

Home Rule Charter Frequently Asked Questions (FAQ)

Updated April 8, 2016

Overview:

The City of Fulshear commissioned the drafting of a Home Rule Charter last year. If approved, the Home Rule Charter will give the citizens of Fulshear the privilege of managing their own affairs at the grass roots level with minimal interference from the State. Home Rule assumes that government issues should be solved at the level closest to the people and that local self-government is the cornerstone of democratic government.

Thirteen (13) dedicated citizens selected from a broad range of backgrounds, which represented a racially diverse cross section of men and women took up the challenge laid out by the Mayor and City Council to draft the City's first Home Rule Charter. The commission was selected to represent not only a diverse group demographically, but also geographically with a balanced number of individuals from Cross Creek Ranch and the older parts of town.

The Charter itself will serve in essence as the Constitution of the City if adopted by you the Voters in the May 7th election. Below you will find several Questions and Answers about the document, process and nature of the powers associated with a Home Rule Charter.

We invite you to also please add to the list should you have questions that are not answered below, by submitting questions to: FulshearCharterFAQ@fulsheartexas.gov.

Questions:

- 1) **What is Home Rule?**
- 2) **What is a Home Rule Charter?**
- 3) **Who gets to decide if the Charter gets enacted?**
- 4) **What will the makeup of Council be? How will my area be represented?**
- 5) **How are those Districts determined?**
- 6) **What about Term Limits?**
- 7) **What form of government is being proposed?**
- 8) **If the City Manager isn't elected how do they know how to run our community the way we want it run?**
- 9) **What's the value of a Council-Manager form of government?**
- 10) **So what happens to the Mayor?**
- 11) **How does this potential change impact me? Do I really have more power as a voter under the Charter than I do right now?**
- 12) **What if we decide that we really don't like the Charter if gets it adopted?**
- 13) **How do the term limits kick in? Does current service on Council count toward the six-year term limit?**
- 14) **Could the Charter Commission please provide some insight into why they chose the future City Council makeup to be a combination of single-member and at-large seats instead of simply keeping the current method of all At Large voting?**
- 15) **Are there any activities/events in the last several years that could have been managed more effectively or efficiently if we would have already had the Charter?**
- 16) **What about future activities/capital plans, etc.? Does the Charter made a difference?**
- 17) **How much did we spend on the development of this Charter?**
- 18) **I assume your need for a new Charter signals we have been poorly managed and represented over my past 13 years here? If so, how will this Charter guard the tax payers from similar poor management issues?**
- 19) **If in two years a Charter can be reviewed, yet Fulshear does not have a full City Council of seven for four more years, how could, in two years, a commission adequately evaluate if change is needed?**
- 20) **Almost all statements about Home Rule have been highlighting how Home Rule is preferable to General Law. Do you know of any cities who voted down a Home Rule form of government and how did they fare in the years following?**
- 21) **How much extra money will this Charter cost us over the current system?**
- 22) **What are the "cons" for staying the way we are currently managed?**

- 23) How much growth has the City had in the last six to eight years?
- 24) If the Charter doesn't seem consistent with the City's growth, can it be modified before the first five years? If so, how?
- 25) Who determines (has the power) whether Fulshear will be a sanctuary city or not?
- 26) What are the number of new positions and estimated cost of those positions to taxpayers?
- 27) How was a decision reached on the amount of compensation for the City Council and Mayor? If they are paid, will they qualify for benefits such as medical, retirement, etc?
- 28) Why would the Mayor get paid \$800 a month if essentially the power would move to the City Manager?
- 29) What if we decide that we really don't like the Charter if gets it adopted? Section 8.07 of the Proposed Charter calls for a Charter Review Commission to review the Charter every five years. There is no provision, however, for a Charter review in two years. Why is that language not included in the document?
- 30) Is "single member district" a defined term in the Charter? If not, why?
- 31) Why are these single member districts not defined prior to the Charter?
- 32) Why would an At Large Council member have separate qualifications rather than normal qualifications already defined?
- 33) What parameters or limits are there by State Law to define the single member districts? (Define demographic?)
- 34) What actions can initiate re-districting before the 10 year census frame?
- 35) The Charter says that if a Council member leaves, the Council can appoint their replacement, but it doesn't say it doesn't have to be someone from that district specifically. Can the Council appoint someone from another district to fill the opening?
- 36) While it is understandable that the City wants greater power to make decisions closer to home, given the rapid growth of Fulshear, our concern is that this power have reasonable limits. The text of the Charter makes clear that powers will be limited by the laws and Constitution of the State of Texas, wherein these powers are vested. However, there is no reference to a limitation with respect to the laws and Constitution of the United States of America.

