

Tentative Agreement #1

Length of Council Terms and Staggered Terms

Recommendation: *Keep our current 2-year non-staggered terms, but explore a State Constitutional Amendment through the City's upcoming legislative agenda to eliminate the constitutional requirements that are triggered when any Texas City adopts council terms longer than 2 years. Eliminating these requirements would create a level playing field with other local elected officials in Texas who are not bound by these requirements, such as County Commissioners and ISD representatives, as well as allow the City of Corpus Christi to more freely explore longer council terms in the future.*

Background: The issue of longer council terms is complicated by Texas State Constitutional Requirements, as well as a subsequent 1983 Corpus Christi lawsuit and federal court order.

Longer terms have been discussed repeatedly by prior Charter Revision Committees for the last 20 years without a recommendation to move beyond 2-year terms. Why?

Part of the reason is that the discussion of longer council terms is complicated by Texas State Constitutional requirements triggered by moving from 2-year terms to longer terms for City Council Members. These constitutional requirements are not mirrored in most other states where longer terms are a best practice with 76% of national cities having terms longer than 2 years. This is in contrast to only 33% of Texas cities having longer than 2-year terms. These Texas State Constitutional requirements include:

1. **Majority Vote:** **All** city council members must be elected by majority vote rather than plurality vote
2. **Mandatory Elections:** Any vacancy with more than 12 months left in the term must be filled by election rather than city council appointment
3. **Resign to run:** Automatic resignation occurs if a city council member announces candidacy for other office with more than 13 months remaining in their term

In addition, the above requirement to elect all council members by majority vote is further complicated by a 1983 lawsuit against the City of Corpus Christi surrounding the lack of diversity at the time in our city council. The City lost the 1983 lawsuit and was placed under a federal court order that created our current mixed election system of single-member districts and at-large positions. It also dictated our current system of a plurality vote in the at-large positions. In 1983, election experts saw majority vote in at-large positions as the least conducive system to produce diversity in council elections. It remains the same today.

How that 1983 federal court order impacts a decision today to move to longer council terms, which would require a majority vote on all council elections including our at-large positions, is up for debate. In a recent conversation with Secretary of State Ruth R. Hughs on an ancillary issue, she raised our 1983 federal court order unprompted and suggested we review carefully that order to be sure we would be able to make the changes under discussion. Additionally, two prior city attorneys believed the City of Corpus Christi remains bound by that federal court order. This is reflected in a June 2011 City Attorney memo responding to similar Council questions that states, "...the 1983 federal court order is still in effect, and we are still required to comply with its provisions. we would have to petition the federal court for a modification of the order. According to federal law, if we seek modification, we must first show that there has been a significant change in circumstances that require the modification." On the other hand, our current City Attorney disagrees with that 2011 opinion and believes it is defensible to change our current system of council elections without seeking a modification to the 1983 federal court order. The City Attorney will be producing a written legal opinion to that effect by the end of January 2020.

What are the advantages and disadvantages of moving to longer council terms and subsequently to staggered terms?

The following is a summary of the pros and cons of moving to longer, staggered council terms:

#	Pros of Longer, Staggered Terms	Cons of Longer, Staggered Terms
1	Mirrors longer terms for other local officials, i.e. ISD Board Members, County Commissioners, and Port Commissioners	Less voter accountability by not keeping council members closely aligned or connected with voters. We should let voters decide if they want to keep their council members for more than 2 years
2	Fosters long-term, strategic thinking versus focusing on short-term outcomes to prepare for re-election every other year. Playing a long-term game with short-term players.	Doesn't acknowledge today's widespread lack of trust in government
3	Eliminates 1-year distraction of re-election out of a 2-year term leaving more time to get things done	The majority of incumbent, 2-year council members are typically re-elected providing continuity and consistency despite shorter terms.
4	Promotes continuity and consistency in governance	Additional costs of special elections created by mandatory vacancy and resign to run elections, as well as more runoff elections required by moving to majority vote. Depending on the scenario, staggered terms could increase election costs, also.
5	Prevents disruption of significant or wholesale turnover on city council	Significant or wholesale turnover of eligible incumbents is rare.

#	Pros of Longer, Staggered Terms	Cons of Longer, Staggered Terms
6	Gives time to grow in position rather than a 1-year coming up to speed and the 2 nd year spent running again for re-election	2-year terms allow greater staff power over policy.
7	Longer terms help build stronger relationships between city staff and city council.	The requirement of more special elections and run offs can lead to voter burn out.
8	Experience helps with good governance, and longer terms help with building experience.	Hard to explain to voters all the nuances of the state constitution requirements, the impact of the 1983 lawsuit, among other considerations of moving to longer terms
9		In some scenarios – for example If the City moves to all single-member districts or a combination of single-member districts and super single-member districts - voters will move from an opportunity to vote for a majority of council positions (the Mayor, their single member district and three at large members) to something less than a majority.

So, what were our options and ensuing vote?

Committee Members discussed having longer term lengths for single-member district council members and keeping 2-year terms for the at-large council members to avoid the majority vote requirement for at-large positions. This is precluded by the language of Texas Constitution Art. 11 & 11 “(b) A municipality so providing a term exceeding two (2) years but not exceeding four (4) years for **any** of its non-civil service officers must elect **all** of the members of its governing body by majority vote of the qualified voters in such municipality.”

Moving to all single-member districts or some combination of single-member districts and super single-member districts rather than having to elect our at-large positions by majority vote was also discussed. Finally, Committee Members took 3-year terms off the table leaving the following options for the committee discussion and vote:

#	Term & Structure Option	Staggered	Non-Staggered
1	Keep 2 Yr. non-staggered terms but seek Constitutional Amendment to eliminate the State Constitutional requirements triggered by moving to longer council terms		5 Votes

#	Term & Structure Option	Staggered	Non-Staggered
2	4 Yr. Terms w/ 3 At Large Places by Majority	2 Votes	
3	4 Yr. Terms Moving to All Single Member Districts by Majority	2 votes	
4	4 Yr. Terms Replacing At-Large positions with Super Single-Member Districts by Majority		
5	2 Yr. Terms with All Single-Member Districts by Majority		
6	4 Yr. Terms Subject to a Constitutional Amendment to Allow At-Large by Plurality. Note: Per discussion with the Law Department and the Texas Secretary of State, this is not a legal option.		