



Charter Review Commission

April 15, 2014

Meeting Packet



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2014 APR 11 PM 2:42
CITY OF DALLAS
DALLAS, TEXAS

NOTICE OF A PUBLIC MEETING

THE CHARTER REVIEW COMMISSION
WILL MEET IN OPEN SESSION
ON TUESDAY, APRIL 15, 2014
DALLAS CITY HALL, COUNCIL CHAMBERS
1500 MARILLA, DALLAS, TEXAS
5:30 PM

AGENDA

Welcome & Work Plan	Chairman
Approval of minutes of April 5, 2014	Commission
Approval of minutes of April 8, 2014	Commission
Citizen Testimony on Redistricting	Marvin Crenshaw
Continuation of Redistricting Work Session Worksheet and Consideration of proposed amendments	Commission
Work Session on Mayor/Council Pay and Terms Worksheet and Consideration of proposed amendments	Commission
Consideration of other proposed amendments <ul style="list-style-type: none">• Chapter IV § 12, Chapter V § 1, Chapter XVIII §s 11, 12, 13, and 14 (Petitions)• Chapter XXII §1 (Ordinances and resolutions are not contracts)	Commission
Consideration of other proposed amendments <ul style="list-style-type: none">• Chapter IV § 7 (Nomination by petition)• Chapter VI § 1 (Appointment and removal of the city manager)• Chapter XI § 4 (Transfer of appropriations)• Chapter XI § 6 (Expenditures pursuant to appropriations)• Chapter XI §8 (Payment of obligations)• Chapter XVI § 12(a) (Trial board designations)• Chapter IIIA § 3(2) (Records management)	Commission

Closed Session Information

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. Contemplated or pending litigation, or matters where legal advice is requested of the City Attorney. Section 551.071 of the Texas Open Meetings Act.
2. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Section 551.074 of the Texas Open Meetings Act.
3. The deployment, or specific occasions for implementation of security personnel or devices. Section 551.076 of the Texas Open Meetings Act.
4. Other Items Listed as Exceptions to the Requirement That Meetings Be Open in Subchapter D of the Texas Open Meetings Act.

Note: A quorum of the Dallas City Council
may attend this Commission meeting



**Charter Review Commission
Meeting Minutes
Lake Highlands Rec Center
Saturday April 5, 2014**

Commission Members Present:

Rafael Anchia
Liz Cedillo- Pereira
Robert Chereck
Levi Davis, First Vice Chair
Eva Elvove
Michael Northrup
Tom Perkins
Jeanne Phillips
Diane Ragsdale
Paul Rich
Bob Stimson
Alan Walne
Max Wells

Staff Members Present:

Anna Holmes
Parris Long
Barbara McAninch
John Rogers

Commission Members Absent:

Jan Hart Black, Lois Finkelman Mary Suhm

10:08 AM Meeting called to order by First Vice Chair, Levi Davis

A quorum was present.

Chair's Welcome

Presenter(s): Rafael Anchia

Discussion Item: Chair Anchia gave a brief overview of the charter review process. The aggregate list of suggested amendments from the community, City Council, and department heads can be found on the City of Dallas website. Chair Anchia presented the schedule of upcoming work sessions including the fifth community meeting.

Introduction of Chairs and Commissioners

Presenter(s): Levi Davis

Discussion Item: First Vice Chair requested that each commission member introduce herself/himself.

Public Comments on Charter Review Process

Presenter(s): Citizens

Discussion Item: Citizens gave comment on the Charter Review Process for the Commission's consideration. Each item suggested by a speaker that related to the Charter was added to the Suggested Amendments to the Dallas City Charter list for consideration by the Commission. Chair Anchia outlined the community meeting schedule and meeting locations. The planned Charter Review Commission schedule was outlined as:



**Charter Review Commission
Meeting Minutes
Lake Highlands Rec Center
Saturday April 5, 2014**

- April 8, 2014- Redistricting
- April 15, 2014- Preliminary votes on major items
- April 22, 2014-Community meeting at Dallas City Hall Council Chambers

Commission will vote on recommendations sent to City Council after the last scheduled community meeting. The Commission received comment from the public regarding redistricting, council pay and terms and opposition to any form of privatization.

The following individuals addressed the Commission:

Mary Warren, 4312 Mckinney Ave. #16
Larry Wainer , 6137 Sul Ross Ln.
Ruth Morgan, 2319 7607 Glenshannon Cir.
Anne Morton, 3607 Bowser Ct.
Angelina Matthews, 5908 Caracas Dr.
William Opiel, 9705 Smokefeather Ln.
William Funderburk, 3607 Bowser Ct.

Meeting adjourned at 11:52 AM

Chair

Commission Administrator



**Charter Review Commission
Meeting Minutes
Council Chambers, City Hall
Tuesday, April 8, 2014**

Commission Members Present:

Rafael Anchia
Jan Hart Black
Liz Cedillo- Pereira
Robert Chereck
Levi Davis, First Vice Chair
Eva Elvove
Lois Finkelman, Second Vice Chair
Michael Northrup
Tom Perkins
Jeanne Phillips
Diane Ragsdale
Paul Rich
Bob Stimson
Mary Suhm
Max Wells

Staff Members Present:

Anna Holmes
Tricia Horatio
Parris Long
Barbara McAninch
John Rogers
Elizabeth Zornes

Commission Members Absent:

Alan Walne

5:40 PM Meeting called to order by Rafael Anchia

A quorum was present

Welcome and Work Plan

Presenter(s): Rafael Anchia

Discussion Item: Chair Anchia gave a recap of the community meeting held April 5, 2014, where the Commission received comment from the public regarding redistricting, council pay and terms and opposition to any form of privatization.

Approval of Minutes of March 27, 2014 and April 1, 2014 meetings

Action Taken/Item for Consideration: Commissioner Northrup made a motion to approve the Minutes from the meetings held on March 27, 2014 and April 1, 2014. Motion Seconded by Commissioner Chereck.

Motion passed unanimously



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Council Chambers, City Hall
Tuesday, April 8, 2014**

Consideration of amendment to Chapter III § 17

Action Taken/Item for Consideration: Commissioner Hart Black made a motion to approve proposed amendments to Chapter III § 17, which prohibits officers and employees from running for office. The suggested language includes municipal judges with all board and commission members, including DART and DFW board members, as well as any officer of the city. The charter will also be amended to conform to state law (Texas Local Government Code § 150.041) prohibiting the city from terminating an employee who runs for public office. The motion was seconded by Commissioner Finkelman.

Motion passed unanimously

Consideration of amendment to Chapter XXII § 11

Action Taken/Item for Consideration: Commissioner Wells made a motion to approve the amended proposed amendments to Chapter XXII § 11 regarding prohibitions on financial interests in public contracts. DART board members appointed by Dallas will be treated as city officials and the prohibition on financial interests in city contracts are in alignment with Dallas City Code Chapter 12A or Texas Local Government Code § 171. The amended version requires that city officials and employees are to comply with both the Dallas City Code Chapter 12A and the Texas Local Government Code § 171. Motion seconded by Commissioner Davis.

Motion passed unanimously

Consideration of amendments to chapter VIII § 4A

Action Taken/Item for Consideration: Commissioner Stimson made a motion to approve proposed amendments to Chapter VIII § 4A concerning the removal of municipal judges. The proposed amendments states a municipal judge may be removed from office if they become a candidate for nomination or election. A cross reference to Chapter III § 17 in which a municipal judge must resign if they run for office. Motion was seconded by Commissioner Perkins.

Motion passed unanimously

Expert Testimony on Redistricting

Presenter(s): Tailim Song

Discussion Item: Tailim Song of the Greater Dallas Asian –American Chamber of Commerce spoke to the Commission about redistricting and the Asian-American community in Dallas. Mr. Song is in favor of an independent, racially and ethnically diverse redistricting commission.

Briefing on Redistricting

Presenter(s): Barbara McAninch

Discussion Item: Assistant City Attorney McAninch briefed the Commission on the redistricting history and process. Chapter IV § 5 of the charter addresses the redistricting process. The Voting Rights Act and



**Charter Review Commission
Meeting Minutes
Council Chambers, City Hall
Tuesday, April 8, 2014**

its relationship to the redistricting process was a topic of discussion. The redistricting process of various cities in the State of Texas was compared to the Dallas process.

Work Session on Redistricting

Discussion Item: Chair Anchia presented a redistricting worksheet to facilitate consideration of the proposed amendments to Chapter IV § 5 of the Charter.

- (1) The Commission approved changing the language of when to begin the redistricting process.
- (2) Consensus was reached in requiring the city secretary to initiate a 60 day application process for all registered voters for to apply to be a member of the redistricting commission. The applications are to be submitted in writing.
- (3) No consensus was reached regarding the determination of qualifying skill sets being included in the charter in respect to being a member of the redistricting commission.
- (4) Consensus was reached on disqualification rules for potential redistricting commission members. No consensus was reached on the length of time a candidate must be removed from appointed or elected office.
- (5) Consensus was reached on the city secretary receiving applications for the redistricting commission by April 1, with the independent city auditor to review the applications for disqualifying characteristics and conflicts of interest.

Discussion Item: Votes on recommended amendments will take place on April 22, 2014. The community meeting will be rescheduled to April 29, 2014.

Requests for information: Commissioner Finkelman requested that language be drafted to move the City Council elections from May to November. Commissioner Finkelman requested a map simulating the effects of moving a district line by 2%.

Action Taken/Item for Consideration: Commissioner Finkelman made a motion to amend the charter to require applicants of the redistricting commission to be registered voters along with the condition of voting in the past two of three municipal elections. Motion seconded by Commissioner Perkins.

Motion passed by majority

Commissioners Chereck, Northrup and Rich voted Nay

Meeting adjourned at 8:24



**Charter Review Commission
Meeting Minutes
Council Chambers, City Hall
Tuesday, April 8, 2014**

Chair

Commission Administrator

REDISTRICTING WORK SHEET

1. When does the process start?

Current Language: "Not later than the date of receipt of any federal census," ...

Consensus – Okay to make the change: "Not later than January 31 of the year following the federal decennial census, . . ."

