

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Joint Work Session Meeting with Charter Review Commission on Friday December 15, 2023 at 1:30 p.m. with Mayor Aaron Garcia presiding. Council Members present were Missi Elliston, Larry Land, Felix Gomez, Jeffrey Sutton and Gabe Moreno. City staff present were City Manager Erin Corbell, City Attorney Sharon Hicks, Police Chief Randy Batten, and City Secretary Tina Keys. Also in attendance was Charles Zech with Denton, Navarro, Rocha, Bernal and Zech, P.C.

### 1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Pro Tem Elliston called the meeting to order at 1:30 p.m. Council quorum was certified. Charter Review Commission quorum was certified. Mayor Garcia arrived at 1:48 after a quorum was certified.

### 2. PUBLIC COMMENTS

There were no public comments.

### 3. INDIVIDUAL CONCERNS

- A. Charter Review processes / legal review with Charter Review Committee and Charles Zech of Denton, Navarro, Rocha, Bernal and Zech P.C.. Charles Zech went over his history and qualifications. He then reviewed the different types of cities in Texas being Home Rule and General Law A, B, C. General Law cities are usually less than 5,000 in population. Attorney Zech went on to explain General Law cities look to the Texas legislature for everything. Home rule cities adopt their own local charter and create their own government. If you have a home rule charter you no longer have to look to the legislature for power and authority except where the legislature has told you that you cannot do something. The charter commission is the most important authority a city can put together. A commission should be looking at what works and what doesn't work. Don't make change for change sake. Attorney Zech said he recommends never putting anything in the charter that is already state law because state law changes. Charters should be minimal and create the basic framework of government. Remember the charter review committee is not the decision maker and needs to ask if this is something that should be put before the community to decide whether something is in or out of the charter.

Sec 1.04 – none of that is necessary. You have all the power of a home rule city and you do not have to list them separately. Attorney Zech said he recommends deleting. All changes would be one proposition reading shall the city charter be amended to delete provisions unnecessary to being in charter. It could be misleading if a citizen thinks only these powers are allowed. So much of how we are regulated is by statute.

Charter Commissioner Chris Martin asked if they would get a copy of the proposed changes. Attorney Zech said absolutely yes.

Section 1.05 – you have the power regardless of if it's listed

2.01 – never recommends putting boundaries in charter

2.02 – unnecessary and inconsistent with state law. State law has made multiple changes over the past 10 years that highly restrict home rule cities to annex properties. The list of how things happen has been made inconsistent with state law.

3.04 – it's a salary and it needs to be treated as a salary and should be deleted. Civil office of emolument – what is emolument - means paid. It's already state law and can be deleted.

