

**MANDEVILLE CITY COUNCIL  
PROPOSED AMENDMENTS TO THE HOME RULE CHARTER  
MINUTES FOR THE PUBLIC HEARING OF APRIL 14, 2014**

The Public Hearing was called to order by Mayor Pro Tem Clay Madden at 6:00 p.m.

**PRESENT:** Clay Madden, Rick Danielson, David Ellis, Carla Buchholz, Ernest Burguières.

**ALSO:** Mayor Villere, Edward Deano, Victor Franckiewicz, Tim Dunn, St. Tammany Farmer, Faimon Roberts, The Advocate

**1. Introduction**

Under the Tenth Amendment to the U.S. Constitution, local governments are creatures of the state and are authorized to exercise only the powers specifically granted to them by the State. However, the Constitution of Louisiana provides that a parish or municipal governing authority may, if the local voters authorize it to do so, exercise any power that is not prohibited from exercising. The State Constitution also authorizes and includes procedures for parishes and municipalities to adopt home rule charters. A home rule charter is akin to a local constitution in that it provides for the organization and authority of the local government. The adoption of a home rule charter is subject to local voter approval. The fact that a Charter government can exercise any power not denied by general law means that a power cannot be taken away from a local government by a local law.

The recommended amendments are presented at this public hearing as talking points. The Council will not be voting on the amendments during the public hearing process. The technical amendments generally involve clarification of ambiguous language and updates to comply with state law. Substantive recommendations do require more attention and involve policy changes. Each substantive recommendation will be considered individually.

**2. Highlights of Potential Technical Changes** – These amendments, that are technical in nature, will be bundled together and offered for introduction and adoption under one ordinance:

A. Section 1-05 - Add language to make it clear that the power to pass ordinances is limited by the charter; the council cannot pass ordinances that are inconsistent with the charter.

B. Section 1-06 - Allow cooperative agreements with non-governmental entities and individuals. This eliminates the implied restriction that agreements could only be made with other governmental entities.

C. Section 2-01 (E) – This revision provides clarification of the timing so that redistricting after the 2020 census will work with the local election schedule.

D. Section 2-03 (B) – With regard to vacancies on the council, timing revisions are technical changes to track state election law.

E. Section 2-01 (B) – Recommend to eliminate obsolete term limit language from 2000.

F. Section 2-06 – Change terminology of Mayor Pro Tem (leftover from the 1880's) to Council President. Mr. Jack McGuire recommended the term Chairman instead of Council President due to the smaller size of our municipality.

G. Section 2-11 – Where ever the charter references publication in the official journal, the recommendation is to include internet publication for notices of City business.

H. Section 2-06 (D) – Clarify that the published council agenda may be amended in accordance with general state law. State law currently provides that the agenda may be amended by unanimous vote of the council. The recommendation to include a procedure where no council member shall be denied the right to have an item placed on the agenda is a substantive recommendation.

I. Section 2-06 (E) – Allow changes, to the organization of the council, to be implemented by a majority rather than a two-thirds vote. Change all two-thirds voting requirements to three-fourths. This effectively means that when the council has five members, four votes are needed for specified supermajority votes. With four members (one vacancy), a supermajority would take three votes. With only three members, it would take all three votes. Some votes can be made by a majority of the council and the charter indicates when a supermajority is required.

J. Section 2-06(G) – Clarify the meaning of “authorized membership” of the council. As used in this charter, authorized membership means the number of council members then in office and not disqualified from serving, excluding members mandated by law to abstain from voting on particular matter, such as by virtue of ethics laws or this charter. The term membership used alone without modification shall mean all five council members.

K. Section 3-08 – The current charter states that when the mayor is absent for more than 72 hours, he must file a letter with the clerk. The recommendation is to change the language from “shall” to “may” so that it is not mandatory. With current technology, cell phones and internet, the mayor can remain in contact and available to the city.

Mr. Burguières suggested that, in order to be fair to the constituents and not burden them with pages of amendments on the ballot, the substantive changes should be categorized and limited. Some of these suggestions and recommendations are just wish list items and can be eliminated. Mr. Franckiewicz stated that some of the substantive changes can proceed through an individual ordinance rather than a charter amendment. Plus, if any of these recommendations do not have a sponsor, they simply die on the vine and do not make it through the process of becoming an ordinance.

**3. Potential Substantive Changes and Policy Choices**

A. Section 2-01(B) – The recommendation is to change council term limits from two to three terms and eliminate “musical chairs” of moving from district to at large seats or vice-versa to avoid the effect of term limits. A council member could serve 12 consecutive years, take one term off, and then run and serve another consecutive 12 years. Mr. Franckiewicz stated that the city is less likely to have a total turnover on the council with three year term limits. The way this recommendation is worded (and if it were adopted as is) the current term being served does count in the consecutive terms. He added that he does not see a lot of term limit controversy at the local level. But it has

