



2023 Richmond City Council Charter Review Commission

Recommendations Report

August 2, 2023

*Prepared by the 2023 Richmond City Charter Review Commission
for presentation to Richmond City Council, in accordance with
Richmond City Council Ordinance No. 2021-347 and Ordinance
No. 2023-096.*

August 2, 2023

To the Honorable Members of Richmond City Council and Mayor Stoney:

As per Ordinance 2021-347, as amended, the Richmond City Charter Review Commission is pleased to submit its final report for your consideration. It has been an honor to undertake this work on behalf of the residents of the City of Richmond. We have sought to the best of our abilities to fulfill the ordinance's request for a comprehensive review of the City Charter, with special attention to the functioning of the current form of government.

Our final recommendations are grouped into four categories:

First, in Chapter Five, we specify recommended changes to the Charter document to remove unneeded or outdated language, add clarity, and to bring the City Charter in greater alignment with the Mayor-Council form of government and with prevailing state law and general practice. We believe that these recommendations should be brought forward by the City for action in the 2024 session of the Virginia General Assembly.

Second, we specify recommended adjustments to the Mayor-Council form of government that are intended to improve its functioning and create a stronger partnership between the Mayor, Chief Administrative Officer, and City Council in Chapter Six. While these recommendations should be discussed and carefully considered by stakeholders, it is the Commission's recommendation that they also be brought forward as a package for action in the 2024 Virginia General Assembly. Adoption in 2024 would allow for a revised Mayor-Council framework to take effect at the start of the term of office beginning January 1, 2025.

Third, we recommend in Chapter Seven that City Council take steps to continue exploration of a shift in the form of government to a Council-Manager system, to include an elected full-time Mayor who presides over City Council. This report specifies what the Commission believes would be the best version of this model for Richmond: a seven-member Council including six districted representatives and a Mayor elected at-large via a ranked choice voting (instant runoff) process. The Commission recognizes that many challenging legal and organizational issues must be addressed to effect a change in the form of government, and also strongly believes that any such change should be preceded by an advisory referendum so that the voices of all City residents may be heard. For those reasons, while we believe the conversation should continue, it should do so deliberately, with careful attention to detail, and with many additional opportunities for engagement across the community so that residents may be fully informed and have the opportunity to be heard. Chapter Seven of the report lays out the reasoning for considering a shift in the form of government and details recommended next steps.

Fourth, we recommend that the City move forward with adopting staggered terms for members of City Council, beginning in 2028. Chapter Eight briefly lays out the reasoning for staggered terms as well as key questions to be resolved prior to their implementation.

We would like to thank Mayor Stoney, Chief Administrative Officer Lincoln Saunders, and the members of Richmond City Council for their cooperation with and support for the work of the Commission. We thank the Office of the City Attorney for its support of the Commission, in particular Deputy City Attorney Tabrica Rentz and Assistant City Attorney Tori Cotman. We thank Council Chief of Staff LaTasha Holmes and Council Public Information Manager Steven Skinner for their extensive support of the Commission's work. We especially thank Council

Policy Analyst Joyce Davis, who served as the Commission's principal staff contact and played an indispensable role in shepherding the Commission through each stage of our work.

We also acknowledge and thank Mr. Walter Erwin for providing a detailed legal analysis of the Charter on behalf of the Commission, as well as Professor Andrew Block of the University of Virginia School of Law State and Local Government Policy Clinic and law students Maya Artis and Michael Pruitt for their detailed literature review on municipal forms of government provided to the Commission.

Finally, we thank the many Richmond City residents who engaged the Commission's work by completing a survey, submitting written comment, or offering public comment at the Commission's meetings.

This report represents our best effort as a Commission and as a group of community members who care deeply about the City. We thank you for reviewing it carefully, in hopes it leads both to timely action as well as further public discussion concerning how best to realize the practice of representative self-government in the City of Richmond.

Faithfully submitted,

Members of the Richmond City Charter Review Commission

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Chapter One. Executive Summary

Richmond's municipal government belongs to the residents of the City, and it exists to protect, serve and advance our shared interests. It is through city government that we work together both to meet ongoing needs and to establish the City's future direction and ultimately, what kind of city we will become.

A bedrock principle of democratic government is that the tools and machinery of government belong to the people. This principle has long been embedded in the Charter of the City of Richmond, which provides both City Council and the citizens at-large the power to initiate changes in the City Charter. This is significant because it is the City Charter that establishes the precise mechanisms by which local government is organized.

From time to time in Richmond's history, leaders and citizens have taken time to assess and reassess the City Charter and consider possibilities for altering its structure in order to better advance the public interest. In 2022, City Council established a Charter Review Commission to undertake a comprehensive review of the Charter and provide recommendations for change.

This Commission has consisted of nine City residents selected by City Council who have served on a volunteer basis. This is an advisory Commission. Decision-making power regarding changes to the Charter rests with the Virginia General Assembly, who will take up deliberation on proposed changes either on the recommendation of City Council or as a result of any voter referendum that may result from this process.

The Commission's aim is to consider how best to implement democratic self-government in the City of Richmond under the City's current conditions, taking account of both the city's experience with the current form of government and the numerous changes that have taken place in Richmond from 2004 to the present.

The Commission undertakes this work noting that Richmond residents differ in their priorities and expectations of city government. Some residents assess city government primarily from a service delivery lens (whether the City provides good services at reasonable cost). Other residents believe city government should focus primarily on tackling major ongoing concerns such as public safety and public education. And still other residents believe city government should act as a vehicle for expanding greater social, economic, and racial justice wherever possible, so as to address the City's historical and ongoing inequities. These various concerns and priorities are not mutually exclusive, and many residents share each of these concerns to one degree or another.

The Commission also undertakes this work recognizing that Richmond is a racially diverse city that continues to be impacted by decisions and structures established in the era of segregation. Protecting the voting and electoral power of racial and ethnic minorities must be a prime consideration of any assessment of our City's governance structure; so too must creating a governance form that can protect and advance the interests of those same voters. The Commission views Richmond as an ever-evolving experiment in multiracial democracy based on the fundamental concept of people from diverse backgrounds learning to share power, to deliberate and to work together, and in so doing to discover and then advance the public interest.

Lastly, the Commission undertakes this work cognizant that Richmond City government is a complex organization meeting many different needs, that operates with a set of challenges (from

high poverty levels to aging infrastructure to a tax base limited by publicly owned land and the City's inability to grow) that are unique in central Virginia and among the most severe of any municipality nationally. We acknowledge and honor the professionalism, commitment and competency of the many City leaders and City employees who devote themselves to public service every day, often with little recognition. It is our hope that the work of the Charter Commission contributes to strengthening the City of Richmond as a place where talented employees can do good work, feel valued, and build meaningful careers in public service, to the benefit of City residents.

The Commission's work is informed by past efforts to create a more inclusive, representative, effective, and efficient local government. We respect the work of the many Richmond residents and professionals within and adjacent to city government who have worked tirelessly in recent decades to advance the City's best interests as they understood them. But while we must study and learn from the past, our primary aim in this process is to address a forward-looking question: What should democratic self-government and the practice of multiracial democracy look like in the City of Richmond in the decades to come?

This work is also undertaken with full awareness that many of the City's challenges derive from the legacy of policies and structural arrangements enacted at the regional and state level. From affordable housing to regional transportation to public education funding to criminal justice policies, the City of Richmond's well-being is profoundly impacted by state policy as well as decisions enacted by other local governments in the metropolitan area. In debates about the Charter revisions enacted twenty years ago, many astute observers noted that Charter change was no panacea for the City's challenges.¹

That observation holds true today. But Richmond's challenged history and challenging state context makes it all the more imperative that local government operate as efficiently and effectively as possible, both as a provider of services and as a locus for democracy and self-government.

We believe in the capacity of local government to have a positive impact on residents' lives. We believe there are many examples of Richmond City government and agencies doing exactly that, now and in decades past. Our concern is to strengthen local government's functioning, so that it can positively impact even more lives and better address our current and future challenges.

The City Charter Review Commission was charged by Ordinance 2021-174 with undertaking a comprehensive assessment of Richmond's City Charter, including: "a. The resolution of ambiguities and conflicts; b. The correction of clerical and grammatical errors; c. The removal of outdated or otherwise inapplicable text; d. Any clarifications or changes to the definition and delineation of the authority of the Council, the Mayor, and the Chief Administrative Officer; e. Any other clarifications or changes pertaining to the City's current form of government, including, but by no means limited to, whether the Council should have staggered terms or how to address any issues with the legal representation of the City; f. The enactment of amendments

¹ Weeks before the 2003 advisory referendum, VCU Professor John V. Moeser, a supporter of the proposal, was quoted as rhetorically asking "Is a mayor elected by the people enough? Enough to solve the most pressing problems of this city?" and answering "Of course not." Jeremy M. Lazarus, "It's No Fix for City Ills," *Richmond Free Press*, October 9-11, 2003.

to general laws that would benefit the City; and g. Proposed text for the legislation needed to effectuate the Commission’s recommendations.”

Subsequent sections of this report detail the modern history of Richmond’s City Charter (Chapter Two), the process this Commission has undertaken (Chapter Three), demographic changes in the City since the last major alteration to the Charter in 2004 (Chapter Four), the fourfold set of recommendations and the reasoning behind them (Chapters Five, Six, Seven and Eight), and recommended next steps (Chapter Nine). The remainder of this Executive Summary provides a high-level overview of the four sets of recommendations offered by the Commission. We encourage interested readers to review the entire document for more relevant detail and explanation.

Recommendations, Part One: Updating the City Charter Document

Richmond’s current City Charter was adopted in 1948 by an act of the General Assembly, following the report of the 1947 City Charter Commission and an advisory referendum held in 1947 supporting the proposal for the new Charter. This new Charter established the modern nine-person City Council. Subsequent amendments have built on the fundamental 1948 framework.

Because the document is some 75 years old, it includes language, provisions, and details that are no longer necessary or appropriate. (Indeed, the document is older than the current Virginia Constitution.) In many cases, the Charter articulates specific powers that cities in Virginia are granted under Virginia general law; in a few cases it articulates powers the City does *not* actually have because the federal government or another entity has jurisdiction.

Moreover, in some instances the Charter has provisions that are inappropriate or even contradictory to the Mayor-Council form of government.

As delineated in Chapter Five, the Commission makes forty-seven specific recommendations for striking, amending, or adding language in the Charter, and provides rationales for each recommendation. These recommendations are informed in large measure by a legal analysis of the Charter performed on behalf of the Commission by municipal law expert Mr. Walter Erwin. They also reflect the Commission’s consideration of numerous provisions cited by the administration as unnecessary or as in tension with the Mayor-Council form of government.

The goal of these recommendation is to make the Charter more legible and less confusing to City residents, and to reduce potential for confusion or dispute from instances in which the Charter conflicts with general law.

With one partial exception, the Commission recommends that Council review these recommendations and move forward with a request to adopt these changes to the Charter in the General Assembly session beginning in January 2024.

With respect to the recommendation regarding Chapter 17 (Planning, Zoning, and Subdivisions), the Commission recommends additional discussion among key stakeholders of the implications of replacing current language (much of which originates from city ordinances adopted in the 1940s or earlier) with much simpler language mirroring approaches taken by other Virginia cities. The Commission recognizes that those discussions may require additional time, and therefore recommends that the Council move forward with preparing amendments to Chapter 17 for General Assembly approval *either* in January 2024 or in January 2025.

Recommendations, Part Two: Refining Mayor-Council Government

The second set of recommendations, totaling fourteen, include adjustments and alterations to the current Mayor-Council form of government in order to improve its functioning. These recommendations (delineated in Chapter Six) primarily concern the powers and responsibilities of the Mayor, Council, Chief Administrative Officer, and City Attorney.

Taken as a group, these recommendations reconceive Richmond's Mayor-Council form of government as a *Partnership Model* between the Mayor and Council, with changes that are intended to simultaneously enhance the ability of the Mayor to act as the city's chief executive officer and the ability of the Council to act as the City's governing body.

Perhaps the most critical recommendations in this section concern the positions of Chief Administrative Officer and City Attorney, each of which are crucial to the functioning of city government. Whereas currently the Chief Administrative Officer is appointed and dismissed solely by the Mayor (with Council consent to the appointment) and the City Attorney is appointed and dismissed solely by City Council, we recommend that both Mayor and Council have a substantial role in both the hiring and dismissal of both positions. We propose similar (not identical) processes for the appointment and removal of each position.

The Commission also recommends significant changes in the budget process to advance the goals of providing more avenues for Council to provide substantial front-end input in the process, creating a more balanced amendment process, and providing the administration with flexibility within defined limits to allocate additional resources to agencies in real time to meet emergent needs without Council approval.

The Commission also proposes two adjustments to the powers and responsibilities of the Mayor: First, to strengthen the ability of the Mayor to act as the City's chief executive officer by providing the Mayor the ability to appoint and remove department heads, or to delegate such authority (in part or in whole) to the Chief Administrative Officer; and second, requiring the Mayor to provide a monthly public update on the City's progress (overall or in a specified policy area) at a meeting of City Council, and to receive questions from each Council member. We believe this requirement will both be an important avenue of communication and help City residents better understand the ongoing work of city government.

Finally, the Commission recommends Charter changes to raise the compensation of the Mayor to a level appropriate to the organizational role of chief executive officer, and also to in effect double the compensation of Council members, in view of the importance of their work and to make it feasible for more residents to consider service on the Council.

The Commission believes adoption of these proposals will strengthen the operation in practice of the Mayor-Council form of government. Specifically, the adjustments to the Chief Administrative Officer position and the budget process will provide Council greater scope to act effectively as the City's governing body and greater voice in the work of the administration. At the same time, the adjustments expand the tools and flexibility available to the Mayor and the administration to fulfill their responsibilities. Finally, the proposals establish a significant new mechanism for ongoing public dialogue and discussion between the Mayor and Council.

The Commission believes that Council and the Administration should carefully review and deliberate upon the package of proposals in Part Two. We also believe the City will benefit

from pushing forward this slate of Charter adjustments in January 2024 so that the Partnership Model of Mayor-Council government can take effect on January 1, 2025.

Recommendations, Part Three: Considering Council-Manager Government

In Chapter Seven, the Commission examines an alternative path for Richmond local government: maintaining a directly-elected Mayor position, while embedding it within a Council-Manager form of government. This discussion is pursuant to the Ordinance's charge that this Commission make recommendations for Charter amendments to include "clarifications or changes pertaining to the City's current form of government."

In this section, the Commission specifies what, based on presently available information, it believes to be the best available model for a modern Council-Manager government in Richmond: a seven-person Council to include six district representatives and a Mayor elected at-large, who develop policies and then collectively hire a City Manager to implement them.

This discussion of shifting the form of government is not undertaken lightly. Chapter Seven of the Report specifies several reasons why considering a shift in the form of government is a reasonable endeavor with potential benefits for the City and the operation of local government (and democracy) in Richmond.

The Commission, however, does *not* make a recommendation that the City change its form of government for two primary reasons:

- Changing the form of government and associated electoral arrangements will require careful legal review. That review may impact the details of any specific proposal in important ways. In the absence of a fully specified proposal that has undergone thorough legal review it would be irresponsible for the Commission to give a blanket endorsement to a shift to Council-Manager government: details matter, and more work is needed to work out certain details.
- We believe that the voters of the City of Richmond should have the opportunity to express their views via an advisory referendum prior to any change in the form of government. While cogent arguments can be made for or against Council-Manager government vis-à-vis Mayor-Council government, at some level communities face a profound choice regarding whether it is best to make a single individual (the Mayor) or a collective body (the Council) the lead actor in local government. This is a choice the Commission believes should ultimately rest in the hands of City residents, as expressed at the ballot box.

Instead, the Commission recommends that Council take deliberate steps to continue discussion of a potential transition to a Council-Manager form of government, and delineates specific steps that should be taken as part of that process. Specifically, if Council wishes to move forward, it should appoint a new commission or committee to include a diverse set of residents as well as professional expertise in municipal law, election law, demographics, and mapping to examine the feasibility of bringing the Commission's identified proposal (or a variant thereof) forward for an advisory referendum as soon as 2024 (and no later than 2026) concerning a potential change in the form of government, to take full effect by January 1, 2029.

The Commission recommends that Council act to create such a commission by December 15, 2023.

Recommendations, Part Four: Staggered Council Terms

Richmond is currently the only independent city in Virginia with four-year Council terms that are not staggered.

The Commission believes the adoption of staggered Council terms would be beneficial, regardless of the form of government practiced by the City. Staggered Council terms would assure a measure of continuity and stability over time, while also giving City residents an opportunity every two years to voice approval or dissatisfaction with the direction and performance of city government.

Implementation of staggered Council terms in Richmond would require addressing several specific questions, to assure procedural and substantive fairness across Council districts. The resolution of those questions is beyond the proper scope of the Commission, but Chapter Eight briefly lays out the relevant issues. **The Commission recommends that Council develop a process to address those issues as soon as feasible with a view to implementing staggered terms in 2028.**

Limitations of the Current Review

Finally, we wish to acknowledge several limitations of the Charter Review Commission's work and this final report.

First, this report is not, nor does it purport to be, a comprehensive assessment of the policy accomplishments, setbacks, and ongoing challenges under the Mayor-Council form of government implemented by the City in 2005. Such an assessment is outside the scope of this Commission's assigned work and in any case is best undertaken in the broader public arena. The report does, however, note key issues related to the Charter and governance structure that have arisen since that time, as per the Commission's charge.

Second, the report is not, nor does it purport to be, a comprehensive assessment of the City's organizational development under the Mayor-Council form of government. Again, such an assessment is outside the scope of this Commission's assigned work, and would be best undertaken by a different process. The City of Richmond has acknowledged organizational challenges, many of which are *not* fundamentally related to the Charter or the form of government.² The report and recommendations do, however, address some Charter provisions that are clearly in tension with the Mayor-Council form of government and unhelpful to its operation.

Third, the work of the Charter Review Commission did not engage the issues of School Board governance or of cooperation among the School Board, City Council and Mayor. Consideration of those issues was outside of the scope of the current Commission and in any case would be best addressed through a process focused primarily on those issues, engaging the School Board as a full partner. We note, however, that any change in the electoral process with respect to Council

² For a helpful overview prepared in conjunction with key stakeholders in Richmond City government, see Richmond City Auditor's Office, "[Fiscal and Efficiency Review: Final Report](#)," April 2022.

elections (including adoption of staggered terms or changing the number of Council districts) should be preceded by engagement with the School Board, and would very likely require adjustments to Charter provision 20.01 providing for the School Board and its method of election.

Fourth, while the Commission undertook substantial public engagement in our process, we are not satisfied that we have received fully representative engagement, as we note in our report. More broadly, the Commission believes that much more civic education and outreach is needed to inform all parts of the public regarding issues related to the City Charter. This will be particularly crucial if Council wishes to move forward with further consideration of major changes to the form of government. The report outlines some recommended steps in this regard.

Indeed, among our recommendations is that a decennial Charter review, led by City residents, become a requirement of the Charter itself, beginning in 2030. As a rapidly changing city with a somewhat novel form of government, it is appropriate that Richmond on a regular basis continue to assess and re-assess the Charter document in light of ongoing experience and change, and continue to consider promising new ideas.

This proposal would assure that such a review happens in a regular fashion, with timing set by the Charter rather than by short-term political considerations. Perhaps some of the limitations of the current process might be addressed in future reviews.

Chapter Two: A Short History of Richmond's City Charter

Some 75 years ago, the current City Charter was established by a public process, beginning with a City Charter Commission, chaired by future Supreme Court Justice Lewis F. Powell. The Commission followed years of advocacy by “progressive” civic and business organizations for reform, and a 1946 advisory referendum that both provided for a Charter Commission and elected members to it.³ The resultant Commission forcefully argued that the City’s prior governing structure (including a two-chamber legislative branch and an elected Mayor) was unwieldy and poorly suited to the needs of modern cities.⁴ The result of that analysis was the creation of the modern nine-member City Council, with two significant provisions: Council members would be elected at large, and Council would collectively hire a city manager to manage the day-to-day business of city government. The Charter also allowed for a ceremonial Mayor to be chosen by the elected Council members from among themselves. These proposals were endorsed by referendum in 1947 and enacted by the Virginia General Assembly in 1948.

Considerations of racial justice and fair representation of all groups played no role in the 1948 Charter. Indeed, the Charter was adopted in the context of ongoing racial segregation in the city, state and region, and City leadership had been exclusively white for roughly half a century. Nonetheless, according to scholars Rutledge Dennis and John Moeser, the Richmond Civic Council, a prominent Black organization, endorsed the Charter change as an improvement over the previous gerrymandered ward system; and 1948 saw the at-large election of the first Black member of Richmond City Council in the 20th century, Oliver W. Hill, who served one term. In the 1950s and early 1960s, even as Council remained exclusively white, Black voting rights organizations such as the Richmond Crusade for Voters pushed for and to a substantial degree attained significant electoral influence and by 1966 substantial Black representation on Council.⁵

Indeed, the establishment of the 1965 Voting Rights Act combined with demographic changes raised the imminent prospect of majority Black control of Richmond local government. White city leaders (whose previous efforts to forge a merger with Henrico County had been rejected by county voters in a 1961 referendum) hastily struck a deal to annex part of Chesterfield County, adding about 47,000 residents, overwhelmingly white, to the City on January 1, 1970, and assuring the May 1970 municipal elections would be conducted with a majority-white city electorate.⁶

³ Christopher Silver, *Twentieth-Century Richmond: Planning, Politics, and Race*. Knoxville: University of Tennessee Press, 1984. p. 176.

⁴ Richmond Charter Commission, “Proposed Charter for the City of Richmond, For Submission to the Electorate, November 4, 1947” filed in the office of the Clerk of the Hustings Court of the City of Richmond and in the office of the City Clerk of the City of Richmond on May 2nd, 1947; and Richmond Charter Commission, “Report Accompanying Proposed Charter for the City of Richmond,” September 1, 1947.

⁵ John Moeser and Rutledge Dennis, *The Politics of Annexation: Oligarchic Power in a Southern City*, Cambridge: Schenkman Publishing Company, 1982; reissued open access edition, VCU Libraries, 2020; pp. 32-33, 44-48, and 62-68. See also Silver, *Twentieth-Century Richmond*, pp. 176-181. In 1966, three Black candidates won election to the Council (B.A. Cephas, Jr., Henry L. Marsh III, and Winfred Mundle). Cephas was first elected in 1964 as the first Black Council member since Oliver W. Hill.

⁶ Moeser and Dennis, *The Politics of Annexation*. For a recent recital of these events, see Lelia Barghouty, “[How the Former Confederate Capital Slashed Black Voting Power, Overnight](#),” *Washington Post*, July 9, 2023.

Legal challenges to the annexation arguing that this maneuver was racially motivated led the federal government to cancel the 1972 local elections and suspend local electoral activity, a suspension that continued to 1977. The resolution of the dispute called for replacing the at-large system of Council elections with single-member councilmanic districts, in order to assure Black Richmond residents the opportunity to elect candidates of their choice in proportion to their share of the city population. The result was the historic election in 1977 of Richmond's first majority Black City Council, and that Council's selection of Richmond's first Black Mayor, Henry L. Marsh III.⁷

The reforms of 1977 represent the first set of major changes to the 1948 City Charter document.

The second major set of changes was enacted by the General Assembly in 2004, following a citywide referendum in November 2003. In November 2003 voters overwhelmingly approved proposals generated by a privately-organized commission led by former Richmond Mayor Thomas Bliley (1970-1977) and former Virginia Governor L. Douglas Wilder (1990-1994), to establish two major changes:

- Provide for a directly-elected Mayor, to be elected by winning five of the City's nine Council districts, a unique electoral system designed to protect Black voting power;
- Shift from a Council-Manager to a Mayor-Council form of government, in which the Mayor would act as the "Chief Executive Officer" of the City, expressed primarily through the right to hire and fire a Chief Administrative Officer with responsibility for day-to-day operations of city government.

The advisory referendum had majority support in all nine Council districts, with support ranging from 54.7% in the 6th District to 96.7% in the 1st District. The overall "yes" vote citywide was 80.2%.⁸

Following approval by the General Assembly and the federal government, the new system of government took effect on January 1, 2005, with L. Douglas Wilder serving as first Mayor elected under the new system.⁹ This specific form of municipal government was and remains unique within Virginia, although numerous cities nationally have similar structural arrangements.

Numerous conflicts and controversies related to the Charter and the respective powers of the Mayor, Council and other bodies characterized the first full term of the system of government, on matters ranging from the budget process to whether the Chief Administrative Officer had

⁷ Moeser and Dennis, *The Politics of Annexation*, pp. 141-175.

⁸ [Virginia Department of Elections](#). While the measure had strong support in all nine districts, some 48.8% of the 22,122 total "yes" votes in the 2003 referendum were cast in the 1st and 4th Districts.

⁹ Nelson Wikstrom, "Richmond: Implementation of and Experience with Strong-Mayor Form of Government," in James H. Svara and Douglas J. Watson, eds., *More Than Mayor or Manager: Campaigns to Change Form of Government in America's Largest Cities*. Georgetown University Press, 2010, pp. 81-102.

authority to dismiss the City Council staff to whether the Mayor should have direct authority over schools to the validity of a lease agreement between City Council and the School Board.¹⁰

At stake in these initial conflicts (two of which resulted in lawsuits) were specific questions about the correct interpretation of the Charter, but also broader questions about the role of both Mayor and Council under the new form of government. The conflicts also surfaced ambiguities in both the Charter language and their implications for practice. Indeed, some of the same issues noted in this report were discussed as early as 2005 (including pay for the Mayor, whether Council should have the right to initiate budget amendments, and the role of the City Attorney's office in the new form of government).¹¹

Throughout the first term under the new form of government, Mayor Wilder regularly called for revisions to the Charter with the aim of expanding the formal powers of the Mayor. (Some alterations to the Charter were in fact made in 2005 and 2006, as detailed below.) The actual powers afforded to the Mayor under the new system were indeed limited compared to many other cities with a Mayor-Council form of government. The three primary powers provided Richmond's elected Mayor included the power to hire and fire a Chief Administrative Officer, the power to introduce the budget, and a veto power for legislation (added in 2005). (Since the veto can be overridden with six Council votes and only five votes are needed to pass an ordinance, the veto power has rarely been highly salient in practice.)

In contrast, the [Atlanta City Charter](#) specifies some fifteen powers and responsibilities for its elected mayor, including the ability to hire and fire a chief operating officer, prepare the budget, and veto legislation, but also the ability to call special meetings of Council, to "Exercise supervision over all the administration of all departments of the city and delegate all or part of such supervision to the chief operating officer" and to "Prescribe, require, publish, and implement standards of administrative, management, and operating practices and procedures to be followed and adhered to by all offices, departments, boards, commissions, authorities, and other agencies of the city subject to his or her supervision and jurisdiction or delegate all or part of such responsibilities to the chief operating officer."¹²

Ultimately, while some Richmonders had envisioned an extremely strong elected mayor with not only broad powers with respect to city administration but also effective control or influence over adjacent entities including schools, by the end of the first term public appetite for adding to the Mayor's powers had waned (along with public patience with continuing legal conflicts within City Hall).

¹⁰ See Wikstrom, "Richmond: Implementation of and Experience with Strong-Mayor Form of Government," pp. 93-96 for discussion.

¹¹ Jeremy Redmon, "Council Likely to Bump Up Wilder's Salary," *Richmond Times-Dispatch*, May 17, 2005; Jeremy Redmon, "Wilder Says He Won't Take the \$25,000," *Richmond Times-Dispatch*, May 22, 2005; David Ress, "Changes Floated to Curb Mayor's Powers," *Richmond Times-Dispatch*, November 16, 2005; David Ress, "'Growing Pains' for City Council With a Mayor Who Knows a Lot About Power, Members Find 'Sea Change' in Their Role," *Richmond Times-Dispatch*, December 11, 2005.

¹² City of Atlanta Charter (3-104), available at <https://www.atlantaga.gov/home/showpublisheddocument/10018>

In 2008, City Council, with the support of the Mayor, established a Charter Review Commission to clarify ambiguities and reduce conflict within the Charter. Four members were selected by Council, and four by the Mayor; those eight members selected a ninth member, Professor John Douglass of the University of Richmond School of Law, to serve as chair.

That Commission discussed several issues addressed in the current report, in particular regarding the City Attorney.¹³ Three of its recommendations were enacted by the General Assembly in 2010, including: clarifying that the Council could hire and fire its own staff and that the ability of the Mayor to participate in personnel decisions be limited to the administrative departments; adjustments to the Richmond Retirement System; and broadening the scope of the mayoral veto to encompass any ordinance.¹⁴ The Commission's proposal to have the Mayor appoint the City Attorney with the consent of a majority of Council was not adopted.¹⁵

Since 2010, there have been four substantive Charter amendments: a new provision on school modernization adopted in 2018 following an advisory referendum; establishment of an Inspector General appointed by Council in 2018; amended provisions related to runoff elections for Mayor adopted in 2019; and a district residency requirement for Council members adopted in 2020.

A complete list of amendments to the City Charter adopted from 2005 to 2020 is listed below:

Amendments Adopted in 2005

3.04, 4.03, 4.05. Substituted "president of council" for "vice mayor."

4.04. Specified position of deputy city clerk.

5.03. Replaced paragraph to allow Mayor to participate in hiring and removal of heads of city departments.

5.05, 5.06. Allowed Mayor or designee to attend and participate in Council meetings and boards and commissions (except School Board).

5B.01. Adjustments to retirement system to allow two mayoral appointments (of seven).

6.11. Establishment of mayoral line-item veto on budget ordinance.

6.14. Allow Mayor and Council to take any action regarding the school budget permitted by section 22.1-94 of the Code of Virginia and general law.

7B.06. Substituted "chief administrative officer" for "city manager."

17.02. Provided for one mayoral appointment to the City Planning Commission.

¹³ Will Jones, "Changes to Richmond's Charter Could Be Put Off," *Richmond Times-Dispatch*, September 13, 2009.

¹⁴ 2009 Richmond Charter Review Commission, Final Report.

¹⁵ Other recommendations of the 2009 Commission that did *not* become Charter amendments included giving the Mayor a role in the appointment and dismissal of the City Auditor and the City Assessor; providing for time limits on Interim Chief Administrative Officers and for the pre-designation of an Acting Chief Administrative Officer in the case of a sudden vacancy; and stating that mayoral veto powers extended to sale or lease of real property. Source: 2009 City Charter Review Commission Final Report and Richmond City Attorney's Office.

Amendments Adopted in 2006

4.10. Deleted language related to passage of ordinances at special meetings.

4.16(b). Clerical edits.

4.17. Added language specifying the City Attorney and assistants may represent multiple city officials or agencies in the same transaction, and allowing the Mayor to employ special counsel when the City Attorney determines there is a conflict of interest prohibiting the rendering of legal services to the Mayor and administration.

5.05 (a) Allow Mayor or designees to attend closed meetings of Council, unless the subject of the meeting includes the office of the Mayor.

5.05 (d) Establish veto power on any ordinance "imposing such duties on him, the chief administrative officer, or any department head appointed by the chief administrative officer," that can be over-ridden by six Council votes.

5.05.1 (e) Requires chief administrative officer to attend or be represented at all meetings of Council provided the Council has given the Mayor 72 hours of advance notice concerning the matters under discussion.

5.05.1 (f) Require chief administrative officer to perform duties assigned by ordinance (as well as Charter).

6.02. Budget submission to take place no earlier than the second Monday in February.

6.03. Mayor's budget may make adjustments to the School Board budget to the extent permitted by state law.

6.06 Clerical edits

6.07. Allows Council to require itemization below department level in the appropriation ordinance.

6.10. Substitutes "mayor" for "manager."

6.11. Mayoral veto power not pertinent to budget resolutions (as opposed to ordinances).

6.12. Budget as adopted certified by city clerk only (not "city manager and city clerk.")

6.13. Deleted sentence from paragraph on utilities budget.

13.06, 13.08. Substituted "chief administrative officer" for "city manager."

13.07, 13.09. Substituted "mayor" for city manager."

Amendments Adopted in 2010

4.02(f). New paragraph to give Council powers of appointment and removal of Council staff.

5.03. Mayor participation in hiring and removal limited to heads of administrative departments, and chief administrative officer authority over personnel limited to administrative departments.

5.05(b). Removed gendered language referencing the Mayor.

5.05 (d). Mayoral veto power extends to all ordinances (not only those that impose duties on Mayor and administration).

5B.01. New sentence providing for the appointment of an executive director of the retirement system.

13.11. Amended language related to waiver of charges for developers who cause a "permanent reduction in post-development stormwater flow and pollutant loading."

Amendments Adopted in 2018

4.16 Amended language on investigations to include the Inspector General.

4.18. Adjustments to further specify the authority and duties of City Auditor.

4.19. Establishment of separate office of the Inspector General appointed by Council.

6.15.3. New provision on school building modernization.

Amendment Adopted in 2019

3.01.1 and 3.04(c). Procedures for voter registration and absentee voting for any runoff election following a general or special election for Mayor to be as provided by relevant provisions in the Code of Virginia.

Amendment Adopted in 2020

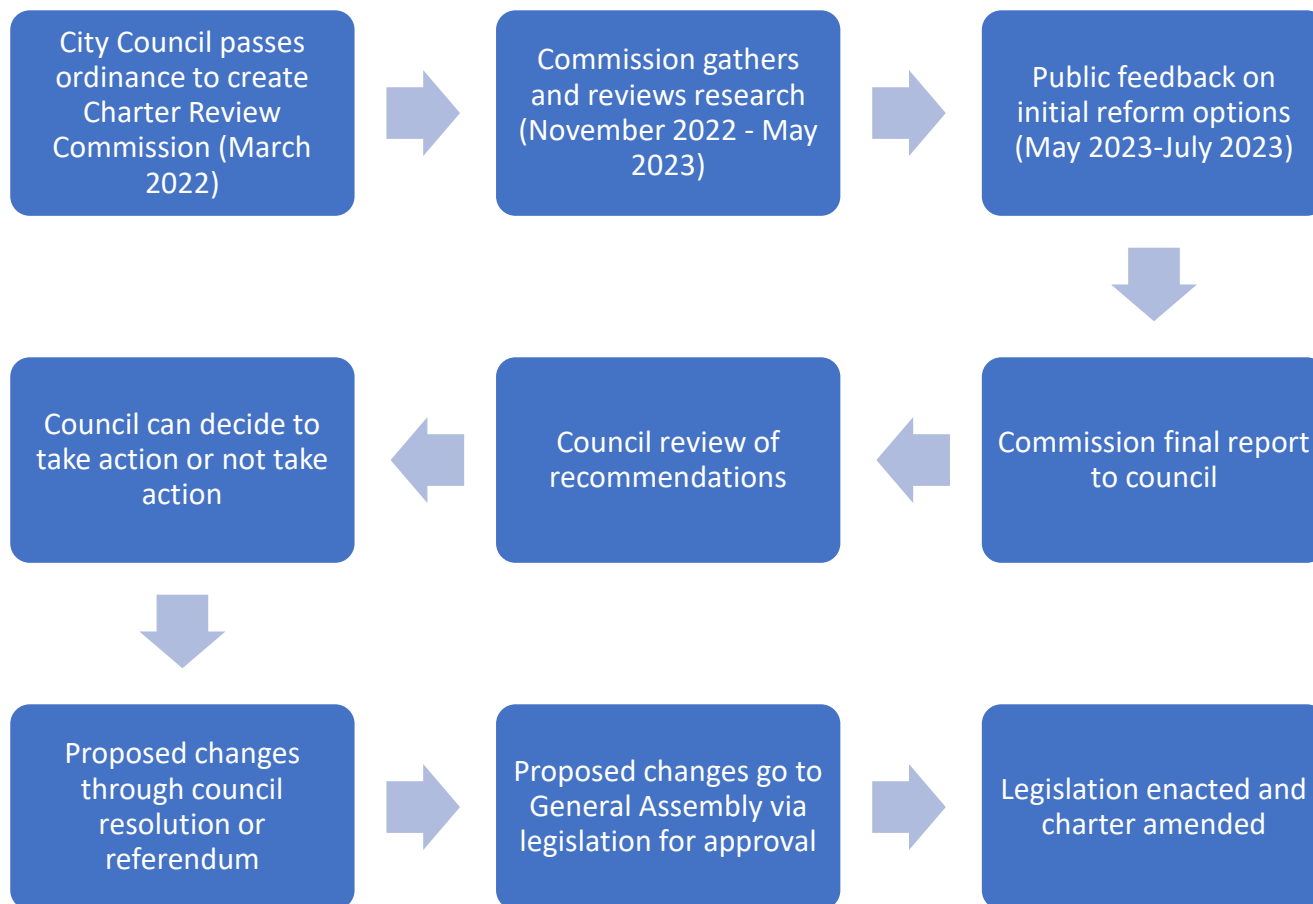
3.01 (C) and 3.04 (A). Establishing requirement for members of Council to reside in the district from which they were elected during their terms of office, and providing for removal of members for noncompliance with requirement.¹⁶

¹⁶ See <https://law.lis.virginia.gov/charters/richmond/> for a list of adopted amendments to the Charter, including where available links to the enabling legislation.

Chapter Three: Richmond City Charter Review Commission Process

On March 14, 2022, Richmond City Council voted unanimously to approve Ordinance 2021-347, co-patroned by Council President Newbille, Vice-President Robertson, and Councilwoman Lambert, thereby establishing a City Charter Review Commission.

This Commission is an advisory study Commission. Its work is but one step in the overall process of potentially changing the Charter. The following diagram illustrates the Commission's role within this larger process.



Following the selection of its members by City Council, the Commission met for the first time on November 21, 2022. A total of twenty meetings of the full Commission were held, on the following dates: November 21 and December 19, 2022; and January 19, February 8, March 14, March 30, April 20, April 27, May 10, May 18, May 23, June 8, June 15, June 22, June 28, July 6, July 13, July 20, July 27, and August 1, 2023. All meetings were open to the public, and approved minutes of each meeting have been submitted to the City Clerk. Four meetings were designated as public hearings for the primary purpose of receiving public comment (May 23, June 15, June 22 and June 28), and public comment was also invited for the July 6, July 13, July

20, and July 27 meetings, and accepted at other Commission meetings in which members of the public expressed a desire to testify. Most Commission meetings were also accessible online.

The three subcommittees established by the Commission as described below also had numerous meetings, which were also open to the public. In January, a landing page for the work of the Commission was launched on the City Council website, and a dedicated email account (rvacharterreview@gmail.com) was also established to receive public comment concerning the Commission's work.

In its initial meetings (November and December 2022), the Commission selected officers, reviewed its charge as established by ordinance, reviewed the history of the Charter, and established a work plan. A key feature of the work plan was to develop and present *multiple* options for Charter reform for public feedback prior to the adoption of Commission recommendations, consistent with the Ordinance's requirement for soliciting public participation as part of its work.

Beginning at its January meeting, the Commission conducted a shared public reading of the text of the Charter, including discussion of key elements. In January and February, two members of the commission (Mr. Kyle Elliott and Mr. Travis Gunn) conducted a series of interviews with stakeholders regarding the Charter, including the Mayor, the Chief Administrative Officer (CAO), current City Council members, the City Attorney, and past officials, and prepared a summary of themes voiced in those interviews. The Commission also conducted an initial review of Richmond's form of government compared to other independent cities in Virginia as well as cities outside Virginia. Finally, the Commission received for review a list of suggested Charter changes provided by the City administration.

The Commission then moved to establish two subcommittees to develop options for reform, on two separate tracks: a **Governance Subcommittee** charged with suggesting reforms within the current Mayor-Council form of government and current electoral arrangements; and an **Electoral Subcommittee** charged with developing for consideration an option for changing to a Council-Manager system of government to include a directly elected Mayor.

The Commission subsequently established a **Document Optimization** subcommittee to look at other issues related to the language of the Charter not covered by the other Subcommittees.

To assist in the work, the Commission was also supported by outside professional research. In the spring, the University of Virginia School of Law State and Local Government Policy Clinic prepared a literature review on the relative advantages of Mayor-Council compared to Council-Manager forms of government. In May 2023, municipal law expert Mr. Walter Erwin, Esq., prepared a memorandum identifying Charter provisions that duplicate general law and hence may be unnecessary, as well commenting on several other key aspects of the Richmond Charter.

In May 2023, the Commission launched a short public engagement survey with the support of City Council staff. The survey was live between May 19 and June 21, and received 1148 responses. A summary of survey results is included within this report.

In advance of public hearings on May 23, June 15, June 22 and on June 28 the Commission released summary versions of proposals under consideration as well as a FAQ addressing questions about the Commission's work and process. On June 12, a comprehensive list of proposals under active consideration was shared with City Council and the administration with

an invitation for feedback, and also published to the Charter Review website along with numerous supplementary documents.

On the basis of its consideration of all evidence presented to the Commission, public comment and input, and the Commission's deliberations, on July 6 the Commission agreed on a framework for the final report and for its overarching recommendations. In subsequent meetings of July 13, July 20, and July 27, the Commission conducted final review of each of its specific recommendations as well as draft versions of this report. On August 1, the Commission voted to approve this final report and empower the Chair and Vice-Chair to make any clerical or grammatical edits needed in preparation for final submission of the report.

With the submission of this report on August 2, 2023, its work being completed, the Commission is thereby dissolved.

Chapter Four: Demographic Change in Richmond, 2000-2022

The City of Richmond has changed in striking ways over the past twenty years. This information is relevant to the work of the Commission insofar as Richmond is now a significantly different city than at the time the last set of major changes to the Charter were enacted.

The purpose of this short section is to provide a high-level summary of key trends.

This section first outlines overall population trends in Richmond and the surrounding region from 1970 to 2022; then it outlines trends in key demographic and socio-economic indicators in the City over the period to 2000 to 2021; and finally, it outlines citywide trends in the voting-age population between 2000 and 2020.

More detailed discussion of this data, including demographic changes within each Council district since 2000, and their potential implications for the city's electoral procedures, can be found as Appendix C.

Table 4-1. Population Trends in Richmond and Surrounding Localities, 1970-2022

Population in thousands

	1970	1980	1990	2000	2010	2020	2022
City of Richmond	249.6	219.2	203.1	197.8	204.2	226.6	229.4
Chesterfield County	76.9	141.4	209.3	259.9	316.2	364.5	378.4
Hanover County	37.5	50.4	63.3	86.3	99.9	110.0	112.9
Henrico County	154.4	180.7	217.9	262.3	306.9	334.4	334.0

Source: United States Census; Decennial Census and Current Population Estimates. Note: The City's population, after remaining essentially flat between 2000 and 2004, began its upward trajectory between 2005 and 2010. See [U.S. Census City and Town Intercensal Data Sets, 2000-2010](#).