Answers:

1. What is Home Rule?

To best answer this question we need to first look at how the State of Texas allows Cities to govern themselves. Since the days of the Republic this has been an issue as advocates of strong local control have wrestled with those who prefer a more centralized control. In the end, the State developed a two tiered system for Municipal governance: General Law Cities and Home Rule Cities.

General Law Cities are generally smaller communities with populations under 5,000 that have their powers expressly limited to the specific authorities given to them by the State. Fulshear currently is a Type A General Law City meaning that it is among the larger General Law cities; however its power and authority to regulate are limited by the constraints of the State. Examples of those limitations include limitations on the City's ability to annex property unilaterally and also to limit the ability of the City to regulate where Registered Sex Offenders can reside. Both of those powers are generally available to Home Rule Cities.

Home Rule Cities are required to write and adopt a Charter that specifically enumerates the structure, power, duties and authorities the people of the community wish to grant their local government. From a legal standpoint Home Rule Cities operate in an inverse manner from General Law Cities in that their power is derived expressly from the citizens and you the resident gets to define how and in what manner your City government operates. The City will still be subject to statutory and Constitutional constraints but the powers available to the City are greatly expanded to the limits allowed by you, the citizens of Fulshear, not the State. Those would include unilateral annexation which is a huge tool in guiding future development and the ability to regulate where Registered Sex Offenders reside, among others.

2. What is a Home Rule Charter?

Home Rule cities are required to write and adopt a Charter. The Charter, for all practical purposes, is a Municipal Constitution that is written and adopted by the citizens of the Home Rule city via an election. The Charter defines and limits the powers, duties and responsibility of local government based on local preferences and desires. It defines the form of local government and establishes organizational provisions. The citizens determine the necessary controls over their city government such as elections, referendums, initiatives and recall, and definition of the procedures to amend the Charter. Essentially, the City Charter describes and defines local government based on local preferences and controls as opposed to general laws which have been written by the Texas legislature.

3. Who gets to decide if the Charter gets enacted?

The Charter will be submitted to you the Voters for approval and is on the ballot for the Regular City elections which will be held on May 7, 2016.

4. What will the makeup of Council be? How will my area be represented?

The Charter Commission looking with an eye towards the rapid growth of Fulshear decided that the optimal number of voting Council Members was seven (7). Five (5) of those members will be elected from Single Member Districts the other two shall be elected on an At-Large Basis.

This means that five (5) of the Members will come from Districts that are divided on the basis of balanced populations. They will not be based on simple geographic divisions as some have stated. Federal law mandates that these Districts be based on similar numbers of residents within themselves. For example if the City has a population of 8,000 at the time the Districts go into effect then there would be five (5) districts with populations of 1,600 persons each.

The other two positions will be elected on an At-Large basis meaning that they will be voted on by all of the Voters within the City. Section 3.03 of the Charter does give the City Council the authority to create "Super Wards/ Districts" for these At-Large positions; however there is no such process planned or in place currently for Council to take such action.

5. How are those Districts determined?

The City will have to hire specialist consultants and legal counsel to determine the geographic boundaries for each Single Member District that are balanced from a population standpoint. These districts would be revisited over time to ensure that they maintained a proportional balance of population based on demographic analysis conducted by third party consultants selected by the City Council.

There is currently a case before the Supreme Court for which a decision will likely be released in late May or June that will help guide these professionals in drawing the districts. All districts regardless of what local individuals or politicians may want must meet Department of Justice guidelines and the final decision of the Supreme Court.

