



## CITY COUNCIL MEMORANDUM

**FROM:** The Office of the City Manager   **DATE:** March 25, 2024  
**SUBJECT:** Discuss City Charter Article VI. Powers and Duties of Officers.  
**PRESENTER:** Cara Leahy White, Interim City Attorney  
Mark Hindman, City Manager

### **SUMMARY:**

Members of the City Council requested clarification of restrictions on communications between members of the City Council and City staff following an opinion issued by Interim City Attorney Cara Leahy White.

### **GENERAL DESCRIPTION:**

The letter opinion issued by the Interim City Attorney clarified the prohibition of City Council interference with performance of the administrative duties by City staff that are under the direction of the City Manager. As stated in the NRH City Charter “**ARTICLE VI: POWERS AND DUTIES OF OFFICERS, SECTION 4. APPOINTMENT OR REMOVAL BY CITY COUNCIL. Neither the City Council nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the City Manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Any Council member violating the provisions of this Section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a Council member.**”

This provision is fundamental to the Council/Manager form of government originally adopted by the voters of NRH in 1965. Separation of legislative and administrative functions is instituted in most forms of government in the United States.

From a practical standpoint this structure accomplishes at least three primary functions:

- It allows the consistent implementation of City Council policies, orders and directives. This avoids one member of the City Council from issuing directives not approved by the City Council or in direct opposition to the directives provided by the City Council.
- It provides for the efficient delivery of city services by providing a single chain of authority and avoid confusion or chaos from receiving conflicting directives from the eight (8) member City Council in addition to their supervisory chain.
- It provides employee protection from retaliation for enforcement of laws and codes. It also provides protections and safeguards from favoritism or corruption.



The operational structure of conducting the administrative functions of the city through the position of City Manager is clearly illustrated in the City's organizational chart.

The council/manager form of government is utilized by all cities in Texas over a population of 50,000 with the exception of Houston which utilizes a strong Mayor form of government where the Mayor manages the administrative functions.

The NRH Charter provision is either the same or similar to provisions in area cities. Below are the sections of the city charters addressing the prohibition of city council interference with the performance of administrative duties by the city staff:

### **Arlington**

#### **"Section 6. Governing Body's Relations with City Manager:**

The governing body and each of its members shall hold the City Manager responsible for the proper administration of all affairs of the City, but neither the governing body nor any board of Commission created by it, nor any members thereof, shall dictate the appointment of any person to or his removal from office or employment with the City, or in any manner interfere in the appointment of officers and employees in the departments of the administrative service vested in the City Manager by this Charter. Except for the purpose of inquiry, the governing body and its members shall deal with the administrative service solely through the City Manager, and neither the governing body nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately. (Adopted by Charter Amendment, April 5, 1960)"

### **Bedford**

#### **"Sec. 2.11. - Not to interfere in City Manager's appointments or removals.**

Neither the council nor any of its members shall direct or request the appointment of any person to or his removal from office by the City Manager, or by any of his subordinates. However, the council may consult and advise with the City Manager, make inquiry to the City Manager regarding the appointments or removals, and may express their opinion in regard thereto. In regard to administrative and executive duties under the City Manager, the council and its members shall deal solely through the City Manager, and neither the council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Willful violation of the foregoing provisions of this charter by any member of the council shall constitute official misconduct and shall authorize the council, by a vote of a majority of its membership, to remove such violating member from the council if found in violation after public hearing, and thereby create a vacancy in the place held by such member."



### **Carrollton**

#### **“Sec. 2.10. Council not to interfere in city manager's appointments or removals.**

Neither the council nor any of its members shall direct or request the appointment of any person to or the removal of same from office by the city manager or by any of his/her subordinates. However, the council may consult and advise the city manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to administrative and executive duties under the city manager, the council and its members shall deal solely through the city manager and neither the council nor any member thereof shall give orders to any subordinate of the city manager, either publicly or privately. Willful violation of the foregoing provisions of this Charter by any member of the council shall constitute official misconduct and shall authorize the council by a vote of a majority of its membership to expel such offending member from the council if found guilty after a public hearing, and thereby create a vacancy in the place held by such member.”

