

Proposed Charter
Changes from the
Charter Review
Committee 2014 to
La Marque City Council

CITY OF LA MARQUE INTER-DEPARTMENTAL MEMO

TO: Mayor and City Council

FROM: Charter Review Committee

DATE: August 8, 2014

SUBJECT: Proposals 1-9

The Charter Review Committee has reviewed the City Charter.

The Charter Review Committee respectfully submits to City Council the attached proposed charter amendments for your consideration to be placed on the November 4, 2014 Election ballot.

In reviewing the City Charter, the Commission was made aware of several "housekeeping" and other discrepancies in the Charter. So, in addition to taking these proposals into consideration, we as a Committee are asking to be allowed to remain as a review Committee, and continue to "clean up" the City's Charter in the future months. The Committee members appreciate the opportunity to be of service to the City of La Marque.

Sincerely,

Ron Crowder, Chairman
Robert Buchanan
James Osteen
John Hander
Carolyn Anderson

2014 Charter Review Committee Report
Proposed Charter Amendments
August 8, 2014

The Charter Review Committee respectfully submits to City Council the below proposed charter amendments to be placed on the ballot for the November 4, 2014 Special Election

Proposition 1

“Shall Section 1.03, C. The Boundaries, of Article 1 be amended to read: Corporate Boundaries. “The boundaries and limits of the city are hereby established and described as those boundaries heretofore established in the original incorporation proceedings of the City, and those boundaries established and changed thereafter by all annexation ordinances and proceedings of the City, filed in the office of the City Clerk”

CURRENT: Section 1.03 The boundaries. The boundaries of the City of La Marque are hereby established as follows: Located and situated in the County of Galveston, State of Texas, and being described by metes and bounds in a document titles, “Order Declaring Results of Elections to Incorporate the City of La Marque, Texas, “ which document is recorded in Book number 1019, pages 173 to 175, of the deed of records of the Galveston County, in the office of the county clerk of Galveston County, Texas; such metes and bounds description is incorporated herein, by reference, for all intents and purposes.

Proposition 2

“Shall Section 1.04, C. Extension of Boundaries, of Article 1 be amended to read: Annexation. (a) The City Council shall have the power, by ordinance, to fix boundaries of the city and to provide for the annexation or the extension of said boundaries, pursuant to any laws of the State of Texas now, or hereinafter enacted, with or without the consent of the owners or inhabitants of such territory (b) The annexation ordinance shall describe the territory to be annexed. Notice shall be published and public hearings held as required by state law. Amendments not enlarging or extending the boundaries set forth in the proposed ordinance may be incorporated therein. The additional territory annexed shall be a part of the city and the property situated therein shall bear its pro rata share of the taxes levied by the city as provided by state law. The inhabitants thereof shall be entitled to all rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions, and regulations of the City.

CURRENT: Section 1.04. Extension of boundaries. The boundaries of the City of La Marque may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, in any of the methods hereafter designated:

(a) *Reserved*

(b) *Extension of limits by election.* The City Council shall have the power to order an election of elections for the purpose of annexing territory lying adjacent to the City of La Marque. Such order shall include the survey notes of the area sought to be annexed. The City Council shall give notice of the date and place of balloting at such election by publication of the order in the official newspaper of the City as least thirty

days prior to the date on which such election is ordered. The residents of the City of La Marque and of the territory sought to be annexed, who are qualified to vote for members of the state legislature, shall be qualified to vote at such election. The City Council shall, at its next meeting, canvass the return of such election and if a majority of the votes cast at such election by the residents of said territory being considered for annexation, favor such annexation, the City Council shall declare the said territory annexed to the City of La Marque, and the boundary limits of the city of La Marque shall thereafter be intended and fixed so as to include such territory.

(c) *Annexation of occupied lands on petition of owners.* The owner or owners of any land without residents, contiguous and adjacent to the City may, by petition in writing to City Council, request the annexation of such contiguous and adjacent land, describing it by metes and bounds. The City Council shall thereafter, and not less than twenty (20) nor more than forty (40) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as the City Council may see fit. If the City Council grants such petition, it may by proper ordinance, receive and annex such territory as a part of the City.

