

RESOLUTION R-16-4018

**A RESOLUTION OF THE CITY OF COLLEYVILLE, TEXAS ACCEPTING
THE RECOMMENDATIONS OF THE COLLEYVILLE CITIZEN'S
CHARTER REVIEW COMMITTEE**

WHEREAS, the City Council appointed the Colleyville Citizen's Charter Review Committee on June 21, 2016, to review the City Charter for possible modifications; and

WHEREAS, the Committee met on July 6 and July 14, 2016, to review the City Charter in preparation of making recommendations to the City Council; and

WHEREAS, the Committee has recommended the changes to the City Council for acceptance.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF COLLEYVILLE, TEXAS:**

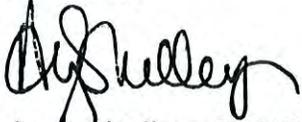
Sec. 1. THAT the recommendations, dated July 28, 2016, attached as Exhibit A, are hereby accepted and will serve as a guide for considering calling an election for possible City Charter modifications.

AND IT IS SO RESOLVED.

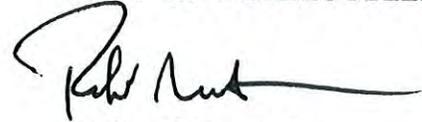
APPROVED BY A VOTE OF 6 AYES, 1 NAYS, AND 0 ABSTENTIONS
ON THIS THE 16TH DAY OF AUGUST 2016.

Mayor Richard Newton	<u>Aye</u>	Mayor Pro Tem Chris Putnam	<u>Aye</u>
Place 1, Tammy Nakamura	<u>Aye</u>	Place 5, Nancy Coplen	<u>Aye</u>
Place 2, Bobby Lindamood	<u>Aye</u>	Place 6, Mike Taylor	<u>Nay</u>
Place 4, Jody Short	<u>Aye</u>		

ATTEST:


Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE


Richard Newton
Mayor

**REPORT
OF THE
COLLEYVILLE CITIZENS' CHARTER
REVIEW COMMITTEE
JULY 28, 2016**

Respectfully submitted,

**Frank Carroll, Chair
Michael Muhm, Vice Chair
Claudia Bevill
Vince Hawkins
Rich Hendler
David Medlin
Shirley Schollmeyer
Nelson Thibodeaux
Steve Walters
Tim Weymouth**

TABLE OF CONTENTS

	<u>Page</u>
Table of Contents	i
I. Background	1
II. Items Covered By Appointing Resolution	2
III. Meetings of the Committee	2
IV. Committee Discussions and Rationales	4
V. Additional Recommendations of the Committee	7
VI. Conclusion	8

Appendices

App. A - Resolution R-16-4007

App. B - Agenda and Minutes of Committee Meeting of July 6, 2016

App. C - Agenda and Minutes of Committee Meeting of July 14, 2016

App. D - Proposed Amendment to Charter of City of Colleyville Section 3.01A -
Limitation on Terms

App. E - Proposed Amendment to Section 3.09(C) to Charter of City of Colleyville

App. F - Proposed Amendments to Sections 7.02, 7.03(A), 7.04(A), 7.05 and 7.06 to
Charter of City of Colleyville

App. G - Proposed Amendment to Article XIII to Charter of City of Colleyville

App. H - Proposed Amendment to Section 14.02 to Charter of City of Colleyville

App. I - *Corpus Christi People's Baptist Church v. Nueces County Appraisal Dist.*, 904
S.W.2d 621 (Tex. 1995)

App. J - *Tarrant County v. Ashmore*, 635 S.W.2d 417 (Tex. 1982)

App. K - Tex. Atty. Gen. Op. No. GA-0356 (2005)

App. L - Tex. Atty. Gen. Op. No. JM-1233 (1990)

App. M - Ordinance O-02-1322

App. N - Ordinance O-13-1896

**REPORT
OF THE
COLLEYVILLE CITIZENS' CHARTER
REVIEW COMMITTEE**

Honorable Richard Newton, Mayor and Members of the City Council

The following Report of the Colleyville Citizens' Charter Review Committee ("CRC" or "Committee") is respectfully submitted in accordance with Resolution R-16-4007¹ unanimously adopted by the Colleyville City Council on June 21, 2016.

In summary, this Report outlines the meetings of the CRC, summarizes the Committee's discussions and rationale for certain of its proposals and for additional matters considered, contains the proposed amendments to the Charter of the City of Colleyville ("Charter") as unanimously adopted by the Committee and makes additional recommendations for matters to be considered by the Mayor and the City Council.

On behalf of the entire Committee, we wish to thank Mayor Newton and the members of the City Council for the opportunity to serve on the Committee and to provide representative citizen input regarding the fundamental governing document for our City, the Charter.

The Committee also wishes to express its special thanks to Assistant City Manager Michael Holder for his assistance in facilitating the Committee's completion of its assigned tasks. The Committee would also like to express its thanks to City Manager Jennifer Fadden, Project Coordinator James Hubbard and City Secretary Amy Shelley for their assistance. Finally, the Committee expresses its thanks to Mayor Newton, Councilman Lindamood and Councilwoman Nakamura for taking time to attend the meetings of the Committee.

I. BACKGROUND

On July 21, 2016 the City Council of the City of Colleyville unanimously adopted Resolution R-16-4007 appointing a Colleyville Citizens' Charter Review Committee. The Resolution appointed ten Colleyville citizens as members.

Frank Carroll, Chair
Michael Mumm, Vice Chair
Claudia Bevill
Vince Hawkins
Rich Hendler
David Medlin
Shirley Schollmeyer
Nelson Thibodeaux
Steve Walters
Tim Weymouth

¹ A copy of Resolution R-16-4007 is included in the Appendix, App. A.

The Resolution also set a specific and very compressed timetable for the Committee to complete its assigned tasks directing that the Committee's recommendations should be finalized and presented to the City Council by July 29, 2016.

II. ITEMS COVERED BY APPOINTING RESOLUTION

The Resolution directed the Committee to consider amendments to Sections 3.01, 3.09(C), 7.02, 7.03(A), 7.04(A), 7.05, 7.06 and 14.02(K) of the Charter of the City of Colleyville. Although the sections proposed for review were considered and voted on by the Committee individually, the proposed revisions to various subsections of Section 7 of the Charter are substantially identical and are discussed in this Report as a single group.

In addition to the items specifically listed in the Resolution, the Committee determined that certain other sections of the Charter were in need of revision. Consequently, in addition to the sections listed in the Resolution, this Report proposes minor additional amendments to Sections 7.02 and 7.06, the deletion of Article XIII and amendments to Section 14.02(F). Although these sections were not specifically mentioned in the Resolution, the Resolution does not prohibit, and appears to contemplate, that the Committee may consider other possible revisions to the Charter. Section 5 of the Resolution provides that the Committee responsibilities "may include" the specific listed items, but by using the permissive term does not preclude other matters from being considered by the Committee.

Due to the compressed time frame, the Committee elected not to venture beyond the general scope of the Charter Sections included in the Resolution, with the exception of Article XIII. In that respect, the Committee's deliberations and this Report should not be construed as taking any position on whether the Charter should be subject to a more wide-ranging review or whether there exist other Charter sections which should be amended or repealed.

III. MEETINGS OF THE COMMITTEE

A. July 6, 2016 – First Meeting

Although the Committee had planned to conduct up to four meetings, if necessary, the Committee was able to complete its work in only two meetings.

The first meeting was held on July 6, 2016.² The first meeting was attended by 9 of the 10 Committee members and lasted approximately two hours.

The Chair of the Committee presented drafts of proposed amendments to all of the sections of the Charter identified in the Resolution. He then generally described the nature, content and impact of each of the draft amendments.

² A copy of the July 6, 2016 Agenda is included in the Appendix, App. B.

The Chair then advised that the purpose of this first meeting was to engage in a general discussion of the draft amendments, respond to questions regarding the drafts, and consider possible recommendations for any other sections of the Charter which any member of the Committee wished to have considered. To encourage discussion and the exchange of ideas, the Chair stated that this first meeting was to be an informal discussion session and that Robert's Rules of Order would not be applicable.

As reflected by the very detailed and precise minutes prepared by City Secretary Shelly,³ there was extensive discussion of the identified sections of the Charter as well as other sections thought worthy of consideration by Committee members.

In summary, the Committee suggested the following changes, additions, deletions or substitutions to the draft amendments:

1. Section 3.01(A) Limitations on Terms was to be revised to clarify the application of the 12 consecutive year limitation.
2. Section 7.02 City Secretary was to be modified to add the phrase "for an indefinite term."
3. Section 7.06 Department of Finance was to be modified to add the phrase "for an indefinite term."
4. A proposal was to be prepared which would repeal Article XIII Transitional Provisions.
5. Section 14.02(F) was to be added to the other proposed revisions to Section 14.02 to clarify the time frame in which a citizen could file a complaint regarding a violation of Section 14.02 Personal Financial Interest.

The Chair of the Committee was charged with revising the draft and submitting them to the Committee prior to the meeting scheduled for July 14, 2016. The revised draft of proposed amendments was submitted to the Committee members on July 11, 2016.

B. July 14, 2016 – Second Meeting

The Committee met for the second time on July 14, 2016.⁴ The Chair indicated that it was his intention to proceed to vote individually on each of the proposed amendments, and if possible, to complete all voting by the conclusion of the meeting. The Chair further advised that this meeting would be conducted in accordance with Robert's Rules of Order.

It should be noted that two members who had been present at the first meeting were unable to attend the second meeting. After being advised at the first meeting of the two

³ A copy of the July 6, 2016 Minutes is included in the Appendix, App. B.

⁴ A copy of the July 14, 2016 Agenda is included in the Appendix, App. C.

members' inability to attend, the Chair requested the Assistant City Manager to inquire of the City Attorney as to the ability of the two members to attend by telephone conference and vote either orally or by written proxy. The City Attorney advised the Assistant City Manager that a member must be in actual attendance to be able to cast a recorded vote.

Although the vote could not be officially counted, the Chair emailed all Committee members stating the foregoing and offering to present any comments an absent member might wish to make on the drafts and their unofficial vote both to the other Committee members and to the City Council. Unfortunately, neither absent member was able to participate in the manner suggested.

At the meeting and after discussion, a roll call vote was taken individually on each of the proposed amendments. All of the proposed amendments were adopted unanimously by the Committee, with no abstentions, as reflected by the minutes.⁵

IV. COMMITTEE DISCUSSIONS AND RATIONALES

The discussions of the Committee were virtually unanimous in agreeing on the rationales and need for the proposed amendments. The minutes of the meetings reflect the almost universal agreement on the exact amendments now being presented by the Committee to the Mayor and City Council. However, a summary of the Committee discussions and reasoning may be useful in understanding the unanimous result of the Committee's deliberations and votes.

A. Voting Procedures.

The amendment to Section 3.09(C) to clarify voting methods was adopted with little discussion. It was the opinion of the Committee that it should be made clear that "aye or nay" votes were not required on procedural notions and/or nominations to City boards, commissions or committees.

The Committee believes the amendment makes clear that the traditional practice of voting by name on each candidate is not prohibited by the Charter. Likewise the Committee was of the opinion that electronic voting should be authorized at such time as the City had that capability.

B. City Positions Created in the Charter, Council Approval.

The Resolution proposed to add the requirement that for the major City positions designated in the Charter (City Secretary, Chief of Police, Fire Chief, Director of Public Works and Head of the Department of Finance) the City Council must be presented with and approve the proposed employment of those persons.

The Committee discussed the fact that such required approval had been originally in the Charter and that it was unclear to the Committee as to why the approval requirements had been

⁵ A copy of the July 14, 2016 Minutes is included in the Appendix, App. C.

removed. Nevertheless, the Committee was of the opinion that for such public, powerful and important City positions the citizens' elected representatives should approve the initial hiring.⁶

C. Financial Disclosures.

The Resolution proposed to add a new Section (K) to Section 14.02 to be entitled Personal Financial Interest. The purpose of the addition was to require elected, appointed, or hired personnel, as well as candidates for election or appointment, to disclose financial interests that might be impacted or give rise to an appearance of conflict by virtue of the person's position with the City of Colleyville.⁷

The Committee was of the opinion that such financial disclosure requirements should apply to the Mayor and members of the City Council, Planning and Zoning Commission, Zoning Board of Adjustment and candidates for any of those positions. Also, the Committee was of the opinion that such disclosure requirements should include the department heads who would be appointed pursuant to the proposed amendments to Section 7 of the Charter and which would, if adopted, require City Council approval for appointment. Finally, the Committee was of the opinion that these disclosure requirements should apply to the City Manager and all of the City Manager's senior staff. Because job titles change it was thought appropriate not to further define "senior staff," but it was the Committee's intent to include, at a minimum, persons with the power to act in the City Manager's absence, the power to legally bind or commit the City to contracts, and those authorized to take official positions on behalf of the City.

Amendments to Section 14.02 beyond those suggested in the Resolution were also considered and adopted by the Committee. Those amendments will be discussed in a subsequent section of this Report.⁸

D. Term Limits.

The Resolution directed the Committee to consider an amendment to the Charter that would impose a two term limit on a person serving in the Office of Mayor or as a member of the City Council. The Committee was unanimous in its discussions and recommendations that term limits were needed and that a two term limit on service in the office of Mayor or as a member of City Council was an appropriate time period . The Committee also unanimously concurred in recommending a one full term interruption in continued service before a candidate was eligible to run again for the same office.

The Committee did consider three possibilities for implementing the proposed term limits. One possibility would be to implement the limitation immediately upon passage of the amendment. The impact of this would be that any sitting Mayor or City Council member who had already served more than two consecutive terms or 12 consecutive years in the combined

⁶ The minor additional amendments to Sections 7.02 and 7.06 are discussed, *infra*, at paragraph V of this Report.

⁷ Financial disclosures had previously been regulated by ordinance. Those ordinances, and the need for their possible revision or repeal, is discussed *infra* at paragraph V.

⁸ See *infra* at paragraph V.

office of Mayor and City Council would be deemed to have automatically resigned or had been automatically removed from office.

Members of the Committee inquired as to whether this could be done retroactively. The Chair advised that both the Texas Supreme Court and the Texas Attorney General had concluded that there was no legal barrier prohibiting the citizens, by charter amendment, from imposing term limits on sitting members of the City Council.⁹

The second alternative considered was to implement the proposed amendment at the next city election. Such would not require the removal or resignation of any sitting Mayor or City Council member but would apply to all sitting members making ineligible any person who had served two consecutive terms as Mayor or a City Council member, or more than 12 consecutive years in the combined office of Mayor and City Council.

The third alternative considered was to grant special dispensation to some or all persons currently sitting as Mayor or as a City Council member thereby exempting them from the impact of the amendment if adopted by the citizens of Colleyville.

Although several Committee members indicated a strong interest in applying the amendment retroactively to remove sitting members who had exceeded term limits, after discussion, it was unanimously agreed that such was not the best course for the City. First, it might impact the ability of the City Council to perform its scheduled duties until a replacement was appointed, if appropriate, for any term limited person, or a special election was held to fill the vacancy if required. The Committee also considered the cost of holding a special election and the need to conserve taxpayer funds.

The Committee also rejected, the vote being unanimous,¹⁰ the suggestion that any sitting member be given an exemption or special dispensation from the application of a Charter amendment adopted by the citizens of the City of Colleyville. It was the opinion of the Committee that there should be no special treatment given to any person and that the new charter provision should apply immediately to all office seekers at the next election.

The only rationale suggested for giving certain sitting members an exemption was that having experienced members would provide "an institutional memory." The Committee

⁹ Copies of the two Texas Supreme Court opinions and the two Texas Attorney General opinions are included in the Appendix, Apps I-L. Pertinent portions of the same have been highlighted. The Texas Supreme Court held in *Corpus Christi People's Baptist Church, Inc. v. Nueces County Appraisal Dist.*, 904 S.W. 2d 621, 626 (Texas 1995) that "unless vested rights are destroyed or impaired, a law is not invalid even though retroactive in operation." Further, the Texas Supreme Court held in *Tarrant County v. Ashmore*, 635 S.W. 2d 417, 422 that a public officer "has no vested right in the office held by him." Finally, the referenced Attorney General's opinions make clear that public officer positions may be changed "even though terms of some incumbent trustees will be shortened." Atty. Gen. Op. GA-0356 at p. 3. "If a city charter term limit provisions applies to service as a city officer prior to its adoption, it does not impair a vested right and therefore is not a 'retroactive law' prohibited by Article I, section 16 of the Texas Constitution." *Id.*

¹⁰ At the first meeting, one member of the Committee, who was unable to attend the second meeting, expressed the view that the amendment should not apply to sitting members.

concluded that because the terms of office are staggered and the City Manager and staff provide any necessary “institutional memory,” the amendment should apply in the next City election.

The Committee therefore determined that between the two poles of retroactive application and deferral for 6 years, the best, fairest and middle ground compromise would be to not immediately remove someone from office or give someone a six year pass on compliance. Rather it was the unanimous vote of the members of the Committee adopting the proposed amendment to apply it to all persons running in the next and all future city elections.¹¹

V. ADDITIONAL RECOMMENDATIONS OF THE COMMITTEE

The Committee, as permitted by the Resolution, also considered several other amendments not specifically identified in the Committee’s charge. Most of the amendments were of a housekeeping or clarification nature and were unanimously approved by the Committee.

A. Section 7.02 and 7.06.

These two sections did not contain the language “for an indefinite term” as contained in all of the other subsections of Section 7 being proposed for amendment to add the phrase “with the approval of City Council.” As a housekeeping matter and to insure consistency the Committee proposes that the phrase “for an indefinite term” be added to Sections 7.02 and 7.06 of the Charter.

B. Article XIII Transitional Provisions.

As another housekeeping matter the Committee proposes that Article XIII Transitional Provisions be repealed since Article XIII concerns matters occurring during the expired transition period in which the City converted from a 5 to 6 person City Council and the Mayor was authorized to vote only in limited circumstances.

