

MINUTES OF THE REGULAR MEETING OF THE
CHARTER REVIEW COMMISSION OF THE
CITY OF SAN MARCOS, TEXAS
APRIL 6, 2017

Members Present:	Kama Davis Paul Mayhew, Chair Amy Meeks Perry Moore Jude Prather (appointed 4/4/17) Todd Salmi Shane Scott
City Attorney:	Michael Cosentino
Recording Secretary:	Tina Moreno
Others Present:	Sam Brannon Forrest Fulkerson Christine Terrell

The meeting was called to order at 5:30 p.m. by Chair Mayhew. Chair Mayhew called a brief recess for the commissioning of new member, Jude Prather. The commission reconvened at 5:32 p.m.

Chair Mayhew introduced the Citizen Comment Period. Sam Brannon and Forrest Fulkerson were present. Mr. Brannon stated he appreciated the work of the commission. He then explained an amendment to the charter to discontinue fluoridation in (city) water was not fully addressed on the 2015 ballot. Although fluoride is no longer an additive in city water, fluoridated water is still being distributed through water acquisitions. Mr. Brannon requested the commission place the fluoride item back on the ballot to prohibit the city from receiving and distributing fluoridated water, as well. He is also willing to address the city council with this issue and/or seek legal representation, if needed. Forrest Fulkerson addressed the commission on behalf of the Ethics Review Commission. He stated the ERC is not allowed to conduct investigations on ethics complaints they receive. Mr. Fulkerson feels it would be beneficial for the ERC to be given this capability. Christine Terrell was also present but declined to speak.

Chair Mayhew introduced agenda item, "Approve minutes of the previous meeting(s)." A motion was made by Mr. Scott, seconded by Ms. Meeks, to approve minutes of March 30, 2017. The motion passed by the following vote:

For:	6 - Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	1 - Davis (arrived at 5:45 p.m.)
Abstain:	0

Chair Mayhew introduced the next agenda item, "Section by section review of City Charter, including but not limited to Article 12 – General Provisions." A motion was made by Mr. Salmi, seconded by Mr. Scott, to amend **Sec. 12.03 – Nepotism** by omitting the current language and inserting item (a) to read as follows: "~~The members of the city council, and, the city manager, city clerk, city attorney and presiding judge of the municipal court are the public officials of the city who are subject to the nepotism prohibitions defined under State law.~~"

(a) Public officials of the City of San Marcos are subject to the nepotism prohibitions defined under State law. For the purposes of this section, the following are defined as public officials:

- (1) The mayor and members of city council
- (2) City Manager
- (3) City Attorney
- (4) Presiding judge of the municipal court

The motion carried by the following vote:

For:	6 - Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	1 - Davis

Mr. Salmi made another motion, seconded by Ms. Davis, to amend **Sec. 12.03 – Nepotism** by inserting item (b) and have it read as follows:

(b) No city employee shall be regularly directly supervised by a relative, a romantic partner, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, romantic partner or roommate.

- (1) Relatives: Includes, but are not limited to, the first, second and third degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included for purposes of this section.
- (2) Romantic Partner: Persons in a consensual romantic relationship but are not married to one another.
- (3) Roommates: Individuals who share the same living quarters.

After some discussion, Mr. Salmi amended his motion, seconded by Ms. Davis, to remove the phrase "but are not limited to" in item (b)(1). The item would read as follows:

- (1) Relatives: Includes, ~~but are not limited to,~~ the first, second and third degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included for purposes of this section.

The amendment to the main motion carried by the following vote:

For:	6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
Against:	1 - Scott
Absent:	0
Abstain:	0

The main motion failed by the following vote:

For:	3 - Davis, Meeks, and Salmi
Against:	4 - Mayhew, Moore, Prather, and Scott
Absent:	0
Abstain:	0

Another motion was made by Mr. Salmi, seconded by Ms. Meeks, to further amend **Sec. 12.03 – Nepotism** by inserting item (c) and have it read as follows:

- (c) To avoid the appearance and risk of impropriety, public officials will not appoint business associates to public commissions and boards. Business associate is defined to include:
- (1) Public official's outside employer, outside employee, outside supervisor, or outside subordinate
 - (2) Public official's relative's outside employer, outside employee, outside supervisor, or outside subordinate (relative as defined in 12.03.b.1)
 - (3) The public official's outside client
 - (4) The public official's outside business partner, including:
 - a. Owning 10 percent or more of a business entity in which public official also owns 10 percent or more
 - b. Owning real property with a fair market value of \$2,500 or more in partnership with public official
 - c. In an outside legal contract for business goods or services valued \$2,500 or more with public officials

After some discussion, Mr. Salmi amended his motion, seconded by Ms. Meeks, to rephrase item (c) and (c)(4)c to read as follows:

(c) To avoid the appearance and risk of impropriety, a public official will not appoint his or her business associates to public commissions and boards. Business associate...

(4) c. In an outside legal contract for business goods and services valued \$2,500 or more with the public officials

The amendment to the main motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
 Against: 0
 Absent: 0
 Abstain: 1 - Scott

The main motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Salmi
 Against: 0
 Absent: 0
 Abstain: 1 - Scott

Chair Mayhew made a motion, seconded by Mr. Moore, to amend item (b) of **Sec. 12.03 – Nepotism** by removing the term “romantic partner” throughout item (b). The amendment would read as follows:

(b) No city employee shall be regularly directly supervised by a relative, ~~a romantic partner~~, or roommate. City employees will not be transferred or promoted into positions that would cause them to be in a direct supervisor/subordinate relationship with a relative, ~~romantic partner~~ or roommate.