6. What about Term Limits?

The proposed Charter does include Term Limits for all of the Elected Officials. Those Term Limits would allow for a total of six (6) years' service by those serving in elective positions. The six (6) years would allow for three (3) consecutive two (2) year terms in a given office (Council Member or Mayor).

Hypothetically, a Council Member could serve three (3) consecutive two (2) year terms and then run for Mayor and serve another three (3) consecutive two (2) year terms. They also could run for and serve three (3) consecutive two (2) year terms as a Council Member; then take a year off and run for another Council position if eligible in either a Single Member or At-Large District.

7. What form of government is being proposed?

The proposed Charter calls for a transition from a Council-Mayor form of government to a Council-Manager form of government. Council-Manager government combines the strong political leadership of elected officials with the strong managerial experience of an appointed manager or administrator. All power and authority to set policy rests with an elected governing body, which includes the Mayor and Council Members. The City Council in turn appoints a nonpartisan professional manager who has broad authority and responsibility to run the City. This is similar to how a CEO and board of director's functions in the private industry.

This form of government was born out of the U.S. progressive reform movement at the turn of the 20th century, the Council-Manager system was designed to combat corruption and unethical activity in local government by promoting effective management within a transparent, responsive, and accountable structure. Since its establishment, the Council-Manager form has become the most popular structure of local government in the United States. The form municipal government is also widely used throughout the world in countries such as Canada, Australia, the Netherlands, New Zealand, and the United Kingdom.

8. If the City Manager isn't elected how do they know how to run our community the way we want it run?

Policy making resides with the City Council, while oversight of the day-to-day operations of the community resides with the City Manager. In this way, the elected officials are free to devote time to policy planning and development.

The City Manager carries out the policies established by the City Council with an emphasis on effective, efficient, and equitable service delivery. Even with a transition to the Council-Manager form of government the City will continue to engage and involve their residents in decision making. Residents guide their community by electing their city councilmember's, serving on boards and commissions, participating in visioning and strategic planning, and designing community-oriented local government services.

The City Manager is hired/ appointed to serve the City Council and the community and brings to the City all of the benefits of his/her training and experience in administering municipal projects and programs. The City Manager prepares a budget for the City Council's consideration; recruits, hires, terminates, and supervises government staff; serves as the Council's chief advisor; and carries out the council's policies.

Council Members and residents count on the City Manager to provide complete and objective information about local operations, discuss the pros and cons of alternatives, and offer an assessment of the long-term consequences of their decisions. Appointed City Managers serve at the pleasure of the City Council. They can be fired by the City Council, consistent with local laws, or any employment agreements. The City Manager can make policy recommendations to the City Council for consideration and final decision; but the City Manager is bound by whatever action the City Council takes, and control is always in the hands of the elected representatives of the people.

9. What's the value of a Council-Manager form of government?

Professional managers contribute value to a community because they:

- Work in partnership with elected officials to develop sound approaches to community challenges by bringing together resources to make the right things happen and produce results that matter;
- Bring a community-wide perspective to policy discussions and strive to connect the past and future while focusing on the present. They help the governing body develop the long-term vision for the community that provides a framework for policy development and goal setting;
- Promote ethical government through commitment to a set of ethical standards that goes beyond those required by law. City Managers who are members of the International City Management Association (ICMA) or Texas City Management Association (TCMA) subscribe to the organizations' Code of Ethics, which requires them to "affirm the dignity and worth of the services rendered by government and maintain . . . a deep sense of social responsibility as a trusted public servant" (the current City Administrator and Assistant City Administrator are both members of TCMA);
- Encourage inclusion and build consensus among diverse interests (including those of elected officials, the business community, and citizens) by focusing on what is best for the entire community rather than the centralized interests of only a few individuals;
- Promote equity and fairness by ensuring that services are fairly distributed and that administrative decisions (such as hiring and contracting) are based on merit rather than favoritism;
- Develop and sustain organizational excellence and promote innovation. Professional managers focus relentlessly on efficient and equitable service delivery, policy implementation, and evaluation. They align the local government's administrative systems with the values, mission, and policy goals defined by the community and elected officials;
- Nearly all Texas cities over 5000 in population have chosen the Home Rule form of government and many of Texas' most successful Cities have chosen the Council-Manager form of government including: Austin, Dallas, Frisco, Southlake, Fort Worth, San Antonio, Plano and Richardson. Locally Katy, Missouri City, Mont Belvieu, Pearland, Richmond, Rosenberg, Sugar Land, and West University Place are all Council-Manager governments.

