

Memorandum



CITY OF DALLAS

DATE June 13, 2014

TO Honorable Mayor and Members of the City Council

SUBJECT **Discussion, deliberation, and possible straw votes regarding additional proposed amendments to the Dallas City Charter**

The June 18, 2014 briefing agenda includes a discussion of additional proposed amendments to the Dallas City Charter. Attached is the electronic copy of the second set of proposed amendments for your review. Hard copies were distributed to Council Offices on Friday, June 6th.

If you have questions or need additional information, please contact my office.

A handwritten signature in blue ink, appearing to read 'Warren M.S. Ernst'.

Warren M.S. Ernst
City Attorney

Attachment

c: A.C. Gonzalez, City Manager
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, (I) First Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Forest E. Turner, Assistant City Manager

Joey Zapata, Assistant City Manager
Charles M. Cato, (I) Assistant City Manager
Theresa O'Donnell, (I) Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Shawn Williams, (I) Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council

Dallas City Council



Follow-up Presentation of Proposed Charter Amendments Second Set of Proposals

**June 6, 2014
for
June 18, 2014 briefing**

EXECUTIVE SUMMARY
PROPOSED CHARTER AMENDMENTS
JUNE 18, 2014 CITY COUNCIL BRIEFING

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Increase the city council and the mayor terms to a period of three years with a maximum of two terms.	Page 1
2. <u>Zero-based budgeting (XI §1).</u>	TAB 2
Require that the city adopt a zero-based budget process for the annual appropriation to be done at a minimum of every three years for all city departments, and prepare a five-year budget plan each year to establish a fiscal direction for the city.	Page 3
3. <u>City auditor (IX §3 and XI §2).</u>	TAB 3
The proposed amendments include:	
1. The city auditor shall report audit recommendations to the city council. If city council adopts the recommendations, the city manager shall implement the recommendations within the period allowed by city council.	Page 5
2. City Council shall set the annual budget for the city auditor's office directly, rather than as a component of the city manager's budget.	Page 5
4. <u>Thoroughfare plan (XV §8).</u>	TAB 4
Allow city-wide changes to the thoroughfare plan, such as implementation of the bike plan, to be noticed through public hearings, district meetings, newspaper notices, and the city's website, rather than by mailing notice to adjacent property owners.	Page 6
5. <u>Bond ballots (XXI §3).</u>	TAB 5
That the ballot for the approval of a bond program must state:	
1. the amount of bond issuance authorization;	
2. estimated amount of repayment including principal and interest; and	
3. and the purpose of the bonds.	Page 7

6. Nondiscrimination [XVI §16(a)].

TAB 6

The proposed amendments include:

1. Include all protected classes (color, age, marital status, sexual orientation, national origin, disability).
2. Add gender identity, gender expression, and genetic characteristics as additional classes.

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7. Contract execution (XXII §1).

TAB 7

The proposed amendments include:

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.
2. 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.

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**AMENDMENTS TO THE DALLAS CITY CHARTER RECOMMENDED BY
COUNCILMEMBERS AND THE CHARTER REVIEW COMMISSION**

CHAPTER III. CITY COUNCIL
SEC. 1. COMPOSITION OF CITY COUNCIL AND SEC. 3A. LIMITATION OF TERMS.

Recommendation by Councilmember Hill: Increase the city council and the mayor terms to a period of three years with a maximum of two-terms.

- Note 1:** The proposed language would affect incumbents as follows:
1. Persons who have served one, two-year term may serve for two more three-year terms, for a total of eight years. (Callahan, Gates, Kingston Kleinman, Medrano)
 2. Persons who have served two, two-year terms may serve for one more three-year terms, for a total of seven years. (Alonzo, Greyson, Griggs)
 3. Persons who have served four, two-year terms may not serve for additional terms. (Allen, Atkins, Caraway, Davis, Hill, Kadane)
 4. The Mayor, who has served one, four-year term, may serve for one more three-year term.

Proposed language:

“SEC. 1. COMPOSITION OF CITY COUNCIL.

Except as otherwise provided by this Charter, all powers conferred on the city shall be exercised by a city council to be composed of 15 members, nominated and elected in the manner hereinafter provided unless otherwise provided by law. One member of the city council, Place 15, shall be elected by the qualified voters of the entire city and 14 members by the qualified voters residing in a particular district, Places 1 through 14 respectively, as provided in Chapter IV of this Charter. Members of council, Places 1 through 14, shall each be elected for a term of three [~~two~~] years and member of council, Place 15, shall be elected for a term of three [~~four~~] years. The city council members so elected shall take office on the first Monday following the 30th calendar day after the final canvass of the general election, and they shall serve until their respective successors have been elected and qualified.”

“SEC. 3A. LIMITATION OF TERMS.

