

MEMORANDUM

TO: Charter Committee
FROM: Amy Cowan
DATE: September 3, 2009
RE: Charter Revisions / Legal Issues

I revised the Charter as noted below. I made changes to the most recent version. The most recent changes are in bold and are underlined. Responses to legal issues regarding a particular section are noted next to the applicable section. I had notes in addition to the memorandum provided by the Charter Committee, and those changes or comments are included as well. Please let me know if you have any questions or concerns with regard to the following.

- **Section 1.13 (e):** Concurred with explanation regarding retaining “outside”
- **Section 1.13 (t):** change sewage disposal to “sewage and wastewater”
Added the words “and wastewater treatment and” after the word “sewage” in the third line.
- **Section 1.13 (gg):** change sewage disposal to “waste water sewage treatment plant”
Added the word “improving” after “maintaining in the second line.
Changed the words “sewage disposal” to “wastewater sewage treatment” in the second and third lines.
***There was discussion about making this provision apply retroactively. Is that a change that you would like to see?**
- **Section 1.12 (hh):** Deleted “glass, tin, aluminum, cardboard, paper, and other” in the fourth line of this section.
Added “including the granting of exclusive or nonexclusive franchises for such services” in the second line of this section. There is currently no reference to franchises for solid waste collection services here or in the franchise section. The addition of this language provides the City with this general power. However, the specifics of any such franchise would be adopted by ordinance. Have the City Attorney review any solid waste franchise ordinance that is adopted, as such ordinances have been the subject of recent litigation.
- **Section 1.13 (ii):** add “use of firearms”
O.C.G.A. §16-11-173 sets out the specific areas of firearm “use” that municipalities may regulate. I added language to this section to mirror the language in O.C.G.A. §16-11-173.
- **Section 2.11.:** Change residency to 12 months – consistent with councilmember residency requirements
Changed residency requirement to 12 months.
- **Section 2.14.** Concurred with mayor line item veto
- **Section 2.15.** Specify mayor pro-tem one-year term; elected annually at the first meeting of the year; serves until replaced.
Added “annually at the first meeting of the year” after the word “elect” in the first line of the section.
Added new second sentence to further clarify one year term and serves until replaced.
- **Section 2.16.** Concurred with retaining six councilmembers

- **Section 2.17.** Concurred with terms remaining 4-years and residency requirements being 12 months
- **Section 2.18.** Compensation and expenses. Change 2009 to 2011.
2009 changed to 2011 in sixth line of subsection (a).
- **Section 2.20(g):** Added “elected officials” to the first line of this section.
- **Section 2.20.(h)(1) and (2):** Change Any officer to Any “elected official”
Changed language in (h)(1) to read “any officer, elected official, or employee of the City of Hoschton”
Added “elected official” to (h)(2).
- **Section 2.23.:** Delete “markets, market houses”
Done.
- **Section 2.24.:** Change a judicial officer to “an officer of the court”
Changed language in third and fourth lines of section to read “an officer of the Court authorized to administer oaths.”
I researched how other cities approach this issue. In Lilburn, the charter states that “new members” are sworn in by the “City Attorney.” The Berkeley Lake charter provides that the oath is administered “before the retiring mayor or some person authorized to administer oaths.” Other charters just state that “the oath of office shall be administered.” The language “officer of the Court” leaves you open to having either the City Attorney or Municipal Judge administer oaths. However, if you wish to be more specific, I think you could just state City Attorney.
- **Section 2.27.** Delete “at the option of the mayor or any councilmember,”
Deleted “at the option of the mayor or any councilmember” in the third and fourth lines of this section.
- **Section 2.28.** Need to clarify 1st reading.
Added new sentence after “2.30.” in fifth line that reads “An ordinance shall be placed on first read at the time of its introduction herein at any regular or special meeting of the City Council.”
- **Section 2.30 (a):** Added comma in first line.
- **Section 3.10.(e):** Delete “removal or”
Done.
- **Section 3.11. (h):** add additional language regarding submitting bylaws, rules and regulations to the mayor and council
Added the words “if authorized by ordinance” after the words “members or” in the fourth line.
Added “submitted to the Mayor and City Council and” to the last line.
- **Section 3.14.:** delete “and elected officials”
Changed language so that last line reads “For purposes of this section, all elected officials are not City employees.”
- **Section 4.13. (i):** Typo - change foor to for
Done.
- **Section 5.11. :** Change 2009 to 2011.
Done.

- **Section 5.16. (a):** Insert Title 45
Reformatted and added additional language to reference Title 45.
- **Section 6.10. Property tax.**
No changes noted. Please advise if this section needs to be changed.
- **Section 6.11. Millage rate, due dates, payment methods.**
Discussion revolved around enacting a specific millage rate limit, above which would require a referendum; additional legal research is to be done by the city attorney and considered at the next charter committee working session on Sept. 10.
Received response from Thomas Mitchell.
- **Section 6.14:** Add “cell towers”
Reference to cellular telephone companies not added because additional research is needed. I am not certain that a City can enter into a franchise agreement with a cell phone company.
Added “solid waste disposal companies.”
- **Sections 6.19 and 6.20.:** 6.19 requires a referendum; it could not be confirmed that 6.20 requires a referendum – to be further researched and reported on Sept. 10.
A referendum is not required for Section 6.20 – Revenue Bonds. O.C.G.A. §§36-82-60 through 36-82-85.
- **Section 7.12. Prior Ordinances.:** Change to “unless repealed or amended, for two years from the effective date of this charter. During such two-year period, the city council shall review all such provisions and shall readopt, repeal or amend each, so that a codification as provided by Section 2.32 (b) is accomplished.”
Done.
- **General Issue:** Do we have or should we have an ordinance that restricts non-contracted garbage collection companies from operating in the city?
See Notes on Sections 1.12 (hh) and 6.14.