

1 **Seabrook Charter Review Commission**

2 **Final Report to City Council**

3 **February 3, 2015**

4  
5 **Chairperson: Laura Davis**

6 **Vice Chairperson: Kevin Ferguson**

7 **John Chisler**

8 **Delaina Hanssen**

9 **Don Holbrook**

10 **David Johnson**

11 **Elaine Renola**

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13  
14 The Seabrook Charter Review Commission, commissioned by City Council to review the City's  
15 Charter and to recommend any changes as seen necessary by the Commission, respectfully  
16 submits the following report of the Commission's findings and proposed Charter amendments to  
17 City Council to be voted upon by the electorate of the City of Seabrook at the next scheduled  
18 election in May, 2015.

19  
20 The Commission's goal was to recommend changes that were deemed necessary in order to  
21 improve City operations, address statutory changes, and to create better consistency within the  
22 Charter, especially with voting requirements for City Council, to allow for easier interpretation  
23 in the future. The Commission received recommendations from City Council, the City Manager  
24 and staff, the City Secretary, the City Attorney, the Municipal Court Judge, various City Boards,  
25 Committees, Commissions or other appointed positions, and from the citizens of Seabrook. All  
26 recommendations were weighted equally, regardless of the source of the recommendation.  
27 Following the highlighted recommendations of the Commission on each Article of the Charter is  
28 a brief explanation of the Commission's reasoning for these recommendations, and the  
29 Commission's assessment of its positive, negative or neutral impact to the City's budget. At the  
30 end of the report are suggestions for a future Charter Review Commission to consider  
31 (Attachment A).

32  
33 We request that this official report, ballot propositions and the charter showing the proposed  
34 amendments be placed on the City web site as soon as possible, to allow citizens ample time to  
35 review all proposed changes before the May 2015 election.

36  
37 **No Proposed Changes:**

- 38 • **Article I: Incorporation**
- 39 • **Article III: The City Manager**
- 40 • **Article VI: Planning and Zoning**
- 41 • **Article XII: Transitional Provisions**

42

43 **ARTICLE II: THE COUNCIL**

44

45 **Proposition 1: Section 2.01—Term Limits**

46

47 Change the term of a Councilmember from a 3-year to a 4-year term, beginning with the  
48 General Municipal Election in 2017 for the Mayor and Council Positions 2, 4 and 6 and  
49 in 2018 for Council Positions 1, 3 and 5.

50

51 **Commission Explanation:** The Commission identified the following disadvantages of  
52 the current term lengths: 1) difficulty for the City to place Council representatives in  
53 leadership positions in external organizations that have a direct impact on the City; 2)  
54 administrative costs involved with the orientation and training of Council members every  
55 three years; 3) costs associated with more frequent elections; and 4) availability of  
56 candidates. Extending the terms of office from three to four years mitigates these  
57 disadvantages, while still adhering to the limitation of two consecutive terms of office.

58

59 **Budget Impact:** This proposition is expected to save money, as elections would be held  
60 less often.

61

62 **Proposition 2: Section 2.05—Vacancies, Forfeiture, Filling of Vacancies (and related**  
63 **Charter requirements for filling a vacancy, such as Section 8.13, “Results of Election”)**

64

65 Allow an affirmative vote of four (4) or more Councilmembers to fill a vacancy on  
66 Council by appointment if the remaining term of the vacant position is 12 months or less.

67

68 **Commission Explanation:** State Law now allows for this provision that permits a  
69 Council to fill an unexpired term without having to call a special election, which can be  
70 very costly. If the remaining term of the vacant position is greater than 12 months, a  
71 special election would be called by Council.

72

73 **Budget Impact:** It is expected that the City would save money as appointment is less  
74 costly than a special election.

75

76 **Proposition 3: Section 2.08—Administrative Offices and Departments**

77

78 Delete the list of City Departments.

79

80 **Commission Explanation:** The name and number of City Departments can change or be  
81 modified over time, as is dictated by the needs of the City. The Departments are named  
82 by ordinance, which should suffice.

83

84 **Budget Impact:** There is no expected budget impact.

85

86

87

88 **Proposition 4: Section 2.09—City Secretary**

89  
90 Require an affirmative vote of four or more Councilmembers to appoint or remove the  
91 City Secretary.

92  
93 **Commission Explanation:** The Commission compared the voting requirements of  
94 Council for appointment or termination of critical positions within the City, including the  
95 City Secretary, City Manager, City Attorney and Municipal Judge. It found  
96 inconsistencies and, in some instances, silence on the subject. As all of these positions  
97 are essential for the operation of the City, it is recommended that the voting requirements  
98 be the same for all of these positions. The Charter requires an affirmative vote of four or  
99 more Councilmembers to appoint or remove the City Manager, so this is the template the  
100 Commission used for the other positions, including the City Secretary. In this instance,  
101 the Charter has no requirement for removal of a City Secretary, so one is added for  
102 consistency.