(a) Effective at the beginning of the council terms in June 2015, a [A] person who has served as a member of the city council other than Place 15 for ~~two~~ [~~four~~] consecutive three-year [~~two-year~~] terms shall not again be eligible to become a candidate for, or to serve in, any place on the city council except Place 15 until at least one term has elapsed. A person serving as a member of the city council on November 2014 may serve for additional terms provided that the total number of terms served does not exceed three and the total number of years served does not exceed eight.

(b) A person who has served two consecutive terms as a member of the city council, Place 15, shall not again be eligible to become a candidate for, or to serve in, Place 15 on the city council until at least one term for Place 15 has elapsed.

(c) A "term" as used in Subsection (a) shall include any period of service during a city council term when that period is in excess of one year, including a term from which the member resigned.

(d) For the purpose of limiting terms under Subsection (b), a term includes a period of time less than three [~~four~~] years when the period of service by a mayor during a term is in excess of 731 days.”

CHAPTER XI. THE BUDGET AND FINANCIAL PROCEDURE RELATING THERETO
SEC. 1. ANNUAL BUDGET ESTIMATE.

Recommendation by Councilmember Kleinman: Require that the city adopt a zero-based budget process for the annual appropriation to be done at a minimum every three years for all city departments, and prepare a five-year budget plan each year to establish a fiscal direction for the city.

Note 1: These could be addressed by a code amendment.

Proposed language:

“SEC. 1. ANNUAL BUDGET ESTIMATE.

(a) The fiscal year of the city shall begin on the first day of October of each year and shall end with the 30th day of September next following.

(b) On the 15th day of August of each year the city manager shall submit to the council a budget estimate of the revenue of the city and the expense of conducting the affairs thereof for the ensuing fiscal year. This estimate shall be compiled from information obtained from the several departments, divisions and offices of the city on uniform forms furnished by the city manager. A minimum of at least every 3 years, either on a rotating basis or in the aggregate, the information obtained from each of the several departments, divisions and offices of the city shall be developed from a zero base and each service performed and the cost to perform the service shall be justified by the department, division or office. It shall be in accordance with uniform accounting procedures with comparisons to the last two fiscal years and an estimate of the probable income for the period covered with the significant underlying assumptions.

(c) As part of the budget process, the city manager shall submit to the council an advisory five-year budget plan that estimates the revenue of the city and the expenses of conducting the affairs of the city annually for the next five years, with projected major expenditures and revenue plans to meet such projected expenditures.”

CHAPTER IX. CITY AUDITOR
SEC. 3. DUTIES OF THE CITY AUDITOR

CHAPTER XI. THE BUDGET AND FINANCIAL PROCEDURE RELATING THERETO
SEC. 2. BUDGET ESTIMATES TO BE FURNISHED TO CITY MANAGER BY ALL DEPARTMENTS NOT UNDER CITY MANAGER'S IMMEDIATE DIRECTION.

Recommendation by Councilmember Kingston:

- (a) The city auditor shall report audit recommendations to the city council. If city council adopts the recommendations, the city manager shall implement the recommendations within the period allowed by city council.
- (b) City Council shall set the annual budget for the city auditor's office directly, rather than as a component of the city manager's budget.

Proposed language:

“SEC. 3. DUTIES OF THE CITY AUDITOR.

The city auditor shall have the following duties and responsibilities:

- (1) Conducting financial audits, compliance audits, economy and efficiency audits, special audits, and investigations.
- (2) Conducting, at the direction of the city council or the city council finance committee, an audit or investigation of any entity receiving funds from the city.
- (3) Ensuring the quality and accuracy of information received for business decision-making and for improvement of the processes and controls used to effectively manage city resources.
- (4) Monitoring and evaluating the city's accounting and property records, funds, general accounting system, and records of city officers authorized to receive money or other property belonging to the city.
- (5) Examining the books, accounts, reports, vouchers, and records of city officers, of funds of the city, and of funds for which the city is responsible as trustee.
- (6) Appraising and verifying the accounting accuracy of financial records, statements, and reports, and determining that generally accepted accounting procedures and principles are followed.
- (7) Evaluating the adequacy of the city's accounting system and controls.

(8) Reporting to the city council, the city council finance committee, and the city manager any irregularities or failures to maintain adequate and accurate records.

(9) Making such studies and reports as the city council shall request or approve as to the efficiency, economy, and effectiveness of the programs, projects, or departments, and reporting such data to the city council, the city council finance committee, and the city manager.

(10) Acting, on behalf of the city, as liaison to external auditing agencies that are reviewing or auditing city operations or city programs that may be federally or state funded.

(11) Reporting audit recommendations to the city council, and if city council adopts the recommendations, the city manager shall implement the recommendations within the period allowed by city council.”

“SEC. 2. BUDGET ESTIMATES TO BE FURNISHED TO CITY MANAGER BY ALL DEPARTMENTS NOT UNDER CITY MANAGER’S IMMEDIATE DIRECTION.