Table 4-2. Selected Demographic and Socio-economic Trends in Richmond, 2000-2021

	2000	2007-2011	2017-2021	2021
Black residents %	56.6%	50.1%	45.0%	42.8%
White (not Latino) residents %	37.8%	38.9%	41.4%	41.5%
Latino residents %	2.7%	5.9%	7.3%	7.8%
Asian residents %	1.2%	2.3%	2.1%	2.3%
Two or more races %	1.3%	2.6%	3.6%	4.9%
Other races %	0.4%	0.4%	0.5%	0.8%
Median household income	\$50,766	\$47,326	\$54,795	\$51,770
Poverty rate	21.4%	26.3%	19.8%	21.1%
Child poverty rate	33.4%	40.5%	30.2%	33.7%
% Adults less than high school	24.8%	19.5%	12.3%	11.9%
% Adults with college degree	29.5%	32.9%	43.1%	43.7%
Median home value	\$137,891	\$246,885	\$263,000	\$311,700

Sources: United States Census and American Community Survey (5-year estimates for 2007-2011 and 2017-2021; one-year estimate for 2021); Social Explorer. All dollar values expressed as inflation-adjusted 2021 dollars. Margin of error for one-year estimates is larger than for 5-year estimates.

Table 4-3. Citywide Changes in Voting-Age Population by Race and Ethnicity, 2000-2020

Citywide Total

	2000	2010	2020
Black	79,658 (51.5%)	77,186 (46.4%)	71,362 (38.0%)
White (not Latino)	66,608 (43.1%)	71,686 (43.1%)	85,498 (45.5%)
Latino	3,842 (2.5%)	9,518 (5.7%)	16,887 (9.0%)
Asian	2,175 (1.4%)	4,421 (2.7%)	5,830 (3.1%)
Two or More Races	1,688 (1.1%)	2,635 (1.6%)	7,003 (3.7%)
Other	641 (0.4%)	759 (0.5%)	1,366 (0.7%)

Source: United States Census, Decennial Redistricting Data.

Chapter Five: Recommendations, I: Document Optimization

The first set of recommendations consist primarily of removal of unnecessary or outdated provisions of the Charter, updating language of some provisions, and clarifying some provisions or making them more consistent with Richmond’s current form of government.

Most recommendations in this section are informed by a legal analysis performed on behalf of the Commission by Walter Erwin, Esquire, a municipal law expert and former city attorney based in Lynchburg, Virginia. **The section provides brief explanations of the basis for each change, in some cases, for the sake of precision, quoting verbatim or closely paraphrasing language from Mr. Erwin’s memorandum.** Mr. Erwin’s complete memorandum is attached as an Appendix to this report.

A key principle underlying these recommendations is that a Charter shorn of unnecessary, duplicative, or obsolete language will be easier for residents to understand and use, and also reduce the incidence of confusion or conflict in cases where the Charter may conflict with general law.¹⁷ Here it may be helpful to quote Mr. Erwin’s explanation directly:

Virginia's cities get their powers from two sources, their charters, in which the General Assembly grants powers to a specific city and the general laws adopted by the General Assembly which confer powers to all cities.

When Virginia's older cities, such as Richmond, were granted their charters, there were few general laws granting powers to these cities. In the absence of general laws, city charters attempted to cover every detail of a city's operations, defining the organization, powers, functions and essential procedures of city government.

Over the years the General Assembly adopted an increasing number of general laws granting powers to cities, and there may be provisions in an older city's charter that are inconsistent with or duplicate the state's general laws. A city charter can also become complicated as a result of piecemeal revisions. Differences between the provisions in a charter and the Commonwealth's general laws can be confusing.¹⁸

With this background in mind, the Commission has prepared the following recommendations. Each recommended change is labeled as follows: 5-1, 5-2, etc., for ease of reference.

Language to be added to the Charter is **marked in bold** and language to be deleted is ~~struck through~~.¹⁹

¹⁷ Walter Erwin Memorandum for the City Charter Review Commission, pp. 1-2. The primary memorandum and two follow-up notes from Mr. Erwin are included as Appendix G of this report. All references in this report are to the primary memorandum of June 8, 2023, unless otherwise noted.

¹⁸ Walter Erwin Memorandum, p. 1.

¹⁹ In drafting new or amended language for the Charter, the Commission has sought to follow current best practice by avoiding use of the ambiguous word “shall,” instead using “will,” “must” or “may.” The Commission has not

Section 2.01. General grant of powers

5-1. Strike and Add

~~The city shall have and may exercise all powers which are now or may hereafter be conferred upon or delegated to cities under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of a city government the exercise of which is not expressly prohibited by the said Constitution and laws and which in the opinion of the council are necessary or desirable to promote the general welfare of the city and the safety, health, peace, good order, comfort, convenience and morals of its inhabitants, as fully and completely as though such powers were specifically enumerated in this charter, and no enumeration of particular powers in this charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers. (1948, c. 116)~~

Add

The powers set forth in sections 15.2-1100 through 15.2-1133 of the Code of Virginia as in force on January 1, 2024, and as hereafter amended, are hereby conferred on and vested in the city of Richmond, for the conduct of city government and to promote the general welfare of the city and its residents. In addition thereto the City of Richmond will have and may exercise all other powers which are now or may hereafter be conferred upon or delegated to independent cities under the Constitution or the laws of the Commonwealth, as fully and completely as though such powers were specifically enumerated in this charter, and no enumerations of particular powers in this charter will be held to be exclusive but will be held to be in addition to this general grant of powers.

Purpose of Change: The new language accomplishes the same functional goal as the older language with more modern and precise language.

Section 2.02. Financial powers

5-2. Strike

~~202. (b) To borrow money for the purposes and in the manner provided by Chapter 7B of this charter.~~

Purpose of Change: This power is authorized under general law (Virginia Code 15.2-1105) and Article VII of the Virginia Constitution.

5-3. Strike

however sought to edit out existing uses of the word “shall” in the Charter in passages not recommended for amendment, except when needed to match recommended new language within specific provisions.

~~202. (c) To make appropriations, subject to the limitations imposed by this charter, for the support of the city government, and any other purposes not prohibited by this charter and the laws of the Commonwealth.~~

Purpose of Change: This power is authorized under Article VII of the Virginia Constitution.

5-4. Strike

~~202. (e) To accept or refuse gifts, donations, bequests or grants from any source for any purpose related to the powers and duties of the city government.~~

Purpose of Change: These powers are authorized under general law (Virginia Code 15.2-1108).

5-5. Strike

~~202. (f) To provide, or aid in the support of, public libraries and public schools.~~

Purpose of Change: These powers are authorized under general law (Virginia Code 42.1-33 with respect to libraries, and Virginia Code 22.1-88 and Article VIII of the Virginia Constitution with respect to schools.)

5-6. Strike

~~202. (g) To grant financial aid to military units organized in the city in accordance with the laws of the Commonwealth, and to charitable or benevolent institutions and corporations, including those established for scientific, literary or musical purposes or the encouragement of agriculture and the mechanical arts, whose functions further the public purposes of the city.~~

Purpose of Change: These powers are authorized under general law (Virginia Code 15.2-1112 with respect to military units and Virginia Code 15.2-953 with respect to charitable and nonprofit organizations and associations.)

Section 2.04. Power to make regulations for the preservation of the safety, health, peace, good order, comfort, convenience, morals and welfare of the city and its inhabitants.

5-7. Strike

~~a) To provide for the prevention of vice, immorality, vagrancy and drunkenness; prevention and quelling of riots, disturbances and disorderly assemblages; suppression of houses of ill fame and gambling places; prevention of lewd and disorderly conduct or exhibitions; and prevention of conduct in the streets dangerous to the public.~~

Purpose of Change: The constitutional power of the City to regulate “vice,” “immorality,” and “drunkenness” is questionable. Virginia general law provides for the City’s power to regulate disorderly conduct in public places (Virginia Code 18.2-415); regulate riots (Virginia Code 15.2-925); and prohibit public intoxication (Virginia Code 18.2-388). Virginia general law also provides for the City’s power to deal with drug-blighted properties (Virginia Code 15.2-907),

places of prostitution (Virginia Code 15.2-908.1) and illegal manufacture, sale, and distribution of alcoholic beverages (Virginia Code 4.1-317).

5-8. Strike

~~(b) To regulate the construction, maintenance and repair of buildings and other structures and the plumbing, electrical, heating, elevator, escalator, boiler, unfired pressure vessel, and air conditioning installations therein, for the purpose of preventing fire and other dangers to life and health.~~

Purpose of Change: The Uniform Statewide Building Code establishes the authority of local government to regulate the construction, maintenance and repair of buildings and structures.

5-9. Strike

~~(d) To grant or authorize the issuance of permits under such terms and conditions as the council may impose for the use of streets, alleys and other public places of the city by railroads, street railways, buses, taxicabs and other vehicles for hire; prescribe the location in, under or over, and grant permits for the use of, streets, alleys and other public places for the maintenance and operation of tracks, poles, wires, cables, pipes, conduits, bridges, subways, vaults, areas and cellars; require tracks, poles, wires, cables, pipes, conduits and bridges to be altered, removed or relocated either permanently or temporarily; charge and collect compensation for the privileges so granted; and prohibit such use of the streets, alleys and other public places of the city, and no such use shall be made of the streets, alleys, or other public places of the city without the consent of the council.~~

Purpose of Change: Virginia general law provides for the City's powers to regulate streets, alleys and public places, to grant permits and charge fees for use (Virginia Code 15.2-1125), to maintain and regulate its real property (Virginia Code: 15.2-1800[E]), and to "prohibit utilities from using public streets and alleys without the City's consent" (Virginia Code 15.2-2017).²⁰

5-10. Strike

~~(e) To prevent any obstruction of or encroachment over, under or in any street, alley, sidewalk or other public place; provide penalties for maintaining any such obstruction or encroachment; remove the same and charge the cost thereof to the owner or owners, occupant or occupants of the property so obstructing or encroaching, and collect the sum charged in any manner provided by law for the collection of taxes; require the owner or owners or the occupant or occupants of the property so obstructing or encroaching to remove the same; pending such removal charge the owner or owners of the property so obstructing or encroaching compensation for the use of such portion of the street, alley, sidewalk or other public place obstructed or encroached upon the equivalent of what would be the tax upon the land so occupied if it were owned by the owner or owners of~~

²⁰ Walter Erwin Memorandum, p. 4.

~~the property so obstructing or encroaching, and, if such removal shall not be made within the time ordered, impose penalties for each and every day that such obstruction or encroachment is allowed to continue thereafter; authorize encroachments upon streets, alleys, sidewalks or other public places, subject to such terms and conditions as the council may prescribe, but such authorization shall not relieve the owner or owners, occupant or occupants of the property encroaching, of any liability for negligence on account of such encroachment; and recover possession of any street, alley, sidewalk or other public place or any other property of the city by suit or action in ejectment.~~

Purpose of Change: Virginia general law authorizes the City “to deal with encroachments in public rights of way” (Virginia Code 15.2-2009, 15.2-2010, and 15.2-2011).²¹

5-11. Strike

~~(f) To prescribe the route and grade of any railroad laid in the city, regulate the operation of locomotives and cars, and exclude such locomotives and cars from the city; provided, no contract between the city and the corporation operating such locomotives or cars is violated by such action.~~

Purpose of Change: Railroad operations are shielded from interference by local law or regulations by federal law, including 49 U.S.C. 10501(b)(1) and the Interstate Commerce Commission Termination Act of 1995. Any authority the City carries with respect to railroad operations come from general regulatory powers such as the Uniform Statewide Building Code and the Uniform Statewide Fire Code.

5-12. Strike

~~(g) To regulate the operation of motor vehicles and exercise control over traffic in the streets of the city and provide penalties for the violation of such regulations; provided, that ordinances or administrative regulations adopted by virtue of this subsection shall not be inconsistent with the provisions of the Motor Vehicle Code of Virginia. All fines imposed for the violation of such ordinances and regulations shall be paid into the city treasury.~~

Purpose of Change: Virginia general law provides for the City’s authority to “manage the operation of motor vehicles and exercise traffic control” (Virginia Code 13.46.2-1300 through 46.2-1314).²²

5-13. Strike

~~(h) To regulate, in the interest of public health, the production, preparation, distribution, sale and possession of milk, other beverages and foods for human consumption, and the places in which they are produced, prepared, distributed, sold, served or stored; regulate the construction, installation, maintenance and condition of all water and sewer pipes,~~

²¹ Walter Erwin Memorandum, p. 4.

²² Walter Erwin Memorandum, p. 4.

~~connections, toilets, water closets and plumbing fixtures of all kinds; regulate the construction and use of septic tanks and dry closets, where sewers are not available, and the sanitation of swimming pools and lakes; provide for the removal of night soil, and charge and collect compensation for the removal thereof; compel the use of sewers, the connection of abutting premises therewith, and the installation in such premises of suitable sanitary facilities; regulate or prohibit connections to and use of sewers; provide for the quarantine of any person afflicted with a contagious or infectious disease, and for the removal of such person to a hospital or ward specially designated for contagious or infectious diseases; inspect and prescribe reasonable rules and regulations, in the interest of public health, with respect to private hospitals, sanatoria, convalescent homes, clinics and other private institutions, homes and facilities for the care of the sick, of children, the aged and the destitute; and make and enforce all regulations necessary to preserve and promote public health and sanitation and protect the inhabitants of the city from contagious, infectious or other diseases.~~

Purpose of Change: The powers in this section are either authorized by Virginia general law, such as Virginia Code 15.2-1109 (regulation of milk and food products) and Virginia Code 15.2-1110 (regulation of swimming pools and bodies of water); or are assigned by law to the Virginia Department of Health (such as quarantine of persons with contagious disease) or are provided by the Uniform Statewide Building Code (plumbing fixtures and toilets).

5-14. Strike

- ~~(i) — To regulate cemeteries and burials therein, prescribe the records to be kept by the owners of such cemeteries, and prohibit all burials except in a public burying ground.~~

Purpose of Change: The City's power to regulate cemeteries and burials is established by Virginia Code 15.2-1111.

5-15. Strike

- ~~(j) To regulate or prohibit the exercise of any dangerous, offensive or unhealthful business, trade or employment, and the transportation of any offensive or dangerous substance.~~

Purpose of Change: These powers are provided by Virginia general law. The City's powers to regulate or prohibit dangerous, offensive or unhealthful business operations, and the transportation of offensive or dangerous substances, are established by Virginia Code 15.2-1113.

5-16. Strike

- ~~(k) To regulate the light, ventilation, sanitation and use of occupancy of buildings heretofore or hereafter constructed, altered, remodeled or improved, and the sanitation of the premises surrounding the same.~~

Purpose of Change: The Uniform Statewide Building Code establishes the authority of local government to regulate the construction, maintenance and repair of buildings and structures.

5-17. Strike

~~(l) To regulate the emission of smoke or the construction, installation, operation and maintenance of fuel burning equipment, internal combustion engines or any other equipment or source of air pollution.~~

Purpose of Change: Virginia Code 15.2-1116 authorizes the City to regulate smoke and fuel-burning equipment; “Chapter 13 of Title 10.1 of the Virginia Code gives the Virginia Pollution Control Board authority to control and regulate air pollution statewide.”²³

5-18. Strike

~~(m) To compel the removal of weeds from private and public property and snow from sidewalks; the covering or removal of offensive, unwholesome, unsanitary or unhealthy substances allowed to accumulate in or on any place or premises; the filling in to the street level of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; the raising or draining of grounds subject to be covered by stagnant water; the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public; and to compel the abatement or removal of any and all other nuisances whatsoever including the removal of inoperative or unlicensed motor vehicles or parts thereof from public or private property. If after such reasonable notice as the council may prescribe by ordinance the owner or owners, occupant or occupants of the property or premises affected by the provisions of this subsection shall fail to abate or obviate the condition or nuisance, the city may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of taxes.~~

Purpose of Change: Virginia general law via Virginia Code 15.2-900, 15.2-906, and 15.2-1115 “give a city broad authority to address nuisances.”²⁴

5-19. Strike

~~(n) To regulate or prohibit the manufacture, storage, transportation, possession and use of explosive or inflammable substances and the use and exhibition of fireworks and discharge of firearms.~~

Purpose of Change: The Uniform Statewide Fire Code regulates the use of explosive or inflammable substances and the use of firework; additionally, Virginia Code 15.2-1113 gives the City authority to regulate explosive and flammable substances and the discharge of fireworks. Virginia Code 15.2-915 provides and defines the limits of the City’s authority to regulate firearms.

²³ Walter Erwin Memorandum, p. 5.

²⁴ Walter Erwin Memorandum, p. 5.

5-20. Strike

~~(o) To regulate or prohibit the making of fires in the streets, alleys and other public places in the city and to regulate the making of fires on private property.~~

Purpose of Change: “15.2-1800(E) of the Virginia Code authorizes the City to maintain, and regulate the use of its real property and the Virginia Uniform Statewide Fire Code regulates the making of fires.”²⁵

5-21. Strike

~~(p) To regulate or prohibit the running at large and the keeping of animals and fowl and provide for the impounding and confiscation of any such animal or fowl found at large or kept in violation of such regulations.~~

Purpose of Change: “15.2-1108 of the Virginia Code authorizes a city to regulate the running at large and the keeping of animals and fowl.”²⁶

5-22. Strike

~~(q) To prevent cruelty to and abuse of animals.~~

Purpose of Change: This power is provided to the city by Virginia general law: “The Virginia Comprehensive Animal Care Act gives a city the authority to deal with animal cruelty and abuse.”²⁷

5-23. Strike

~~(r) To regulate the sale of goods, wares or merchandise at auction; regulate the conduct of and prescribe the number of pawnshops and dealers in secondhand goods, wares and merchandise; regulate or prohibit the peddling or hawking of any article for sale on the streets of the city; prevent fraud or deceit in the sale of goods, wares and merchandise; require the weighing, measuring, gauging and inspection of goods, wares and merchandise offered for sale; require weights and measures to be sealed and subject to inspection; and provide for the appointment of a sealer and one or more weightmasters who shall perform such duties and functions as may be prescribed by ordinance. (1948, c. 116; 1968, c. 644; 1972, c. 336; 1975, c. 112)~~

Purpose of Change: These various powers are provided to cities or assigned to statewide jurisdiction by Virginia general law. “For example: 15.2-1114 of the Virginia Code authorizes a city to regulate, auctions, pawnshops, secondhand dealers, peddling, fraud, and deceit in sales,

²⁵ Walter Erwin Memorandum, p. 5.

²⁶ Walter Erwin Memorandum, p. 5.

²⁷ Walter Erwin Memorandum, p. 6.

and weights and measures; 54.1-4001 and 54.1-4003 impose regulations on pawnshops; 15.2-913 authorizes localities to adopt ordinances that regulate door to door solicitation; 59.1-201 authorizes a locality to deal with consumer protection complaint; the Virginia Department of Agriculture and Consumer Services has a Weights and Measures Bureau to oversee weights and measurements throughout the state; etc.”²⁸

2.05. Miscellaneous Powers

5-24. Strike

~~(b) To establish, maintain and operate, within and without the city, public hospitals, sanatoria, convalescent homes, clinics and other public institutions, homes and facilities for the care of the sick, of children, the aged and the destitute.~~

Purpose of Change: These powers are provided by general law under Virginia Code 15.2-1119.

5-25. Strike

~~(c) To provide care for the poor and have all the powers and duties conferred and imposed on cities by the laws of the Commonwealth relating to public assistance.~~

Purpose of Change: The ability of a city to provide assistance to the poor is authorized and defined by Article 2 of Title 63.2 of the Virginia Code.

5-26. Strike

~~(d) To establish, own, maintain and operate, within and without the city, cemeteries for the interment of the dead, fix the price at which graves and lots therein shall be sold, make contracts for their perpetual care and establish the rates to be charged for the digging of graves, construction of vaults and other services.~~

Purpose of Change: Power to establish and operate cemeteries is provided by Virginia Code 15.2-1121.

5-27. Strike

~~(g) To establish and collect such fees, including a charge for expenses incurred in auditing reports, accounts, and any records of organizations operating bingo games and raffles under the permissive provisions of § [18.2-335](#) of the Code of Virginia and admitting to record the annual report of such organization, as may be determined by the council to be reasonable for the rendering of special services.~~

²⁸ Walter Erwin Memorandum, pp. 5-6.

Purpose of Change: “As a result of amendments to the Virginia code, bingo games and raffles are no longer regulated by local governments, but are regulated by the Virginia Charitable Gaming Commission.”²⁹

2.06. Enforcement of Regulations

5-28. Strike 2.06 in its entirety:

§ 2.06. Enforcement of regulations.

~~When by the provisions of this charter or the Constitution and general laws of the Commonwealth the city is authorized to pass ordinances on any subject, the council may provide suitable penalties for the violation of any such ordinances, including ordinances effective outside the city as provided in this charter. No such penalty shall exceed the maximum fine permitted under state law for violation of a Class 1 misdemeanor or confinement for twelve months or both. Upon conviction for violation of any ordinance, the court trying the case may require bond of the person so convicted with proper security in the penalty of not more than \$2,000, conditioned to keep the peace and be of good behavior and especially for the period of not more than one year not to violate the ordinance for the breach of which he/she has been convicted. From any fine or confinement imposed, an appeal shall lie as in cases of misdemeanor. Whenever any fine or penalty shall be imposed but not paid, the court trying the case may, unless an appeal be forthwith taken, issue a writ of fieri facias for the collection of the amount due, returnable within sixty days from its issuance. The city is hereby expressly authorized and empowered to institute and maintain a suit or suits to restrain by injunction the violation of any ordinance legally adopted by it, notwithstanding such ordinance may provide penalties for its violation.~~

Purpose of Change: “The provisions of 2.06 dealing with the establishment of penalties for violations of ordinances, requiring bonds of persons convicted of ordinances, appeals of convictions, and seeking injunctions are covered in 15.2-1429, 15.2-1430, 15.2-1431, and 15.2-1432 of the Virginia Code.”³⁰

3.04.1. Removal of council member or mayor and forfeiture of office

5-29. Amended language

C. The mayor or any member of council who shall be convicted by a final judgment of any court from which no appeal has been taken or which has been affirmed by a court of last resort ~~on a charge involving moral turpitude, or of any felony, or any misdemeanor~~

²⁹ Walter Erwin Memorandum, p. 6.

³⁰ Walter Erwin Memorandum, p. 6.

~~involving possession of marijuana or any controlled substances, shall forfeit his/her office.~~

Purpose of change: Consistent with the statewide decriminalization of marijuana, remove misdemeanor possession of marijuana or other controlled substances as a cause for removal from office of the Mayor and Council, as well as strike archaic, ambiguous, and unneeded language regarding “moral turpitude.”

4.06 Rules (of Council)

5-30. Amend:

The council shall have power, subject to the provisions of this charter, to adopt its own rules of procedure. Such rules shall provide for the time and place of holding regular meetings of the council which shall be not less frequently than once in each month; however, the council shall not be required to hold a regular meeting in the month of August. They shall also provide for the calling of special meetings by the mayor or any three members of the council, and shall prescribe the method of giving notice thereof, provided that the notice of each special meeting shall contain a statement of the specific item or items of business to be transacted and no other business shall be transacted at such meeting except by the unanimous consent of all the members of the council. **Council must follow Robert’s Rules or another generally accepted order of parliamentary procedure agreed to by the council; such procedure may be set aside temporarily in specific instances by unanimous consent of council.**

Purpose of Change: Assure Council consistently follows recognizable procedures and rules of order in its meetings.

4.07. Voting (by Council)

5-31. Amended Language

No ordinance, resolution, motion or vote shall be adopted by the council except at a meeting open to the public and, except motions to adjourn, to fix the time and place of adjournment, and other motions of a purely procedural nature, unless it shall have received the affirmative votes of at least five members. All voting except on procedural motions shall be by roll call **or by electronic devices** and the ayes and noes shall be recorded in the journal.

Purpose of change: Provide Council the option to change to electronic voting in its meetings.

4.09. Ordinances; form

5-32. Amended language

Every ordinance except the annual appropriation ordinances and an ordinance codifying ordinances shall be confined to a single subject which shall be clearly expressed in its

title. **All introduced ordinances will be made available by electronic means, with one or more printed copies provided to the city clerk for public inspection.** ~~All ordinances shall be introduced in typewritten or printed form or a combination of both.~~ All ordinances which repeal or amend existing ordinances shall set forth in full the section or subsection to be repealed or amended and, if it is to be amended, shall indicate matter to be omitted by enclosing the same in brackets, striking through the matter to be omitted, or by both such brackets and striking through and indicating new matter by underscoring. When printed or published prior to enactment the same indications of omitted and new matter shall be used except that strikeout type may be substituted for brackets and italics for underscoring. The enacting clause of all ordinances shall be: "The City of Richmond hereby ordains." Unless another date is specified therein and except as otherwise provided in this charter an ordinance shall take effect on the tenth day following its passage.

Purpose of Change: Assure introduced ordinances are available electronically while reducing the need for multiple hard-copy print outs of documents, a requirement that is costly, time-consuming, and paper-consuming; while assuring at least one print copy is available on record at all times (as good practice and in event of network or system failure).

4.14. Appointments and removals generally

5-33. Added Section

4.14.1. Composition of boards and commissions established by ordinance

The council by ordinance will establish the composition, duties, and other relevant provisions of each board and commission reporting to the council, except for boards and commissions whose composition is established by the charter.

Purpose of Change: To codify existing practice.

4.15. Removal of members of boards and commissions; forfeiture of office or employment for certain convictions

5-34. Strike and Add

~~B. Any officer, appointee of the council or employee of the city who shall be convicted by a final judgment of any court from which no appeal has been taken or which has been affirmed by a court of last resort on a charge involving moral turpitude or any felony or any misdemeanor involving possession of marijuana or any controlled substances shall forfeit his/her office or employment.~~

The council, in consultation with the chief administrative officer, must establish by ordinance, consistent with general law, provisions for the sanction or removal of officers, appointees and employees of the city for cause.

Purpose of Change: Provided the Council establish an ordinance for this purpose, the specific language regarding removal from office or employment need not be in the Charter. Sanction and removal of employees should be a function of the city's personnel policies and adopted ordinances, not the Charter. In contrast, it is appropriate that the Charter have language of this kind with respect to the Mayor and Council (as in 3.04.1).

4.16. Powers of investigation

5-35. Amend

(a) The council, or any committee of members of the council when authorized by the council, shall have power to make such investigations relating to the municipal affairs of the city as it may deem necessary, and shall have power to investigate any or all departments, boards, commissions, offices and agencies of the city government and any officer or employee of the city, concerning the performance of their duties and functions and use of property of the city. **The council will have all investigative powers provided by general law in addition to those stated in the charter.**

Purpose of Change: Clarify the Council has all investigatory powers available to governing bodies in Virginia, in addition to those enumerated in the Charter.

5A.03. Personnel rules and regulations

5-36. Amend

The council, upon receiving any recommendations submitted to it by the ~~mayor~~ **chief administrative officer, and subject to such conditions as may be set out elsewhere in the charter**, shall establish a personnel system for the city administrative officials and employees. Such system shall be based on merit and professional ability and shall not discriminate on the basis of race, **including traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists; color; religion; sex; age; pregnancy, childbirth, or related medical conditions, including lactation; sexual orientation; gender identity; national origin; citizenship status; disability; genetic information; marital status; veteran status; military status; political affiliation; or membership in any other protected group.** ~~race, national origin, religion, sex, age, disabilities, political affiliation, sexual orientation, gender identity, military status, childbirth and pregnancy status, or marital status.~~ The personnel system shall consist of rules and regulations which provide for the general administration of personnel matters **to include a director of human resources who must support the council and the chief administrative officer in fulfilling their respective duties under the charter and perform other duties as assigned by ordinance to the director of human resources;** a classification plan for employees; a uniform pay plan; ~~and~~ a procedure for resolving grievances of employees as provided by general law for either local government or state government employees; **and a uniform severance plan for the compensation of employees who are separated from city service for reasons other than cause.**

Purpose of Change: This amendment has two purposes: 1) update Charter language on protected classes to be current with Virginia general law, federal law, and current City [personnel policies](#). 2) clarify that the chief administrative officer recommends the personnel system, that the personnel system is to continue a uniform severance plan, and that there is to be a director of human resources. This amendment is identical to 5-43-D below, and is listed in both places to stress the importance of moving forward with amending the list of protected classes.

5B. Retirement system

5-37. Amend

From and after July 1, 1978, the Board of Trustees of the Richmond Retirement System shall consist of seven members for terms of three years. Any vacancy shall be filled for the unexpired portion of the term. The mayor shall appoint two members; the council shall appoint five members, at least two of whom shall be ~~members of the classified service~~ **employees or retirees who are participants in the retirement system.**

Purpose of Change: To give both unclassified and classified employees and retirees the opportunity to serve on the Board of Trustees.

6.15.3. School buildings and infrastructure modernization

5-38. Strike 6.15.3 in its entirety

~~(a) Not later than January 1, 2019, the mayor shall formally present to the city council a fully funded plan to modernize the city's K-12 educational infrastructure consistent with national standards or inform city council such a plan is not feasible. In fulfilling the duties herein, the mayor shall consult with the school board and city council, consider cost savings available in state or federal law, and further provide an opportunity for public participation.~~

~~(b) Such fully funded plan required in subsection (a) shall not be based on the passage of new or increased taxes for that purpose.~~

~~(c) Nothing herein shall alter powers previously given to the school board.~~

~~(d) Once the mayor has complied with subsection (a), the city council shall have 90 days to take such action as it deems appropriate. (2018, c. [664](#))~~

Purpose of Change: Relevant provisions have expired.

13.06. Each utility a separate enterprise

5-39. Strike

The water, wastewater, stormwater, gas and electric utilities shall each be conducted as a separate enterprise, provided that nothing herein shall prevent the transfer of employees from one utility to another or the division of the time of any officer or employee between two or more of such utilities. ~~To facilitate accurate analysis of the financial results of the operation of each utility:~~

~~(a) The customer service division shall, as directed by ordinance, bill for and collect on behalf of each utility not only the charges due from domestic, commercial and industrial users of its services but similar charges against the city and each department, board, commission, office and agency thereof, including the school board and each other utility. The rates to be charged for street lighting and for electric current furnished to the city and its departments, boards, commissions, offices and agencies, as well as any political subdivision, shall be fixed by the director of public utilities to generate such revenue as shall enable the utility to make a reasonable return on investment and meet retirement schedules and other debt service requirements in accordance with the provisions of any bond ordinance pursuant to which bonds have been issued to finance capital improvements of such utility and to comply with the terms and conditions of any documents securing any such bonds.~~

~~(b) Separate budgets shall be prepared for each utility annually at the time and in the manner prescribed in Chapter 6 of this charter, which shall include estimates of revenue and expense for the ensuing fiscal year. After the budget of a utility has been adopted, should it appear that substantial sales of the unit product of the utility can be made in excess of the sales of the unit product contemplated by the budget which were not reasonably foreseen at the time the estimates of revenue and expense were made, additional expenditures may be authorized by the chief administrative officer from the funds of the utility in an amount not exceeding the estimated cost of producing or purchasing additional units of the product of the utility to be sold upon the justification of such expenditure by and recommendation of the director of public utilities. The chief administrative officer shall report to the council as soon as practicable any such additional expenditures authorized by him/her and shall also report any such additional expenditures to the director of finance, who shall adjust the appropriation accounts accordingly. The expenditure of any other funds of any utility shall be authorized only when an additional appropriation thereof is made in accordance with § 6.16 of this charter. The budget estimates of each department of the city shall include items for gas, water, wastewater, stormwater, and electric current to be used by them. An item for street lighting shall be included in the general fund budget and shall be disbursed by the director of finance on the basis of bills rendered by the customer service division.~~

~~(c) The accounting system of each utility shall conform to generally accepted principles of public utility accounting and shall be kept on an accrual basis. Expenditures shall be authorized and made in accordance with appropriations made by the council and in accordance with the provisions of Chapters 6, 8 and 13 of this charter. The records of revenues of each utility shall be kept so that the services rendered to each class of~~

~~customer according to the rate schedules adopted by the council for each utility can be obtained. After the close of each fiscal year there shall be submitted to the chief administrative officer and the council a report as to the operation of each utility containing at least the following financial statements: (1) a comparative balance sheet showing the financial condition of the utility as of the beginning and close of the fiscal year and an analysis of the surplus account showing the factors of change in the account as reflected by the comparative balance sheet; and (2) a comparative profit and loss statement of the last two fiscal years; and a comparative detailed analysis of operating expense for the last two fiscal years according to functional grouping. The expense of operating each utility shall include: (1) taxes, if any, lawfully accruing during the fiscal year; and (2) except for the stormwater utility, taxes not actually accruing but which would have accrued had the utility not been municipally owned, and such taxes shall be paid annually into the general fund. For the purposes of this chapter, all indebtedness of the city incurred on account of each utility shall be considered as the indebtedness of such utility. (1948, c. 116; 1954, c. 64; 1982, c. 658; 1988, c. 269; 1993, c. 613; 1994, c. 215; 1998, c. 711; 2006, cc. 650, 712)~~

Purpose of Change: The City administration recommended removal of both sections 6.13 (utilities budgets) and 13.06. There was not consensus among the Commission regarding 6.13, out of concern for assuring transparency with respect to utilities budgets, hence no recommendation is made with respect to that section. The Commission agreed that most of 13.06 can be struck and its provisions provided for by ordinance as needed, but recommends retaining language that the utilities are to be separate enterprises.

20.10. Courtrooms for courts of record and office space for constitutional officers

5-40. Strike

~~It shall be the duty of the city to provide suitable courtrooms for the courts of record of the city and suitable offices for the city treasurer and attorney for the Commonwealth.~~

Purpose of Change: “15.2-1638 of the Virginia Code requires a locality to provide courthouses and facilities to accommodate the various courts and officials and 15.2-1600 to 15.2-1637 require localities to provide facilities and benefits for constitutional officers.”³¹

20.11. Posting of bonds by city unnecessary

5-41. Strike

³¹ Walter Erwin Memorandum, p. 13.

~~Whenever the general law requires the posting of a bond, with or without surety, as a condition precedent to the exercise of any right, the city, without giving such bond, may exercise such right, provided all other conditions precedent are complied with, and no officer shall fail or refuse to act because the city has not filed or executed the bond that might otherwise be required, and the city shall be bound to the same extent that it would have been bound had the bond been given. This exemption from the requirement of posting a bond shall also apply in cases involving a city employee to whom liability coverage has been granted by the city.~~

Purpose of Change: “15.2-1126 of the Virginia Code provides that a municipal corporation does not have to post a bond as a condition precedent to the exercise of its rights.”³²

³² Walter Erwin Memorandum, pp. 13-14.

Special Section, I. Adjustments to Provisions Concerning Creation of Departments, Personnel

Items 5-42 and 5-43 are both multi-part adjustments intended to make Charter provisions regarding the creation or alteration of agencies and the establishment of the personnel system more consistent with the Mayor-Council form of government, while retaining for Council a role in a) creating or altering agencies that are not established by Charter and do not report to the Chief Administrative Officer b) having the option to develop its own job classifications for employees reporting to the Council (or to use the classifications developed by the Chief Administrative Officer) and c) establishing pay ranges for heads of administrative departments. 5-42 concerns the creation of departments and 5-43 concerns the personnel system.

The recommended amendments clearly establish that departments reporting to the Chief Administrative Officer are only to be created, altered, or abolished at the initiative of Mayor, while retaining Council's role in approving such initiatives; and that the Chief Administrative Officer is to develop the job classification system for employees in agencies reporting to the CAO, while retaining Council's role in approving the salary ranges for agency heads.

The Commission views the recommendations of 5-42 and 5-43 as consistent with the *Partnership Model* of Mayor-Council government detailed in Chapter Six.

5-42-A. Amended Language

4.02. Powers (of Council)

(b) To create, alter, **combine** or abolish departments, bureaus, divisions, boards, commissions, offices and agencies other than **1) those specifically established by this charter and 2) those reporting to the chief administrative officer; and to approve changes to bureaus, departments divisions, boards, commissions, office, and agencies reporting to the chief administrative officer upon the recommendation of the mayor.**

Purpose of Changes: Under the Mayor-Council form of government, Council should not be able to alter the structure of agencies that report to the CAO except on the initiative of the Mayor. It should have the power to approve or reject changes proposed by the Mayor. Also, the word "combine" is added to allow the removal of section 5A.01 (see 5-42-C below).

5-42-B. Amended Language

(c) ~~To create, alter or abolish and to assign and reassign to departments, all bureaus, divisions, offices and agencies,~~ **assign and reassign employees to departments,** bureaus, divisions, offices or agencies **other than those that** are **1) specifically assigned by this charter; or 2) report to the chief administrative officer.**

Purpose of Change: Under the Mayor-Council form of government, Council should not be able to assign or reassign employees within agencies that report to the CAO. This change to 4.02(c) also removes language duplicating 4.02(b).

5-42-C. Amend 5A.01.

5A.01. Creation of departments.

The mayor may propose to establish, alter, combine, or abolish administrative departments, bureaus, divisions or offices that report to the chief administrative officer, subject to the approval of council; and the council may establish, alter, combine, or abolish departments, bureaus, divisions or offices that report to the council. ~~The city council may establish administrative departments, bureaus, divisions, or offices, or may alter, combine or abolish existing administrative departments, bureaus, divisions or offices; however,~~ Neither the council, the mayor, nor the chief administrative officer shall have the power to alter the purpose of, combine, transfer or abolish any department created by this charter. (1998, c. [711](#); 2004, cc. [877](#), [898](#))

Purpose of change: State clearly powers to create departments under the Mayor-Council form of government.

5-43-A. Amend 4.02(d)

4.02. Powers (of Council)

(d) To provide for the titles, qualifications, powers, duties and compensation of all officers and employees **that report to council of the city, subject to certain conditions:** ~~in the case of members of the classified service to the provisions of § 5A.03 of this charter.~~

- 1) These titles, qualifications, powers, duties and the compensation plan may mirror those established by the chief administrative officer for department heads and executive level employees in whole or in part.**
- 2) No changes to the compensation plan shall be made unless funds are currently available to fully cover the increased cost of such change, including employee benefits for both the remainder of the current fiscal year, and the full annualized cost going forward without the need for an increased appropriation.**
- 3) If funds are currently unavailable to fully cover the increased cost of such change, including employee benefits, council shall work with the chief administrative officer to propose changes to the compensation plan for such employees, subject to approval of a budget amendment, or amendments to provided funds therefor.**

5-43-B. Add paragraph (e) to 4.02³³

e. Council in consultation with the chief administrative officer must establish the compensation of department heads and executive level employees and who report to the chief administrative officer, by means of establishing:

- 1) A salary range or ranges for executive level employees;**
- 2) Rules for establishing the maximum salary for newly appointed executives;**
- 3) Rules for movement of such employees through the established ranges;**
- 4) A methodology to be used in calculating the amounts that may be included in any severance package offered to executive level employees, and any conditions or restrictions thereon.**

5-43-C. Add provision (g)

5.05.1. General duties; chief administrative officer.

g. The chief administrative officer must establish, promulgate and maintain the titles, qualifications, powers, duties and compensation plan for general and public safety employees of those departments that report to the chief administrative officer, subject to certain conditions:

- (1) No changes to the compensation plan may be made unless funds are currently available to fully cover the increased cost of such change, including employee benefits for both the remainder of the current fiscal year, and the full annualized cost going forward without the need for an increased appropriation.**
- (2) If funds are currently unavailable to fully cover the increased cost of such change, including employee benefits, the chief administrative officer may propose changes to the cash compensation plan for such employees subject to approval of a budget amendment, or amendments to provided funds therefor.**
- (3) The chief administrative officer will notify council of any significant revisions.**

³³ Adoption of this amendment will require re-lettering of current Charter provisions 4.02 (e) and 4.02 (f) to 4.02 (f) and 4.02 (g), respectively.

5-43-D. Amend³⁴

5A.03. Personnel rules and regulations

The council, upon receiving any recommendations submitted to it by the ~~mayor~~ **chief administrative officer, and subject to such conditions as may be set out elsewhere in the charter**, shall establish a personnel system for the city administrative officials and employees. Such system shall be based on merit and professional ability and shall not discriminate on the basis of race, **including traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists; color; religion; sex; age; pregnancy, childbirth, or related medical conditions, including lactation; sexual orientation; gender identity; national origin; citizenship status; disability; genetic information; marital status; veteran status; military status; political affiliation; or membership in any other protected group.** ~~race, national origin, religion, sex, age, disabilities, political affiliation, sexual orientation, gender identity, military status, childbirth and pregnancy status, or marital status.~~ The personnel system shall consist of rules and regulations which provide for the general administration of personnel matters **to include a director of human resources who must support the council and the chief administrative officer in fulfilling their respective duties under the charter and perform other duties as assigned by ordinance to the director of human resources;** a classification plan for employees; a uniform pay plan; ~~and~~ a procedure for resolving grievances of employees as provided by general law for either local government or state government employees; **and a uniform severance plan for the compensation of employees who are separated from city service for reasons other than cause.**

³⁴ 5-43-D, which both expands the list of protected categories and expands the required components of the personnel plan, duplicates amendment 5-36 above. It is listed here so readers can see the provision in the context of the four inter-related adjustments to the Charter's language on personnel; in that context, its primary function is requiring that a uniform severance plan be part of the personnel system recommended by the chief administrative officer, and that there be a director of human resources.

Special Section, II. Notes Chapter 17 (Planning, Zoning and Subdivision Control) and Chapter 18, (Acquisition of Property for Public Purposes).

Both Chapters 17 and 18 of the Charter present special challenges.

Chapter 18 specifies rules regarding eminent domain proceedings “inconsistent with the provision in Title 25.1 of the Virginia Code and Chapter 19 of Title 15.2 of the Virginia Code.”³⁵ However, 18.03 provides the city with a special “quick take” power which it would be in the City’s interests to retain, yet could potentially be removed by General Assembly. Hence it may not be advisable to seek to alter the provisions of Chapter 18 without an assessment of the likelihood of that taking place.³⁶ Nonetheless, below we present language recommended by Mr. Walter Erwin that would effectively bring the Charter into compliance with general law while preserving the city’s “quick take” power. See recommendations 5-45 and 5-46 below.

Chapter 17 also presents a unique challenge that likely will require more discussion among stakeholders. Walter Erwin’s memorandum includes nineteen paragraphs discussing the discrepancies between the Charter provisions and state law and prevailing practice. The memorandum also notes that “17.01 of the City Charter which authorizes City Council to adopt a master plan for the City seems to be inconsistent with the provisions of 17.06 which give the planning commission the authority to adopt the master plan and provides that City Council approves the plan that was adopted by the planning commission.”³⁷

Many of these discrepancies reflect the fact that the Charter is an older document and that state law with respect to planning has changed considerably since 1948. It is also worth noting that advocacy documents and summaries related to the 1948 Charter in advance of its adoption stated that the Charter did *not* make substantive changes in existing planning processes; in short, some of the provisions in Chapter 17 may reflect practice that far predate 1948. Indeed, the Richmond Charter Commission proceeded by importing various pre-existing ordinances related to planning into the Charter adopted in 1948. Put another way, in 2023 Richmond’s planning practices are governed by ordinances adopted in the 1940s or before.³⁸

³⁵ Walter Erwin Memorandum, p. 13.

