

August 30, 2023

Honorable Members of Richmond City Council,

We are sharing this short document summarizing key points and timelines from the Richmond City Charter Review Commission, in advance of our presentation at the Organizational Development meeting on September 5.

The Commission's final report submitted August 2 makes four primary sets of recommendations as relates to the City Charter.

First, the Commission recommends forty-seven specific alterations to the Charter to remove language that is unnecessary or outdated and to bring Charter language in better alignment with the current form of government. Many of these recommendations are to remove charter provisions stipulating municipal powers that are already provided to Richmond under Virginia general law and hence do not need to remain in the Charter.

A small number of these recommendations have policy implications, such as removing language regarding marijuana possession as grounds for removal from office and eligibility for membership on the board of the retirement system.

Before moving forward with these recommended alterations, we suggest that Council and the Administration take these steps:

- The Administration, in conjunction with the City Attorney, should review these changes and confirm that none of the proposed deletions will impact the work of any City agency.
- Council should pay particular attention to item 5-42 (a,b,c) which revises language on the creation of departments to better conform with the Mayor-Council form of government, such that agencies reporting to the CAO can only be altered on the recommendation of the mayor (subject to council consent), while Council retains the power to alter agencies that report to Council.
- Likewise, Council should pay particular attention to item 5-43 (a,b,c,d) which similarly revises language on responsibility for personnel policies, such that the CAO establishes position descriptions for employees reporting to the CAO while Council does the same for employees reporting to Council or, alternatively, elects to use the same position descriptions created by the CAO. 5-43 also recommends that there be a uniform severance plan and requires that there be a director of human resources who supports both Council and the CAO.
- Council, the administration, and other stakeholders should examine in its entirety Chapter 17 of the Charter, concerning planning. The Commission, following the recommendation of municipal law expert Mr. Walter Erwin, recommends replacing this entire chapter with simpler language. Changes to this language could well affect practice and the specific powers of, for instance, the Planning Commission. Key stakeholders with detailed knowledge of planning issues should examine this question in depth, using the model language provided in the Commission report as a starting point.
- Council should also take this opportunity to examine any other potential changes or improvements not considered by the Commission. For instance, Council may wish to consider adding language to permit or require the City Attorney to provide legal support to the constitutional offices such as the Clerk of the Richmond Circuit Court.

It is the Commission's recommendation that the forty-seven items identified in its report, plus any other similar items on which council wishes to act, be brought forward for action in the 2024 General Assembly session.

Second, the Commission makes fourteen recommendations for substantive revisions to the existing Mayor-Council form of government, intended to foster a Partnership Model of Mayor-Council government. The intent is to *both* strengthen the ability of the Mayor to act effectively as the City's chief executive *and* to strengthen the ability of Council to act effectively as the City's governing body. Key features of the proposals include:

- (1) Giving both the Mayor and Council a stake in both the Chief Administrative Officer and City Attorney position. The Commission recommends a parallel process in which the Mayor makes a nomination after convening a search committee to include City Council leadership, and Council must provide consent with a six vote super-majority. As currently, the Mayor retains the right to dismiss the CAO, but must in many circumstances provide advance notice to Council; the City Attorney can be dismissed by agreement of the Mayor and a majority of council. Council would, additionally, be able to remove either position with seven votes. The intent of these recommendations is to (1) establish that while the CAO works for the Mayor, the CAO also has responsibilities to be responsive to Council; and (2) give the Mayor a voice in the nomination of one of the most important officials in city government, in recognition of the fact that most of the City Attorney's day-to-day work is on behalf of the Administration.

While these processes are parallel, they are not identical. In particular, since the City Attorney represents the City as a whole, it is important that the Mayor *not* have unilateral right to dismiss the Attorney; in contrast, the CAO position is and would remain the primary way the Mayor acts as the city's chief executive. The logic of this form of government requires that the Mayor be able to dismiss the CAO.