C. Section 14.02.

In addition to adding subsection (K) discussed above, which was included in the Committee’s charge, the Committee also proposes to amend subsection 14.02(F) and add subsection 14.02(L). The amendment to subsection (F) adds language which gives a citizen more time to file a complaint regarding a violation of Section 14.02’s disclosure requirement. If a violation occurs by virtue of a vote or a decision (e.g. signing a contract) then the violation is objectively determinable by a citizen. However, if the violation is not objectively determinable because it is not public or is concealed, then a citizen has 15 days after he “knew or reasonably should have known of the violation” to file a complaint.

Finally, the Committee was of the opinion that the addition of subsection (L) makes clear that the disclosure requirements of new subsection (K) apply to the entirety of Section 14.02 and all of the matters covered therein.

¹¹ The complete text of the proposed amendment as adopted by the Committee is included in the Appendix, App. D.

D. Miscellaneous

Although not contained in the text of the proposed amendments, the Committee would also recommend the following two additional items for consideration by the Mayor and City Council.

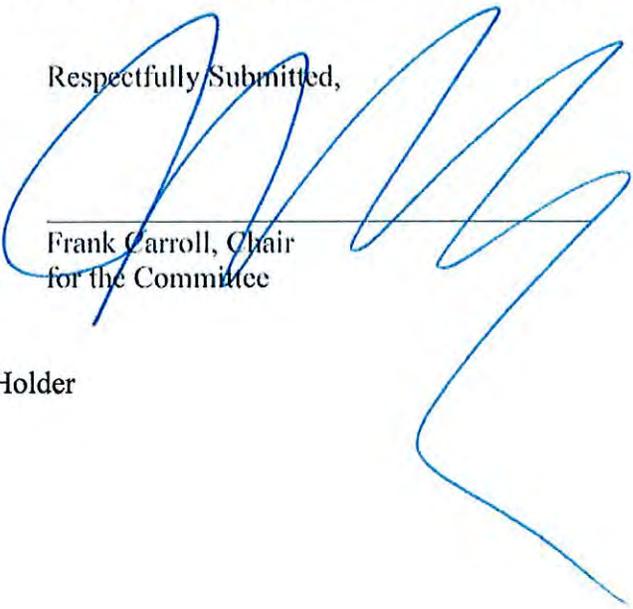
1. Implementation of Section 14.02. The Committee would recommend that the City Manager be charged with the preparation of draft forms, to be approved by the City Council, which accomplish the initial, supplemental and annual disclosures required by new Section 14.02(K).
2. Review, Amendment or Repeal of Possibly Conflicting or Redundant City Ordinances. As noted in the discussion of the proposed amendments to Section 14.02, the City has previously regulated such matters by ordinance. In particular ordinances O-02-1322 and O-13-1896 regulate the same subject matter as proposed Section 14.02.¹² To the extent such ordinances conflict, overlap or are superfluous, the Committee recommends their repeal, in whole or in part.

VI. CONCLUSION

Absent further direction, this concludes the work of the CRC. On a point of personal privilege, I would like to thank my Vice Chair, Mike Muhm, and all of the members of the Committee for their diligence, preparation, contribution, preparation and service. It has been a pleasure working with all of you.

Respectfully Submitted,

7/28/2016
Date



Frank Carroll, Chair
for the Committee

c: Mayor Richard Newton
Assistant City Manager Michael Holder
Michael Muhm, Vice Chair
Claudia Bevill
Vince Hawkins
Rich Hendler
David Medlin
Shirley Schollmeyer
Nelson Thibodeaux
Steve Walters
Tim Weymouth

¹² The ordinances are included in the Appendix, Apps M-N.

APPENDIX

APP. A

RESOLUTION R-16-4007

RESOLUTION R-16-4007

**A RESOLUTION OF THE CITY OF COLLEYVILLE, TEXAS
ESTABLISHING A COLLEYVILLE CITIZENS CITY CHARTER REVIEW
COMMITTEE, APPOINTING MEMBERS, AND PROVIDING A DATE
FOR THE CHARTER REVIEW COMMITTEE TO SUBMIT A FINAL
REPORT**

WHEREAS, the City Council believes that positive changes can be possibly made to the Colleyville City Charter to enhance the document without significantly effecting the democratic principles of the Colleyville City Charter or the opportunities of citizens to become informed on City issues and make known to their elected representatives their concerns and comments; and

WHEREAS, the City Council understands the need to review the City Charter to clarify, add or subtract as necessary to ensure the powers, rights and duties of the City government adhere to its original concepts and structure as a "Council-Manager Government."

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF COLLEYVILLE, TEXAS:**

Sec. 1. THAT a Colleyville Citizens City Charter Review Committee is hereby established.

Sec. 2. THAT the following citizens are appointed to the Colleyville Citizens City Charter Review Committee:

Steve Waltens	Nelson Thibodeaux
Michael Muhm	David Medlin
Claudia Bevill	Tim Weymuth
Frank Carroll	Rich Hendler
Shirley Schollmeyer	Vince Hawkins

Sec. 3. THAT Frank Carroll is appointed as Chair, and Michael Muhm is appointed as Vice Chair.

Sec. 4. THAT the City Manager shall provide administrative support services to the Colleyville Citizens City Charter Review Committee.

Sec. 5. THAT the Colleyville Citizens Charter Review Committee's responsibilities may include:

- a. Section 3.01 Number, Selection, Term: should contain language which limits consecutive terms to two in the same office, and how or when this shall commence. Compare this amendment with those of area cities for benchmarking.
- b. Section 3.09C Quorum and Voting: should provide language which allows electronic voting for City Council meetings, and language that allows for nominations and appointments and voting by name.
- c. Section 14.02 Personal Financial Interest: should include an additional subsection to provide the following:
 - k. Financial Disclosure and Business Conflict of Interest Forms shall be provided by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file within two (2) business days following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures within five (5) days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:
 - i. The location, size, and current use of all property owned within the portion of Dallas, Denton, and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.

- ii. The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor children have received a fee, salary, or gift of a value exceeding one hundred dollars(\$100.00).
 - iii. The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.
- d. Section 7.02 City Secretary: should provide an addition of "with the approval of City Council" to the following statement: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary."
- e. Section 7.03(A) Chief of Police: should provide an addition of "with the approval of City Council" to the following statement: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- f. Section 7.04(A) Fire Chief: should provide an addition of "with the approval of City Council" to the following statement: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."
- g. Section 7.05 Department of Public Works: should provide an addition of "with the approval of City Council" to the following statement: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

h. Section 7.06 Department of Finance: should provide an addition of "with the approval of City Council" to the following statement: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council.*"

Sec. 6. THAT the recommendations of the Colleyville Citizens Charter Review Committee shall be finalized and ready to be presented to the City Council by July 29, 2016.

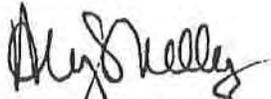
Sec. 7. THAT this resolution shall take effect immediately upon passage.

AND IT IS SO RESOLVED.

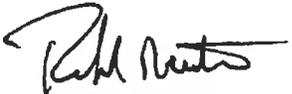
APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 21ST DAY OF JUNE 2016.

Mayor Richard Newton	<u>Aye</u>	Mayor Pro Tem Chris Putnam	<u>Aye</u>
Place 1, Tammy Nakamura	<u>Aye</u>	Place 5, Nancy Coplen	<u>Aye</u>
Place 2, Bobby Lindamood	<u>Aye</u>	Place 6, Mike Taylor	<u>Aye</u>
Place 4, Jody Short	<u>Aye</u>		

ATTEST:


Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE


Richard Newton
Mayor

APP. B

AGENDA AND MINUTES OF COMMITTEE MEETING OF JULY 6, 2016



Charter Review Committee Agenda

City Hall
100 Main Street
Colleyville, Texas 76034
817.503.1000
www.colleyville.com

Wednesday, July 6, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

2. ROLL CALL

3. DISCUSSION

- 3a** Discussion of the Committee's resolution, charge, requests for information procedure, and timetable for completion
- 3b** Discussion of proposed meeting dates: July 14, July 21, and July 25, 2016
- 3c** Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; and Section 3.01 Number, Selection, Term

4. ADJOURNMENT

I hereby certify this agenda was posted on City Hall bulletin boards Friday, July 1, 2016 by 5:00 p.m.

Amy Shelley, TRMC
City Secretary

A quorum of the Colleyville City Council and/or any City board, commission, or committee may be in attendance at this meeting.

Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.



City of Colleyville Charter Review Committee MINUTES

City Hall
100 Main Street
Colleyville, TX 76034
817.503.1000
www.colleyville.com

Wednesday, July 6, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

The Charter Review Committee was called to order on July 6, 2016, at 6:02 p.m. by Chairman Frank Carroll.

2. ROLL CALL: Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Rich Hendler, David Medlin, Claudia Bevill, Tim Weymouth, Nelson Thibodeaux, Steve Waltens, and Vince Hawkins were present

Absent: Shirley Schollmeyer

Mayor Richard Newton, Councilmember Bobby Lindamood, City Manager Jennifer Fadden, Assistant City Manager/Director of Public Safety Mike Holder, SH26 Project Coordinator James Hubbard, and City Secretary Amy Shelley were also present

Mayor Newton welcomed everyone and expressed his appreciation for their service to this committee.

Councilmember Lindamood also welcomed everyone and expressed his appreciation for their service to this committee.

3. DISCUSSION

- 3a** Discussion of the Committee's resolution, charge, requests for information procedure, and timetable for completion
- 3b** Discussion of proposed meeting dates: July 14, July 21, and July 25, 2016
- 3c** Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; and Section 3.01 Number, Selection, Term

Discussion of Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions detailed as the following:

Chairman Carroll asked the Committee members if there are any concerns regarding the proposed amendments to the employee positions outlined in the Charter. Member Waltens asked Chairman Carroll if there is simply a ratification of an appointee. Chairman Carroll stated if the City Council does not approve of the city manager's applicant, the applicant would not be appointed to the position. Member Waltens stated it is a distribution of power, per se.

Member Hawkins asked how the appointments currently occur. Chairman Carroll replied the City Council does not currently approve appointments to these positions.

Member Medlin asked how the city manager is approved and how often. Vice Chairman Muhm replied currently the City Council hires the municipal judge, the city attorney, and the city manager.

Member Medlin asked how often this occurs. Chairman Carroll replied it would occur if the city manager resigns or was fired. He added it does not happen every year, only when an issue arises. Member Hendler added there is an annual review for the city manager.

Member Thibodeaux asked if the Charter outlines a chart of responsibility to the city manager's direct reports. Chairman Carroll replied the proposed amendment does not define senior staff specifically.

Vice Chairman Muhm stated he does not understand why others are not listed, such as the deputy city manager. Mayor Newton replied these particular amendments are to the positions currently outlined in the Charter.

Member Hawkins asked after appointments are made, who is the manager of these people. Chairman Carroll replied the city manager is the manager of those people.

Member Hawkins asked if the city manager has complete autonomy. Chairman Carroll replied with the autonomy that the city manager gives them.

Member Hawkins asked if the city manager can terminate them without having to come back to City Council. Chairman Carroll replied no, these positions would not have to be approved for termination through City Council.

Mayor Newton added the phrase, *"with approval of City Council"* used to be in the Charter; however, it was removed in 2005.

Member Weymouth asked who the Mayor was in 2005. Mayor Newton replied Joe Hocutt. Member Hendler added Bill Lindley was the city manager at that time too.

Vice Chairman Muhm asked Member Hendler if City Council ever approved those positions. Member Hendler replied he did not remember.

Vice Chairman Muhm asked Mayor Newton if he remembered. Mayor Newton replied it was when he was there.

Member Hendler replied it seems to be more transparent and adds to the value of an elected City Council. Member Weymouth and Thibodeaux concurred.

Vice Chairman Muhm asked if there is nothing to require this be conducted in an executive session, or out in a public forum. Chairman Carroll replied just that it takes place.

Vice Chairman Muhm stated for an *"indefinite term"* is absent on the city secretary and the finance positions, unlike the other positions. Chairman Carroll replied it can be added to make those consistent with the other positions.

Member Medlin asked what an *"indefinite term"* means. Vice Chairman Muhm replied there is no term, you are at the pleasure of.

Member Hawkins asked about the timing of the hiring, and if any delays would hinder the process, especially with a competitive market place, and losing a candidate. Chairman Carroll replied it could be placed on a regular City Council meeting agenda, or City Council calls a special meeting. Member Hendler stated there would be a timeframe noted with the employee's departure.

Member Medlin asked staff if this situation has ever occurred. City Manager Jennifer Fadden replied she would adopt this process into the hiring schedule. Member Waltens added a special meeting could be called if a situation came up.

Discussion of Section 3.09C Quorum and Voting detailed as the following:

Vice Chairman Muhm replied it is important for voting at the same time, rather by a show of hands, or electronically.

Member Medlin asked about the committee member voting, and if the person would still be voted on. Chairman Carroll replied yes.

Vice Chairman Muhm asked if this is just clean-up language. Chairman Carroll replied yes, clean-up provisions.

Discussion of Section 14.02 Personal Financial Interest detailed as the following:

Chairman Carroll stated section 14.02(k)(i) should just read, "...Tarrant, Denton, and Dallas counties", with the removal of "north of Interstate 30 and east of Interstate 35 W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W..."

Vice Chairman Muhm asked if this will effect currently seated City Councilmembers. Chairman Carroll replied yes.

Member Medlin stated he agrees with a timeframe for reporting, but more than five days may need to be given for flexibility. Vice Chairman Muhm replied there are currently five days to report. Chairman Carroll replied five days seems to be a reasonable timeframe, but maybe to clarify it as five "business" days.

Vice Chairman Muhm added he likes business days, but five does seem tight. Member Medlin stated he would hate for someone to get in trouble if they are on vacation. Vice Chairman Muhm added these are rare occurrences. Chairman Carroll added especially with email, five business days should allow ample time.

Vice Chairman Muhm asked if this would just include updating the financial disclosure form. Chairman Carroll replied he envisions there would be an additional form used to update the financial disclosures, and maybe note any change that occurs during that timeframe.

Member Hawkins asked if the updates would include any publicly traded stock. Chairman Carroll replied he believed so. Member Medlin replied two percent would have to be disclosed.

Member Hawkins stated it may be difficult to do within five business days, if someone is trading on their behalf, and he added he does not feel two percent is high enough, maybe five percent would be better. He stated someone could violate this and not even realize it. Chairman Carroll replied not having a problem with that, it is the investments in the limited partnerships that create the financial conflicts.

Vice Chairman Muhm stated he believed the disclosure would be if there is a contractual relationship with the City, which may be very few and far between to begin with. Chairman Carroll replied that could be correct, but he did not know.

Member Medlin asked what the punishment is if this is violated or not disclosed. Chairman Carroll replied consequences with employees with the City would be possible termination, and the consequences with appointed officials (P&Z) would be removal by the City Council, and the consequences with elected officials would

be removal for violation of the City Charter. Member Muhm added an ethics complaint can be filed with the Texas Ethics Commission.

Member Weymouth asked for an example of where you have a contract with the City where we could own stock in it. Vice Chairman Muhm replied a contracting company such as paving. Chairman Carroll added a landscaping firm, or real estate investing.

Member Hawkins asked about regional banking for the City, and if someone has stock in that bank. Chairman Carroll replied yes, they would have to disclose the information.

Member Waltens asked if the intent is to prevent people from being on committees and/or holding offices, while promoting legislation by which they would benefit personally or financially. Chairman Carroll replied yes.

Chairman Carroll added the adoption of these amendments to the Charter may require amendments to other ordinances.

Member Medlin added he does not believe a personal business footer should be marketed in a City email. Member Bevill stated she believed it is covered under Section 14.02A, especially if you are addressing them from the position you hold, the personal interest should be set aside.

Chairman Carroll replied he is not sure if it prohibits this, and it may be something members want to revise to provide further clarification.

Member Medlin asked where the \$100 disclosure limit came from. Chairman Carroll replied most are at a \$50 minimum disclosure.

Member Hawkins asked if this excludes sporting events. Vice Chairman Muhm replied most will exceed \$100. Chairman Carroll replied it would need to be disclosed.

Member Bevill asked about rounds of golf. Chairman Carroll replied if it exceeds \$100.

Member Medlin asked if the dollar amount needed to be increased. Member Waltens replied it goes back to the spirit, we want to know if they have a relationship with people who are benefiting from the City's taxpayers' dollars. He added it is not going to be a rampant thing, and in reality it is just healthy to have it all disclosed.

Member Hawkins asked about people trying to get approval through City Council or P&Z. Member Thibodeaux replied it states any proposed or existing. Member Waltens stated it is not in the financial disclosure language. Member Thibodeaux

added it exists in the Charter today. Chairman Carroll stated a provision could be added to Section 14.02k that would apply to any interested parties. Member Waltens and Medlin agreed.

Member Weymouth asked if it is realistic for a citizen to know within 15 days if something is wrong, as outlined in Section 14.02(F). Chairman Carroll added he would provide some clarification language for this, such as "knew or should have reasonably known."

Discussion of Section 3.01 Number, Selection, Term detailed as the following:

Vice Chairman Muhm asked if a councilmember, in his second term, would have to resign after filing for Mayor. Chairman Carroll replied if someone resigns their position, even if only one day is served, it would still count as a full term served.

Member Medlin asked if the councilmember would have to resign if they are in their third year of their second term while they are running for Mayor. Chairman Carroll replied that is not addressed here, but no, they would not have to resign the way it is currently drafted. Mayor Newton replied the Charter currently states that they would have to resign from their current office. City Manager Jennifer Fadden added it is in Section 3.08.

Chairman Carroll asked Mayor Newton how much of the term would have to remain before a special election to fill the vacancy would occur. Mayor Newton replied it is something like 90 days within an election, or hold a special election. Member Medlin stated Section 3.05 is relevant to vacancies.

Chairman Carroll requested committee members to send him an email with any revisions necessary to the proposed section.

Member Waltens asked about being consistent with the words "terms" and "years." Chairman Carroll replied there is no reason why we can't be consistent with either throughout the Charter. He added the 12 years is relevant to years in any combined office.

Member Medlin asked if there is any interest in limiting total terms. Member Bevill replied she likes that, especially since other cities are doing it.

Member Thibodeaux asked Chairman Carroll about four terms or 12 consecutive years. Chairman Carroll replied 12 years is the maximum of consecutive years served, two terms as City Council, two terms as Mayor.

