Code, as amended, in any zoning district which allows, in whole or in part, residential development in the City.

PROPOSITION NO. 12

Shall Section 13.04 (Officers and Employees) be deleted from the Charter to remove an unnecessary ~~and overbroad~~ transitional provision from the original adoption of the Charter which pertained to officers and employees who existed at the time of the original adoption of the Charter?

SECTION 13.04 Officers and Employees – Deleted as follows:

~~**SECTION 13.04 Officers and Employees**~~
~~**Except as specifically provided, nothing in this Charter shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.**~~

PROPOSITION NO. 13

Shall Section 14.05 (Employee's Political Activities) of the Charter be amended to clarify that City employees are~~the~~ prohibited ~~conduct~~~~activity relates only to~~from contributi~~ons~~ng to, ma~~de~~king, solicit~~ed~~ing or receive~~d~~ing contributions for and participating in any~~by and~~ campaign activities of a ~~City employees regarding City~~ Council Member or Mayoral candidate~~s~~ rather than any other candidate for office?

SECTION 14.05 Employee's Political Activities – Amended to read as follows:

No person who holds any compensated non-elective City position shall make, solicit or receive any contribution for any candidate for ~~public office in the~~ ~~City~~ Council Member or Mayor, or take part in the management, affairs or political campaign of such candidate. Such person may exercise his or her rights as a citizen to express his or her opinion and cast his or her vote.

PROPOSITION NO. 14

Shall Section 14.09 (No Officer to Accept Gifts, Etc.) of the Charter be amended to provide for revised prohibitions, requirements, and procedures related to the acceptance of gifts by City Officials?

SECTION 14.09 No Officer to Accept Gifts, Etc. – Amended to read as follows:

~~**(1) No officer or employee of the City shall ever accept directly or indirectly any gift, favor, or privilege during the term of office of such officer, or during employment of such employee. No officer or employee is prohibited from engaging in the following activities:**~~

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~~(A) Attending social functions, ground breakings, or civic events pertinent to the public relations and operations of the City;~~
~~(B) Exchange gifts with his or her family and relatives;~~
~~(C) Receiving campaign contributions as provided for in the Texas Election Code;~~
~~(D) Exchanging gifts at church functions or City parties or functions where only City officers and employees and their families are invited or attend; or~~
~~(E) Exchanging gifts or receiving a bonus from his or her place of full- time employment.~~
~~(2) Any officer or employee of the City who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and may forthwith be removed from office or employment.~~

(1) A City Official shall not solicit, accept or agree to accept any Gift or benefit except as authorized in Subsection (3) below.

(2) For purposes of this Section, the words/phrases "City Official", "Gift", "Matter", "Official" and "Official Action" shall have the same definition as set forth in Ordinance No. 09-04-25, as it exists on the effective date of this Charter amendment.

(3) It is not a violation of Subsection (a) for a City Official to accept the following:
(A) a Gift to a City Official relating to a special occasion, such as a wedding, anniversary, graduation, birth, illness, death, or holiday, provided that the value of the Gift is fairly commensurate with the occasion and the relationship between the donor and recipient;

(B) payment by third parties for travel related expenses of a City Official previously authorized by the City Council;

(C) a public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion;

(D) a loan from a lending institution made in its regular course of business on the same terms generally available to the public;

(E) a scholarship or fellowship awarded on the same terms and based on the same criteria that are applied to other applicants;

(F) admission to an event in which the City Official is participating in connection with Official duties;

(G) lawful campaign contributions;

(H) attending social functions, ground breakings, or civic events pertinent to the public relations and operations of the City, including the receipt of a gift commensurate with the occasion;

(I) a City Official giving or receiving Gifts with his family and relatives;

(J) a City Official giving or receiving Gifts at church functions;

(K) a City Official giving or receiving Gifts at City parties;

(L) a City Official giving or receiving Gifts at functions where only City Officials and their employees are invited or in attendance;

(M) giving or receiving Gifts or receiving a bonus from the City Official's place of employment;

(N) admission or ticket(s) (including parking) to a City Official to an event held at any venue owned in whole or in part by the City;

(O) reasonable expenses paid by non-profit organizations, the Frisco Community Development Corporation or Frisco Economic Development Corporation for attendance of a City Official at a fund raising event or other meeting;

(P) reasonable expenses paid by other governments or governmental entities for attendance of a City Official at a convention, fact finding mission or trip or other meeting;

(Q) a City Official giving or receiving a Gift whose value does not exceed fifty dollars ($50.00);

(R) a City Official giving or receiving a Gift in excess of fifty dollars ($50.00) from a friend, client or customer if it cannot be reasonably inferred that the Gift was intended to influence the City Official. If the Gift is in excess of fifty dollars ($50.00) and received within one (1) year of the date the donor, either personally or on behalf of another person or entity, seeks Official Action from the City in which the City Official is in a position to take Official Action, the City Official shall acknowledge the receipt of the Gift to the City; immediately refrain from further participation in the Matter, including discussions with any persons likely to consider the Matter; and remove himself from the dais or area in which the other City Officials who are voting on the measure are seated; and

(S) a City Official giving or receiving a Gift from a donor other than a friend, client or customer whose value is greater than fifty dollars ($50.00) and less than two hundred fifty dollars and one cent ($250.01) provided the City Official complies with the recusal and disclosure process described below:

> **(i) The Gift shall be disclosed by the City Official who received it to the City Secretary within thirty (30) days of receipt of the Gift. The disclosure of the Gift to the City Secretary shall be reported to the public as part of the City Secretary's report to the City Council at the next available City Council meeting. The information to be disclosed to the City Secretary is as follows:**
>
> **(1) the date the Gift was received and who received it;**

(2) a description of the Gift;
(3) the fair market value of the Gift at the time of its receipt; and
(4) the name, address, phone number and employer of the person or entity who provided the Gift.

(ii) From the date that the City Official knows or should have known that the donor who has made a Gift the subject of this subsection was presenting a matter, either personally or on behalf of another person or entity, in which the City Official may take Official Action and such request is within one (1) year from the date of the Gift described above, the City Official shall:

(1) immediately refrain from further participation in the Matter, including discussion with any persons likely to consider the Matter; and

(2) remove himself from the dais or area in which the other City Officials who are voting on the measure are seated.

(4) Application of Chapter 176, Local Government Code, as amended. Notwithstanding any gift to a City Official authorized in Section 3(b), a City Official shall comply with the requirements of Chapter 176, Local Government Code, as amended.

(5) Gifts to Closely Related Persons. A City Official shall take reasonable steps to persuade a parent, spouse, child, stepchild, or other relative within the second degree of Consanguinity or Affinity not to solicit, accept, or agree to accept any Gift or benefit which would violate Subsection (a) if the Official solicited, accepted, or agreed to accept it.

(6) Any City Official officer or employee of the City who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and may forthwith be removed from office or employment.