10. So what happens to the Mayor?

Under the proposed Charter the Mayor will still:

- The Mayor shall nominate, and by and with the approval of the City Council, shall appoint the members of all boards and commissions of the City, and may remove the same at any time.
- The Mayor shall annually address the City Council as to the State of the City.
- The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes and by the governor for purposes of military law.
- The Mayor shall, when authorized as necessary by the City Council, sign all official documents.
- The Mayor will continue to vote only on items where there is a tie on City Council.

11. How does this potential change impact me? Do I really have more power as a voter under the Charter than I do right now?

Absolutely. In most instances the citizens of Fulshear will have the ability to choose the course of the City instead of the legislature in Austin. In addition an expansion of powers given to the City, the Charter provides the residents with several key powers to chart the course of City government directly through the Initiative, Referendum and Recall powers.

This means that if enough registered Voters agree that they may enact Ordinances based on Initiatives presented directly to the Voters. Voters may also hold Referendums to repeal certain Ordinances.

That doesn't mean that direct democracy will rule the day or that Ordinances will come flying in from every direction. Nor would the power of Initiative and Referendum be able to modify the City budget or any capital expenditure; the appropriation of money; the levying of taxes; the adoption or amendment of a comprehensive plan; the adoption, amendment, or repeal of zoning districts or regulations; the annexation or dis-annexation of land; the setting of rates, fees, charges, or assessments; the setting of salary or compensation of officers or employees; or the granting of franchises.

Additionally Voters would have the power to recall their Elected Officials if they felt they weren't doing the job the way Voters wanted. Currently those authorities don't exist or are greatly constricted under our current General Law provisions.

12. What if we decide that we really don't like the Charter if gets it adopted?

Like all government instruments, the Charter is a living, breathing document that can be modified to meet the needs of the times as they change. Under the proposed Charter, the City Council is required to appoint a Charter Review Commission at a minimum interval of five (5) years to ensure the document is keeping pace with the City and meeting the needs of the residents. Such reviews can be made more frequently if needed but cannot take place any sooner than two (2) years following its adoption or amendment.

13. How do the term limits kick in? Does current service on Council count toward the six-year term limit?

Term Limits would not take effect until after the May 2017 election. Service prior to that time is not counted. The Charter calls for a maximum of three (3) consecutive (2) year terms for Council Members and the Mayor. For example an individual Council Member could serve three(3) consecutive two (2) year terms (six (6) years total) and then run for Mayor and serve an additional three (3) consecutive two (2) year terms (for an additional 6 years) before an individual would be limited. Also, a Council Member or Mayor could serve three (3) consecutive two (2) year terms, take a year off and then run for a position and start over. So a Council Member representing a Single Member District could serve 6 years in that post and then take a year off and run for an At Large position or any other position.

The following is the plan for implementation of the current District/At-Large Council Plan.

- May 7, 2016 will be the final election under the old system. This will allow for election of Council Members (1), (2) and (3), plus the Mayor. This is an even year election.
- Districts created in 2017. Odd year election. There will be (1) At-Large Seat and (2) District Council seats which will be ONE YEAR TERMS.
- 2018 Election. Even year election. There will be (1) At-Large Seat and (2) District seats that will be TWO YEAR TERMS, plus the Mayor, which will be a two year term, plus (1) District seat that will be ONE YEAR.
- 2019 Election. Odd year election. This begins the regular process for full term elections when (1) At-Large and (3) District seats will be up for election for full two year terms.
- 2020 Election. Even year election. This completes the process for all remaining Council and Mayor positions when (1) At-Large and (2) District seats, plus the Mayor will be elected.

