



CORRECTED ETHICS REVIEW COMMISSION RECOMMENDATION 20180613-3(a)

Date: August 16, 2018

Subject: Charter Review Commission recommendations-June 13, 2018 Ethics Review Commission agenda items 3(a) and 3(b)

Motioned By: Commissioner Debra Danburg

Seconded By: Commissioner Brian Thompson

Recommendation

The Ethics Review recommends the Austin City Council consider its recommendations in the attached report related to the Charter Review Commission's recommendations.

Description of Recommendation to Council

The Commission amended and adopted the attached report of its working group, to communicate the following concerns to Council in regard to the recommendations of the Charter Review Commission related to an independent ethics review commission (IERC) and the "Democracy Dollars" program:

1. Selection and qualification of members to the proposed IERC:
 - (a) The City Auditor's Office should not be involved in the selection process of members to the proposed independent ethics review commission (IERC).
 - (b) The proposed qualifications for IERC members should be loosened as the qualifications would result in a limited number of citizens who would be eligible to serve on the IERC.
2. The term of office of members to the proposed IERC: The five-year term length is too long, especially in light of the requirement that former members refrain from almost any political activity during their term and for two years after their term.
3. The cost of the proposed IERC and the "Democracy Dollars" program: The costs of the proposed IERC and the "Democracy Dollars" program and the source of the funds to satisfy these costs have not been adequately studied or substantiated.

Rationale:

See the attached report of the working group, which was amended by adding the text of section "II" and adopted by vote of the Commission.

Vote 10-0-0

For: Chair Ben Stratmann, Vice Chair Dennis Speight, Secretary Luis Soberon, and Commissioners: Debra Danburg, Peter Einhorn, Tray Gober, Mary Kahle, Donna Beth McCormick, Michael Ohueri, and Brian Thompson.

Against: None

Abstain: None

Absent: None. (Commissioner Meagan Harding resigned her position on June 11, 2018.)

Attest:

Lynn E. Carter

Assistant City Attorney and Staff Liaison to the Ethics Review Commission

**REPORT FROM ETHICS REVIEW COMMISSION WORKING GROUP'S REVIEW
OF 2018 CHARTER REVIEW COMMISSION'S REPORT TO CITY COUNCIL DATED
MAY 7, 2018**

I. Introduction

The Austin 2018 Charter Review Commission submitted its final report (the “Report”) to the Austin City Council on May 7, 2018. Contained in the Report are two items that would directly impact the operations of the Austin Ethics Review Commission (the “ERC”), including eliminating the ERC and replacing it with an Independent Ethics Review Commission (the “proposed IERC”).

At its May 9, 2018 meeting, the ERC created a working group (the “Working Group”) to review the Report and to present its finding to the ERC. The Working Group consists of the following ERC commissioners: Thompson, Danburg, Soberon, and McCormick. On May 18, 2018, the Working Group met with all members present to discuss the Report. This report contains the Working Group’s comments and concerns regarding the Report.

II. Items of Concern and Conclusions

The Working Group discussed the following areas of concern regarding the Report:

- 1) The selection and qualification of members to the proposed IERC.
 - The Working Group discussed the selection of members to the proposed IERC. In particular, the Working Group discussed the apparent conflict of interest that would arise if the City Auditor’s Office is involved in the selection process while at the same time serving as what amounts to the prosecutor in cases involving alleged violations of the City’s ethics rules, which would be decided by the proposed IERC. The Working Group discussed the fact that this potential conflict seems even more glaring in light of comments from the City Auditor’s Office regarding recent decisions by the ERC.
 - The Working Group concluded that the City Auditor’s Office should not be involved in the selection process of members to the proposed IERC.
 - The Working Group discussed the qualifications for proposed IERC members. In particular, the Working Group discussed the limited number of citizens who would be eligible to serve on the proposed IERC under the proposed qualifications requirements.

- The Working Group concluded that the limitations regarding who may qualify for membership to the proposed IERC should be loosened.
- 2) The term of office of members to the proposed IERC.
 - The Working Group discussed the five year term length of members to the proposed IERC.
 - The Working Group concluded that the five year term length is too long, especially in light of the requirement the former members refrain from almost any political activity during their term and for two years after their term.
- 3) The cost of the proposed IERC and the “Democracy Dollars” Program.
 - The Working Group discussed costs of the proposed IERC and the proposed “Democracy Dollars” program, both of which would impose substantial additional costs to the City, including the cost of the proposed vouchers and the proposed addition of an Executive Director and additional staff to aid the proposed IERC.
 - The Working Group concluded that the costs of the proposed IERC and the Democracy Dollars program and the source of the funds to satisfy these costs have not been adequately studied or substantiated.

III. Conclusion

The Working Group had other concerns with the Report, but the ones listed above constitute the specific concerns for which there was broad consensus in the Working Group. The Working Group will propose that the ERC adopt a resolution addressing these concerns at the next regularly scheduled ERC meeting on June 13.