103  
104 **Budget Impact:** There is no expected budget impact.

105  
106 **Proposition 5: Section 2.08—Administrative Departments and Section 2.09—City**  
107 **Secretary**

108  
109 Move both sections from Article II (The Council) to Article IV (Administrative  
110 Departments).

111  
112 **Commission Explanation:** It would be easier to reference both of these sections if they  
113 were in the Article that focuses on different departments, rather than the Article that  
114 focuses on the City Council. There is no other revision associated with this amendment.

115  
116 **Budget Impact:** There is no expected budget impact.

117  
118 **Proposition 6: Section 2.12—Rules of Procedure**

119  
120 Clarify that all required Council actions shall be adopted by an affirmative vote of a  
121 majority of Councilmembers present and voting, except as provided elsewhere in the  
122 Charter or in state law.

123  
124 **Commission Explanation:** The Charter currently limits any exception to this provision  
125 to Section 2.05. There may come a time when other sections of the Charter or state law  
126 will also apply, so the Commission recommends changing the exception to “as provided  
127 elsewhere in the Charter or state law” so that potential conflicts can be avoided.

128  
129 **Budget Impact:** There is no expected budget impact.

130  
131  
132

133 **Provision 7: Section 2.13—Passages of Ordinances in General**

134  
135 Delete the following: “A proposed ordinance may be amended at any reading but any  
136 ordinance amended in substance, as determined by Council, shall automatically be placed  
137 again on first reading at a subsequent meeting. Amendments involving such items as  
138 typographical, grammatical or spelling changes or renumbering of sections shall not be  
139 considered substantive.”

140  
141 **Commission Explanation:** The phrase “in substance” has caused great confusion in the  
142 past as it is left to City Council to interpret which changes are “substantive” in nature.  
143 Removing this statement allows less confusion in interpreting the Charter.

144  
145 **Budget Impact:** There is no expected budget impact.

146  
147 **Proposition 8: Section 2.13—Passages of Ordinances in General**

148  
149 Clarify that the effective date of ordinances with penal provisions be dictated by state law  
150 rather than after it has been posted for two weeks.

151  
152 **Commission Explanation:** In ordinances with penal provisions, the state requires  
153 certain effective dates. This change is to avoid conflict with state law.

154  
155 **Budget Impact:** There is no expected budget impact.

156  
157 **Proposition 9: Section 2.14—Emergency Ordinances**

158  
159 Require an affirmative vote of four or more Councilmembers to approve an emergency  
160 ordinance, except where otherwise provided in the Charter.

161  
162 **Commission Explanation:** In an emergency, all Councilmembers may not be available,  
163 especially if an evacuation or natural disaster has occurred. For uniformity, the  
164 Commission recommends changing this voting requirement from two thirds of those  
165 present to four or more for approval. This does not impact emergency appropriations  
166 ordinances, which require a vote of five or more Councilmembers for approval.

167  
168 **Budget Impact:** There is no expected budget impact.

169  
170 **Proposition 10: Section 2.15—Authentication, Recording, Codification, Printing and**  
171 **Distribution of Ordinances**

172  
173 Change the requirement for availability of approved ordinances and resolutions from  
174 posting at City Hall and the library to posting at City Hall and on the City website.

175

176 **Commission Explanation:** There is a cost associated with copying and distributing  
177 every ordinance and resolution that is passed by Council. This would eliminate that cost.  
178 There is also a computer at City Hall where the public can access this information.

179  
180 **Budget Impact:** It is expected that this proposition would save copying and  
181 administrative costs.

182  
183 **ARTICLE IV: ADMINISTRATIVE DEPARTMENTS**

184  
185 **Proposition 11: Section 4.02—City Attorney**

186  
187 Change the voting requirements for appointment or removal of a City Attorney from  
188 “majority of members present” to “four or more Councilmembers”.

189  
190 **Commission Explanation:** See explanation for Proposition 4. This proposition is  
191 intended to create consistency and uniformity in voting requirements. In this specific  
192 instance, a majority of members present could be as little as three votes.

193  
194 **Budget Impact:** There is no expected budget impact.