14. Could the Charter Commission please provide some insight into why they chose the future City Council makeup to be a combination of single-member and at-large seats instead of simply keeping the current method of all At Large voting?

The Commission spent a lot of time on this issue...the critical concern was what is the best way to structure a Council that best represents ALL the residents of Fulshear, not just an area that has a large population base (not just today, but in the future). We recognized at the time that Cross Creek Ranch has a predominant population base and that while this development is currently the largest in Fulshear, that may not always be the case....we also recognized that regardless of the size of any development, every person who lives and votes in Fulshear should be fairly represented by the City Council. Therefore, after long and deliberate discussion, we elected to try to form a Council that would consist of five Council Members representing Districts in which they reside (in other words, they represent their true constituents) while at the same time wanting to allow for those voters as well as all voters in Fulshear to be able to vote for individuals who will represent the interests of ALL the residents of Fulshear, therefore the two At Large positions.

The primary concern is that anytime there are all At Large positions, the largest population base will typically drive and elect all the representatives. However, we did note in our discussions that under the proposed Charter, with the current population, Cross Creek Ranch will likely be represented by four (4) single member districts and then they will likely receive one (1) at large position making it a five (5) to two (2) majority on council.....giving CCR a distinct representation advantage on Council. However, we also knew at the time that the Supreme Court case could make a decision in either direction upholding current Texas law or make a decision on only registered voters in any area and that decision might further alter the basis on which districting lines are drawn. Every voting area in the United States is determined on some basis by individuals who do nothing but decide on how precincts and districts are decided. That information is then submitted to the Department of Justice for certification. The DOJ, The Civil Rights Division, has the responsibility for enforcement of provisions of the Voting Rights Act that seek to ensure that redistricting plans do not discriminate on the basis of race, color, or membership in a protected language minority group. None of the Commission are qualified to even guess as to what those lines may be, but we felt that by creating five Single Member Districts and two At Large representatives, we have the best chance of creating a fair voter basis to represent all of the citizens of Fulshear.

In looking at Cities with similar growth trajectories (Sugar Land, Missouri City, etc.) the Commission felt that providing a mix was the best way to ensure representation from all components of the community. Which is exactly how those communities structured their Councils during periods of high growth. Very few cities have Council positions without "place". With an At Large place position, a candidate runs for that one position and to win an election the candidate has to win a majority vote. Fulshear's current Council make-up is At Large without place, and to win a candidate has to only win with a plurality not a majority vote. In other words, who gets the most votes than everyone else as opposed to 51%. Under a Charter the voting is by majority. Fulshear cannot change to At Large by place except by adopting a Charter or settling a lawsuit if the City was sued.

15. Are there any activities/events in the last several years that could have been managed more effectively or efficiently if we would have already had the Charter?

There's not a really good way to know because the City wasn't eligible to have a Charter until late 2014 but who doesn't love a hypothetical question? So here are a couple of examples:

Scenario 1: The negotiation of Development Agreements within the ETJ could have provided the City with more leverage in getting Developers to Regionalize Water/ Waste Water services. This can have a direct financial impact on the city because if you regionalize those services you can decrease operating expenses and optimize the capital costs. This will help the City and residents save money long term.

Scenario 2: Instead of being at the mercy of the State Legislature, the Council could have adopted Sex Offender Residency Ordinances but are currently barred from passing such regulations. We are not saying that you can keep sex offenders out of a city altogether, but you can restrict them from where children commonly congregate: Schools, churches, parks and playgrounds including the pocket parks in Cross Creek Ranch and Fulbrook on Fulshear Creek.

Scenario 3: Instead of asking if a landowner will voluntarily annex his land into the city limits or voluntarily petition his land into the City's ETJ, the City would have been able to annex private or public roadways and simply extend the boundaries so long as the city provided the required city services.