### **Colleyville**

#### **“Section 3.08 Forfeiture of Elected Office:**

- (A) Appointments and/or removals of City employees. The members of the City Council shall in no way dictate the appointment or removal of any City administrative officer or employee whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in this Charter. (Amended May 7, 2005)
- (B) Interference with Administration. Except for the purpose of inquiries and investigations by the direction of the City Council, unless provided otherwise in this Charter, the City Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its members shall give orders to any such officer or employee, either publicly or privately, except in a state of declared emergency.”

### **City of Dallas**

#### **CHAPTER III. CITY COUNCIL**

#### **“SEC.15. NO INTERFERENCE BY COUNCIL WITH APPOINTMENTS OR SUBORDINATES OF CITY MANAGER.**

Neither the council nor any of its committees or members shall dictate or attempt to dictate any person's appointment to, or removal from, office or employment by the city manager or any of the city manager's subordinates, or in any manner interfere in the appointment of officers and employees in the departments of administrative service vested in the manager by this Charter. Except for the purpose of inquiry, the council and



its members shall deal with that part of the administrative service for which the city manager is responsible solely through such manager, and neither the council nor any city council member shall give orders to any of the subordinates of the city manager in those departments, either publicly or privately. This section shall not apply to those professional and administrative assistants provided for in Section 14 of this chapter. (Amend. of 6-12-73, Prop. No. 7; Amend. of 11-8-05, Prop. Nos. 2 and 13)”

**“SEC. 16. EXPULSION OF COUNCIL MEMBER.**

Willful violation of the foregoing provisions of this Charter by any member of the council shall constitute official misconduct, and shall authorize the council, by a vote of two-thirds of its entire membership, to expel such offending member from the council, if found guilty after a public hearing, and thereby create a vacancy in the place held by such member.”

**City of Euless**

**Article V Administrative Organization**

**“§4 Council not to interfere in city manager’s appointments or removals.**

Neither the Council nor any of its members shall direct or request the appointment of any person to or removal of any person from office by the city manager or by any of the city manager’s subordinates. However, the Council may consult and advise the city manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to administrative and executive duties under the city manager, the Council and its members shall deal solely through the city manager and neither the Council nor any member thereof shall give orders to any subordinate of the city manager, either privately or publicly. Willful violation of the foregoing provisions of this Charter by any member of the Council shall constitute official misconduct and shall authorize the Council by a vote of a majority of its membership to expel such offending member from the Council if found guilty after a public hearing, and thereby create a vacancy in the place held by such member.”

**City of Fort Worth**

**Chapter V: The City Manager**

**“§5 [COUNCIL, COMMITTEES NOT TO INTERFERE WITH APPOINTMENTS, REMOVALS, ETC.]**

Neither the council nor any of its committees or members shall dictate or attempt to dictate the appointment of any person to, or his removal from, office or employment by the city manager or any of his subordinates, or in any manner interfere in the appointment of officers and employees in the departments of administrative service



vested in the manager by this Charter. Except for the purpose of inquiry, the council and its members shall deal with that part of the administrative service for which the city manager is responsible solely through such manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager in said departments, either publicly or privately.”

**“§ 6 [VIOLATION OF SECTION 5 CONSTITUTES OFFICIAL MISCONDUCT].**

Willful violation of the foregoing provision of this Charter by any member of the council shall constitute official misconduct, and shall authorize the council, by a vote of two-thirds of its entire membership, to expel such offending member from the council, and thereby create a vacancy in the place held by such member.”

**City of Grapevine**

**ARTICLE 3. - THE CITY COUNCIL**

**“Sec. 3.08. - City Council not to interfere in appointments.**

Neither the City Council, nor any of its members, shall direct the appointment of any person to office by the City Manager, or by any of his subordinates. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative services through the City Manager, and neither the City Council, nor any member thereof, shall give orders to any subordinate of the City Manager, either publicly or privately.”