³⁶ Walter Erwin Memorandum, p. 13.

³⁷ Walter Erwin Memorandum, p. 10.

³⁸ In 1947, the Richmond Chamber of Commerce published a *Digest of the Proposed Charter for the City of Richmond*. The document summarizes the provisions of and advocates for the new charter. The document contains this description regarding “Planning and Zoning Regulations” (p.15): “The structure and operation of the planning commission and the board of zoning appeals are substantially unchanged. Control is tightened over subdivision within the metropolitan area. Restrictions are set up against spot zoning. Planning and zoning regulations, now in the form of separate ordinances, are incorporated as a basic part of the proposed Charter.” See also *Report of the Richmond Charter Commission* (p. 91), which notes: “Chapter 17 of the new charter contains provisions for planning, zoning and subdivision control. These provisions are new in the charter, although in basic structure most of the zoning and planning provisions are presently contained in city ordinances now in effect. In view of the

Mr. Erwin recommends that Chapter 17 of the Charter be replaced with much simpler, more modern language, while taking care to retain any special provisions of the current Charter that it may be in the City's interests to retain.

The commission concurs with this approach. We additionally have received numerous comments from the public calling for term limits on both the Planning Commission and the Board of Zoning Appeals.

Hence recommendation 5-44 below outlines draft language for a new Chapter 17, modeled on the Virginia Beach Charter, but with special provisions for the composition of the Planning Commission (to reflect the Mayor-Council form of government) and the specifications of term limits.

We further recommend that the Director of Planning and Development Review, City Attorney, and City Council, with input of stakeholders, confer to identify any special provisions of the current language that ought to be retained in the rewritten Chapter 17. Such detailed work is beyond the scope of expertise of this Commission. We further recognize that this work may require additional time and that it may be more feasible to bring forward new Charter language for Chapter 17 to the General Assembly in 2025 rather than 2024; but if it is possible to bring forward the new language in the 2024 session, it would be beneficial and help assure the changes are in place prior to the start of the next Mayoral and Council term.

Chapter 17. Planning, Zoning and Subdivision Control

5-44. Strike and Amend

Note: This language is partial and reflects only general clauses that should be in the new chapter. As stated above, the Director of Planning and Development Review, the City Attorney, and other stakeholders should carefully deliberate concerning other clauses that should be added to the revised chapter.

Strike all of existing Chapter 17 and replace with this language.

17.01. Planning commission.

There will be a city planning commission which will consist of nine members. One member must be a member of the council appointed by the council for a term coincident with his/her term in the council; one member must be a member of the board of zoning appeals appointed by the board of zoning appeals for a term coincident with his/her term on such board; one member must be the chief administrative officer or an officer or employee of the city designated from time to time by the chief administrative officer; six citizen members must be qualified voters of the city who hold no office of profit under the city government, appointed for terms of three years, one of whom must be appointed by the mayor, and five of

importance of the subject, which is fundamental to the sound future growth and welfare of the city, the Commission felt that it was desirable to incorporate the planning, zoning and subdivision control provisions in the charter itself.”

whom must be appointed by the council. Vacancies must be filled by the authority making the appointment, for the unexpired portion of the term. Members of the city planning commission, other than the member of council appointed to the commission and the chief administrative officer, or such officer or employee of the city as the chief administrative officer may designate to serve on the commission, will be entitled to receive such compensation as may be fixed from time to time by ordinance adopted by the council. Apart from the member of council and the chief administrative officer or their designated employee, no member may serve more than two terms consecutively.

Note: This language does not alter the current composition of the Planning Commission, except for the establishment of term limits.

17.02. Functions of planning commission.

The planning commission will be responsible for making recommendations to the council on all phases of city planning, including a master plan, zoning and subdivision control. It will have the powers and duties provided by general law and such other powers and duties as may be assigned by the council.

17.03. Board of zoning appeals.

There will be a board of zoning appeals which will consist of five members appointed for three-year terms by the circuit court of the city or the judges thereof in vacation. No member may serve more than two terms consecutively.

17.04. Powers of the board of zoning appeals.

The board of zoning appeals will have all powers granted to boards of zoning appeals by general law.

17.05. Appeals from actions of the board of zoning appeals.

Appeals from any action of the board of zoning appeals may be taken to the circuit court of the city in the manner prescribed by general law.

Plus: any additional specific clauses or powers from the current Charter that may be deemed advisable by Council to retain, on the recommendation of the Director of Planning and Development Review, City Attorney, and other stakeholders. (See above).

Note: one substantive effect of the new language proposed here worth emphasizing is that the City Council would, unlike current practice, have full authority over the master plan, with the

planning commission defined as an advisory body. This arrangement is the norm in other localities in Virginia.³⁹

18.02. Eminent domain

5-45. Strike and Amend

The city is hereby authorized to acquire by condemnation proceedings lands, buildings, structures and personal property or any interest, right, easement or estate therein, of any person or corporation, whenever in the opinion of the council a public necessity exists therefor, which shall be expressed in the resolution or ordinance directing such acquisition, whether or not any corporation owning the same be authorized to exercise the power of eminent domain or whether or not such lands, buildings, structures or personal property or interest, right, easement or estate has already been devoted to a public use, and whenever the city cannot agree on terms of purchase or settlement with the owners of the subject of such acquisition because of incapacity of such owner, or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because the owner or some one of the owners is a nonresident of the Commonwealth and cannot with reasonable diligence be found in the Commonwealth or is unknown.

In the exercise of its eminent domain authority, the city has all the applicable powers and will follow all the applicable procedures and requirements set forth in Title 25.1, 15.2-1901 through 15.2-1907. 1. and S 1-219.1 of the Code of Virginia, which eminent domain powers are hereby conferred on and vested in the city. In addition thereto, the city has and may exercise all other eminent domain powers which are now or may hereafter be conferred upon or delegated to cities under the Constitution or laws of the Commonwealth, as fully and completely as though such powers were specifically enumerated in this charter and no enumerations of powers in this charter will be held to be exclusive but will be held to be in addition to this general grant of powers.

~~Such proceedings may be instituted in the Circuit Court of the City of Richmond, Divisions I or II, if the subject to be acquired is located within the city, or, if it is not located within the city, in the circuit court of the county in which it is located. If the subject is situated partly within the city and partly within any county the circuit court of such county shall have concurrent jurisdiction in such condemnation proceedings with the circuit court of the city. The judge or the court exercising such concurrent jurisdiction shall appoint five disinterested freeholders any or all of whom reside either in the county~~

³⁹ Walter Erwin Memorandum, p. 10.

~~or city, any three of whom may act as commissioners, as provided by law. (1948, c. 116; 1975, c. 112)~~

18.03. Alternative procedures in condemnation

5-46. Strike and Amend

The city may, in exercising the right of eminent domain conferred by the preceding section, make use of the procedure prescribed by the general law as modified by said section or may elect to proceed as hereinafter provided. In the latter event the resolution or ordinance directing acquisition of any property, as set forth in the preceding section, shall provide therein in a lump sum the total funds necessary to compensate the owner or owners thereof for such property to be acquired or damaged. Upon the adoption of such resolution or ordinance the city may file a petition in the clerk's office of a court enumerated in the preceding section, having jurisdiction of the subject, which shall be signed by the city manager or the city attorney and set forth the interest or estate or estate to be taken in the property and the uses and purposes for which the property or the interest or estate therein is wanted, or when property is not to be taken but is likely to be damaged, the necessity for the work or improvement which will cause or is likely to cause such damage. There shall also be filed with the petition a plat of a survey of the property with a profile, if pertinent to the question of damage to remaining property of the owner or owners, showing cuts and fills, trestles and bridges, if any, and a description of the property which, or an interest or estate in which, is sought to be taken or likely to be damaged and a memorandum showing names and residences of the owners and tenants of the property, if known, and showing also the quantity of property which, or an interest or estate in which, is sought to be taken or which will be or is likely to be damaged. There shall be filed also with said petition a notice directed to the owners and tenants of the property, if known, copies of which shall be served on such owners and tenants of the freehold of such property, if known. If the owner or tenant of the freehold be unknown or a nonresident of the Commonwealth or cannot with reasonable diligence be found in the Commonwealth, or if the residence of the owner or tenant be unknown, he may be proceeded against by order of publication ~~which order, however, need not be published more than once a week for two successive weeks and shall be posted at a main entrance to the courthouse.~~ The publication shall in all other respects conform to §§ ~~8.01-316, 8.01-317 and 8.01-319~~ of the requirements of the Code of Virginia, as amended.

Upon the filing of said petition and the deposit of the funds provided by the council for the purpose in a bank to the credit of the court in such proceedings and the filing of a certificate of deposit therefor the interest or estate of the owner of such property shall terminate and the title to such property or the interest or estate to be taken in such property shall be vested absolutely in the city and such owner shall have such interest or estate in the funds so deposited as he had in the property taken or damaged and all liens by deed of trust, judgment or otherwise upon said property or estate shall be transferred to such funds and the city shall have the right to enter upon and take possession of such property for its uses and purposes and to construct its works or improvements. The clerk

of the court in which such proceeding is instituted shall make and certify a copy of the petition, exhibits filed therewith, and orders, and deliver or transmit the same to the clerk of the court in which deeds are admitted to record, who shall record the same in his deed book and index them in the name of the person or persons who had the property' before and in the name of the city for which he shall receive the same fees prescribed for recording a deed, which shall be paid by the city. From the funds so paid into court or to the clerk thereof, the court shall, at the request of the owner, pay any indebtedness of the owner which is a lien upon such property and is evidenced by a deed of trust or other instrument duly recorded; provided, that not in excess of ninety per centum of the money paid into court or to the clerk may be so used, and provided further, that if the award of the court in condemnation proceedings be less than the amount so paid, the city may recover the excess from any person to whom the same has been paid. The balance of such money shall be held by the court for disposition in accordance with the order of the court in the condemnation proceedings.

If the city and the owner of property so taken or damaged agree upon compensation therefor, upon filing such agreement in writing in the clerk's office of such court the court or judge thereof in vacation shall make such distribution of such funds as to it may seem right, having due regard to the interest of all persons therein whether such interest be vested, contingent or otherwise, and to enable the court or judge to make a proper distribution of such money it may in its discretion direct inquiries to be taken by a special commissioner in order to ascertain what persons are entitled to such funds and in what proportions and may direct what notice shall be given of the making of such inquiries by such special commissioner.

If the city and the owner cannot agree upon the compensation for the property taken or damaged, if any, proceedings will continue in accordance with general law.

~~If the city and the owner cannot agree upon the compensation for the property taken or damaged, if any, upon the filing of a memorandum in the clerk's office of said court to that effect, signed by either the city or the owner, the court shall appoint commissioners provided for in §§ [25.1-220](#) and [25.1-226](#) through [25.1-230](#) of the Code of Virginia or as provided for in § 18.02, and all proceedings thereafter shall be had as provided in Chapter 2 (§ [25.1-200](#) et seq.) of Title 25.1 of the Code of Virginia insofar as they are then applicable and are not inconsistent with the provisions of this and the preceding section, and the court shall order the deposit in bank to the credit of the court of such additional funds as appear to be necessary to cover the award of the commissioners or shall order the return to the city of such funds deposited that are not necessary to compensate such owners for property taken or damaged. The commissioners so appointed shall not consider improvements placed upon the property by the city subsequent to its taking nor the value thereof nor the enhancement of the value of said property by said improvements in making their award. (1948, c. 116; 1968, c. 644; 1998, c. [711](#); 2004, cc. [877](#), [898](#))~~

Purpose of Change: Bring the City's processes with respect to Eminent Domain in congruence with state law while preserving the City's existing powers in this area. ⁴⁰

⁴⁰ This language reflects the recommendation of Mr. Walter Erwin on this matter, in a memorandum sent to the Commission on July 19, 2023.

Special Section, III: Recommendation on Gender-Inclusive Language

In section 4.17 (City Attorney), the Commission provisionally recommends replacing Charter language utilizing masculine pronouns (“he” and “his”) with “he/she” and “his/her” in accordance with common practice, including elsewhere in the Charter (see recommendation 6-2). This is a step forward insofar as it removes from the Charter the archaic assumption that holders of key offices and positions in the City are men.

However, it is the Commission’s overarching recommendation that all gendered language (“he” or “he/she”) in the Charter be replaced with gender-inclusive terminology (i.e. “they/them/their.”) This recommendation is consistent with current [best practice](#), and also recognizes the diversity of gender identities present in our city and our society.

Existing Charter provisions with gendered language include 2.06, 3.06.1, 4.04, 4.15a, 4.17, 5.01.1, 5.07, 6.03, 6.07, 6.13, 6.14, 6.19, 8.03, 17.02, 18.03, 18.05, and possibly others. The Commission recommends that “he/she” be replaced with “they” or “them”; or alternatively be reworded such as not to require the use of pronouns, in each of those instances. This can be accomplished by the City Attorney’s office in preparation of Council’s resolution requesting amendments to the Charter.

5-47. Replace gendered language with inclusive gender-neutral language throughout the Charter document, including in 2.06, 3.06.1, 4.04, 4.15a, 4.17, 5.01.1, 5.07, 6.03, 6.07, 6.13, 6.14, 6.19, 8.03, 17.02, 18.03, 18.05, and elsewhere as needed.

Final Notes for Chapter Five

We close this chapter with two important notes.

First, with respect to those Charter provisions that are recommended for deletion because they duplicate general law, it is *not* the Commission’s intention that these deletions impact the practice of City agencies. We strongly recommend that the administration share these recommended changes with heads of administrative departments, as well as their associated staff attorneys in the City Attorney’s office, to confirm that the removal of these paragraphs have no implications for practice: that is, that the removal of the paragraphs would not affect the ability of agencies to perform work authorized under current Charter language.

Second, should most or all of the recommendations of this chapter ultimately be implemented by the General Assembly, we strongly recommend that the City Attorney’s office work closely with agency directors, deputy directors, and others who may be habituated to looking to the language of the Charter to understand the scope of their authority, to direct them instead to the relevant sections of Virginia general law. Agency directors and leadership teams should know where to find relevant legal provisions concerning their agencies’ work; the preparation of documents, presentations, or training sessions to help relevant City personnel understand the implications of these proposed Charter changes may prove a critical step in making sure they are implemented smoothly.

Chapter Six: Recommendations, II: Partnership Model of Mayor-Council Government

In this chapter, we lay out recommendations for adjustments to the powers and responsibilities of the Mayor, Chief Administrative Officer, City Council, and City Attorney, within the basic structure of the existing Mayor-Council form of government, consisting of a citywide, elected Mayor alongside a nine-member City Council representing nine districts.

The Mayor-Council form of government, while unique to Richmond within the Commonwealth of Virginia, is a widely practiced form of government. Richmond's structure, including a professional chief administrative officer serving under the elected mayor, matches best practice recommended by the National Civic League for Mayor-Council governments.⁴¹ Its specific structure tracks closely with recommendations made by VCU Professor Nelson Wikstrom, a respected authority on local government, during the debates over Charter change in 2003.⁴²

Yet, implementation of this model in practice has not been smooth or straightforward (as also acknowledged by Dr. Wikstrom in a subsequent analysis).⁴³ The ongoing challenge is translating a reasonable basic framework into effective practice in the specific context of Richmond.

The goal of these recommendations is to cast and codify a *Partnership Model* for Richmond's Mayor-Council form of government that encourages and incentivizes collaboration between the key actors in the Richmond's governance system (Mayor, Council, CAO, City Attorney) while establishing mutual respect for the distinctive roles, responsibilities, and powers of those same actors. We have sought to identify a pathway that might allow the Mayor to more effectively act as the City's chief executive officer (as stated by the Charter) while at the same time strengthening Council's role as the City's governing body (as stated by [Virginia Code](#)).

The *Partnership Model* framework can be seen in contrast to the notion of "*Super-Strong Mayor*" governance, in which the elected Mayor has effective control or influence over all key institutions within the city and the Council has a secondary role. As noted in the historical section on the Charter, some key actors in the adoption of Richmond's Mayor-Council system had this view of the new system: hence the various proposals to give the Mayor the right to hire and fire the Schools Superintendent, the dispute in 2005 over which version of the FY 2006 budget was the official legal document, the conflict concerning whether the CAO had hiring/firing authority over City Council staff, and the conflict concerning the legality of City Council's lease with the School Board to retain office space in City Hall.

The sum result of those conflicts was to clearly establish the limits on the elected Mayor's powers, within the bounds of the Charter and Virginia general law. But challenges remain:

⁴¹ National Civic League, *Model City Charter*, 9th edition; see also the University of Virginia School of Law Clinic on Local and State Policy literature review for this Commission, Appendix F.

⁴² Nelson Wikstrom, "Multiple Alternatives Are Available to Richmond," *Richmond Times-Dispatch*, June 16, 2003.

⁴³ Nelson Wikstrom, "Richmond: Implementation of and Experience with Strong-Mayor Form of Government," in James H. Svara and Douglas J. Watson, eds., *More Than Mayor or Manager: Campaigns to Change Form of Government in America's Largest Cities*. Georgetown University Press, 2010, pp. 81-102.

- First, the fact that the actual powers of the Mayor do not match the perception or expectation that Richmond has a “Strong Mayor” creates ongoing frustration (as well as unrealistic expectations for the office);
- Second, the perception and reality that City Council does not have sufficient tools to act effectively either as the governing body or as effective representatives of their constituents’ concerns;
- Third, the fact that the specific roles of the Mayor and Council, and the specific rules for their engagement with one another, remain under-defined; this lack of clarity can hamper effective cooperation and also incentivize more adversarial behavior.

The Commission offers these proposals as friends of the City of Richmond, motivated by this concern: we want as City residents to see the key actors in City Hall having robust debates about how best to advance the public interest and the common good, and at the same time working together effectively and cooperatively to implement agreed-upon actions. This means developing spaces for public deliberation and “fair fights” among the actors—especially when competing views are in play—and it also means fostering a culture of communication and collaboration to facilitate constructive action.⁴⁴

The specific proposals delineated below speak to the following understanding of the appropriate roles of the key actors in a Mayor-Council form of government, conceived on the *Partnership Model*.⁴⁵

- **Mayor:** to act as the City’s chief executive officer with ultimate responsibility for the operations of city government, expressed through the right to nominate a Chief Administrative Officer and right to appoint agency directors (or delegate such authority to the Chief Administrative Officer); to propose legislation and policy, through the annual budget and through other legislative initiatives; to represent and advocate for the City of Richmond in broader public and political arenas; and to provide a broad vision for the direction of the city and formal and informal leadership in support of that vision among all stakeholders and residents.
- **City Council:** to act as the City’s governing body through the introduction and consideration of legislation, through the consideration of legislation introduced by the Mayor, and through approval of the annual budget; to exercise voice and oversight responsibilities in the operations of city government through participation in the selection of the Chief Administrative Officer and the City Attorney, through oversight of auditing and investigations, through receipt of financial reporting, through its powers of inquiry,

⁴⁴ Harvard political theorist Danielle Allen describes capacity for “fair fighting” as a critical civic virtue and core component of democratic citizenship. “Fair fighting” as defined by Allen involves civic actors whose ends and means are “shaped by a commitment to the existence of the community and shared political institutions through which they act. Fair fighters seek to best their opponents within the scope of agreed-upon rules by mobilizing noncommitted groups to their side. . . . ‘Fair fighting’ is characterized by recognition of the dignity and rights of ones’ rivals. . . .and by norms of forbearance and tolerance. . . .” Danielle Allen, *Justice by Means of Democracy*. Chicago: University of Chicago Press, 2023, p. 224.

⁴⁵ To be clear, this description of roles is *not* an account of the current roles, but the roles as they are conceived under the proposed Partnership Model.

and through its committee structure; and to represent the concerns and interests of district constituents.

- **Chief Administrative Officer:** to assume direct responsibility for the details of government operations on behalf of the Mayor, working in collaboration with City Council; to give direction to the work of city agencies and assess the performance of agencies and directors; to work with or on behalf of the Mayor to hire or dismiss agency heads; to implement continuous improvement processes and governmental best practices (broadly conceived) throughout the organization; to represent the City as assigned by the Mayor in dialogue and negotiations with other entities, governmental and nongovernmental; and to report to the Mayor, City Council, and the public on the performance of city agencies on a regular basis as determined by ordinance, resolution or agreed-upon practice.

The thirteen core recommendations contained in this chapter speak to this conception of Mayor-Council government as a partnership. While these ideas are significant, they retain the basic structure of the current form of government. We also note that there are likely additional ideas and practices in support of the Partnership Model that might be developed and implemented via ordinance, resolution or agreement among the key actors. Consideration of all such possibilities is beyond the scope of this Commission, which is to focus on proposed changes to the Charter.

We further stress that nothing in these recommendations should be construed as an assessment of or commentary on the performance of any current or past City official, elected or appointed. It is our observation and belief that City officials working within this form of government as a rule act and have acted to the best of their abilities to advance the public interest as they variously understood it, within the framework of the existing Charter. The Commission's intent is to recommend processes to improve the functionality of this form of government and allow the City to better meet the needs of all residents.

These proposals are grouped into six categories: Mayoral Executive Power; the City Attorney's Office; Hiring and Dismissal of the Chief Administrative Officer; Budget Process; Compensation; and Public Deliberation and Communication. We also offer an additional governance-strengthening recommendation not requiring Charter change, as well as a proposal to institutionalize regular Charter review, in a short section at the end of this chapter.

A. Strengthening ability of Mayor to act as hands-on executive

The City Charter states that the Mayor is the "chief executive officer of the city" with responsibility for the "proper administration of city government." (5.01)⁴⁶ But the Charter provides few tools to the Mayor for exercising this responsibility. Instead, responsibility for day-to-day administration of city government rests with the Chief Administrative Officer, who has sole ability to hire and fire directors or to give directives to employees.

⁴⁶ The Commission understands this sentence to be fundamental to the Mayor-Council form of government. Proposals 6-1 through 6-13 in this chapter all operate within the logic of the Mayor-Council form. For discussion of possible Council-Manager forms of government, with an elected Mayor who is not the chief executive of the city, see Chapter Seven.

Proposal:

- 6-1.** Explicitly state that the Mayor will have the power to appoint or dismiss department heads, or to delegate such authority to the Chief Administrative Officer. (Sections 5.02 and 5.03 would be modified).

This proposal allows but does not require the Mayor to take more hands-on responsibility for the operations of City government, while continuing to respect the professional prerogatives of agency directors and top administrators. Currently the only tool the Mayor has to exercise this responsibility is to hire and dismiss the CAO. The CAO in practice may have considerable autonomy in the administration of government, since replacing a CAO is not a costless action for the Mayor.

This reality sits in tension with the intent of the Mayor-Council system, to empower an elected Mayor to give direction to the work of city government.⁴⁷ (The Council-Manager form of government, by contrast, explicitly prioritizes the professional expertise of the city manager over that of elected officials with respect to the day-to-day management of government operations.)

Adopting this provision would also give Mayors multiple pathways to lead. A greater explicit say in personnel could allow a more hands-on Mayor to more easily assemble a leadership team in the agencies committed to their vision of the city. Conversely, a Mayor may opt instead to empower the CAO to take responsibility for personnel decisions; but this provision would also allow such a Mayor to directly intervene on occasion when warranted. The provision also would make clear that ultimate responsibility for the functioning of the administration lies with the Mayor.

Textbook theories of the Mayor-Council model envision a CAO who is to a considerable degree politically insulated from the Mayor.⁴⁸ Experience suggests this may not be a reasonable expectation in a city the size of Richmond.⁴⁹ Issues or problems within the agencies are often perceived as reflecting directly upon the Mayor's leadership. Hence, a provision of this kind that allows the Mayor's actual powers to better match public perception of those powers may be appropriate to Richmond's circumstances.

Further, it is worth noting that this shift is relatively modest. The Charter already confers on the Mayor the right to "participate" in personnel decisions related to agency heads, a right that is

⁴⁷ It also, at times, can lead to uncertainty within the organization about who is ultimately in charge.

⁴⁸ On this point, see the memorandum prepared for the Commission by the University of Virginia School of Law State and Local Government Policy Clinic, attached to this report as Appendix F.

⁴⁹ Specifically, in a relatively small city, the Mayor is often expected by the public to be on top of everything that happens within the administration, an expectation stoked by the frequent descriptions (especially when the system was adopted) of Richmond as having a "Strong Mayor." Problems and issues in the agencies are generally attached by residents and media outlets to the Mayor's name, providing the Mayor a strong incentive to exert influence on the Chief Administrative Officer and the agencies. More generally, there is tension if not contradiction between the conception of the Chief Administrative Officer as the primary vehicle by which the Mayor exerts authority as the chief executive officer of the city, and the notion that the Chief Administrative Officer is to be politically insulated from the Mayor. If the Chief Administrative Officer *were* thus insulated from the Mayor, it's hard to see in what sense the Mayor would in fact be the City's chief executive officer.

regularly exercised. Clearly stating that the Mayor has the right to make hiring/firing decisions at the agency head level would make clear where ultimate authority and responsibility lies, even if the Mayor elects to delegate this authority some, most, or all of the time to the CAO.⁵⁰

Finally, adoption of this provision should be accompanied by corollary language establishing the right of the Mayor to give directives to agency heads, provided the Chief Administrative Officer is given written notification at the same time. In almost all instances, we expect that as currently, directives to the agency heads will come from the Chief Administrative Officer or the Mayor and the Chief Administrative Officer together; but the Commission believes the Mayor should also have the ability to give directives if they are also to have the right to hire or remove agency heads.⁵¹

5.02. Power of appointment and removal.

6-1 (a). Amend

Except for heads of administrative departments which may be directly hired or removed at the directive of the mayor in accordance with the provisions of 5.03, the chief administrative officer shall appoint for an indefinite term qualified officers and employees to head all the administrative departments of the city, and shall appoint, dismiss and discipline, in accordance with the city's personnel regulations, all officers and employees in such departments, except as otherwise specifically provided by law or this charter. Department heads who are appointed by the chief administrative officer shall serve at the pleasure of the chief administrative officer.

The chief administrative officer shall designate some other officer or employee to perform the duties of any office or position of the administrative service under his/her control which is vacant or which lacks administration due to the absence or disability of the incumbent. (1948, c. 116; 1998, c. [711](#); 2004, cc. [877](#), [898](#))

5.03. Involvement of mayor and council in appointment and removals.

6-1 (b). Amend, including creation of sub-sections (a-e)

- (a) The mayor may **elect to participate in, and take responsibility for, in part or in full,** the hiring and removal of heads of administrative departments, **or may**

⁵⁰ An intricate question is whether mayoral appointment power should also extend to the rank of Deputy Chief Administrative Officers, who may or may not also be agency heads. (Currently only the Deputy Chief Administrative Officer for Human Services is an agency head.) The Commission intends that the mayoral appointment power be construed narrowly to include agency heads only, but notes that the Mayors, working in conjunction with the CAO, have broad flexibility to organize and re-organize leadership structures as they see fit. With the exception of the DCAO for Human Services (which is established by [ordinance](#)), the current DCAO structure is a convention, not a requirement of City Code or the Charter.

⁵¹ The specific provisions to enact this idea have been drafted such that all official personnel actions continue to go through the Chief Administrative Officer, while providing a mechanism by which the Mayor may formally order the Chief Administrative Officer to take such an action (as well as the opportunity to block a proposed action by the Chief Administrative Officer).

delegate such responsibility in part or in full to the chief administrative officer.

- (b) No individual who has not formally applied for a position as head of an administrative department, and has not been certified by the director of human resources as meeting all the minimum requirements stated in the public posting for the position, is eligible for appointment to such position, in any circumstance.**
- (c) When the mayor has elected to take full responsibility for the hiring or removal of the head of an administrative department, the mayor is to provide a written directive to the chief administrative officer on the course of action, to be executed by the chief administrative officer.**
- (d) When the mayor has elected to delegate such authority to the chief administrative officer, the chief administrative officer must notify the mayor in writing one business day in advance of taking any action regarding the hiring or removal of the head of an administrative department, unless the mayor approves immediate action.**
- (e) The mayor and members of council may (i) communicate publicly or privately their approval or disapproval of the performance of any particular city employee, (ii) recommend persons to the chief administrative officer for consideration for hiring or promotion, or (iii) request of the chief administrative officer that he remove or take other disciplinary action against any particular city employee, as they may see fit. Ultimate responsibility for hiring, removal and other personnel decisions relating to administrative personnel, and for the directing of administrative personnel, shall reside in the chief administrative officer, **except as noted above or unless** expressly provided otherwise in this charter.**
- (f) Except for the purpose of inquiry, the ~~mayor~~, council and its members ~~shall~~ **may** deal with the administrative services solely through the chief administrative officer, and neither the ~~mayor~~, council nor any member thereof ~~shall~~ **may** give orders either publicly or privately to any subordinate of the chief administrative officer. **Except for the purpose of inquiry, the mayor may deal with the administrative services solely through the chief administrative officer and the heads of administrative departments. The mayor may give orders to the heads of administrative departments in writing, with written notification of the chief administrative officer of the order taking place at the same time. The mayor may not give orders either publicly or privately to any subordinate of the heads of administrative departments.****

B. Altering the structure of the City Attorney's office

Under current interpretation of the Charter (see Chapter 4.17), the City Attorney represents the City of Richmond as an entity, and regards the Mayor, Chief Administrative Officer and City Council as its “constituents.” **This should be stated explicitly in the Charter.** This positionality in effect gives the City Attorney a policy role in the event of conflicting perspectives between the Mayor and the City Council. The fact that the City Attorney is appointed by the Council, but does the majority of its work in service of the administration, also potentially gives rise to conflict.

The Commission identified two primary strategies for resolving the structural conflict. The first is to allow the administration and Council each to hire separate attorneys to handle their respective work. Baltimore, Maryland is an example of a Mayor-Council city with this approach, in which the Mayor appoints a City Solicitor to head a Law Department that handles the business of the city administration while City Council appoints a General Counsel that acts as legal advisor to the Council.⁵²

The second is to have a single City Attorney who represents both Mayor and Council, but provide both Mayor and Council a role in hiring and firing the position. Atlanta, Georgia is an example of a Mayor-Council city with this approach.⁵³

After considerable deliberation, the Commission believes the second model would work better in Richmond’s case: by reducing or mitigating conflict, by avoiding confusion generated from having multiple attorney offices in the same organization, and by avoiding additional new costs.

The Commission’s recommendation closely resembles the 2009 Charter Review Commission’s recommendation that the Mayor appoint the City Attorney with the consent of Council and that both Mayor and Council have a role in the dismissal of the City Attorney. The recommendation also parallels the Commission’s recommendations for the Chief Administrative Officer position (see next section).

In making this recommendation, the Commission acknowledges two possible issues that may arise under the proposed structure. First, there may be legitimate disagreement on the legal powers of the City’s constituents (Mayor, Council, CAO) under the Charter and general law, and instances where the Council believes the City Attorney’s opinions are both incorrect and harmful to the institutional standing of Council. Second, because most of the work performed by the City Attorney’s office is on behalf of the administration, and because the Mayor would have a lead role in the hiring of the City Attorney, it is possible over time a perception may arise that the City Attorney is simply the “Mayor’s Attorney” and not the attorney representing the City as a whole.

To mitigate those potential issues, we also recommend an additional provision intended to protect the interests of Council: to permit, by super-majority vote, the Council to obtain outside counsel to challenge opinions of the City Attorney that specifically pertain to the powers of Council under the Charter and general law. This provision would provide a mechanism for

⁵² See [Charter of Baltimore City](#), Article III (15) and Article VII (22-25).

⁵³ See [Charter of City of Atlanta](#), Section 3-303.

Council to challenge opinions specifically related to the powers of Council (not City business more generally) without resorting to taking employment action on the City Attorney.⁵⁴

Proposals:

- 6-2.** State explicitly in the Charter that the City Attorney represents the City of Richmond as its client, and various stakeholders as its constituents.
- 6-3.** Alter the hiring and dismissal process of the City Attorney, such that the Mayor and Council have shared powers with respect to both the hiring and dismissal of the CAO.
- 6-4.** Allow City Council by super-majority vote to hire outside counsel on questions specifically concerning the powers of the Council under the Charter or general law.

4.17. City attorney

6-2, 6.3(a). Amend

The city attorney **will represent the interests of the city of Richmond** and shall be the chief legal advisor of the council, the mayor, the chief administrative officer and all departments, boards, commissions and agencies of the city in all matters affecting the interests of the city. **The city of Richmond is the city attorney's client, and each of the parties named above are constituents of the city.** The city attorney shall perform particular duties and functions as assigned by the council. The city attorney shall be appointed by **the mayor with the agreement and consent of council, according to the process specified in 4.17a, the council and shall serve at its pleasure,** and shall devote full time and attention to the representation of the city and the protection of its legal interests. **The city attorney is subject to removal according to the process specified in 4.17b.** The city attorney shall have the power to appoint and remove assistants or any other employees as shall be authorized by the council and to authorize any assistant or special counsel to perform any of the duties imposed upon him in this charter or under general law. The city attorney may represent personally or through one of his/her assistants any number of city officials, departments, commissions, boards, or agencies that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, commission, board, or agency. In matters where the city attorney determines that he/she is unable to render legal services to the mayor, chief administrative officer, or city departments or agencies under the supervision of the chief administrative officer due to a conflict of interests, the mayor, after receiving notice of such conflict, may employ special counsel to render such legal services as may be necessary for such matter.

6-3 (b). Added subsection

⁵⁴ It is not the intention of the Commission that adoption of proposals altering the hiring and dismissal procedures of crucial positions in city government (including the City Attorney and Chief Administrative Officer) should affect the employment of persons currently serving in such positions who have been properly appointed under the provisions of the current Charter. See proposed new section 20.15.1 below (recommendation 6-14) to address this point.

4.17a. Appointment of city attorney

In the event of a vacancy in the city attorney, the mayor will nominate a practicing attorney in the city attorney's office to serve as interim city attorney, with the consent of council. The interim city attorney is subject to the removal process described in 4.17b of this charter. The interim city attorney is eligible to be nominated and serve in the permanent role.

To make a permanent appointment, the mayor must form a search committee to include the city council president or another council member designated by the president, and must cause the position to be advertised nationally for at least one month according to industry norms as verified by the director of human resources and publicly documented. Within six months of the position becoming vacant, the mayor must nominate a candidate for the position, to be confirmed by the affirmative consent of six members of council.

In the event the mayor's nomination is rejected, the mayor must make another nomination within six months. The interim city attorney may remain in the interim position until the permanent position is filled.

6-3 (c). Added subsection

4.17b. Removal of city attorney

The city attorney may be removed upon the recommendation of the mayor by five affirmative votes of council, or without the recommendation of the mayor by seven affirmative votes of council.

6-4. Added subsection

4.17c. Council's right to outside legal counsel

Upon seven affirmative votes, council may retain legal counsel, other than the city attorney, to give an opinion on any matter specifically concerning the powers of council. Council may act under this section upon seven affirmative votes based on retained counsel's opinion notwithstanding any opinion by the city attorney.

If the mayor, chief administrative officer, city attorney, or any other agent of the city acts or fails to act and either thereby prevents council from acting based on retained counsel's opinion or thereby fails to execute or administer council's action based on retained counsel's opinion, there is an actual controversy. If city council acts based on retained counsel's opinion, but the city attorney has given an opinion that challenges council's ability to take such action, there is an actual controversy.

When there is an actual controversy as specified in this section, council and the mayor each have their own right to bring a civil action seeking declaratory, injunctive, or other equitable relief. The Circuit Court for the City of Richmond has exclusive jurisdiction over a civil action filed under this section, subject to appellate review as

provided by law. Upon seven affirmative votes, city council may retain legal counsel, other than the city attorney, to represent council throughout the civil action filed under this section and all appeals thereto.

Nothing in this section requires any legal counsel to act in a manner inconsistent with the Virginia Rules of Professional Conduct. Nothing in this section creates a cause of action or right of action by implication. Nothing in this section prevents council or the mayor from taking any other action or seeking any other relief permitted by law. Council cannot retain legal counsel for purposes not specified in this section unless permitted elsewhere in this charter or by law.

Costs associated with implementation of this section will be borne by the city as specified by ordinance.

C. Adjusting the Hiring and Removal Process for the Chief Administrative Officer

Background: Commission conversations with stakeholders established a widespread concern that the Mayor-Council system is structured to be excessively adversarial. Some stakeholders also expressed concern that because the CAO is hired and may be fired by the Mayor, City Council members have little leverage over the actions of the administration, including implementation of policies adopted or endorsed by Council. To gain sufficient leverage on problems or concerns to produce action, Council members may have to turn to the media or to outside groups to publicize concerns that might be more easily addressed through more frequent communication and cooperation.

The proposals below offer one strategy for redressing this issue, by redefining the ways in which the Chief Administrative Officer (and Interim Chief Administrative Officer) is hired and can be removed. The intent of this redefinition is to reflect the reality that the Chief Administrative Officer and City Council routinely work together, and that this work goes better when there is recognition of a shared interest in the City's success. City Council members depend on the CAO to report on progress and to solve problems; the responsiveness and overall relationship between the administration and Council significantly impacts Council members' ability to be effective representatives of their constituents as well as effective members of the governing body.

These proposals give City Council an explicit but subordinate role in the hiring of the Chief Administrative Officer, and under some circumstances a role in the removal of the Chief Administrative Officer. With one exception, final decision-making power remains with the Mayor. This final power is in fact decisive to the maintenance of the Mayor-Council form of government.

Taken together, it is the intention of these proposals to incentivize a stronger partnership between the administration and City Council. The Mayor remains the lead actor and the chief executive

officer of the City, but the role of City Council as the governing body and a key partner in the day-to-day work of city government is more explicitly recognized.⁵⁵

Proposal:

6-5. Hiring of the Chief Administrative Officer

In the event of a vacancy in the CAO role, the pre-designated Acting CAO will immediately assume the powers of the CAO. (The concept of a pre-designated Acting CAO was discussed by the 2009 Charter Review Commission report.)⁵⁶

Within ten days of a vacancy, and for a maximum length of six months, the Mayor must designate as the Interim Chief Administrative Officer a qualified individual who currently serves or previously has served on a permanent appointment as a member of the City of Richmond's senior executive group as currently defined by [City Code Sec. 22-317\(k\)](#), or a qualified individual who has served as a permanent CAO, City Manager, or County Manager in another locality in the United States. (The senior executive group consists of the CAO, DCAOs, and agency heads, including those reporting to the CAO and to City Council, as well as the Chiefs of Staff of the Mayor's Office, City Council, and the Office of the Chief Administrative Officer, and several other specified positions.)

The Mayor shall present the qualifications of the nominee to City Council in an open meeting, and members of City Council shall have the opportunity to ask questions and receive answers from the nominee prior to a confirmation vote. The Mayor's selection for Interim CAO must be confirmed by Council on a majority vote. In the event the Mayor's selection for Interim CAO is not confirmed, the Mayor must bring forward an alternative Interim CAO candidate meeting the above qualifications within five working days. The Interim CAO shall be eligible to be nominated as permanent CAO.

To fill the position of permanent Chief Administrative Officer, the Mayor must form and lead a Search Committee, to include the City Council President or another member of City Council designated by the President. The committee shall cause the position to be advertised in appropriate national outlets according to industry standards as verified by the Director of Human Resources and publicly documented. The position shall be publicly advertised for a minimum of one month.

No later than six months after the confirmation of the interim CAO, the Search Committee shall provide the names and credentials of at least two candidates to City Council in closed session. (The requirements of eligibility for appointment as Interim CAO do not apply to the permanent position.) The closed session may include in-person or remote interviews with the candidates, but this is not required. City Council members shall have the opportunity to convey feedback on candidates to the Search Committee.

⁵⁵ See National Civic League, *Model City Charter*, 9th edition, pp. 71-74 for discussion of the Chief Administrative Officer position in Mayor-Council governments. That report stresses the benefits of Council participation in selection of the CAO, stating "Shared power provisions may serve to knit the separate branches more closely together. The CAO, although ultimately accountable to the mayor, serves both sets of officials and can promote closer interaction between them." (p. 73.)

⁵⁶ 2009 City Charter Review Commission Report.

Within five days of this closed session meeting of City Council, the Mayor must designate a candidate as the preferred nominee for permanent CAO, or refer additional candidates to Council for feedback (repeating the step noted above). Once a nomination has been made, the Mayor shall present the qualifications of the nominee to City Council in an open meeting, and members of City Council shall have the opportunity to ask questions and receive answers from the nominee prior to a confirmation vote. The Mayor's selection for permanent Chief Administrative Officer must be confirmed by City Council with a minimum of six positive votes required for confirmation.

In the event the Mayor's nomination is rejected, the Mayor may elect to bring forward any other applicant as an alternative nominee, or may elect to restart the search process. In the event the search process is restarted, the Interim CAO shall be eligible to serve in the role a further six months. No single individual may serve as the Interim CAO for more than twelve months consecutively or more than twelve months in a single mayoral term.

Finally, the Mayor and Council must pre-select an Acting CAO, who will be an administrative head reporting to the CAO, who will assume the powers of CAO on an emergency basis for up to 10 days in the event of a sudden vacancy in the position of CAO. The Acting CAO shall be eligible to be nominated and serve as Interim and/or permanent CAO.

Note: The intent is to a) provide City Council a strengthened role in the selection of the CAO and b) set limits on who may be appointed Interim CAO and how long an individual may serve in that capacity c) provide for an Acting CAO who is pre-designated to assume the authority of the CAO in the event of a sudden, unexpected vacancy, to assure continuity of government operations. The Acting CAO role, which is envisioned as temporary and short-term, is distinct from the Interim CAO, who may hold the position for up to six months or in some cases one year.

Proposal:

6-6. Removal of Chief Administrative Officer

The Mayor may request the resignation of the Chief Administrative Officer at any time. In the event the Chief Administrative Officer refuses to resign, the following procedures for involuntary separation will be followed:

Upon election or re-election to the office of Mayor, in the first six months of the new term the Mayor may terminate the employment of the sitting Chief Administrative Officer without giving cause and without consulting City Council.

In the first six months of a Chief Administrative Officer's tenure, the Mayor may terminate the employment of the sitting Chief Administrative Officer without giving cause and without consulting City Council.

After a Chief Administrative Officer has served six months, the Mayor may initiate the termination of the Chief Administrative Officer by notifying the City Council President of intent to do so. The City Council President may call a emergency Council meeting to consider the matter in closed session, or may within two business days notify the Mayor in writing that no meeting will be called. If no meeting is called, the Mayor may proceed with the action to terminate employment of the CAO. If the meeting is called, the Mayor

must attend the meeting and participate in the closed session. City Council members will have the right to provide feedback and to ask questions of the Mayor concerning the proposed termination, which the Mayor may agree or decline to answer. Upon completion of the closed session, the Mayor may opt to move forward with termination.

Note: This language creates a requirement in some circumstances for the Mayor to consult with City Council prior to an involuntary separation with the CAO. It does not constrain the authority of the Mayor to terminate the CAO's contract.