2. Process to obtain applicants for the redistricting commission?

Consensus that Language is okay with edits:

"The city secretary shall initiate and widely publicize a ~~30~~ 60-day application process, open to all registered voters residing in the city with outreach to diverse communities to encourage participation. Applications must be submitted in writing ~~in accordance with the city's electronic process.~~"

3. Qualifications to serve on the redistricting commission?

This item is parked, but there is a consensus to look at language that describes a collective list of skills for the whole Commission:

a. Applicants must be registered to vote and must have voted in 2 of the past 2 last 3 city elections for city council members.

b. ~~Applicants must have the relevant skills, including:~~

- ~~1. relevant analytical and technological skills,~~
- ~~2. understanding of underlying legal principles of redistricting,~~
- ~~3. the ability to work collaboratively,~~
- ~~4. a capacity to serve with impartiality, and~~
- ~~5. a knowledge and appreciation of the diverse racial and ethnic demographics in Dallas.~~

b. **Commissioner Phillips' Suggested Language:**

"Following a review of the application pool, the composition of the commission shall ensure the relevant expertise, a capacity to serve with impartiality, the ability to work collaboratively, an understanding of the underlying legal principles of redistricting, a knowledge and appreciation of the diverse racial and ethnic demographics in Dallas, and a will to serve the greater good."

c. **Commissioner Ragsdale's Suggestion for specific language about knowledge of legal principles:**

"Knowledge and support of the Voting Rights Act."

4. **Disqualification to serve on redistricting commission?**

Suggestion: The following persons are not eligible to serve on the commission:

- a. A member or the spouse of a member of the city council or any family member within the third degree of consanguinity or affinity;
- b. **Parked Suggestions: elected vs appointed and three vs. five.**
A person or the spouse of a person who has been appointed ~~to~~ or elected to any elective federal, state, county, or city office during the ~~5~~ 3 years before the application date;
- c. **Suggestions to narrow to city elections and reduce years.**
The campaign manager, treasurer, or staff member of any campaign for ~~federal, state, county, or city~~ office during the ~~5~~ 3 years before the application date;
- d. A registered lobbyist or spouse of a lobbyist registered with the city, county, state, or federal government;
- e. A person or spouse of a person who has a contractual relationship or who works for the city or works for or with or has a contractual relationship with any member of the city council, or the spouse of a city council member; or
- f. A person or spouse of a person who, in accordance with the Charter, city ordinances, or written city policy, is ineligible for appointment to a city board and commission.

5. **Selection Process. Who picks? What process?**

Current Language: “. . . each member of the city council shall appoint one member of a redistricting commission. The mayor shall designate the chair of the redistricting commission, subject to confirmation by a majority of the city council. In making such appointments, the city council and the mayor shall, as nearly as may be practicable, provide fair and balanced representation of all geographical areas of the city in the redistricting process and provide a total membership that reflects the racial and ethnic makeup of the city's population. Members of the redistricting commission shall be appointed to serve a term that will end upon completion of the commission's work.”

Consensus Language:

By April 1, the city secretary's office shall review each application for completeness and shall forward the complete applications to an independent outside auditor's office to determine compliance with the qualifications and to eliminate applicants that do not qualify.

By June 1, the independent auditor's office shall forward a list of all qualified applicants to the mayor and city council. The list will indicate the city council district where the applicant lives.

**Parked Item: How many members will serve on the Redistricting Commission: 5, 9, 11, 15 or 19?
How will the Commission be selected?**

If selected by City Council and Mayor as currently, will there be a mechanism to rebalance the Commission so that it fairly represents the entire City and is not controlled by politics?

Option 1:

Each member of the city council shall appoint 1 member of a redistricting commission. The independent auditor shall select 4 additional at-large members from the list of screened candidates to ensure that the commission reflects the geographic, racial, ethnic, and gender diversity of the city.

Option 2:

If there are 50 or fewer names on the list, the mayor and each council member may strike 1 name from the list; if there are 50 to 75 names on the list, there are 2 strikes per mayor and council member; and if there are more than 75 names on the list, there are 3 strikes.

The names remaining on the list after the strikes will be put into a container, and the independent auditor shall draw ~~15~~ 5, 9, 11, or 15 names at an open session of the city council.

Option 3:

If there are 50 or fewer names on the list, the mayor and each council member may strike 1 name from the list; if there are 50 to 75 names on the list, there are 2 strikes per mayor and council member; and if there are more than 75 names on the list, there are 3 strikes.

The independent auditor shall draw ~~7~~ 2, 4, 5, or 7 names at an open session of the city council.

Each Council member shall then select at least 3, but no more than 5, candidates as their top picks from the remaining pool of candidates that will balance the commission to ensure that the commission reflects the geographic, racial, ethnic and gender diversity of the city. From the pool of top picks, the independent auditor shall draw ~~8~~ 3, 5, 6, or 8 names. Should the council duplicate names, the shortage shall be filled by the existing pool of candidates.

Option 4:

If there are 50 or fewer names on the list, the mayor and each council member may strike 1 name from the list; if there are 50 to 75 names on the list, there are 2 strikes per mayor and council member; and if there are more than 75 names on the list, there are 3 strikes.

The names remaining on the list after the strikes will be put into a container, and the independent auditor shall draw ~~11~~ 4, 7, 8, 11 names at an open session of the city council.

The mayor shall then select ~~four~~ 1, 2, 3, or 4 additional members from the list to ensure that the commission reflects the geographic, racial, ethnic, and gender diversity of the city.

Option 5:

If there are 50 or fewer names on the list, the mayor and each council member may strike one name from the list; if there are 50 to 75 names on the list, there are two strikes per mayor and council member; and if there are more than 75 names on the list, there are three strikes.

The independent auditor shall draw ~~8~~ 3, 5, 6, or 8 names at an open session of the city council. The council, as a whole, shall select the remaining ~~7~~ 2, 4, 5, or 7 names to ensure that the commission reflects the geographic, racial, ethnic and gender diversity of the city.

The mayor shall appoint one of the selected persons to serve as the chair. The commission shall select its own vice chair(s) from the members. The ~~15~~ 5, 9, 11, 15 or 19 persons selected shall constitute the redistricting commission.

Members of the redistricting commission shall be appointed to serve a term that will end upon completion of the commission's work.

6. What are the guidelines to be used by the commission?

Suggestion: The commission shall draw the districts in compliance with the following guidelines:

- a. The districts shall be substantially equal in population according to the total population count as presented in the census data, except where deviation is required to comply with federal law or is allowable by law.
- b. In addition to the requirements of federal law, there shall be no discrimination on the basis of race, color, or membership in a language minority group, and the voting strength of racial, ethnic and language minorities in the districts shall not be diluted to deprive minority voters of an equal opportunity to elect a candidate of their choice.
- c. The districts shall be geographically compact, to the extent possible, and composed of contiguous territory.
- d. The reconfiguration of districts shall be neutral as to incumbents or potential candidates.
- e. Communities of interest shall be maintained in a single district and attempts should be made to avoid splitting neighborhoods, where possible without violating the other requirements.

7. Methods to Increase Transparency and Independence?

Suggestion:

Persons appointed to the commission shall file a written declaration with the city secretary stating that they will not seek election to the city council for five years after the city council's adoption of a final districting plan.

Persons appointed to the commission may not be appointed to any other city board or commission for two years after service on the redistricting commission.

City council members will have no contact, directly or indirectly, with any commission member or with commission staff, except by testimony in an open meeting.

Commission members may not engage in any discussions with city council members, except during an open meeting. If a commission member engages in a prohibited discussion or violates the Open Meetings Act, the commission may, by majority vote, remove the commissioner from the commission.

8. **Training for the commission?**

Suggestion: Before starting service, the city will provide training from knowledgeable and professional trainers on Dallas demographics, the legal principles of redistricting, and the process for performing redistricting, including the use of computer software to draw district lines.

9. **Staffing and Support?**

Suggestion: The city shall provide support staff and equipment and other resources, as necessary for the commission to perform its duties.

10. **Commission Process?**

Current language: “The redistricting commission shall promptly convene in such sessions as are necessary, including public hearings, to develop, prepare, and recommend a districting plan that proposes the respective boundaries of the various districts comprising the city council under this Charter.”

Suggestion: The Commission shall solicit broad public participation in the redistricting process. The hearing process shall include hearings to receive public input before the Commission draws any maps and hearings following the drawing and display of any commission maps. The commission shall display the proposed maps for public comment in a manner designed to achieve the widest public access reasonably possible, and for a reasonable time before approval by the commission. In addition, the commission shall make available a report that identifies for each district: boundaries, population, racial and ethnic composition, and compactness measures.

11. **Process for final approval of the plan?**

Current language: “Upon completion of its work, the redistricting commission shall file its recommended districting plan with the mayor. The mayor shall present the recommended plan to the city council at its next meeting. The city council shall adopt the plan as submitted or shall modify and adopt the plan, in either case within 45 days of receipt by the mayor. If neither of such actions is taken within 45 days, then the recommended plan of the redistricting commission will become the final districting plan for the city.”

Suggestion:

Any modification that changes the population within a district by less than 2 percent, must be made in open session at a city council meeting with a written

explanation of the need for the modification, and must be approved by a vote of $\frac{2}{3}$ of the city council.

Any modification that changes the population within a district by 2 percent or more, must be made in open session at a city council meeting with a written explanation of the need for the modification, and must be approved by a vote of $\frac{3}{4}$ of the city council.



CITY OF DALLAS

Memorandum

DATE April 14, 2014

TO The Honorable Chair and Charter Review Commission Members

SUBJECT Chapter IV Section 12
Chapter V Section 1
Chapter XVIII Sections 11, 12, 13, and 14
Petitions
(Revised)

Following are suggested amendments to provisions regarding petitions.

1. The suggestions are:
 - a. Amend Chapter V, Section 1, Subsection (3) to give the City Secretary 60 days to review a petition.
 - b. Amend Chapter XVIII, Section 12 allow the City Secretary 60 days to review a petition, to match the time in Chapter XVIII §11.
 - c. Provide that an ordinance adopted by petition may be amended or repealed by City Council after some period of time.

2. The current language is:

“[CHAPTER IV] SEC. 12. PETITION REQUIREMENTS.