Member Waltens asked if this will be retroactive. Chairman Carroll replied it is not retroactive, because any member, who has met this provision, would immediately

be kicked off. He added this provision allows for it to become effective at the next election.

Member Hawkins stated he does not agree with making this effective immediately because of the loss of institutional knowledge. Member Medlin stated the previous institutional knowledge did not listen to the citizens. Member Thibodeaux added this has to be straight forward, and if the citizens are going to vote for it now it must be effective immediately. Member Hawkins stated being in favor of term limitations, and it depends on how we enact them. Vice Chairman Muhm agreed.

Member Bevill replied she does not have a problem with the way it is written, but there is provisional language sometimes used for the transitional situations. Chairman Carroll stated there is always a way to write it, but it is proposed to let everyone serve out the term they currently have, and it applies to all City Councilmembers.

Councilmember Lindamood stated Colleyville is enriched with so much talent, and people that want to run for office are already doing their homework to run for office. Member Hawkins agreed, and stated those people can run now. Councilmember Lindamood added there was some discouragement to run against someone who has been in office for so long.

Vice Chairman Muhm added there is a lot of bench strength in the community, and new ideas enhance that experience. He stated there has to be a mechanism to force change or it never happens.

Member Hawkins stated he is not disagreeing with term limitations, just the implementation of it. He stated effective immediately targets some current members, and phasing this in does not reduce its power.

Chairman Carroll stated it then becomes an issue about when to do it, or how much time to delay it.

Member Waltens asked about the benefit of delaying it now then saying upon the expiration of your term, you serve two terms, then you are ineligible. Member Hawkins replied it helps with the institutional knowledge of the business of Colleyville.

Member Bevill stated she believes the new people will dig in and work hard. She stated there is a lot to be said for experience, but that is not the be-all-end-all. She stated not sure that institutional knowledge is a valid concern, especially with so many bright and willing people in the community, and they will find out.

Member Waltens stated if we agree that term limits are a good idea, then why not implement them now versus later?

Member Thibodeaux stated the institutional knowledge is with the city manager. He stated his concern is that if it is not effective now, then the voters question when it becomes effective.

Member Hawkins asked about the ratification of this process. Chairman Carroll replied the next time the amendments will be voted on, one at a time, with somebody making a motion to approve it, and somebody will second it. If there are amendments, then those will need to be voted on as well. He added he will then put together a report for the committee to review, and then it will be presented to City Council for their review. He stated at that time, it will be placed on a City Council agenda for their approval, and then a resolution will be placed on another City Council agenda to call the special election.

Member Hawkins asked if the vote will be made by the majority. Chairman Carroll replied yes.

Member Hawkins asked about the next committee meeting. Chairman Carroll replied on July 14th, in this room.

Vice Chairman Muhm asked Chairman Carroll if a member is not present, can they vote by proxy. Chairman Carroll replied he did not know, but asked the city manager to ask the city attorney to see if the members can attend by telephone.

Member Hawkins stated he would prefer to email his vote in. Member Weymouth stated he would not be here either. Member Hawkins stated he would like some flexibility in voting, especially given the short timeframe.

Member Bevill asked about the inconsistencies in the Charter, Section 3.09A, page 8 and 13.01(C)3, page 34 – the calling of special meetings with three or four members; and same sections with three or four affirmative votes. Chairman Carroll stated when the City Council member number changed from six to seven members, these numbers were left to reflect that change. He added he would make an effort to clean those up. Assistant City Manager/Director of Public Safety Mike Holder stated this was to provide for the transition between six and seven members. Chairman Carroll replied Article XIII may need to be removed from the Charter, with a separate vote.

Member Thibodeaux asked about the four members calling a special meeting and if that violates the open meetings. Chairman Carroll replied he did not believe it violates the open meetings act.

4. ADJOURNMENT

There being no further business before the Committee, Member Thibodeaux moved to adjourn the meeting. Member Weymouth seconded. Chair Frank Carroll adjourned the meeting at 7:53 p.m.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 14TH DAY OF JULY 2016.

Minutes taken and prepared by:

A handwritten signature in black ink that reads "Amy Shelley". The signature is written in a cursive, flowing style.

Amy Shelley, TRMC
City Secretary

APP. C

AGENDA AND MINUTES OF COMMITTEE MEETING OF JULY 14, 2017



Charter Review Committee Agenda

City Hall
100 Main Street
Colleyville, Texas 76034
817.503.1000
www.colleyville.com

Thursday, July 14, 2016
6:00 p.m.

Executive Conference Room
Third Floor – City Hall

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

July 6, 2016

4. DISCUSSION

4a Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; Section 3.01 Number, Selection, Term

4b Discussion of additional amendments proposed by committee members

5. ADJOURNMENT

I hereby certify this agenda was posted on City Hall bulletin boards Friday, July 8, 2016 by 5:00 p.m.

Amy Shelley, TRMC
City Secretary

A quorum of the Colleyville City Council and/or any City board, commission, or committee may be in attendance at this meeting.

Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.



City of Colleyville Charter Review Committee MINUTES

City Hall
100 Main Street
Colleyville, TX 76034
817.503.1000
www.colleyville.com

**Thursday, July 14, 2016
6:00 p.m.**

**Executive Conference Room
Third Floor – City Hall**

1. CALL TO ORDER

The Charter Review Committee was called to order on July 14, 2016, at 6:04 p.m. by Chairman Frank Carroll.

2. ROLL CALL: Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux were present

Absent: Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

Councilmembers Tammy Nakamura and Bobby Lindamood, City Manager Jennifer Fadden, Assistant City Manager/Director of Public Safety Mike Holder, SH26 Project Coordinator James Hubbard, and City Secretary Amy Shelley were also present

3. APPROVAL OF MINUTES

July 6, 2016

Vice Chair Muhm made a motion to approve the meeting minutes as written. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

4. DISCUSSION

4a Discussion of resolution items to be considered: Section 14.02 Personal Financial Interest; Section 3.09C Quorum and Voting; Section 7.02 City Secretary; Section 7.03A Chief of Police; Section 7.04A Fire Chief; Section 7.05 Department of Public Works; Section 7.06 Department of Finance; other City positions; and Section 3.01 Number, Selection, Term

Chairman Carroll explained that each proposed amendment would be read, discussed, and then voted upon by the committee members. The details of the proposed amendment and voting results are listed below.

SECTION 3.09 (C) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 3.09 (C) Quorum and Voting of the Charter of the City of Colleyville is hereby amended as follows to add the italicized provisions:

(C) Quorum and Voting. Four (4) voting members of the City Council shall constitute a quorum. Voting, except on procedural motions, *and nominations to City Boards, Committees and Commissions* shall be by roll call and the "ayes" and nays" shall be recorded in the minutes. The mayor and every City Council Person shall vote on all issues unless there is a declared and recorded statutory conflict of interest. If because of a statutory conflict of interest a member steps down and remains in the Chamber to return after the item is resolved, then a quorum will be considered in attendance even though only three (3) City Council Persons are left to vote. However, no action shall be approved with less than four (4) affirmative votes. If during the course of a meeting a quorum ceases to exist, the meeting shall be deemed adjourned and no further business shall be conducted. *The roll call vote may be conducted electronically.*

Committee member Bevill made a motion to approve the Section 3.09 (C) as written. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.02 City Secretary is hereby amended as follows to add the italicized phrase:

Section 7.02 City Secretary: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary, *for an indefinite term.*"

Vice Chairman Muhm made a motion to approve the Section 7.02 as written. Committee member Hendler seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.03 (A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.03 (A) Chief of Police is hereby amended as follows to add the italicized phrase:

Section 7.03

(A) Chief of Police: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

Committee member Medlin made a motion to approve the Section 7.03 (A) as written. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.04 (A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.04 (A) Fire Chief is hereby amended as follows to add the italicized phrase:

Section 7.04

(A) Fire Chief: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

Vice Chairman Muhm made a motion to approve the Section 7.04(A) as written. Committee member Schollmeyer seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.05 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.05 Department of Public Works is hereby amended as follows to add the italicized phrase:

Section 7.05 Department of Public Works: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

Committee member Bevill made a motion to approve the Section 7.05 as written. Vice Chairman Muhm seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

SECTION 7.06 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.06 Department of Finance is hereby amended as follows to add the italicized phrase:

Section 7.06 Department of Finance: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council, for an indefinite term.*"

Committee member Medlin made a motion to approve the Section 7.06 as written. Committee member Schollmeyer seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

ARTICLE XIII OF THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended by making the following deletion:

Article XIII Transitional Provisions is hereby deleted in its entirety.

Vice Chairman Muhm made a motion to approve the deletion of Article XIII Transitional Provision as proposed. Committee member Thibodeaux seconded the motion.

The motion carried with the following vote:

Aye: 7 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, and Nelson Thibodeaux

Absent: 3 – Committee members Vince Hawkins, Steve Waltens, and Tim Weymouth

Committee member Steve Waltens arrived at 6:14 p.m., and was present and voting for the remainder of the meeting.

SECTION 14.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 14.02 (F) Citizen Complaints is hereby amended as follows to add the italicized language:

(F) Citizen Complaints. Any citizen of the City may file with the City Secretary a statement of suspected conflict of interest. Such statement of suspected conflict of interest shall be filed within fifteen (15) days of the decision *or vote, or if another* event giving rise to an asserted violation of paragraph C above, *within fifteen (15) days of when the citizen knew or reasonably should have known of the asserted violation*, and shall describe the complained of conflict in reasonable detail. The City Council, or its designee, shall respond in writing to a timely filed statement of suspected conflict of interest, and the statement of suspected conflict of interest and response of the City Council shall be maintained in the public records of the City.

Section 14.02 Personal Financial Interest is hereby further amended as follows to add Subsections (K) and (L):

(K) Financial Disclosure and Business Conflict of Interest Forms shall be provided by candidates for Mayor and City Council and by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file such forms within two (2) business days following the end of the candidate filing period, or if for appointment, within (2) business days following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members (including any staff member who is appointed with City Council approval) shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures annually and within five (5) business days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:

(i) The location, size, and current use of all property owned within the portion of Dallas, Denton and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.

(ii) The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor children have received a fee, salary, or gift of value exceeding one hundred dollars (\$100.00).

(iii) The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.

(L) The disclosure reporting obligations required by Section 14.02 (K) apply to all of the relationships listed in this Section 14.02.

Committee member Medlin asked Chairman Carroll if there is any concern of more complaints being filed. Chairman Carroll replied he did not believe so.

Committee member Bevill asked Chairman Carroll if these items will be separated on the ballot. Chairman Carroll replied he does not believe Section 14.02 will be separated, but he will leave that to the city attorney.

Committee member Schollmeyer asked Chairman Carroll if these items will be written on the ballot for voters to read. Chairman Carroll replied yes.

Vice Chairman Muhm asked Chairman Carroll if the parameters in Section 14.02 (K) (ii) includes the same area as it did originally in 2002. Chairman Carroll replied yes, that is his understanding.

Committee member Waltens made a motion to approve the Section 14.02 as written. Committee member Medlin seconded the motion.

The motion carried with the following vote:

Aye: 8 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, Nelson Thibodeaux, and Steve Waltens

Absent: 2 – Committee members Vince Hawkins and Tim Weymouth

Chairman Carroll stated if Section 14.02 is adopted, the ordinances which have adopted the financial disclosure requirements will need to be repealed or amended by the City Council, to eliminate any conflict with the Charter.

Vice Chairman Muhm stated the City Council will need to develop some type of form for this disclosure. Chairman Carroll replied yes, they would need to be approved by the City Council and he is going to suggest that as part of the report.

SECTION 3.01 OF THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended as follows by adding as new Section 3.01 (A):

SECTION 3.01 (A) Limitations on Terms

(A) No person shall serve as Mayor for more than two (2) consecutive elected terms, and no person shall serve as a Council Member for more than two (2) consecutive elected terms. Under no circumstances may any person ever serve for more than twelve (12) consecutive years in combination as a Council Member and Mayor. For purposes of this Section 3.01 (A) and computing the limitations on terms:

(1) A Mayor or Council Member, who vacates, for any reason, the office before the end of the term for which he was elected, shall be considered to have completed that term.

(2) An appointment or election to fulfill an unexpired Council Member term, or unexpired Mayor term if applicable, shall be computed as follows:

(i) if fifty percent (50%) or more of the term is remaining, it shall be included in the computation of term limits; or

(ii) if less than fifty percent (50%) of the term is remaining, it shall not be included in the computation of term limits.

Any Council Member or Mayor, who is ineligible to run for elected City office due to the limitations on terms as provided herein, shall remain ineligible to hold an elected City office for a period of one (1) full term following the expiration of the most recent term of City office for which he *or she* was elected with the exception of a Council Member seeking the office of Mayor or the Mayor seeking the office of a Council Member.

The term that each person as Mayor or as a Council Member is currently filling, and all terms consecutively served prior to that current term, shall be counted for purposes of determining whether two (2) consecutive terms have been served.

This amendment shall become effective immediately upon adoption at the next municipal election, shall apply to all persons currently occupying the Office of Mayor or Council Member, and shall apply to all municipal elections conducted after the date of adoption.

Vice Chairman Muhm asked Chairman Carroll if the one term is listed in another place/section in the Charter. Chairman Carroll replied it is included in the proposed Section 3.01 (A).

Committee member Medlin made a motion to approve the Section 3.01 (A) with the removal of "or she" as noted above in italics. Vice Chairman Muhm seconded the motion.

Committee member Thibodeaux stated there were three options the Committee could have taken relative to the implementation of the term limits: (1) to make retroactive, which meant anyone who fell within the term limits would have to resign; (2) delay it, but then the question becomes for how long; (3) make effective immediately, which affects all Councilmembers the same. He added the third option is what the Committee chose. Chairman Carroll agreed.

Committee member Waltens stated he believed it should have been retroactive, but he also believes in compromise. He asked Chairman Carroll if this is the compromise. Chairman Carroll replied yes. Committee member Medlin agreed.

Vice Chairman Muhm stated if it had been retroactive, it would cause a special election. Chairman Carroll added which is costly, and by doing this at the next election, it does not disrupt the functioning of the legislative body, but it implements the change at the next election.

Committee member Waltens stated term limits are necessary and he is opposed to it being retroactive because of the fiscal impacts to the City.

The motion carried with the following vote:

Aye: 8 – Chair Frank Carroll, Vice Chairman Michael Muhm, and Committee members Claudia Bevill, Rich Hendler, David Medlin, Shirley Schollmeyer, Nelson Thibodeaux, and Steve Waltens

Absent: 2 – Committee members Vince Hawkins and Tim Weymouth

Committee member Hendler asked for clarification on the transitional provisions outlined in Article XIII. Chairman Carroll replied those transitional provisions were in place for the previous Charter amendments, and now are operating totally independent of that.

4b Discussion of additional amendments proposed by committee members

There was no discussion of this item.

Committee member Thibodeaux asked Chairman Carroll about the debate about if an elected official would have to resign his position to run for any state election. Chairman Carroll replied the Charter currently requires the elected official to resign the City position to run for any other office. Vice Chairman Muhm concurred, and stated it also applies if the elected official wishes to run for a different Council place.

Committee member Medlin stated he would like for Chairman Carroll's report to include the three options relative to term limits that the Committee had to choose from. Chairman Carroll agreed.

Vice Chairman Muhm asked Chairman Carroll about the Committee's role in submitting the report to City Council. Chairman Carroll replied he did not know, but he would visit with Mayor Newton, and he will advise the Committee members.

Councilmember Lindamood expressed his appreciation to the Committee members and their commitment to the Charter review.

5. ADJOURNMENT

There being no further business before the Committee, Vice Chairman Muhm moved to adjourn the meeting. Chairman Carroll seconded. Chairman Carroll adjourned the meeting at 6:35 p.m.

Minutes taken and prepared by:



Amy Shelley, TRMC
City Secretary

As the Charter Review Committee will not meet again for actual approval of these minutes, these minutes are considered the final action of the Charter Review Committee.



Frank Carroll
Charter Review Committee Chair

APP. D

**PROPOSED AMENDMENT TO CHARTER OF CITY OF COLLEYVILLE SECTION
3.01A - LIMITATION ON TERMS**

PROPOSED AMENDMENT

TO

THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended as follows by adding as new Section 3.01A:

SECTION 3.01A. Limitations on Terms

No person shall serve as Mayor for more than two (2) consecutive elected terms, and no person shall serve as a Council Member for more than two (2) consecutive elected terms. Under no circumstances may any person ever serve for more than twelve (12) consecutive years in combination as a Council Member and Mayor. For purposes of this Section 3.01A. and computing the limitations on terms:

- (1) a Mayor or Council Member, who vacates, for any reason, the office before the end of the term for which he was elected, shall be considered to have completed that term.
- (2) an appointment or election to fulfill an unexpired Council Member term, or unexpired Mayor term if applicable, shall be computed as follows:
 - (i) if fifty percent (50%) or more of the term is remaining, it shall be included in the computation of term limits; or
 - (ii) if less than fifty percent (50%) of the term is remaining, it shall not be included in the computation of term limits.

Any Council Member or Mayor, who is ineligible to run for elected City office due to the limitations on terms as provided herein, shall remain ineligible to hold an elected City office for a period of one (1) full term following the expiration of the most recent term of City office for which he was elected with the exception of a Council Member seeking the office of Mayor or the Mayor seeking the office of a Council Member.

The term that each person as Mayor or as a Council Member is currently filling, and all terms consecutively served prior to that current term, shall be counted for purposes of determining whether two (2) consecutive terms have been served.

This amendment shall become effective immediately upon adoption at the next municipal election, shall apply to all persons currently occupying the Office of Mayor or Council Member, and shall apply to all municipal elections conducted after the date of adoption.