16. What about future activities/capital plans, etc.? Does the Charter made a difference?

The Charter will provide the City with greater authority to annex which will enable greater coordination regarding capital improvements. Additionally, the Charter will give our residents enhanced powers to guide growth in a way that is more desirous of community residents, including providing residents full power to recall (remove) elected officials, create a way to drive a referendum to reject new city laws and create an initiative to pass new city laws.

Fulshear residents gain powers of:

INITIATIVE...is a process that enables citizens to bypass their city council by placing proposed resolutions or ordinances (laws) on the ballot.

REFERENDUM...is a device which allows voters to repeal an act (resolution or ordinance) of the city council.

RECALL...is a procedure that allows citizens to remove and replace a public official before the end of their term of office.

17. How much did we spend on the development of this Charter?

To date the City has expended close to \$70,000 on this process; that includes legal fees for the drafting, a secondary legal review by independent counsel and costs associated with the mailing of the Charter to all of the registered voters. The City has no indication that this is higher or lower than the typical cost for a city to develop a Home Rule Charter.

18. I assume your need for a new Charter signals we have been poorly managed and represented over my past 13 years here? If so, how will this Charter guard the tax payers from similar poor management issues?

Cities typically do not pursue Home Rule Charters in response to perceived management issues and the fact that the Council elected to move to Home Rule Charter is not an indictment on past management or how the city business has been conducted. As previously stated, the City was unable to adopt a Charter until it surpassed the 5,000 person population mark; so the conversion to a Home Rule Charter isn't meant to denigrate the management of the City to this point. In fact, based on the growth and success in guiding that growth one would argue that the current management system has been successful.

Instead the move to Home Rule will provide the City more tools to ensure its growth and empower the Citizens to a higher degree than we enjoy now. Most communities in our size range find it extremely difficult for a Mayor and Council to dedicate the time it takes to run a rapidly growing, complexity filled operation, while also maintaining a full time job.

The reality is that in only the largest Cities can Mayor and Council Members be full time stewards and even then they typically rely on professionally trained staff to conduct the business of the City. In smaller to mid-size cities it is much more common to have the actual day-to-day operations entrusted to individuals that are educated and professionally trained to operate the City which is the impetus behind the transition to the Council-Manager form of government.

For Fulshear to be successful in the future, it would seem that relying on a dedicated full-time professional staff, removed from the political realm would provide the best chance at continuing those successes.

19. If in two years a Charter can be reviewed, yet Fulshear does not have a full City Council of seven for four more years, how could, in two years, a commission adequately evaluate if change is needed?

Regardless the number of Council Members, every citizen and Council Member should be able to understand if changes are required to the Charter. The Council's authority to react to the need for these changes is available regardless the number of Council Members.

20. Almost all statements about Home Rule have been highlighting how Home Rule is preferable to General Law. Do you know of any cities who voted down a Home Rule form of government and how did they fare in the years following?

We've only heard of one in Texas. After reaching a population of 5,000, the City of Prairie View failed to get a Charter passed in 2013 but it did pass two years later in 2015.

21. How much extra money will this Charter cost us over the current system?

The reality is that there will be no increase in costs over the current system in terms of operational profile and services rendered. There will be certain costs associated with processes, like the development of Annexation Plans, and demographic studies associated with the creation and evolution of Single Member Districts. However, those changes may be necessary anyway to issues with discrepancies in the actual Census Bureau reporting information.

Like most other cities Council members will be paid a small stipend for their monthly service. The proposed amount is proposed at \$300 per month under the Charter as opposed to not being paid as a current General Law Council Member. Any future raises will require a Charter amendment which means it must be on a ballot for voter approval.

22. What are the “cons” for staying the way we are currently managed?

General Law cities can only do what the State specifically grants them the power to do, while Home Rule cities can do anything not strictly forbidden by State law. If the Home Rule Charter failed, the status quo would be maintained, meaning that the City would not be allowed to annex property to protect the City or limit where convicted sexual offenders can live in the city. Home Rule cities can prevent sex offenders from living within certain distances of schools, churches, parks, etc. Citizens would also not gain the powers to recall (remove) elected officials, drive a referendum to reject new city laws or create an initiative to pass new city laws. Basically the City would continue to rely on the Texas Legislature in Austin as opposed to the citizens of Fulshear to determine the City’s course.