- (2) A second significant set of recommendations involve changes to the City's budget process. Three of the recommendations give Council more opportunity for effective influence on the budget process: a) providing Council access to more information, including agency-level budget requests, at a point prior to the Mayor's introduction of the budget, so Council members may provide meaningful and informed input into the development of the budget; b) providing the Council two opportunities a year to introduce budget amendments: once in October, to correct any oversights in the approved budget or respond to significant new developments, and once in April, to allow Council to make adjustments reflecting Council's priorities, once a clearer picture has emerged of remaining unencumbered funds and/or any projected surpluses; c) requiring the Administration to submit budget amendments in a manner such that each item has a separate purpose that can be considered by Council separately.

The Commission also recommends giving the Administration more flexibility to meet shifting needs during the fiscal year without need of a budget amendment by allowing the budget to include a Flexible Fund of up to 1% of the annual general fund budget, that may be assigned during the year by the CAO to any agency without further Council approval, provided that Council is notified of such transfers and that no more than 50% of the total in a single year goes to any one agency.

- (3) The Commission recommends that the Charter be amended to significantly raise the compensation of both the Council and the Mayor. The Commission recommends that Council salaries be tied to the City's median income, with adjustments taking place at the start of each term, and with the Council Presidents receiving an additional 10%. Currently this would equate to a salary of about \$55,000. The Commission also recommends that the Mayor be paid at level commensurate with being the chief executive officer of the organization. To accomplish this goal, upon taking office the salary of the incoming Mayor would be set to match or exceed the salaries of the top five executive positions in the organization; it would remain at that level throughout their entire service in the position except by seven council votes. Based on available information, the Commission estimates this would increase the Mayor's salary to approximately \$200,000. Coincidentally, this is at about the same level as the Mayor's salary would be if it had increased at the same rate as inflation since 2005, when the current form of government was implemented.
- (4) The Commission recommends two significant adjustments to the powers and responsibilities of the Mayor. First, it would strengthen current language allowing the Mayor to "participate" in the hiring and dismissal of department heads to explicitly state that the Mayor has the right to hire and dismiss department heads *or* to delegate such authority in part or in full to the Chief Administrative Officer. This adjustment would strengthen the ability of the Mayor to act in fact as the city's chief executive officer and clarify that ultimate responsibility for the performance of city government and its agencies lies with the Mayor. The language provided assures that only persons meeting the posted qualifications for any director position are eligible for appointment. Second, it would create an obligation for the Mayor to personally attend and participate in one Council meeting a month, to provide an update on the city's progress and answer questions from Council member. We believe this requirement would promote healthy and transparent communication between the Mayor and Council and give City residents a stronger understanding of the work of their city government.

These proposals are significant, and they should be discussed with care by Council together with the Administration. They would, taken together, represent the most significant adjustment and clarification of the roles of the Mayor and the Council to have taken place since the adoption of this form of government in 2005. As the City moves into the final 16 months of the current mayoral administration, now is the ideal time to consider and make these adjustments, with a view to their taking effect on January 1, 2025 once the next Mayor and Council take office. We thus urge the Council to give serious thought to these recommendation with a view to bringing these changes to the General Assembly in 2024.

Third, the Commission recommends that Council move to adopt staggered Council terms, such that five members are elected at the same time as the Mayor and four are elected two years later. Staggered terms help promote continuity of government (by assuring the entire governing body does not turn over at once) and also would give residents the ability to provide feedback on the performance of City government every two years. (Richmond is the only locality in Virginia that has four-year Council terms, not staggered.) Implementation of staggered terms will require at some point that certain districts have elections for an initial two-year term, to be followed by an election for a four-year term two years later. Council will need to decide which districts will be

elected at the same time as the Mayor and which two years later; and would be well-advised to adopt a rule to require Council members to resign office if they elect to run for Mayor, to create a level playing field across all districts.