APP. E

**PROPOSED AMENDMENT TO SECTION 3.09(C) TO
CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

SECTION 3.09(C) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 3.09(C) Quorum and Voting of the Charter of the City of Colleyville is hereby amended as follows to add the italicized provisions:

(C) Quorum and Voting. Four (4) voting members of the City Council shall constitute a quorum. Voting, except on procedural motions, *and nominations to City Boards, Committees and Commissions* shall be by roll call and the "ayes" and nays" shall be recorded in the minutes. The mayor and every City Council Person shall vote on all issues unless there is a declared and recorded statutory conflict of interest. If because of a statutory conflict of interest a member steps down and remains in the Chamber to return after the item is resolved, then a quorum will be considered in attendance even though only three (3) City Council Persons are left to vote. However, no action shall be approved with less than four (4) affirmative votes. If during the course of a meeting a quorum ceases to exist, the meeting shall be deemed adjourned and no further business shall be conducted. *The roll call vote may be conducted electronically.*
(Amended May 7, 2005)

APP. F

**PROPOSED AMENDMENTS TO SECTIONS 7.02, 7.03(A), 7.04(A), 7.05 AND 7.06
TO CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

SECTION 7.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.02 City Secretary is hereby amended as follows to add the italicized phrase:

- d. Section 7.02 City Secretary: "The City Manager, *with the approval of City Council*, shall appoint a qualified individual to fill the position of City Secretary, *for an indefinite term.*"

PROPOSED AMENDMENT

TO

SECTION 7.03(A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.03(A) Chief of Police is hereby amended as follows to add the italicized phrase:

- e. Section 7.03(A) Chief of Police: "The Chief of Police shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

PROPOSED AMENDMENT

TO

SECTION 7.04(A) OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.04(A) Fire Chief is hereby amended as follows to add the italicized phrase:

- f. Section 7.04(A) Fire Chief: "The Fire Chief shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

PROPOSED AMENDMENT

TO

SECTION 7.05 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.05 Department of Public Works is hereby amended as follows to add the italicized phrase:

- g. Section 7.05 Department of Public Works: "The Director of Public Works shall be appointed by the City Manager, *with the approval of City Council*, for an indefinite term."

PROPOSED AMENDMENT

TO

SECTION 7.06 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 7.06 Department of Finance is hereby amended as follows to add the italicized phrase:

- h. Section 7.06 Department of Finance: "There shall be a Department of Finance headed by the City Manager or his appointee, *with the approval of City Council, for an indefinite term.*"

APP. G

**PROPOSED AMENDMENT TO ARTICLE XIII TO
CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

ARTICLE XIII OF THE CHARTER OF THE CITY OF COLLEYVILLE

The Charter of the City of Colleyville is hereby amended by making the following deletion:

Article XIII Transitional Provisions is hereby deleted in its entirety.

APP. H

**PROPOSED AMENDMENT TO SECTION 14.02 TO
CHARTER OF CITY OF COLLEYVILLE**

PROPOSED AMENDMENT

TO

SECTION 14.02 OF THE CHARTER OF THE CITY OF COLLEYVILLE

Section 14.02 (F) Citizen Complaints is hereby amended as follows to add the italicized language:

- (F) Citizen Complaints. Any citizen of the City may file with the City Secretary a statement of suspected conflict of interest. Such statement of suspected conflict of interest shall be filed within fifteen (15) days of the decision or vote, or *if another event giving rise to an asserted violation of paragraph C above, within fifteen (15) days of when the citizen knew or reasonably should have known of the asserted violation*, and shall describe the complained of conflict in reasonable detail. The City Council, or its designee, shall respond in writing to a timely filed statement of suspected conflict of interest, and the statement of suspected conflict of interest and response of the City Council shall be maintained in the public records of the City.

Section 14.02 Personal Financial Interest is hereby further amended as follows to add Subsections (K) and (L):

- (K) Financial Disclosure and Business Conflict of Interest Forms shall be provided by candidates for Mayor and City Council and by applicants seeking appointments to the Planning and Zoning Commission or the Zoning Board of Adjustment, and shall file such forms within two (2) business days following the end of the candidate filing period, or if for appointment, within (2) business day following the end of the application period stated in the official City advertisement for application for the position. The city manager and the city manager's senior staff members (including any staff member who is appointed with City Council approval) shall also file the same within thirty (30) days of hiring. All person(s), as outlined above, shall have a duty to file supplemental disclosures annually and within five (5) business days of an occurrence of any change in the information reflected in the forms previously filed by the individual. These forms shall include the following information:
 - (i) The location, size, and current use of all property owned within the portion of Dallas, Denton and Tarrant County north of Interstate 30 and east of Interstate 35W, and that portion of Denton County south of State Highway 114 and east of Interstate 35W, or held in trust by the person(s), as outlined above, their spouse, and any dependent minor children, or any business entity in which the person has a financial interest.
 - (ii) The name and address of any person or corporation which currently has or during the preceding twelve (12) months has had a contractual relationship with the City and from which the person(s), as outlined above, their spouse or dependent minor

children have received a fee, salary, or gift of a value exceeding one hundred dollars (\$100.00).

- (iii) The name and address of any corporation or business, which currently has or in the preceding twelve (12) months has had a contractual relationship with the City, of which the person(s), as outlined above, their spouse, or any dependent minor children own more than two percent (2%) of the outstanding equity interest or more than two percent (2%) of the assets.
- (L) The disclosure reporting obligations required by Section 14.02(K) apply to all of the relationships listed in this Section 14.02.

APP. I

***CORPUS CHRISTI PEOPLE'S BAPTIST CHURCH V.
NUECES COUNTY APPRAISAL DIST., 904 S.W.2D 621 (TEX. 1995)***

Page 621

904 S.W.2d 621
38 Tex. Sup. Ct. J. 643, 38 Tex. Sup. Ct.
J. 653
CORPUS CHRISTI PEOPLE'S BAPTIST
CHURCH, INC., Petitioner,
v.
NUECES COUNTY APPRAISAL
DISTRICT et al., Respondents.
No. D-4333.
Supreme Court of Texas.
Argued Oct. 20, 1994.
May 25, 1995.
Rehearing Overruled Sept. 14, 1995.

Page 622

Charlotte A. Cover, David C. Gibbs, Jr.,
Conneaut, OH, Clyde Jackson, Jr., Corpus
Christi, for petitioner.

Russell R. Graham, Kent M. Rider,
Gregory E. Perry, Dan Morales, Austin, for
respondents.

HECHT, Justice, delivered the opinion of
the Court, in which PHILLIPS, Chief Justice,
CORNYN, GAMMAGE and OWEN, JJ., join.

Persons in some categories exempt from
property taxes must ordinarily apply for an
exemption before May 1 of the year for which
taxes are imposed. TEX.TAX CODE § 11.43.
The Legislature has extended this deadline,
however, for certain exemptions, including
the religious organization exemption. Id. §
11.433. The case before us questions whether
this particular statutory provision, section
11.433, violates either of two provisions of the
Texas Constitution: article III, section 55,
which prohibits the Legislature from
extinguishing any person's obligation to the
State, and article I, section 16, which
prohibits retroactive laws. We hold it does
not.

I

Taxes are imposed upon real property
each year as of January 1. TEX.TAX CODE §
21.02. On that date a lien authorized by
article VIII, section 15 of the Texas
Constitution attaches to the property to
secure their payment. Id. § 32.01. The amount
of taxes assessed is not determined until later
in the year, however, when appraisals have
been completed and tax rates set. Id. §§ 26.01
& 26.05. Tax bills must be mailed by October
1 of the year for which taxes are assessed, or
as soon thereafter as practicable. Id. § 31.01.
Taxes are due upon receipt of the bill, and if
not paid by February 1 of the following year,
the taxing unit may sue to collect the tax and
foreclose its lien. Id. §§ 31.02 & 33.41.

Article VIII, section 2(a) of the Texas
Constitution authorizes the Legislature to
exempt the property of religious
organizations from taxation, and the
Legislature has exercised this authority. Id. §
11.20. To be entitled to the exemption,
however, a religious organization, like certain
others claiming tax exemptions, must apply to
the chief appraiser in the district where the
property

Page 623

is located before May 1 of the first year for
which the tax exemption is claimed. Id. §
11.43(a), (c) & (d). Application for the
exemption in subsequent years need not be
made unless the chief appraiser requires it.
Id. § 11.43(c).

An application for exemption was first
required of religious organizations in 1982,
after section 11.43 of what was then the new
Tax Code took effect. Act of May 26, 1979,
66th Leg., R.S., ch. 841, § 3(a), 1979
Tex.Gen.Laws 2217, 2313. Before 1980, under
the prior law, the procedure for claiming the
exemption was for a religious organization to
file with the taxing authority a sworn,
itemized list of exempt property. Act
approved May 14, 1931, 42nd Leg., R.S., ch.
124, § 1, 1931 Tex.Gen.Laws 211, 211-12



(formerly TEX.REV.CIV.STAT.ANN. art. 7150(1)). This statute was repealed, effective January 1, 1980, by the enactment of the new Tax Code. Act of May 26, 1979, 66th Leg., R.S., ch. 841, §§ 3(f) & 6(d), 1979 Tex.Gen.Laws 2217, 2315, 2330. The religious organization exemption under section 11.20 of the new Tax Code, which simply carried over from the prior law, became effective on January 1, 1980, along with other parts of the new Code. Act of May 26, 1979, 66th Leg., R.S., ch. 841, § 3(f), 1979 Tex.Gen.Laws 2217, 2315. As already noted, however, this was two years before the effective date of section 11.43, governing applications for exemption. Thus, in 1980 and 1981 a religious organization was not required to file a list of property, make application, or do anything else to claim the property tax exemption.

The requirement of an application and the deadline for filing that application appear to have caught religious organizations and other tax-exempt persons unaware, with the result that some lost their exemption because they did not timely apply for it. See HOUSE COMM. ON WAYS & MEANS, BILL ANALYSIS, Tex.H.B. 835, 73rd Leg., R.S. (1993) (explaining the reason for the twelve-year extension enacted in 1993, which also applies to the six-year extension enacted three years earlier.) In response, the Legislature in 1990 enacted section 11.433, effective September 6, 1990, which states:

§ 11.433. Late Application for Religious Organization Exemption

(a) The chief appraiser shall accept and approve or deny an application for an exemption under Section 11.20 [for religious organizations] after the filing deadline provided by Section 11.43 if the application is filed not later than December 31 of the sixth year after the year in which the taxes for which the exemption is claimed were imposed.

(b) The chief appraiser may not approve a late application for an exemption filed under this section if the taxes imposed on the property for the year for which the exemption is claimed are paid before the application is filed.

(c) If a late application is approved after approval of the appraisal records for the year for which the exemption is granted, the chief appraiser shall notify the collector for each taxing unit in which the property was taxable in the year for which the exemption is granted. The collector shall deduct from the organization's tax bill the amount of tax imposed on the property for that year if the tax has not been paid and any unpaid penalties and accrued interest relating to that tax. The collector may not refund taxes, penalties, or interest paid on the property for which an exemption is granted under this section.

(d) The chief appraiser may grant an exemption for property pursuant to an application filed under this section only if the property otherwise qualified for the exemption under the law in effect on January 1 of the tax year for which the exemption is claimed.

(e) An application may not be filed under this section after December 31, 1991.

Act of June 6, 1990, 71st Leg., 6th C.S., ch. 8, § 1, 1990 Tex.Gen.Laws 46. This is the provision at issue in this case. In 1993, the late application deadline was further extended when subsection (e) was amended to read as follows:

(e) Notwithstanding Subsection (a), the chief appraiser shall accept and approve or deny an application for an exemption under Section 11.20 after the filing deadline provided by Section 11.43 if the application

is filed not later than December 31 of the 12th year after the year in which the taxes for which the exemption is claimed were imposed and if the application is filed before January 1, 1995. This subsection expires January 1, 1996.

Act of May 30, 1993, 73rd Leg., R.S., ch. 971, § 1, 1993 Tex.Gen.Laws 4235. Section 11.433 does not extend the time for applying for an exemption if the taxes have already been paid, nor does it permit refunds.

Section 11.433 is similar to two other statutes enacted in 1991 permitting late applications for tax exemptions, although the permission granted by those two statutes has now expired. TEX.TAX CODE § 11.434 (six-year extension for school exemption until December 31, 1992); § 11.435 (two-year extension for charitable organization exemption until December 31, 1991); Act of May 27, 1991, 72nd Leg., R.S., ch. 836, §§ 6.3 & 6.4, 1991 Tex.Gen.Laws 2890, 2894-95. The Legislature has also extended the deadline for claiming a homestead exemption for a year after taxes are paid or become delinquent. TEX.TAX CODE § 11.431. Section 11.431, unlike sections 11.433-.435, appears to have been motivated by constitutional concerns. See Op.Tex. Att'y Gen. MW-259 (1980) ("A legislatively designated cutoff date for homestead exemption claims under article VIII, section 1-b of the Texas Constitution will not alone operate to deprive a taxpayer of an exemption ..."); see also Op.Tex. Att'y Gen. JM-221 (1984) (section 11.431 permits tax refunds when homestead application is filed late).

II

The Corpus Christi People's Baptist Church owns a tract of some 430 acres in Nueces County. A 24.33-acre piece of the tract has long been exempt from taxation and is not in dispute in this litigation. In 1990 the Church applied for and received an exemption for an additional 146.343 acres of

the tract. At about the same time, Nueces County sued the Church to collect taxes assessed on the 146.343 acres from 1984 through 1989 that were never paid. This appears to have been the first effort to collect those taxes. Shortly after that suit was filed, section 11.433 became effective, and about two months later the Church applied for an exemption for the 146.343 acres for the years 1984 through 1989. The Nueces County Appraisal District denied the application solely because it considered section 11.433 unconstitutional under article III, section 55 and article I, section 16 of the Texas Constitution. The Appraisal Review Board upheld the Appraisal District's decision.

The Church petitioned the district court for review. Nueces County's earlier-filed delinquent tax suit against the Church was consolidated with this action. The Attorney General intervened for the limited purpose of defending the constitutionality of section 11.433. The case was tried on stipulated facts. The Church abandoned its claim of exemption for the years 1984 and 1985, based upon the outcome of an unrelated lawsuit. The parties agreed that if, and only if, section 11.433 is constitutional, the Church is entitled to an exemption for the 146.343 acres for the years 1986-1989. The district court rendered judgment for the Church.

The court of appeals determined, as a threshold matter, that Nueces County, the Nueces County Appraisal District, and the Appraisal Review Board, which we refer to collectively as "the County", had standing to challenge the constitutionality of section 11.433. 860 S.W.2d 627, 630. The Church and the Attorney General do not challenge the County's standing in this Court, and given that the Church has standing and our disposition of the constitutional issues, we need not address that question. See Texas Ass'n of Business v. Texas Air Control Bd., 852 S.W.2d 440, 441 n. 1 (Tex.1993). The court of appeals held that section 11.433 violates article III, section 55 of the Texas

Constitution and did not reach the County's arguments based upon article I, section 16. 860 S.W.2d at 631. Because we disagree with the court of appeals, we consider both constitutional provisions.

III

Article III, section 55 of the Texas Constitution provides:

The Legislature shall have no power to release or extinguish, or to authorize the

Page 625

releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual, to this State or to any county or defined subdivision thereof, or other municipal corporation therein, except delinquent taxes which have been due for a period of at least ten years.

The County contends that once the process of levying taxes is completed for a given year and taxes become due, the amount assessed is an obligation to the taxing unit which section 11.433 cannot release or extinguish by extending the deadline for claiming an exemption.

The Church argues that delinquent taxes are not an "indebtedness, liability or obligation" within the meaning of section 55. We do not regard this argument as even plausible. For one thing, there would be no reason for section 55 to except taxes delinquent for ten years as it does if this section did not contemplate that taxes were an obligation within its purview. For another, it is simply too plain for argument that assessed taxes are an obligation owed to the taxing unit. We reached this unsurprising conclusion long ago. *Ollivier v. City of Houston*, 93 Tex. 201, 54 S.W. 943, 944 (1900).

Even though we believe taxes due are clearly an obligation to a taxing entity that cannot be forgiven under article III, section 55, we do not believe section 11.433 extends such forgiveness. Section 11.433 simply prescribes the time in which a tax exemption must be claimed. The County's argument that the Legislature is constitutionally forbidden to allow an exemption to be established after taxes have been assessed is too strict a reading of article III, section 55. As we noted above, the Legislature has prescribed various deadlines in the tax collection process: January 1 for imposition of taxes, July 25 for appraising property, September 1 for levying tax rates, October 1 for mailing tax bills, and February 1 for payment. The Legislature is likewise entitled to set a deadline for exemption applications. See *Sam Bassett Lumber Co. v. City of Houston*, 145 Tex. 492, 198 S.W.2d 879, 882 (1947). Just as the Legislature may make the religious organization exemption automatic, as it did in 1980 and 1981, it can extend the time for filing applications. See *Dickison v. Woodmen of the World Life Ins. Soc'y*, 280 S.W.2d 315, 317 (Tex.Civ.App.--San Antonio 1955, writ ref'd) (when the constitution permits, rather than prescribes, a particular exemption, the Legislature may ordinarily limit that exemption as it pleases).

Section 11.433 does not on its face extinguish any liabilities owed to a taxing authority. Indeed, if a religious organization does not apply for exemption within the extended period, the taxing unit is entitled to recover all delinquent taxes. Rather, the effect of section 11.433 is merely to delay the taxing authority from collecting taxes for a prescribed period of time until either the religious organization files for exempt status or fails to make late application. When an application is no longer allowed, the taxing unit is free to collect its taxes.

This tolling provision is similar to statutes of limitation, which we have held are permissible under article III, section 55. In

Sam Bassett Lumber Co., the City of Houston sought to obtain a personal judgment for delinquent property taxes. The defendant asserted limitations as a defense. The Court concluded that a ten-year statute of limitations did not violate article III, section 55 because limitation statutes do not release or extinguish a debt but merely affect the remedy when its enforcement is sought. 198 S.W.2d at 882 (citing Goldfrank, Frank & Co. v. Young, 64 Tex. 432, 434 (1885); Limestone County v. Robbins, 120 Tex. 341, 38 S.W.2d 580, 584 (1931); Central Nat'l Bank v. Latham, 22 S.W.2d 765, 768 (Tex.Civ.App.--Austin 1929, writ ref'd)).

We conclude that section 11.433 merely determines the procedures for claiming a religious organization exemption and does not release or extinguish tax obligations. Accordingly, we hold that section 11.433 does not violate article III, section 55 of the Texas Constitution.