195  
196 **ARTICLE V: FINANCIAL PROCEDURES**

197  
198 **Proposition 12: Section 5.21—Citizen Approval Required for Certain Expenditures and**  
199 **Use of Reserved Funds**

200  
201 Consolidate this section and update it to address current and future City needs, allow for  
202 grant opportunities requiring matching funds and adjust for changing state mandates by  
203 allowing the City Council to make non-emergency capital expenditures in an amount not  
204 to exceed 20 percent of the combined General and Enterprise Operating and Reserve  
205 Fund Budgets, less any required reserve fund balance established by the City’s financial  
206 policy, in effect at the time of the expenditure.

207  
208 **Commission Explanation:** This section has been discussed and debated for many years.  
209 Currently, the Council may not spend funds of one (1) million dollars or more without a  
210 vote of the people. This limitation prevented the City from applying for additional grant  
211 money following Hurricane Ike, which could have been a major help in the recovery of  
212 the City, because grant application deadlines do not generally allow for time to conduct  
213 elections. The Commission determined that having a fixed dollar amount in the Charter  
214 will cause future problems related to inflation, rising building costs and other economic  
215 factors. Therefore, the Commission recommends a percentage of the General and  
216 Enterprise Funds (only these two major funds of the City, not including special funds) to  
217 keep in line with the City’s current budget needs and limitations. As the budget rises and  
218 falls, so will the Council’s cap on spending. This proposition does not allow Council to  
219 spend any of the required fund balance that is established by the City finance policy, and  
220 it does not apply to emergency expenditures.

221 **Budget Impact:** Budget impact cannot be quantified due to variables.  
222

223

## 223 **ARTICLE VII: NOMINATIONS AND ELECTIONS**

224

### 225 **Proposition 13: Section 7.01—Nominations and Elections**

226

227 Allow the general City election to be held on a date other than the second Saturday in  
228 May, if allowed by state law.  
229

230

230 **Commission Explanation:** The State recently changed the allowable dates for  
231 municipal elections and required cities to choose which date they would use. Because of  
232 this charter requirement, the City could not change the date of its elections. It resulted in  
233 the City having to purchase its own election equipment. This proposition would give the  
234 City flexibility to work within state law.  
235

236

236 **Budget Impact:** This could save money if the City is allowed to hold elections with  
237 Harris County.  
238

239

## 239 **ARTICLE IX: MUNICIPAL COURT**

240

### 241 **Proposition 14: Section 9.02—Judge of the Municipal Court**

242

243 Change the voting requirements for appointment or removal of the Municipal Judge from  
244 “majority of members present” to “four or more Councilmembers”.  
245

246

246 **Commission Explanation:** See explanation for Propositions 4 and 11.  
247

248

248 **Budget Impact:** There is no expected budget impact.  
249

250

## 250 **ARTICLE X: FRANCHISES AND PUBLIC UTILITIES**

251

### 252 **Proposition 15: Section 10.05—Ordinances Granting Franchises**

253

254 Change the requirement for approval of franchise ordinances to correspond to other  
255 ordinances (after two readings unless otherwise required by state law).  
256

257

257 **Commission Explanation:** The Charter currently requires three readings and a waiting  
258 period of 42 days after the first reading. It also requires the full text of the ordinance to  
259 be published in the newspaper, which can be very costly. The proposition would allow  
260 for publishing the title and caption in the newspaper after passage. The current  
261 requirements do not allow the City to be competitive with other cities.  
262

263

263 **Budget Impact:** This proposition may save money due to the changes in requirements  
264 for publicizing in the newspaper.  
265

265

266 **ARTICLE XI: GENERAL PROVISIONS**

267

268 **Proposition 16: Section 11.08—Fire Department and Fire Marshal**

269

270 Modify the allowable service providers to state that the City could utilize the Seabrook  
271 Volunteer Fire Department and/or other fire service providers as permitted by law.

272

273 **Commission Explanation:** The City is exploring all options with the Seabrook  
274 Volunteer Fire Department for providing services, including an Emergency Services  
275 District. This amendment would allow the City to select the best option for service.

276

277 **Budget Impact:** Budget impact cannot be quantified due to variables.

278

279 **Proposition 17: Section 11.18—Charter Review Commission**

280

281 Allow the appointment of a Charter Review Commission no sooner than two (2) years  
282 nor later than five (5) years after the most recent appointment.

283

284 **Commission Explanation:** This would allow City Council the flexibility to appoint a  
285 Charter Review Commission to coincide with the election schedule, rather than holding a  
286 separate, costly, election. It would also allow Council to handle issues as they arise,  
287 rather than waiting for the current prescribed time period.

288

289 **Budget Impact:** Budget impact cannot be quantified due to variables.