Council-initiated

City Council has the right once per calendar year to consider a motion of no-confidence in the performance of the Chief Administrative Officer. Such a motion will require a total of five sponsors to move to consideration by full Council. Once such a resolution is introduced and read at a City Council meeting, the vote must take place at a subsequent meeting within ten working days. A motion of no-confidence requires seven affirmative votes to pass. The effect of such a vote will be to remove the Chief Administrative Officer from the position, taking effect on the last business day of the week in which the motion is adopted. If a motion of no-confidence fails, such a motion cannot be refiled until the next calendar year.

Note: This proposal provides an avenue by which a strong super-majority of Council members could act to remove the Chief Administrative Officer, without involvement of the Mayor. The Commission believes that invocation of this power would be exceedingly rare, as most imaginable circumstances where 7 of 9 Council members publicly endorsed removal would already have led to mayoral termination or to a resignation of the CAO. The proposed clause should be understood as placing an outer boundary to protect the interests of the city and its residents in the case of gross incompetence or negligence attributed to the CAO which the Mayor declines to address or correct. An example of a Mayor-Council city that provides an analogous power to its City Council is [Columbus, Georgia](#).

5.01. Chief Administrative Officer

6-5 (a). Amend

In accordance with the provisions of 5.01.1, the mayor shall appoint a chief administrative officer, subject to the advice and consent of a **two-thirds** majority of the members of city council, who shall be chosen solely on the basis of his/her executive and administrative qualifications, with special reference to his/her actual experience in or knowledge of accepted practice with respect to the duties of his/her office. At the time of his/her appointment, the chief administrative officer need not be a resident of the city or the Commonwealth but he/she shall reside within the city during his/her tenure in office. ~~The chief administrative officer shall serve at the pleasure of the mayor.~~ The mayor shall set the salary of the chief administrative officer subject to the approval of a majority of the members of city council. (2004, cc. [877](#), [898](#))

5.01.1. Pre-designation of acting chief administrative officer

6-5 (b). Amend

The mayor shall, with the advice and consent of a majority of the members of council, designate the head of a department, bureau or other officer appointed by the chief administrative officer, to **assume immediately the powers of** the chief administrative officer in case of the absence, incapacity, death or resignation of the chief administrative officer, until his/her return to duty or the appointment of an **interim or permanent chief administrative officer**. **The acting chief administrative officer will assume the powers of chief administrative officer once the mayor has provided (by print or electronic means) written, simultaneous notice to all members of council, the city attorney, and the chief of police.**

At all times, there must be a designated individual nominated by the mayor and consented by council to serve in this emergency capacity. An acting chief administrative officer shall serve at the pleasure of the mayor. The acting chief administrative officer is eligible for nomination and appointment as interim and/or permanent chief administrative officer.

6-5 (c). Add section

5.01.2. Selection of interim chief administrative officer

(a) Within ten days of a vacancy in the permanent role, the mayor must designate as the interim chief administrative officer qualified individual who currently serves or previously has served on a permanent appointment as a member of the city's senior executive group as defined by city code, or a qualified individual who has served as a permanent chief administrative officer, city manager, or county manager in another locality in the United States. The interim chief administrative officer may serve in the role for up to six months, with one permitted extension in the circumstances specified in 5.01.3(d).

(b) The mayor will present the qualifications of the nominee to council in an open meeting, and members of council will have the opportunity to ask questions and receive answers from the nominee prior to a confirmation vote. The mayor's selection for interim chief administrative officer must be confirmed by council on a majority vote. In the event the mayor's selection for interim chief administrative officer is not confirmed, the mayor must bring forward an alternative interim chief administrative officer candidate meeting the above qualifications within five working days. The interim chief administrative officer serves at the pleasure of the mayor, and is eligible to be nominated as permanent chief administrative officer.

(c) If the previously designated acting chief administrative officer is named interim chief administrative officer, a new designated acting chief administrative officer must be named and approved at the same time.

6-5 (d). Add section

5.01.3. Selection of chief administrative officer

(a) To fill the position of permanent chief administrative officer, the mayor must form and lead a search committee, to include the council president or another member of council designated by the president. The committee will cause the position to be advertised in appropriate national outlets according to industry standards as verified by the director of human resources and publicly documented. The position must be publicly advertised for a minimum of one month.

(b) No later than six months after the confirmation of the interim chief administrative officer, the search committee will provide the names and credentials of at least two candidates to council in closed session. (The requirements of eligibility for the interim position described in 5.01.2 do not apply to the permanent position.) The closed session may include in-person or remote interviews with the candidates. Council members will have the opportunity to convey feedback on candidates to the search committee.

(c) Within five days of this closed session, the mayor will designate a candidate as the preferred nominee for permanent chief administrative officer, or refer additional candidates to council for feedback. Once a nomination has been made, the mayor will present the qualifications of the nominee to council in an open meeting, and members of council will have the opportunity in open session to ask questions and receive answers from the nominee prior to a confirmation vote. The mayor's nomination for permanent chief administrative officer must be confirmed by council with a minimum of six positive votes required for confirmation.

(d) In the event the mayor's nomination is rejected, the mayor may elect to bring forward any other applicant as an alternative nominee, or may elect to restart the search process. In the event the search process is restarted, the interim chief administrative officer will be eligible to serve in the role a further six months. No single individual may serve as the interim chief administrative officer for more than twelve months consecutively or more than twelve months in a single mayoral term of office.

6-6. Add Chapter

5.01.4. Removal of the chief administrative officer

(a) The mayor may request the resignation of the chief administrative officer at any time. In the event the chief administrative officer declines to resign, the following procedures for involuntary separation will be followed:

(b) Upon election or re-election to the office of mayor, in the first six months of the new term the mayor may terminate the employment of the sitting chief administrative officer without giving cause and without consulting council.

(c) In the first six months of a chief administrative officer's tenure, the mayor may terminate the employment of the sitting chief administrative officer without giving cause and without consulting council.

(d) After a chief administrative officer has served six months and after the first six months of a mayoral term, the mayor may initiate the termination of the chief administrative officer by notifying the council president of intent to do so. The council president may call an emergency meeting to consider the matter in closed session, or may within two business days notify the mayor in writing that no meeting will be called. If no meeting is called, the mayor may proceed with the action to terminate employment of the chief administrative officer. If the meeting is called, the mayor will attend the meeting and participate in the closed session. Council members will have the right to provide feedback and to ask questions of the mayor concerning the proposed termination, which the mayor may agree or decline to answer. Upon completion of the closed session, the mayor may elect to move forward with termination.

(e) Council has the right once per calendar year to consider a motion of removal of the chief administrative officer. Such a motion will require a total of five co-sponsors to move to consideration by the full council. Once such a resolution is introduced and read at a council meeting, the vote must take place at a subsequent meeting within ten working days. A motion of removal requires seven affirmative votes to pass. The effect of such a vote will be to remove the chief administrative officer from the position, taking effect on the last business day of the week in which the motion is adopted. If a motion of removal fails, such a motion may not be refiled until the next calendar year.

6-5 (e). Strike (moved to 5.01.1., with amendments).

~~5.07. Acting chief administrative officer.~~

~~The mayor shall, with the advice and consent of a majority of the members of council, designate the head of a department, bureau or other officer appointed by the chief administrative officer, to act as chief administrative officer in case of the absence, incapacity, death or resignation of the chief administrative officer, until his/her return to duty or the appointment of his/her successor. An acting chief administrative officer shall serve at the pleasure of the mayor.~~

D. Budget Process

The Commission has heard considerable concern about the budget process, specifically the fact that only the Mayor can introduce a budget amendment during the fiscal year. Conversely, the Commission has also heard the desire to provide the administration more flexibility to move funds in response to changing conditions. The Commission is also aware that the practice of including multiple changes to the adopted budget in a single ordinance that is subject to an up or down vote restricts City Council's ability to exercise its role as the governing body. These proposed steps seek to address those issues.

Proposals:

- 6-7.** The Chief Administrative Officer is to develop the annual budget under the direction of the Mayor. City Council shall have the formal opportunity to provide input on budget priorities to the Mayor at a pre-budget public meeting to take place between December 1 and January 15 each year. City Council shall have access to the budget requests submitted by each agency to the Mayor and the Office of Budget and Strategic Planning seven days prior to this meeting.
- 6-8.** Any ordinance to amend the budget after adoption must address a single narrowly defined purpose. If, in the opinion of a majority of City Council, an ordinance addresses more than one purpose, it may be:
- I. Voted on as introduced, or
 - II. Severed into its component parts each of which may be voted on separately, or
 - III. Acted upon in the same manner as the original budget ordinance as though it is before City Council for the first time.
- 6-9.** City Council shall have the power to initiate amendments to the adopted budget twice during the fiscal year: at a meeting in October and at a meeting in April. The net fiscal effects of proposed amendments must be neutral. Six affirmative votes are needed to adopt the proposed amendments. Budget amendments shall not be combined with non-budget legislative items.
- 6-10.** The Mayor and City Council in the annual budget process may designate a sum of money no greater than 1% of the annual general fund budget as a General Operational fund that can be assigned by the CAO to any city agency (not non-departmental entities) during the fiscal year without further Council action, with the exception that no more than 50% of this fund may be re-assigned to any single agency within a fiscal year without Council action. The CAO and Budget Office must provide a monthly update to Council on use of this fund as part of its routine reporting.

Note: The purpose of item 6-7 is to allow Council to see the full scope of need expressed by the City agencies as well as to provide up-front public input to the Mayor prior to the development of the annual budget. The purpose of item 6-8 is to allow City Council to address ordinances that propose to amend the adopted budget, when such ordinances address multiple purposes. The proposed language is based on Article V. Section 6 (b) (iii) of the Constitution of Virginia. The purpose of item 6-9 is to give City Council limited opportunity to initiate a budget amendment in response to changed circumstances or in the event funds designated for a purpose are not being utilized as intended. The purpose of item 6-10 is to allow the administration to supplement department budgets in response to shifting circumstances at its discretion, to a modest degree, without requiring a prior Council amendment.

6.03. Preparation (of budget)

6-7. Amend (a) and add sections (b) and (c). Section (b) is new language and section (c) is existing language.

- (a)** It shall be the duty of the head of each department, the judges of the municipal courts, each board or commission, including the school board, and each other office or agency supported in whole or in part by the city, including the attorney

for the Commonwealth, to provide, at such time as the mayor may prescribe, estimates of revenue and expenditure for that department, court, board, commission, office or agency for the ensuing fiscal year. **For all entities except the school board, such estimates must be supplied no later than January 1.** Such estimates shall be submitted in a form as determined by the mayor, and it shall be the duty of the head of each such department, judge, board, commission, office or agency to supply all of the information which the mayor may require to be submitted thereon.

- (b) Prior to the preparation of the proposed budget, and no later than January 15 each fiscal year, there must be a special meeting of council to discuss the ensuing fiscal year budget and communicate priorities. The mayor must provide copies of the estimates of revenue and expenditure provided by each of the agencies, boards, and commissions as noted in 6.03.a, except that of the school board, seven days in advance of this meeting. The mayor must attend and participate in this meeting.**
- (c) The mayor shall hold such hearings as he/she may deem advisable and shall review the estimates and other data pertinent to the preparation of the budgets and make such revisions in such estimates as he/she may deem proper, subject to the laws of the Commonwealth relating to obligatory expenditures for any purpose, except that in the case of the school board, he/she may recommend a revision only as permitted by § [22.1-94](#) of the Code of Virginia or any other provision of general law not in conflict with this charter. (1948, c.116; 1989, c. 349; 1998, c. [711](#); 2004, cc. [877](#), [898](#); 2006, cc. [650](#), [712](#))**

6.16. Amendments after adoption.

6-8. Added subsection (f).

No ordinance to amend the revenues; or the operating, or capital budget may address more than one narrowly defined purpose. If such an ordinance proposes to amend more than one narrowly defined purpose, then:

- (1) Council may determine, in accordance with its own procedures, whether to act on the proposed amendments en bloc or individually, or any combination thereof. Whether treated en bloc or individually, each amendment to the budget ordinance is adopted by not less than six affirmative votes.**
- (2) If the amending ordinance does not contain specific and severable amendments as determined by the majority vote of the members present, then the adopted revenue, operating, or capital budget ordinance will be before City Council, in the form originally adopted and may be acted**

upon as though for the first time subject to the provisions of § 6.10, and § 6.11 of this Charter, with the exception of the deadline. Under these circumstances, amendments to the budget ordinance are adopted by not less than five affirmative votes.

6-9. Added subsection (g).

(g) Twice during the fiscal year, at any council meeting in October and at any council meeting in April, the council may by ordinance adopted by not less than six affirmative votes transfer part of or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units. The chief administrative officer and budget office must provide council with current unencumbered appropriation balances as requested for this purpose within five working days of the request. This transfer may not be combined with any other legislative item.

6.04. Scope of the budget.

6-10. Added section 6.04.1

6.04.1. General operational fund line item

The adopted budget may designate a sum of money no greater than 1% of the annual general fund budget as a general operational fund that may be assigned by the chief administrative officer to any city agency (not non-departmental entities) during the fiscal year without council approval, with the exception that no more than one-half of this fund may be re-assigned to any single agency within a fiscal year without approval of six members of council. The chief administrative officer and budget office must provide a monthly update to council on use of this fund during the fiscal year.

E. Increasing Compensation for Elected Officials

Mayoral Compensation

The Charter describes the Mayor as the “chief executive officer” for the City. Yet the Mayor’s compensation is actually less than that of the Chief Administrative Officer, and that of the majority of Deputy Chief Administrative Officers and Directors that the Mayor is to lead and direct.

Obviously, comparison to CEO roles of comparative size and complexity in the private sector is inappropriate. But we believe a significant pay increase to assure that the Mayor is better compensated both makes sense from an organizational perspective and would potentially increase the pool of talented individuals with executive-level experience willing to seek the office.

The Charter currently states that the salary of the Mayor is set by City Council.

Proposal:

- 6-11.** Alter the Charter to stipulate that the salary of a new Mayor upon beginning a term of office shall be set by Council shall be equivalent to or greater than the salary of the five highest-paid city executive officials (excluding constitutional officers) in the last full fiscal year of the previous mayoral term. This salary shall remain flat for the entire tenure of a mayor's term of office (including, if re-elected, a second term) except by positive vote of seven members of City Council.

Context: In 2021, the average salary for the five highest-paid city executives was [reported to be approximately \\$200,000](#), while the salary for the Mayor was \$125,000, plus benefits. If the Mayoral salary had risen since 2005 at the same rate as inflation, the current salary would be approximately \$196,000, according to the [Bureau of Labor Statistics inflation calculator](#).

Increasing Compensation for City Council

The current low pay for service on City Council inhibits the ability of Council collectively to act as the City's governing body and to hold the city administration meaningfully accountable, in two ways: the current pay scale impacts the pool of eligible residents willing to run for office and serve, and it inhibits the time available for Council service for members to devote to the role as opposed to earning additional money in other paid employment.

Proposal

- 6-12.** It is proposed the Charter set Council pay as equivalent to the median household income for the City of Richmond (currently approximately \$55,000).

Note: The Commission has been advised that cities may in their charters (if approved by the General Assembly) adopt compensation standards for Council members distinct from those set by Virginia general law. See <https://law.lis.virginia.gov/vacode/15.2-1414.5/> providing exceptions for cities that specify compensation standards in their charters.

5.01. Mayor.

6-11. Amend

The mayor shall be the chief executive officer of the city and shall be responsible for the proper administration of city government. The mayor shall be recognized as the head of government for all ceremonial purposes, military law and the service of civil process. The office of mayor shall be a full-time position with salary and expenses set by the council. **Following the election of a new mayor and prior to the start of a mayor's term of office, council must by ordinance set the salary of the mayor to be equivalent or greater to the average salary of the five highest-paid city officials reporting to the mayor or chief administrative officer in the fiscal year in which the mayor is elected. The salary of the mayor must remain flat during the mayor's entire tenure of office (whether one or two terms) unless increased by the affirmative vote of seven members of council.**

4.01. Composition; compensation; appointment of members to office of profit.

6-12. Strike and add

The council shall consist of nine members elected as provided in Chapter 3. **After a general election in which council members are elected and prior to the new term of office, council shall adopt an ordinance establishing compensation for newly elected or re-elected members effective January 1 of the new term of office.** Compensation of members of council shall ~~be fixed in accordance with and within the limits prescribed in general laws of the Commonwealth for pay and expenses of councils and mayors of cities of the Commonwealth~~ **match the median household income for city residents as reported by the American Community Survey of the U.S. Census Bureau for the most recent available five-year period at the time the council compensation ordinance is adopted, and will remain flat for the entire term of office. The council president may receive additional compensation equivalent to up to ten percent of the compensation level for all council members, as approved by council.** The members of the council, subject to the approval of the council, may also be allowed their reasonable actual expenses incurred in representing the city. No member of the council shall during the term of which he was elected and one year thereafter be appointed to any office of profit under the government of the city.

Note: To implement these provisions, best practice would be for Council to account for anticipated salary increases in adopting the budget for an upcoming fiscal year that includes a general election. Alternatively, a mid-year budget amendment adopted prior to the swearing in of elected officials on January 1 could also satisfy these provisions. In either case, Council is to adopt an ordinance setting the specific salaries for Mayor and Council in the new terms effective January 1. In the event the City adopts staggered Council terms as recommended by this report (see 8-1), this provision should be further amended to state that Council salaries for all members are re-adjusted each four years at the start of each mayoral term. In the event of a runoff in the election for Mayor, this language allows an ordinance setting the salary for the Mayor to be introduced but not adopted until the mayoral election is resolved.

F. Public Deliberation and Communication

A striking feature of the current governance structure is that the Mayor and City Council are rarely seen engaging in citywide forums in public deliberation about policy matters or the general functioning of government. It may be worth considering a requirement that the Mayor appear at Council meetings on a monthly basis to give a short update on the overall functioning of the City and to answer questions from Council, or a similar mechanism to establish regular, publicly viewed communication and deliberation amongst the city's elected leaders.

Proposal:

- 6-13.** The Mayor will be required to attend one regular meeting of City Council per month (August excluded) to provide a short update either on the city's progress overall or on a designated topic, and to answer questions from Council members pertinent to the Mayor's presentation. All Council members shall have the opportunity to ask (or decline to ask) a question (with a follow-up). After all Council members have had the

opportunity to ask a question and a follow-up, the Council President shall bring this part of the agenda to a close unless the Mayor agrees to respond to additional questions.

5.05. General duties; mayor.

6-13. Add section (b)

- (b) Attend one regular meeting of council per month (excepting any month in which no regular meeting is held) to provide an update either on the city’s progress overall or on a designated topic published as part of the meeting agenda, and to respond to questions from council members pertinent to the mayor’s presentation. All council members will have the opportunity to ask (or decline to ask) a question (with a follow-up). After all council members have had the opportunity to ask a question and a follow-up, the council president will bring this part of the agenda to a close.**

Additional Notes for Chapter Six

Additional Note, 1: Governance reform as a package

The proposals in this chapter are to a considerable degree independent of one another and could be adopted piecemeal, accepting some and rejecting others. The Commission, however, encourages stakeholders to consider these ideas as a package and their cumulative impact on the functioning of the Mayor-Council form of government.

Additional Note, 2: Continual process improvement

As noted above, many other possible steps short of Charter change might be taken in support of the *Partnership Model* of Mayor-Council government. We recommend the Mayor and Council consider jointly establishing an internal governance committee, to include the Mayor’s Office, Chief Administrative Officer, City Council President or designee, Council Chief of Staff, and additional officials, employees, or community members as might be helpful to the endeavor, to work over the remainder of 2023 and 2024 on developing and codifying processes for productive communication and engagement between the administration and Council, building on existing practices. The aim would be both to identify opportunities for improvement and to the degree possible codify best practice in advance of the new mayoral and Council terms to begin in 2025.

Additional Note, 3: Regular Charter Review

Richmond is a rapidly changing city, and continues to accumulate experience with its current form of government. While this Commission has made its best effort, we recognize that our recommendations likely do not cover all suboptimalities in the Charter; further, to the degree some or all of this report’s recommendations are implemented, their impact on practice should be assessed after a reasonable length of time.

A healthy city regularly reviews its governing arrangements to identify opportunities for improvement and to adapt to changes and challenges. Institutionalizing Charter review as a regular function of city government would provide a mechanism for doing so, in a way that is not tied to the political conflicts or issues of a particular moment. Linking regular Charter review to

the decennial census and subsequent redistricting processes would be one way to achieve that goal. Baltimore, Maryland is an example of a city that within its charter creates a requirement of a decennial charter review commission.⁵⁷

To this effect, we recommend this language:

20. Miscellaneous Provisions

6-14. Add new sections, 20.15 and 20.15.1.

20.15. Decennial charter review

No later than July 1, 2030, and each ten years thereafter, council must establish by ordinance a charter review commission for the purpose of reviewing the provisions of this charter and making any such recommendations for changes as are deemed advisable. The ordinance establishing the commission must specify the charge, composition, deliverables, and timeline of the commission’s work. The council will endeavor to appoint to each commission one or more residents from each of the council districts, subject to additional qualifications or provisions council may establish by ordinance. The commission will expire upon the submission to council of its final report, or after two years have passed since its establishment.

20.15.1. Charter changes not to impact employment status of officials

Neither changes in the hiring or dismissal processes nor changes in the duties and responsibilities of specific officials resulting from periodic adjustments to the charter are to affect the employment of persons serving in those roles at the time the charter changes take effect, unless the effect of the charter change is to abolish said position. Changes in the responsibilities of positions and in the processes related to hiring and dismissal of positions are effective from the date the charter changes go into effect.

⁵⁷ See [Charter of Baltimore City](#), Article XI.

Chapter Seven. Recommendations, III: Elected Mayor Council-Manager Option

The Council [ordinance](#) establishing this Commission charged it with considering and making recommendations to the Charter, to include “clarifications or changes to the definition and delineation of the authority of the Council, the Mayor, and the Chief Administrative Officer” as well as “clarifications or changes to Richmond’s current form of government.”

Richmond’s adoption of a Mayor-Council form of government is nearly twenty years old. Richmond remains the only city in Virginia to employ this form of government, although several other Southern cities of similar size to Richmond also employ Mayor-Council government.

It is critically important to understand that the 2004 Charter changes made two major changes simultaneously:

- First, it established a directly elected Mayor, to assure that city government would be led by someone elected on the basis of a citywide agenda.
- Second, it transferred day-to-day authority over city government from a City Manager appointed by the Council to a Chief Administrative Officer selected by the Mayor, thereby creating distinct legislative and executive branches of city government.

Although these changes took place at the same time, they are logically distinct, with distinct rationales behind each component. The primary rationale for moving from an indirectly elected to an elected Mayor was to assure that at least one full-time elected official in City government (outside the constitutional officers) would have a citywide view, having been elected by voters citywide. An elected Mayor could lead with the good of the whole city in mind, and would have the potential to unify a diverse city.⁵⁸

Several rationales for moving the City administration under the elected Mayor were offered in the public discussions leading to the Charter change:

- That the City administration, being beholden to nine “mini-mayors,” was pulled in too many directions or too beholden to parochial district concerns to forge a strategic vision;
- That the City Manager in effect ran the City, especially at times when Council was perceived as divided or less effective, meaning that many important decisions were made by someone voters did not elect;
- That the City administration was not performing effectively under the Council-Manager system from an efficiency or service delivery point of view;
- That even if the City administration was doing the best it could, the problems facing the City were so severe that it needed the strongest, most consolidated leadership possible to get real traction on them; and more generally, that the status quo in Richmond was simply unacceptable, and something new needed to be done.⁵⁹

⁵⁸ See Melvin Law, “Direct Election of the Mayor Will Give Voters More Voice,” *Richmond Times-Dispatch*, April 11, 2003; Thomas Shields, “Richmond Needs a Face for the City,” *Richmond Times-Dispatch*, October 6, 2003.

⁵⁹ See, among many other commentaries, L. Douglas Wilder, “Richmonders Have Tolerated Mediocrity Long Enough,” *Richmond Times-Dispatch*, June 2, 2002.

The present Commission has proceeded from the premise that Richmond should keep a directly elected Mayor, for two primary reasons: first, that the City benefits from having a full-time elected official elected on a citywide vision and agenda, and second, that electing the Mayor directly has become an important way that City residents can exercise influence over City Hall, and an important civic exercise.

Consistent with its charge, however, the Commission has lent significant consideration to altering the roles and responsibilities of the elected Mayor. A critical question is how to assure that the elected Mayor, at the least, has the *power of initiative*; that is, the capacity to set a policy agenda and initiate steps to realize it consistent with the commitments made to voters in the electoral process. In the Mayor-Council system, the Mayor clearly has this power (as well as the power to supervise policy implementation and day-to-day city operations).

But this is not the only way the power of initiative can be secured. In many cities with an elected mayor, the mayor sits on and presides over city council, which sets citywide policy, establishes budgets, and collectively hires and dismisses a city manager to run the day-to-day operations of the city. A full-time Mayor elected on a citywide agenda who presides over the business of City Council would be well-positioned to set the policy agenda of the Council and therefore the City.

There are several reasons why the Commission believed it was important consider this alternative model--*not* going back to the pre-2004 system, but potentially going forward with a Council-Manager system to include a directly-elected Mayor:

- The City of Richmond has changed significantly over the past twenty years; most obviously a thirty-five year period of population decline dating to the Chesterfield annexation of 1970 has reversed itself, with the City gaining over 32,000 new residents since 2004. Insofar as Richmond's adoption of the Mayor-Council model was motivated by a sense of crisis about the City's long-term viability, it may be worth revisiting whether the model remains appropriate to Richmond's changed circumstances.
- Conversely, it is also worth asking whether the Mayor-Council form of government has produced the changes residents hoped for when they voted to adopt it, or perhaps solved some issues while creating new ones.
- Even if one judges that adopting the system was a rational decision at the time it was made, and also judges that the system has performed fairly well in advancing the City's interests and meeting residents' needs, it is possible that an alternative system that retained the strengths of the existing system while removing its weaknesses might perform even better going forward.
- Given that this Commission is the first systemic effort by a body of Richmond government to assess the Charter as a whole in the past twenty years, the Commission believes it would have been irresponsible not to at least raise the question of whether Richmond should continue indefinitely with the Mayor-Council form of government or consider an alternative. In democracies, both individuals and communities can change their minds, and while it's important to take note of and give due respect to the historical reasons policy and institutional decisions were made, present-day and future

Richmonders should not be bound by decisions and arrangements made twenty years ago, if better arrangements for the future can be identified.

The Commission's examination of Council-Manager forms of government included several steps:

- Review of forms of government and electoral arrangements in independent cities across Virginia, in comparably sized cities across the Southeast U.S., and in a selection of larger cities in the Southeast U.S.
- Consideration of professional materials related to local forms of government produced by national organizations such as the National Civic League, particularly its [*Model City Charter*, 9th edition](#).
- Consideration of the findings of a literature review conducted on behalf of the Commission by the University of Virginia School of Law's State and Local Government Policy Clinic on the advantages of Mayor-Council vs. Council-Manager forms of government.
- Research and deliberation undertaken by the Electoral Subcommittee of the Commission, which considered numerous possible models of Council-Manager government in Richmond before identifying a preferred version of this form of government, as described below.

The following discussion includes *general* considerations concerning why a Council-Manager form of government *might* be a better option for Richmond than the existing Mayor-Council system, as well as several Richmond-specific considerations. It then summarizes the specific reasoning for the Commission's preferred option (a seven-person Council consisting of six districted members, led by a Mayor elected at-large via ranked choice voting procedures), which this report will term the Elected Mayor Council-Manager Option (EMCM).

We begin by noting an important caveat and limitation to the Commission's work in this area. It is not possible for Richmond to shift to a Council-Manager form of government, to include a directly elected Mayor, without adopting new electoral arrangements. Any such changes in turn will face scrutiny and review under state and federal law to assure the new arrangement protects the voting rights of minority groups. This Commission is not equipped, nor has it attempted to undertake, the detailed development of a specific proposal (including proposed maps of new district lines) in a form that is prepared for legal review of this kind.⁶⁰

To be clear: the Commission is not aware of any reason at this time why a shift to the Elected Mayor Council-Manager Option, as specified below, is not a legally available option. But formal legal work and scrutiny must be undertaken in a separate process designed specifically for that

⁶⁰ For a review of relevant procedures in Virginia pursuant to the Voting Rights Act of Virginia adopted in 2020, see [Senator Jennifer L. McClellan, "The Voting Rights Act of Virginia: Overcoming a History of Voter Discrimination," 26 Richmond Public Interest Law Review 111 \(2023\)](#), especially pp. 149-153.

purpose, and it is possible that this scrutiny would either identify a reason the option cannot be adopted or uncover good reasons for preferring an alternative model.⁶¹

In the absence of a well-specified model that has already undergone thorough legal review and expert vetting, it would be irresponsible for the Commission to simply recommend a blanket change. The precise structure a Council-Manager form of government takes is critically important, and may impact its desirability vis-à-vis continuing with the Mayor-Council form of government. People may reasonably prefer one kind of Council-Manager model to Mayor-Council, but prefer Mayor-Council government to a different model of Council-Manager government.

This is one of the key reasons why the Commission is *not* recommending a change in Richmond's form of government, but rather continued serious exploration of such a change, as outlined at the conclusion of this section.

General Considerations Regarding Form of Government

Both review of relevant literature and the Commission's own deliberations and evaluation of available data suggest several general reasons why Council-Manager form of government may be desirable for Richmond's future.

⁶¹ Mr. Walter Erwin has delineated the steps that Richmond would need to take to effect a change in its voting system in his memorandum for the Commission, quoted here at length. See Appendix G for the full memorandum.

"A city can seek to change its election system when the demographic characteristics of the locality have changed. For example, a new census may show that the city's minority population has decreased throughout all or a portion of a city, which would justify changes in the election process.

Federal and state election laws would allow Richmond to change its current nine district election system. However, any changes to the current election system could be challenged on the grounds that the changes violate the provisions of the Civil Rights Act. In order to change the current election system, the City will have the burden of demonstrating that: (1) the changes to the current election system are not motivated by a racially discriminatory purpose, and (2) the new election system will not have a retrogressive effect, that is, the City's minority voters will not be "worse off" under the new election plan.

In the 2013 in the case of *Shelby County v. Holder*, 570 U.S. 529 (2013), the U.S. Supreme Court struck down the preclearance requirements of the Voting Rights Act. Consequently, any changes to Richmond's election system will no longer have to be approved by the U.S. Justice Department or the Federal District Court for the District of Columbia.

However, in 2021 the Virginia General Assembly amended the Virginia Code to require that any locality that has a voting-age population containing two or more racial or ethnic groups, each constituting at least 20 percent of the voting-age population must obtain preclearance approval from the Virginia Attorney General before making changes to its election districts. Any changes to Richmond's current election system will have to be approved by the Attorney General....

If the City decides to pursue changes to the current election system, it should work with an election law attorney and a statistician to create an appropriate record to demonstrate that the new election system will not have a retrogressive effect and that the new election system will not dilute the voting strength the City minority population enjoys under the current election system."

1. Reducing Conflict and Making the Work of Government More Straightforward

The first reason is this: the familiar checks-and-balances model of multi-branch government familiar from the state and federal government and from civic textbooks is not necessarily the best model for local government.

Local governments typically deal with a common set of issues on which citizens want and expect effective action: education and youth programs, housing, public safety, infrastructure provision, and service provision (i.e. utilities, sanitation). Economic opportunity, workforce development, and wealth building more generally are also major concerns in cities (like Richmond) which have elevated poverty rates compared to their neighbors.

Generally speaking, there is broad agreement among City residents on what they want city government to provide. The survey conducted for the Commission found a high level of agreement across districts on the priorities of affordable housing, housing more generally, education, and public safety, and many respondents also mentioned issues related to poverty and economic opportunity. (In contrast, at the state and federal level, there is often deep disagreement on the purposes and priorities of government; the checks-and-balances model is intended to make it hard to move too quickly in one direction or another. At the local level, that same framework can inhibit timely action on urgent, widely acknowledged problems.)

Under a Council-Manager form of government, the process for developing and implementing policies to address these needs has three major steps:

1. Council deliberates on a proposed course of action of policy direction to address some particular problem or problems. Council may seek input from the professional staff on courses of action or other relevant information, but remains the policy-making body.
2. Via ordinance or resolution, the Council directs the City Manager and subordinate staff to take some particular course of action.
3. After a reasonable amount of time, the Council evaluates both the effectiveness of the professional staff in implementing the course of action and the impact of the course of action in addressing the problem or problems.

In the Mayor-Council form of government, matters are often more complicated.

1. Following internal deliberation with the professional administrative staff, the Mayor proposes a course of action. The proposal becomes the official position of the administration.
2. The Council may ask questions about the course of action, but is unlikely to receive information from the professional staff that may cast doubt on the proposed course of action.
3. Council deliberates on the proposal using the information at its disposal and votes either in favor or against the proposal. In some cases, it might be possible to negotiate alterations to the proposal with the Mayor as a condition of its acceptance.
4. Via ordinance and resolution, the Council directs the administration to take the action.

5. After a reasonable amount of time, the Council may request information about implementation of the action and/or its success. The information it receives in response to this request often will be filtered or channeled through the Mayor's Office and/or the CAO.

Further, the very format of the Mayor-Council form of government may heighten conflict and politicization of issues. In a conversation or deliberation among equals, persons with different perspectives on a proposed course of action may often through the exchange of views either find ways to improve the course of action by taking account of nuances or perspectives lacking from the original proposal, or finding avenues for acceptable compromises that allow productive action to proceed.

In the Mayor-Council form of government, a proposal once publicly announced becomes a test of the Mayor's strength (or from the standpoint of an adversarial Council member, the Mayor's weakness). The conversation can then quickly become about "the fight," rather than about the issue itself. The strategic deployment or withholding of information in order to win those "fights" can soon become a norm, corroding trust between the Council and the Administration over time.

Council often finds itself in a no-win situation. If it is largely supportive of the Mayor's initiatives, it is charged with failing to hold the administration accountable and operating a rubber stamp factory. If it is critical or skeptical of the Mayor's initiatives, it is charged with being obstructionist.

In short, a Mayor-Council system adds a layer of complexity to the policymaking process that can invite conflict and mean more energy in City Hall is spent on political drama compared to the work of policy development, implementation and evaluation. Arguably residents would be better served and the City could make faster progress on its core problems with a simpler, less conflict-prone policy process.

2. Administrative Stability

A second consideration is the challenge of maintaining long-term administrative stability under the Mayor-Council form of government, especially in comparison to neighboring Chesterfield and Henrico Counties who have well-established legacies of long-term stability in key administrative positions. The current County Administrator of Chesterfield County and County Manager of Henrico Counties have served in their current roles for seven years and ten years, respectively. Their predecessors served for nine years and twenty-one years, respectively. To date, the longest-serving Chief Administrative Officer in Richmond since the adoption of the Mayor-Council form of government served just over five years.

Structural reasons make it challenging to have long-term stable administrative leadership under the Mayor-Council form of government. Appointment of a Chief Administrative Officer is one of two primary powers Mayors are given under the Charter to direct the work of city government, and it should not be surprising that Mayors on occasion elect to use it. Conversely,

top administrators near the end of a mayoral term may begin to seek other positions, recognizing that they may lose their positions when a new Mayor is elected.

It is difficult to make sustained progress on either policy or organizational challenges when the political cycle creates the possibility if not probability of administrative resets every four or eight years. A more stable administrative environment in turn might make it easier for Richmond to retain outstanding public servants at all levels of the organization.

3. Cost of Government

A third general consideration is the issue of cost. In the Mayor-Council form of government, there is need for a Mayor's Office and an Office of the Chief Administrative Officer; but also for a substantial City Council staff to include policy and budget analysts. Council requires such analysts in the Mayor-Council system of government because otherwise they would lack resources to independently examine the administration's proposals; the staff reporting to the Chief Administrative Officer and the Mayor have a vested interest in supporting the administration's position on any given issue.

In a Council-Manager form of government, there is need for an office of the City Manager and for a smaller Council staff focused primarily on the legislative process and constituent relations. In a well-functioning Council-Manager system the Council should be able to trust the information received from the agency-based professional staff, as the staff reports to the City Manager who reports directly to Council; and to the extent the system is not well-functioning in that manner, Council has the power to install a new City Manager.

Cost of government is also relevant in instances when the Mayor directs the administrative staff to spend substantial time and resources on policy initiatives or projects that need Council approval, only for Council in the end to reject the proposal. In a well-functioning Council-Manager system, Council has greater capacity to ask more front-end questions of proposed projects, and can authorize additional expenditure of resources on a step-by-step basis during the project development process.

4. Transparency

Finally, Council-Manager systems tend to produce a greater degree of transparency (when well-functioning). As noted, under Mayor-Council systems of government information provided by agency employees to Council is often vetted through the Chief Administrative Officer or the Mayor's Office. There are good reasons from the administration's point of view for this practice: to assure consistency of messaging, to prevent agency heads from trying to reach separate "side deals" with Council members, and to make sure the administration's priorities are emphasized.

This practice can come at the cost of transparency and create a culture in which volunteering or sharing unflattering information or data that might be in tension with stated positions is strongly discouraged. This dynamic in turn can encourage frustrated Council members to adopt a more adversarial position, exacerbating the likelihood of conflict.

None of these dynamics are specific to Richmond or the personalities involved in Richmond's governance in recent decades. The National Civic League's *Model City Charter* anticipates much of the above in its summary statement about the challenges with Mayor-Council government:

The council in the council-manager form is a true governing body, not just a legislative body that checks the mayor. The council sets policy, of course, but it also sets goals and priorities, reviews and revises policy proposals, and oversees the performance of the manager and staff. The council chooses the city manager—the appointed chief executive officer—who is the best qualified applicant from across the country to achieve the vision the council has established for the city, and monitors the manager's performance. The council conducts real oversight through review of extensive information provided by the city manager.

.... Council decisions are built on the comprehensive and objective information and advice from the city manager that is provided to all of the council members and to the public. This kind of communication contributes to the inherent transparency of the council-manager form...

In the mayor-council form the council's role may be limited to reacting to the mayor's proposals based on information provided by the mayor. The oversight role can be constrained by limits on the performance data that the mayor will permit departments to provide to the council. A council member could be the beneficiary of a reward from the mayor for supporting his/her proposals, but council members could be punished for taking an independent stand. As is true of separation-of-powers structures at the state and national level, conflict between the mayor and council is likely and can produce divisions within the council based on differing levels of allegiance to the mayor. Disagreement between a majority of the council but fewer than the number needed to override a mayoral veto and the mayor can produce an impasse. In the council-manager form, the council is designed to be the governing body.⁶²

Richmond-specific considerations

In addition to those general considerations about form of government, there are several Richmond-specific considerations that inform the Electoral Subcommittee's EMCM Option.

1. Positive benefits of the elected Mayor

There are significant potential benefits to having an elected Mayor in a city like Richmond. While it is instructive to study and learn from the examples of Chesterfield County and Henrico County, Richmond City is not Chesterfield County or Henrico County. It is a city with deep challenges and structural inequities. Maintaining the policy status quo in Richmond means

⁶² National Civic League, *Model City Charter*, 9th Edition (2021), p. 6.

maintaining unjust outcomes in several important areas, from life expectancy to educational outcomes.

Effective political leadership in Richmond’s context means leadership for change, in recognition that at any given moment in time many residents are in crisis, and that the City faces more challenging and severe obstacles than its suburban neighbors. The City does not simply need a manager who can put the functioning of City government on auto-pilot using tried and true scripts.

Mayors can supply the needed leadership in two ways: first, by representing the interests of socially and economically marginalized persons who vote, but may be less likely to lobby City Hall as frequently as more affluent residents; and second, by developing and building support for change agendas.

Richmond’s experience with Mayor-Council government provides examples of leadership taking this form.⁶³ In a Council-Manager form of government that includes an elected Mayor, it would be desirable to assure the elected Mayor has enough clout and authority to lead on policy, even though that leadership would take a different form.

2. Collaborative Mayors vs. “Super-Strong Mayors”

As noted in Chapter Five, at the onset of the Mayor-Council form of government in Richmond some actors believed the city needed a “Super-Strong Mayor” to get a handle on its various long-standing issues. Under Council-Manager government, the Mayor would lead primarily by building consensus on Council around policy initiatives, then working with Council colleagues to hold the administration responsible for effective execution.

The Mayor-Council form of government tends to import a script derived from higher levels of government to the local level: a Mayor is elected, advocates for the part of the community that supported their candidacy, and tries to overcome any opposition from one or more Council members (who in turn may see themselves as representing voters who did not support the Mayor). Especially when the elected Mayor lacks a strong electoral mandate, each contested issue tends to become a test of power.

Under a Council-Manager form of government, the Mayor will be judged primarily by their ability to build consensus with Council colleagues. Not all colleagues will agree with all or most of a Mayor’s policy agenda, and there will always be political tension and conflict. But compared to the Mayor-Council form of government, it will be harder for a Council member to forge a political persona simply based on regularly challenging the Mayor’s initiatives; the public will judge Council, and all its members, on its ability to deliberate and act effectively

⁶³ New policy tools and initiatives focused specifically on the needs of low-income residents that have emerged under the Mayor-Council form of government in Richmond include (among others) the Affordable Housing Trust Fund, the Office of Community Wealth Building, the City of Richmond Ambassadors, and the Richmond Equity Agenda, as well as numerous community organizations and partnerships supported by City funding. Assessment of the impact of these initiatives is beyond the scope of this report.

together. Likewise, the Mayor will have strong reasons to develop and maintain strong relationships at all times with all Council members, regardless of policy disagreements.

3. Freeing Mayors from the Burden of Administration

Finally, it should be pointed out that a Mayor who provides leadership in the policy arena and in presiding over Council under a Council-Manager system would also be free from the burden of being directly responsible for administrative affairs. This is potentially helpful in two ways: allowing the elected Mayor to focus on their areas of greatest strength (policy development, communication, coalition building); and giving the Mayor greater independence to ask tough questions and call to account administrative problems and issues (since they would no longer reflect back on their own leadership).

Envisioning a Council-Manager Government for Richmond, led by an Elected Mayor

None of these considerations are decisive, taken alone or together, but they do give sufficient motivation to ask this question: “If Richmond wanted to go to a Council-Manager form of government while retaining an elected Mayor, what would that look like?”

The Electoral Subcommittee considered that question and developed the following model. The Commission as a whole believes this is the most desirable model of Council-Manager government based on presently available information, pending more formal legal review.

The ***Elected Mayor Council-Manager Option*** has these key features:

- A seven-person City Council, to consist of six district representatives and one elected Mayor, which acts as the city’s governing and policymaking body;
- A City Manager appointed and dismissed by Council collectively, who has day-to-day responsibility for the administration of government;
- A Mayor elected on a citywide basis via Ranked Choice Voting, who is a full voting member of Council and presides over Council meetings.

The following account lays out the reasoning for this model with respect to four key issues: role of and method of election of the Mayor, role of the City Manager, role of the City Attorney, composition and role of the Council.