IV

The County also asserts that section 11.433 is a retroactive law prohibited by article I, section 16 of the Texas Constitution, which states: "No bill of attainder, ex post

Page 626

facto law, retroactive law, or any law impairing the obligation of contracts, shall be made."

Unless vested rights are destroyed or impaired, a law is not invalid even though retroactive in operation. State v. Project Principle, Inc., 724 S.W.2d 387, 390 (Tex.1987). Section 11.433 may be said to have some retroactive effect in that it allows an exemption to be established after taxes are assessed. However, as we have already determined, section 11.433 does not extinguish any tax liability; it simply prescribes the timing for collection. A taxing unit has no vested right to taxes until the

exemption is determined. Section 11.433 does not retroactively confer an exemption; it extends the time for determining whether an exemption is warranted. Thus, section 11.433 is not a retroactive law in violation of article I, section 16.

Because we hold that section 11.433 does not violate either article III, section 55 or article I, section 16 of the Texas Constitution, we reverse the judgment of the court of appeals and affirm the judgment of the trial court.

ENOCH, Justice joined by GONZALEZ, HIGHTOWER and SPECTOR, Justices dissenting.

Section 11.433 seeks to retroactively attach exempt status to the property of religious organizations. It is available only to delinquent taxpayers. TEX.TAX CODE § 11.433(b). Continuing its beneficence to those who fail to pay their taxes, see Syntax, Inc. v. Hall, 899 S.W.2d 189 (Tex.1995) (delinquent taxpayer entitled to excess proceeds of resale by taxing unit despite lack of any interest in the property), the Court gives short shrift to the Texas Constitution and erroneously concludes that section 11.433 of the tax code violates neither article III, section 55 nor article I, section 16 of the Texas Constitution. Section 11.433 of the Tax Code violates the plain meaning of both provisions of the Texas Constitution. I respectfully dissent.

I.

Under article III, section 55 of the Texas Constitution, the only tax liabilities the Legislature has any power to forgive are delinquent taxes that have been due for at least ten years. TEX. CONST. art. III, § 55. Otherwise, the Legislature has "no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part," the tax liability of any corporation or

individual owed to the County. *Id.* The delinquent taxes at issue in this case are for tax years 1986-89 and thus not within the Legislature's power to forgive. By retroactively attaching exempt status to the Church's property, section 11.433 forgives the original tax liability for those years contrary to the plain terms of article III, section 55.

The Court concludes that section 11.433 does not extinguish or release any such obligation, but simply limits the County's remedy for collecting the taxes. 904 S.W.2d at 625. This limitation, the Court asserts, is akin to statutes of limitation which we have held do not violate article III, section 55. *Sam Bassett Lumber Co. v. City of Houston*, 145 Tex. 492, 198 S.W.2d 879, 882 (1947). Section 11.433 does not have a similar effect.

It is undisputed that, but for the late application, the Church's property is entitled to an exemption under section 11.20. TEX.TAX CODE § 11.20. An exemption under section 11.20 must be claimed by May 1 of the year for which the exemption is sought. *Id.* § 11.43(d). Once allowed, the section 11.20 exemption need not be claimed in subsequent years except in certain situations not relevant here. *Id.* § 11.43(c). The Church, although entitled to an exemption, did not claim the exemption for the years 1986-89 and the Church's property became subject to taxation. Taxes were levied and assessed and became due on receipt of the tax bill. *Id.* § 31.02(a). The taxes became delinquent when they were not paid by February 1 of the year following the year in which the taxes were imposed. *Id.* Section 11.433 does not simply limit the County's remedy by precluding the County from enforcing its remedy to collect the unpaid taxes for six years. This provision seeks to retroactively

Code violates article III, section 55 of the Texas Constitution.

II.

Unquestionably, section 11.433 is retroactive in operation by permitting retroactive attachment of exempt status to property for prior tax years. The retroactive effect of a statute, however, does not itself violate article I, section 16. A statute must also impinge on vested rights. *State v. Project Principle, Inc.*, 724 S.W.2d 387, 390 (Tex.1987). In this regard, our article I, section 16 has been interpreted by this Court as broader than the federal counterpart, article I, sections 9 and 10 of the United States Constitution. *Mellinger v. City of Houston*, 68 Tex. 37, 3 S.W. 249, 253 (1887).

The prohibition in the Texas Constitution is broader because unlike the Federal Constitution, article I, section 16 prohibits not only bills of attainder, ex post facto laws, and laws impairing the obligation of contracts, but also prohibits retroactive laws. *Id.* By prohibiting retroactive laws, our Constitution protects not only property rights, but any other rights that have vested prior to the passage of any law, which if retroactively applied, would take away those rights. *Id.*

In 1887, this Court wrote about those rights subject to protection under article I, section 16 as follows:

[I]t must necessarily be held that a right, in a legal sense, exists, when, in the consequence of the existence of given facts, the law declares that one person is entitled to enforce against another a given claim, or to resist the enforcement of a claim urged by another. Facts may exist out of which, in the course of time or under given circumstances, a right would become fixed or vested by operation of existing law, but until the state of facts which the law declares shall give a right comes into existence there cannot be in law a right; and for this reason it has been constantly held

Page 627

attach exempt status to property when taxes have already been levied and assessed and are delinquent. Section 11.433 of the Texas Tax



that, until the right becomes fixed or vested, it is lawful for the law-making power to declare that the given state of facts shall not fix it, and such laws have been constantly held not to be retroactive in the sense in which the term is used.

Mellinger, 3 S.W. at 253. Interpreting the rights protected under article I, section 16 in this manner, the Court struck down as retroactive a statute that eliminated a delinquent taxpayer's right to rely on limitations as a defense to a tax collection suit when limitations had run prior to enactment of the statute. *Id.* at 254-55.

Agreeing that section 11.433 has a retroactive effect, the Court concludes that section 11.433 nonetheless is constitutional because it does not impinge on any vested rights. 904 S.W.2d at 626. The retroactive extension of exempt status under section 11.433, however, extinguishes the existing tax liability owed to the County. The taxes, which are due on receipt of the tax bill and become delinquent if not paid by February 1 of the following year, represent a liability that has matured and for which the taxing unit may enforce collection. TEX.TAX CODE §§ 31.02(a), 33.41. That right to collect delinquent taxes cannot be taken away by the retroactive application of an exemption. Mellinger, 3 S.W. at 253.

Moreover, section 11.433 destroys the County's vested constitutional and statutory tax liens in the property. TEX. CONST. art. VIII, § 15; TEX.TAX CODE § 32.01. The Texas Property Tax Code provides that although a lien attaches as of January 1 of the year for which any taxes, penalties, or interest may become due, the tax lien may be foreclosed only after the taxes on the property become delinquent. TEX.TAX CODE §§ 32.01, 33.41. There can be no dispute that at the time section 11.433 was enacted in 1990, the County possessed constitutional and statutory tax liens that could be enforced and foreclosed to collect the delinquent taxes

owed for tax years 1986-89. With the late application and allowance of a retroactive exemption, section 11.433 destroys the County's valid, existing, and mature tax liens in violation of article I, section 16 of the Texas Constitution.

Because I would hold that section 11.433 violates both article III, section 55 and article I, section 16 of the Texas Constitution, I

Page 628

would affirm the judgment of the court of appeals. I dissent.

APP. J

TARRANT COUNTY V. ASHMORE, 635 S.W.2D 417 (TEX. 1982)

Page 417

635 S.W.2d 417
TARRANT COUNTY et al., Petitioners,
v.
Bob ASHMORE et al., Respondents.
No. C-985.
Supreme Court of Texas.
June 23, 1982.
Rehearing Denied July 21, 1982.

Page 418

Tim Curry, Crim. Dist. Atty., Frederick M. Schattman, Asst. Dist. Atty., Fort Worth, for petitioners.

Farrar & Claunch, Jim Claunch and Roy Basham, Charles Dickens, Fort Worth, for respondents.

POPE, Justice.

Bob Ashmore and others, all Tarrant County justices of the peace and constables threatened with removal from office by the redrafting of precinct boundary lines, brought this action for damages and for declaratory and injunctive relief against the Tarrant County Commissioners Court. The claims asserted in the suit were based upon alleged violations of procedural due process, and upon the purported rights of duly elected officeholders to complete their full terms of office. In response to these claims, the commissioners argued that their actions were authorized by Tex.Rev.Civ.Stat.Ann. art. 2351 1/2, which then allowed commissioners courts to declare certain offices abolished or vacated when precinct lines were

Page 419

redrawn. ¹ The trial court held that, while article 2351 1/2(c) was a constitutional means of removing officers from their positions, the procedures used by the Tarrant County Commissioners to accomplish that purpose in the present case were inconsistent with the

officers' property rights and rights of due process. As a result, the court held, the officers were entitled to recover from the county the salaries and benefits they would have earned had they been allowed to remain in office for their full terms. The court of appeals affirmed the judgment of the trial court. 624 S.W.2d 740. We reverse the judgments of the courts below.

In the spring of 1980, the Commissioners Court of Tarrant County began the process of examining the justice and constable precincts in the county with a view toward complying with a federal district court redistricting order. See *Bagsby v. Moncrief*, No. CA-4-79-24k (N.D.Tex.1979). The last redistricting of Tarrant County had taken place in 1876, and a wide disparity between precinct populations existed. ² After receiving a proposed redistricting plan prepared by a demographic expert hired to study population trends in the county, the commissioners held five public hearings on consecutive nights in early August 1980 in order to solicit public comment. On August 25, the commissioners adopted the proposed plan, and concurrently ordered that all justice and constable precincts and each of the offices located therein be abolished effective January 1, 1981, so that the newly defined offices could be filled by appointment.

The present action was filed on December 16, 1980, by three justices of the peace and one constable seeking damages and injunctive and declaratory relief. Thereafter, on December 19, the trial court ordered the joinder of all other justices and constables in the county as involuntary plaintiffs. ³ Trial was held on December 30 and 31. While it was clear to the participants during trial that all justice and constable positions had been vacated, it was not certain at that time whether any incumbent or recently elected officer would be appointed to serve in any of the newly drawn precincts, since the commissioners court planned to make the appointments on the evening of December 31.



The trial court ruled on January 9, 1981, that article 2351 1/2 was constitutional, that the commissioners court had the power to redistrict and declare the offices of the justices and constables vacant, and that the vacancies could be filled by appointment. Notwithstanding the finding of validity of article 2351 1/2, however, the court held that the officers had property

Page 420

rights in their offices and were deprived of such property rights by the commissioners court without just compensation or regard for due process. As a result, the court held, the justices and constables were entitled to full salary and benefits, including any future cost of living increases afforded other county officials, for the remainder of their elected terms. ⁴

The court of appeals affirmed the judgment of the trial court. In so doing, the court agreed that the precinct officers had a property right in their offices and held that the redrafting of precinct boundaries must in all cases accord due process to the incumbents whose elective offices may be abolished. The court also held that, even if article 2351 1/2 was a valid and constitutional statute, it should not be construed as providing for the loss of a valuable property right—the right to complete an elected term of office—without just compensation. Recovery for lost salaries and benefits for the unexpired terms was therefore affirmed.

Taking of Property

We are aware that article I, section 17, of the Texas Constitution provides that "(n)o person's property shall be taken ... without adequate compensation" Additionally, the fifth amendment to the United States Constitution, made applicable to the states by way of the fourteenth amendment, concludes with the words: "nor shall private property be taken for public use, without compensation."

We agree that these provisions stand as a shield between the exercise of governmental power and the rights of all citizens to own and enjoy property. We do not agree with the court of appeals, however, that the public officers in the present case had a "property" interest in their positions such that vacating the offices prior to the end of their terms resulted in a constitutionally recognizable "taking" of property without compensation.

The nature of public office has long been a point of analysis and discussion in Texas. Early courts described the elected and appointed position as "the right, authority, and duty created and conferred by law by which, for a given period either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government to be exercised by him for the benefit of the public." *Kimbrough v. Barnett*, 93 Tex. 301, 310, 55 S.W. 120, 122 (1900), quoted in *Commissioners' Court of Limestone County v. Garrett*, 236 S.W. 970, 972 (Tex.Comm'n App.1922, judgment adopted). As the foregoing passage indicates, public offices began to be described properly by Texas courts not in terms of a "contract," "employment," "ownership," or "possession," but rather as a "trust," "duty," and "public benefit." In other words, stated briefly, public office came to be seen in Texas not as a right, but as a responsibility. In *State ex rel. Maxwell v. Crumbaugh*, 63 S.W. 925, 927 (Tex.Civ.App. San Antonio 1901, writ ref'd), for example, the court stated:

A public office is not "property," within the meaning of the constitutional provision that "no person shall be deprived of life, liberty or property without due process of law." It is a mere public agency, revocable according to the will and appointment of the people, as exercised in the constitution and the laws enacted in conformity therewith. *Moore v. Strickling* (W.Va.) (46 W.Va. 515), 33 S.E. 274, 50 L.R.A. 279. In the case cited the court in its opinion makes ... the following

quotation: "It is impossible to conceive how, under our form of government, a person can own or have a title to a governmental office. Offices are created for the administration of public affairs. When a person is inducted into an office he thereby becomes empowered to exercise its powers and perform its duties, not for his, but for the public, benefit. It would be a misnomer and a perversion of terms to say that an incumbent owned an office or had any title to it."

Page 421

It may be concluded, therefore, that a fundamental principle associated with our republican form of government is that every public officeholder remains in his position at the sufferance and for the benefit of the public, subject to removal from office by edict of the ballot box at the time of the next election, or before that time by any other constitutionally permissible means.

The decision in *State ex rel. Maxwell v. Crumbaugh*, supra, in declining to identify a public office as the "property" of the officeholder, is in line with the majority rule in other jurisdictions. See Annot., 172 A.L.R. 1366 (1948); 99 A.L.R. 336 (1935); 4 A.L.R. 205 (1919). In the early case of *Taylor v. Beckham*, 178 U.S. 548, 20 S.Ct. 890, 44 L.Ed. 1187 (1900), the United States Supreme Court was asked to settle a contest over the offices of governor and lieutenant governor of the State of Kentucky. The defendant officeholders in that suit, who were the losers of an election contest conducted in the state's general assembly, sought to retain their positions by asserting a property right to the office and the benefits attached thereto. The Supreme Court responded negatively to this contention by stating:

The view that public office is not property has been generally entertained in this country.

The decisions are numerous to the effect that public offices are mere agencies or trusts, and not property as such. Nor are the salary and emoluments property, secured by contract, but compensation for services actually rendered. Nor does the fact that a constitution may forbid the legislature from abolishing a public office or diminishing the salary thereof during the term of the incumbent change its character or make it property. True, the restrictions limit the power of the legislature to deal with the office, but even such restrictions may be removed by constitutional amendment. In short, generally speaking, the nature of the relation of a public officer to the public is inconsistent with either a property or a contract right.

Id. at 576-77, 20 S.Ct. at 900-901. The holding of the Court in *Taylor* was subsequently reaffirmed in the case of *Cave v. Missouri ex rel. Newell*, 246 U.S. 650, 38 S.Ct. 334, 62 L.Ed. 921 (1918) (per curiam), and again in *Snowden v. Hughes*, 321 U.S. 1, 7, 64 S.Ct. 397, 400, 88 L.Ed. 1090 (1944).

In *Edge v. Holcombe*, 135 Ga. 765, 70 S.E. 644 (1911), the Supreme Court of Georgia reiterated the majority position expressed by the United States Supreme Court:

We will only observe that a careful study of the cases discloses that in the early history of the English jurisprudence the right to hold office was regarded as a property right, and many decisions were made in recognition of this principle; but the American courts now uniformly hold that an office, relatively (sic) to the government, is a public trust, and not a property right. Where an office is created by the Legislature, the power which created it may fix its term and provide for the sooner determination thereof, and the officer takes the office with this limitation.

Similarly, in *Smith v. Thomson*, 219 Iowa 888, 258 N.W. 190, 193 (1934), the court stated:

(I)t must be conceded, as a general rule, that the relation between a public officer and the people is not in the nature of a contract, and that such office has in it no element of property. It is a public trust, created for the benefit of the state, and not for the benefit of the individual citizens thereof, and the prospective emoluments of a public office are not property in any sense.

The same rule has been repeated many times in many jurisdictions. See, e.g., *Cosby v. Moore*, 259 Ala. 41, 65 So.2d 178, 181 (1953); *Trimble v. People*, 19 Colo. 187, 34 P. 981 (1893); *Kirkpatrick v. King*, 228 Ind. 236, 91 N.E.2d 785, 788-89 (1950); *Lanza v. Wagner*, 11 N.Y.2d 317, 229 N.Y.S.2d 380, 183 N.E.2d 670, 673 (1962); *Simmons v. Elizabeth City*, 197 N.C. 404, 149 S.E. 375, 376 (1929); *Wright v. City of Florence*, 229 S.C. 419, 93 S.E.2d 215, 220 (1956).

Page 422

Our holding in this case should not be construed to mean that an officer, duly elected and inducted into his position for a definite term, has no financial or "property" interest that may be protected against interference by others not acting under statutory or constitutional authority. See *Walton v. Davis*, 188 Ga. 56, 2 S.E.2d 603, 604 (1939); *State ex rel. Ryan v. Norby*, 118 Mont. 283, 165 P.2d 302, 304 (1946). As stated in *Sutton v. Adams*, 180 Ga. 48, 178 S.E. 365, 375 (1934): "While an officer has no vested right in the office held by him, and thus cannot complain of an abolishment of such office, or of his removal or suspension, according to law, ... it does not follow that he has absolutely no financial or property interest which may be protected by a court of equity as against one who otherwise and by private means seeks to interfere with his possession and conduct of such office during his incumbency therein." See also *Carver v. Wheeler County*, 200 S.W. 537, 538 (Tex.Civ.App.-Amarillo 1918, no writ). Cf. *Taylor v. Nealon*, 132 Tex. 60, 120 S.W.2d

586 (1938) (election contest between rival candidates); *State ex rel. Jennett v. Owens*, 63 Tex. 261 (1885) (same). What we do hold is that the qualified interest held by a public officer is not "property" within the sense of constitutional guarantees against governmental takings of property without compensation. See *Myers v. Tunks*, 360 S.W.2d 518, 520 (Tex.1962). Absent a recognizable property interest, the officers have no claim for salaries for the unserved portion of their terms. See generally *Bennett v. City of Longview*, 268 S.W. 786 (Tex.Civ.App.-Texarkana 1925, writ ref'd n.r.e.); *State ex rel. Dowlen v. Rigsby*, 43 S.W. 271, (Tex.Civ.App.1897) writ ref'd per curiam, 91 Tex. 351, 43 S.W. 1101 (1897).

