

# Charter Review

Follow-up from  
Charter Review Committee Recommendations

July 25, 2017

# Background

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- **October 11, 2016:** Council approved a resolution forming a Charter Review Committee (CRC)
  - Created a 21 person member committee to review seven areas for possible revisions to the Charter and to provide recommendations
- **December 2016 – May 2017:** Charter Review Committee Work
  - Held 8 Committee meetings and formed 3 subcommittees (Stipend, Recall, and Ethics) that held a total of 10 subcommittee meetings
  - Created a final report with recommendations on May 17, 2017
- **June 27, 2017:** CRC Chair Joe Mulroy presented the Committee's recommendations to Council
- **July 18, 2017:** City Council provided direction to staff to proceed with the CRC's recommendations on the charges, except for charge #6 regarding ethics

# Charges for the Charter Review Committee

#	Subject	Charge	CRC Recommendation
1	Districts	<ul style="list-style-type: none"> <li>Should the composition of the Council change to 6 single-member council districts and 1 at-large mayoral district? (Sec. 2.01)</li> </ul>	<ul style="list-style-type: none"> <li>No revision</li> </ul>
2	Terms	<ul style="list-style-type: none"> <li>Should the current 3 consecutive two-year term limitations be changed? (Sec. 2.01)</li> </ul>	<ul style="list-style-type: none"> <li>No revision</li> </ul>
3	District Residency	<ul style="list-style-type: none"> <li>Should the current one-year district residency eligibility requirement be amended? (Sec. 2.02)</li> </ul>	<ul style="list-style-type: none"> <li>Proposed revision</li> </ul>
4	Recall Percentage	<ul style="list-style-type: none"> <li>Should the percentage signature requirement for recall petitions be increased? (Sec. 4.13)</li> </ul>	<ul style="list-style-type: none"> <li>Proposed revision</li> </ul>
5	City Auditor	<ul style="list-style-type: none"> <li>Should the appointment, duties, and responsibilities of the city auditor be clarified? (Sec. 6.04)</li> </ul>	<ul style="list-style-type: none"> <li>Proposed revision</li> </ul>
6	Ethics	<ul style="list-style-type: none"> <li>Should the current conflict of interest and nepotism provisions be replaced with alternative ethics provisions? (Secs. 14.04 and 14.05)</li> </ul>	<ul style="list-style-type: none"> <li>Proposed revision to Charter and recommended ordinance elements</li> </ul>
7	Stipend	<ul style="list-style-type: none"> <li>Should a salary or stipend be established for council members?</li> </ul>	<ul style="list-style-type: none"> <li>Proposed revision</li> </ul>

# Charge #6 - Ethics

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## Committee Recommendation:

- Charter Language - Recommended adopting Charter language that City **Council shall adopt an ethics ordinance** that addresses 4 ethics components at a minimum
- Ethics Ordinance - In addition to recommended Charter language, the committee recommended several issues to be addressed at a minimum by Council in an ethics ordinance.

## Council Discussion:

- How does Charter language compare to the model city charter? Should model city Charter language replace or supplement the recommended language?
- How should ethics provisions for employees be addressed?
- Should an independent board of the ethics be included in the Charter language?

# Charge #6 - Ethics

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## CRC Recommended Charter Language:

The City Council shall adopt an ethics ordinance. At the minimum, the ethics ordinance shall incorporate the conflict of interest standards that appear in chapter 171 of the Texas Local Government Code and all state law as presently exist or may be hereafter amended or adopted.

The Council may adopt more stringent standards than those that appear in state law, but the ethics ordinance shall at a minimum include the following components:

- (1) Definition of a prohibited improper economic interest and personal gain;
- (2) Definition of recusal and improper participation when a potential conflict of interest is present;
- (3) Avoidance of appearance of conflict of interest; and
- (4) Administration and enforcement of ethics ordinance coupled with strong and meaningful remedies for infraction.

## Model City Charter:

- Both contain a conflict of interest provision
- Both contain an enforcement mechanism
  - Model City Charter contains language for the creation of an independent board of ethics
  - The CRC recommended creation of a three-person panel with mediation and arbitration experience be an element of the ethics ordinance

# Charge #6 - Ethics

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## Options:

1. Adopt CRC recommended Charter language
2. Modify recommended Charter language

The City Council shall adopt an ethics ordinance. ~~The ethics ordinance shall prohibit the use of public office for private gain and At the minimum, the ethics ordinance~~ shall incorporate the conflict of interest standards that appear in chapter 171 of the Texas Local Government Code and all state law as presently exist or may be hereafter amended or adopted.

The Council may adopt more stringent standards than those that appear in state law, but the ethics ordinance shall at a minimum include the following components:

- (1) Definition of a prohibited improper economic interest and personal gain;
- (2) Definition of recusal and improper participation when a potential conflict of interest is present;
- (3) Avoidance of appearance of conflict of interest; and
- (4) Administration and enforcement of ethics ordinance coupled with strong and meaningful remedies for infraction.

*Optional Substitute for (4) – Establish an independent board of ethics for administration and enforcement.*

3. Other

# CRC Recommended Elements of an Ethics Ordinance:

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- Elected and appointed officials **shall recuse themselves** from any discussion or agenda item wherein a conflict or appearance of conflict of interest may exist. Recusal shall mean not only NOT VOTING but also not participating in discussions, deliberations, or lobbying regarding the matter or closely related matters, either in the public forums or otherwise.
- **Conflict** shall be at a minimum as defined in the state law and more stringent in that percentage of ownership shall not be greater than 2 % or \$ 500, whichever is less, nor income derived be greater than \$ 1,000 for either prior or current year. Conflict criteria shall apply to officials and appointees who have fiduciary relationships with parties with pecuniary interest in such matters.
- Elected and appointed officials **shall comply with all applicable laws of the State of Texas**, including but not limited to Local Government Code Chapter 145, Local Government Code Chapter 171, Local Government Code Chapter 176, Penal Code, Sections 36.02, 36.03, and 36.04.
- **Ethics complaints shall be heard by a three-person panel** with mediation and arbitration experience. Council shall select and determine remuneration for a panel pool of not less than seven so that a rotating sequence may be established.
- **A mandatory Ethics training regimen shall be adopted and enforced** for all elected and appointed public officials. The regimen shall address both introductory and ongoing training with a minimum of quarterly continuing education for Ethics.
- **Consideration shall be undertaken to include all city employees** under the Ethics Ordinance to promote employee ethics education, compliance and ongoing training. Care should be exercised to fully interface existing policies and procedures to avoid management conflicts.

# Next Steps

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- Provide direction on recommended changes to the Charter
- Draft ballot language to meet deadline to file a November election with the County
- Timeline
  - August 1 City Council meeting
    - Review draft ballot language
  - August 15 City Council meeting
    - Consideration of an ordinance to call an election
  - August 21 – Deadline to file with the County for a November 2017 election