Detailed Description of the Elected Mayor Council-Manager Option

I. Mayor.

A. Role.

The Mayor will serve as a member of City Council.

The Elected Mayor Council-Manager Option retains the role of elected Mayor established in 2005. Retaining an elected Mayor will keep in place a decisionmaker in City government who brings a City-wide perspective, and having the Mayor as a member of City Council ensures that this City-wide perspective is represented in the policy-making body. Moreover, including the

Mayor as part of City Council would eliminate the current structural conflict between City Council and Mayor cited by stakeholders as a major impediment to good governance. By bringing the Mayor into the legislative fold of City Council, that existing structural conflict is removed.

B. Authority.

In the Elected Mayor Council-Manager Option, the Mayor is given significant powers and duties while serving on City Council, as set forth below.

It is recommended that the Mayor not only have a vote as a member of City Council, but also have significant authority in leading City Council. Taking the opposite approach, by making the Mayor a non-voting member of City Council, would render the role largely ineffective. Moreover, imbuing the Mayor with significant authority within City Council gives the Mayor the ability to effectuate their unifying, City-wide platform—a primary goal Richmond sought to achieve in moving to the Mayor-Council structure.

*“While the mayor of a council-manager city is not an executive as in the mayor-council form, he or she is uniquely positioned to be the political and policy leader of the city.”*⁶⁴ The EMCM Option recommends that the Mayor’s powers and duties include the following, as set forth in Model City Charter § 2.03(a):

- The Mayor must attend and preside at meetings of City Council.
- The Mayor will represent the City in intergovernmental relationships.
- The Mayor has the power to appoint, with the advice and consent of City Council, the members of community advisory boards and commissions.
- The Mayor must present an annual State of the City address.
- The Mayor has the power to appoint the members and officers of City Council committees.
- The Mayor has the power to assign subject to the consent of City Council agenda items to committees.
- The Mayor may perform other duties specified by City Council.
- The Mayor will be the head of City government for all ceremonial purposes and by the Governor for purposes of military law.
- Like other Council members, the Mayor will be able to introduce and advocate for policy legislation.

⁶⁴ *Model City Charter*, p. 16.

These powers and duties create real and “*enormous leadership opportunities.*”⁶⁵ The National Civic League’s explanation of this point is helpful, as it dovetails with the City’s longstanding desire for a Mayor to bring a City-wide perspective to the policymaking decisions in City governance:

*First, the mayor may coordinate the activities of other officials by providing liaison between the city manager and the council, fostering a sense of cohesion among council members, and educating the public about the needs and prospects of the city. Second, the mayor may facilitate policy guidance through setting goals for the council and advocating the adoption of policies that address the city’s problems. Third, the mayor is an ambassador who promotes the city and represents it in dealing with other governments as well as the public.*⁶⁶

These powers provide the Mayor sufficient authority and influence to bring a Citywide vision to bear on City Council. (While not reprinted here, the Model City Charter provides commentary explaining how the above authority empowers the Mayor in practical terms.) Moreover, while “*the mayor should not encroach on the executive responsibilities of the manager*” because “*the mayor is preeminently a legislator, a member, and leader of the council; the mayor is not an executive,*” the recommended structure allows the Mayor to have a close, working relationship with the City Manager to ensure that an appropriate vision for the City is executed.⁶⁷

C. Status; Compensation.

The EMCM Option recommends that the Mayor be a full-time position with pay commensurate with their importance within City government.

In a City-Council structure, the Mayor is “*the presiding officer of [City Council] and ceremonial head of the [C]ity,*” and therefore is “*the most conspicuous official of the [C]ity.*”⁶⁸ The mayor “*is the public face of the community who presides at meetings, assigns agenda items to committees, facilitates communication and understanding between elected and appointed officials, and assists the governing body in setting goals and advocating policy decisions.*”⁶⁹

Given that the Mayor is the leader of City government within the Council-Manager structure, in both form and substance, the role cannot be performed on a part-time basis. Additionally, appropriate compensation is necessary to ensure that the position attracts sufficiently qualified candidates for office. The Commission recommends that compensation for the Mayor within the Elected Mayor Council-Manager structure should be no less than current compensation for the position under the Mayor-Council form of government, or two times greater than the compensation of other members of Council (whichever number is higher).

⁶⁵ *Model City Charter*, p. 16.

⁶⁶ *Model City Charter*, p. 16.

⁶⁷ *Model City Charter*, p. 17.

⁶⁸ *Model City Charter*, p. 16.

⁶⁹ “[*Key Roles in Council-Manager Government*](#),” International City/County Management Association (2017).

D. Election.

The EMCM Option envisions that the Mayor be elected every four years, in an at-large, City-wide election that uses instant run-off voting.

Given the significant authority the Mayor retains as head of City Council and the City itself, a democratic election is appropriate rather than appointment from, and conducted by, existing members of City Council.

Shifting from nine to six Council districts obviously means that the current five-of-nine district method for electing the Mayor could no longer be applied. In its place, the EMCM Option entails adoption of Ranked Choice Voting, which provides an avenue for all voters in all districts to influence the outcome of the race even if their preferred candidate is not elected.

Indeed, as detailed in Appendix C, significant demographic changes in Richmond over the past twenty years call into question the future efficacy of the five-of-nine district model in protecting minority interests and voting power; Ranked Choice Voting may be a superior method for protecting those interests given Richmond's current demographics.

Generally stated, instant runoff voting in Virginia encompasses: (1) voters rank candidates in order of preference, (2) if no candidate gets 50% of the vote in the initial tabulation of first-preference votes, the candidate who received the least amount of votes is "eliminated" from the race, and the voters who voted for that eliminated candidate as their first preference have their votes transferred to their second preference, and (3) that elimination process continues until a candidate receives more than 50% of the vote, thus winning the election. Instant runoff voting requires a competent Registrar's office and a robust public education campaign. The Commission has confidence in both.

Ranked Choice Voting procedures also address two major challenges in the current system: it would assure the elected Mayor can claim majority support, and therefore be in better position to lead and unify the city; and it would eliminate the possibility of a costly run-off election.

E. Deputy Mayor.

It is recommended that City Council elect from its members a Deputy Mayor.

The Deputy Mayor will act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, will become Mayor for the remainder of the unexpired term. This scope of power and method of selection is what the Model City Charter § 2.03(b) recommends, and it creates an important role in City government with an efficient means of selection relative to the position.

II. City Manager.

A. Appointment; Retention.

The EMCM Option recommends that the City Manager be selected, appointed, and retained at the pleasure and direction of City Council.

It is recommended that City Council, by majority vote of City Council's total members, appoint a City Manager for an indefinite term and fix the City Manager's compensation. The City Council should be able to remove a City Manager, who refuses to resign, by a majority vote of City Council's total members only after adequate and written notice of the reasons for suspension and opportunity to be heard.

A City Manager is key to a Council-Manager plan. The EMCM Option embraces the qualifications of requiring a majority vote of the entire City Council, and for specifying an indefinite term.

Moreover, City Council should have ultimate authority in the retention of the City Manager. That said, the Charter should specify that the City Manager have opportunity to consider and respond to any reasons for termination to "*assur[e] that any unjust charges will come to light and be answered.*"⁷⁰

B. Qualifications.

The EMCM Option recommends that City Council impose qualification standards for the City Manager, with an industry-approved baseline imposed by the Charter.

The EMCM Option recommends that the Charter direct City Council to appoint the City Manager based solely on education and experience in the accepted competencies and practices of local government management, with attention to how the City Manager expresses support for and enacts social equity. Moreover, the Charter should direct City Council to enact an ordinance that sets the minimum qualifications for any City Manager. The Charter should also specify that any such ordinance must set qualifications that meet a minimum standard, to assure residents that the City Manager will be adequately qualified.

The minimum qualification standard set forth in the Charter need not be a specific set of qualifications, but might instead reference the model qualifications in the most recent edition of the Model City Charter published by the National Civic League. This allows for the minimum standards for a City Manager's qualifications to evolve over time, without needing to amend the Charter, as experts in the field might reach consensus about whether those minimum standards should change. The current version of these model qualifications reads:

*A master's degree with a concentration in public administration, public affairs or public policy and two years' experience in an appointed managerial or administrative position in a local government or a bachelor's degree and 5 years of such experience.*⁷¹

C. Authority.

In the EMCM Option, the City Manager is the chief executive officer.

⁷⁰ *Model City Charter*, p. 28.

⁷¹ *Model City Charter*, p. 27.

The City Manager should be responsible to City Council for managing all City affairs placed in the City Manager's charge by or under the Charter. The City Manager, in overseeing the daily administration of City government, should have powers and duties explicitly set forth in the Charter. Those powers and duties should include, as set forth in Model City Charter § 3.04:

- The City Manager can appoint, suspend, and remove all city employees and appointive administrative officers provided for by or under the Charter, except as otherwise provided by law, the Charter or personnel rules adopted pursuant to the Charter.
- The City Manager must direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by the Charter or by law.
- The City Manager must attend all City Council meetings. The City Manager has the right to take part in discussion but may not vote.
- The City Manager must see that all laws, provisions of the Charter, and acts of City Council, subject to enforcement by the City Manager or by officers subject to the City Manager's direction and supervision, are faithfully executed.
- The City Manager must prepare and submit the annual budget and capital program to City Council, and implement the final budget approved by City Council to achieve the goals of the City.
- The City Manager must submit to City Council, and make available and accessible to the public, a complete report on the finances and administrative activities of the City as of the end of each fiscal year, and provide information needed by City Council for its annual evaluation of performance.
- The City Manager must make available and accessible such other reports relating to operations as City Council may require.
- The City Manager must keep City Council fully advised as to the financial condition and future needs of the City.
- The City Manager must make recommendations to City Council concerning the affairs of the City and facilitate the work of City Council in developing policy.
- The City Manager must provide staff support services for the Mayor and City Council Members.
- The City Manager must assist City Council to develop long term goals for the City and strategies to implement these goals.
- The City Manager must encourage and provide staff support for partnerships with community organizations and for regional and intergovernmental cooperation and equitable programming.

- The City Manager must promote partnerships among City Council, staff, and community members in developing public policy and building a sense of community.
- The City Manager must perform such other duties as are specified in the Charter or may be required by City Council.⁷²

III. City Attorney.

A. General.

In the EMCM Option, the City Attorney is the chief legal counsel for the entire City and all its constituents (officers, employees, departments, boards, etc.).

In the EMCM Option, the City Attorney is the chief legal officer for the City, including all the City’s “constituents,” including City Council, the Mayor, the City Manager, and all City departments, boards, commissions, and agencies.

This recommendation does not substantively change the current City Charter. Under the current City structure, the City Attorney is viewed as having to play favorites between City Council and the Mayor, and having too much power over the Mayor and city administration without those stakeholders’ involvement in the selection and retention of City Attorney. However, by bringing the Mayor into City Council, the City Attorney no longer has a “conflict” (whether real or perceived) in representing equal yet independent stakeholders who may take opposing views on issues.

B. Appointment; Retention.

The EMCM Option recommends that the City Attorney be selected, appointed, and retained at the pleasure and direction of City Council.

This recommendation does not change the current City Charter. The City Manager should have no role in the selection, appointment, or retention process of the City Attorney. City Council, as the policy-making body of the City, should have sole authority over both the City Manager and the City Attorney. This allows the City Manager and City Attorney to have a degree of independence of one another, which for purposes of the City Attorney makes clear that the City Attorney is ultimately responsive to City Council. The City Attorney therefore has the independence to provide legal counsel to city administration, through the City Manager, while also ensuring that this counsel ultimate reflects City Council’s priorities.

IV. City Council.

A. Authority.

In the EMCM Option, the City Council retains all powers vested in the City.

⁷² *Model City Charter*, pp. 28-29.

This recommendation does not change the current City Charter, but alongside the other recommended changes, City Council will be the focal point for City policy.

B. Size.

The EMCM Option envisions that City Council districts be reduced from nine to six, with a total of seven City Council votes when considering the at-large Mayor.

The Committee extensively discussed the appropriate size and composition of City Council. Stakeholders expressed frustration with the at-times unwieldy nature of nine members of Council. Others expressed skepticism at the ability of a City Manager to be able to adequately manage expectations from nine different members. When considering comparable Virginia localities, Richmond has one of the larger elected bodies. ([Virginia Code](#) requires that the governing bodies of localities have between 3 and 11 members.)

Adding a Mayor to the existing nine-member City Council would result in Council having 10 votes (9 Council Members each representing a district, plus 1 Mayor). A Council with an even number of voting members is not advisable.

To reach an odd number of votes on City Council, the Subcommittee considered three options: (1) adding electoral districts; (2) removing the Mayor's vote; and (3) removing electoral districts. Each of these options, however, has some negative value. First, the Subcommittee sees no benefit in adding another electoral district so that City Council has eleven votes. There is no indication that City Council has too few seats, and adding more votes would only exacerbate the perceived challenges with the current size. Second, to strip the Mayor of a vote on City Council (to keep the total votes at 9) would be to improperly render the office ineffective for the City's goals in having a Mayor. Third, reducing the number of electoral districts would present fewer political opportunities and may create more expensive campaigns.

After considering these points and related concerns, the EMCM Option developed by the Subcommittee entails reducing the size of City Council to achieve an odd number of votes on City Council. Reducing the number of Council districts, and therefore the number of Council Members, would address the concerns of a too-large City Council voiced by stakeholders. Moreover, fewer electoral districts may create competitive races for each seat of City Council. (Historically, 7 of 36 of Council regular election races since the adoption of the four-year in Council term in 2008 have been noncompetitive, defined as only one candidate appearing on the ballot.)⁷³ Competitive elections are critical to a well-functioning democracy.

To that end, the EMCM Option reduces the number of districts to six, for several reasons. Numerous cities in Virginia (and neighboring states) of similar size to Richmond have seven-person Councils including an elected Mayor.⁷⁴ Reducing the number of districts will enlarge each district, and therefore each district-based member of City Council will have a broader "home base" perspective as their respective districts grow. Fewer members of City Council

⁷³ See <https://historical.elections.virginia.gov/> for historical results of Council races since 2008.

⁷⁴ Norfolk (235,000 persons) has a 7-member Council plus an elected Mayor who presides over Council. Newport News (185,000 persons) has a 7-member Council including an elected Mayor. Alexandria (155,000 persons) has a 7-member Council including an elected Mayor. Durham, NC (286,000) has a 7-person Council including an elected Mayor. Mobile, AL (185,000) and Shreveport, LA (184,000) are Mayor-Council cities with 7-person Councils.

means less cost, more streamlined government, and less potential for personalities to complicate City governance. Moreover, the 2011 Mayor's Redistricting Advisory Committee noted that several benefits can result from "*starting over from scratch in drawing the City's electoral map*," which would be required when reducing the number of districts. The new districts could be drawn to have "*both poverty rates close to the city average and substantial internal diversity*." Moreover, districts could be redrawn in a way "*encourage the political incorporation of the Hispanic community*," which could equally apply to other discrete communities of interest.⁷⁵

All these reasons support the recommendation of reducing the number of electoral districts (and district-elected Members of City Council) to six. The Commission in response to the initial presentation of this proposal heard several comments from residents expressing concern about the reduction in the number of districts. The Commission agrees that with larger districts it will be more challenging for Council members to maintain close contact with neighborhood leaders, but believe this could be mitigated by higher Council pay and bolstering Council staff capacity.

The Commission disagrees with claims that a smaller Council to include an elected Mayor would "reduce" representation, for three reasons. First, while there would be fewer Council members, each individual Council member would have more influence as one of seven rather than one of nine voting members. Second, each resident would in fact have *two* representatives on Council: their district representative, and the citywide elected Mayor. Third, whereas Council members have minimal direct leverage on the day-to-day operations of the City administration under the current system, in the Council-Manager system each member would have significant opportunity to hold the City Manager and staff accountable for performance and service delivery.

Finally, it should be reiterated that a smaller Council would give greater scope for the elected Mayor to lead and build coalitions on policy matters within a Council-Manager form of government, consistent with the decision Richmond voters made in 2005 to establish the elected Mayor. An elected Mayor who does not have the practical capacity to run on, be elected, and enact a citywide agenda, because they are just one vote on a fairly large Council, adds little value, and creates the significant possibility that Council business will be driven excessively by district-level interests. Under Council-Manager government, the elected Mayor is no longer the chief executive officer; but as leader of a seven-person Council, would have significant opportunity to build consensus on Council around a policy agenda responsive to the needs of voters and all city residents.

C. Terms.

The EMCM Option recommends four-year, staggered terms for district-wide elections.

The EMCM Option recommends that staggering of terms should be implemented, such that the Mayor and three district representatives are elected at one time, and the other three representatives are elected two years later. Guidelines should be set either to allow an incumbent Council member to run for Mayor and for Council re-election simultaneously, or to require an incumbent Council member to resign their seat to run for Mayor, so that all Council members

⁷⁵ Mayor's Advisory Committee on Redistricting, 2011.

are on equal footing with respect to ability to run for Mayor. (See Chapter Eight for further discussion.)

6.03. D. Status; Compensation.

The EMCM Option recommends that non-mayoral members of City Council be a part-time position with pay commensurate with their importance within City government.

The Commission believes that Virginia's tradition of the citizen-legislator is appropriately maintained for the district-wide elected members of City Council. It recognizes, however, that the current salaries of these members of City Council should be increased to reflect the realities of modern costs of living. The EMCM Option recommends that salaries of the non-Mayor members of City Council match the median household income for the City (currently approximately \$55,000).

Next Steps in Considering Council-Manager form of Government

The identification of an Elected Mayor Council-Manager Option that has a strong prospect of combining the strengths of Council-Manager government with scope for effective Mayoral leadership in support of a citywide vision is a significant and helpful step. The Electoral Subcommittee and the Commission as a whole have invested careful thought into developing and refining the concept presented above. Appendix C provides further detailed analysis of one key component of the proposal, adoption of a ranked choice voting method of electing the Mayor, in light of the demographic changes in the city over the past twenty years.

Nonetheless, numerous additional steps need to take place before this concept becomes an actionable option for Richmond city government. These include:

- Extensive public education and outreach to engage more city residents in this discussion, so that residents can both have the opportunity to weigh in and the opportunity to become fully informed well in advance of a potential referendum;
- Extensive review of the proposal from the standpoint of state and federal voting rights law, to include detailed assessment of Richmond's current demographics as well as the provisional drawing of sample maps for a six-district City Council, to maximize confidence that the finalized proposal would meet all relevant legal standards;
- Development of specific enabling Charter language (drawing where possible from the current report) with attention to other Charter changes that should be enacted at the same time;
- Development of specific language/questions for a potential referendum;
- Development of a provisional voter education plan to assure all City residents are aware of the electoral changes, including the potential change to Ranked Choice Voting, and to assure all residents are fully prepared and can take full advantage of the new system, to be enacted in the event an advisory referendum passes;
- Development of a provisional organizational transition plan, to work through the organizational issues, to include any needed ordinances or Charter adjustments, to transition to a Council-Manager form of government while maintaining continuity of all

operations and services, and to establish new legislative procedures as may be necessary for the smooth implementation of the new system, to be enacted in the event an advisory referendum passes;

- Development of a provisional process and timeline for the drawing of new Council district lines in accordance with state and federal law, to be enacted in the event an advisory referendum passes;
- Engagement with Richmond School Board concerning the implications of the proposal for the composition and method of election of the School Board and/or needed amendments to Charter section 20.01 if the number of Council districts changes.

This is a significant scope of work that will require dedicated resources and attention to complete with thoroughness and care. Consequently, this Commission recommends that the City Council act by December 15, 2023 to create an *ad hoc* Electoral Transition Commission to undertake the work delineated above.⁷⁶

The envisioned Electoral Transition Commission should have the following composition, charge, and timeline.

Composition

- To consist of no fewer than nine and no more than fifteen city residents, to include one from each voting district; to include at least one representative of an organization historically concerned with protecting the voting rights of Black city residents; to include at least one representative of an organization engaged in advocacy on behalf of Latino city residents; and to include (if available to serve) at least one and no more than three members of the 2022 City Charter Review Commission. The composition of the commission should reflect the city's diversity and the equitable representation of communities of interest.
- The Commission will be supported by the City Attorney and staff, City Council staff, and professional and legal expertise in the areas of voting rights law, demographics and statistical analysis, and mapping,

Charge

- To develop actionable language for a future advisory referendum on transitioning the form of government to a Council-Manager system, to include an elected Mayor who sits on Council.
- To undertake each of the additional specific steps noted just above, with support from professional staff and expertise, and to document carefully all actions taken with respect to electoral proposals.
- The Commission will take as its starting point the EMCM Option for Council-Manager government specified by the City Charter Review Commission, but may make any

⁷⁶ Under the City Charter (3.06.1), an advisory referendum regarding a charter change can either be called for by City Council, or can be placed on the ballot via a petition campaign of registered voters in the City.

adjustments to the proposal as it sees fit, or as it is advised to make by professional and legal experts. Any changes and the reason for the modifications will be fully documented.

- To provide for significant public participation, to include one more or public hearings prior to finalization of the Committee recommendations. Council should allocate sufficient resources to assure inclusive and representative participation citywide.

Timeline and Process

- The final recommendation from the Commission for language for an advisory referendum is to be adopted by a majority vote of all voting members. If no specific recommendation gains majority support from the Electoral Transition Commission, this result must be conveyed to Council.
- Council should in the ordinance establishing the Commission establish a timeline for the Electoral Transition Commission's work, with the possibility of an extension. The City Charter Review Commission believes it is possible to complete the scope of work described above in time for holding an advisory referendum in 2024. There may be good reasons for taking additional time; however, the Charter Review Commission believes that to enact a change in the form of government to begin with the term commencing January 1, 2029, such an advisory referendum should take place at the very latest in the 2026 general election with a view to General Assembly approving the new provisions in 2027. This timeline is necessary to allow for an orderly and effective organizational transition as well as to educate the public on the forthcoming changes.
- The ordinance should obligate Council, whether the current Council or the Council elected in 2024, to consider and vote yes or no on moving forward with the Advisory Referendum based on the Electoral Transition Commission's recommendation within sixty days of receipt of the recommendation. The ordinance should further specify that while Council may provide input to the Electoral Transition Commission's work process, once the report is received it must vote on the Commission's recommendation in the form and substance in which they are presented, without substantive amendment.⁷⁷

⁷⁷ This is an important provision insofar as the Elected Mayor Council-Manager Option presented in this report envisions a reduction in the number of Council seats from nine to six. It is obviously challenging for a sitting Council to reduce the number of its own seats. Requiring the Council to vote on the recommendations as they are received would pre-empt Council from amending the recommendations to preserve the existing Council size, without at least taking an on-the-record vote to reject the Commission's recommendations. If the Commission recommendation were rejected, the Council would of course retain the power to place an alternative Charter change proposal on the ballot.

Chapter Eight. Recommendations, IV: Adoption of Staggered Council Terms

Finally, the Commission recommends *staggered Council terms (8-1)* to increase stability in the governing body. While staggered terms are a feature of the proposal described in Chapter Seven, they could also be adopted within the existing Mayor-Council structure.

Regardless of form of government, staggered terms are helpful by assuring continuity of processes and protocols and assuring that most or all sources of valuable institutional knowledge are not lost simultaneously following any single election. Mid-term elections of several Council seats would also assure residents have the opportunity to provide meaningful feedback on the direction and performance of city government every two years.

Adoption of staggered Council terms will require addressing several issues:

1. Like any change in the City's electoral process, adoption of staggered Council terms must be shown to comply with relevant state and federal law. If Council wishes to consider moving forward, it should notify the City Attorney as soon as possible and request a legal analysis to identify any potential issues with this shift and to create a documentary record concerning why the City is considering this electoral change.
2. The Council must decide whether four or five Council seats are to be elected at the same time as the Mayor (with the remainder elected two years later).
3. The Council must decide which districts are to be elected at the same time as the Mayor and which elected two years later.
4. The Council must decide whether to adopt provisions that do not advantage or disadvantage Council members who may wish to run for Mayor on the basis of which district they represent.
5. The Council must decide on a timeline for implementation of staggered terms.
6. Under [Virginia general law](#), School Board members are to be elected at the same time as Council representatives, unless a specific exception has been created in the Code of Virginia. Charter provision 20.01 also provides that School Board elections are to happen in Richmond at the same time as Council elections. Hence, Council's adoption of staggered terms will necessitate that School Board adopt staggered terms (and the same timing for districts) at the same time, unless the Charter is amended and/or an exception is created in the Code of Virginia. Consequently, it is advisable that Council inform and engage the School Board if it wishes to move forward with staggered Council terms.

With respect to issue #2 above, the Commission believes it probably is beneficial to elect a majority of the Council at the same time Mayors are elected. With respect to issue #3, the Commission believes the Council should come to an agreement by consensus or create an agreed-upon, fair process for deciding the specific timing of each district's election.

With respect to issue #4, the concern is that with staggered terms, representatives of some Council districts (those whose district elections do not take place at the same time as the Mayor) would be able to run for Mayor without giving up their Council seat, and some would not. This discrepancy seems unfair and unwise, and if not addressed may become a significant issue over time. There are three possible approaches to remedy that concern:

- a. Create language in the Charter that allows an incumbent to run for re-election as a Council member and for Mayor at the same time. (If a Council member exercised this provision and won the office of Mayor, a special election would need to be called to fill the Council seat.)
- b. Create language in the Charter that requires a Council member to resign their seat in order to run for Mayor, effective no later than July 1 of the year of the mayoral election. (This would then require Council to appoint a resident or call a special election to fill the seat for the remainder of the term, depending on the length of time remaining in the term.) [Chesapeake, VA](#) is an example of a city taking this approach, which is common in Virginia cities with both directly elected mayors and staggered council terms.
- c. Shift all Council elections on to a different timeline than the Mayoral election. For instance, the Mayoral election would take place on an even year, and the Council elections on odd years. (Such an approach would impact voter turnout, and it would be unusual for the legislative and executive branches to have terms of office that were not synced to one another.)

The Commission believes Council should deliberate on the best approach to this issue before implementing staggered terms. Option b) specified above perhaps entails fewer potential complications than the other approaches, but in this case the most important consideration is that Council reach consensus on approach that is widely agreed as fair.

The question of creating a timeline for implementation (issue #6) is also ultimately a matter for Council deliberation. The Commission believes there should be lengthy lead time provided before making this change so that it is fully transparent both to voters and to potential candidates the length of terms that will be at stake in each election. At this point in the cycle, it would be reasonable to plan on implementation of staggered terms beginning in 2028.

However, it would be beneficial to seek charter change in 2024 on this issue, to take effect in 2028, so that Council members elected in 2024 will start their terms in January 2025 with this matter a settled issue.

For that reason, the Commission recommends that Council act by October 1 to create a special committee to address the issues noted above and make recommendations for addressing them by no later than November 1, 2023, so that staggered terms may be included in Council's legislative package for January 2024 along with the other Charter changes recommended by this Commission.

Chapter Nine. Next Steps and Concluding Observations

The Charter Review Commission was charged by Richmond City Council with undertaking a comprehensive assessment of the City Charter, with particular attention to questions pertaining to the form of government.

This report fulfills that charge in three ways:

- By identifying over forty recommended deletions, amendments, or additions to the Charter to remove unnecessary or outdated language, make the Charter more consistent with the existing Mayor-Council form of government, make the Charter more consistent with state general law and practice, and to address specific concerns noted by the Commission or brought to its attention. (See Chapter Five.)
- By identifying a coherent package of alterations to the existing Mayor-Council form of government intended to better clarify and specify the roles and responsibilities of each actor, according to a Partnership Model. (See Chapter Six.) The Commission believes those recommendations could significantly improve the practical function of the Mayor-Council model and address some of the persistent frustrations addressed by stakeholders on all sides. So long as Richmond retains this system of government, residents should want both Mayors and Councils to be successful; success almost all of the time consists in finding the right balance between constructive collaboration and healthy dialogue and deliberation about disputed questions.
- By identifying an alternative pathway forward for Richmond city government that combines the advantages of Council-Manager government with the continued need for strong citywide leadership from an elected Mayor. While the Commission does not make a recommendation for or against adoption of a Council-Manager system led by an elected Mayor, it believes Council should give serious consideration to this pathway. The Commission has outlined specific steps that would need to be taken if Council wishes to move forward with the idea. (See Chapter Seven.)

It is the Commission's hope that this report, taken as a whole, can both contribute to short-term improvements in the Charter and in institutional practice, and also stimulate broader civic conversation about the future of the city.

In this final section, we provide a brief timeline by which Council may take (or refuse to take) action on the Commission's recommendations.

- August: Submission of Charter Review Report to Council
- September-October: Council and Administration review of recommendations from Chapters Five and Chapter Six, with particular focus on discussion among stakeholders regarding the ideas in Chapter Six for adjusting the Mayor-Council form of government; development of legislation for changing the Charter during the 2024 session of General Assembly. Council should also establish an *ad hoc* committee to resolve questions pertaining to the implementation of staggered Council terms beginning in 2028 if it wishes to bring that recommendation forward. (See Chapter Eight.)

- November-December: Discussion of ideas regarding Council-Manager form of government inclusive of an elected Mayor, and decision by December 15 regarding whether to move forward with establishment of an Electoral Transition Commission.
- January 2024 and continuing: Introduction of Charter changes (from Chapters Five and Chapters Six) to Virginia General Assembly.
- January-July 2024 (or later): Work of the Electoral Transition Commission, if established, according to timelines to be established by ordinance.

We urge City Council and the Administration to focus its initial attention on serious consideration of the reform ideas contained in Chapter Six, along with the document improvements of Chapter Five. Unless or until Richmond changes its form of government, all residents and stakeholders have a clear interest in seeking to improve the workings of the existing Mayor-Council government. The Charter Review process and its timing gives the City a chance to adopt significant reforms, some of which have been called for nearly since the system was implemented twenty years ago, so that the next Mayor and next Council has a refreshed set of rules in place at the start of their terms on January 1, 2025. To take advantage of that opportunity, Council and the Administration should prioritize serious and frank discussion about the ideas presented here, motivated by this question: will these changes help the Mayor be more successful as chief executive officer, help the Council be more successful as the governing body, and help city government as a whole function better?

The Commission believes it is appropriate for the Council-Manager discussion to take place on a longer time scale, for reasons already articulated in Chapter Seven. But we also believe it is in the City's best interests to have this discussion, whatever its outcome. It is a large statement to say that Richmond should continue as the only city in Virginia with a Mayor-Council form of government indefinitely into the future. It is also a large statement to say that Richmond should change its form of government again two decades after the most recent alteration, and that the costs of doing so would be outweighed by its benefits.

Both the Mayor-Council and the Council-Manager systems offer plausible theories of local democratic government, and predictable strengths and weaknesses, many of which have been noted at various points in this report. To choose between the two involves both a philosophical judgement concerning how much authority to invest in an individual position as opposed to a collective body, as well as a practical judgment about which system is likely to be most effective in meeting the needs of the people, in a particular place at a particular time.

Those complex judgments, the Commission submits, are best made by the people. But it is important that from time to time they have the right to make those judgments, informed by but not bound by the past, in hopes of creating a better shared future for the residents of this City.

Appendix A. List of Recommendations

See full report for explanation of each item.

Document Improvements

5-1. Replace Section 2.01 (General grant of powers) with updated language

Striking specific financial powers established by general law

5-2. Strike 2.02(b)

5-3. Strike 2.02 (c)

5-4. Strike 2.02 (e)

5-5. Strike 2.02 (f)

5-6. Strike 2.02 (g)

Striking specific powers to preserve the general welfare established by general law or not under the jurisdiction of local government

5-7. Strike 2.04 (a)

5-8. Strike 2.04 (b)

5-9. Strike 2.04 (d)

5-10. Strike 2.04 (e)

5-11. Strike 2.04 (f)

5-12. Strike 2.04 (g)

5-13. Strike 2.04 (h)

5-14. Strike 2.04 (i)

5-15. Strike 2.04 (j)

5-16. Strike 2.04 (k)

5-17. Strike 2.04 (l)

5-18. Strike 2.04 (m)

5-19. Strike 2.04 (n)

5-20. Strike 2.04 (o)

5-21. Strike 2.04 (p)

5-22. Strike 2.04 (q)

5-23. Strike 2.04 (r)

Striking miscellaneous powers established by general law

5-24. Strike 2.05(b)

5-25. Strike 2.05 (c)

5-26. Strike 2.05 (d)

5-27. Strike 2.05 (g)

Strike section on regulations: powers named are established by general law

5-28. Strike 2.06

5-29. Amend 3.04.1 (c) to remove misdemeanor drug offenses and “moral turpitude” as cause for removal of Mayor or Council member.

5-30. Amend 4.06 to require Council to follow parliamentary procedure.

5-31. Amend 4.07 to allow Council to cast votes in meetings electronically.

5-32. Amend 4.09 to allow introduced ordinances to be distributed electronically.

5-33. Add section 4.14.1 to stipulate that Council establishes composition of boards and commissions by ordinance.

5-34. Amend 4.15(b) to require Council to establish by ordinance policies with respect to the sanction or removal of officers, appointees, or employees for cause.

5-35. Amend 4.16 (a) to clarify Council has all investigatory powers provide under general law.

5-36. Amend 5A.03 to update and expand the list of protected categories in personnel matters. (Amendment identical to 5-43(d) below.)

5-37. Amend 5.B to broaden employees and retirees eligible to serve on the Retirement System board.

5-38. Strike 6.15.3 as provisions have expired.

5-39. Strike most of 13.06 concerning utilities as separate enterprises to remove unnecessary detail.

5-40. Strike 20.10 regarding courtroom provision as duplicative of general law.

5-41. Strike 20.11 regarding posting of bonds as duplicative of general law.

5-42 (a,b,c). Amend 4.02(b) and 4.02 (c) regarding creation of departments and reassignment of employees to make consistent with Mayor-Council government; amend 5A.01 to make consistent with Mayor-Council government.

5-43 (a,b,c,d). Amend 4.02(d) to establish Council’s authority to create titles, qualifications, duties, powers for officers and employees reporting to Council; add new provision 4.02(e) to provide Council power to establish pay ranges for heads of administrative departments; add provision 5.05.1(g) to give Chief Administrative Officer authority to establish titles, qualifications, duties and powers of officers and employees reporting to the CAO; amend provision; amend provision 5A.03 to require development of a uniform severance plan as part of the personnel system and that there be a director of human resources.

5-44. Replace existing Chapter 17 regarding Planning with new, simpler language establishing the Planning Commission and Board of Zoning Appeals.

(Note: Council, the director of Planning and Development Review, the City Attorney, and other stakeholders should confer regarding the content of a revised Chapter 17.)

5-45. Amend 18.02 regarding eminent domain processes to conform with general law and practice while retaining the City’s powers.

5-46. Amend 18.03 regarding alternative procedures in condemnation to conform with general law and practice while retaining the City’s powers.

5-47. Replace gendered language with gender-inclusive language throughout the Charter.

Partnership Model of Mayor-Council Government

6-1. Amend 5.02 to give Mayor power to directly appoint or remove administrative department heads, or to delegate such authority to chief administrative officer, and Amend 5.03 to give Mayor power to give orders to heads of administrative departments with written notification of the chief administrative officer.

6-2. Amend 4.17 to state explicitly the City Attorney represents the City of Richmond and that the various officers, agencies and bodies that compose the city are its constituents.

6-3. Add subsections 4.17a and 4.17b to provide for Mayoral appointment of the City Attorney with Council participation and approval by six votes, and to give both Mayor and Council a role in dismissal of the City Attorney.

6-4. Add subsection 4.17c to establish Council's right to retain outside counsel on matters concerning the powers of the Council.

6-5. Amend 5.01 and add subsections 5.01.1, 5.01.2, 5.01.3 to establish procedures for automatic appointing of a pre-designated Acting Chief Administrative Officer in emergency circumstances; to provide for the Mayoral appointment with Council consent of a interim Chief Administrative Officer; and to specify procedures for the Mayoral appointment of a permanent Chief Administrative Officer, with substantive Council participation throughout the process and confirmation of the Mayor's nominee by six Council votes.

6-6. Amend 5.01 and add subsections 5.01.4 to specify procedures for the removal of the Chief Administrative Officer, including the duty of the Mayor to provide City Council advance notice in some circumstances, and establishing the right of Council by super-majority vote (seven votes) to remove the Chief Administrative Officer.

6-7. Amend 6.03 and add paragraph 6.03(b) to provide for Council input into the development of the Mayor's budget proposal, informed by access to agency-level budget requests.

6-8. Add paragraph 6.16 (f) to require budget amendments to have a single purpose, or to allow Council to sever them and treat them as separate amendments.

6-9. Add paragraph 6.16 (g) to permit Council twice a year (October, April) to introduce budget amendments.

6-10. Add section 6.04.1 to permit establishment of a general operational fund capped at 1% of the general fund budget that can be assigned by the Chief Administrative Officer to any agency during the year without requiring a budget amendment.

6-11. Amend 5.01 to require Council to set the Mayor's salary to meet or exceed the salary level of top administrative officers during the year the Mayor is elected.

6-12. Amend 4.01 to set Council compensation to be equivalent to the median household income for City residents.

6-13. Add paragraph 5.05(b) to require the Mayor to attend one Council meeting per month to provide an update on the City's progress or on some issue, to receive and respond to questions pertaining to the update from all Council members.

6-14. Add new section 20.15 to establish a process for decennial review of the Charter via a resident-led commission appointed by Council to begin in 2030, and to state that alterations to responsibilities or hiring and dismissal processes of any position resulting from changes to the Charter will not affect the employment of persons already serving in those roles (unless the position is abolished).

Elected Mayor Council-Manager Option

7-1. The Commission recommends that Council create an Electoral Transition Committee to undertake a comprehensive review of the legal, governance and organizational issues involved in shifting to a Council-Manager form of government to include a directly elected Mayor, and to charge it with preparing language for a specific proposal for transitioning the form of government, to be placed on an advisory referendum, as soon as the 2024

general election and no later than the 2026 general election. Once Council has received the report and recommendation, it can elect whether or not to move forward with a referendum on this proposal.

Staggered Council Terms

8-1. The Commission recommends adoption of staggered four-year Council terms, and recommends that Council take steps to address (or create a process for addressing) several specific questions about how staggered terms would work in practice, with a goal of implementing staggered Council terms no later than the 2028 general election.

Appendix B: Summary Results of Resident Engagement Survey

The Commission's Resident Engagement Survey was open from May 19 to June 21. The survey was made available via the RVA.Gov website, via the portal for the City Charter Review Commission, and was shared in press releases, social media posts, and in numerous district newsletters sent by Councilpersons. Paper copies of the survey were also made available in city library branches.⁷⁸

This survey is *not* a representative sample of Richmond residents, and should not be interpreted or reported as such.

The intent of the survey was to gauge resident satisfaction with various dimensions of Richmond city government. There was a specific interest in gauging residents' perceptions of the impact of Richmond's change of government form in 2004 on the effectiveness of city government, although the views of all residents (regardless of length of residence in the city) were of valued interest. The results, while not representative, clearly indicated to Commission members that many residents would like to see City government performing significantly better.

The survey did not ask for specific feedback on potential Charter changes under consideration by the Commission, as these had not been formulated at the time the survey was designed. The survey did allow for open-ended comments on matters relevant to the City Charter, and some respondents took the opportunity to comment on the proposals under consideration. (Other residents emailed the Charter Review Commission directly.)

The survey has serious limitations that must be kept in mind. First, it is not a random sample; respondents were self-selected. Second, it is not a representative sample, as responses disproportionately came from the 1st, 2nd, 3rd, 4th, and 5th districts, and responses were disproportionately white, disproportionately older, and with disproportionately high levels of educational attainment, relative to the city's overall population.

These limitations must be kept in mind in considering the following results. The City Charter Review Commission strongly recommends that, should City Council wish to consider exploration of a potential change in government in the foreseeable future, that the Council make a significant investment in additional engagement, to include:

- Mailings to all city residents
- Multiple meetings in all nine districts
- Print and electronic versions of materials related to potential Charter changes
- Translation of all material into Spanish
- Professionally conducted phone surveys constructed to produce a representative sample

This survey can be understood as information on how a self-selected group of Richmond residents with sufficient motivation to spend several minutes answering questions about Richmond local government feel about aspects of local government.

Because this not a representative sample, the Commission is not reporting sample-wide totals in hopes of preventing the results from being reported or used in a misleading way. Instead, the

⁷⁸ The Commission thanks Mr. Lazaro Perez, a consultant for Richmond City Council, with assistance in preparing the survey data for analysis by the Commission.

results are reported along three axes: first, comparing the responses of current or former City employees to those of persons who have never worked for the City; second, comparing responses across Council districts, sorted into three groupings by geography (Districts 1 and 4; Districts 2, 3, and 5; and Districts 6,7,8 and 9); and third, comparing responses by race/ethnicity (white, Black, and other races/ethnicities).⁷⁹

That said, the survey demographics mandate that caution must be used in interpreting these results. For example, City residents with relatively low educational attainment are seriously under-represented in this sample: whereas persons with a high school diploma or lower as their highest level of education complete constitute 32.6% of the City's adult population (2017-2021 American Community Survey), they are just 2.8% of this sample.

The Commission strongly recommends that the Council invest in additional engagement strategies to reach a more representative sample of residents. It is possible that a more representative sample would replicate or even strengthen these results, but it still should be done in the interest of having the most accurate assessment possible and in being sure all residents' voices are heard.

Survey Demographics

Total Respondents: 1148

City Residents: 96% of sample

Ever Employed by City of Richmond: 11% of sample

District:

"I Don't Know"	131
1 st District	189
2 nd District	172
3 rd District	108
4 th District	163
5 th District	137
6 th District	34
7 th District	58
8 th District	37
9 th District	24

Length of Residence

Less Than 1 Year	27
1-5 Years	193
6-10 Years	166
11-20 Years	215
21-30 Years	157
More than 30 Years	295

⁷⁹ The Commission also examined survey results at the individual district level. Sample sizes are too small in certain districts to merit reporting out results by individual district, a problem alleviated in reporting by groups of districts.

Highest Educational Level

Graduate Degree	517
Some Graduate School	87
Undergraduate Degree	363
Some College	73
High School/GED	28
Less Than High School	4

Age

18-24	26
25-34	170
35-44	202
45-54	178
55-64	193
65 and up	322

Race/Ethnicity

White	767
No Response	140
Black	92
Multiracial	28
Hispanic	22
Asian	12
Other	18

List of Survey Questions

1. What locality do you live in?
2. Are you a resident of the City of Richmond?
3. What's your zip code?
4. What district of the city do you live in?
5. How many years (in total) have you lived in the City of Richmond?
6. What is your race or ethnicity?
7. What is your age?
8. What is the highest level of education you have completed?
9. [Which category] best describes your employment status?
10. [Which field of employment] best describes your fields/sector?
11. Have you ever been employed by Richmond City Government?