While it would be ideal to implement staggered terms as soon as possible, given the proximity of the 2024 elections, the Commission thinks it may be more realistic to set a goal of implementing staggered terms beginning in 2028 (with 5 members in 2028 elected for four-year terms, 4 members elected for two-year terms, to be followed in 2030 with election of 4 members for a full four-year term). The Commission recommends, however, that this change to the charter be brought to the General Assembly in 2024 so that it can be a settled issue when the Council elected in 2024 takes their seats.

Fourth, the Commission also devoted sustained attention to the question of the City's form of government, as per the ordinance establishing the Commission and in view of the fact that Richmond's form of government remains unique in Virginia. The Commission sought to identify and articulate an alternative form of government that might combine the benefits of having a citywide elected Mayor to provide policy leadership with the benefits of Council-Manager government. The resultant proposal, termed the Elected Mayor Council Manager option, calls for a Mayor elected citywide via ranked choice voting, who would lead a 7-member Council, with the other Council members elected from six districts. The Council would set policy for the City, and collectively appoint and hold accountable a City Manager responsible for the implementation of policy. This proposal is dramatically different from Richmond's prior form of City Manager government, particularly insofar as it (1) retains a Mayor elected citywide (2) specifies that the Mayor is a full-time position, not simply ceremonial, with responsibilities for leading Council, helping form policy, monitoring the work of the City administration, advocating for the City in public arenas, and communicating with the public and (3) thereby gives the elected Mayor sufficient "clout" to be able to develop and build consensus around the City's policy direction. The Mayor in the Elected Mayor Council Manager option, however, is not the City's chief executive, has no direct authority or responsibility over the work of the city agencies, and has no unilateral authority with respect to the City Manager.

This model potentially could lead to a less complicated and less contentious form of City government, while also allowing there to be both a "Strong Mayor" (focused on policy leadership) and a "Strong Manager" (focused on policy implementation and organizational development).

The Commission did not make a recommendation to adopt this form of government, but does recommend that Council give the proposal further study. Like any proposal impacting electoral procedures, this proposal must be carefully vetted from the perspective of relevant voting rights law. A change of this magnitude would also require attention to significant organizational issues so as to assure smooth implementation.

Most important, however, a change of this magnitude should be preceded by an advisory referendum so all citizens have the chance to weigh in.

The Commission thus recommends Council move by the end of this year to create a follow-on commission explicitly charged with fine-tuning and finalizing a proposal to be placed on a future referendum, using the 7-member Elected Mayor Council Manager proposal as a starting point. We also recommend that panel be given not only substantial professional support from legal,

demographic, and voting rights experts, but also to undertake sustained and inclusive public engagement to include many more residents in the conversation. This would not be a small undertaking, and it should be appropriately supported and resourced.

Finally, while the Commission believes it could be feasible to have a referendum as soon as 2024 regarding the City's change of government, developing a fully vetted proposal may take more time. We do not recommend delaying any such referendum past 2026, to assure there is sufficient lead time to assure smooth implementation beginning in 2028.

Next Steps

This Commission has wrestled with the challenge of what democratic self-government should look like in this rapidly changing city, to best meet our city's current and future needs.

We, again, urge that Council move in the next two months to develop a Charter revision resolution for introduction in the 2024 General Assembly, informed by the work of the Commission with respect to both "technical" changes to the Charter and the substantive adjustments to Mayor-Council government detailed in the Commission report. If possible, this resolution should also include language concerning adoption of staggered Council terms to begin in 2028. It is our understanding that such a resolution must be finalized in November, so we urge Council to prioritize that work and those conversations.

We also recommend that Council make a decision concerning moving forward with further consideration of a change in the form of government by the end of this calendar year.

Thank you for reviewing this short summary report. We look forward to speaking with you on September 5.

Thad Williamson, Ph.D. Commission Chair

Rachael Deane, Esq. Commission Vice-Chair