

Memorandum

To: Honorable Mayor Shetter and members of the Burleson City Council

From: Curtis E. Hawk, City Manager

Date: January 20, 2009

Subject: Ordinance C-651-09 calling for a Special Election on Charter Amendments to be held May 9, 2009 (First Reading)

Council Action Requested:

Consider Ordinance C-651-09 calling for a Special Election on Charter Amendments to be held May 9, 2009.

Background Information:

The municipal government of the City of Burleson is provided through a home rule charter authorized by Article 11, Section 5 of the Texas Constitution, and Chapter 9 of the Texas Local Government Code. The Charter embodies the concept of local home rule, but in practice it is not a static document. The state constitution and state law specifically recognize that at some point the charter may require amending, and both have provisions governing the amendment process. Most cities that have adopted home rule charters amend the original charter when needed, and as noted in the National Civic League's Model City Charter, "... all Charters require modification from time to time." Cities evolve over time, and changing cities have changing needs, usually brought on by population growth and changing demographics.

The original Home Rule Charter of the City of Burleson was adopted by the voters on April 5, 1969. It has been subsequently amended by the voters five (5) times: April 6, 1974; August 13, 1977; August 9, 1980; August 14, 1982; May 2, 1998. The state constitution requires a city to have a population of 5,000 in order to have a home rule charter election. The official final census of population for Burleson as of April 1, 1970 was 7,713 – almost exactly a year after the original

charter election. The population continued to grow steadily in the 70s, 80s, and 90s (to 11,734 in 1980, to 16,113 by 1990) and had grown to 20,976 as of April 1, 2000. As of April 1, 2008 the official population estimate for Burleson (as determined by the North Central Texas Council of Governments) has been set at 33,250. The population has increased more than 13,000 since the charter was last amended in 1998.

Regular reviews of the Charter keeps the City in compliance with State Law and common city practices that change from time to time. There are several sections in the Charter that appear to be outdated and in need of changing, for example, those that deal with purchasing limits. There are several such sections that appear to contradict the other, and the purchasing limits that were set out in the original charter or the early amendments are considerably more restrictive than state law and tend to create operational issues. [State law has changed over time (to account for rising costs and other factors), but the purchasing limits set out in the Charter have not changed since 1980.] Given the changes that have occurred in Burleson since the Home Rule Charter was last amended, and given the changes that have occurred in state law over that time, Council recognized it was time for the Council to review the Charter to consider whether or not changes are needed in the charter.

Section 148 of the Burleson Home Rule Charter provides that amendments to the charter “may be framed and submitted to the electors of the city... by ordinance, passed by a majority vote of the entire city council.” Chapter 9 of the Local Government Code provides that City Council on its own initiative may submit a proposed charter amendment to the voters, however, given the intensive level of review required Council chose to have staff and a committee of the Council review the charter and prepare recommendations for any needed amendments.

The Burlison City Council created a 7-member Charter Review Committee (CRC) for the purpose of reviewing the Burlison City Charter, and appointed members to the Committee, by Ordinance C-646-08 approved on September 25th, 2008. The charge to the CRC was to review the charter section by section, report on its findings, and make recommendations to City Council regarding the charter provisions. Ordinance C-646-08 did not require City Council to hold a charter amendment election. The ordinance provided that Council could decide not to conduct an election or could choose to go forward and submit proposed amendments to the voters. The ordinance provided that upon receiving a recommendation from the CRC, Council would review the committee's recommendations and either accept as presented or modify the recommendations.

The CRC presented its initial recommendations to Council at the December 11, 2008 Council Work Session. The CRC met on December 15, 2008 to finalize recommendations for Council to consider, and presented those recommendations to City Council on December 17, 2008 for any action Council deemed necessary. All amendments to the City Charter must be presented to the voters for their approval. At its January 5, 2009 meeting City Council considered **Item # 6B "Any action necessary pertaining to recommendation of Charter Review Committee"** and directed staff to bring forward an ordinance to call a special election for charter amendment. Charter Amendment elections must be called by Ordinance, which require two readings.

The next election date these amendments could be considered is the May 2009 election. The effective deadline to call this election is February 10, 2009. *The City Attorney is preparing Ordinance C-651-09 and the related materials and will have them to Council at the January 20th meeting for review and possible action.*

Board/Citizen Input:
Charter Review Committee

Financial Considerations:

Cost of preparing ballots and conducting the Special Election with the regular May 2009 municipal election is estimated at approximately \$5,000 and has been budgeted.

Attachments:

Charter Review Committee Recommendations

Staff Contacts:

Curtis E. Hawk, City Manager, 817-447-5400 ex. 213

chawk@burlesontx.com

Amanda McCrory, City Secretary, 817-447-5400 ex. 277

amccrory@burlesontx.com