(a) To be valid, a petition submitted for the purpose of complying with an election process must comply with the Texas Election Code, as amended.

(b) Every person circulating a petition or page of a petition, other than a petition to place a candidate's name on the ballot, shall file with the city secretary an affidavit containing the person's name and address and a statement that:

- (1) the person circulated the petition;

- (2) the purpose was explained to each signer;
- (3) each signer freely provided the information required;
- (4) all statements contained in the petition are true; and
- (5) the person witnessed the affixing of each signature on the petition.

[CHAPTER V] SEC. 1. PETITION FOR RECALL OF CITY COUNCIL MEMBERS.

Any member of the city council may be recalled and removed from office by the electors qualified to vote for a successor of the incumbent as provided in this chapter. The procedure to remove members of the city council is as follows:

(1) A petition demanding the recall of the city council member must be filed with the city secretary. The petition must:

(A) be signed by qualified voters entitled to vote for a successor to the member sought to be removed, equal in number to at least 15 percent of the number of voters who, on the date of the last proceeding general municipal election, were entitled to vote for the place occupied by the member sought to be removed;

(B) contain a general statement of the grounds for which the removal is sought; and

(C) comply in form, content, and procedure with the provisions of Section 12, Chapter IV of this Charter.

(2) On the day that the petition is first circulated, notice must be given in writing to the city secretary by five registered voters of the city council district from which the member is sought to be removed, and the total signatures required must be secured and the petition filed within 60 days after the city secretary receives the notice.

(3) Within 30 days after the petition is filed, the city secretary shall examine the petition and, from the list of qualified voters, ascertain whether or not the petition is signed by the requisite number of qualified voters. If necessary, the city council shall allow the city secretary extra help, and, in the case of a petition to recall the mayor or multiple petitions to recall city council members, additional days to complete the examination. The city secretary shall attach to the petition a certificate showing the result of the examination.

[CHAPTER XVIII] SEC. 11. INITIATIVE AND REFERENDUM OF ORDINANCES.

Any proposed ordinance may be submitted to the city council in the form in which the petitioner desires the ordinance to be passed, by a petition filed with the city secretary in the following manner:

(1) A committee of at least five registered voters of the City of Dallas must make application to the city secretary and file an intention to circulate a petition, giving the date and the proposed ordinance to be circulated. Unless the final petition, with the required number of signatures is returned within 60 days from this date, it will not be received for any purpose.

(2) The petition must contain the names of a number of qualified voters in the city equal to 10 percent of the qualified voters of the City of Dallas as appears from the latest available county voter registration list.

(3) The petition must comply in form, content, and procedure with the provisions of Section 12, Chapter IV of this Charter.

[CHAPTER XVIII] SEC. 12. CITY SECRETARY TO EXAMINE PETITION.

Within 30 days after the date the petition is filed, the city secretary shall examine and ascertain whether or not the petition is signed by the requisite number of qualified voters and shall attach to the petition a certificate showing the result of the examination. If the petition is found to be sufficient, the city secretary shall submit the petition to the city council without delay.

[CHAPTER XVIII] SEC. 13. CITY COUNCIL EITHER TO PASS ORDINANCE OR CALL ELECTION.

If the petition, properly signed, is presented to the city council, the council shall either:

(1) pass the ordinance without alteration within 20 days after the attachment of the city secretary's certificate of sufficiency to the accompanying petition (subject to referendary vote under provisions of this Charter); or

(2) after the attachment of the city secretary's certificate of sufficiency to the petition accompanying the ordinance, promptly call a special election, at which the ordinance, without alteration, shall be submitted to a vote of the people.

[CHAPTER XVIII] SEC. 14. BALLOTS; ONE OR MORE ORDINANCES MAY BE VOTED; PROVISION FOR REPEAL.

The ballots used when voting upon said ordinance shall be in a manner so as to apprise the voters of the nature of the proposed ordinance and contain two propositions so that they may vote either "for" or "against" the propositions indicating their preference on the ordinance. If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city, and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section of the Charter, but more than one special election shall not be held in any period of six months.

The city council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election, and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly.”

3. The proposed language is:

“[CHAPTER IV] SEC. 12. PETITION REQUIREMENTS.

(a) To be valid, a petition submitted for the purpose of complying with an election process must comply with the Texas Election Code, as amended.

(b) Every person circulating a petition or page of a petition, other than a petition to place a candidate's name on the ballot, shall file with the city secretary an affidavit containing the person's name and address and a statement that:

- (1) the person circulated the petition;
- (2) the purpose was explained to each signer;
- (3) each signer freely provided the information [required] requested;
- (4) all statements contained in the petition are true; and
- (5) the person witnessed the affixing of each signature on the petition.

(c) To be a valid signature of a qualified voter for any petition, any signature on a petition submitted for the purpose of complying with an election process must comply with the Texas Election Code, as amended. "Qualified voter" has the same meaning as provided in the Texas Election Code.

[CHAPTER V] SEC. 1. PETITION FOR RECALL OF CITY COUNCIL MEMBERS.

Any member of the city council may be recalled and removed from office by the electors qualified to vote for a successor of the incumbent as provided in this chapter. The procedure to remove members of the city council is as follows:

(1) A petition demanding the recall of the city council member must be filed with the city secretary. The petition must:

(A) be signed by qualified voters entitled to vote for a successor to the member sought to be removed, equal in number to at least 15 percent of the number of the qualified voters of the City of Dallas, who on the date of the last preceding general municipal election, were entitled to vote for the place occupied by the member sought to be removed;

(B) contain a general statement of the grounds for which the removal is sought; and

(C) comply in form, content, and procedure with the provisions of Section 12, Chapter IV of this Charter.

(2) On the day that the petition is first circulated, notice must be given in writing to the city secretary by five registered voters of the city council district from which the member is sought to be removed, and the total signatures required must be secured and the petition filed within 60 days after the city secretary receives the notice.

(3) Within 60 [~~30~~] days after the petition is filed, the city secretary shall examine the petition and, from the list of qualified voters, ascertain whether or not the petition is signed by the requisite number of qualified voters. If necessary, the city council shall allow the city secretary extra help, and, in the case of a petition to recall the mayor or multiple petitions to recall city council members, additional days to complete the examination. The city secretary shall attach to the petition a certificate showing the result of the examination.

[CHAPTER XVIII] SEC. 11. INITIATIVE AND REFERENDUM OF ORDINANCES.

Any proposed ordinance may be submitted to the city council in the form in which the petitioner desires the ordinance to be passed, by a petition filed with the city secretary in the following manner:

(1) A committee of at least five registered voters of the City of Dallas must make application to the city secretary and file an intention to circulate a petition, giving the date and the proposed ordinance to be circulated. Unless the final petition, with the required number of signatures is returned within 60 days from this date, it will not be received for any purpose.

(2) The petition must contain the names of ~~[a number of]~~ qualified voters in the city equal to 10 percent of the qualified voters of the City of Dallas as appears from the latest available county voter registration list as of the time of the examination by the city secretary.

(3) The petition must comply in form, content, and procedure with the provisions of Section 12, Chapter IV of this Charter.

[CHAPTER XVIII] SEC. 12. CITY SECRETARY TO EXAMINE PETITION.

Within 60 ~~[30]~~ days after the date the petition is filed, the city secretary shall examine and ascertain whether or not the petition is signed by the requisite number of qualified voters and shall attach to the petition a certificate showing the result of the examination. If necessary, the city council shall allow the city secretary to hire extra help, and, if extraordinary circumstances exist, additional days to complete the examination. ~~[If the petition is found to be sufficient,]~~ T[~~t~~]he city secretary shall submit the certification of results of the examination of the petition to the city council without delay.

[CHAPTER XVIII] SEC. 13. CITY COUNCIL EITHER TO PASS ORDINANCE OR CALL ELECTION.

Within 15 days after the city secretary's certification to the city council of the results of the examination of the petition, the city attorney shall review the proposed ordinance for clarity and constitutionality and report the results of the review to the city council. If the city attorney determines the proposed ordinance is unclear or unconstitutional, the city attorney shall prescribe the wording of the proposed ordinance to ensure clarity and constitutionality. The city attorney shall consult with the petition applicants to ensure the intent of the proposed ordinance is maintained. Within 20 days after the city attorney reports the results of the review and any change to the wording of the proposed ordinance [If the petition, properly signed, is presented] to the city council, the city council shall either:

(1) pass the proposed ordinance without alteration if the city attorney has determined it is clear and constitutional or pass the proposed ordinance as prescribed by the city attorney if the city attorney has determined that the proposed ordinance as submitted is unclear or unconstitutional [within 20 days] after the attachment of the city secretary's certificate of sufficiency to the accompanying petition (subject to referendary vote under provisions of this Charter); or

(2) after the attachment of the city secretary's certificate of sufficiency to the petition accompanying the ordinance, promptly call an [a special] election for the next available uniform election date in accordance with state law, at which the proposed ordinance, without alteration or as prescribed by the city attorney in accordance with this section, shall be submitted to a vote of the people.

**[CHAPTER XVIII] SEC. 14. BALLOTS; ONE OR MORE
ORDINANCES MAY BE VOTED; PROVISION FOR REPEAL.**

The ballots used when voting upon said ordinance shall be in a manner so as to apprise the voters of the nature of the proposed ordinance and contain two propositions so that they may vote either "for" or "against" the propositions indicating their preference on the ordinance. If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city~~[-, and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people].~~

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section of the Charter, but more than one special election shall not be held in any period of six months.

At any time after the adoption of an ordinance by a vote of the people, [F]he city council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election, and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly. Any ordinance proposed by petition and adopted by a vote of the people may be repealed or amended by favorable vote of two-thirds of the members of the city council if done more than 10 years after its adoption."