23. How much growth has the City had in the last six to eight years?

Fulshear has grown by more than 900% in the last few years. In 2000 the population totaled 716, in 2010 the estimated population was nearly 1,600, and as of March 1st the population within the City Limits was 7,959. Those figures do not include the population boom in the City’s Extra Territorial Jurisdiction (ETJ) which impacts our infrastructure, or the continuing expansion of the ETJ land wise which now extends from I-10 in the north to the Brazos River.

24. If the Charter doesn’t seem consistent with the City’s growth, can it be modified before the first five years? If so, how?

Yes. The State allows for a Charter Review to be conducted every two (2) years. The City Council could, at the behest of the voters or on their own initiative, either approve charter amendments for voter consideration or appoint a Charter Review Commission to review and revise any section or provision of the document. The Charter is meant to be living document and designed to provide the City Council maximum flexibility to accommodate the growth of the community. The voters then have the power to accept or reject any amendment created by the Commission.

25. Who determines (has the power) whether Fulshear will be a sanctuary city or not?

All policy decisions are made by the elected City Council. Hypothetically, if such a decision was made by the Council, and the City was General Law, the voters would have no real recourse until those Members were up for re-election. If such a decision was made by Council and the Charter was in place, the voters would have the power to repeal the Ordinance by Referendum and Recall (remove) those politicians via valid petitions.

26. What are the number of new positions and estimated cost of those positions to taxpayers?

Any new positions will not be a direct cost created by the Home Rule Charter. The staffing plan for the City will continue to grow as we try to provide services to a rapidly growing population, with or without the Charter. That said, the Budget process will follow a very similar trajectory as it does now. The difference being that the City Manager would develop and present the Budget, as opposed to the Mayor; in either scenario the City Council still reviews and approves the Budget.

27. How was a decision reached on the amount of compensation for the City Council and Mayor? If they are paid, will they qualify for benefits such as medical, retirement, etc.?

The Charter Commission spent a great deal of time evaluating and re-evaluating this section; essentially they based their compensation levels on how, and in what manner, other Cities compensated their Council Members and Mayors and on the time commitment necessary for the roles. Based around those considerations the compensation levels were created.

The compensation provided to the Mayor and Council are stipends, and while taxable income, do not provide them with any benefits like medical or retirement at this time.

28. Why would the Mayor get paid \$800 a month if essentially the power would move to the City Manager?

Please see the answer above.

29. Section 8.07 of the Proposed Charter calls for a Charter Review Commission to review the Charter every five years. There is no provision, however, for a Charter review in two years. Why is that language not included in the document?

The Charter can be amended in three ways under State Law:

- 1) The Texas Constitution states that a Charter cannot be amended more oftener (their words) than every two years.
- 2) The Charter can specify a “mandated” review unless it is silent on the issue and then the methodology would be derived from the Local Government Code. This is where the Commission landed after debating what an appropriate period for review would be, they ultimately settled on a five (5) year review period with the understanding that...
- 3) The Local Government Code allows for the voters to call for amendment to the Charter through their petitioning Council for the appointment of a Charter Review Commission so long as that petition is in line with the State Constitution.

Two years is the minimum time (the floor) a Home Rule Charter can be changed per the Texas Constitution. The Fulshear Charter Commission set a maximum of 5 years (the ceiling) that a Charter must be reviewed. The City Council of Fulshear can review its Charter and place changes (amendments) on the ballot after the first 2 years, or in the 3rd or 4th year if it didn't make a change at the 2 year mark, but the Charter Commission must at least review the Charter in the 5th year. Most other city's charters and the model charters set a maximum review period of 5 years. Much like a speed limit, the limit is on how fast you go not how slow you go.

30. Is “single member district” a defined term in the Charter? If not, why?

No. The definition is a standard term, meaning that an area has a single member representing it in a Legislative body. Please see the answer below regarding how those Districts are formed and determined.