Procedural Due Process

The officeholders claim, and the court of appeals held, that salaries for unexpired terms should be recoverable in this case because the procedures employed to vacate the precinct positions did not conform with minimum requirements of due process. According to the court of appeals, procedural due process in such cases calls for notice in advance of hearing informing the incumbents of (1) the time, place, and location of each hearing; (2) the subject matter to be considered; (3) the possibility of termination of positions prior to expiration of terms; (4) the possibility that no incumbents would be reappointed to the new positions; (5) the possibility that present salaries would not be continued; and (6) the existence of the right to appear and defend rights and to show cause why the offices should not be terminated without compensation. 624 S.W.2d at 744. The court concluded upon review of the record that such due process requirements had not been met in the present case.

The requirements of procedural due process apply only to the threatened deprivation of liberty and property interests deserving the protection of the federal and

state constitutions. *Board of Regents v. Roth*, 408 U.S. 564, 569, 92 S.Ct. 2701, 2705, 33 L.Ed.2d 548 (1972). Therefore, any assessment of proper procedural safeguards necessarily begins with a consideration whether the particular interest at stake is a protectible interest. In the present case, we acknowledge that an officer's interest in his elected position, though not "property" in the conventional sense, is a recognizable interest for purposes of procedural due process analysis. See *Ridgway v. City of Fort Worth*, 243 S.W. 740, 745 (Tex.Civ.App.-Fort Worth 1922, writ dismissed); *Paris v. Cabiness*, 98 S.W. 925, 927 (Tex.Civ.App. 1906, no writ). See also *Howard v. Bell County Board of Education*, 247 Ky. 586, 57 S.W.2d 466, 467 (1933). This view is consistent with recent United States Supreme Court pronouncements that procedural due process protection extends well beyond traditional concepts of ownership and title to encompass anything to which a person may assert a legitimate claim of entitlement. *Board of Regents v. Roth*, supra 408 U.S. at 572, 577, 92 S.Ct. at 2706, 2709.

To say that an interest deserves due process protection does not define the

Page 423

amount of process that is due in a given instance. At a very basic level, deprivation of a protected interest requires notice and an opportunity to be heard. ⁵ The type of notice and hearing required varies according to the facts of the situation. *Bell v. Burson*, 402 U.S. 535, 540, 91 S.Ct. 1586, 1589, 29 L.Ed.2d 90 (1971). It is incorrect to state that the full procedural protections afforded in a criminal trial proceeding are required every time there is a right to a hearing. *Cafeteria & Restaurant Workers Union v. McElroy*, 367 U.S. 886, 894, 81 S.Ct. 1743, 1748, 6 L.Ed.2d 1230 (1961); *Robison v. Wichita Falls & North Texas Community Action Corp.*, 507 F.2d 245, 252 (5th Cir. 1975).

In his treatise on administrative law, Professor Kenneth Davis attempted to clarify the confusion surrounding notice and hearing requirements by drawing a distinction between determinations of "adjudicative" and "legislative" facts. K. Davis, *Administrative Law Treatise* §§ 12:1-12:8 (2d ed. 1979). Under this dichotomy, the "adjudicative" facts, those that answer the questions "who did what, where, when, how, why, with what motive or intent," are the types of facts that usually demand a trial-type proceeding complete with full procedural safeguards—service of citation, compulsion and cross examination of witnesses, and reliance upon a disinterested trier of fact. Davis, supra at 12:3. "Legislative" facts, on the other hand, deal with matters of policy and administrative discretion, and affect individual parties to a dispute only to the extent that those parties are involved in the overall legislative scheme. *Id.* Determinations of such fact issues generally may be made without demands for an adversarial setting, *Bi-Metallic Investment Co. v. State Board of Equalization of Colorado*, 239 U.S. 441, 445, 36 S.Ct. 141, 142, 60 L.Ed. 372 (1915); *SEC v. Frank*, 388 F.2d 486, 491-92 (2d Cir. 1968); *Jackson County Public Water Supply District v. State Highway Commission*, 365 S.W.2d 553, 559 (Mo.1963), although an opportunity for open and public debate in a speechmaking or public meeting-type hearing or in a notice and comment procedure is probably appropriate if not essential. *Londoner v. Denver*, 210 U.S. 373, 28 S.Ct. 708, 52 L.Ed. 1103 (1908); Davis, supra at § 12:5.

In applying these principles to the instant case, we note that commissioners courts in various counties of Texas are given authority to divide the counties into precincts and to revise those precincts "from time to time, for the convenience of the people." Tex.Const. art. V, § 18. Furthermore, as we noted previously, the commissioners had at the time of this suit statutory authority under article 2351 1/2 to abolish offices and declare vacancies incident to the redrafting of

boundary lines. Assuming the validity of article 2351 1/2, and given the constitutional provision, the Tarrant County Commissioners Court received a grant of power from the people of the state and from the legislature to perform the action here complained of. As such, the redistricting may be seen as the exercise of legislative or quasi-legislative power leading to the resolution of essentially political issues. We cannot conclude that the officers involved in this suit were wrongfully deprived of a trial-type adjudication of relevant facts, since there were no adjudicative facts to be determined. ⁶

Page 424

Examination of the record in this case leads us to conclude that, given the circumstances of the case and the issues to be decided, the officeholders received as much protection as they were due. The court of appeals acknowledged in its opinion that the district attorney's office mailed letters to the officers informing them that the commissioners court had scheduled public meetings to consider redistricting the officers' precincts, and that notice of the meetings were also posted in compliance with the requirements of the Open Meetings Act, Tex.Rev.Civ.Stat. Ann. art. 6252-17 § 3A. In addition, the record reveals that the officers did, in fact, know about the hearings; that they knew what the hearings were for; that each officer attended at least one meeting, some accompanied by their attorneys; and that each officer was given the opportunity at the meetings to make comment and inquiry. There was considerable discussion, and at least one officer did exercise his right to speak. While we do not hold or imply that the officeholders whose positions were terminated had no rights to notice of the proceedings, or that the redistricting determinations could have been made in secret without invited comment from the public or the officers, we do hold that the attempts made to involve all interested parties in the legislative process in this case

were adequate. We therefore render judgment that the respondents take nothing.

1 Article 2351 1/2 then provided:

(c) When boundaries of justice of the peace precincts are changed, so that existing precincts are altered, new precincts are formed, or former precincts are abolished, if only one previously elected or appointed justice of the peace or constable resides within a precinct as so changed, he shall continue in office as justice or constable of that precinct for the remainder of the term to which he was elected or appointed. If more than one justice or constable resides within a precinct as so changed, or if none resides therein, the office shall become vacant and the vacancy shall be filled as other vacancies; provided, however, that in precincts having two justices, if two reside therein, both shall continue in office, and if more than two reside therein, both offices shall become vacant.

This portion of the statute was deleted by recent amendment. See 1981 Tex.Gen.Laws, ch. 280, § 1, at 748. Article 2351 1/2 now provides:

(b) When boundaries of commissioners or justice precincts are changed, the terms of office of the commissioners, justices of the peace, and constables then in office shall not be affected by such change, and each of them shall be entitled to serve for the remainder of the term to which he was elected even though the change in boundaries may have placed his residence outside of the precinct for which he was elected.

2 For example, the largest justice precinct in Tarrant County in 1977, precinct one, contained 402,730 persons; the smallest precinct, precinct eight, had a population of only 12,638.

3 Of the ten justices in Tarrant County, eight were in office at the time of suit, with terms

expiring December 31, 1982. Two justices had been elected in November 1980 but were not due to take office until January 1, 1981. All of the eight constables were to begin new terms on January 1, 1981.

4 The judgment provided that any officeholder appointed to the same or similar position who declined to serve would waive his rights to recovery. The record does not reveal what dispossessed officers, if any, were reappointed by the commissioners court.

5 "Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 656, 94 L.Ed. 865 (1950).

6 A different situation would have existed, of course, and a more sophisticated adjudication procedure would have been required, had the commissioners sought to remove any of the officers for causes such as incompetence or malfeasance. In such cases, due process would accord the officer an opportunity to refute the charge in a trial-type hearing in order to protect his "good name, reputation, honor, or integrity." *Board of Regents v. Roth*, supra 408 U.S. at 573, 92 S.Ct. at 2707; *Cafeteria & Restaurant Workers Union v. McElroy*, supra 367 U.S. at 898, 81 S.Ct. at 1750; *Wieman v. Updegraff*, 344 U.S. 183, 190-91, 73 S.Ct. 215, 218-219, 97 L.Ed. 216 (1952). Additionally, the issues of incompetence and malfeasance would constitute adjudicative facts determinable only in an adversarial setting, and not in a legislative forum. *DAVIS*, supra at § 12:3-12:4. In the present case, there was no suggestion of removal of the officers for "cause"; rather, the discretionary action was taken pursuant to the statutory and constitutional authority. The only factual

issue arguably involved in the process was whether the redistricting plan was consistent with the "convenience of the people," although this question was itself essentially a matter of policy.

APP. K

TEX.ATTY.GEN. OP. NO. GA-0356 (2005)



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 12, 2005

<p>The Honorable Jeri Yenne Brazoria County Criminal District Attorney 111 East Locust Street Angleton, Texas 77515</p>	<p>Opinion No. GA-0356 Re: Retroactive application of municipal term limit provisions (<u>RQ-0327-GA</u>)</p>
---	--

Dear Ms. Yenne:

On behalf of the Alvin City Attorney, you ask whether the term limit provisions of the Alvin City Charter apply to combined service as city council member and mayor.⁽¹⁾ You have submitted the Alvin City Attorney's letter on this matter.⁽²⁾

You received a letter from a citizen of Alvin asking about the application of the term limit provisions to the current mayor and forwarded it to the City Attorney for Alvin. *See Request Letter, supra* note 1, at 1. The Alvin City Attorney subsequently reviewed records of past city charter revisions and interviewed members of the 2001 Charter Review Commission and other city officials who attended Commission meetings. *See id.* at 2. She concluded that the city council "intended that the term limit of an individual running for the elected office of Mayor was separate and exclusive of any time served on the Council." Kacz Letter, *supra* note 2, at 2.

The Alvin City Attorney has forwarded the following questions to you, asking that you request an attorney general opinion addressing them:

1. Do term limits apply to combined terms of councilmember and mayoral service?
2. Are council District and At-Large positions considered separate offices for term limit considerations?
3. What is the retroactive application of the term limit provision? Does the 8 year term limit that became effective May 2002 upon adoption of the charter revisions apply to future service only?

Request Letter, *supra* note 1, at 2 (emphasis omitted). *See also* Kacz Letter, *supra* note 2, at 1. Your letter provides your analysis of and conclusions to these questions. *See* Request Letter, *supra* note 1, at 3-6.

This office does not construe city charters unless the charter provision raises a question of federal or state law. *See* Tex. Att'y Gen. Op. Nos. GA-0226 (2004) at 3, GA-0130 (2003) at 3, GA-0068 (2003) at 2 n.2, JC-0143 (1999) at 3, JM-805 (1987) at 1 n.1 (this office does not ordinarily construe city charters, in deference to municipal officials), H-1014 (1977) (applicability of city charter provisions to contract with county is to be determined by contracting parties). *See also* Tex. Att'y Gen. Op. Nos. GA-0110 (2003) (considering whether home-rule ordinance is consistent with state statute); GA-0068 (2003) (considering whether ethics ordinance proposed for adoption by home-rule city is consistent with federal and state law). This office has issued opinion request procedures stating that "[q]uestions involving cities, independent school districts, or others not specified in Sections 402.041-402.045 of the Government Code should be submitted by a statutorily authorized requestor only if they concern subject matter covered by the jurisdiction and duties of the office submitting the request." Attorney General of Texas, Opinion Request Procedures: How to Request an Opinion.⁽³⁾

Thus, we decline to answer the questions asking for an interpretation of city charter provisions. However, in connection with question three you raise a question of state law: whether term limits may be applied retroactively. Request Letter, *supra* note 1, at 4. We will address this question.

Article I, section 16 of the Texas Constitution provides that "[n]o bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made." *See* Tex. Const. art. I, § 16. This provision applies to charter provisions and ordinances adopted by cities. *See Coffee v. Castleberry*, 258 S.W. 889, 892 (Tex. Civ. App.-Amarillo 1924), *judgm't reformed on other grounds and aff'd*, 272 S.W. 767 (Tex. Comm. App. 1925). It prohibits retroactive laws only to the extent they "destroy or impair rights which had become vested." *See Subaru of Am. v. David McDavid Nissan, Inc.*, 84 S.W.3d 212, 220 (Tex. 2002); *Corpus Christi People's Baptist Church, Inc. v. Nueces County Appraisal Dist.*, 904 S.W.2d 621, 626 (Tex. 1995); *Merchant's Fast Motor Lines, Inc. v. R.R. Comm'n*, 573 S.W.2d 502, 504 (Tex. 1978); *Deacon v. City of Euless*, 405 S.W.2d 59, 62 (Tex. 1966); *McCain v. Yost*, 284 S.W.2d 898, 900 (Tex. 1955). Thus a law is not invalid even though retroactive in operation unless vested rights are destroyed or impaired. *Corpus Christi People's Baptist Church*, 904 S.W.2d at 626; Tex. Att'y Gen. Op. No. GA-0149 (2004) at 5-6.

The legislature may enact a statute shortening an incumbent officer's term and apply it to persons in office when the act becomes effective, as long as the Texas Constitution does not fix the term of office. *See Popham v. Patterson*, 51 S.W.2d 680, 683 (Tex. 1932). *See also* Tex. Const. art. IV, § 4 (establishing four-year term of office for governor); *id.* art. V, § 18 (establishing four-year term for justices of the peace and constable; providing that each justice and constable in office when precinct boundaries are changed shall serve out term). The Alvin City Charter sets the terms of office for the mayor and city council members. *See* Alvin, Tex., City Charter art. II, § 1 (2002) (attachment to Request Letter, Exhibit C).

A public officer has no vested right in the office he holds,⁽⁴⁾ and the legislature may reduce his term of service or abolish the office entirely. *See Tarrant County v. Ashmore*, 635 S.W.2d 417, 422 (Tex. 1982) (public officer's qualified interest in office is neither property nor a vested right); Tex. Att'y Gen. Op. Nos. JM-1233 (1990) at 3 (member of State Board of Pharmacy has no vested right to his position); JM-235 (1984) at 3 (school board may

establish single-member trustee districts pursuant to statute, even though terms of some incumbent trustees will be shortened); H-955 (1977) at 4 (absent legislative direction, state agency board that established chair's term of office by resolution may reduce term and apply change to present chair).

In Attorney General Opinion JM-1233, this office construed a term limit provision applicable to members of the Texas State Board of Pharmacy, determining that the term limit provision applied to service performed before the statute's effective date. *See* Tex. Att'y Gen. Op. No. JM-1233 (1990) at 2-3. It found that the statute was not retroactive, noting that "the legislature could have even reduced . . . [the board member's] present term of service or abolished the office entirely." *Id.* at 3 (citing Attorney General Opinions JM-235 (1984) and H-955 (1977)). *See also* Tex. Att'y Gen. Op. No. DM-493 (1998) at 3-4 (statute shortening term of incumbent does not violate constitutional provision against retroactive laws). If a city charter term limit provision applies to service as a city officer prior to its adoption, it does not impair a vested right and therefore is not a "retroactive law" prohibited by article I, section 16.

S U M M A R Y

An opinion of the Attorney General will not construe city charters unless the charter provision raises a question of state or federal law. If a city charter term limit provision applies to service as a city officer prior to its adoption, it does not impair a vested right and therefore is not a "retroactive law" prohibited by article I, section 16 of the Texas Constitution.

Very truly yours,



GREG ABBOTT
Attorney General of Texas

BARRY MCBEE
First Assistant Attorney General

NANCY S. FULLER
Chair, Opinion Committee

Susan L. Garrison
Assistant Attorney General, Opinion Committee

Footnotes

1. Letter from Honorable Jeri Yenne, Brazoria County Criminal District Attorney, to Honorable Greg Abbott, Texas Attorney General (Mar. 15, 2005) (on file with Opinion Committee, *also available at* <http://www.oag.state.tx.us>) [hereinafter Request Letter].

2. Letter from Bobbi J. Kacz, Alvin City Attorney, to Mr. Jim Wiginton, Chief-Civil Division, Brazoria County Attorney's Office (Feb. 21, 2005) (attachment to Request Letter, Exhibit A) [hereinafter Kacz Letter].

3. Available at http://www.oag.state.tx.us/opinopen/opin_request_proc.shtm.

4. A public officer may have a financial or property interest in his office that a court will protect against private interference, for example in an election contest. See *Tarrant County v. Ashmore*, 635 S.W.2d 417, 422 (Tex. 1982).

[Home](#) | [Opinions](#)

APP. L

TEX.ATTY.GEN. OP. NO. JM-1233 (1990)

1990 Tex. AG LEXIS 125

Office of the Attorney General of the State of Texas

Reporter

1990 Tex. AG LEXIS 125

Opinion No. JM-1233

October 15, 1990

Core Terms

full term, retroactive, reappoint, pharmacy, eligible

Syllabus

[*1]

Re: Application of a provision in article 4542a-1, V.T.C.S., the Texas Pharmacy Act, limiting the eligibility of board members to two terms (RQ-2129)

Request By: JIM MATTOX, Attorney General of Texas

Opinion

Mr. Fred S. Brinkley, Jr., R.Ph.
Executive Director/Secretary
Texas State Board of Pharmacy
8505 Cross Park Drive, Suite 110
Austin, Texas 78754-4594

You have requested our opinion regarding the eligibility of a member of the Texas State Board of Pharmacy to serve another term.