4. The explanation of the amendments is:

- a. In Chapter IV, Section 12, a new Subsection (c) has been added to clarify that signatures on a petition must comply with the requirements of the Texas Election Code.
- b. In Chapter V, Section 1, Paragraph (1)(A) has been amended to clarify that petitions must be signed by qualified voters.
- c. In Chapter V, Section 1, Paragraph (3) has been amended to give the City Secretary 60 days to review a petition.
- d. In Chapter XVIII, Section 11, Paragraph (2) has been amended to clarify that the number of qualified voters necessary on a petition must exist at the time the petition is reviewed.
- e. In Chapter XVIII, Section 12 has been amended to give the City Secretary 60 days to review a petition. The section has also been amended to allow the City Secretary to hire help to review petitions, and extra time to certify in extraordinary circumstances, to match Chapter V, Section 1, Paragraph (3).
- f. In Chapter XVIII, Section 13 has been amended to allow the City Attorney to review a proposed ordinance for clarity and constitutionality and, if necessary, revise it, and for the City Council to either pass the proposed ordinance or call a special election.
- g. In Chapter XVIII, Section 14 has been amended to allow an ordinance adopted by referendum to be repealed or amended at any time by election. The section has also been amended to allow City Council to repeal or amend an ordinance adopted by referendum by two-thirds vote if done more than 10 years after adoption.

JOHN ROGERS
Assistant City Attorney



CITY OF DALLAS

Memorandum

DATE April 7, 2014
TO The Honorable Chair and Members of the Charter Review Commission
SUBJECT Chapter XXII Section 1
Ordinances and Resolutions are not Contracts

Following are suggested amendments to clarify that ordinances and resolutions are not contracts with the city.

1. The suggestion is:
 - a. Specify that the exclusive means of executing a contract on behalf of the city is by signature of the city manager with approval by the city attorney. Also add a statement that publication of an ordinance or resolution to make it effective after passage does not constitute execution of the ordinance or resolution as a contract unless the ordinance or resolution expressly states publication acts as execution.

2. The current language is:

“SEC. 1. SIGNATURES AND APPROPRIATIONS.

No contract, other than purchase orders for supplies and equipment and change orders authorized in accordance with Section 6, Chapter XXII of this Charter, shall be binding upon the city unless it has first been signed by the city manager and approved by the city attorney. The expense thereof shall be charged to the proper appropriation. Whenever the contract charged to any appropriation equals the amount of said appropriation, no further contracts shall be signed.”

3. The proposed language is:

“SEC. 1. SIGNATURES AND APPROPRIATIONS.

No contract, other than purchase orders for supplies and equipment and change orders authorized in accordance with Section 6, Chapter XXII of this Charter, shall be deemed executed on behalf of the city nor shall it be binding upon the city unless it has first been signed by the city manager and approved by the city attorney. The expense thereof shall be charged to the proper appropriation. Whenever the contract charged to any appropriation equals the amount of said appropriation, no further contracts shall be signed. The publication of an ordinance or resolution to make it effective as an ordinance or resolution in accordance with Section 7, Chapter XVIII of this Charter does not execute the ordinance or resolution as a contract unless the ordinance or resolution expressly so provides.”

4. The explanation of the amendments is:

- a. The section has been amended to clarify that the passage of an ordinance or resolution does not constitute execution of a contract. This is necessary because the usual practice of the city is to pass an ordinance or resolution authorizing a contract, and the contract is thereafter executed when signed by the City Manager and the City Attorney.

JOHN ROGERS
Assistant City Attorney

Chapter IV, § 7

SEC. 7. NOMINATION BY PETITION.

A person desiring to become a candidate for the city council shall file with the city secretary, within the time required by the Texas Election Code, as amended, an application for a place on the ballot, ~~and~~ a petition signed by qualified voters of the city eligible to vote for the candidate equal in number to the minimum number of signatures required for a candidate petition by the Texas Election Code, as amended, and a filing fee in an amount permitted by the Texas Election Code, as amended. Each application and petition must comply in form, content, and procedure with the Texas Election Code, as amended. (Amend. of 6-12-73, Prop. No. 11; Amend. of 4-2-83, Prop. No. 2; Amend. of 8-12-89, Prop. No. 1; Amend. of 5-1-93, Prop. No. 6)

Justification: Allows collection of a fee to help offset City costs in verifying applications.

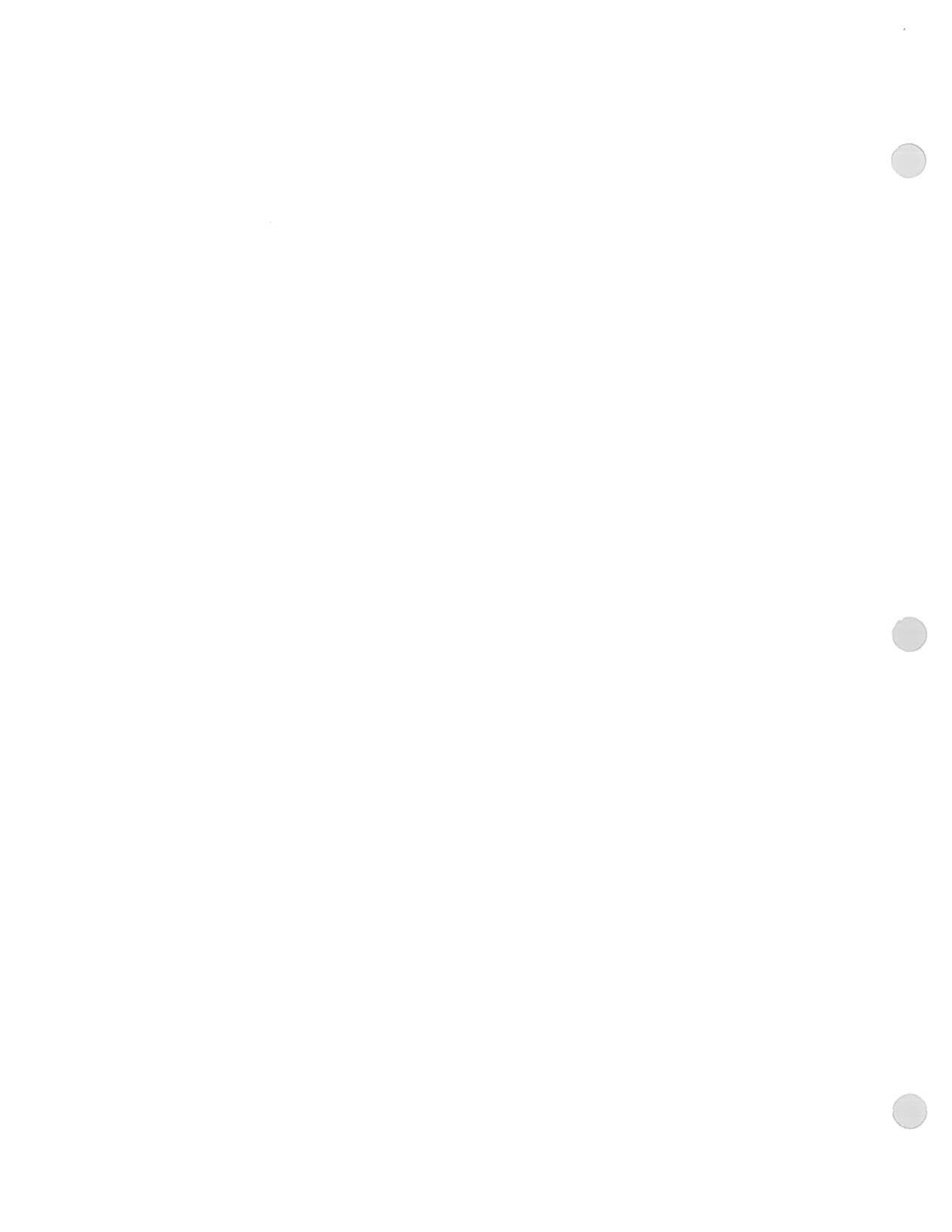


Chapter VI, § 1

SEC. 1. APPOINTMENT; REMOVAL; COMPENSATION.

The council shall appoint a city manager, who shall be the chief administrative and executive officer of the city. The city manager shall be chosen by the council solely on the basis of executive and administrative training, experience, and ability, and without regard to political consideration. The city manager shall be a resident of the City of Dallas. If at the time of appointment, the city manager resides outside the City of Dallas, then he or she shall move into the city within a time period required by the city council. No member of the council shall, during the time for which elected, be chosen as city manager. The city manager shall not be appointed for a definite fixed time, but shall be removable at the will and pleasure of the city council upon a ~~two-thirds~~ majority vote of the members of the council unless otherwise provided by contract. The action of the council in removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the council. The city manager shall receive such compensation as may be fixed by the council. (Amend. of 6-12-73, Prop. No. 13; Amend. of 4-3-76, Prop. No. 4; Amend. of 11-8-05, Prop. Nos. 2, 5, and 13)

Justification: If it takes a majority to hire the city manager, it should only take a majority to remove. This addresses the oft-cited problem that a city manager need only keep a small group of the council happy to retain the job.