(d) *Annexation by amendment to charter.* The boundary limits of the City may be fixed and additional territory added or annexed thereto by amendment to the Charter of the City.

(e) *Extended limits by action of City Council.* The City Council shall have the power by ordinance to fix the boundary limits of the City of La Marque and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said City, with or without the consent of the residents or the owners of the territory annexed.

(f) *Annexation by any other method provided by law.* Additional territory may also be annexed to the City in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law. Same shall be in addition to the methods hereinabove provided.

(g) *Annexed territory to become part of the City.* Upon completion of any one of the procedures hereinabove provided, the territory so annexed shall become a part of the City, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the City and shall be bound by acts, ordinances, resolutions and regulations of the City.

Proposition 3

“Shall Section 1.05, C. Contraction of Boundaries of Article 1 be amended to read “Disannexation. The City Council may by ordinance, disannex any territory within the corporate boundaries of the city, if the City Council determines that the territory is not necessary or suitable for city purposes, and may exchange territory with other municipalities. When a disannexation ordinance is passed, the disannexed territory shall cease to be a part of the city

Current. Section 1.05. Contraction of boundaries. Whenever there exists within the corporate limits of the City of La Marque any territory not suitable or necessary for City purposes, the City council may, upon petition signed by a majority of the qualified voters residing in such territory if the same be inhabited, or without such petition if the same be uninhabited, by ordinance duly passed, discontinue said territory as a part of the City; said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the City and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed, the same shall be entered upon the minutes and records of said City; and from and after the entry of such ordinance said territory shall cease to be a part of the City, but territory shall still be liable for its pro rata share of any debts incurred while said area was part of said City, and the City shall continue to levy, assess and collect taxes on the

property within said territory to pay the indebtedness incurred while said area was a part of the City as though the same had not been excluded from the boundaries of the City.

Proposition 4

“Shall Section 2.01, C. Number, selection, term, of Article II be amended by striking the word “term” in the heading and striking the last two sentences to now read: The City Council shall have (5) members consisting of the Mayor and four (4) Councilmembers. Councilmembers shall be elected from the City in a Regular, Special or Recall election by District in a manner provided by law for the term of three (3) years with Council Districts A and C and the mayor’s position to be elected beginning in the year 2006 and Council Districts B and D to be elected beginning in the year 2005. The Mayor shall be elected from the City at-large for a term of three years.”

Current. Section 2.01 Number, selection, term. The city council shall have five (5) members consisting of the mayor and four (4) Councilmembers. Councilmen shall be elected from the City in a Regular, special or recall election by District in a manner provided by law for the term of three (3) years with council districts A and C and the mayor’s position to be elected beginning in the year 2006 and council districts B and D to be elected beginning in the year 2005. The Mayor shall be elected from the City at-large for a term of three years. The mayor and councilmen may be elected to not more than three (3) consecutive three (3) year terms. This section shall be applicable to the members of council elected in the election to be held in 2005 and thereafter.

Proposition 5

“Shall Section 2.06, C. Salary, of Article II be amended by striking the word “salary” in the heading and replace with the word “compensation” and remove “councilmen shall serve without pay” and be replaced with: Compensation. City Council shall be entitled to compensation. The rate of compensation may be changed by the City Council during the annual budget process; however, no increase in the rate of compensation shall take effect unless ratified by a majority of the voters in the next regular City Council election. The City shall pay or reimburse reasonable pre-approved expenses by the City Council in the performance of specific duties, limited to the amount appropriated for such expenses that have been budgeted in the current budget year.”

Current. Section 2.06, C. Salary. Councilmen shall serve without pay.

Proposition 6

“Shall 4.05, C. Election by majority, of Article IV be amended by striking the last sentence in the second paragraph and replace the sentence with. “In the event of a tie in the run-off election, the City will proceed in a manner provided in the Texas Election Code.”

