



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM/ DCM/ ACM: Bryan Langley

DATE: November 14, 2017

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding how to proceed with the creation of an ethics ordinance.

BACKGROUND

On September 27, 2016, the City Council discussed potential revisions to the Denton City Charter at a Council Work Session. Council identified seven areas for possible revision and called for the establishment of a Charter Review Committee. A Charter Review Committee (CRC) was approved by the City Council on October 11, 2016 and charged with evaluating seven potential changes to the Charter. The CRC met for over 6 months and presented a final report and recommendation to the City Council on June 27, 2017. After review and discussion, the City Council approved an ordinance on August 15, 2017 ordering an election to be held on November 7, 2017 for the purpose of submitting to voters five propositions for amendments to the Denton City Charter.

Proposition D requires the adoption of an ethics ordinance by the City Council in accordance with Texas law and with adherence to certain minimum standards. Currently, the unofficial early voting results are 87 percent in favor of the proposition and 13 percent opposed. In anticipation that the election results will be certified by the City Council on November 20, 2017 at the special called session, staff wanted to present options for how an ethics ordinance could be developed for City Council consideration and adoption, as required by the Denton City Charter amendment.

If Proposition D is approved and certified, Article XIV Sections 14.04 and 14.05 of the Charter shall be repealed in their entirety and the following section shall be appropriately numbered and inserted into the Charter:

Ethics Ordinance Requirement.

The City Council shall adopt an ethics ordinance. The ethics ordinance shall prohibit the use of public office for private gain and 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, including the power to subpoena witnesses and documents, coupled with strong and meaningful remedies for infraction.

In addition to recommending Charter language for ethics, the Charter Review Committee recommended several items that could be addressed at minimum by Council in an ethics ordinance. The items identified by the CRC as recommended elements of an ethics ordinance are listed below:

- 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.

OPTIONS

Staff has identified options for creating an ethics ordinance.

Option 1. Hire an outside consultant to assist City Council in the creation of an ethics ordinance.

Considerations:

- City Council could choose to use Alan Bojorquez who assisted the CRC. Mr. Bojorquez presented information on ethics to the CRC on March 1, 2017. Staff received positive feedback from the CRC on Mr. Bojorquez's presentation and knowledge of municipal ethics. Mr. Bojorquez would propose a process whereby the City Council or a Council ad-hoc committee would hold a series of five meetings focusing on ethics training, drafting an ordinance, gathering public feedback, and finalizing an ordinance. Please see **Exhibit 3** for additional detail.
- City Council could have staff research other consultants.
- Staff estimates that the cost would be approximately \$20,000.

Option 2. Have staff research and use other city ordinances as a model or template.

Considerations

- Time- Modifying a template or other city ordinance through City Council discussion at work session may increase the time required to draft an ordinance.
- The history or reasoning behind another city's ordinance provisions may not be readily available or understood.

Option 3. Other direction given by City Council.

RECOMMENDATION

Staff recommends that an outside consultant be hired to assist in the creation of an ethics ordinance at an estimated cost of \$20,000. This would allow for an unbiased third party to provide input based on professional experience in the field of municipal ethics, would allow for a discussion with real world examples from other cities, and would expedite the process of drafting an ordinance.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

September 27, 2016- City Council discussed potential revisions to the Charter.

October 11, 2016- A Charter Review Committee was formed to review certain Charter provisions.

June 27, 2017- The Charter Review Committee presented recommendations to City Council.

August 15, 2017- City Council adopted an ordinance ordering an election.

November 7, 2017- An election was held to vote on propositions amending the Charter.

STRATEGIC PLAN RELATIONSHIP

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

Related Key Focus Area: Organizational Excellence

EXHIBITS

Exhibit 1: Agenda Information Sheet

Exhibit 2: Presentation

Exhibit 3: Proposal

Respectfully submitted:

Bryan Langley

Deputy City Manager

Prepared by:

Charlie Rosendahl

Management Analyst