12. If yes, how many years have you been employed in the City of Richmond?

13. What do you believe are the three most important issues or problems facing the City of Richmond?

14. Assess the following statements about current Richmond City Government

(Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree)

- Provides effective services to residents
- Helps promote economic opportunity
- Mitigates poverty for city residents
- Effectively supports public education
- Effectively promotes public safety
- Achieves desirable levels of transparency and accountability
- Is responsive to residents

15. Based on your opinion or experience, compared to the Council-Manager system, the Mayor-Council system:

(Strongly Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree, Don't Know)

- Has led to better service delivery
- Gives residents more of a voice in City government by allowing them to vote directly for a Mayor
- Has improved the budget establishment process
- Has improved the policy making process
- Has made it easier for the City to tackle big goals
- Assisted Richmond Public Schools with achieving stronger educational outcomes
- Reduced incidence of unethical behavior in City government
- Given a greater voice in the regional, state, and national arenas
- Has improved the City of Richmond as an organization
- Helped develop a shared vision for the City that all residents can connect with
- Has allowed the City of Richmond to move forward and achieve progress to become a better City
- Has made it more cost effective and efficient (i.e. less expensive to deliver services)

16. Please share any other comments or recommendations you may have concerning the City Charter, the City's current form of governance, or other potential forms of governance for the City. Please focus your remarks on the form of governance, not specific complaints or criticisms of specific individuals.

Top Three Citywide Issues, by District

1st District (n=189): Housing, Education, Affordable Housing

2nd District (n=172): Education, Schools, Affordable Housing

3rd District (n=108): Affordable Housing, Crime, Housing

4th District (n=163): Crime, Affordable Housing, High Taxes, Housing

5th District (n=137): Affordable Housing, Poverty, Education

6th District (n=34): Affordable Housing, Gun Violence, 9 other issues (3 related to housing)

7th District (n=58): Affordable Housing, Schools, 13 other issues (2 related to housing)

8th District (n=37): Affordable Housing, Crime, 9 other issues (including housing)

9th District (n=24): 7 issues

City Government Employees (n=131): Affordable Housing, Housing, Poverty

Open-ended Comments

The open-ended comments offered by survey respondents expressed a wide range of views and concerns. While the Commission has not undertaken a detailed quantitative analysis of those comments, they generally reflected both the concerns noted above and the general assessment of city government and city governance reported in the summary results below.

Comparison to Other Data

The results reported in Tables B-1, B-2, and B-3 should be seen in the context of the inherent limitations of the data noted above. However, these results broadly align with the [2021 National Community Survey](#), a representative survey which found that 26% of Richmond residents had a “good” (22%) or excellent (4%) level of confidence in local government, 41% had a “fair” level of confidence, and 33% had a “poor level of confidence.”

B-1. Summary Survey Results by Employee Status

Currently City Government Effectively Acts to

	Never City employee	Current/Former City employee
Promote Economic Opportunity	21% agree, 39% disagree	34% agree, 30% disagree
Mitigate Poverty for City Residents	8% agree, 60% disagree	18% agree, 48% disagree
Support Public Education	16% agree, 63% disagree	34% agree, 40% disagree
Promotes Public Safety	19% agree, 55% disagree	38% agree, 37% disagree
Achieves Transparency/Accountability	7% agree, 73% disagree	15% agree, 69% disagree
Responsive to Residents	15% agree, 58% disagree	28% agree, 52% disagree

Compared to the previous Council-Manager system, the Mayor-Council system has produced...

Better Service Delivery	10% agree, 47% disagree	8% agree, 46% disagree
More Resident Voice	33% agree, 38% disagree	42% agree, 35% disagree
Improved Policy Making	12% agree, 50% disagree	10% agree, 51% disagree
Easier to Tackle Big Goals	12% agree, 51% disagree	16% agree, 50% disagree
Stronger Educational Outcomes	5% agree, 57% disagree	14% agree, 45% disagree
Reduced Unethical Behavior	8% agree, 47% disagree	8% agree, 47% disagree
Given City a Greater Voice	21% agree, 30% disagree	28% agree, 25% disagree
Improved City as Organization	13% agree, 45% disagree	12% agree, 44% disagree
Developed a Shared Vision	12% agree, 50% disagree	13% agree, 49% disagree
Allow Richmond to Make Progress	15% agree, 46% disagree	17% agree, 48% disagree
More Cost Effective Government	5% agree, 54% disagree	6% agree, 50% disagree

Note: n=945 for “never City employee”; n=131 for “current or former City employee.”

“Agree” is the total of respondents answering “agree” or “strongly agree” with each item; “Disagree” is the total of respondents answering “disagree” or “strongly disagree” with each item. Other available responses included “Neither Agree Nor Disagree” and (for the comparative questions) “Don’t Know.”

Table B-2. Summary Results by Council District

	Districts 1 and 4 (West End and Southwest)	Districts 2,3,5 (North Central, Northside, Central)	Districts 6,7,8,9 (Gateway, East End, South Central, Southside)
<i>Currently City Government Effectively Acts to</i>			
Promote Economic Opportunity	21% A/ 34% D	21% A/ 39% D	29% A/ 41% D
Mitigate Poverty	7% A/ 58% D	9% A/ 58% D	11% A/ 63% D
Supports Public Education	16% A/ 64% D	18% A/ 60% D	20% A/ 59% D
Promotes Public Safety	18% A/ 55% D	22% A/ 51% D	27% A/ 50% D
Achieves Transparency/Acct	6% A/ 75% D	10% A/ 72% D	7% A/ 73% D
Responsive to Residents	14% A/ 64% D	19% A/ 52% D	18% A/ 54% D
<i>Compared to the previous Council-Manager system, the Mayor-Council system has produced</i>			
Better Service Delivery	7% A/ 51% D	10% A/ 50% D	12% A/ 44% D
More Resident Voice	33% A/ 39% D	29% A/ 43% D	43% A/ 33% D
Improved Policy Making	7% A/ 53% D	14% A/ 53% D	15% A/ 50% D
Easier to Tackle Big Goals	9% A/ 53% D	13% A/ 53% D	19% A/ 47% D
Stronger Educational Outcomes	4% A/ 59% D	6% A/ 58% D	10% A/ 52% D
Reduced Unethical Behavior	6% A/ 49% D	8% A/ 49% D	11% A/ 47% D
Greater Voice for City	17% A/ 33% D	16% A/ 31% D	28% A/ 25% D
Improved City as Organization	8% A/ 49% D	13% A/ 47% D	20% A/ 40% D
Developed a Shared Vision	10% A/ 57% D	13% A/ 50% D	15% A/ 45% D
Allowed City to Move Forward	10% A/ 52% D	15% A/ 47% D	22% A/ 37% D
More Cost Effective Gov't	4% A/ 57% D	5% A/ 54% D	9% A/ 53% D

Note: n=352 for Districts 1 and 4; n=417 for Districts 2, 3, and 5; n=152 for Districts 6, 7, 8 and 9

“A” is the total of respondents answering “agree” or “strongly agree” with each item; “D” is the total of respondents answering “disagree” or “strongly disagree” with each item. Other available responses included “Neither Agree Nor Disagree” and (for the comparative questions) “Don’t Know.”

Table B-3. Summary Results by Race/Ethnicity

	White	Black	Other
<i>Currently City Government Effectively Acts to</i>			
Promote Economic Opportunity	24% A/ 36% D	24% A/ 41% D	23% A/34% D
Mitigate Poverty for City Residents	9% A/ 60% D	13% A/ 60% D	8% A/ 59% D
Support Public Education	17% A/ 61% D	28% A/51% D	23% A/59% D
Promotes Public Safety	20% A/ 53% D	37% A/40% D	18% A/56% D
Achieves Transparency/ Accountability	7% A/73% D	13% A/ 70% D	10% A/ 71% D
Responsive to Residents	16% A/55% D	21% A/ 54% D	22% A/56% D
<i>Compared to the previous Council-Manager system, the Mayor-Council system has produced...</i>			
Better Service Delivery	8% A/ 46% D	18% A/ 49% D	14% A/37% D
Gives Residents More Voice	33% A/36% D	44% A/ 38% D	36% A/36% D
Improved Policy Making	11% A/51% D	17% A/ 55% D	11% A/35% D
Easier to Tackle Big Goals	13% A/50% D	17% A/ 51% D	14% A/ 44% D
Stronger Educational Outcomes	5% A/ 56% D	13% A/ 55% D	12% A/ 47% D
Reduced Unethical Behavior	8% A/ 46% D	14% A/ 46% D	3% A/ 41% D
Given City Greater Voice	22% A/ 28% D	33% A/ 30% D	21% A/ 23% D
Improved City as Organization	12% A/ 43% D	20% A/ 48% D	15% A/38% D
Developed Shared Vision	13% A/ 49% D	13% A/ 52% D	14% A/39% D
Allow Richmond to Make Progress	14% A/ 45% D	21% A/ 45% D	20% A/42% D
More Cost Effective and Efficient	4% A/ 53% D	13% A/ 54% D	6% A/ 47% D

Note: n=767 for white; n=92 for Black; and n=80 for Other. Other groups include Multiracial or Multiethnic, Hispanic or Latino, Asian, Middle Eastern or North African, Native American or Alaskan Native, Native Hawaiian or other Pacific Islander, "Other" or "Another."

"A" is the total of respondents answering "agree" or "strongly agree" with each item; "D" is the total of respondents answering "disagree" or "strongly disagree" with each item. Other available responses included "Neither Agree Nor Disagree" and (for the comparative questions) "Don't Know."

Appendix C. Notes on Electoral Implications of Demographic Shifts in Richmond, 2000-2020

These notes refer to the data on demographic change in Richmond citywide and within Council districts between 2000 and 2020.

Table C-1. Citywide Changes in Voting-Age Population by Race and Ethnicity, 2000-2020.

Citywide Total

	2000	2010	2020
Black	79,658 (51.5%)	77,186 (46.4%)	71,362 (38.0%)
White (not Latino)	66,608 (43.1%)	71,686 (43.1%)	85,498 (45.5%)
Latino	3,842 (2.5%)	9,518 (5.7%)	16,887 (9.0%)
Asian	2,175 (1.4%)	4,421 (2.7%)	5,830 (3.1%)
Two or More Races	1,688 (1.1%)	2,635 (1.6%)	7,003 (3.7%)
Other	641 (0.4%)	759 (0.5%)	1,366 (0.7%)

Source: United States Census Redistricting Data

Table C-2. Summary of District Composition by Racial/Ethnic Group, 2000-2020

2000: Six Majority Black Districts (3,5,6,7,8,9); Three Majority White Districts (1,2,4)

Average Black proportion in the six Majority Black Districts (2000): 72.1%

2010: Five Majority Black Districts (3,6,7,8,9); Three Majority White Districts (1,2,4); One District With No Majority Group (5)

Average Black proportion in the five Majority Black Districts (2010): 67.5%

2020: Four Majority Black Districts (3,6,8,9); Four Majority White Districts (1,2,4,5); One District With No Majority Group (7)

Average Black proportion in the four Majority Black Districts (2020): 56.3%; post-redistricting, 56.1%.

Table C-3. Voting Age Population by Racial/Ethnic Group, Council Districts, 2000-2020**First District**

	2000	2010	2020	2020, post-redistricting ⁸⁰
Black	813 (4.1%)	811 (4.1%)	775 (3.7%)	806 (3.7%)
White (not Latino)	18,418 (92.0%)	17,866 (89.5%)	18,104 (85.7%)	18,650 (85.7%)
Latino	294 (1.5%)	549 (2.7%)	905 (4.3%)	942 (4.3%)
Asian	227 (1.1%)	416 (2.1%)	607 (2.9%)	625 (2.9%)
Two or More Races	210 (1.0%)	241 (1.2%)	636 (3.0%)	658 (3.0%)
Other	59 (0.3%)	81 (0.4%)	91 (0.4%)	90 (0.4%)

Second District

	2000	2010	2020	2020, post-redistricting
Black	5,163 (26.8%)	5,722 (23.9%)	4,247 (16.7%)	4,064 (16.9%)
White (not Latino)	12,528 (64.9%)	14,794 (61.8%)	16,298 (64.1%)	15,124 (62.9%)
Latino	343 (1.8%)	841 (3.5%)	1,632 (6.4%)	1,630 (6.8%)
Asian	837 (4.3%)	1,843 (7.7%)	1,863 (7.3%)	1,873 (7.8%)
Two or More Races	306 (1.6%)	650 (2.7%)	1,245 (4.9%)	1,222 (5.1%)
Other	117 (0.6%)	99 (0.4%)	134 (0.5%)	131 (0.5%)

Third District

	2000	2010	2020	2020, post-redistricting
Black	11,752 (70.0%)	10,128 (63.4%)	9,713 (53.7%)	10,354 (50.3%)
White (not Latino)	4,585 (27.3%)	5,194 (32.5%)	6,843 (37.8%)	8,487 (41.2%)
Latino	150 (0.9%)	244 (1.5%)	554 (3.1%)	612 (3.0%)
Asian	73 (0.4%)	102 (0.6%)	241 (1.3%)	290 (1.4%)
Two or More Races	164 (1.0%)	243 (1.5%)	610 (3.4%)	694 (3.4%)
Other	73 (0.4%)	72 (0.5%)	135 (0.7%)	145 (0.7%)

⁸⁰ U.S. Census, Redistricting Data, is source for the 2000, 2010, and 2020 tables, based on district lines that were in place at the time of the Census. NCEC Services is the source for post-redistricting 2020 table. For the 2020 post-redistricting data only, the category “Asian” includes Hawaiian and Pacific Islanders. Hawaiian and Pacific Islanders are counted in the category “Other” for the other columns in this category.

Fourth District

	2000	2010	2020	2020, post-redistricting
Black	4,548 (24.3%)	5,845 (29.2%)	5,086 (24.6%)	5,072 (24.5%)
White (not Latino)	13,342 (71.2%)	12,743 (63.6%)	13,243 (64.0%)	13,235 (64.0%)
Latino	335 (1.8%)	754 (3.8%)	1,028 (5.0%)	1,024 (5.0%)
Asian	268 (1.4%)	388 (1.9%)	493 (2.4%)	500 (2.4%)
Two or More Races	169 (0.9%)	223 (1.1%)	705 (3.4%)	704 (3.4%)
Other	77 (0.4%)	82 (0.4%)	151 (0.7%)	142 (0.7%)

Fifth District

	2000	2010	2020	2020, post-redistricting
Black	10, 579 (60.1%)	8,814 (45.3%)	6,885 (32.7%)	6,970 (33.1%)
White (not Latino)	6,051 (34.4%)	8,795 (45.2%)	11,102 (52.8%)	10,972 (52.1%)
Latino	405 (2.3%)	591 (3.0%)	1,100 (5.2%)	1,114 (5.3%)
Asian	242 (1.4%)	759 (3.9%)	814 (3.9%)	868 (4.1%)
Two or More Races	239 (1.4%)	396 (2.0%)	977 (4.6%)	995 (4.7%)
Other	77 (0.4%)	90 (0.5%)	157 (0.7%)	155 (0.7%)

Sixth District

	2000	2010	2020	2020, post-redistricting
Black	13, 535 (89.6%)	13,130 (78.7%)	12,641 (57.6%)	12,327 (60.3%)
White (not Latino)	1,159 (7.7%)	2,581 (15.5%)	6,324 (28.8%)	5,445 (26.6%)
Latino	167 (1.1%)	351 (2.1%)	1,056 (4.8%)	961 (4.7%)
Asian	97 (0.6%)	294 (1.8%)	816 (3.7%)	707 (3.5%)
Two or More Races	96 (0.6%)	247 (1.5%)	918 (4.2%)	844 (4.1%)
Other	44 (0.3%)	87 (0.5%)	195 (0.9%)	171 (0.8%)

Seventh District

	2000	2010	2020	2020 post-redistricting
Black	12, 374 (81.4%)	10,842 (66.2%)	10,461 (48.1%)	10,201 (47.6%)
White (not Latino)	2,447 (16.1%)	4,639 (28.3%)	8,544 (39.3%)	8,537 (39.8%)
Latino	133 (0.9%)	297 (1.8%)	1,013 (4.7%)	1,001 (4.7%)
Asian	52 (0.3%)	288 (1.8%)	602 (2.8%)	616 (2.9%)
Two or More Races	150 (1.0%)	254 (1.6%)	900 (4.1%)	873 (4.1%)
Other	54 (0.4%)	65 (0.4%)	223 (1.0%)	207 (1.0%)

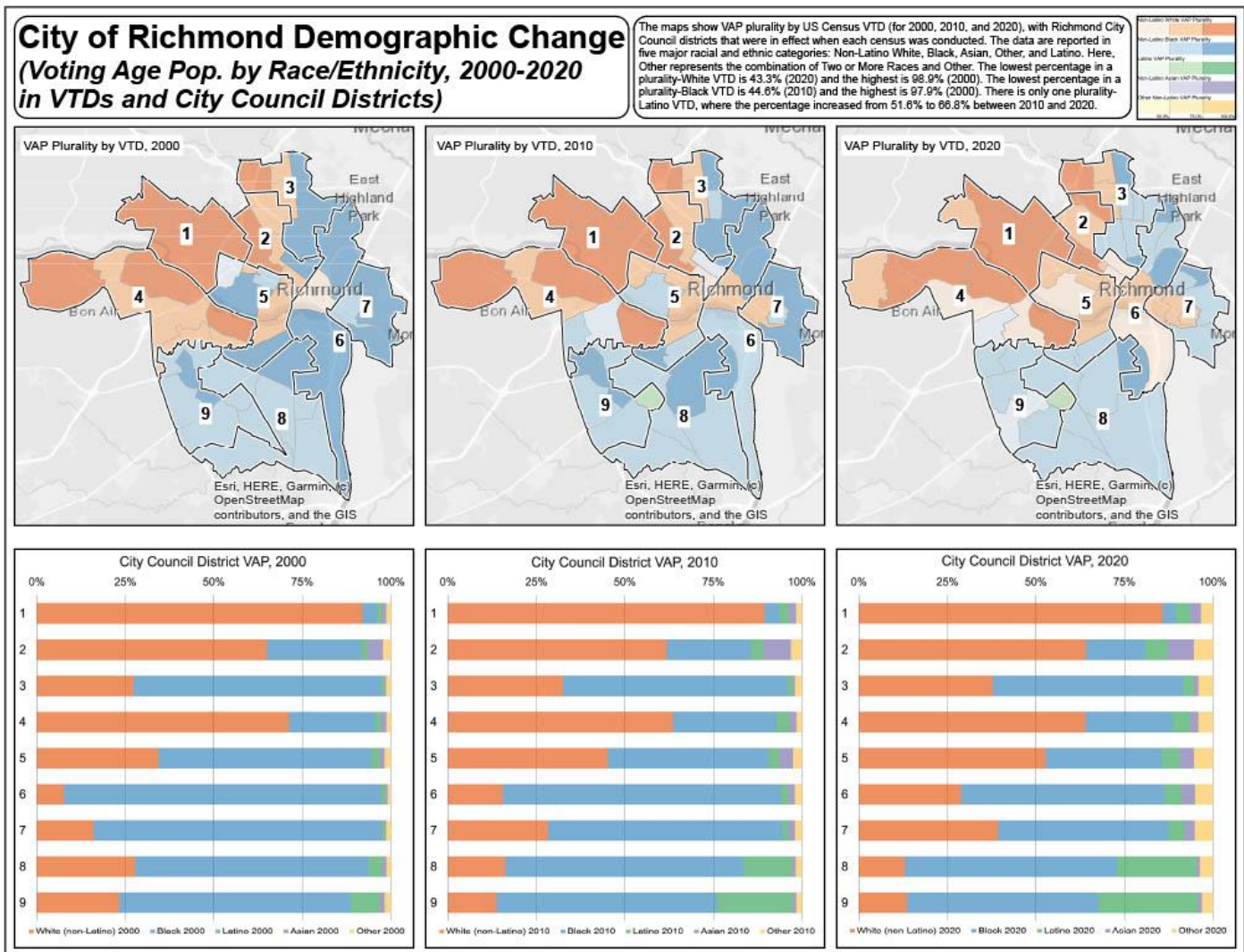
Eighth District

	2000	2010	2020	2020 post-redistricting
Black	9,483 (65.9%)	11,814 (67.3%)	11,207 (59.7%)	11,207 (59.7%)
White (not Latino)	4,006 (27.8%)	2,849 (16.2%)	2,448 (13.1%)	2,448 (13.1%)
Latino	576 (4.0%)	2,416 (13.8%)	4,214 (22.5%)	4,214 (22.5%)
Asian	146 (1.0%)	165 (0.9%)	197 (1.1%)	200 (1.1%)
Two or More Races	139 (1.0%)	208 (1.2%)	535 (2.9%)	535 (2.9%)
Other	49 (0.3%)	100 (0.6%)	157 (0.8%)	154 (0.8%)

Ninth District

	2000	2010	2020	2020 post-redistricting
Black	11,411 (65.4%)	10,080 (62.2%)	10,347 (54.1%)	10,361 (54.1%)
White (not Latino)	4,072 (23.3%)	2,225 (13.7%)	2,592 (13.6%)	2,600 (13.6%)
Latino	1,439 (8.2%)	3,475 (21.4%)	5,385 (28.2%)	5,389 (28.1%)
Asian	233 (1.3%)	166 (1.0%)	197 (1.0%)	201 (1.0%)
Two or More Races	215 (1.2%)	173 (1.1%)	477 (2.5%)	478 (2.5%)
Other	91 (0.5%)	83 (0.5%)	123 (0.6%)	121 (0.6%)

Map C-1. Council Districts by Race/Ethnicity of Voting-Age Population, 2000-2020⁸¹



⁸¹ Map prepared for the City Charter Review Commission by Bret Blythe, NCEC Services.

Analysis and Implications of Table C-3 and Map C-1

Historical Context

- At the time the 5 of 9 district method of electing the Mayor was established, six of nine districts were majority Black with a minimum of 60% of the voting-age population.
- This method was intended to protect the city's Black majority voting power, in view of significantly higher voter turnouts especially in the predominantly white 1st and 4th districts, relative to majority Black districts. Those differences in turnout rates reflect differences in socio-economic and educational status (both of which are strongly correlated with higher voter participation); at the time of its adoption, advocates also noted the racially disparate impact of Virginia's practice of requiring persons convicted of a felony to appeal to the governor for restoration of voting rights at the end of their sentences (rather than automatic restoration of rights as in most other states).
- While the 5 of 9 method did not preordain the outcome of mayoral elections (or preclude a white candidate from gaining the office), it did assure that a successful campaign needed to be based on appeal to at least five districts, rather than on turning out large numbers of voters from two or three districts.
- The evidence suggests that the 5 of 9 method was highly effective at protecting Black voting power at the time of its adoption.

Moving Forward, I: How Changing Demographics Can Change Appropriate Voter Protection Tools

- The 2020 Census results show that there have been significant demographic shifts, both citywide and within districts. Those shifts raise the question of whether the 5 of 9 system can still effectively protect Black voting power moving forward.
- Consider this thought experiment: if Black voters constitute a majority of voting-age people in **six** districts (as they did in 2004), the 5 of 9 method protects the Black majority from disproportionately high turnout in the majority white districts. Indeed, a candidate with unified support from Black voters would be assured victory under this system.
- Now consider a (hypothetical) scenario in which Black voters are a minority of voting-age people citywide, Black voters only constitute a majority of voters in **two** districts, and no racial or ethnic group has an outright majority citywide. In that scenario, Black voters would clearly not be able (by themselves) to elect a candidate of their choice. Moreover, Black voters, especially in the two majority-Black districts, would have limited leverage: a mayoral campaign could simply ignore those two districts and focus on winning five of the other seven districts.
- Conversely, in this same scenario, an at-large election with ranked choice voting (RCV) would give all voters in all districts leverage to influence the outcome, even if their most favored candidate fell short of victory. Consider an electoral scenario involving a three-way race with one candidate with a majority-white voter base, one candidate with a majority-Black voter base, and one candidate with a degree of support among all racial/ethnic groups. Presume the white voter base candidate won 45% of the popular vote, the Black voter base candidate won 25% of the popular vote, and the diverse voter base candidate won 30% of the vote.
- Under the 5 of 9 system, the white voter base candidate would be highly likely to win presuming the candidate's votes were largely concentrated in 5 or 6 districts. Under a

first-past-the-post at-large system, in which the candidate with the most votes wins even if they do not garner a majority of votes, the white voter base candidate would also be elected.

- Conversely, under the Ranked Choice Voter system, in this scenario if at least 80% of voters for the Black voter base candidate marked the Diverse voter base candidate as their second choice, then the Diverse voter base candidate would be elected. (The second choice votes of the third-place candidate would be added to the 30% the Diverse candidate already had, giving that candidate a majority).⁸²
- The Black voter base thus would have considerable influence, in this case a decisive influence, over the outcome of the race, whereas under the 5 of 9 system its influence would be limited.⁸³
- The Ranked Choice Voting procedure is absolutely essential to protecting this influence. A traditional, first-past-the-post at-large election would allow a candidate to win by focusing on running up large turnout in a small number of districts. Under Ranked Choice Voting, such a strategy would only be assured of working if the candidate could get more than 50% on the first ballot. This is difficult to achieve (except in unusual circumstances) in a nonpartisan election with three or more viable candidates.

Moving Forward, II: Implications of Projected Trends

- This thought experiment raises the question: how close is Richmond to having only two majority Black districts? As shown by the data, in the early 2000s there were six majority Black districts, with an average Black population of 72% in those six districts; today in the 2020s, post-redistricting, there are only four majority-Black districts, with an average Black voting-age population of 56% in those four districts, ranging from 50.3% in the 3rd to 60.3% in the 6th. In a fifth district, (the 7th) a plurality of voting age adults (47.6%) are Black.
- In the 3rd District, the proportion of voting-age Black adults declined from 70% in 2000 to 50.3% in 2020 (current district lines). If that trend continues at the same rate, the 3rd District will be 40.5% Black in 2030.⁸⁴

⁸² Expressed mathematically: Candidate A has 45%, Candidate B has 30%, Candidate C has 25% first-choice votes. Candidate C is eliminated, but the *second* choices of Candidate C voters are added to the tally of either Candidate A or B. If 81% of Candidate C voters named Candidate B as their second choice, then 20.25% of the total vote ($25\% \times .81$) would be added to Candidate B and 4.75% of the total vote ($25\% \times .19$) would be added to Candidate A. Candidate B now has 50.25% of the vote and wins the election.

⁸³ This scenario, which is not at all implausible, has further implications worth drawing out. First, under the ranked choice system both the “Black Voter Base” and “Diverse Voter Base” candidates would have strong reasons to run, and their supporters would have strong reasons to vote for their preferred candidate. Conversely, in a first past the post system, there might be strong pressure for one of these candidates to drop out in order to consolidate a challenge to the presumed front-runner. There would be genuine competition to earn the spot as the candidate with the second-most first-choice votes, and thereby have a chance to be elected if the top candidate falls short of 50%. Second, all the candidates would have strong reason to treat each other and each other’s voter bases with respect, since the second choices of voters matter. Importantly, in this scenario the “White Voter Base” candidate will have strong incentive to cultivate voters from outside their primary base, to earn enough second choice votes to allow them to garner over 50% in the second phase of voting.

⁸⁴ Projections in this section are based on voting-age population in each Council district in 2000, using lines in place at the time of the Census (and of the 2000 elections), and the 2020 voting-age population in each Council district

- In the 6th District, the proportion of voting-age Black adults declined from 89.6% in 2000 to 60.3% in 2020 (current district lines). If that trend continues at the same rate, the 6th District will be 45.7% Black in 2030.
- In the 7th District, the proportion of voting-age Black adults declined from 81.4% in 2000 to 47.6% in 2020 (current district lines). If that trend continues at the same rate, the 7th District will be 30.7% Black in 2030.
- In the 8th District, the proportion of voting-age Black adults declined from 65.9% in 2000 to 59.7% in 2020 (current district lines). If that trend continues at the same rate, the 8th District will be 56.6% Black in 2030.
- In the 9th District, the proportion of voting-age Black adults declined from 65.4% in 2000 to 54.1% in 2020 (current district lines). If that trend continues at the same rate, the 9th District will be 48.5% Black in 2030.
- In summary, if current demographic trends continue at the same rate, by 2030 Black adults may constitute a majority of the voting-age population in just one district, and constitute at least 40% of the voting-age population in just four districts. In that circumstance, continuing the 5 of 9 system very likely would harm rather than help Black voting strength and the capacity for Black voters to influence the outcome of elections, compared to adopting Ranked Choice Voting.
- **It is by no means certain that these demographic trends will continue at their present rate; they may slow or reverse; or they may accelerate.** Further, the Commission does not recommend any changes in electoral procedures for the 2024 elections.
- However, the Commission does advise that, if the current nine-district Mayor-Council system is maintained over the long run, the City assess mid-decade (2025) demographic trends based on available Census data, with a view to asking whether shifting to a ranked choice voting system for the 2028 general election better protects minority voting interests compared to the 5 of 9 system; and that if no change is made at that time, that the data be assessed again following the 2030 decennial Census prior to the 2032 general election.

Additional Comments

- This appendix has only focused on voting power as relates to Black and white Richmond residents, which historically has been a question of paramount importance in the city. However, a comprehensive analysis also must consider the 16.5% of voting-age persons who belong to another group, including Latinos, Asians, and persons who identify as multiracial.
- The effectiveness of any specific mechanism for protecting minority voting interests is highly contingent on the underlying facts and demographics. Changing demographics

using *current, post-redistricting lines* adopted in the 2021-22 decennial redistricting process. The redistricting process shifted voters between the 3rd and 6th districts with the effect of slightly increasing the share of Black voting-age adults in the 6th (from 57.6% to 60.3%) and reducing it in the 3rd (from 53.7% to 50.3%) compared to the lines in place during the 2020 elections. The post-2020 redistricting process impacted the proportion of the Black voting-age population by 0.7% or less in the other seven districts, including by 0.1% or less in five districts. Basing the projection on current district lines as opposed to the lines that were in place in 2020 does not alter the overall analysis or its conclusion (that if current trends continue, by 2030 there likely will be only one or two Council districts where a majority of voting-age adults are Black.)

may make tools that once were effective in protecting minority voting interests ineffective, or even damaging, to those same interests.

- As the community changes and evolves, existing mechanisms need to be re-examined. A healthy community must be capable of adjusting processes and mechanisms to meet new circumstances, even while maintaining the same commitments to equitable voting procedures that motivated existing arrangements.
- Any future change in voting procedure, particularly changes that impact what voters actually do at the ballot box, should be preceded by a massive public education campaign to familiarize voters with the new procedure and assure that the new procedure is equitably implemented.
- This appendix is a preliminary conceptual analysis of the implications of demographic changes for the city's voting procedures. It is not a legal analysis. Any changes in the City's voting procedures must undergo thorough legal review in accordance with state and federal law.

Appendix D. Summary of Council Composition and Method of Election for Council and Mayor for Virginia Independent Cities

<i>City</i>	<i>Approx. 2021 population</i>	<i>Council Composition and Method of Election for Council & Mayor</i>
Richmond City	(1) 227,000	9 Council members elected by ward, 1 Mayor elected at large (5 of 9 wards). Terms not staggered (4 years).
<i>Select Comparison Cities</i>		
Norfolk	(2) 235,000	5 Council members elected by ward, 2 by super-ward, 1 Mayor elected at large. Term staggered (4 years), with election for 5 ward members alternating with elections for super-ward members and Mayor.
Virginia Beach	(3) 458,000	10 Council members elected by ward, 1 Mayor elected at large. Terms staggered (4 years). (Current system recently adopted under federal guidance.)
Chesapeake	(4) 251,000	8 Council members and 1 Mayor elected at large. Terms staggered (4 years).
<i>Other Virginia Cities</i>		
Alexandria	(5) 155,000	6 Council members and 1 Mayor elected at large. Terms not staggered (3 years).
Bristol	(6) 17,000	5 Council members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Buena Vista	(7) 7,000	6 Council members elected at large, 1 Mayor elected at large. Terms staggered (4 years for Council, 2 years for Mayor).
Charlottesville	(8) 46,000	5 Council members elected at large, 1 of which serves as Mayor. Terms staggered (4 years)
Colonial Heights	(9) 18,000	7 Council members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Covington	(10) 6,000	5 Council members elected by ward, 1 of which serves as Mayor. Terms staggered (4 years).
Danville	(11) 42,000	9 Council members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Emporia	(12) 6,000	7 Council members elected by ward, 1 Mayor elected at large. Terms staggered (4 years).
Fairfax	(13) 24,000	6 Council members elected at large, 1 Mayor elected at large. Terms not staggered (2 years).
Falls Church	(14) 14,000	7 Council members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Franklin	(15) 8,000	6 Council members elected by ward, 1 Mayor elected at large. Terms staggered (4 years for Council, 2 for Mayor).
Fredericksburg	(16) 28,000	4 Council members elected by ward, 2 Council members elected at large, 1 Mayor elected at large. Terms staggered (4 years, alternating between ward and at-large elections).
Galax	(17) 7,000	7 Council members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Hampton	(18) 138,000	6 Council members elected at large, 1 Mayor elected at large. Terms staggered (4 years).

Harrisonburg (19) 51,000	5 Council members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Hopewell (20) 23,000	7 members elected by ward, 1 of which serves as Mayor. Terms staggered (4 years).
Lexington (21) 7,000	6 members elected at large, 1 Mayor elected at large. Terms staggered (4 years).
Lynchburg (22) 79,000	7 members; 4 elected by ward, 3 at large, 1 of which serves as Mayor. Terms staggered (4 years, alternating between ward and at-large elections).
Manassas (23) 43,000	6 Council members elected at large, 1 Mayor elected at large. Term staggered (4 years).
Manassas Park (24) 17,000	6 Council members elected at large, 1 Mayor elected at large. Term staggered (4 years).
Martinsville (25) 14,000	5 members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Newport News (26) 185,000	6 members elected from 3 wards, 1 Mayor elected at large. Terms staggered (4 years).
Norton (27) 4,000	5 members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Petersburg (28) 33,000	7 members elected by ward, 1 of which serves as Mayor. Terms staggered (4 years).
Poquoson (29) 13,000	6 members elected from 3 wards, 1 Mayor elected at large. Terms staggered (4 years).
Portsmouth (30) 98,000	6 members elected at large, 1 Mayor elected at large. Terms staggered (4 years).
Radford (31) 16,000	4 members elected at large, 1 Mayor elected at large. Terms staggered (4 years).
Roanoke (32) 99,000	6 members elected at large, 1 Mayor elected at large. Terms staggered (4 years).
Salem (33) 25,000	5 members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Staunton (34) 26,000	7 members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Suffolk (35) 96,000	7 members elected by ward, 1 Mayor elected at large. Terms staggered (4 years).
Waynesboro (36) 23,000	4 members elected by ward, 1 at large, 1 of which serves as Mayor. Terms staggered (4 years).
Williamsburg (37) 16,000	5 members elected at large, 1 of which serves as Mayor. Terms staggered (4 years).
Winchester (38) 28,000	8 members elected from 4 wards (2 per ward). 1 Mayor elected at large. Terms staggered (4 years).

Notes: 21 Virginia cities have an elected Mayor, 17 have a Mayor elected from among Council members. 36 of 38 cities have staggered terms for Council. Richmond is the only city with 4-year City Council terms, not staggered.

In Richmond, the elected Mayor appoints a Chief Administrative Officer with consent of Council, who serves at the pleasure of the Mayor. In all other Virginia cities, Council appoints a City Manager, who serves at the pleasure of Council.

In Richmond, the Mayor is not a member of City Council. In the vast majority of Virginia cities, the Mayor is a full voting member of City Council and also presides over City Council; in a small number of cases, the Mayor presides over Council, but does not vote except to break ties.

Appendix E. Summary of Form of Government for Southeastern Cities, Population 180,000 to 300,000

	Form of Government	Members of Council	At-Large/Ward	Role of Mayor
Birmingham, AL (198k)	Mayor-Council	9	Ward	CEO
Huntsville, AL (217k)	Mayor-Council	5	Ward	CEO
Mobile, AL (185k)	Mayor-Council	7	Ward	CEO
Montgomery, AL (199k)	Mayor-Council	9	Ward	CEO
Little Rock, AR (202k)	Council-Manager	10	7 Ward/3 at-large	Various*
Augusta, GA (201k)	Mayor-Commission	10	Ward	Leads Commission
Columbus, GA (206k)	Mayor-Council	10	8 Ward/2 at-large	Various*
Baton Rouge, LA (222k)	Mayor-Council	12	Ward	CEO
Shreveport, LA (184k)	Mayor-Council	7	Ward	CEO
Durham, NC (286k)	Council-Manager	7	3 Ward/4 at-large	Leads Council
Fayetteville, NC (209k)	Council-Manager	10	9 Ward/1 at-large	Leads Council
Greensboro, NC (298k)	Council-Manager	9	5 Ward/4 at-large	Leads Council
Winston-Salem, NC (250k)	Council-Manager	9	8 Ward/1 at-large	Leads Council
Chattanooga, TN (182k)	Mayor-Council	9	9 Ward	CEO
Knoxville, TN (193k)	Mayor-Council	9	6 Ward/3 at-large	CEO
Chesapeake, VA (251k)	Council-Manager	9	8 Ward/1 at-large	Leads Council
Newport News, VA (185k)	Council-Manager	7	6 Ward/1 at-large	Leads Council
Norfolk, VA (235k)	Council-Manager	8	7 Ward/1 at-large	Leads Council
Richmond, VA (227k)	Mayor-Council	9	9 Ward	CEO

- In Columbus, Georgia, the Mayor nominates key administrative officers, can initiate their dismissal, presides over the Council, and has a tie-breaking vote on Council.
- In Little Rock, Arkansas, the Mayor presides over the Council and nominates the City Manager.
- This list includes mid-sized cities from the states of Arkansas, Louisiana, Mississippi, Alabama, Tennessee, Georgia, South Carolina, North Carolina, and Virginia.
- Each of these cities have directly elected Mayors.

Appendix F

Memorandum on Forms of Government submitted to the City Charter Review Commission by University of Virginia School of Law State and Local Government Policy Clinic, April 18, 2023.

Appendix G

Memoranda on Richmond City Charter submitted to the Deputy City Attorney for the use of the City Charter Review Commission, June 8, 2023, July 19, 2023, and July 24, 2023.

Appendix H

Ordinance 2021-347 Establishing the Charter Review Commission.

MEMORANDUM

To: Richmond City Charter Review Commission
From: Michael Pruitt, Maya Artis, and Andrew Block
Re: Social Science Research on Different Forms of Local Governance
Date: April 18, 2023

INTRODUCTION

At the request of the leadership of the Richmond City Charter Review Commission (the Charter Commission) we have examined, and describe below, the social science research on the benefits and costs of different kinds of local governance, with a particular focus on comparing Mayor-Council models with Council-Manager models. To provide context for a discussion of the research, we have also summarized the balance of power and allocation of decision-making authority under the current charter and provided a brief overview of some of the stakeholder feedback the Charter Commission has received on these issues.

EXECUTIVE SUMMARY

Richmond currently uses a moderated Mayor-Council form of government: while the mayor is the chief executive officer, the mayor exercises authority largely through the chief administrative officer (CAO) whose mayoral appointment is approved by council. The CAO then serves at the pleasure of the mayor and exercises exclusive authority of hiring and firing city officers, including department heads. Research and theory suggest some differences in outcomes between Mayor-Council and Council-Manager systems. Mayor-Council systems like Richmond's result in more political engagement from residents, a government that's more responsive to resident concerns, and a greater capacity to lobby and counter state government. Council-Manager systems result in slightly more economic stability, more innovative government practices, and a reduced likelihood of corruption. Experts attribute the benefits in the Council-Manager system to the political insulation it offers staff, creating a more professional culture. Richmond's current system captures the benefits of the Mayor-Council system while still providing political insulation for staff.

RESEARCH METHODS

To prepare this memo we conducted a range of research including:

- (1) Reviewing the history and text of Richmond's current charter, with a particular focus on those sections allocating decision authority between city council, the mayor, and the chief administrative;

- (2) Analyzing the summary of the feedback received by Charter Commission members from elected and appointed officials in Richmond;
- (3) With the help of law librarians at the University of Virginia, gathering and reading scholarship on different forms of local government and governance, including an article summarizing and synthesizing the known body of literature on the topic up to 2015—76 empirical studies comparing the effects of local government structure.
- (4) We have also consulted with Professor Richard Schragger, a national expert on local government law.

BACKGROUND

To better understand the research on effectiveness of various forms of local government and, in particular, the difference between council/manager and council/mayor systems, it is helpful to remember how decision-making authority is divided under the current charter. In this section we provide a brief review of some the allocation of decision-making authority between city council, the mayor, and the chief administrative officer (CAO).

- **ANALYSIS OF THE RICHMOND CHARTER**

In general, the current charter divides decision making authority between the mayor, city council, and the CAO. While in many ways it sets up a traditional executive/legislative branch system, it splits the executive functions between the mayor and the CAO in ways that appear designed to insulate the CAO from political pressures from either the mayor or the city council.

- **General Powers of the Council**

The charter gives the city council the power to organize the structure of the city government. This includes the power to establish or dissolve city departments, boards, and commissions, pass ordinances, set compensation and roles for city employees and officers, and amending, modifying, and eventually approve the city budget. The council is responsible for providing for the organization, conduct and operation of all departments, bureaus, divisions, boards, commissions, offices and agencies of the city.¹

- **General Powers of the Mayor**

The Charter recognizes the mayor as the chief executive officer of the city, with ultimate responsibility for the “(P)roper administration of city government.”²

- **Hiring and Firing of the Chief Administrative Officer**

The mayor, with the advice and consent of a majority of the council, has the power to appoint the CAO, “solely” on the basis of their “executive administrative qualifications, with special reference to [their]

¹ RICHMOND, VA., CITY CHARTER § 4.02 (2018).

² RICHMOND, VA., CITY CHARTER § 5.01 (2018).

experience in or knowledge of accepted practice with respect to the duties of [their] office.”³ The CAO serves at the pleasure of the mayor, meaning that the mayor has sole authority to fire the CAO.

- **Hiring, Supervision, and Firing of Agency & Department Heads**

The charter gives the CAO the authority to appoint, supervise, and fire the heads of all city departments, and, unless terminated by the CAO, such employees shall serve indefinite terms. Significantly, while the mayor and the city council can communicate concerns about city employees to the CAO, the decision to discipline or fire is the CAO’s alone.⁴ Likewise, the charter makes clear that, “[e]xcept for the purpose of inquiry, the mayor, council and its members shall deal with the administrative services solely through the chief administrative officer, and neither the mayor, council nor any member thereof shall give orders either publicly or privately to any subordinate of the chief administrative officer.”⁵

- **Passing Ordinances**

The city council has the authority to propose and pass new ordinances. The mayor, subject to council override, can veto any ordinance.⁶

- **Budgeting**

The charter gives the mayor the responsibility, based on input from the different agency and department heads, to prepare and present the budget to the city council for consideration and approval.⁷ The city council, in turn, has the ability to amend the proposed budget, so long as it stays balanced, prior to final approval. Once approved, the mayor has the authority to veto any section of the budget ordinance, such veto being subject to council override.⁸

- **Amending the Budget**

If sufficient funds are available, the city can amend the budget throughout the fiscal year. However, the request to amend the budget must come from the mayor, and the council must approve any such request.⁹

- **Representing the City**

The City Attorney is the main legal advisor for “the council, the mayor, the chief administrative officer, and all departments, boards, commissions and agencies of the city in all matters affecting the interests of the city. The city attorney shall perform particular duties and functions as assigned by the council.”¹⁰ The City Attorney is appointed by the council and “shall serve at its pleasure, and shall devote full time and attention to the representation of the city and the protection of its legal interests.”¹¹

³ RICHMOND, VA., CITY CHARTER § 5.01.1 (2018).