Every department of the city government not under the direct control of the city manager, except the city auditor, shall furnish to the city manager, for use in the preparation of recommendations to the council regarding the annual budget, a detailed budget estimate of the needs and requirements of such department for the coming year. The city auditor shall furnish a detailed budget estimate of the needs and requirements of the city auditor’s office for the coming year directly to the city council.”

CHAPTER XV. PLANNING AND ZONING
SEC. 8. THOROUGHFARE PLAN.

Recommendation by Councilmember Griggs: Allow city-wide changes to the thoroughfare plan, such as implementation of the bike plan, to be noticed through public hearings, district meetings, newspaper notices, and the city’s website, rather than by mailing notice to adjacent property owners.

Note 1: Dallas Development Code §51A-9.102 provides for notice of thoroughfare plan amendments. The provisions for notice of thoroughfare plan amendments could be deleted from the Charter and addressed in the Development Code.

Proposed language:

“SEC. 8. THOROUGHFARE PLAN.

(a) The city council shall by ordinance adopt a thoroughfare plan. A thoroughfare plan now in existence or hereafter adopted by the city council shall not be changed except by an ordinance duly adopted after a public hearing as herein provided.

(b) Prior to any change in a thoroughfare plan that affects a local area of the city, the city council shall hold a public hearing. Written notice of all public hearings before the city council on proposed changes in the thoroughfare plan shall be sent to owners of real property lying within 200 feet of the area of the proposed change, such notice to be given, not less than 10 days before the date set for hearing, to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the United States mail. For purpose of this provision, “local area” means an area of less than two square miles.

(c) Prior to any change in a thoroughfare plan that affects any area larger than a local area, the city council shall hold a public hearing and shall conduct public meetings in each of the city council districts. Written notice shall be provided by publication in a newspaper of general circulation and posting on the city’s website.”

CHAPTER XXI. BORROWING MONEY
SEC. 2. GENERAL OBLIGATION BONDS (TAX SUPPORTED BONDS).

Recommendation by Councilmember Griggs: That the ballot for the approval of a bond program must state:

- (1) the amount of bond issuance authorization;
- (2) estimated amount of repayment including principal and interest; and
- (3) and the purpose of the bonds.

Note 1: Items (1) and (3) in the recommendation above are required by Texas Election Code §52.072(e)(1) to be included on the ballot. Items (1) and (3) are also required by Texas Election Code §3.009(b)(2) and (3) to be included in the city's election order. Item (2) is not currently required by state law in the election order or on the ballot.

Proposed language:

“SEC. 2. GENERAL OBLIGATION BONDS (TAX SUPPORTED BONDS).

The city shall have the power to borrow money on the credit of the city and to issue general obligation bonds for making public improvements or for other public purposes not prohibited by the Constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the city previously issued. All such bonds shall be issued in accordance with state law. For bonds requiring voter approval, the city shall indicate on the ballot proposition the amount of bond issuance authorization, estimated amount of repayment including principal and interest based on current market conditions, and the purpose of the bonds.”

CHAPTER XVI. CIVIL SERVICE AND PERSONNEL
SEC. 16. NO DISCRIMINATION BASED ON RACE, SEX, RELIGIOUS OR POLITICAL OPINIONS; PROHIBITING CERTAIN POLITICAL ACTIVITY ON THE PART OF EMPLOYEES.

Recommendation by the Charter Review Commission:

- (a) Include all protected classes (color, age, marital status, sexual orientation, national origin, disability).
- (b) Add gender identity, gender expression, and genetic characteristics as additional classes.

Note 1: The terms “color,” “age,” “religion,” “marital status,” “sexual orientation,” “national origin,” and “disability” were added to make the Charter match the language of Dallas City Code §34-35. The term “military or veteran status” was added to make the Charter conform to current law. The terms “gender identity and expression” and “genetic characteristics” were added to make the Charter match the city codes of other cities (see memo dated May 30, 2014).

Note 2: “Military or veteran status,” “gender identity and expression,” and “genetic characteristics” could be addressed through an amendment to the City Code rather than an amendment to the Charter.

Proposed language:

“SEC. 16. NO DISCRIMINATION [~~BASED ON RACE, SEX, RELIGIOUS OR POLITICAL OPINIONS~~]; PROHIBITING CERTAIN POLITICAL ACTIVITY ON THE PART OF EMPLOYEES.

(a) No person shall be appointed, reduced, removed, or in any way favored or discriminated against because of race, color, age, religion, gender [sex], marital status, sexual orientation, gender identity and expression, genetic characteristics, national origin, disability, military or veteran status, political [~~or religious~~] opinions or affiliations. No officer or employee of the city shall directly or indirectly, in any way be required to contribute to any political campaign, political party, organization which supports candidates for public office, or for any partisan political purpose whatsoever.”

CHAPTER XXII. PUBLIC CONTRACTS
SEC. 1. SIGNATURES AND APPROPRIATIONS.

Recommendations:

- (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.
- (b) 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.

Proposed language:

“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.”