- 3.05 the mayor may take command of police..... that is state law and unnecessary. State law dictates the mayor's powers in an emergency. Council Member Elliston stated that council has control over an emergency and can revoke an emergency unless the governor declares an emergency.
- 3.08 – any vacancies shall be filled by special election – about 6 years ago the legislature changed the law to allow for appointment to a vacancy in a city who has 3-year terms or more, but only if there is one year or less left in a vacancy. He recommends giving city council the flexibility to appoint or hold an election. You cannot appoint if it is prohibited in your charter.
- 3.09 the council shall hold meetings as necessary to conduct the business of the city. It doesn't make any sense to dictate that you have to meet twice.
- 3.10 – not necessary. You can't meet without a quorum and can't take action without a quorum.
- 3.11 – we don't define conflict of interest. State law defines it, our charter doesn't. Conflicts of interests are completely subjective. Define to state "conflict of interest as defined by state law". If you don't vote, then it's a no vote. If you have an actual conflict of interest under state law, you don't count under a quorum.
- 3.14 – does not need to be in the charter. The council has all the power and authority under state law.
- 3.16 – Attorney Zech said he thinks the 3<sup>rd</sup> reading could be a special meeting. Administrative things can be done by resolution, law things by ordinance.
- 3.20 – it's unnecessary but you can leave it in if you want. The council can require this even if it's not in the charter. It says council may require.
- 4.07 – Attorney Zech said he never seen that a city secretary has to be a resident of the county and doesn't even think it's legal. Attorney Hicks said council has been talking about requiring certain personnel live in the city. Attorney Zech doesn't think we can make the city secretary. With emergency responders we can require them to live within a certain distance. That's a state statute issue. This is the only charter he has ever seen with that requirement. State law says an appointed department head appointed by mayor or council. Attorney Hicks said final decisions regarding this should be contained in the personnel policy rather than in the charter.
- 4.08 – should be removed
- 5.01 – already state law
- 5.05 – not legal – needs to be removed
- 5.06 – inconsistent with state law. The council does not have that authority. Attorney Zech said he would recommend striking. It's already state law. State law gives board of adjustment its jurisdiction.
- 6.02 – delete – state law
- 6.03 – state law dictates the process for adopting your budget. Should read "the city's budget shall be submitted adopted and amended in compliance with state law."
- 6.04 – This is a list of policies and procedures. It's not really charter material. It should be adopted by policy. Beginning with Financial Reports.
- 6.07 – run by Bond Council to make sure it's consistent with law.
- 6.08 & 6.09 – both should policy rather than charter
- Article 7 – all governed by State Law and recommend it all be removed.
- Article 8 – use a percentage of voters registered to vote at the last election. If you use a number that's the percentage of registered voters, it wouldn't be significant to change the number of people to sign the petition.
- Initiative and referendum –
- 9.08 – last line – what about an ordinance that was amended. If an ordinance was amended, you're out of luck, it has to go back to voters to amend. He would add the word amend to make it consistent.
- 10.01 – none of this is necessary
- Article 11 – all is unnecessary – can be removed. It's all state law. Board of Equalization is not even consistent with state law.



Article 12 – needs further discussion. There is quite a bit that could be a problem under state law. He would recommend removing entire article.

City Manager Corbell asked Attorney Zech to provide a more in-depth analysis. Attorney Zech said he will go through it.

13.01 – is repetitive of state law

13.03 – there is a statute in state law

13.04 – he would like to delete. It's inconsistent with state law.

13.05 – unnecessary

13.06 – doesn't need to be listed – already have the power without it being in the charter

13.08 – (3) – doesn't think we can prohibit a council candidate from going to an employee, they have a right. He thinks it should be deleted – inconsistent with state and federal law. (4) – it's unenforceable.

Penalties - You would have to adopt an ordinance. And the definition of "willfully" needs to be defined. No court has jurisdiction over a charter violation.

13.10 – unnecessary

13.11 – unnecessary

13.13 – not required to be in charter

13.15 – last part, never seen this before. People have a right to representation – should be deleted.

Transitional Provisions – can be deleted.

City Manager Corbell asked about 12.16 – council would like to be able to lease for longer than 50 years. Attorney Zech said yes, we can change that.

Attorney Zech said if there are specific things council thinks the charter committee should look at, they should make a list for discussion.

City Manager Corbell asked Charter Review when they could meet – Charter Commissioner Huffman said Friday is best for her and Commissioner Evans. Commissioner Stewart said Friday at 1:00. City Manager Corbell asked if 10:30 works. Commissioner Huffman said yes. Friday, January 5<sup>th</sup>, 10:00 would be our first meeting. Commissioner Huffman said she will be gone that day. January 12 – 10:30 a.m. was agreed upon by all commissioners

#### 4. EXECUTIVE SESSION

The City Council of the City of Brady will adjourn into Executive Session for the following:

- Pursuant to Section 551.071 (Consultation with Attorney), the City Council will consult with the City Attorney about pending or contemplated litigation or on a matter in which the duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act:

There was no Executive Session.

#### 5. ADJOURNMENT

There being no further business, Mayor Garcia adjourned the meeting at 3:20 p.m.

  
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Aaron Garcia, Mayor

Attest:   
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Tina Keys, City Secretary