⁴ RICHMOND, VA., CITY CHARTER § 5.03 (2018).

⁵ *Id.*

⁶ RICHMOND, VA., CITY CHARTER § 5.05 (2018).

⁷ RICHMOND, VA., CITY CHARTER § 5.05 (2018).

⁸ RICHMOND, VA., CITY CHARTER § 6.11 (2018).

⁹ RICHMOND, VA., CITY CHARTER § 6.16 (2018).

¹⁰ RICHMOND, VA., CITY CHARTER § 4.17 (2018).

¹¹ *Id.*

- **STAKEHOLDER FEEDBACK**

The Charter Commission sent “interview requests to those with experience in the Richmond City government”¹² to get feedback about the different city officials and administration practices. Overall, most of the interviewees “*thought that the current structure should essentially stay the same, with tweaks to improve what was intended from the 2002 effort.*” We briefly summarize some of that feedback, which was shared with the Charter Commission at a previous meeting, below:

- **Budget**

- (a) The administration should have the ability to transfer money between departments, without the need for introducing an ordinance and with a more streamlined schedule.
- (b) The council needs to have more involvement in the “formation process” of the budget, potentially with the creation of a budget committee that regularly meets throughout the year.

- **Chief Administrative Officer**

- (a) The CAO has too much authority independent of the mayor.
- (b) Disagreement about whether the council has too little input in the selection and the retention of the CAO.
- (c) There is concern that the CAO can be a purely political appointment, with no experience required.

- **City Attorney**

- (a) The CA is viewed as sometimes having an inherent conflict when the Council and Administration “are at loggerheads on an issue.”
- (b) There is a disagreement about whether the CA should be hired and fired solely by the council.
- (c) The CA has too much power to unilaterally stop any government action
- (d) Most of the work of the CA’s office is focused on administration and there is less of a focus on the council.

- **Council**

Regarding the council, the stakeholders asked the Commission to consider the following:

- (a) Improving the pay of some of the council members
- (b) Expressly permitting or prohibiting individual council members from directing executive employees
- (c) The implementation of ranked choice voting to account for lack of a primary
- (d) The council’s authority regarding economic development

¹² This group included current top administrators, current and former mayors, current and former city council presidents, current and former city attorneys, and current members of city council.

- **Mayor**

Many of the community members interviewed felt that the current system is not truly a “strong mayor” system and it could be worth considering:

- (a) Giving the mayor a line-item veto power
- (b) Whether or not the mayor should have a role in the process to create departments
- (c) Whether the mayor should be required to sign ordinances

RESEARCH ON ADVANTAGES AND DISADVANTAGES OF DIFFERENT SYSTEMS

Both experts and laypeople alike broadly categorize local governments into two types: Council-Manager systems and Mayor-Council systems. In a Council-Manager system, the council holds both the executive and legislative authority, while in a Mayor-Council system, the council holds legislative authority while the mayor holds executive authority. The relationship of power defines the systems rather than the presence of specific officers: Council-Manager systems often have a mayor and Mayor-Council systems often have a manager. The Council-Manager system rose to prominence in the early 1900s, when it was seen as a nonpartisan and efficient alternative to fractious and often-corrupt mayoral systems.¹³

Though discussion may focus on the distinction between a Council-Manager system and a Mayor-Council system,¹⁴ this binary oversimplifies matters and, just as the Richmond City Charter itself is nuanced, does not account for a range of factors in how local governments manage themselves. Nelson and Svara, for example, identify seven different types of local government structures by looking at distinctions in both how a mayor is elected and the process for nominating the chief administrative officer (CAO).¹⁵ They place these structures in order to create a scale of increasing mayoral power.¹⁶ Using this scale, Richmond’s system, with an elected mayor who nominates a City Administrator whom the council approves, is placed fifth on the one-to-seven scale of mayoral power. Other scholars use a multivariate system to analyze local government structures. Wei uses seven independent variables, such as mayoral election method, budget and veto power, partisan nature of elections, and the use of at-large elections, to place government systems on a scale of more managerial governments versus more political governments.¹⁷

Analysis of the advantages and disadvantages of different systems, then, should be considered in terms of poles on a spectrum rather than a binary toggle. On one end of options is a highly “political” system with a powerful, independent mayor, partisan district-based elections, and no CAO. On the other end of options is a very

¹³ Kimberly L. Nelson & Whitney B. Alfonso, *Ethics by Design: The Impact of Form of Government on Municipal Corruption*, 79 PUB. ADMIN. REV. 591, 591 (2019). See generally, Richard C. Schragger, *Can Strong Mayors Empower Weak Cities? On the Power of Local Executives in a Federal System*, 115 YALE L.J. 101 (2005).

¹⁴ This extends to the work of major luminaries in the field. See, e.g., Jered B. Carr, *What Have We Learned about the Performance of Council-Manager Government? A Review and Synthesis of the Research*, 75 PUB. ADMIN. REV. 673 (2015). This use of a dichotomous structure remains valuable for researchers, but for the project of reforming a local government system, a more complex spectrum provides more utility.

¹⁵ Kimberly L. Nelson & James H. Svara, *Form of Government Still Matters: Fostering Innovation in U.S. Municipal Governments*, 43 AM. REV. PUB. ADMIN. 257, 258, 260-61 (2012).

¹⁶ *Id.* at 258, 261.

¹⁷ Wenchu Wei, *Municipal Structure Matters: Evidence from Government Fiscal Performance*, 82 PUB. ADMIN. REV. 160, 163 (2020).

“managerial” system, with a largely ceremonial mayor (or no mayor at all), nonpartisan at-large elections, and a robust CAO’s office.

- **Economic Stability**

Researchers have consistently found that more managerial council-manager governments feature higher measured economic stability, with measures of stability improving the further a government sat on the “managerial” end of the spectrum.¹⁸ Researchers commonly look at the governments’ solvency to measure economic stability, but also may use variables such as reliance on intergovernmental (i.e. state and federal) transfers, debt ratio, and operating budget balances.¹⁹

These outcomes are statistically robust: even when the analysis includes a wide range of additional factors, the correlation between government system and economic stability remains strong, indicating causation.²⁰ The magnitude of improved financial stability, however, may be low. Jimenez, comparing two opposite poles of the spectrum, found only a net change in improved budget solvency of \$4 – \$5 million—a “relatively modest amount[.]”.²¹ Additionally, Wei suggests that government structure appears to moderate the impact of external environmental factors on stability.²² Put differently, factors that normally would result in either lower stability (such as low area incomes) or higher economic stability (such as a strict state-imposed tax system) had their impact reduced in more managerial systems.²³ Wei theorizes that this form of government owes this moderation to a more professional staff capable of applying novel techniques to manage their budget in the face of various conditions.

- **Innovation**

With important qualifications discussed below, studies frequently link measures of government innovation to more managerial systems, finding higher levels of innovation in Council-Manager systems and in those governments with more managerial features.²⁴ In systems with less executive authority and autonomy in a mayor, innovation occurs more frequently.²⁵ Researchers measure innovation—the ability to tailor local

¹⁸ *Id.*

¹⁹ Benedict S. Jimenez, *Municipal Government Form and Budget Outcomes: Political Responsiveness, Bureaucratic Insulation, and the Budgetary Solvency of Cities*, 30 J. PUB. ADMIN. RSCH. & THEORY 161 (2020); Wenchi Wei, *Municipal Structure Matters: Evidence from Government Fiscal Performance*, 82 PUB. ADMIN. REV. 160 (2020).

²⁰ Wenchi Wei, *Municipal Structure Matters: Evidence from Government Fiscal Performance*, 82 PUB. ADMIN. REV. 160, 167 Table 4 (2020); Benedict S. Jimenez, *Municipal Government Form and Budget Outcomes: Political Responsiveness, Bureaucratic Insulation, and the Budgetary Solvency of Cities*, 30 J. PUB. ADMIN. RSCH. & THEORY 161, 173-75 (2020).

²¹ Benedict S. Jimenez, *Municipal Government Form and Budget Outcomes: Political Responsiveness, Bureaucratic Insulation, and the Budgetary Solvency of Cities*, 30 J. PUB. ADMIN. RSCH. & THEORY 161, 175 (2020).

²² Wenchi Wei, *Municipal Structure Matters: Evidence from Government Fiscal Performance*, 82 PUB. ADMIN. REV. 160, 171 (2020).

²³ *Id.* at 169.

²⁴ See, e.g., Amir Hefetz and Mildred Warner, *Privatization and Its Reverse: Explaining the Dynamics of the Government Contracting Process*, 14 J. PUB. ADMIN. RSCH. & THEORY 171 (2004); Jonathan Levin & Steven Tadelis, *Contracting for Government Services: Theory and Evidence from U.S. Cities*, 58 J. OF INDUS. ECON. 507 (2010); Amir Hefetz, Mildred Warner & Eran Vigoda-Gadot, *Privatization and Intermunicipal Contracting: The U.S. Local Government Experience 1992-2007*, 30 ENV’T & PLAN. C: GOV’T & POLICY 675 (2012); Kimberly L. Nelson & James H. Svara, *Form of Government Still Matters: Fostering Innovation in U.S. Municipal Governments*, 43 AM. REV. PUB. ADMIN. 257, 261-67 (2012) (presenting findings and summarizing other literature on local government innovation).

²⁵ Kimberly L. Nelson & James H. Svara, *Form of Government Still Matters: Fostering Innovation in U.S. Municipal Governments*, 43 AM. REV. PUB. ADMIN. 257, 269 (2012).

policies and adopt new techniques—using a variety of metrics, including patterns of service contracting,²⁶ the adoption of “e-government” technology,²⁷ and the use of strategic planning, among other factors.²⁸

However, these results do not map linearly across the continuum of managerial authority: relevant factors appear to be the use of an appointed administrative officer and a system that compels mayors and councilors to collaborate in the selection of said officer.²⁹ These results are further moderated by two issues. First, as with economic stability, the results do not show a dramatic difference in magnitude between the innovation levels of even the most polar governments.³⁰ Additionally, while at least four studies have found robust correlations between government structure and innovation, an even larger number have produced no statistically significant results in either direction (a “null result”).³¹

Systems also differ considerably in the *types* of policy innovations they deploy. Both data and intuition suggest that more political, strong-mayoral systems showcase innovation of a different sort: namely, high-profile policy decisions that are particularly salient to voters. Scholars reason that in more politically-driven localities with strong mayors, mayors need to implement “big” policy shifts that address issues of particular significance to voters in order to maintain support—a need that more managerial regimes mitigate.³² This comes at the risk, however, of reliance on policy interventions with “questionable effectiveness” that promise highly-visible benefits with widely dispersed costs over more proven yet less politically expedient strategies.³³ Politically-minded mayoral governments also appear to produce larger volumes of symbolic policy.³⁴ In contrast, more managerial systems show a tendency toward comprehensive, strategic policies that touch multiple areas of governance.³⁵ Like the issue of innovation frequency, researchers have looked into this proposition extensively and, while finding considerable support in data, have also produced frequent null findings.³⁶ This muddies the findings somewhat and makes generalizations more challenging.

- **Public Engagement**

More politically-driven, strong mayoral systems consistently produce higher levels of voter participation.³⁷ This finding is robust, consistent across multiple studies, and presents a large magnitude of difference across

²⁶ See Amir Hefetz and Mildred Warner, *Privatization and Its Reverse: Explaining the Dynamics of the Government Contracting Process*, 14 J. PUB. ADMIN. RSCH. & THEORY 171 (2004); Jonathan Levin & Steven Tadelis, *Contracting for Government Services: Theory and Evidence from U.S. Cities*, 58 J. OF INDUS. ECON. 507 (2010); Amir Hefetz, Mildred Warner & Eran Vigoda-Gadot, *Privatization and Intermunicipal Contracting: The U.S. Local Government Experience 1992-2007*, 30 ENV'T & PLAN. C: GOV'T & POLICY 675 (2012).

²⁷ Kimberly L. Nelson & James H. Svara, *Form of Government Still Matters: Fostering Innovation in U.S. Municipal Governments*, 43 AM. REV. PUB. ADMIN. 257, 264-67 (2012).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ Jered B. Carr, *What Have We Learned about the Performance of Council-Manager Government? A Review and Synthesis of the Research*, 75 PUB. ADMIN. REV. 673, 681 (2015) (citing studies with null results).

³² *Id.* at 675-78.

³³ *Id.* at 678 (quoting Richard C. Feiock, Moon-Gi Jeong & Jaehoon Kim, *Credible Commitment and Council-Manager Government: Implications for Policy Instrument Choice*, 63 PUB. ADMIN. REV. 616, 623 (2003)).

³⁴ See generally, Rachel Krause, *Policy Innovation, Intergovernmental Relations, and the Adoption of Climate Protection Initiatives by U.S. Cities*, 33 J. URB. AFFS. 45 (2011)

³⁵ Jered B. Carr, *What Have We Learned about the Performance of Council-Manager Government? A Review and Synthesis of the Research*, 75 PUB. ADMIN. REV. 673, 675 (2015).

³⁶ *Id.* at 67.

³⁷ *Id.* at 678-79.

systems; voter participation is the largest, most consistent differential outcome between local government systems.³⁸ This finding proves consistent with theory: more political systems produce incentives for elected officials to engage more frequently with constituents and motivate those constituents to go to the polls. Powerful mayors present a prominent, culturally-salient touchstone for political life that encourages more active voting.

Some have theorized that managerial systems may produce greater public engagement in different non-electoral modes. A manager's office may be more inclined to seek constituent input and build policy consensus using public hearings, surveys, and online outreach³⁹ due to factors like political insulation⁴⁰ and an ethos of professional best-practices.⁴¹ The evidence for this theory, however, remains weak. As of 2015, only three studies explored the question, of which two produced a null result and the third presented a low-magnitude trend in favor of managerial systems.⁴²

- **Countering State and Federal Interests**

Powerful mayors in more political systems may be more effective in asserting local independence by countering state and federal government actors to advance city interests than similarly situated managerial local governments. Because this proposition is difficult to quantify, scholars rely on theory and anecdote rather than empirical data to argue its accuracy.

Schragger outlines a conception of a strong mayor who is “populist, constitutionally self-confident, [and] politically subversive” as a possible counterbalance to the centralization of political power at the state and national level.⁴³ The clear lines of accountability and the possibility for agile government action make strong mayors more capable of channeling local interests toward higher levels of government. The mayor can interact with other levels of government both collaboratively and combatively: Schragger notes the example of both New York's Giuliani, able to request grants of considerable power from the state due to his broad political appeal,⁴⁴ and San Francisco's Newsom, legally challenging California's marriage licensing regulations through his unilateral decision to issue licenses on a gender-neutral basis.⁴⁵

However, these efforts appear to produce mixed results.⁴⁶ What power local mayors *do* exert over state and federal government interests might owe largely to their ability to marshal voters: because mayors themselves create more politically-engaged communities, they are able to influence electoral outcomes for “up ticket” state and Congressional candidates in the same location, thus earning a degree of fealty.⁴⁷

³⁸ *Id.*

³⁹ Tina Nabatchi & Lisa Blomgren Ansler, *Direct Public Engagement in Local Government*, 44 AM. POL. SCI. REV. 63S (2014).

⁴⁰ Howard Frant, *High-Powered and Low-Powered Incentives in the Public Sector*, 6 J. PUB. ADMIN. RSCH. & THEORY 365 (1996).

⁴¹ James H. Svara & Kimberly L. Nelson, *Taking Stock of the Council-Manager Form*, 90 PUB. MGM'T 6 (2008); Kimberly L. Nelson & *Repercussion of Reform: The Effect of Municipal Form of Government on Citizen Participation Strategies*, 3 J. PUB. ADMIN. 25 (2010).

⁴² Jered B. Carr, *What Have We Learned about the Performance of Council-Manager Government? A Review and Synthesis of the Research*, 75 PUB. ADMIN. REV. 673, 679 (2015).

⁴³ Richard C. Schragger, *Can Strong Mayors Empower Weak Cities? On the Power of Local Executives in a Federal System*, 115 YALE L.J. 101, 132 (2005).

⁴⁴ Interview with Richard C. Schragger, Prof., U. Va. Sch. L., Albemarle Cnty. (Feb. 17, 2023).

⁴⁵ Richard C. Schragger, *Can Strong Mayors Empower Weak Cities? On the Power of Local Executives in a Federal System*, 115 YALE L.J. 101, 132 (2005).

⁴⁶ *Id.* at 126.

⁴⁷ *Id.* at 127.

CONCLUSION

It is important to note that, in many respects, the current charter aligns with the primary benefits suggested by the research and blends different aspects of both a Mayor-Council form of government with a Council-Manager form. The current charter provides for a mayor as the chief executive of the city who is elected via a city-wide race. This structure, according to the scholarship, is likely to elevate voter engagement and ownership, while also providing a figure and a leader who can advocate for the city in Virginia's Dillon rule political system.

Likewise, by insulating some of the CAOs' decision-making (most notably, the hiring and firing of department heads) from both the mayor and city council, the current charter, at least in theory, allows for the kind of professional management that the research suggests leads to more positive outcomes in terms of innovation and economic stability.

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June 8, 2023

(report revised)

Tabrica C. Rentz, Esq.
Deputy City Attorney
Office of the City Attorney
900 East Broad Street, Suite 400
Richmond, VA 23219

Re: Review of the Richmond City Charter

Dear Ms. Rentz:

I appreciate the opportunity to assist the City Attorney's Office with the review of the Richmond City Charter.

Virginia's cities get their powers from two sources, their charters, in which the General Assembly grants powers to a specific city and the general laws adopted by the General Assembly which confer powers to all cities.

When Virginia's older cities, such as Richmond, were granted their charters, there were few general laws granting powers to these cities. In the absence of general laws, city charters attempted to cover every detail of a city's operations, defining the organization, powers, functions and essential procedures of city government.

Over the years the General Assembly adopted an increasing number of general laws granting powers to cities, and there may be provisions in an older city's charter that are inconsistent with or duplicate the state's general laws. A city charter can also become complicated as a result of piecemeal revisions. Differences between the provisions in a charter and the Commonwealth's general laws can be confusing.

A city charter may benefit from a comprehensive review to identify obsolete provisions and provisions that duplicate general state laws. The length and detail of an older charter may discourage citizens interest in and understanding of the charter. Identifying and removing outdated provisions from a charter can make the charter easier to understand and help a city decide if it needs to amend existing charter provisions or add new ones.

More recent city charters (Chesapeake-1980 and Virginia Beach-1962) take the approach of relying on state laws for most of their general powers and do not include long lists of powers in their charters. Such charters state that they will have the powers and duties provided by the

general laws of the state and then include the special powers and duties that are specific to their localities and not provided by general law. For example, the Virginia Beach Charter contains the following provision:

The powers set forth in sections 15.1-837 through 15.1-907 of the Code of Virginia as in force on January 1, 1977, and as hereafter amended, are hereby conferred on and vested in the City of Virginia Beach. In addition thereto the City of Virginia Beach shall have and may exercise all other powers which are now or may hereafter be conferred upon or delegated to cities of the first class under the Constitution or laws of the Commonwealth, as fully and completely as though such powers were specifically enumerated in this Charter and no enumerations of particular powers in this Charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers.

As requested, I reviewed the Richmond City Charter to identify areas of the Charter that are contained in general law and could possibly be removed, and to identify areas of the Charter that appear to be outdated or otherwise inapplicable. My review did not include recommending policy changes. For example, Chapter 6. Budgets of the City Charter provides a much more detailed budget process for Richmond than is required by Title 15.2, Chapter 25 of the Virginia Code. It is a policy decision for the Richmond Charter Review Commission to decide if the current budget process meets the City's needs or should be revised.

In reviewing the City Charter, I placed my highest priorities on simplification, consistency with state law, and identifying any provisions in the Charter that give Richmond special powers that are not granted by general law. My observations and comments regarding the City Charter are as follows:

Chapter 2. Powers

- §2.02(a) of the City Charter sets forth the City's financial powers. The powers granted to the City in §2.03(a) are also granted to a city under the state's general laws. For example: Chapter 30 of Title 58.1 of the Virginia Code authorizes a city to levy taxes on real and tangible property, machinery and tools, to impose license taxes, and to impose various miscellaneous taxes; §58.1-3814 authorizes a city to impose a consumer utilities tax on the customers of utility services; §15.2-1104 authorizes a city to annually raise taxes and assessments on property, persons, and other subjects of taxation; §15.2-1104.1 authorizes a city to levy an admissions tax; the provisions in Chapter 21 of Title 15.2 authorize a city to establish rates and charges for public utility services; §15.2-2001 authorizes a city to establish highway user fees; etc. While I believe §2.03(a) could be removed from the City Charter since the financial powers granted to the City in §2.03(a) are also granted to the City under the state's general laws, it may make sense to keep §2.03(a) in the Charter so the summary of the City's financial powers is contained in one place instead of having to search for such powers among the various sections of the Virginia Code.

- §2.02(b) of the City Charter authorizing the City to borrow money could be removed from the City Charter. §15.2-1105 of the Virginia Code and Article VII, §7 of the Virginia Constitution authorize a city to borrow money.

- §2.02(c) of the City Charter authorizing the City to make appropriations could be

removed. Article VII, §7 of the Virginia Constitution authorizes a city to appropriate money.

- §2.02(e) of the City Charter authorizing the City to accept or refuse gifts, donations, bequests or grants could be removed. §15.2-1108 of the Virginia Code authorizes a city to accept or refuse gifts, donations, bequests or grants.

- §2.02(f) of the City Charter authorizing the City to provide support to public libraries and public schools could be removed. §42.1-33 of the Virginia Code authorizes a city to establish and support libraries, and § 22.1-88 of the Virginia Code and Article VIII, §2 of the Virginia Constitution authorize and require a city to provide funds to the public schools.

- §2.02(g) of the City Charter authorizing the City to provide financial aid to military companies and to charitable and benevolent institutions and corporations could be removed. §15.2-1112 of the Virginia Code authorizes a city to grant financial aid to military units and §15.2-953 authorizes a city to make donations of public funds, personal property and real estate to a variety of charitable, nonprofit institutions and associations.

- §2.03. Powers relating to public works, utilities and properties, of the City Charter sets forth the city powers relating to public works, utilities, and properties. The powers granted to the City in §2.03 are also granted to a city under the state's general laws. For example: §15.2-2001 of the Virginia Code authorizes a locality to lay out and maintain streets, sidewalks, and public rights of way; §15.1122 authorizes a city to operate parking lots; §15.2-1123 authorizes a city to operate an airport and related facilities; Chapter 21, Articles 2,3,4, and 5 of Title 15.2 authorize a city to operate public utilities; §15.2-1800 authorizes a city to operate, maintain, and regulate the use of its real property; §15.2- 1808 and §15.2-1811 authorize a city to operate stadiums, arenas, swimming pools and parks; §15.2-1800 and §15.2-2100 authorize a city to dispose of its property; §15.2-927 authorizes a city to provide refuse services; §33.2-700 authorizes a city to establish and maintain streets; etc. While I believe §2.03 relating to public works, utilities and properties, could be removed from the City Charter since the powers granted to the City in §2.03 are also granted to the City under the state's general laws, it may make sense to keep §2.03 in the Charter so the summary of the City's powers regarding public works, utilities, and properties are in one place instead of having to search for such powers among the various sections of the Virginia Code.

- §2.04(a) of the City Charter authorizing the City to provide for the prevention of vice, immorality, vagrancy, drunkenness, riots, suppression of houses of ill fame, gambling houses, lewd and disorderly conduct, etc. should be updated or removed from the Chapter. In recent years, most laws and ordinances regulating vice, immorality and vagrancy have been struck down as unconstitutional, so the City's ability to regulate such activities is questionable. Activities such as drunkenness, riots, suppression of houses of ill fame, gambling houses, lewd and disorderly conduct, etc. are covered by a variety of other laws and regulations. For example: §18.2-415 of the Virginia Code authorizes a city to adopt an ordinance regulating disorderly conduct in public places; §15.2-925 allows a city to regulate riots; §18.2-388 prohibits intoxication in public places; §15.2-907 authorizes a city to adopt an ordinance to deal with drug blighted properties; §15.2-908.1 authorizes a city to adopt an ordinance to deal with bawdy places and places of prostitution; §4.1-317 deals with places where alcoholic beverages are manufactured, stored, sold dispensed, given away or used in violation of law; etc.

- §2.04(b) and (k) of the City Charter authorizing the City to regulate the construction, maintenance and repair of buildings and structures could be removed. A local government's authority regarding the construction, maintenance, rehabilitation and repair of buildings and

structures is granted and regulated by the Uniform Statewide Building Code.

- The provision in §2.04(c) of the City Charter dealing with special police officers may need to be reviewed and updated. In 2003 the General Assembly amended Section 15.2-1737 of the Virginia Code to provide that all appointments of special police officers by the circuit courts “shall become void on September 15, 2004” and authorized the Virginia Department of Criminal Justice Services to develop training requirements for individuals who wanted to be appointed as special conservators of the peace. If Richmond’s special police officers are appointed by the circuit court judges such appointments would be questionable in view of the 2003 legislation. However, if Richmond’s special police officers are appointed by the police chief or the mayor it can be argued that since the Charter is special legislation it takes precedence over general laws and the 2003 amendments did not take away the Richmond’s authority to appoint special police officers pursuant to the City Charter.

- §2.04(d) of the City Charter authorizing the City to regulate the use of streets, alleys and public places and to grant permits and charge fees for the use of the same is not needed. §15.2-2017 of the Virginia Code prohibits utilities from using public streets and alleys without the consent of a city, §15.2-1800(E.) authorizes a city to maintain, and regulate the use of its real property, and §15.2-1125 authorizes a city to issue licenses and permits for the use of its streets, alleys and public places.

- §2.04(e) of the City Charter authorizing the City to deal with encroachments in the public rights of way could be removed. §15.2-2009, §15.2-2010 and §15.2-2011 of the Virginia Code give the City the authority to deal with encroachments in the public rights of way.

- §2.04(f) of the City Charter authorizing the City to regulate railroads could be removed. The preemption provisions contained in 49 U.S.C. 10501(b)(1) and the Interstate Commerce Commission Termination Act of 1995 shield railroad operations from local laws and regulations that might prevent or interfere with railroad operations. To the extent the City has the authority to regulate railroads, such authority does not come from the City Charter but from such regulatory powers as the Uniform Statewide Building Code, the Uniform Statewide Fire Code, erosion and sediment control regulations, zoning regulations, etc.

- §2.04(g) of the City Charter authorizing the City to regulate the operation of motor vehicles and exercise control over traffic could be removed from the City Charter. Chapter 13, §§46.2-1300 through 46.2-1314, of Title 46.2 of the Virginia Code give a city the authority to manage the operation of motor vehicles and exercise traffic control.

- §2.04(h) of the City Charter authorizing the City to regulate such things as: the production and distribution of milk; the regulation of water and sewer pipes; the construction of and use of septic tanks; the management of persons afflicted with contagious or infectious diseases; the regulation of private hospitals and convalescent homes; etc. could be removed. These types of issues are covered by a variety of other laws and regulations. For example: §15.2-1109 of the Virginia Code authorizes a city to regulate the production, storage, and sale of milk and food products and §15.2-1110 authorizes a city to regulate swimming pools lakes and other waters. Under state law the Virginia Department of Health also oversees the production and distribution of milk and foods, the construction and use of septic systems, the quarantine of persons afflicted with contagious and infectious diseases, and the operation of private hospitals,

convalescent homes, etc.; and, the Uniform Statewide Building Code regulates the construction and maintenance of plumbing fixtures and toilets.

- §2.04(i) of the City Charter authorizing the City to regulate cemeteries and burials could be removed. §15.2-1111 of the Virginia Code authorizes a city to regulate cemeteries and burials.

- §2.04(j) of the City Charter authorizing the City to regulate dangerous or unhealthy businesses, trade or employment and the transportation of offensive and dangerous substances is not needed. Section 15.2-1113 of the Virginia Code gives a city the authority to regulate dangerous, offensive or unhealthful businesses, trade or employment and to regulate the manufacture, storage, transportation of offensive and inflammable substances.

- §2.04(l) of the City Charter authorizing the City to regulate the emission of smoke, the installation and operation of fuel burning equipment, internal combustion engines and other sources of air pollution could be removed. §15.2-1116 of the Virginia Code authorizes a city to regulate smoke and fuel-burning equipment and Chapter 13 of Title 10.1 of the Virginia Code gives the Virginia Pollution Control Board the authority to control and regulate air pollution within the state.

- §2.04(m) of the City Charter authorizing the City to deal with nuisances could be removed from the City Charter. §15.2-900, §15.2-901, §15.2-906 and §15.2-1115 of the Virginia Code give a city broad authority to deal with nuisances.

- §2.04(n) of the City Charter authorizing the City to regulate the possession and use of explosive or inflammable substances, the use of fireworks, and firearms could be removed. The possession and use of explosive or inflammable substances and the use of fireworks is regulated by the Uniform Statewide Fire Code. Also, §15.2-1113 of the Virginia Code gives a city the authority to regulate dangerous businesses or employment, the transportation of offensive substances, and explosive or inflammable substances, the discharge of fireworks, and, §15.2-915 of the Virginia Code gives a city the authority to regulate firearms within the parameters of the statute.

- §2.04(o) of the City Charter authorizing City to regulate the making of fires in the streets, alleys and other public places is not needed. §15.2-1800(E.) of the Virginia Code authorizes the City to maintain, and regulate the use of its real property and the Virginia Uniform Statewide Fire Code regulates the making of fires.

- §2.04(p) of the City Charter authorizing the City to regulate the running at large and keeping of animals and fowl could be removed. §15.2-1108 of the Virginia Code authorizes a city to regulate the running at large and the keeping of animals and fowl.

- §2.04(r) of the City Charter authorizing the City to regulate: auctions; the sale of goods; pawnshops; the peddling or hawking of articles for sale on the public streets; the regulation of weights and measures; etc. could be removed. Various provisions of the Virginia Code give a city the authority to deal with these matters or deal with such matters at the state level. For example: §15.2-1114 of the Virginia Code authorizes a city to regulate auctions, pawnshops, secondhand dealers, peddling, fraud and deceit in sales, and weights and measures; §54.1-4001 and §54.1-4003 impose regulations on pawnshops; §15.2-913 authorizes localities to adopt ordinances that regulate door to door solicitation; §59.1-201 authorizes a locality to deal with

consumer protection complaints; the Virginia Department of Agriculture and Consumer Services has a Weights and Measures Bureau to oversee weights and measurements throughout the state; etc.

- §2.04(q) of the City Charter authorizing the City to prevent cruelty to and abuse of animals could be removed. Among other powers dealing with animals, the Virginia Comprehensive Animal Care Act gives a city the authority to deal with animal cruelty and abuse.

- §2.05(b) of the City Charter authorizing the City to provide and operate hospitals, sanatoria, convalescent homes, clinics, institutions, and facilities for the care and treatment of the sick, of children, the aged, and the destitute could be removed. §15.2-1119 of the Virginia Code authorizes a city to provide and operate hospitals for the sick, for children, the aged, and the destitute, and the indigent.

- §2.05(c) of the City Charter authorizing the City to provide care and public assistance for the poor could be removed. Article 2, of Title 63.2 of the Virginia Code authorizes and establishes the terms on which a city provides public assistance to the poor.

- §2.05(d) of the City Charter authorizing the City to establish and operate cemeteries could be removed. §15.2-1121 of the Virginia Code authorizes a city to provide and operate cemeteries.

- §2.05(g) of the City Charter dealing with bingo games and raffles could be removed. As a result of amendments to the Virginia Code, bingo games and raffles are no longer regulated by local governments, but are regulated by the Virginia Charitable Gaming Commission.

- §2.06 of the City Charter dealing with the enforcement of regulations could be removed. The provisions of §2.06 dealing with the establishment of penalties for violations of ordinances, requiring bonds of persons convicted of ordinances, appeals of convictions, and seeking injunctions are covered in §15.2-1429, §15.2-1430, §15.2-1431, and §15.2-1432 of the Virginia Code. §2.06 also provides that the bond for someone convicted of violating a city ordinance shall not be more than \$2,000, while §15.2-1430 provides that the bond shall not be more than \$5,000.

Chapter 3. Elections

- The provisions in Chapter 3 are consistent with the provisions of the Virginia Code and I do not see a need for any changes to Chapter 3 unless the Richmond Charter Review Commission believes some changes are needed.

Chapter 4. Council

- I recommend that §4.06 of the City Charter dealing with City Council's Rules of Procedure or City Council's Rules of Procedure be amended to include the following provision:

City Council's rules of procedure are designed and adopted for the benefit and convenience of the City Council. Their purpose is to help the City Council conduct its affairs in a timely and efficient manner. The rules of procedure incorporate the general principles of parliamentary procedure found in Robert's Rules of Order and applicable Virginia laws. The rules of procedure do not create substantive rights for third parties or

participants in proceedings before the City Council. Further, the City Council reserves the right to suspend or amend the rules of procedure whenever a majority of the Council decides to do so. The failure of the City Council to strictly comply with its rules of procedure shall not invalidate any action of the Council.

- Currently §4.07 of the City Charter provides that City Council must vote by roll call. The City may wish to amend §4.07 to allow voting by electronic means.

- Currently §4.09 of the City Charter provides ordinances must be “introduced in typewritten or printed form or a combination of both.” The City may wish to amend §4.09 to allow ordinances to be introduced in an electronic format.

- §4.15(a) of the City Charter gives City Council the authority to remove a member of a board or commission who was appointed for a specified term of office for malfeasance in office or neglect of duty. §4.15 is a special removal power that has not been granted to cities by the state’s general laws. While there is no general law authorizing a local governing body to remove a member of a board or commission, there are provisions in the Virginia Code that give a governing body the authority to remove members of specific boards and commissions. For example, the Virginia Code provides that a governing body may remove a member of a community services board for cause and provides that a governing body may remove a member of the planning commission for malfeasance in office or for missing too many meetings.

The Virginia Attorney General advises that when a board or commission is established pursuant to state law and the members of the board or commission have been given a specific term of office, a governing body does not have the authority to remove a member of the board or commission before the end of their term of office unless the state code gives the local governing body the power of removal. The Attorney General also advises when state law provides for the establishment of a board or commission but does not specify a term of office for the members of the board or commission, the authority of a governing body to appoint members to the board or commission includes the implied power to remove the members if the governing body decides it is appropriate to do so.

Since §4.15(a) of the City Charter gives City Council special authority to remove the members of boards and commissions before the end of their terms of office that is not granted to governing bodies by the state’s general laws, §4.15 should be preserved.

- §4.15(b) of the City Charter provides that any officer, appointee of the Council or employee of the City who shall be convicted on a charge involving moral turpitude or any felony or any misdemeanor involving possession of marijuana or controlled substances shall forfeit their office or employment. §24.2-230 through §24.2-238 of the Virginia Code provide a procedure by which local officers who are convicted of certain criminal offenses including the manufacture, sale, distribution or possession of any controlled substance or marijuana may be removed from office. Further, §24.2-231 of the Virginia Code provides that any person holding any “public office of honor, profit, or trust” who is convicted of a felony shall forfeit their office. However, there is no comparable provision to §4.15(b) in the Virginia Code which requires that a local officer, appointee, or employee who is convicted of a misdemeanor involving the possession of marijuana or controlled substances shall automatically forfeit their office or employment. The forfeiture of office/employment provision in §4.15(b) of the City Charter is more restrictive than state law and the Richmond Charter Review Commission may wish to determine if §4.15(b) continues to serve the City’s best interests.

- §4.16(a) of the City Charter gives the City Council the authority to conduct investigations relating to the municipal affairs of the City. §15.2-1409 of the Virginia Code authorizes a governing body to conduct investigations relating to its government affairs as it deems necessary, including the authority to order the attendance of witnesses and the production of books and papers and may administer oaths. While §4.16(a) relating to powers of investigation, could be removed from the City Charter since the powers granted to the City in §4.16(a) are also granted to the City under the state's general laws, it may make sense to keep §4.16(a) in the Charter so the summary of the City's powers of investigation will be contained in one place instead of both the City Charter and the Virginia Code.

- §4.17 of the City Charter provides that the City Attorney shall be appointed by the City Council and shall be the chief legal advisor of the City Council, the Mayor, the Chief Administrative Officer and all departments, boards, commissions and agencies of the City. I noted that in the City Charter Review Commission Report dated September 24, 2009, there was some discussion of having the Mayor appoint the City Attorney subject to the consent of a majority of City Council. I would not recommend amending §4.17 to change the manner in which the City Attorney is appointed. Under the Rules of Professional Conduct for attorneys, a government attorney's paramount duty is to the entity itself, and not the individual officers and officials connected with the entity. The appointment of the City Attorney by the City Council reinforces the fact that the City Attorney's paramount duty is to the City as a whole, and not to serve the individual officers and officials that make up the City. Most city councils in cities with the council-manager form of government appoint the city attorney.

Chapter 5. Mayor

- Among Virginia's cities, Richmond has a unique form of government. Every city but Richmond follows the council-manager form of government which was developed by the City of Staunton in 1908. Under the council-manager form of government the city council appoints a professional city manager who serves at the pleasure of the city council and who administers the day-to-day affairs of the city. Richmond has a strong mayor form of government in which the Mayor and the Chief Administrative Officer, who is appointed by the Mayor, carry out the duties that are normally assigned to the city manager and administer the day-to-day affairs of the City. Given Richmond's unique form of government, I am not in a position to recommend changes to Richmond's current form of government; any recommendations in this area fall within the purview of the Richmond Charter Review Commission.

Chapter 5A. Administration

- §5A.03 of the City Charter provides that the City's personnel system "shall not discriminate on the basis of race, national origin, religion, sex, age, disabilities, political affiliation, or marital status." In 2020 and 2021, §2.2-3900 of the Virginia Code was amended to expand the categories of citizens that are protected from discrimination to include "race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, or disability." The City may wish to amend §5A.03 to include the additional categories of citizens who are protected from discrimination.

Chapter 5B. Retirement System

- Richmond has developed its own retirement system to provide retirement, disability, and survivor benefits for the City's employees. It would not be prudent to recommend any

changes to Chapter 5B without first consulting with and seeking the advice of the executive director and trustees of the retirement system.

Chapter 6. Budgets

- As previously noted, Chapter 6. Budgets, of the City Charter provides a much more detailed budget process for Richmond than is required by Title 15.2, Chapter 25 of the Virginia Code. The Mayor's role in the budget process is similar to the traditional role of the city manager in cities that follow the council-manager form of government. Every city has its own personality, and what works in one city may not work in another. Richmond's current budget process may fit the City's needs and may not need to be changed unless the Richmond Charter Review Commission believes some changes to the budget process are appropriate.

Chapter 7B. Borrowing

- I do not believe it would be prudent to recommend any changes to Chapter 7B without first consulting with the City's bond counsel. The City would not want to make any changes that might have an adverse impact on the City's bond rating or which would be inconsistent with the bond documents and procedures that have been developed by the City's bond counsel over the years.

Chapter 8. Financial Administration

- The provisions in Chapter 8 are consistent with the provisions of the Virginia Code and I do not see a need for any changes to Chapter 8 unless the Richmond Charter Review Commission believes some changes are needed.

Chapter 13. Department of Public Utilities

- I am not familiar with the day-to-day operations of the Department of Public Utilities and do not believe it would be prudent to recommend any changes to Chapter 13 without consulting with the Department Director and the City Attorney's Office before considering any changes.

Chapter 17. Planning, Zoning and Subdivision Control

In reviewing Chapter 17 of the City Charter, I placed my highest priorities on simplification, consistency with state law, and avoiding potential challenges to zoning decisions that could result from conflicts between the Charter and state law, and preserving any provisions in Chapter 17 that give Richmond special zoning powers not provided by general law.

As part of my review, I also looked at the charters of Chesapeake, Norfolk, and Virginia Beach and considered the zoning provisions they include in their charters. The Norfolk City Charter does not contain any provisions specifically dealing with zoning; it references the state's general laws. The cities of Chesapeake and Virginia Beach include minimal zoning provisions in their charters and state that Chesapeake and Virginia Beach will follow the general laws of the state when it comes to zoning. Copies of the applicable provisions of the Chesapeake, Norfolk, and Virginia Beach Charters are included with this report.

In my review of Chapter 17, I noted many of the sections in it are similar to the

provisions in the Virginia Code, but much of the language used in Chapter differs from the language in comparable sections of the Code. Some of the differences result from the fact that many of the zoning provisions in Chapter 17 were adopted in 1948. Since that time there have been many revisions to the zoning laws in the Virginia Code that are not reflected in the City Charter.

My observations and comments regarding Chapter 17 are as follows:

Note: There are a number of references in Chapter 17 to the “master plan” but the term master plan is not used in Chapter 22 of Title 15.2 of the Virginia Code dealing with Planning, Subdivision of Land and Zoning. Instead of master plan, the Virginia Code uses the term “comprehensive plan” which can create some confusion when comparing the City Charter to the Virginia Code. Even though the City Charter and the Virginia Code use different terms, I am treating the master plan and the comprehensive plan as the same document and using the terms interchangeably.

- §17.01 of the City Charter which authorizes City Council to adopt a master plan for the City seems to be inconsistent with the provisions of §17.06 which gives the planning commission the authority to adopt the master plan and provides that City Council approves the plan that was adopted by the planning commission.

- §17.02 of the City Charter provides that in addition to the members of the planning commission who are appointed by City Council, one member shall be a member of the board of zoning appeals appointed by the board of zoning appeals, one member shall be the chief administrative officer or an officer or employee of the city designated by the chief administrative officer, and one member shall be a citizen member who is appointed by the mayor. §15.2-2212 of the Virginia Code provides that all the members of the planning commission shall be appointed by the local governing body.

- §17.05 of the City Charter gives the planning commission the authority to preserve historical landmarks and to control the design and location of statuary and other works of art which are or may become the property of the City. Normally this authority would rest with the governing body, not the planning commission. For example, see §15.2-1812 of the Virginia Code. The City may wish to revise §17.05 so it is consistent with the State Code.