been an ongoing controversy at the state legislative level because of people going back and forth between the House and Senate. Mrs. Buchholz stated that she thought term limits restricted voters rights. Mr. Franckiewicz stated that term limits were important at the state level because of the accumulation of power, but the danger of the accumulation of power at the local level is much less. Mr. Leonard Rohrbough, Lakeshore Drive resident, recommended allowing musical chairs one time and allowing for four terms, two as a district council member and two terms at large. Mr. Madden commented that citizens were strongly in favor of term limits and it was his intention to bring it to the citizens on the ballot. Mr. Franckiewicz stated that having three term limits for the mayor and two term limits for the council creates an imbalance. Mr. Jack McGuire, Civil Service Board Chairman, stated that he strongly believes the ballot box is where term limits should lie for the mayor and the council. Mr. Burguieres stated that what we are trying to avoid is entrenched power and it occurs at all levels: legislative and executive. Mr. Deano stated that what we are doing by applying term limits is taking away the ability of the public to vote for who they really want in office. The people do not need government to tell them who they should vote for. The real problem is that not enough people are running for council office. Only nine people have run for five seats in the last two elections. There is value in institutional knowledge. You are taking away people's right to run for office and people's rights to vote for who they want. And generally that is not done unless there is a real important need. Mr. Madden added that the final decision should be made at the ballot box.

B. Section 2-03(C) – If the council fails to fill a council vacancy in 20 days, change the appointing power from the Governor to the Mayor. The Governor is not necessarily the person with the best interest of your local area. This would purely be a choice, there are no best practices on how to do that.

C. Section 2-04 (B) - The proposed amendment would require any change in council salary to be made 90 days before the qualifying deadline for the next term.

D. Section 2-05(B) – Prohibit targeting specific employees or officers for salary or benefits reduction unless the reduction is part of a budget reduction applicable to the city workforce as a whole. This change prohibits the indirect removal of executive branch personnel. Mr. Burguieres stated that he did not think this was a high priority item to place in front of voters; we can restrict ourselves on being punitive by ordinance.

E. Section 2-06(B) – Expressly require council members-elect to comply with the Open Meetings Act. Mr. Franckiewicz stated that the spirit of the Opening Meetings Law requires this, but it is not crystal clear in the Open Meetings Law. Mr. Burguieres stated that he thought it was a bad idea; it was helpful to meet beforehand and figure out how things were going to work. Mr. Franckiewicz stated that the law requires that the debate on public business should be conducted in public. If you debate something but don't vote on it behind closed doors, it is still a violation of the Open Meetings Act. Mr. Burguieres asked who else does this. Mr. Franckiewicz stated that there were no charters that have this provision that he knows of. This item could be enacted by Ordinance rather than by charter amendment. After further discussion, it was stated by Mr. Franckiewicz that the council-elect could meet but there should be a public notice of the meeting.

F. Section 2-06 (D) – Council procedures shall not deny any council member the right to have an item placed on the agenda, provided the agenda item is submitted timely under such procedures. It guarantees that a council member can always have their item placed on the agenda and prevents the council chairman from controlling the agenda rather than facilitating the meeting. The council can set the procedures and timing to accomplish this. Mayor Villere state that he thought it was a good idea for the Chairman to have the final say on what is added on the agenda to ensure that that the information is complete and timely. Mr. Deano stated that the issue here is whether you want future councils to make the rule or not. How much to you want to tie their hands (future councils). Mrs. Becky Rohrbough, Lakeshore Drive resident, asked if this rule would prohibit opening of the agenda items. Mr. Franckiewicz stated no; the 2008 open meetings law allows the addition of agenda items with a unanimous vote.

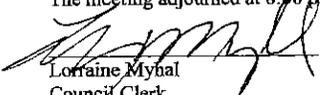
G. Section 2-06(E) - Under the current charter the council must organize itself at their first meeting and then afterwards, any change can be made by a two-thirds vote (or four votes). This proposed amendment deletes the supermajority so the council can reorganize itself by a majority vote. The current charter does not define what "organization of the council" means. Organization of the council could mean the selection of officers and the adoption of council procedures. This change puts the power with the majority so two people can't (potentially) control the organization. This change could be classified as a technical amendment.

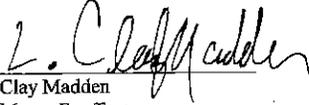
H. Section 2-08 – Clarify and strengthen the process for the selection of an outside auditor. This could be accomplished by ordinance as well. Currently, the selection of the auditor is a function of the council. This makes it clear that the council can secure the auditor through a selection process and may decline to accept a proposal from any auditor who provided audit services to the city during the three fiscal years prior to the fiscal year being audited.

I. Section 2-10 (12) – Simplify authority for minor acquisitions of immovable property by clarifying that authority can be provided in the budget ordinance in lieu of a separate ordinance for each acquisition. This makes it clear that the city does not need a separate ordinance for every acquisition (i.e. an easement). Mr. Deano commented that it may not require any funding or budgetary line items (i.e. servitude). Mr. Franckiewicz stated that was a legitimate need and we have that topic on the "other topics without recommendations" part of the public hearing agenda.

#### ADJOURNMENT:

The meeting adjourned at 8:00 a.m.

  
Lorraine Myhal  
Council Clerk

  
Clay Madden  
Mayor Pro Tem