You explain that a particular individual was appointed to a full term on the Board of Pharmacy in 1973 and reappointed in 1979. In 1981, the legislature enacted the following provision as part of amendments to the Texas Pharmacy Act:

(c) A member of the board may not serve more than two consecutive full terms. The completion of the unexpired portion of a full term does not constitute a full term for purposes of this section.

V.T.C.S. art. 4542a-1, § 10(c). The member in question was reappointed to the board in 1985. You suggest that he is eligible to be reappointed in 1991, because the 1981-85 period constitutes "completion of the unexpired portion of a full term," and the appointments in 1985 and 1991 should be construed [*2] as the beginning dates of his allotted full terms. You contend that to consider the member's prior service at the time the statute was amended in 1981 would constitute a retroactive application of the statute.

It is certainly the settled rule that "a statute is presumed to be prospective in its operation unless expressly made retrospective." Texas Dep't of Public Safety v. Sefcik, 751 S.W.2d 239, 240 (Tex. App. -- San Antonio 1988, no writ). Furthermore, "a law is retrospective if it 'changes the consequences of acts completed before its effective

William Carroll

date'." *Piper v. Perrin*, 560 F. Supp. 253, 255 (D.N.H. 1983). However, even a statute that is retroactively applied is not unlawful "solely because it upsets otherwise settled expectations." *Long Island Oil Products Co. v. Local 553 Pension Fund*, 775 F.2d 24, 27 (2d Cir. 1985).

In *Perry v. O'Farrell*, 212 P.2d 848 (Colo. 1949), a state constitutional amendment imposed a requirement that five additional points be added to the final scores of veterans who sat for state civil service examinations. A non-veteran who had taken the examination prior to the amendment brought suit, claiming that the addition of five points to [*3] the scores of veterans would amount to a retroactive application of the amendment. The court declared:

An act is not retroactive if it applies to persons who presently possess a continuing status even though a part or all of the requirements to constitute it were fulfilled prior to passage of the act or amendments thereto.

Id. at 852 (quoting *Albright v. Board of Trustees of Firemen's Pension Fund*, 82 P.2d 765, 771 (Colo. 1938)). Analogously, in the situation you present, most of the member's "requirements . . . were fulfilled prior to passage of the act." This fact alone does not mean that the statute is retroactive if his prior service is considered in determining his future eligibility.

Likewise, *Anders v. County Council for Richland County*, 325 S.E.2d 538 (S.C. 1985), considered the status of an individual who had been hired as a chief investigator for a solicitor under a statute which provided a means for challenging employment terminations by an elected official. Subsequently, a statute was enacted which declared that employees of a solicitor serve at his pleasure. The investigator brought suit, contending that application of the "termination at will" statute [*4] to his situation would give that law retroactive effect. The court concluded that this was not a case of retroactive application:

Public officers are created for the benefit of the commonwealth, incumbents have no contract or property rights in them, and, unless it be otherwise provided by the Constitution, they are subject entirely to legislative control. Hence, subject to the Constitution, the General Assembly may fix the term, provide for removal, abolish the office, reduce the term, and in every respect control the existence, powers, emoluments, and tenure of public officers.

Id. at 539 (citing *Wright v. City of Florence*, 93 S.E.2d 215, 220 (S.C. 1956)).

In Open Records Decision No. 358 (1983), it was argued that a change in the status of certain property tax information from "open" to "closed" applied only to information collected after the effective date of the statute. The opinion stated:

The Open Records Act vests no right in anyone to have previously-disclosable information remain disclosable notwithstanding an intervening determination by the legislature that it should be withheld from public inspection To be vested, a right must be something more [*5] than an expectation of the continuance of an existing law. It must have become an entitlement to the present or future enjoyment of property or the enforcement of a demand, or to a legal exemption from demands.

Id. at 3.

In the situation you pose, the member had no vested right to his position on the Pharmacy Board. As the South Carolina court noted, the legislature could have even reduced his present term of service or abolished the office entirely. See Attorney General Opinions JM-235 (1984); H-955 (1977).

Finally, we note that the legislature could have entirely excluded from the application of section 10(c) all members who were serving on the board at the time the statute was amended. This approach was used in Amendment 22 of the United States Constitution, which limited the term of office of the President of the United States to two terms, but specified that it did "not apply to any person holding the office of President when this article was proposed by the Congress." Article 4542a-1, however, contains no such grandfather clause.

We conclude that a member of the State Board of Pharmacy who was appointed in 1973, and reappointed in 1979 and 1985, is not eligible [*6] to be reappointed to the board under the terms of section 10(c) of *article 4542a-1, V.T.C.S.*, which limits membership on the board to two full terms.

SUMMARY

A member of the State Board of Pharmacy who was appointed in 1973, and reappointed in 1979 and 1985, is not eligible to be reappointed to the board under the terms of section 10(c) of article 4542a-1, V.T.C.S., which was enacted in 1981 and which limits membership on the board to two full terms.

Load Date: 2014-06-29

APP. M
ORDINANCE O-02-1322

ORDINANCE O-02-1322

AN ORDINANCE OF THE CITY OF COLLEYVILLE, TEXAS, REQUIRING THE FILING OF A FINANCIAL DISCLOSURE AND BUSINESS CONFLICTS OF INTEREST STATEMENT FOR ELECTED OFFICIALS, CANDIDATES, AND CERTAIN BOARDS AND COMMISSION MEMBERS, ESTABLISHING DEFINITIONS OF TERMS, PROMULGATING REPORTING FORMS, PROVIDING FOR FILING DATES, REPEALING A PRIOR RESOLUTION CONCERNING THE SUBJECT MATTER OF THE ORDINANCE, PROVIDING A PENALTY AND AUTHORIZING PUBLICATION.

WHEREAS, the citizens of the City of Colleyville are entitled to know certain information about candidates for public office, elected officials and members of the Planning and Zoning Commission and the Zoning Board of Adjustment that may influence their decisions or determine whether they can make unbiased decisions; and

WHEREAS, to insure citizen trust of elected and appointed officials of the City,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS, AS FOLLOWS:

Sec. 1. THAT the terms used in this ordinance shall have the following meaning:

A. Account of Financial Activity. An "Account of Financial Activity" means and shall consist of:

- (i) A list of sources of occupational income during the reporting period, identified by the employer, the employer's address and position held, or if self-employed, by the nature of the occupation, the business address and position held of the individual, their spouse and those under the individual's financial control; and
- (ii) Where an individual or those under the individual's financial control own real property or a beneficial interest in a business entity owning real property within the area crosshatched on Exhibit "A" to this ordinance during the reporting period, the account shall list the name in which legal title to the property is held, the nature of ownership interest, the name of the business entity in which a beneficial interest is held (if applicable), the lot, block, subdivision, city and county, or, if the real property is not part of a subdivision, the number of acres and tract, city and county in which the property is located. Further the account shall list each property identification number assigned by the

county appraisal district to the property and by the street address (if available). Further, the account shall list the names and addresses of other persons or business entities which own an interest in the real property. If a business entity is a limited partnership, the name and address of the general partner shall be included; and

(iii) The name, address and nature of business of any business entity in which the individual or those under the individual's control held or acquired a beneficial interest of 10% or more during the reporting period; and

(iv) The name and address of the person, business entity or other organization from which the individual or those under the individual's financial control during the reporting period received a gift of anything of value in excess of \$250.00 and a description of each gift, except (1) gifts received from an individual within the second degree of consanguinity or affinity as determined under sub-chapter B of Chapter 573 of the Government Code; (2) a political contribution that was reported as required by law; and (3) an expenditure required to be reported by a person required to be registered under Chapter 305 of the Government Code; and

(v) The name and address of any business entity, non-profit corporation, charitable association, business association or other type of organization in which the individual or those under the individual's financial control were an officer, director, or held another position during the reporting period and a description of the position held.

B. Bankruptcy. "Bankruptcy" means the filing of a petition, voluntary or involuntary, under Chapter 7, 11 or 13 of the Bankruptcy Code. (Title 11 of the United States Code).

C. Beneficial Interest. A "beneficial interest" means an ownership of either legal or equitable title and includes any ownership interest held in trust where the individual is either the trustee or the beneficiary of the trust. Where the ordinance refers to a beneficial interest of 10% or more of a business entity it is meant that the individual owns or is entitled to either a legal or equitable interest in 10% or more of the

outstanding stock, membership interest or other indicia of ownership of the business entity.

- D. Business Entity. A "business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized by law through which business or profit is conducted.
- E. Those Under The Individual's Financial Control. "Those under the individual's financial control" means the individual's spouse and dependent children's property or financial interest over which the individual had actual control or where the property was community property during the reporting period.
- F. Reporting Individuals. "Reporting Individuals" means each member of the City Council, including the Mayor, each candidate for membership in the City Council, including the Mayor, each member of the Planning and Zoning Commission and Zoning Board of Adjustment, who are appointed after the passage of this ordinance and each applicant for a position on the Planning and Zoning Commission or the Zoning Board of Adjustment.
- G. Reporting Period. The "reporting period" means the twelve (12) month period immediately preceding the date the Account of Financial Activity is due pursuant to the terms of this ordinance.
- H. Trust. A "trust" means a trust subject to Chapter 9 of the Texas Property Code that owns real property or a beneficial interest in a business entity owning real property within the area crosshatched on Exhibit "A" to this ordinance or where the trust owns a 10% or more beneficial interest in another business entity.

Sec. 2. THAT the Reporting Individuals shall file a report of their Account of Financial Activity for the applicable reporting period.

Sec. 3. THAT the Reporting Individuals shall file a report disclosing the filing of any bankruptcy petition by or against the individual, their spouse, a business entity in which the individual owned a beneficial interest of 10% or more, a business entity in which the individual was an officer or director of the business entity at the time of bankruptcy filing.

- Sec. 4. THAT the Reporting Individuals shall file a report disclosing the filing of any information which charges a misdemeanor involving moral turpitude, a felony indictment, conviction of a misdemeanor involving moral turpitude or conviction of a felony of the individual or of a business entity in which the individual had a 10% or more beneficial interest or where the individual was at the time of the filing or conviction an officer or director of the business entity. The report shall specify the name of the person or business entity charged, the nature of the offense, and if the information or indictment did not result in a conviction, the disposition of the information or the indictment.
- Sec. 5. THAT the disclosures required by Sections 2, 3 and 4 hereof shall be made on the Financial Disclosure and Business Conflict of Interest Forms which are attached hereto, shall be verified as provided therein and shall be filed with the City Secretary on the following dates:
- A. Candidates for membership in the City Council, including the Mayor, who are not currently sitting Council members, shall file within two (2) business days following the date upon which the filing for election for the position for which the individual seeks election is closed.
 - B. Sitting Council members, including the Mayor, shall file on or before twenty (20) days after the passage of this ordinance and on the first business day following January 15 and July 15 each year.
 - C. Applicants seeking appointment to the Planning and Zoning Commission or the Zoning Board of Adjustment shall file within two (2) business days following the end of the application period stated in the official City advertisement for application for the position.
 - D. Sitting members of the Planning and Zoning Commission and the Zoning Board of Adjustment, who are appointed after the passage of this ordinance, shall file on the first business day following January 15 and July 15 of each year.
- Sec. 6. THAT the Reporting Individuals shall have a duty to file supplemental disclosures upon the Financial Disclosure and Business Conflict of Interest Forms which are attached hereto within three (3) business days of an occurrence of any change in the information reflected in the Financial Disclosure and Business Conflict of Interest Forms previously filed by the individual or where said information becomes inaccurate or

incomplete after the reporting period but prior to the conduct of the election at which they seek office or prior to their appointment.

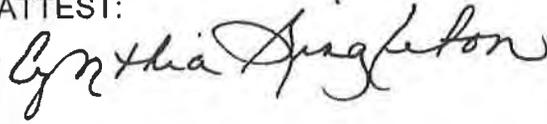
- Sec. 7. THAT the failure to file when due the Financial Disclosure and Business Conflict of Interest Forms, including any supplements required thereto, shall constitute a violation of this ordinance and shall be punishable by a fine not to exceed the sum of \$500.00. It shall be a defense to any prosecution of a violation of this ordinance that within three (3) business days of the due date of any Financial Disclosure and Business Conflict of Interest Form, including any supplements required thereto, the individual filed a Financial Disclosure and Business Conflict of Interest Form in conformity with the provisions of this ordinance.
- Sec. 8. THAT if any section, paragraph, clause or provision of this ordinance for any reason is to be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect the remaining portion of this ordinance and the ordinance shall be read as if such invalid or unenforceable provisions did not exist.
- Sec. 9. THAT upon passage hereof, Resolution R-01-1789 is repealed in its entirety.
- Sec. 10. THAT the City Secretary is hereby authorized and directed to cause publication of a description caption and penalty clause hereof as an alternative method of publication as provided by law.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 15th day of January 2002.

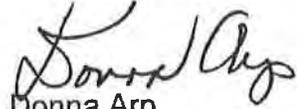
The second reading and public hearing being conducted on the 5th day of February 2002.

ATTEST:



Cynthia Singleton, TRMC
City Secretary

CITY OF COLLEYVILLE



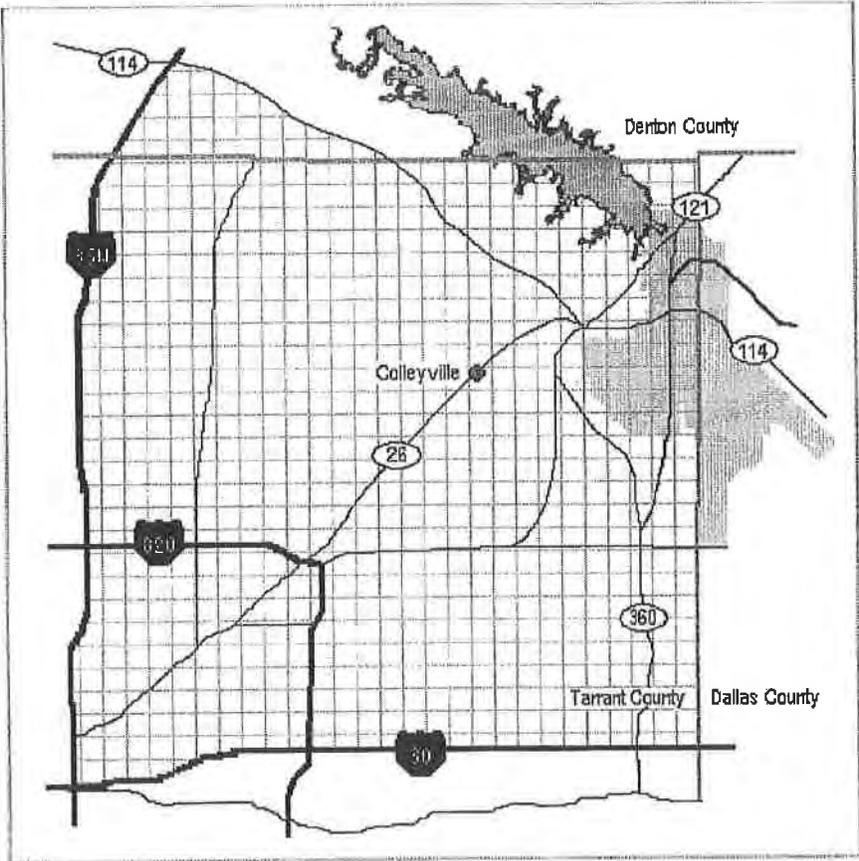
Donna Arp
Mayor

APPROVED AS TO FORM AND LEGALITY:



Ross T. Foster
City Attorney

ORDINANCE NO. 0-02-1322
Exhibit "A"



The crosshatched area is the portion of Tarrant County north of Interstate 30 and east of Interstate 35 W, and that portion of Denton County south of State Highway 114 and east of Interstate 35 W.

SOURCES OF OCCUPATIONAL INCOME

Form 2

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on FORM 1.

<p>¹ INFORMATION RELATES TO</p> <p><input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____</p>	
<p>² EMPLOYMENT</p> <p><input type="checkbox"/> EMPLOYED BY ANOTHER</p> <p><input type="checkbox"/> SELF EMPLOYED</p>	<p>NAME AND ADDRESS OF EMPLOYER / POSITION HELD</p> <p>NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD</p>
<p>INFORMATION RELATES TO</p> <p><input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____</p>	
<p>EMPLOYMENT</p> <p><input type="checkbox"/> EMPLOYED BY ANOTHER</p> <p><input type="checkbox"/> SELF EMPLOYED</p>	<p>NAME AND ADDRESS OF EMPLOYER / POSITION HELD</p> <p>NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD</p>
<p>INFORMATION RELATES TO</p> <p><input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____</p>	
<p>EMPLOYMENT</p> <p><input type="checkbox"/> EMPLOYED BY ANOTHER</p> <p><input type="checkbox"/> SELF EMPLOYED</p>	<p>NAME AND ADDRESS OF EMPLOYER / POSITION HELD</p> <p>NATURE OF OCCUPATION</p>

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

INTERESTS IN REAL PROPERTY

Form 3

Describe all beneficial interests in real property held or acquired by you, your spouse, or a dependent child during the calendar year within the area crosshatched on the map attached to Ordinance 02-1322.
For more information see INSTRUCTION GUIDE

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorum Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS <input type="checkbox"/> NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY
HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorum Tax Account Number _____ Acres and Tract _____
3 STREET ADDRESS <input type="checkbox"/> NOT APPLICABLE	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE
4 NAME <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> BUSINESS	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

Gifts

Form 4

Identify any person or organization that has given a gift worth more than \$250 to you, or those under your financial control as defined in Ordinance 02-1322. Do not include: 1) expenditures required to be reported by a person required to be registered as a lobbyist under Government Code, Chapter 305, 2) political contributions reported as required by law, or 3) gifts given by a person related to the recipient within the second degree by consanguinity or affinity.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ RECIPIENT	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
² DONOR	NAME AND ADDRESS
³ DESCRIPTION OF GIFT	
RECIPIENT	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	
RECIPIENT	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

BOARDS AND EXECUTIVE POSITIONS

Form 5

This section is for information concerning executive positions and directorship held by you or those under your financial control. For more information see INSTRUCTION GUIDE

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ POSITION HELD BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
² ORGANIZATION <input type="checkbox"/> NON PROFIT <input type="checkbox"/> CHARITABLE ASSOCIATION <input type="checkbox"/> BUSINESS ASSOCIATION	ADDRESS
³ POSITION HELD	
POSITION HELD BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
ORGANIZATION <input type="checkbox"/> NON PROFIT <input type="checkbox"/> CHARITABLE ASSOCIATION <input type="checkbox"/> BUSINESS ASSOCIATION	ADDRESS
POSITION HELD	
POSITION HELD BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
ORGANIZATION	
POSITION HELD	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

INTERESTS IN PARTNERSHIPS, JOINT VENTURES, Form 7 OR OTHER BUSINESS ASSOCIATIONS

Describe all interests in business entities held or acquired by you or those under your financial control as defined in Ordinance 02-1322. For an explanation of "beneficial interest" and other specific directions for completing this section, see INSTRUCTION GUIDE.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

1 HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
2 DESCRIPTION	NAME AND ADDRESS
3 NATURE OF BUSINESS	
HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY	

INITIAL HERE: _____

DATE: _____

**PERSONAL FINANCIAL STATEMENT
AFFIDAVIT**

Form 8

The Ordinance 02-1322 requires that the disclosures in the Financial Disclosure and Business Conflict of Interest Forms be verified. The verification page must have the signatures of the Financial Disclosure and Business Conflict of Interest Forms, as well as the signature and seal of a notary public. Without proper verification, the statement is not considered filed. Falsification of information is subject to criminal prosecution under state penal code.