- The provisions in §17.04 and §17.06 of the City Charter dealing with the adoption of the master plan by the planning commission are different than the provisions in §15.2-2223 of the Virginia Code dealing with the preparation of comprehensive plans by local planning commissions. §15.2-2223 goes into much more detail in describing the purpose of and what should be included in a comprehensive plan. §17.06 also gives the planning commission the authority to adopt the master plan and provides that City Council simply approves the plan that was adopted by the planning commission. §15.2-2223 of the Virginia Code provides that the local planning commission “shall prepare and recommend a comprehensive plan” and the “governing body shall adopt” the comprehensive plan. The language in §17.06 denies City Council the authority over the master plan/comprehensive plan that is exercised by other elected governing bodies throughout the state and gives such authority to an appointed body.

- §17.07 of the City Charter seems to be Richmond’s equivalent of §15.2-2232 of the Virginia Code which establishes the legal status of the comprehensive plan. However, the language in §17.07 is not consistent with the language in §15.2-2232. §15.2-2232 also does not contain the two-thirds voting requirement and the requirement that the planning commission

must act within sixty days that are contained in §17.07. Lastly, §17.07 gives the planning commission the authority to approve the “widening, extension, narrowing, enlargement, vacation or change in the use of streets and other public ways, grounds and places within the city as well as the acquisition by the city of any land within or without the city for public purposes or the sale of any land then held by the city shall be subject to similar approval.” There is nothing in the provisions of the Virginia Code that give a local planning commission the authority to approve such decisions. Section §17.07 gives the planning commission more authority over City Council than a planning commission typically exercises over a governing body.

- §17.10 of the City Charter seems to be Richmond’s equivalent of §15.2-2280, §15.2-2283, and §15.2-2284 of the Virginia Code which set forth the purposes for which zoning ordinances are adopted and administered. However, the language in §17.10 is not consistent with and is not as extensive as the language used in the Virginia Code.

- §17.11(a) of the City Charter requires that zoning regulations and restrictions shall be uniform within zoning districts. There is a similar requirement in §15.2-2282 of the Virginia Code.

- §17.11(b) of the City Charter authorizing City Council to authorize the issuance of special use permits is generally consistent with state law, but §17.11(b) also provides that City Council may not authorize a special use permit until the planning commission has conducted a public hearing to investigate the circumstances and conditions upon which the permit is to be authorized. There is no similar requirement for planning commission review in the Virginia Code. However, the special use process in §17.11(b) of the City Charter may be unique to Richmond and the City may wish to keep the current process in place.

- §17.12 of the City Charter provides that zoning decisions must be in accord with the provisions and not contrary to the comprehensive zoning plan. In several decisions the Virginia Supreme Court has held that comprehensive plans are “advisory guides” that do not bind a governing body and that a governing body can deviate from the comprehensive plan when the governing body determines it is appropriate to do so. §17.12 of the City Charter places more restrictions on the City than the law requires.

- The last paragraph in §17.14 of the City Charter seems to prohibit the City from repealing the designation of an area as a historic district. There is no such prohibition in the provisions of the Virginia Code dealing with historic districts.

- §17.15 of the City Charter allows twenty percent of the property owners in an area to protest certain zoning changes and provides that if such a protest is filed, the proposed changes shall not take place unless seven members of City Council vote in favor of the change. This is an unusual provision and seems contrary to §15.2-1427 of the Virginia Code which provides that as a general rule, an ordinance may be adopted by a majority of the members of a governing body who are present and voting at a meeting. However, there are some sections in the Virginia Code that require a super majority vote of a governing body in order to take certain actions (e.g., to sell a city’s public property, to issue bonds, etc.). It is within the purview of the Richmond Charter Review Commission to decide if this provision continues to serve the City’s needs.

- §17.16 of the City Charter creates two boards of zoning appeals, one to deal with the matters that are typically handled by a board of appeals and a second board of appeals to deal with matters relating to the preservation of the Chesapeake Bay. There may be a good reason to have two boards of zoning appeals, but two boards are not required by the Virginia Code.

- §17.19 of the City Charter dealing with appeals to the board of zoning appeals is generally consistent with the provisions of §15.2-2311 of the Virginia Code, but the provisions in §17.19 are not as comprehensive as the provisions in §15.2-2311.

- §17.20 of the City Charter dealing with the powers of the board of zoning appeals is not consistent with the provisions of §15.2-2209 of the Virginia Code. For example, §17.20 does not contain the findings that the Virginia Code requires a board of appeals to make in order to authorize a variance.

- §17.20(c) and (d) of the City Charter authorize the board of zoning appeals to permit the use of property in ways that are prohibited by the City's zoning ordinance and to permit various exceptions to various provisions of the zoning ordinance. These provisions, in effect, give the board of zoning appeals the authority to rezone property. §15.2-2309(5) of the Virginia Code says that a board of zoning appeals does not have the authority to rezone property, so §17.20(c) and (d) give the board of zoning appeals more authority than required by state law.

- §17.21 of the City Charter dealing with decisions by the board of zoning appeals contains a number of requirements that are not required by §15.2-2312 of the Virginia Code. Including such additional requirements in the City Charter creates an opportunity for mistakes in and challenges to the board's decisions.

- §17.22 of the City Charter requires that a petition for an appeal from a decision of the board of zoning appeals must be "verified by affidavit." There is no requirement in §15.2-2314 of Virginia Code that a petition for an appeal must be verified by affidavit. However, the requirement in §17.22 that the petition must be verified by affidavit, does lend more formality to the appeal process.

- §17.23 and §17.24 of the City Charter dealing with appeals of decisions of the board of zoning appeals are not consistent with the provisions in §15.2-2314 of Virginia Code. Over the years the Virginia Supreme Court, in a number of cases, has addressed the appeals process and §17.23 and §17.24 do not reflect the guidance provided by the Supreme Court in those decisions.

- §17.26 of the City Charter establishes penalties for violations of the zoning ordinance. Enforcement actions and penalties for violating local zoning ordinances are dealt with in more detail in §15.2-2208 and §15.2-2209 of the Virginia Code.

As previously noted, in reviewing Chapter 17 of the City Charter, my priorities were simplification, consistency with state law, and avoiding potential challenges to zoning decisions that could result from inconsistencies between the Charter and state law. But I also wanted to identify any provisions in Chapter 17 that give Richmond special zoning powers that are not provided by general law.

Richmond has an older Charter so it is not surprising that there are a lot of zoning provisions in the Charter since there were fewer state laws dealing with zoning at the time Richmond's Charter was granted. However, more recent charters take the approach of relying on

state law for their zoning authority and not their charters. Chesapeake and Virginia Beach are examples of this approach, their charters contain minimal zoning provisions and simply state that they will follow the general laws of the state when it comes to zoning.

My recommendation is that Richmond follow the more recent approach and remove most of the zoning provisions contained in Chapter 17 from the City Charter. Having provisions in the City Charter that are inconsistent with state law creates confusion, increases chances of making mistakes, and potentially increases the chances of challenges to zoning decisions.

However, as previously noted, each city has its own personality and I recognize that the Richmond Charter Review Commission may place higher priorities on such things as maintaining a somewhat unique zoning process and staffs' familiarity with the current zoning process, etc. instead of the priorities I used in my review. Also, the Charter Review Commission may wish to preserve all or some of the unique provisions in Chapter 17, such as §17.11(b) giving City Council special powers regarding the issuance of special use permits.

Chapter 18. Acquisition of Property for Public Purposes

- In recent years the provisions in Title 25.1 of the Virginia Code regulating the use of eminent domain by local governments have undergone a number of changes and there are some provisions in Chapter 18 that are inconsistent with the provisions in Title 25.1 of the Virginia Code and Chapter 19 of Title 15.2 of the Virginia Code. However, I do not recommend that the City seek to amend Chapter 18 to make it consistent with Title 25.1 and Chapter 19 of Title 15.2.

§18.03 of the City Charter gives the City the right of "quick take." Under its quick take authority, the City becomes the owner of the property it is seeking to acquire for a public purpose once the City files the condemnation petition with the circuit court and deposits the estimated fair market value of the property with the court. At that point the City owns and can take possession of the property and begin the project. Most localities in Virginia do not have quick take authority and must wait until the conclusion of the condemnation process before starting work on a project. Given the hostility to eminent domain by the public in recent years, it is possible that if Richmond seeks to amend Chapter 18 the General Assembly could remove the quick take provision from the City Charter. Therefore, I recommend that the City not amend the provisions in Chapter 18. However, when initiating eminent domain proceedings, the City should follow the amendment process spelled out in Title 25.1 of the Virginia Code and Chapter 19 of Title 15.2 of the Virginia Code, not the eminent domain process set forth in Chapter 18.

Chapter 20. Miscellaneous Provisions

- §20.10 of Chapter 20 of the City Charter requiring the city to provide courtrooms and office space for constitutional officers could be removed from the City Charter. §15.2-1638 of the Virginia Code requires a locality to provide courthouses and facilities to accommodate the various courts and officials and §§15.2-1600 to 15.2-1637 require localities to provide facilities and benefits for constitutional officers.

- §20.11 of Chapter 20 of the City Charter providing that the City is not required to post a bond for the exercise of its rights could be removed from the City Charter. §15.2-1126 of the

Virginia Code provides that a municipal corporation does not have to post a bond as a condition precedent to the exercise of its rights.

Changes to Richmond's Election Districts

The members of the Richmond City Council are currently elected from nine election districts in the city. At its April 27 meeting the Richmond Charter Review Commission asked if it would be legal of the City to reduce the current number of Council Election Districts. After researching this matter, it is my opinion that there is no legal reason the City could not change the current election system if the City can demonstrate that there is a legitimate purpose for changing the current election system and that the new election system will not dilute the voting strengths the City's minority population enjoys under the current system.

In 1969 Richmond annexed a portion of Chesterfield County and the annexation reduced the City's minority population from 52% to 42%. Under the preclearance requirements of the Voting Rights Act, the annexation and the resulting changes to the City's election system had to be approved by the U.S. Justice Department or the Federal District Court for the District of Columbia. The City petitioned the Federal District Court for approval of its annexation. At the time of annexation, the members of City Council were elected at-large. As part of its petition, Richmond shifted from an at-large election system to a system of electing councilmembers from nine election districts: four election districts with substantial minority majorities, four election districts with substantial white majorities, and a ninth election district with 59% white and 41% minority population.

The Federal District Court did not approve the City's petition, and the City appealed the District Court's decision to the U.S. Supreme Court, *City of Richmond v. United States*, 442 U.S. 358 (1975). On appeal the Supreme Court found that Richmond's plan creating nine election districts satisfied the requirements of the Voting Rights Act because it fairly recognized the minority population's political potential. After making such finding, the Supreme Court remanded the case back to the District Court for further proceedings consistent with its decision.

A city can seek to change its election system when the demographic characteristics of the locality have changed. For example, a new census may show that the city's minority population has decreased throughout all or a portion of a city, which would justify changes in the election process.

Federal and state election laws would allow Richmond to change its current nine district election system. However, any changes to the current election system could be challenged on the grounds that the changes violate the provisions of the Civil Rights Act. In order to change the current election system, the City will have the burden of demonstrating that: (1) the changes to the current election system are not motivated by a racially discriminatory purpose, and (2) the new election system will not have a retrogressive effect, that is, the City's minority voters will not be "worse off" under the new election plan.

In the 2013 in the case of *Shelby County v. Holder*, 570 U.S. 529 (2013), the U.S. Supreme Court struck down the preclearance requirements of the Voting Rights Act. Consequently, any changes to Richmond's election system will no longer have to be approved by the U.S. Justice Department or the Federal District Court for the District of Columbia. However, in 2021 the Virginia General Assembly amended the Virginia Code to require that any locality that has a voting-age population containing two or more racial or ethnic groups, each constituting

at least 20 percent of the voting-age population must obtain preclearance approval from the Virginia Attorney General before making changes to its election districts. Any changes to Richmond's current election system will have to be approved by the Attorney General.

In addition to seeking preclearance approval from the Attorney General, the City will also need to review any order that was entered by the Federal District Court for the District of Columbia after the U.S. Supreme Court remanded the case back to the District Court for further proceedings. If the District Court ordered Richmond to implement the current system of nine election districts, the City would need to ask the District Court to amend or lift its order in order to make changes to the current election system.

If the City decides to pursue changes to the current election system, it should work with an election law attorney and a statistician to create an appropriate record to demonstrate that the new election system will not have a retrogressive effect and that the new election system will not dilute the voting strength the City minority population enjoys under the current election system.

I appreciate the opportunity to work with the City Attorney's Office on a very interesting project and hope this report will be of some assistance to the City Attorney's Office. If you have any questions concerning the report, please do not hesitate to contact me.

Sincerely,



Walter C. Erwin

PROVISIONS OF THE VIRGINIA BEACH CHARTER RELATING TO ZONING

Chapter 19. City Planning.

§ 19.01. Planning commission.

There shall be a city planning commission which shall consist of not less than five nor more than fifteen members, and shall be organized as provided by general law. All members of the commission shall be qualified voters of the city and shall be appointed by the council for terms of four years. (1962, c. 147)

§ 19.02. Functions of planning commission.

The planning commission shall be responsible for making recommendations to the council on all phases of city planning, including a master plan, zoning and subdivision control. It shall have the powers and duties provided by general law and such other powers and duties as may be assigned by the council. (1962, c. 147)

§ 19.03. Board of zoning appeals.

There shall be a board of zoning appeals which shall consist of five members appointed for three-year terms by the circuit court of the city or the judges thereof in vacation. (1962, c. 147)

§ 19.04. Powers of the board of zoning appeals.

The board of zoning appeals shall have all powers granted to boards of zoning appeals by general law. (1962, c. 147)

§19.05. Appeals from actions of the board of zoning appeals.

Appeals from any action of the board of zoning appeals may be taken to the circuit court of the city in the manner prescribed by general law. (1962, c. 147)

PROVISIONS OF THE CHESAPEAKE CHARTER RELATING TO ZONING

Chapter 12. City Planning.

§ 12.01. Planning department and director.

There shall be a planning department headed by a director who shall be appointed by the manager as provided in § 7.02. The planning director shall have the following responsibilities:

- A. The preparation of a comprehensive plan and its continued review and revision;
- B. To advise the city manager on the implementation of the comprehensive plan and other matters affecting the physical development of the city;
- C. To prepare such other reports, studies and evaluations as required by the city manager; and
- D. To advise the city planning commission in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance. (1980, c. 717)

§ 12.02. City planning commission.

There shall be a city planning commission consisting of not less than five nor more than fifteen members appointed by the council for terms of four years from among the qualified voters of the city. No person shall be appointed to the planning commission for more than two consecutive four-year terms. Members of the commission shall hold no other city office. The commission shall make recommendations to the city manager and the city council on all matters affecting the physical development of the city, shall be consulted on the comprehensive plan as provided in § 12.05 and shall exercise all other responsibilities as may be provided by general law. (1980, c. 717)

§ 12.03. Board of zoning appeals; composition; appointment of members.

There shall be a board of zoning appeals which shall consist of seven members appointed for three-year terms by the judges of the circuit court. (1980, c. 717; 2012, cc. 194, 453)

§ 12.04. Same; powers.

The board of zoning appeals shall have all powers granted to boards of zoning appeals by general law. (1980, c. 717)

§ 12.05. Comprehensive plan.

A. Content. The council shall adopt, and may from time to time modify, a comprehensive plan written in accordance with Title 15.1, Chapter 11 of the Code of Virginia, as amended, setting forth in graphic and textual form policies to govern the future physical development of the city.

B. Adoption. Upon receipt from the planning commission of a proposed comprehensive plan or proposed modification of the existing plan, the council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.

C. Effect. The comprehensive plan shall serve as a guide to all future council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements. (1980, c. 717)

CITY OF NORFOLK CHARTER RELATING TO ZONING

The Norfolk City Charter does not contain any provisions specifically dealing with zoning, it simply has the following reference to the state's general laws.

§ 136. General laws to apply.

All general laws of the State applicable to municipal corporations now in existence or hereafter enacted and which are not in conflict with the provisions of this charter or with ordinances or resolutions hereafter enacted by the council pursuant to authority conferred by this charter shall be applicable to the said city; provided, however, that nothing contained in this charter shall be construed as limiting the power of the council to enact any ordinance or resolution not in conflict with the Constitution of the State or with the express provisions of this charter. (1918, c. 34)

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July 19, 2023

Tabrica C. Rentz, Esq.
Deputy City Attorney
Office of the City Attorney
900 East Broad Street, Suite 400
Richmond, VA 23219

Re: Suggested Language for Eminent Domain Charter Amendments

Dear Ms. Rentz:

I appreciate the opportunity to continue to work with the City Attorney's Office on the review of the Richmond City Charter.

As requested, I am suggesting language for §18.02 and §18.03 to bring the City's eminent domain procedures into compliance with general state laws and to preserve the City's "quick take" authority. My suggested language is as follows:

§ 18.02. Eminent domain.

The city is hereby authorized to acquire by condemnation proceedings lands, buildings, structures and personal property or any interest, right, easement or estate therein, of any person or corporation, whenever in the opinion of the council a public necessity exists therefor, which shall be expressed in the resolution or ordinance directing such acquisition, whether or not any corporation owning the same be authorized to exercise the power of eminent domain or whether or not such lands, buildings, structures or personal property or interest, right, easement or estate has already been devoted to a public use, and whenever the city cannot agree on terms of purchase or settlement with the owners of the subject of such acquisition because of incapacity of such owner, or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because the owner or some one of the owners is a nonresident of the Commonwealth and cannot with reasonable diligence be found in the Commonwealth or is unknown.

In the exercise of its eminent domain authority, the city shall have all the applicable powers and shall follow all the applicable procedures and requirements set forth in Title 25.1, §§15.2-1901 through 15.2-1907.1, and §1-219.1 of the Code of Virginia, which eminent domain powers are hereby conferred on and vested in the city. In addition thereto, the city shall have and may exercise all other eminent domain powers which are

now or may hereafter be conferred upon or delegated to cities of the first class under the Constitution or laws of the Commonwealth, as fully and completely as though such powers were specifically enumerated in this charter and no enumerations of powers in this charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers.

~~Such proceedings may be instituted in the Circuit Court of the City of Richmond, Divisions I or II, if the subject to be acquired is located within the city, or, if it is not located within the city, in the circuit court of the county in which it is located. If the subject is situated partly within the city and partly within any county the circuit court of such county shall have concurrent jurisdiction in such condemnation proceedings with the circuit court of the city. The judge or the court exercising such concurrent jurisdiction shall appoint five disinterested freeholders any or all of whom reside either in the county or city, any three of whom may act as commissioners, as provided by law. (1948, c. 116; 1975, c. 112)~~

§ 18.03. Alternative procedures in condemnation.

The city may, in exercising the right of eminent domain conferred by the preceding section, make use of the procedure prescribed by the general law as modified by said section or may elect to proceed as hereinafter provided. In the latter event the resolution or ordinance directing acquisition of any property, as set forth in the preceding section, shall provide therein in a lump sum the total funds necessary to compensate the owner or owners thereof for such property to be acquired or damaged. Upon the adoption of such resolution or ordinance the city may file a petition in the clerk's office of a court enumerated in the preceding section, having jurisdiction of the subject, which shall be signed by the city manager or the city attorney and set forth the interest or estate or estate to be taken in the property and the uses and purposes for which the property or the interest or estate therein is wanted, or when property is not to be taken but is likely to be damaged, the necessity for the work or improvement which will cause or is likely to cause such damage. There shall also be filed with the petition a plat of a survey of the property with a profile, if pertinent to the question of damage to remaining property of the owner or owners, showing cuts and fills, trestles and bridges, if any, and a description of the property which, or an interest or estate in which, is sought to be taken or likely to be damaged and a memorandum showing names and residences of the owners and tenants of the property, if known, and showing also the quantity of property which, or an interest or estate in which, is sought to be taken or which will be or is likely to be damaged. There shall be filed also with said petition a notice directed to the owners and tenants of the property, if known, copies of which shall be served on such owners and tenants of the freehold of such property, if known. If the owner or tenant of the freehold be unknown or a nonresident of the Commonwealth or cannot with reasonable diligence be found in the Commonwealth, or if the residence of the owner or tenant be unknown, he may be proceeded against by order of publication ~~which order, however, need not be published more than once a week for two successive weeks and shall be posted at a main entrance to the courthouse.~~ The publication shall in all other respects conform to the requirements §§ 8-71, 8-72 and 8-76 of the Code of Virginia, of 1950, as amended.

Upon the filing of said petition and the deposit of the funds provided by the council for the purpose in a bank to the credit of the court in such proceedings and the filing of a certificate of deposit therefor the interest or estate of the owner of such property shall terminate and the title to such property or the interest or estate to be taken in such property shall be vested absolutely in the city and such owner shall have such interest or estate in the funds so deposited as he had in the property taken or damaged and all liens by deed of trust, judgment or otherwise upon said property or estate shall be transferred to such funds and the city shall have the right to enter upon and take possession of such property for its uses and purposes and to construct its works or improvements. The clerk of the court in which such proceeding is instituted shall make and certify a copy of the petition, exhibits filed therewith, and orders, and deliver or transmit the same to the clerk of the court in which deeds are admitted to record, who shall record the same in his deed book and index them in the name of the person or persons who had the property before and in the name of the city for which he shall receive the same fees prescribed for recording a deed, which shall be paid by the city. From the funds so paid into court or to the clerk thereof, the court shall, at the request of the owner, pay any indebtedness of the owner which is a lien upon such property and is evidenced by a deed of trust or other instrument duly recorded; provided, that not in excess of ninety per centum of the money paid into court or to the clerk may be so used, and provided further, that if the award of the court in condemnation proceedings be less than the amount so paid, the city may recover the excess from any person to whom the same has been paid. The balance of such money shall be held by the court for disposition in accordance with the order of the court in the condemnation proceedings.

If the city and the owner of property so taken or damaged agree upon compensation therefor, upon filing such agreement in writing in the clerk's office of such court the court or judge thereof in vacation shall make such distribution of such funds as to it may seem right, having due regard to the interest of all persons therein whether such interest be vested, contingent or otherwise, and to enable the court or judge to make a proper distribution of such money it may in its discretion direct inquiries to be taken by a special commissioner in order to ascertain what persons are entitled to such funds and in what proportions and may direct what notice shall be given of the making of such inquiries by such special commissioner.

~~If the city and owner cannot agree upon the compensation for the property taken or damaged, if any, upon the filing of a memorandum in the clerk's office of said court to that effect, signed by either the city or the owner, the court shall appoint commissioners provided for in § 25-12 of the Code of Virginia or as provided for in § 18.2 of this chapter, and all proceedings thereafter shall be had as provided in §§ 25-12 through 25-38 of the Code of Virginia insofar as they are then applicable and are not inconsistent with the provisions of this and the preceding sections, and the court shall order the deposit in the bank to the credit of the court of such additional funds as appear to be necessary to cover the award of the commissioners or shall order the return to the city of such funds deposited that are not necessary to compensate such owners for property taken or damaged. The commissioners so appointed shall not consider improvements placed upon the property by the city subsequent to the bringing of any proceeding for the condemnation of such property, whether the same shall have been dismissed or not nor~~

~~the value thereof nor the enhancement of the value of said property by said improvements in making their award. (1960, c. 213; 1962, c. 467)~~

I appreciate the opportunity to work with the City Attorney's Office and I hope this report will be of some assistance. If you have any questions concerning my comments, please do not hesitate to contact me.

Sincerely,

Walter Erwin

Walter C. Erwin

WALTER C. ERWIN, ESQ.

WALTER C. ERWIN, III

ATTORNEY AT LAW

TELEPHONE (434) 229-4996

101 PADDINGTON COURT
LYNCHBURG, VIRGINIA 24503

E-MAIL: erwinwc@aol.com

July 24, 2023

Tabrica C. Rentz, Esq.
Deputy City Attorney
Office of the City Attorney
900 East Broad Street, Suite 400
Richmond, VA 23219

Re: Eminent Domain Procedures to Determine "Just Compensation"

Dear Ms. Rentz:

In my memorandum of July 19, 2023, I recommended that a portion of §18.03. Alternative procedures in condemnation, be removed from the City Charter. The portion of §18.03 that I recommended be removed deals with the eminent domain procedures that are to be followed if the City and the property owner cannot agree on what constitutes just compensation for the property that is being acquired by the City. The Commission would like to know what procedures would be followed to determine the value of the property if that portion of §18.03 is removed from the Charter.

The terms "eminent domain" and "condemnation" refer to the same process and in this report, I will use the terms interchangeably.

The eminent domain process is governed by a comprehensive and detailed set of Virginia statutes (e.g., Title 25.1, §§15.2-1901 through 15.2-1907.1, and §1-219.1 of the Code of Virginia). The statutes are strictly construed against the party that files an eminent domain petition (the "condemnor") and are strictly construed against the condemnor and in favor of the property owner.

The eminent domain statutes are amended by the General Assembly on a regular basis, for example the statutes were amended in 2012, 2014, 2017, and 2022, and it is likely that the statutes will continue to be amended in the future. As a result of these amendments, the provisions in the City Charter dealing with eminent domain, which were last amended in 2004, are not consistent with Virginia's eminent domain statutes. For the provisions in the City Charter to be consistent with Virginia's eminent domain statutes, the provisions in the Charter would have to be reviewed and amended on a regular basis.

As part of my report, I also looked at the charters of several other cities in order to review the eminent domain provisions in their charters. Several city charters do not contain any provisions specifically dealing with eminent domain, instead such cities simply follow the general laws of the state when it comes to exercising eminent domain powers.

In my report I recommended that §18.02. Eminent domain, be amended to provide that in the exercise of its eminent domain authority, the City shall have all the applicable powers and shall follow all the applicable eminent domain procedures and requirements set forth in Title 25.1, §§15.2-1901 through 15.2-1907.1, and §1-219.1 of the Code of Virginia.

I also recommended that §18.03. Alternative procedures in condemnation, be amended to keep the provision in §18.03 that gives the City the right of “quick take” and to remove the language in §18.03 that spells out the procedures to be followed when the City and the property owner cannot agree on what constitutes just compensation for the property that is being acquired by the City. In such situations it is my recommendation that the City follow the general laws of the state instead of trying to include these procedures in the Charter.

In the event the City and a property owner cannot agree on what constitutes “just compensation” for property that is being acquired by eminent domain the following procedures would apply:

- Before the City can file an eminent domain petition, it must first make a bona fide offer to purchase the property. If the value of the property is more than \$25,000, the offer to purchase must include a copy of an appraisal report showing the value of the property (Virginia Code §1-219.1).

- Any time after an eminent domain petition has been filed, the City and property owner can agree on the amount of compensation to be paid and can mutually agree to have the eminent domain proceeding dismissed.

- Following the filing of an eminent domain petition, the court will refer the matter to a mandatory dispute resolution meeting to try and resolve the issue of compensation (Virginia Code §25.1-205.1).

- If the City and the property owner cannot reach an agreement on what constitutes just compensation for the property, the determination of the value of the property will proceed to trial. Compensation is normally determined by either a condemnation jury or a panel of commissioners. The property owner has the option of selecting a jury of landowners or a panel of commissioners. The jury or commissioners must be landowners in the jurisdiction where the case is being tried. (Virginia Code §8.01-187, §25.1-220, §25.1-227.1, §25.1-227.2, §25.1-228, §25.2-229, §25.1-318). A condemnation jury is selected in the same manner as a civil jury (Virginia Code §8.01-345, §8.01-346, §22.2-229(A)) and a panel of commissioners consists of five to nine persons selected from a list of names provided by the condemnor and the property owner (Virginia Code §25.1-227.1).

- Just compensation may be determined by a judge instead of a condemnation jury or a panel of commissioners if all the parties agree or if the property owner fails to respond to the eminent domain petition or fails to request either a condemnation jury or a panel of commissioners (Virginia Code §25.1-213, §25.1-220).

- A just compensation trial is conducted like a civil jury trial. The judge presides over the proceeding and rules on evidence. Expert witnesses such as professional appraisers, real estate agents, builders, etc. typically testify on behalf of both parties (Virginia Code §8.01-401.1).

- As part of the proceeding the body determining the just compensation (condemnation jury, panel of commissioners, or judge) must view the property that is being acquired (Virginia Code §25.1-231).

- While each party in an eminent domain proceeding typically bears their own attorney's fees and costs, certain costs can be assessed against the condemnor if the compensation award exceeds the offer to purchase the property by thirty percent. For example, the condemnor may be ordered to pay up to \$1,000 of the land owner's survey (Virginia Code §25.1-235).

- In addition to the value of the property that is being acquired, a property owner is also entitled to be compensated for lost profits and loss of access to the property owner's remaining property that are incurred in connection with the acquisition of the property (Virginia Code §25.1-100, §25.1-230.1).

- The judge in an eminent domain case may set aside the compensation decision and order a new trial if the judge determines the award shocks the conscience.

- The decision of just compensation in an eminent domain case can be appealed to an appellate court following the same procedures for appeal that are used in civil cases (Virginia Code §25.1-239).

In my report I have provided a brief explanation of the procedures that would be followed under Virginia's eminent domain laws if the City and the property owner cannot agree on what constitutes just compensation for the property that is being acquired. However, my explanation only covers a portion of the extensive procedures that must be followed in an eminent domain proceeding. If the Commission desires a more complete explanation of eminent domain, I recommend the members of the Commission review the chapter on "Condemnation Procedure Under the Virginia General Condemnation Act" in the Handbook of Virginia Local Government Law. This is an excellent resource on eminent domain and would be readily available through the City Attorney's Office.

I appreciate the opportunity to work with the City Attorney's Office and I hope this report will be of some assistance. If you have any questions concerning my comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Walter Erwin". The signature is written in a cursive, flowing style.

Walter C. Erwin

INTRODUCED: December 13, 2021

AN ORDINANCE No. 2021-347

As Amended

To establish the 2022 City Charter Review Commission to conduct a comprehensive review of the City Charter with the objective of making recommendations for appropriate revisions thereto.

Patrons – President Newbille, Vice President Robertson and Ms. Lambert

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JAN 10 2022 AT 6 P.M.

WHEREAS, since the establishment of the City's current Council-Mayor form of government in 2004, the General Assembly of Virginia, at the request of the Council of the City of Richmond, has made piecemeal amendments to parts of the Charter of the City of Richmond (2020), as amended; and

WHEREAS, the Council of the City of Richmond is of the opinion that it would be in the best interests of the City of Richmond that a 2022 City Charter Review Commission be appointed to conduct a comprehensive review of the Charter of the City of Richmond (2020), as amended, with the objective of making recommendations for appropriate revisions to such charter; and

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAR 14 2022 REJECTED: _____ STRICKEN: _____

WHEREAS, the Council of the City of Richmond is of the opinion that such commission should submit its final report to the Council and the Mayor no later than June 1, 2023, to allow sufficient time for the Council to consider its report and then request that any changes to the Charter be made during the 2024 session of the General Assembly of Virginia; and

WHEREAS, it is estimated that the annual operating costs for the 2022 City Charter Review Commission will be approximately \$5,000.00, including 10 staff hours;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Council of the City of Richmond hereby establishes the 2022 City Charter Review Commission (the “Commission”) pursuant to the following provisions:

A. **Purpose.** The purpose of the Commission is to conduct a comprehensive review of the Charter of the City of Richmond (2020), as amended, with the objective of making recommendations for appropriate revisions to such charter.

B. **Composition.**

1. **Appointment.** The Commission shall consist of [~~five~~] nine persons appointed by the Council for a term commencing upon appointment and terminating on the date that the Commission ceases to exist pursuant to section 1(D)(2) of this ordinance. All appointments shall be otherwise governed by section 2-767 of the Code of the City of Richmond (2020), as amended.

2. **Qualifications.**

a. Each person appointed to the Commission shall meet one or more of the following qualifications:

(1) ~~[A person who is a current or former delegate in the Virginia House of Delegates or senator in the Virginia Senate;~~

~~(2)]~~ A person with substantial experience in local government, based on either practical experience or academic research; or

(3) A person who is a citizen-at-large of the City.

b. No officer or employee, as of the date on which this ordinance is adopted, of the City or of any authority or other political subdivision operating in the city shall be eligible for appointment to the Commission.

c. Membership on the Commission shall be otherwise governed by section 2-768 of the Code of the City of Richmond (2020), as amended.

C. **Duties.** The Commission shall perform the following duties and, with the assistance of the Office of the Council Chief of Staff, promptly propose a plan of work with a budget for additional, non-City resources recommended for the performance of these duties and present such to the Council and the Mayor:

1. **Review.** The Commission shall undertake a comprehensive review of the Charter of the City of Richmond to:

a. Assess the history of the Charter of the City of Richmond with a special emphasis on its history under the present Council-Mayor form of government established in 2004;

b. Identify:

(1) Ambiguities and conflicts;

(2) Clerical and grammatical errors; and

(3) Outdated or otherwise inapplicable text

in the Charter of the City of Richmond; and

c. Evaluate any amendments to the Charter of the City of Richmond that the Mayor or members of the Council may propose.

2. **Public Participation.** The Commission shall ensure public participation in its review process by:

- a. Soliciting written suggestions to inform the Commission's work;
- b. Posting reports on its progress and sharing information with the public via appropriate media releases and a publicly accessible website; and
- c. Any other means the Commission believes will ensure public participation in its review process.

3. **Recommendations.** The Commission shall consider the results of its review and public participation processes and make recommendations for amendments to the Charter of the City of Richmond that include:

- a. The resolution of ambiguities and conflicts;
- b. The correction of clerical and grammatical errors;
- c. The removal of outdated or otherwise inapplicable text;
- d. Any clarifications or changes to the definition and delineation of the authority of the Council, the Mayor, and the Chief Administrative Officer;
- e. Any other clarifications or changes pertaining to the City's current form of government, including, but by no means limited to, whether the Council should have staggered terms or how to address any issues with the legal representation of the City;

f. The enactment of amendments to general laws that would benefit the City; and

g. Proposed text for the legislation needed to effectuate the Commission's recommendations.

4. **Final Report.** The Commission shall submit to the Council and the Mayor a final written report, containing the Commission's findings and recommendations developed pursuant to sections 1(C)(1) through 1(C)(3) of this ordinance, no later than June 1, 2023.

D. Conduct of Affairs.

1. **Classification.** For purposes of section 2-773(b) of the Code of the City of Richmond (2020), as amended, the Commission is classified as "advisory."

2. **Duration.** The Commission shall continue in existence until it has submitted the final written report called for by section 1(C)(4) of this ordinance.

3. **Officers.** The Commission shall select from among its membership a chairman and other such officers as it may deem necessary for the conduct its affairs.

4. **Freedom-of-Information.** All meetings and records of the Commission shall be subject to the provisions of the Virginia Freedom of Information Act, codified as sections 2.2-3700 through 2.2-3715 of the Code of Virginia (1950), as amended. The Commission's final report required by section 1(C)(4) of this ordinance shall be retained permanently as a public record in accordance with the requirements of the Virginia Public Records Act, codified as sections 42.1-76 through 42.1-90.1 of the Code of Virginia (1950), as amended.

5. **Meetings.** The Commission shall meet at least once each month and may meet as often as it deems necessary in order to complete its duties and submit its report by the deadline set by section 1(C)(4) of this ordinance.

6. **Procedures.** The Commission may adopt bylaws or rules of procedure not inconsistent with this ordinance to govern the conduct of its meetings and operations.

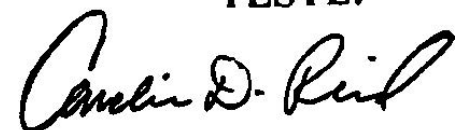
7. **Quorum.** Three members of the Commission shall constitute a quorum.

8. **Reporting.** For purposes of section 2-773(c) of the Code of the City of Richmond (2020), as amended, the Commission shall report to the [~~Organizational Development~~] Governmental Operations Standing Committee of the Council. In addition, on the [~~first~~] fifteenth day of each month, the Commission shall transmit to the Governmental Operations Standing Committee of the Council and the Mayor a brief summary of the Commission's activities during the preceding month.

9. **Staff and Resources.** The Office of the Council Chief of Staff shall provide such staff and resources, and shall coordinate the provision of assistance by members of the City administration and the offices of appointees of the City Council, as may be necessary to assist the Commission in completing the duties imposed by this ordinance. The Chief Administrative Officer shall designate at least one employee from the agencies that report to the Chief Administrative Officer to assist the Commission in completing the duties imposed by this ordinance. The Office of the City Attorney shall provide any legal advice or opinions necessary to assist the Commission in completing the duties imposed by this ordinance.

§ 2. This ordinance shall be in force and effect upon adoption.

**A TRUE COPY:
TESTE:**



City Clerk

Council Ordinance/Resolution Request

TO **Haskell C. Brown, III, Interim Richmond City Attorney**
Richmond Office of the City Attorney

THROUGH Joyce L. Davis
Interim Council Chief of Staff

FROM William E. Echelberger, Jr, Council Budget Analyst

COPY Cynthia Newbille, 7th District Council member
Ellen Robertson, 6th District Council member
Tabrica C. Rentz, Interim Deputy City Attorney
Samuel Patterson, 7th District Liaison
Tavares Floyd, 6th District Liaison

DATE Dec. 3, 2021

PAGE/s 1 of 4

TITLE: Resolution to Establish City Charter Review Commission

This is a request for the drafting of an **Ordinance** ☐ **Resolution** ☒

REQUESTING COUNCILMEMBER/PATRON

President Cynthia Newbille and Vice
President Ellen Robertson

SUGGESTED STANDING COMMITTEE

Governmental Operations

ORDINANCE/RESOLUTION SUMMARY

The patron requests a resolution to establish the City Charter Review Commission to conduct a comprehensive review of the current City Charter with the objective of making recommendations to address revisions to the City Charter.

BACKGROUND

- The current Richmond City Charter dates to 1948, with numerous amendments over the years. A chart of these amendments can be found at:
https://library.municode.com/va/richmond/codes/code_of_ordinances?nodeId=CHTR_C_OPARATIVE_TABLEAC
- The current Richmond City Charter was amended by the General Assembly in 2004 to create the present Council-Mayor form of government, which establishes Richmond City Council as the governing body of city government and a Mayor is elected to oversee a Chief Administrative Officer in the delivery of day-to-day government operations.
- The present Council-Mayor form of government is unique among the Commonwealth of Virginia's cities.
- Resolution 2008-R114-115 established the City Charter Review Commission in 2008 to review the Richmond City Charter and to recommend any necessary changes at that time.

- The proposed resolution will create a new City Charter Review Commission based on the following guidelines:
 - **Composition:** City Council shall appoint five persons to serve as members of the City Charter Review Commission, subject to the following:
 1. Term of Appointment. Each commission member shall be appointed to a term of three years, or the termination date of the commission whichever comes first.
 2. Officers. The commission shall select one of its members to serve as chairman of the commission. Additionally, the commission shall select from among its membership such other officers (secretary, etc.) as it deems necessary to discharge its functions.
 3. Residency. Each commission member shall either reside in the city or have such member's principal place of employment in the city.
 - **Qualifications.** The five commission members shall be chosen from one or more of the following categories:
 1. Current or former state legislator(s) (i.e., Delegate or Senator).
 2. Current citizen(s)-at-large of the City of Richmond.
 3. Individual(s) with substantial experience in local government administration, based on either practical experience, or academic research.

No elected City of Richmond official, employee of the City serving as of the date on which the Council adopts the requested resolution, or employee or official of a City authority shall be eligible for appointment to the Commission.
 - **Oversight:** The Commission shall report to the Council's Organizational Development Standing Committee.
 - **Purpose:** The City Charter Review Commission shall conduct a comprehensive review of the current City Charter with the objective of making recommendations for revisions to the City Charter. The Commission shall make recommendations to the appropriate standing committee of City Council of any recommended changes.
 - **Duties:** The City Charter Review Commission shall have the following duties and responsibilities:
 1. Propose a plan of work, and budget for additional non-city resources, for presentation to the Mayor and Richmond City Council.
 2. Undertake a comprehensive review of the current Charter for revisions.
 3. Review and evaluate the history of the Richmond City Charter, with special emphasis on the present Council-Mayor form of government as adopted in 2004, and any subsequent amendments thereto.
 4. Review the Charter in order to identify:
 - a. Potential conflicts and ambiguities;
 - b. Beneficial clarifications of language;
 - c. Beneficial changes in any general laws;
 - d. Beneficial changes pertaining to the current form of government;
 - e. Beneficial clarifications, or changes to the definition and delineation of authority of the council and mayor;

- f. Opportunities for removal of outdated or no longer applicable language;
 - g. Opportunities for operational efficiencies (i.e., staggered terms for Council, issues with legal representation, etc.);
 - h. Opportunities for beneficial changes to general language or grammatical errors; and
- 5. Review and evaluate any other charter changes that may be put forward by Richmond City Council, or the Mayor.
- 6. Present its recommendations through public dialogue with residents. The Charter review process shall encourage public dialogue to invite resident participation through solicitation of written suggestions and recommendations to inform the work of the Charter Review Commission.
- 7. Post reports on its progress and share information with the public on a public website and news releases.
- 8. Prepare a comprehensive report, which shall be retained as a public record, setting forth the results of the Commission's review of the Charter.
- 9. Prepare proposed legislation providing for any changes recommended by the Commission.
- 10. Complete its work and submit a final report to Council and the Mayor, no later than June 1, 2023 to allow sufficient time for the Council to consider its report and then request that any changes to the Charter be made during the 2024 session of the General Assembly of Virginia.
- o **Conduct of Affairs.**
 - 1. Quorum. Three members of the Task Force shall constitute a quorum.
 - 2. Duration. The Commission shall continue in existence until it has submitted the report called for by the proposed resolution.
 - 3. Meetings. The Commission shall meet at least once a month or as often as it deems necessary in order to complete its duties.
 - 4. Reporting. On the first day of each month, the Commission shall transmit to the Council and Mayor a brief summary of the Commissions' activities for the preceding month.
 - 5. Freedom-of-Information. Commission meetings, minutes and records shall be subject to the provisions of the Virginia Freedom of Information Act, codified as sections 2.2-3700 through 2.2-3714 of the Code of Virginia (1950), as amended.
 - 6. Procedures. The Commission may adopt by-laws or rules of procedure not inconsistent with this resolution to govern the conduct of its meetings and operations.
 - 7. Staff and Resources. The Commission shall have as its staff (a designee from the City Attorney's Office, Council Chief of Staff Office and such other staff as the Council Chief of Staff may identify. The Chief Administrative Officer shall designate at a minimum at least one employee from the Administration to assist the Commission in the duties imposed by this resolution.

8. Classification. The Commission is classified as "advisory" for purposes of section 2-761 of the Code of the City of Richmond (2015), as amended.

FISCAL IMPACT STATEMENT

Fiscal Impact Yes ☒ No ☐

Budget Amendment Required Yes ☐ No ☒

Estimated Cost or Revenue Impact:

Staff time and resources will be needed to assist the Commission, which is an estimated cost of approximately \$5,000 for every 10 staff hours of staff time expended to assist the Commission. No actual operating budget has been dedicated or currently identified for this Commission other than the staff resources as listed in the resolution.

Attachment/s Yes ☐ No ☒