Based on the City's current population, this would mean Districts comprised just under 1,600 residents per District.

31. Why are these single member districts not defined prior to the Charter?

This answer is based on the understanding that the question is asking why the District boundaries were not defined by the Charter Commission.

Districting is a very complex process requiring significant demographic statistical information and legal work to ensure that each District is made up of as close to an equivalent number of persons as possible. It is also subject to change based on population shifts over time. The Commission did not feel that they had the information to make these decisions and wanted to give the City Council flexibility for this process.

Further, the Commission had to wait for the outcome of the Supreme Court case, *Evenwel v. Abbott*, which on April 4, the decision was made by an 8-0 vote to uphold the current Texas method of districting which takes into consideration the entire population including children and non-U.S. citizens. It now becomes the challenge for the districting experts to draw fairly the districts that best represent the city's population base. If the districts were drawn in the Charter, a potential conflict could arise with rapid growth throwing the Districts out of balance and then having to wait 2 years to re-balance the districts through a required Charter amendment election as opposed to a Council ordinance.

32. Why would an At Large Council member have separate qualifications rather than normal qualifications already defined?

In an effort to give the elected City Council flexibility the Commission opted to include a provision allowing, but not requiring, the Council to place additional qualifications on the At Large candidates. This was done in an effort to diffuse potential future conflicts from either an action by the US Department of Justice or a discrimination lawsuit.

Giving the Council an option to change the Charter rather than face a federal lawsuit is a more efficient and effective resolution of the dispute. At the time of the drafting of the Charter the US Supreme Court was considering the *Evenwel* case concerning the composition of districts.

33. What parameters or limits are there by State Law to define the single member districts? (Define demographic?)

Great question! Thanks to the Supreme Court's April 4th ruling we can provide a much more definitive answer. Based on the decision in the *Evenwel* case, it seems to make it clear that Single Member Districts are to be divided and based upon the actual number of persons residing within each District. Prior to this decision there had been some debate about Single Member District demographics being based around the population of registered voters as opposed to the actual number of residents.

That being said, if the Charter passes, the City Council will retain a demographer with extensive Districting experience to determine the correct population balances for each Single Member District. If there were no more population growth today, that would mean Single Member Districts with a population of 1,592 persons per District. To be clear those Districts will be balanced by population without regard to geographical considerations. There will not be Districts dedicated to a particular neighborhood or region simply on the basis of geography.

34. What actions can initiate re-districting before the 10 year census frame?

If there is dramatic population change, like the addition of several thousand people into the City Limits as the result of an annexation/ dis-annexation, or new development; the City Council may re-draw the lines through the use of an expert independent firm following the same protocols initially used to create those Districts. This may be done no more frequently than every two years.

- 35. The Charter says that if a Council member leaves, the Council can appoint their replacement, but it doesn't say it doesn't have to be someone from that district specifically. Can the Council appoint someone from another district to fill the opening?**

Appointees would be subject to the same qualifications as candidates seeking elective position, which means that in the event of a vacancy, Council would have to appoint someone residing within the District for which that vacant position is represented. Specifically the Council would have to appoint someone who met and maintained the qualifications necessary to represent the vacant position.

- 36. While it is understandable that the City wants greater power to make decisions closer to home, given the rapid growth of Fulshear, our concern is that this power have reasonable limits. The text of the Charter makes clear that powers will be limited by the laws and Constitution of the State of Texas, wherein these powers are vested. However, there is no reference to a limitation with respect to the laws and Constitution of the United States of America.**

The current document is "the document" and can't be amended prior to consideration at the election on May 7, 2016. However, it should be noted that Article VI, Clause 2 of the United States Constitution, and subsequent Supreme Court rulings, make it clear that the Constitution and all Federal laws made pursuant to the Constitution are the Supreme law of the land, and as such, the States and all creatures deriving their power therefrom are compelled to follow those laws. Under a Charter the Citizens of Fulshear have the right to call a referendum or recall election to repeal the law or recall the Council members voting for it. You do not currently have that right as a General Law city.