**City of Haltom City**

**ARTICLE III. - CITY COUNCIL**

**“Sec. 3.11. - Appointment or Removal by City Council.**

Neither the Council nor any of its members shall direct or request the appointment of any person to, or the person's removal from office by the City Manager or by any of the City Manager's subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Any Council member violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a Council member.”

**City of Hurst**

**ARTICLE III. - CITY COUNCIL**

**“Sec. 3.10. - Appointment or removal by city council.**

Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from office by the city manager or by any of his



subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any councilman violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilman.”

### **City of Keller**

#### **“Section 3.11. Prohibitions and ethics.**

Appointments and removals. Neither the city council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees, other than those appointed by the city council, whom the city manager or an of his/her subordinates are empower to appoint, but the city council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

Interference with administration. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any council violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be subject to removal by the council.”

### **City of North Richland Hills**

#### **ARTICLE VI: POWERS AND DUTIES OF OFFICERS SECTION**

#### **“4. APPOINTMENT OR REMOVAL BY CITY COUNCIL.**

Neither the City Council nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the City Manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Any Council member violating the provisions of this Section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a Council member.”



## **City of Richland Hills**

### **Article VI.-Powers and Duties of Officers**

#### **“Sec. 6.04. – Appointment or Removal by City Council.**

Neither the Council nor any of its members shall direct or request the appointment of any person to, or their removal from, office by the City Manager or by any of their subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Any Councilmember violating the provisions of this Section shall be guilty of a Class C misdemeanor and fined not in excess of \$200.00, and, if so convicted, shall cease to be a Councilmember.”

## **City of Southlake**

### **CHAPTER III. - RESPONSIBILITIES OF THE CITY COUNCIL**

#### **“3.05. - Interference in Administrative Matters.**

The City Manager shall be the chief administrative officer and the head of the administrative branch of the City. Except for the purpose of inquiry or investigation, the Council and its members shall deal with the administrative departments and personnel solely through the City Manager, and no member of the Council shall give orders to any subordinate of the City Manager either publicly or privately.”

## **City of Watauga**

### **ARTICLE III. - THE GOVERNING BODY**

#### **“Sec. 3.08. - Prohibitions**

...

(b) Appointments and/or removals. The members of the city council shall in no way dictate the appointment or removal of any city administrative officer or employee whom the city manager or any other subordinates are empowered to appoint, unless otherwise provided in this Charter. In regard to the appointment or removal of any city administrative officer or employee, the city council and its members shall deal solely through the city manager. A willful violation of the foregoing provision by a member of the city council shall constitute misconduct. The remaining members of the city council by majority vote may expel such offending member upon a finding, in a public hearing, that such willful violation had been committed. The member of city council that is the subject of the expulsion shall not be permitted to vote on the issue. Such expulsion shall create a vacancy in the place held by such member. Members of city council removed from office under this provision shall not continue to perform the duties of their office until a successor is duly qualified pursuant to applicable law.



(c) Interference with administration. Except for investigations conducted pursuant to [section 3.10](#) of this charter, the city council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager. The city council and its members acting individually shall not give orders or instructions to any officer or employee except in the state of a declared emergency. Members of the city council, acting individually, shall not give orders or instructions to the city manager, either publicly or privately, except in a state of a declared emergency. Such prohibition shall not apply to a request that an item be placed on a city council meeting agenda for consideration by the city council. A willful violation of the foregoing provision by a member of the city council shall constitute misconduct. The remaining members of the city council by unanimous vote may expel such offending member upon a finding, in a public hearing, that such willful violation had been committed. The member of city council that the subject of the expulsion shall not be permitted to vote on the issue. Such expulsion shall create a vacancy in the place held by such member. Members of city council removed from office under this provision shall not continue to perform the duties of their office until a successor is duly qualified pursuant to applicable law.”