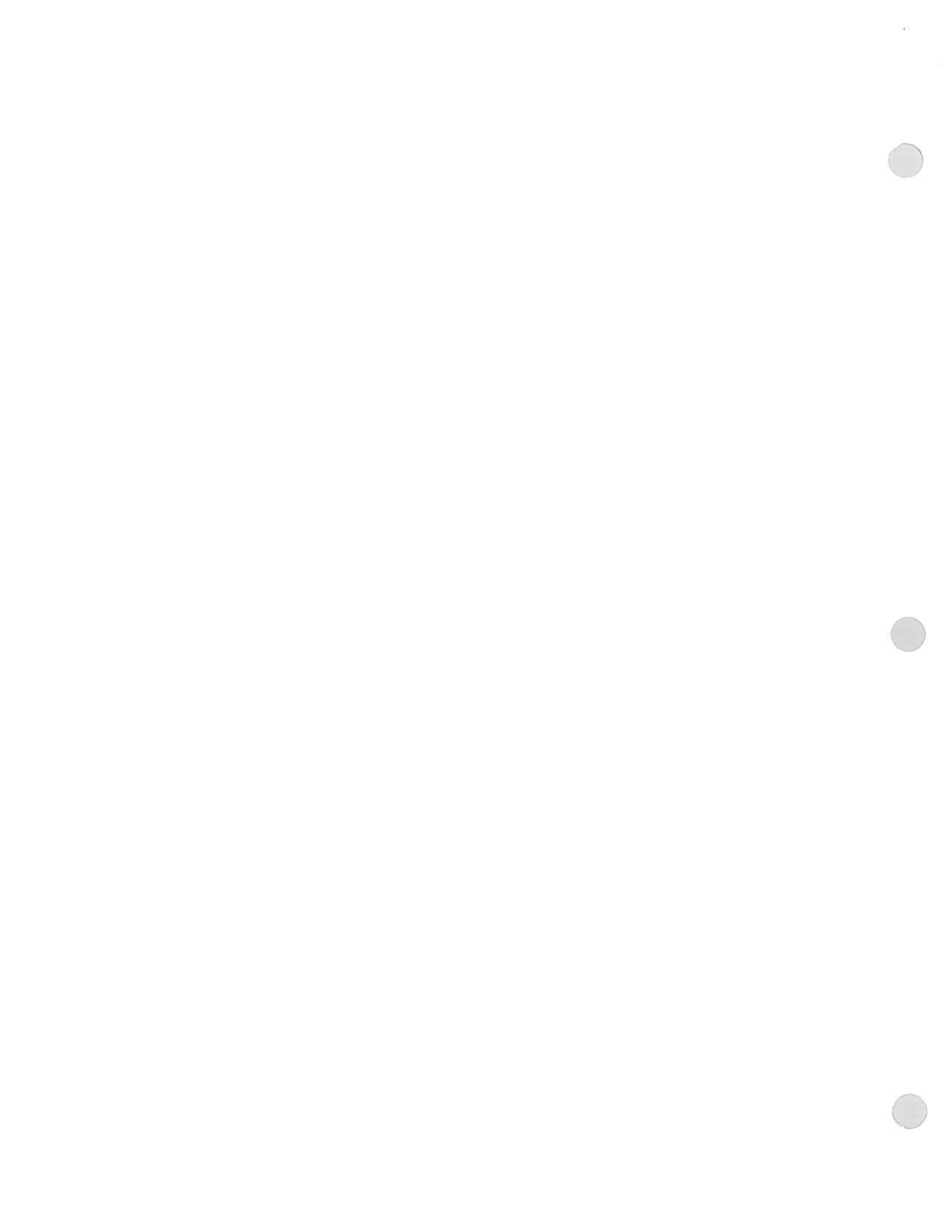


Chapter XI, § 4

SEC. 4. TRANSFER OF APPROPRIATIONS.

~~Upon the written recommendation of the city manager,~~ By a majority vote, the city council may at any time transfer an unincumbered balance of an appropriation made for the use of one department, division, or purpose to any other department, division, or purpose. (Amend. of 5-1-93, Prop. No. 7)

Justification: Council approves the budget and it ought to be able to make alterations or move money around without a recommendation of the city manager.



MEMORANDUM

TO: CHARTER REVIEW COMMISSION
FROM: MAX WELLS
SUBJECT: SUGGESTED AMENDMENT, CHAPTER XI, SECTION 4
DATE: APRIL 10, 2014
CC: JOHN ROGERS

An amendment has been suggested that would enable the city council at any time to amend the adopted budget and transfer appropriations between departments or to any other purpose, without a recommendation from the city manager.

I would urge the Commission not to adopt this recommendation.

The current provision has enabled the manager to be a strong financial steward of budget resources. The manager is encouraged to first meet the policy objectives of the budget, and also to save money when and where possible. The financial discipline created by this provision has enabled the city to keep property tax rates at lower levels than would otherwise be possible.

My experience as council finance committee chairman leads me to believe that this provision is one of the most critical charter provisions underpinning the excellent financial management that our city enjoys, and without it our citizens would be saddled with higher than necessary tax rates.



MEMORANDUM

TO: Charter Review Commission
FROM: Jeanne Chipperfield, CFO
SUBJ: Proposed Amendment to Chapter XI, Section 4

I strongly recommend that the Commission not adopt the proposed amendment that would allow the City Council, by a majority vote and without the recommendation of the city manager, to transfer unencumbered balances of appropriations to another department, division or for another purpose.

Please consider the following points related to budget and amending the budget:

- The process to develop the annual budget takes many months; requires significant analysis; and input is received from various stakeholders. The full City Council is briefed at least 3 times prior to the budget being proposed; Council committees are briefed approximately 6 times; and Council also has the opportunity to hear 4-6 additional budget-related briefings after the budget has been proposed by the City Manager. Additionally, citizen input is received at 3 public hearings and 35+ town hall meetings. At the conclusion of the public input period, the City Council holds a budget amendment workshop to make any desired changes to the City Manager's proposed budget which results in the final adopted budget.
- Once the budget is adopted and the new fiscal year begins, the department staff work to achieve the goals set out in the budget. Plans are implemented; contracts are awarded; and vacant positions are filled. Being a very large organization, it is often difficult to implement spending changes "on a moment's notice". That being said, should an unbudgeted need arise, the General Fund budget includes a Contingency Reserve which the City Council may appropriate as is necessary to implement a new program or respond to an unforeseen event.
- The staff monitors the revenues and expenditures each month to ensure that the budget remains balanced. The City Council receives a monthly financial forecast report showing both year-to-date and year-end estimates of revenues and expenses. The report also explains any significant variances to the budget and any plans to maintain a balanced budget, if necessary.

- Although the Charter allows for the transfer of unencumbered appropriations “at any time”, the City Manager rarely requests these transfers other than once per year. Amendments to the budget are recommended by the City Manager in late August/early September each year based on spending estimates reported in the monthly financial forecast report. The amendments are carefully reviewed and proposed, if needed, to prevent departments from exceeding their budgets.
- The City Manager should have input into budget changes so he/she can advise the City Council as to the impact of the transfer as well as the staff’s ability to implement the recommended spending adjustment by the end of the fiscal year.
- As part of the assigned responsibilities in the Charter, the City Manager is responsible for ensuring that the “City lives within its budget”. This amendment could hinder the manager’s ability to manage the budget if the City Council makes appropriation adjustments or transfers appropriations which are not supported by a revenue stream, particularly in economic downturns.

Chapter XI, § 6

Option 1:

SEC. 6. EXPENDITURES ONLY PURSUANT TO APPROPRIATIONS.

No money shall be drawn from the city treasury, nor shall any obligation for the expenditure of money be incurred, except in pursuance of appropriation made by the council and, ~~whenever an appropriation is so made, the city secretary shall forthwith give notice to the city manager.~~ At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the city that will not be completed within the current year. (Amend. of 11-8-05, Prop. No. 8)

Option 2:

SEC. 6. EXPENDITURES ONLY PURSUANT TO APPROPRIATIONS.

No money shall be drawn from the city treasury, nor shall any obligation for the expenditure of money be incurred, except in pursuance of appropriation made by the council and, whenever an appropriation is so made, the ~~city secretary~~ chief financial officer shall forthwith give notice to the city manager. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the city that will not be completed within the current year. (Amend. of 11-8-05, Prop. No. 8)

Justification: There is no need for notice to the city manager, but if that requirement were to be retained, the proper person to give that notice is the chief financial officer.



Chapter XI, § 8

SEC. 8. PAYMENT OF OBLIGATIONS.

The ~~city controller~~chief financial officer shall examine payrolls, bills, and other claims and demands against the city and shall issue no warrant for payment unless the city controller finds that the claim is in proper form, and duly approved; that it is justly and legally due and payable; that an appropriation has been made therefor which has not been exhausted or that the payment has been otherwise legally authorized; and that there is money in the city treasury to make payment. The ~~city controller~~chief financial officer may investigate any claim and for that purpose may summon any officer, agent or person to be examined by the ~~city controller~~chief financial officer upon oath or affirmation relative thereto, which oath or affirmation the ~~city controller~~chief financial officer may administer. If the ~~city controller~~chief financial officer knowingly or negligently issues a warrant on the treasury authorizing payment of any item for which no appropriation has been made, or for the payment of which there is not a sufficient balance in the proper appropriation, or which is otherwise contrary to law or ordinance, the ~~city controller~~chief financial officer and the ~~city controller's~~chief financial officer's sureties shall be individually liable to the city for the amount thereof. (Amend. of 4-3-76, Prop. No. 7; Amend. of 4-2-83, Prop. No. 6; Amend. of 8-12-89, Prop. No. 7)

Justification: This is more properly a function of the chief financial officer.



Chapter XVI, § 12(a)

SEC. 12. TRIAL BOARD.

(a) There is hereby created for the purpose of hearing and determining charges made against any officer or employee of the city, classified or unclassified, who has been discharged or reduced in grade, a board to be known as the trial board, which shall be composed of one member of the civil service board as designated by the chair and two adjunct members of the civil service board as designated by the chair. The ~~city council~~ civil service board shall designate a secretary to the trial board.

Justification: This matches what occurs in practice and what is more practical.



Chapter IIIA, § 3(2)

SEC. 3. DUTIES OF THE CITY SECRETARY.

The city secretary shall:

(1) attend all meetings of the city council and keep accurate records of all actions taken by the city council;

(2) oversee a records management program for the city that provides for the identification, maintenance, retention, security, electronic storage, microfilming, disposition, and preservation of city records and appoint a city records management officer to administer the program. The records management program shall include permanent retention of all written minutes and electronic recordings of all city boards and commissions, and those minutes and recordings should be made publicly available by posting them on a link on the city's website;

* * *

Justification: Current practice allows the city secretary to adopt a records management program and gives the city secretary discretion insofar as the time period to retain those records. Recently, the city secretary elected to destroy all board and commission recordings older than 90 days, resulting in the loss of years of the City's history and rendering it impossible to revisit the details of what may have occurred at a particular hearing. Keeping such records is essential to the function of open and transparent government. The cost of retaining such records continues to decline. Further, any added costs (due to retention) can be offset by making these records available to the public online, which obviates the need for open records requests and personnel to handle such requests.



Chapter IIIA, § 3(2)

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* * *

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CITY SECRETARY'S OFFICE (SEC) RESPONSE

RECOMMENDATION

It is the recommendation of the City Secretary's Office that this proposed change be categorized as a "policy" issue to be addressed by the City Council at a future date, with a possible change to the Dallas City Code, if desired. This is a determination that should be made by the City Council and not the general public as there is no ability to inform the public of the cost factors involved in implementing/maintaining a permanent on-line retention for all boards/commissions minutes/audio of public meetings.