Current. Section 4.05. Election by majority. Second paragraph the last sentence now reads: In the event of a tie in the vote at: the run-off election, the city council shall call a second run-off election the be held not earlier than twenty days nor later than sixty days after the final canvass of the results of the first run-off election.

Proposition 7

“Shall Section 8.4, C. Director of finance; powers and duties, Article VIII (i) be amended to read after the last semicolon: Depositories are to be selected for one (1) year, and may be renewed by the City for two (2) additional one (1) year terms, for a total of three (3) years. The City will submit a Request for Proposals. The City Council shall have the discretion of remaining with the current depository or proceeding with the selection of a new depository.”

Current. Section 8.4, Director of finance. (i): (last sentence) depositories are to be selected annually by means of selective bidding.

Proposition 8

“Shall Section 11.04, C. Personal interest, Article XI be amended to read: Personal interest in city business. No member of the City Council or employee of the City shall personally engage in any business with the City or have a substantial interest in a business entity doing business with the City without making disclosure thereof. As used in this Section, the term “substantial interest in a business entity” shall have the same meaning as set forth in Section 171.002, et. Seq., of the Texas Local government Code [V.T.C.A., Local Government Code § 171.002 et seq.]. Any willful violation of this section shall constitute malfeasance in office, and any such member of City Council or City employee guilty thereof shall hereby forfeit his position or employment. Any violation of this section with the express or implied knowledge of the person or entity doing business with the city shall render the contract voidable by the City Council.”

Current. Section 11.04. Personal interest. No member of the city council or any officer or employee of the city shall have a financial interest direct or indirect by reason of ownership of stock in any corporation, in any contract with the city or be financially interested directly or indirectly in the sale to the city of any land, materials, supplies, or services; except for services on behalf of the city as an officer or employee, provided however, that the provisions of this section shall only be applicable when the stock owned by the officer or employee exceed one per cent of the total capital stock of the corporation. Any willful violation of this section shall constitute malfeasance in office and any officer or employee guilty thereof shall hereby forfeit the office or position. Any violation of this section with the knowledge expressed or implied of the person or corporation contracting with the governing body of the city shall render the contract voidable by the city council or city manager.

Proposition 9

“Shall Section 11.05, C. No officer or employee to accept gifts, Article XI be amended to read: Code of Ethic and Conduct. The City Council shall adopt, by ordinance, a Code of Ethics and Conduct that is consistent with the provisions of this Charter and the laws of the state of Texas. The Code of Ethics and Conduct shall be applicable to all elected officers, appointed Board, Commission, and Committee members, employees and volunteers of the City.”

Current. Section 11.05. No officer or employee to accept gifts. No member of the city council or any officer or employee of the City of La Marque shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation, enjoying the grant of any franchise, privilege or easement from the city during the term of office of such councilman or officer, or during such employment of each employee except as may be authorized by law or

ordinance. Any councilman or 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 shall forthwith be removed from office.

City Charter Review

Scott Bounds <SBounds@olsonllp.com>

Tue 7/15/2014 10:15 AM

To:Ellis Ortego (work) <ellis@ortego-law.com>;

Cc:Carol Buttler <c.buttler@cityoflamarque.org>; Robin Eldridge <r.eldridge@cityoflamarque.org>;

Ellis, a few comments from yesterday.

Boundaries, Annexation, Disannexation (LaMarque Charter Sections 1.03, 1.04, and 1.05):

Alternatives:

Corporate boundaries.

The boundaries and limits of the city are hereby established and described as those boundaries heretofore established in the original incorporation proceedings of the city, and those boundaries established and changed thereafter by all annexation ordinances and proceedings of the city, filed in the office of the city secretary.

Annexation.

(a) The council shall have the power, by ordinance, to fix boundaries of the city and to provide for the alteration or the extension of said boundaries, pursuant to any laws of the State of Texas now or hereinafter enacted, with or without the consent of the owners or inhabitants of such territory.