Before me, the undersigned authority, personally appeared _____
who, after being duly sworn upon their oath deposed and stated as follows:

"My name is _____ and I hereby submit for filing pursuant to
Ordinance No. 0-02-1322 of the City of Colleyville, the attached Financial Disclosure and Business Conflict
of Interest Forms. I have personal knowledge of all information contained in said forms and all information
contained in the forms is true and correct."

"Further, all of the information contained in the forms is complete. There is no information that has
been withheld or not disclosed which is responsive to or required to be disclosed by the forms."

Affiant

Sworn to and subscribed before me, this the _____ day of _____, 2002.

Notary Public, State of Texas

INITIAL HERE: _____

DATE: _____

APP. N
ORDINANCE O-13-1896

ORDINANCE O-13-1896

AMENDING ORDINANCE O-02-1322 FILING DATES OF A FINANCIAL DISCLOSURE AND BUSINESS CONFLICTS OF INTEREST FORM; PROVIDING FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council approved Ordinance O-02-1322 on February 5, 2002, to establish the filing of a Financial Disclosure and Business Conflicts of Interest Statement for elected officials, candidates, and certain boards and commission members; establish definitions of terms; promulgate reporting forms; and provide for filing dates; and

WHEREAS, the City Council deems it in the best interests of the public to make available certain information about candidates for public office, elected officials, and members of the Planning and Zoning Commission, and the Zoning Board of Adjustment that may influence their decisions, or determine whether they can make unbiased decisions; and

WHEREAS, the City Council wishes to ensure citizen trust of elected and appointed officials of the City; and

WHEREAS, the original disclosure ordinance is in need of an update to make compliance more practicable, while achieving the same basic goals; and

WHEREAS, all statutory and constitutional requirements for the passage of this ordinance have been adhered to, including but not limited to the Open Meetings Act; and

WHEREAS, the purposes of this ordinance are to promote the public health, safety, and general welfare of the citizens of the City of Colleyville.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS:

Sec. 1. That all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

Sec. 2. THAT Ordinance O-02-1322 is hereby amended to include the following:

(1) Section 5B shall read as follows: Sitting Councilmembers, including the Mayor, shall have a duty to file supplemental disclosures upon the Financial Disclosure and Business Conflict of Interest Forms, which are attached hereto, within five (5) days of an occurrence of any change in the information reflected in the Financial Disclosure and Business Conflict of Interest Forms previously filed by the individual.

(2) Section 5D: shall read as follows: Sitting members of the Planning and Zoning Commission and the Zoning Board of Adjustment, shall have a duty to file supplemental disclosures upon the Financial Disclosure and Business Conflict of Interest Forms, which are attached hereto, within five (5) days of an occurrence of any change in the information reflected in the Financial Disclosure and Business Conflict of Interest Forms previously filed by the individual.

(3) The boundary map has been revised to include the Colleyville City limits only, attached as Exhibit "A".

(4) Section 6 is deleted entirely.

(5) Section 7 shall read as follows: THAT the failure to file any change in the Financial Disclosure and Business Conflict of Interest Forms, including any supplements required thereto, shall constitute a violation of this ordinance and shall be punishable by a fine not to exceed the sum of \$500.00. It shall be a defense, to any prosecution of a violation of this ordinance, that within five (5) days of any change in the Financial Disclosure and Business Conflict of Interest Form, including any supplements required thereto, the individual filed a Financial Disclosure and Business

Conflict of Interest Form in conformity with the provisions of this ordinance.

- Sec. 3. THAT the Financial Disclosure and Business Conflict of Interest Forms which are attached hereto as Exhibit "B", shall be verified as provided therein, and shall be filed with the City Secretary on the aforementioned dates.
- Sec. 4. THAT if any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.
- Sec. 5. THAT in addition to and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.
- Sec. 6. THAT Ordinance O-02-1322 shall remain in full force and effect, except where amended by this ordinance.

AND IT IS SO ORDERED.

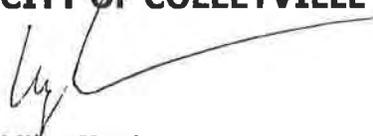
The first reading and public hearing being conducted on the 5th day of November 2013.

The second reading and public hearing being conducted on the 19th day of November 2013.

PASSED AND APPROVED by the City Council of the City of Colleyville, Texas, on this the 19th day of November 2013.

ATTEST:


Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE

Mike Taylor
Mayor Pro Tem

APPROVED AS TO FORM AND LEGALITY:

M.C.G. Boyle

Matthew C. G. Boyle
City Attorney

Exhibit "A"

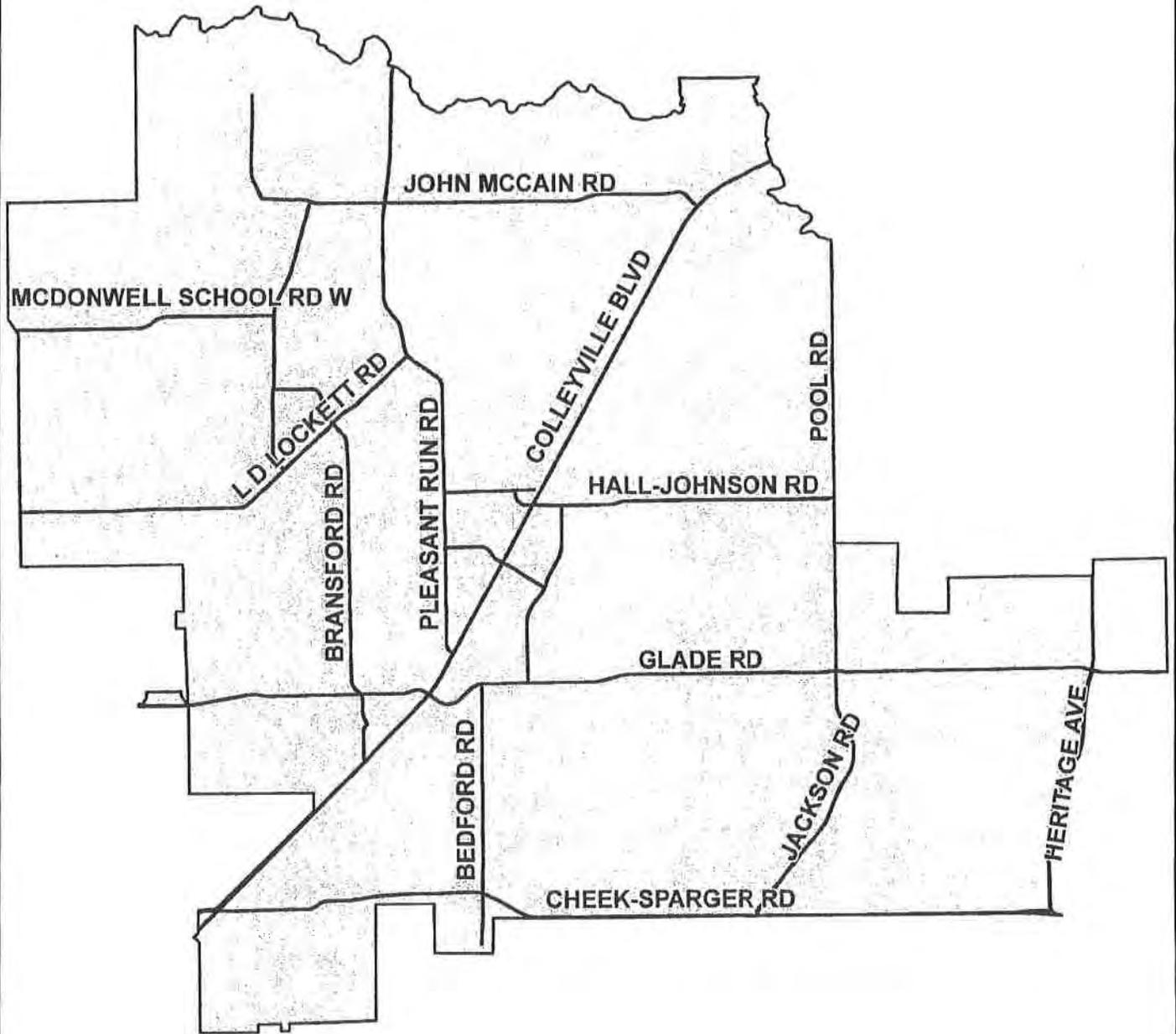


Exhibit "B"

City of Colleyville

Financial Disclosure and Business Conflict of Interest Forms

INFORMATION STATEMENT

Form 1

		TOTAL NUMBER OF PAGES FILED:
		OFFICE USE ONLY
1 NAME	TITLE; FIRST, MI	Approval Number
	NICK NAME; LAST; SUFFIX	Date Received
2 ADDRESS	ADDRESS / CITY / STATE / ZIP	
3 TELEPHONE NUMBER	AREA CODE	PHONE NUMBER; EXTENSION
	()	
4 REASON FOR FILING STATEMENT	<input type="checkbox"/> CANDIDATE _____ (INDICATE OFFICE)	
	<input type="checkbox"/> ELECTED OFFICIAL _____ (INDICATE OFFICE)	
	<input type="checkbox"/> ZONING BOARD OF ADJUSTMENT (APPLICANT OR APPOINTEE) _____	
	<input type="checkbox"/> PLANNING AND ZONING COMMISSION (APPLICANT OR APPOINTEE) _____	
	<input type="checkbox"/> TWO (2) BUSINESS DAYS FOLLOWING THE CLOSING OF FILING FOR ELECTIVE OFFICE OR APPOINTMENT	
	<input type="checkbox"/> SUPPLEMENTAL DISCLOSURE FILED WITHIN FIVE (5) DAYS OF AN OCCURRENCE IN PREVIOUSLY FILED FORMS	
5 Provide information for spouse and dependent children whose financial activity the filer had actual control over during this filing period. In addition, the source of annual income of the spouse shall be provided, as subject to federal election reporting requirements for a spouse:		
<input type="checkbox"/> SPOUSE _____		
<input type="checkbox"/> DEPENDENT CHILD 1 _____		
2 _____		
3 _____		
In parts 1-4 disclose your financial activity during the 12 months preceding the date of filing. In part 5 disclose not only your own financial activity, but also that of your spouse and/or dependent child or children, if you had actual control over that person's financial activity.		
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY		

INITIAL HERE: _____

DATE: _____

SOURCES OF OCCUPATIONAL INCOME

Form 2

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on FORM 1.

¹ INFORMATION RELATES TO	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
² EMPLOYMENT <input type="checkbox"/> EMPLOYED BY ANOTHER <input type="checkbox"/> SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
EMPLOYMENT <input type="checkbox"/> EMPLOYED BY ANOTHER <input type="checkbox"/> SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION / NAME AND ADDRESS / POSITION HELD
INFORMATION RELATES TO	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
EMPLOYMENT <input type="checkbox"/> EMPLOYED BY ANOTHER <input type="checkbox"/> SELF EMPLOYED	NAME AND ADDRESS OF EMPLOYER / POSITION HELD NATURE OF OCCUPATION

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

INTERESTS IN REAL PROPERTY		Form 3
<p>Describe all beneficial interests in real property held or acquired by you, your spouse, or a dependent child during the calendar year</p> <p>When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.</p>		
1 HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____	
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorum Tax Account Number _____ Acres and Tract _____	
3 STREET ADDRESS	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE <input type="checkbox"/> NOT APPLICABLE	
4 NAME	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> BUSINESS	
HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____	
2 DESCRIPTION	Lot _____ City _____ Block _____ County _____ Subdivision _____ Ad Valorum Tax Account Number _____ Acres and Tract _____	
3 STREET ADDRESS	STREET ADDRESS, INCLUDING CITY, COUNTY, AND STATE <input type="checkbox"/> NOT APPLICABLE	
4 NAME	LIST THE NAMES AND ADDRESSES OF OTHER PERSONS OR BUSINESS ENTITIES WHICH OWN AN INTEREST IN THE REAL PROPERTY <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> BUSINESS	
COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY		

INITIAL HERE: _____

DATE: _____

Gifts

Form 4

Identify any person or organization that has given a gift worth more than \$250 to you, or those under your financial Control. Do not include: 1) expenditures required to be reported by a person required to be registered as a lobbyist under Government Code, Chapter 305, 2) political contributions reported as required by law, or 3) gifts given by a person related to the recipient within the second degree by consanguinity or affinity.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ RECIPIENT	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
² DONOR	NAME AND ADDRESS
³ DESCRIPTION OF GIFT	
RECIPIENT	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	
RECIPIENT	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
DONOR	NAME AND ADDRESS
DESCRIPTION OF GIFT	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

BOARDS AND EXECUTIVE POSITIONS

Form 5

This section is for information concerning executive positions and directorship held by you or those under your financial control.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ POSITION HELD BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
² ORGANIZATION <input type="checkbox"/> NON PROFIT <input type="checkbox"/> CHARITABLE ASSOCIATION <input type="checkbox"/> BUSINESS ASSOCIATION	ADDRESS
³ POSITION HELD	
POSITION HELD BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
ORGANIZATION <input type="checkbox"/> NON PROFIT <input type="checkbox"/> CHARITABLE ASSOCIATION <input type="checkbox"/> BUSINESS ASSOCIATION	ADDRESS
POSITION HELD	
POSITION HELD BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
ORGANIZATION	
POSITION HELD	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

BANKRUPTCIES **Form 6**

Individuals shall disclose any bankruptcy petition by or against the individual, their spouse, a business entity in which the individual owned a beneficial interest of 10% or more, or a business entity in which the individual was an officer or director of the business entity at the time of bankruptcy filing.

1 TYPE OF BANKRUPTCY NAME _____	<input type="checkbox"/> PERSONAL <input type="checkbox"/> BUSINESS <input type="checkbox"/> N/A <input type="checkbox"/> NONE
2 CHAPTER	<input type="checkbox"/> 7 <input type="checkbox"/> 11 <input type="checkbox"/> 13
3 IF CHAPTER 7 DID YOU RECEIVE A DISCHARGE	<input type="checkbox"/> YES <input type="checkbox"/> NO
4 IF CHAPTER 11 OR 13 DID YOU COMPLETE A SUCCESSFUL REORGANIZATION	<input type="checkbox"/> YES <input type="checkbox"/> NO

Misdemeanor Involving Moral Turpitude and Felonies

Individuals shall disclose any information which charges a misdemeanor involving moral turpitude, a felony indictment, conviction of a misdemeanor involving moral turpitude or conviction of a felony of the individual or of a business entity in which the individual had a 10% or more beneficial interest or where the individual was at the time of the filing or conviction an officer or director of the business entity.

1 NAME _____ Business or Entity Charged	<input type="checkbox"/> PERSONAL <input type="checkbox"/> BUSINESS
2 TYPE OF INDICTMENT or INFORMATION	_____
3 NATURE OF OFFENSE	DESCRIPTION
4 DISPOSITION OF INDICTMENT or INFORMATION	_____

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____ DATE: _____

INTERESTS IN PARTNERSHIPS, JOINT VENTURES, OR OTHER BUSINESS ASSOCIATIONS **Form 7**

Describe all Interests in business entities held or acquired by you or those under your financial control.

When reporting information about a dependent child's activity, indicate the child about whom you are reporting by providing the number under which the child is listed on Form 1.

¹ HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
² DESCRIPTION	NAME AND ADDRESS
³ NATURE OF BUSINESS	
HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	
HELD OR ACQUIRED BY	<input type="checkbox"/> FILER <input type="checkbox"/> SPOUSE <input type="checkbox"/> DEPENDENT CHILD _____
DESCRIPTION	NAME AND ADDRESS
NATURE OF BUSINESS	

COPY AND ATTACH ADDITIONAL PAGES AS NECESSARY

INITIAL HERE: _____

DATE: _____

PERSONAL FINANCIAL STATEMENT AFFIDAVIT

Form 8

Financial Disclosure and Business Conflict of Interest Forms are required to be verified. The verification page must have the signatures of the Financial Disclosure and Business Conflict of Interest Forms, as well as the signature and seal of a notary public. Without proper verification the statement is not considered filed. Falsification of information is subject to criminal prosecution under state penal code.

Before me, the undersigned authority, personally appeared _____
who, after being duly sworn upon their oath deposed and stated as follows:

"My name is _____ and I hereby submit for filing
the attached Financial Disclosure and Business Conflict of Interest Forms. I have personal
knowledge of all information contained in said forms and all information contained in the
forms is true and correct."

"Further, all of the information contained in the forms is complete. There is no information
that has been withheld or not disclosed which is responsive to or required to be disclosed
by the forms."

Affiant

Sworn to and subscribed before me, this the _____ day of _____ 20____.

Notary Public, State of Texas

INITIAL HERE: _____ DATE: _____