ISSUES TO CONSIDER

The City complies with retention requirements established by the Texas State Library and Archives Commission (TSLAC). Each department in turn condenses these requirements to develop its own retention schedule that contains only the specific record series they use. These schedules are reviewed in advance by the Records Management Officer to ensure the TSLAC minimum retention requirements are met, after which they are submitted for approval by the department director. The Dallas City Code requires the recommendation by the Records Management Policy Committee (RMPC), comprised of the City Manager, City Attorney, City Auditor and City Secretary, and approval by City Council on any record series for which a longer retention period than what is required by the State is sought by a City department. The resolution approving the longer retention period is then submitted to the TSLAC.

The TSLAC prescribed retention periods for the following two record series are as follows:

- **Written minutes – Permanent**
Minutes are submitted in hard copy form to the City Secretary's Office. The appropriate permanent file is prepared and the records permanently maintained. Not all board/commission minutes are placed online by the administrating department; and it is likely on the City Plan and Zoning Commission minutes are online at this time (2005-Present).

No open records requests for this record series were received by the City Secretary's Office in 2013. However, of the 14,000-15,000 open records requests received by the City's Public Information Office, it is estimated that only 31 were for this records series:

- Dallas Citizens Police Review Board : 5 (estimate)
 - City Plan and Zoning Commission: 10 (estimate)
 - Board of Adjustment: 10 (estimate)
 - Civil Service Board: 5 (estimate)
 - South Dallas/Fair Park Trust Fund Board: 1 (estimate)
- **Audio recordings, if produced – Permanent only if written minutes are not prepared.** If written minutes are prepared; audio recordings are only required to be retained for 90 days after approval of minutes.
The City Secretary's Office is not provided with audio records for board/commission public meetings. Departments responsible for the various boards/commissions have chosen to follow the 90-day retention rule. The department is responsible for destroying the audio file when eligible. Only records with a one-year or longer retention requirement require approval by the RMPC prior to destruction, with the destruction process administered by SEC.



- **Costs**

- City Secretary's Office – Addition of 1 Full-Time Coordinator III - \$55,751 (minimum annual salary plus city benefits). This amount would continue to increase in the event merit pay is approved by city council and cost of city-provided benefits increase. Current staffing levels do not provide for existing staff to perform the scope of work required to carry out the operations/support and maintenance.
- Communication & Information Service Department (CIS) – Addition of 1 Full-Time Programmer Analyst II - \$94,849 (Mid-point annual salary plus city benefits). This amount would continue to increase in the event merit pay is approved by city council and cost of city-provided benefits increase.
- Server Space – Unknown for cost of equipment (future)
- Migrate files as Technology changes – Unknown for cost of technological equipment (future)

Based on available information, for all the audio files of all the meetings, at a minimum, storage space is estimated to be at least 200GB per year. If approximated at 200GB per year, the ability is needed to house this data in an area that can be expanded every year by (amount unknown at this time) or create a set amount of 1TB to start, which would last 5 years, with an expansion of 1TB occurring in 5-year increments. The hosting site has little relevance to the amount of space needed, although it would have to be determined (City main page vs SEC website). As earlier noted, regular maintenance, security and technology changes have to be considered.

Other Issues

- Not all city offices/buildings where public meetings take place are equipped with an up-to-date recording system.
- Most all offices/buildings where public meetings take place would be required to purchase or borrow (from other departments) a cassette tape or digital recorder.
- Use of a standard recorder (with no microphones) does not provide for a clear audio recording.
- Conversion of audio recordings would need to be done by the CIS qualified programmer to ensure compatibility and upload to applicable website.



**PUBLICATION
SUGGESTED LANGUAGE FROM COMMISSIONER JAN HART BLACK AND
COMMISSIONER MARY SUHM**

CHAPTER III. CITY COUNCIL

Current Charter Language:

Sec. 19 INDEPENDENT AUDIT.

The city council shall cause an independent audit to be made of the books of account, records, and transactions of all the administrative departments of the city at least once yearly. Such audits, during such fiscal year, shall be made by one or more certified public accountants who, for the three years next preceding, have held a certificate issued by the state board of accountancy of the State of Texas, or by a state maintaining an equal standard of professional requirements, which entitled the holder of such certificate to a Texas certificate. The auditor or auditors to make the audit shall be selected by the city council, and shall be responsible to the council. The duties of the auditor or auditors so appointed shall include the certification of all statements required of the city manager in the annual budget estimate. Such statements shall include a balance sheet, exhibiting the assets and liabilities of the city, supported by departmental schedules, and schedules for each utility publicly owned or operated, summaries of income and expenditures, supported by detailed schedules; and also comparisons, in proper classification, with the previous year. The report of such auditor or auditors for the fiscal year shall be printed and a copy shall be furnished to each city council member and the city manager, and a copy shall be kept available in the office of the city secretary for inspection by any citizen upon request. A summary of such report of the auditor or auditors shall also be published once in a newspaper of general circulation in the city. The original report of the auditor or auditors shall be kept among the permanent records of the city.

Recommendation: Require additional publication by the city.

Proposed New Language:

Sec. 19 INDEPENDENT AUDIT.

The city council shall cause an independent audit to be made of the books of account, records, and transactions of all the administrative departments of the city at least once yearly. Such audits, during such fiscal year, shall be made by one or more certified public accountants who, for the three years next preceding, have held a certificate issued by the state board of accountancy of the State of Texas, or by a state maintaining an equal standard of professional requirements, which entitled the holder of such certificate to a Texas certificate. The auditor or auditors to make the audit shall be selected by the city council, and shall be responsible to the council. The duties of the auditor or auditors so appointed shall include the certification of all statements required of the city manager in the annual budget estimate. Such statements shall include a balance sheet, exhibiting the assets and liabilities of the city, supported by departmental schedules, and schedules for each utility publicly owned or operated, summaries of income and expenditures, supported by detailed schedules; and also comparisons, in proper classification, with the previous year. The report of such auditor or auditors for the fiscal year shall be printed and a copy shall be furnished to each city council member and the city manager, and a copy shall be kept available in the office of the city secretary for inspection by any citizen upon request. A summary of such report of the auditor or auditors shall also be published

once in a newspaper of general circulation in the city. The audited financial statements shall be posted on the city's website and a physical copy shall be maintained in the central and branch libraries. The original report of the auditor or auditors shall be kept among the permanent records of the city.

Charter Review Commission Action

Vote:

Date of Action:

**CHAPTER XI. THE BUDGET AND FINANCIAL
PROCEDURE RELATING THERETO**

Current Charter Language:

SEC. 3. ANNUAL APPROPRIATION ORDINANCE.

Upon receipt of the city manager's estimate, the council shall call a public hearing upon the submitted budget to be held before a committee of the council, or before the entire council sitting as a committee of the whole. Following the public hearings, the council shall pass on first reading the appropriation ordinance and shall cause it to be published in a newspaper of general circulation in the city with a separate schedule setting forth the items in the city manager's estimate that were omitted or changed by the council, if any. The council shall not pass the appropriation ordinance upon final reading until at least 10 days after its publication. Upon passage of the appropriation ordinance by the council, it shall become immediately effective, and the funds appropriated therein become available on October 1, the beginning of the next fiscal year. Following the final passage of the appropriation ordinance, the city council shall, by ordinance, levy the taxes for the current year.

Recommendation: Require additional publication by the city.

Proposed New Language:

SEC. 3. ANNUAL APPROPRIATION ORDINANCE.

Upon receipt of the city manager's estimate, the council shall call a public hearing upon the submitted budget to be held before a committee of the council, or before the entire council sitting as a committee of the whole. Following the public hearings, the council shall pass on first reading the appropriation ordinance and shall cause it to be published in a newspaper of general circulation in the city, on the city's website and physical copies will be maintained in the central and branch libraries, with a separate schedule setting forth the items in the city manager's estimate that were omitted or changed by the council, if any. The council shall not pass the appropriation ordinance upon final reading until at least 10 days after its publication. Upon passage of the appropriation ordinance by the council, it shall become immediately effective, and the funds appropriated therein become available on October 1, the beginning of the next fiscal year. Following the final passage of the appropriation ordinance, the city council shall, by ordinance, levy the taxes for the current year.

Charter Review Commission Action

Vote:

Date of Action:

CHAPTER XV. PLANNING AND ZONING

Current Charter Language:

SEC. 4. DUTIES OF ZONING COMMISSION.

The zoning commission shall:

- (1) Adopt, subject to approval of the city council, such rules and regulations as they deem best to govern their actions, proceedings and deliberations, including the time and place of meeting.
- (2) Upon application made, advertise and hold public hearings on zoning or changes in zoning, and make recommendations thereon to the city council.
- (3) Act as an advisory body to the city council in relation to any changes in the boundaries of the various original districts and any changes in the zoning ordinances and regulations to be enforced therein. Such recommendation shall be made after advertisement of and a public hearing held thereon. Notice of such public hearing shall be published at least one time in a newspaper of general circulation in the city at least 10 days prior to the date of said hearing, or as otherwise provided by state law or this charter.

Recommendation: Require additional publication by the city.

Proposed New Language:

SEC. 4. DUTIES OF ZONING COMMISSION.

The zoning commission shall:

- (1) Adopt, subject to approval of the city council, such rules and regulations as they deem best to govern their actions, proceedings and deliberations, including the time and place of meeting.
- (2) Upon application made, advertise and hold public hearings on zoning or changes in zoning, and make recommendations thereon to the city council.
- (3) Act as an advisory body to the city council in relation to any changes in the boundaries of the various original districts and any changes in the zoning ordinances and regulations to be enforced therein. Such recommendation shall be made after advertisement of and a public hearing held thereon. Notice of such public hearing shall be published at least one time in a newspaper of general circulation in the city at least 10 days prior to the date of said hearing and on the city's website [~~or as otherwise provided by state law or this charter~~].

Charter Review Commission Action

Vote:

Date of Action:

CHAPTER XVIII. ORDINANCES AND RESOLUTIONS.