(b) The annexation ordinance shall describe the territory to be annexed. Notice shall be published and public hearings held as required by state law. Amendments not enlarging or extending the boundaries set forth in the proposed ordinance may be incorporated therein **without the necessity of republication of said notice**. The additional territory annexed shall be a part of the city and the property situated therein shall bear its pro rata share of the taxes levied by the city as provided by state law. The inhabitants thereof shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions, and regulations of the city.

Disannexation.

The council may, by ordinance, disannex any territory within the corporate boundaries of the city, if the council determines that the territory is not necessary or suitable for city purposes, and may exchange territory with other municipalities. When a disannexation ordinance is passed, the disannexed territory shall cease to be a part of the city.

Salary (LaMarque Charter Section 2.06)**Alternatives:****Compensation.**

The Mayor and Councilmembers may receive such pay and compensation, including necessary expenses incurred in the performance of their official duties, as may be prescribed and set by City Council by ordinance; however, the compensation set for the Mayor or a Councilmember may not be changed during the term for which the Mayor or such Councilmember is elected or appointed.

Compensation.

Unless approved by the voters, city council shall not be compensated. Members of the city council may, however, be reimbursed for approved expenses incurred during the course of their duties.

Compensation.

The Mayor and Council Members shall be entitled to compensation. The rate of compensation may be established or changed by the Council; however, no increase in the rate of compensation shall take effect unless ratified by a majority of the voters in the next regular City election. The City shall pay or reimburse reasonable expenses incurred by the Mayor or Council Members in the performance of specific duties, limited to the amount appropriated for such expenses in the current budget.

I would note the possible inconsistency between 2.08 and all provisions requiring "majority vote", such as 2.11 and 2.12 in effect of conflict of interest.

Recall (LaMarque Charter 5.13-5.14, 5.18)**Alternatives:****Power of Recall.**

The people of the City reserve the power to recall any elected officer of the City and may exercise the power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least 30 per cent of all qualified voters of the City, demanding the removal of the elected officer. The petition shall be signed and verified as required for an initiative petition.

Limitations on recall.

- (a) No recall petition shall be filed against an elected official within six (6) months after he/she takes office.
- (b) A person subjected to a recall election and not removed thereby shall be subjected to another recall election during that official's then existing term of office.

- (b) No recall petition shall be filed against an elected official within six (6) months of the end of his/her term.
- (c) No recall election shall be held within 100 days of the return and filing of the recall petition with the city clerk.
- (d) Any person removed by recall shall also be deemed removed from all appointed offices or positions of the City. A person removed by recall shall not be eligible to hold any city officer or appointed position again for a period of two (2) years from the date recalled.

Personal Interest. (LaMarque Charter Sections 11.04 and 11.05).

As indicated, the provision in the LaMarque Charter is a restatement of the old common law rule that has been abandoned by the State in Chapter 171 of the Texas Local Government Code (Regulation of Conflicts of Interests).

Alternatives:

Personal interest in city business.

No member of the City Council or employee of the City shall personally engage in any business with the City or have a substantial interest in a business entity doing business with the City without making disclosure thereof. As used in this Section, the term "substantial interest in a business entity" shall have the same meaning as set forth in Section 171.002, et. seq., of the Texas Local Government Code [V.T.C.A., Local Government Code § 171.002 et seq.]. Any willful violation of this section shall constitute malfeasance in office, and any such member of City Council or City employee guilty thereof shall thereby forfeit his position or employment. Any violation of this section with the express or implied knowledge of the person or entity doing business with the City shall render the contract voidable by the City Council.

Code of ethics and conduct.

The city council shall adopt, by ordinance, a code of ethics and conduct that is consistent with the provisions of this Charter and the laws of the State of Texas. The code of ethics and conduct shall be applicable to all elected officers, appointed board, commission, and committee members, and employees of the city.

If I can be of further assistance, please advise.

Scott Bounds
Olson & Olson, LLP

713 533 3800 office
713 533 3888 fax
713 533 3878 direct
713 817 0653 cell

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