290

291 **Proposition 18: Section 11.16—Amending the Charter and Section 11.18—Charter Review**  
292 **Commission**

293

294 Combine these two sections into one titled “The Charter Review Commission and  
295 Amending the Charter”.

296

297 **Commission Explanation:** These two sections really discuss different aspects of the  
298 same topic. The Commission felt that combining them would allow for easier reference  
299 in the future. There is no other revision associated with this amendment.

300

301 **Budget Impact:** There is no expected budget impact.

302

303 **Proposition 19: Section 11.24—Comprehensive Master Plan Commission**

304

305 Allow the appointment of a Comprehensive Master Plan Commission no sooner than two  
306 (2) years nor later than five (5) years after the most recent appointment and allow  
307 Council to extend the six-month term of the Commission.

308

309 **Commission Explanation:** The Charter Review Commission and Comprehensive  
310 Master Plan Review Commission meet concurrently, making it difficult for staff to

311 support conflicting meeting schedules. The Council also finds it difficult to attract  
312 qualified volunteers for concurrent Commissions. This proposition would allow City  
313 Council the flexibility to appoint a Comprehensive Master Plan Review Commission at a  
314 different time than the Charter Review Commission, which would assist with staff  
315 allocation and volunteer recruitment. It would also maintain consistency between the  
316 Comprehensive Master Plan Review Commission and the Charter Review Commission  
317 (see Proposition 17). Finally, it would allow the terms for the Comprehensive Master  
318 Plan Commission to be extended in the event a planning consultant is hired or other  
319 needs arise.

320  
321 **Budget Impact:** Budget impact cannot be quantified due to variables.  
322

323  
324 **Proposition 20: Section 11.28—Other Charter Requirements**

325  
326 Require that all City appointees to boards, corporations, organizations, committees and  
327 other related entities shall conform to the requirements of the Charter provisions  
328 regulating personal interest, conflicts of interest, nepotism and ethics.

329  
330 **Commission Explanation:** The current Charter language is vague, which may lead to  
331 conflicting interpretations and appears to apply to entities in their entirety. The  
332 Commission is clarifying and limiting the specific Charter provisions that shall apply  
333 and shifts the emphasis to City appointees. The Charter cannot govern entities outside of  
334 the city's jurisdiction; therefore, the proposed amendment places responsibility on the  
335 city representatives to comply with these mandates.

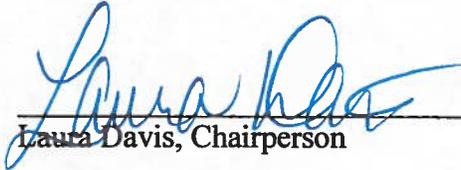
336  
337 **Budget Impact:** Budget impact cannot be quantified due to variables.  
338

339 **Conclusion:** The Charter Review Commission does hereby notify the City Council of  
340 the City of Seabrook, City Manager and staff, and the citizenry of Seabrook of the  
341 completion of our work. We wish to cause the attached proposed ballot language to be  
342 properly submitted to the electorate of the City of Seabrook at the next appropriate and  
343 regular election date (May, 2015) for approval by majority vote. This completes our  
344 service to the City of Seabrook, which began in July, 2014. It has been an honor to be  
345 selected for this Commission and to serve the City in such an important endeavor.

346  
347  
348 (See next page for signatures.)  
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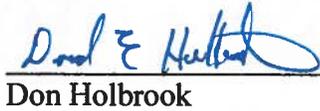
Respectfully submitted unanimously on this 3<sup>rd</sup> day of February, 2015 by

  
Laura Davis, Chairperson

  
Kevin Ferguson, Vice-Chairperson

  
John Chisler

  
Delaina Hansen

  
Don Holbrook

  
David Johnson

  
Elaine Renola



## Attachment "A"

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The Charter Review Commission respectfully submits these suggestions for a future Charter Review Commission to consider. These suggestions were made, in large part, to allow for more consistency within the Charter.

1. Article II, "The Council", Section 2.01 and subsequent sections: Amend to identify the Mayor and Councilmembers collectively as "Council" or "City Council" to avoid ambiguity in reference to the Charter.
2. Article II, "The Council", Section 2.07, "Prohibitions". Amend to clarify that the "manager" referred to in these sections is the "City Manager".
3. Article II, "The Council", Section 2.13, "Passages of Ordinances in General". Amend to allow an ordinance to adopt a technical code by reference provided that the technical code is authenticated by the City secretary and is available for review by the public.
4. Article II, "The Council", Section 2.13, "Passages of Ordinances in General". Amend to more clearly explain that failure to post an adopted ordinance with a penalty clause on the City website and TV channel shall not affect the validity of the ordinance.