(1) Relatives: Includes the first, second and third degree of consanguinity (blood), adoption; and the first and second degree of affinity (marriage). Common Law marriages as recognized by the State of Texas will also be included for purposes of this section.

(2) Romantic Partner: ~~Persons in a consensual romantic relationship but are not married to one another.~~

(3) Roommates: Individuals who share the same living quarters.

The motion carried by the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott

Against: 0
 Absent: 0
 Abstain: 0

A motion was made by Mr. Salmi, seconded by Chair Mayhew, to amend the title of **Sec. 12.03 – Nepotism** to read: “**Sec. 12.03 – Nepotism & Conflict of Interest.**” The motion carried by the following vote:

For: 7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
 Against: 0
 Absent: 0
 Abstain: 0

Chair Mayhew made a motion, seconded by Mr. Scott, to amend **Sec. 3.17 – Expulsion or removal of city officials** by striking item (a) in its entirety:

~~(a) The city council shall have the authority to expel any city council member who is absent three consecutive regular city council meetings unless the council member has secured permission, in advance, from the city council to be absent from at least one of the meetings; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members.~~

After some discussion, the motion was withdrawn by Chair Mayhew and Mr. Scott.

A motion was made by Chair Mayhew, seconded by Mr. Scott, to amend item (b) of **Sec. 8.02 – Preparation and submission of budget** by striking “April 30” and inserting “March 31” to allow timely budget preparation. The amendment would read as follows:

(b) By ~~April 30~~ March 31 of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.

The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Scott
 Against: 0
 Absent: 0
 Abstain: 1 - Salmi

Chair Mayhew made a motion, seconded by Ms. Davis, to amend **Sec. 8.02 – Preparation and submission of budget** by inserting a new item, which would read as follows: “By February 27th of each year the city council shall hold a policy budget workshop.” The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Scott

Against: 0
 Absent: 0
 Abstain: 1 - Salmi

Another motion was made by Chair Mayhew, seconded by Ms. Davis, to further amend **Sec. 8.02 – Preparation and submission of budget** by re-lettering the items with the insertion of the newly approved item:

- (ac) The city manager, not less than 30 days prior to the time the city council makes its tax levy for the current fiscal year, shall file with the city clerk a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain a budget message explaining the budget, containing an outline of the proposed financial policies of the city for the ensuing fiscal year, setting forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining any major changes in financial policy. Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city’s website.
- (b) By March 31st of each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.
- (ea) By February 27th of each year the city council shall hold a policy budget workshop.

The motion carried by the following vote:

For: 6 - Davis, Mayhew, Meeks, Moore, Prather, and Scott
 Against: 0
 Absent: 0
 Abstain: 1 - Salmi

Ms. Meeks made a motion, seconded by Ms. Davis, to amend **Sec. 3.17 – Expulsion or removal of city officials** by adding the following sentence to the end of item (a): “The city council may remove council members who are in violation of, or have violated, any provisions of this charter.” After some discussion, the motion was withdrawn by Ms. Meeks.

A motion was made by Ms. Meeks, seconded by Ms. Davis, to amend item (a) of **Sec. 3.02 – Qualifications** by adding the following sentence and labeling it item (a)(7): “ The city council shall not violate any provisions of the charter.” After some discussion, the motion was withdrawn by Ms. Meeks and Ms. Davis.

Mr. Salmi made a motion, seconded by Mr. Moore, to amend **Sec. 12.02** subsection (c)(2) pertaining to the duties of the Ethics Review Commission, to read as follows:

- (c)(2) Conduct hearings into allegations of violations of the city's code of ethics, ~~or~~ a state conflict of interest law, or the city charter according to the procedures set forth in the city's ethics ordinance.

The motion carried by the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

A motion was made by Mr. Salmi, seconded by Mr. Moore, to amend item (c)(3) of **Sec. 12.02 – Personal interest and code of ethics** to read as follows:

- (c)(3) Render advisory opinions on potential conflicts of interest or violation of the city's code of ethics, or the city charter at the request of a public official or employee ~~covered by the code of ethics~~.

The motion carried by the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

Mr. Salmi made another motion, seconded by Mr. Moore, to amend item (c)(4) of **Sec. 12.02 Personal interest and code of ethics** to read as follows:

- (c)(4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics, ~~or~~ a state conflict of interest law, or the city charter.

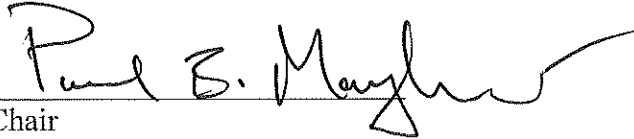
The motion carried by the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0

Chair Mayhew introduced the next agenda item, "Questions and Answers from Press and Public." Mr. Fulkerson asked the commission what penalties for violations of the charter would the Ethics Commission render if a guilty plea is ruled. Mr. Cosentino stated the remedies would be the ones currently spelled out in the ethics ordinance. Mr. Fulkerson also stated he is interested in determining whether any conflicts of interest occur when board and commission appointments are made and how they are voted on. Mr. Salmi responded that the commission hopes to incorporate language into the charter to address his concern. Ms. Terrell had no questions.

Mr. Scott moved for adjournment at 8:26 p.m., seconded by Ms. Davis. The motion passed with the following vote:

For:	7 - Davis, Mayhew, Meeks, Moore, Prather, Salmi, and Scott
Against:	0
Absent:	0
Abstain:	0


Chair