Current Charter Language:

SEC. 7. PUBLICATION OF ORDINANCES.

The descriptive caption or title of each ordinance stating in summary the purpose of the ordinance and the penalty for violation of the ordinance, shall be published at least once in a newspaper of general circulation in the city, unless otherwise provided by state law or this Charter, in which event the specific provisions shall be followed.

Recommendation: Require additional publication by the city.

Proposed New Language:

SEC. 7. PUBLICATION OF ORDINANCES.

The descriptive caption or title of each ordinance stating in summary the purpose of the ordinance and the penalty for violation of the ordinance, shall be published at least once in a newspaper of general circulation in the city and on the city's website, unless otherwise provided by state law or this Charter, in which event the specific provisions shall be followed.

Charter Review Commission Action

Vote:

Date of Action:

CHAPTER XVIII. ORDINANCES AND RESOLUTIONS.

Current Charter Language:

SEC. 15. PROMULGATION OF ORDINANCES BEFORE ELECTION.

Whenever any ordinance or proposition is required by the Charter to be submitted to the voters of the city at any election, the city secretary shall cause the ordinance or proposition to be printed in a newspaper of general circulation in the city and published once at least 10 days prior to election.

Recommendation: Require additional publication by the city.

Proposed New Language:

SEC. 15. PROMULGATION OF ORDINANCES BEFORE ELECTION.

Whenever any ordinance or proposition is required by the Charter to be submitted to the voters of the city at any election, the city secretary shall cause the ordinance or proposition to be posted on the city's website and printed in a newspaper of general circulation in the city and published once at least 10 days prior to election. Physical copies of the ordinance or proposition shall be maintained in the central and branch libraries.

Charter Review Commission Action

Vote:

Date of Action:

CHAPTER XXII. PUBLIC CONTRACTS

Current Charter Language:

SEC. 2. CONTRACT LETTING.

(a) All city contracts calling for or requiring the expenditure or payment of an amount required by state law to be competitively bid creating or imposing an obligation or liability of any nature or character upon the city, must first be submitted for competitive bids in accordance with this chapter. Such bids shall be based upon plans and specifications prepared for that purpose. Notice of the time and place when and where such contract shall be let shall be published in a newspaper of general circulation in the City of Dallas once a week for two consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least 14 days prior to the date set for letting said contract. Such contract shall be let to the lowest responsible bidder.

Recommendation: Require additional publication by the city.

Proposed New Language:

SEC. 2. CONTRACT LETTING.

(a) All city contracts calling for or requiring the expenditure or payment of an amount required by state law to be competitively bid creating or imposing an obligation or liability of any nature or character upon the city, must first be submitted for competitive bids in accordance with this chapter. Such bids shall be based upon plans and specifications prepared for that purpose. Notice of the time and place when and where such contract shall be let shall be posted on the city's website and published in a newspaper of general circulation in the City of Dallas once a week for two consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least 14 days prior to the date set for letting said contract. Such contract shall be let to the lowest responsible bidder.

Charter Review Commission Action

Vote:

Date of Action:





CITY OF DALLAS

Memorandum

DATE April 9, 2014
TO The Honorable Chair and Members of the Charter Review Commission
SUBJECT Changing the City Council Election Date

At the April 8, 2014 meeting, the Charter Review Commission asked staff to draft language to change the city council election date from the May to November.

The Texas Election Code Section 41.0052 (a), changing the general election date, provides:

“The governing body of a political subdivision, other than a county, that holds its general election for officers on a date other than the November uniform election date may, not later than December 31, 2012, change the date on which it holds its general election for officers to the November uniform election date.”

The Texas Attorney General ruled that the Texas Election Code clearly establishes a deadline after which a home-rule municipality may not change the standing date for its general election. A charter amendment changing the date of the election enacted after that statutory deadline conflicts with state law and is, therefore, preempted by the statute.¹

The Dallas City Council did not change the date of the City’s May general election prior to December 31, 2012. Therefore, Dallas may not change its election date from May to November in a charter election.

A handwritten signature in cursive script, appearing to read 'Barbara A. McAninch'.

Barbara A. McAninch
Assistant City Attorney

¹ Tex. Atty. Gen. Op. GA-0342 (2005)



SUGGESTED. AMENDMENTS TO THE DALLAS CITY CHARTER

Items in bold are policy issues

Items underlined are changes to city department operations

Items in italics are technical corrections

(Staff comments are in parentheses)

Suggestions Pending

<u>Citation</u>	<u>Yes/No/Date</u>	<u>Description</u>
II §1		Limit the ability of the city to privatize governmental functions.
II §1(34)		Limit the ability of the city to enter into long-term contracts to sell water to other cities.
II §3		Amend the charter review process.
III §1		Change councilmember terms to three three-year terms, or to two four-year terms, or two three-year terms.
III §1		Change the mayor's term to one six-year term.
III §1		Increase the length of the mayor and councilmember terms.
III §2		Do not expand the Mayor's powers.
III §2		Create a strong-mayor system without a city manager.
III §3		Delete the requirement that councilmembers be current on taxes and liabilities due to the city. [See <u>Hunt v. Longview</u>, 932 F. Supp. 828 (1995).]
III §3A		Change councilmember terms to three three-year terms, or to two four-year terms, or two three-year terms.
III §3A		Change the mayor's term to one six-year term.
III §3A		Stagger councilmember terms.
III §3A		Increase the number of councilmember terms.

- III §3A **Prohibit former city councilmembers from running for city council again unless they have been out of office for four years or more.**
- III §4 **Delete the reduction in salary for councilmember absences.**
- III §4 **Increase councilmember compensation.**
- III §4 **Increase councilmember compensation to \$60,000.**
- III §4 **Increase the mayor’s compensation to \$90,000.**
- III §4 **Increase councilmember compensation to between \$60,000 to \$70,000.**
- III §4 **Increase councilmember compensation to \$75,000.**
- III §4 **Increase councilmember compensation to \$100,000 and the mayor’s compensation to \$150,000, effective eight years from now, so that no current councilmember will receive the increase.**
- III §8 **Limit on the duration or frequency of open mic speakers.**
- III §15 **Expand prohibition in interference with staff to include the city attorney, city secretary, and city auditor.**
- III §16 **Allow expulsion of city councilmembers for a violation of Chapter 12A, “Code of Ethics.”**
- III §18 Expand the first sentence to include performance of contracts, proper use of city monies, validity of claims against the city. Allow the persons authorized by City Council or the City Manager to conduct investigations, subpoena witnesses, and compel production of papers. Expand materials that can be subpoenaed to include tangible property and electronic information. Allow City Council to delegate the power to punish contempt to municipal court. Allow the City Attorney to seek an order from municipal court, county court, or district court to enforce a subpoena or finding contempt of the subpoena.

- IIIA §1 Clarify the appointment duration for the city secretary. Provide that the City Secretary can be removed from office by two-thirds vote of city council, instead of majority vote. Make compensation provision for City Secretary match compensation provisions for other city officers. Require City Council to appropriate a discrete budget amount to perform the duties of office.
- IIIA §3 Make the City Secretary create her own budget independent from the City Manager. Make the City Secretary responsible for all hiring of employees in the department. Add duty of reviewing appointments to boards and commissions and administering the appointment process.
- IIIA §3 Require the City Secretary's record management system to permanently retain all minutes and recordings of boards and commissions and make those records available on the city's website.
- IV §5 **Revise the redistricting process.**
- IV §5 **Make the redistricting commission independent of city council.**
- IV §5 **Allow city council to appoint the redistricting commission, but make the redistricting commission more responsive to citizens.**
- IV §5 **Allow redistricting commissioners to serve only once.**
- IV §5 **Require the redistricting commission to provide written reasons for moving any district lines.**
- IV §5 **Delete redistricting from the charter and allow state and federal law to control.**
- IV §7 Require candidates for city council to submit the filing fee along with the petition.
- V §1(3) Amend Subsection (3) to give the City Secretary 60 days to review a petition.
- VI §1 **Allow the City Manager to be removed by majority vote of City Council, rather than two-thirds vote.**

- VII §3 Make the City Attorney create his own budget independent from the City Manager. Make the City Attorney responsible for all hiring of employees in the department.
- VIII §1 **Clarify that municipal judges are officers of the city.**
- VIII §4 **Change the term of municipal judges to four years. State that the administrative judge maintain administrative control and oversight over the municipal judges. State that the annual report will detail the performance of municipal court judges and the state of the municipal court system.**
- IX §1 Amend the title of the section to make it consistent with other sections. State that the City Auditor does independent, objective appraisals. State reporting relationship to City Council. Remove two-year term. Clearly state at-will employment status, and require two-thirds vote of City Council to remove the auditor. State that City Council sets compensation. Clarify that City Council must appropriate a discrete budget amount for City Auditor to perform his duties.
- IX §1 **Allow the City Auditor to be removed by majority vote of City Council, rather than two-thirds vote.**
- IX §1 Make the City Auditor be hired and fired by City Council and report to City Council.
- IX §3 Have the City Auditor's budget set by City Council separately from the general budget.
- IX §3 Have City Council accept an audit schedule proposed annually by the City Auditor.
- IX §3 Have City Council accept or reject recommendations resulting from audits. If audit results are accepted, the recommendations must be implemented by the City Manager within some time period. If we use an outside auditor, the City Auditor would be the outside auditor's direct report, and the recommendations from that audit would be subject to the same process.

- IX §3 Establish duty for auditor to organize and administer the office. Require annual, risk-based audit plan. Revise list of duties to conform to current government auditing standards. Move responsibility for special audits to this section, and allow only at request of city council or city manager, and limit definition of “officer” for this purpose.
- IX §3 Make the City Auditor create his own budget independent from the City Manager. Make the City Auditor responsible for all hiring of employees in the department.
- IX §3 Give the Auditor the power to audit nonprofit organizations that receive money from the city.
- IX §4 Move special audit requirements to IX §3. Rename section as “Access to Records and Property.” Clarify Auditor’s right to access records, property, operations, etc. Require a “right-to-audit” clause in all city contracts, and authorize the Auditor to inspect contractors records, property, operations, etc.
- XI §1 Change the date for the annual budget estimate to no later than August 15th, rather than the specific date. Delete the reference to uniform forms and add in the format required by the city manager. Change the comparison from the last two years to the last year.
- XI §3 Delete the requirement for a separate schedule of items that were omitted or changed.
- XI §4 **Allow City Council to transfer funds without the recommendation of the City Manager.**
- XI §6 It is not necessary to notify the City Manager of appropriations. And the reference to the City Secretary is probably incorrect; it would be the Chief Financial Officer who would provide any notice. The final clause regarding multi-year appropriations might be better in XI §3.
- XI §8 Change “City Controller” to “Chief Financial Officer.” Eliminate personal liability of the Chief Financial Officer for the actions of others.
- XI §10 Add “grants” to the list of actions, because grants often require the expenditure of funds before reimbursement is requested from the granting agency.

- XI §15 Add a new subsection that requires the ordinance that approves a contract must contain a provision stating that the ordinance and the contract will be construed strictly in accordance with their terms. Add a new subsection no other action or inaction by the city can create any contractual right; that contractual rights are created only by a written contract.
- XV §6 The city does not have an urban development commission.
- XV §8 **Revise the thoroughfare plan amendment process.**
- XVI **Delete all civil service provisions, so that all employees are at-will.**
- XVI §2 **Make the director of civil service a position hired by the city manager and reporting to the city manager.**
- XVI §4(b)(1) Change the notice of any public meeting of the Civil Service Board from seven days to 72 hours.
- XVI §11(b) Harmonize the language to be consistent with the time periods and appeal process in the Personnel Rules.
- XVI §12(a) Allow to Civil Service Board to designate the secretary of the Trial Board, rather than City Council.
- XVI §16(b)(c) **Clarify that the restrictions do not apply if it is the employee's own election campaign.**
- XVII §1 **Keep the Park Board as it currently is with the director hired by the Park Board rather than the city manager.**
- XVII §1 **Put the Park and Recreation Department under the City Manager.**
- XVII §4 **Make the Park Board a city board under the supervision of the City Manager.**
- XVII §6 Is this provision still needed, since the Park Department no longer has park police?
- XVII §9 Delete this section because it conflicts with other sections that require approval of appropriations by the City Council.

- XVIII §4 **Allow ordinances that have been adopted by referendum to be amended or repealed by City Council after some period of time.**
- XVIII §12 Allow the City Secretary 60 days to review a petition, to match the time in XVIII §11.
- XVIII §14 **Provide that an ordinance adopted by petition may be amended or repealed by City Council after some period of time.**
- XIX **Add a new section allowing taxes for single-use bags and for street maintenance.** (See Texas Constitution Art. XI §5 and Texas Tax Code §302.102, which allow cities to collect taxes authorized by their charters.)
- XXI §3 Is there a conflict between the 10 year maturity in XXI §3 and the 40 year maturity in XXI §8? Delete XXI §3(b), and allow the maturity to be set by the Financial Management Performance Criteria and as approved by city council.
- XXI §8 Is there a conflict between the 40 year maturity in XXI §8 and the 10 year maturity in XXI §3?
- XXII §1 Include contracts for “minor” services as a type of contract that does not need to be signed by the city manager and reviewed by the city attorney. “Minor” would be \$2,000 or less. Alternatively, delete the phrase “for supplies and equipment” so that all contracts (except purchase orders and change orders) must be signed by the city manager and reviewed by the city attorney.
- XXII §1 Delete the phrase “for supplies or equipment,” so that rules for purchase orders will be controlled by AD 4-5 or the city code.
- XXII §1 Specify that the exclusive means of executing a contract on behalf of the city is by signature of the city manager with approval by the city attorney. Also add a statement that publication of an ordinance or resolution to make it effective after passage does not constitute execution of the ordinance or resolution as a contract unless the ordinance or resolution expressly states publication acts as execution.

XXII §1	<u>Amend the phrase “no further contracts shall be signed” to clarify that City Council can approve a subsequent contract or amend an existing contract by administrative action for up to 50,000 more.</u>
XXII §9	<u>Allow bid bonds to be required at the discretion of the city.</u>
XXIV §15	Allow termination notice to city council appointees pursuant to the terms of their employment contract.
XXIV §17	Provide the members of the DART Board appointed by Dallas will be treated as city officials for purposes of this provision.
Various	<i>Wherever there is a publication requirement, change the requirement to publication as allowed by state law.</i>
Various	Delete any obsolete boards.
None	Allow the city attorney to hire outside counsel to represent councilmembers who are accused of violating the code of ethics.
None	Create sanctions for repeated filing of frivolous ethics complaints.
None	Add a mission statement for the city that the city will be more pedestrian friendly.
None	Require city councilmembers to vote on all agenda items.

Suggestions Recommended for Approval

<u>Citation</u>	<u>Yes/Date</u>	<u>Description</u>
III §6(a)(b)	Yes (3-4)	<i>City Council does not actually meet every week.</i>
III §10	Yes (3-4)	<i>Allow city councilmembers to abstain from voting if required by any law.</i>
III §11	Yes (4-1)	<i>Clarify when the mayor is absent and when the Mayor Pro Tem assumes the duties of the Mayor. State that the Mayor is not absent if the Mayor can be reached by phone or email.</i>
III §17(a)	Yes (4-8)	Clarify that the prohibition on running for other offices applies to municipal judges, all board and commission members, and any officer of the city.
III §17(a)	Yes (4-8)	Make the prohibition on running for other offices apply to DART board members and DFW board members.
III §17(c)	Yes (4-1)	<i>Amend the charter and code of ethics to conform to state law, which prohibits a city from terminating an employee who runs for public office. (See Texas Local Government Code §150.041.)</i>
III §19	Yes (3-4)	<i>Change reference to "accounts, records, and transactions" to "annual financial statements" because that is what is actually audited. Require the CPA to be licensed by the State of Texas. Certification of budget estimates is the duty of the city's internal auditor, not the external independent auditor.</i>
III §20	Yes (3-4)	<i>Clarify that the Chief Financial Officer is responsible for management of the city's financial assets. Move responsibility for deposit of funds from XI §13 to this section. Require that deposits be made promptly rather than within 24 hours.</i>
VIII §4A	Yes (4-8)	Clarify that a municipal judge automatically resigns if the judge announces that he is a candidate for an elected office.
VIII §4A	Yes (4-8)	Add a cross-reference to III §17.

VIII §4A	Yes (4-8)	Revise the procedures for removal of municipal court judges.
XI §4	Yes (3-4)	<i>"Unencumbered" is misspelled. Budgets are done per department, not "division or purpose."</i>
XI §5	Yes (3-4)	<i>The cross-reference to Subdivisions (4) and (5) of Section 1 is not correct.</i>
XI §11	Yes (3-4)	<i>The cross-reference to Section 10 is not correct.</i>
XI §13	Yes (3-4)	<i>It is not possible to deposit all monies collected by the city within 24 hours. Move responsibility for deposit of funds from XI §13 to III §20. Require that deposits be made promptly rather than within 24 hours.</i>
XV §1(2)	Yes (3-4)	<i>The comprehensive plan is amended by ordinance, not resolution.</i>
XV §7	Yes (3-4)	<i>Delete because alternate members of the Board of Adjustment are addressed in Dallas Development Code §51A-3.102(a).</i>
XVI §12(c)	Yes (3-4)	<i>Change the time from 10 days to 10 working days to be consistent with the Personnel Rules.</i>
XVI §16(a)	Yes (3-4)	<i>Include all protected classes (color, age, marital status, sexual orientation, national origin, disability). (See Dallas City Code §34-35.)</i>
XVI §16(d)	Yes (3-4)	<i>Amended the section to conform to <u>Wachsman v. Dallas</u>.</i>
XIX §1	Yes (3-4)	<i>Change the reference to the tax assessor and collector to the chief appraiser of the appraisal districts of the counties in which the City of Dallas is located. Change the date from July 1st to July 25th. Delete the phrase "or as soon thereafter as practicable."</i>
XX §2	Yes (3-4)	<i>Delete the second sentence stating that notice of a council resolution is not required.</i>
XX §11	Yes (3-4)	<i>The reference to Texas Local Government Code Chapter 402 is no longer current.</i>
XXII §11(a)	Yes (3-4)	<i>Change the term "officer" to "official" to be consistent with Dallas City Code Chapter 12A.</i>

XXII §11(a) Yes (4-8)

Provide that members of the DART Board appointed by Dallas will be treated as city officials for purposes of this provision.

XXII §11(a) Yes (4-8)

Harmonize the prohibition on financial interests in city contracts to apply only to a "substantial interest" in keeping with Dallas City Code Chapter 12A or Texas Local Government Code §171.

XXIV §13 Yes (3-4)

Change September to August, and allow City Council to begin the nomination process, rather than make the appointments.

Suggestions Denied

<u>Citation</u>	<u>No/Date</u>	<u>Description</u>
III §18	No (3-4)	<i>Amend the city code to provide penalties for contempt of a city investigation.</i>
XV §8	No (3-4)	<i>Delete notice of thoroughfare plan amendments to surrounding property owners. It is covered in the Dallas Development Code §51A-9.201.</i>
XXIII §2	No (3-4)	<i>Add claims for breach of contract. (See Dallas City Code §2-86)</i>
XXII §11(a)	No (4-1)	Delete the prohibition and let the City's code of ethics or state law control.
XXIV §13	No (4-1)	Allow councilmembers to nominate board and commission members, but the mayor makes the actual appointment.
XXIV §17(a)	No (4-1)	The Charter states that a person may not serve on more than two city boards or commissions. Dallas City Code §8-1.4(b), however, states that a person may not serve on more than one city board or commission, except that Dallas City Code §8-1.4(c) states that a person may serve on two boards of TIF reinvestment zones. The Charter also states that a person forfeits the board or commission position if they miss more than three meetings. Dallas City Code §8-20 states that a person forfeits the board or commission position if they miss three meetings.
Various	No (3-4)	<i>Change "City Treasurer" and "City Controller" to "Chief Financial Officer."</i>
None	No (3-4)	<i>Make the definition of "commission" consistent throughout the charter and city code.</i>