



Legislation Text

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City of Alexandria, Virginia

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MEMORANDUM

**DATE:** JANUARY 23, 2020

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** GLORIA A. SITTON, CITY CLERK AND CLERK OF COUNCIL/s/

**DOCKET TITLE:**

Report and Recommendations from the Boards and Commissions Audit/Review Committee.

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**ISSUE:** Receipt of the Report and Recommendations the Boards and Commissions Audit/Review Committee.

**RECOMMENDATION:** That City Council receive report from the Committee and approve the recommendations on changes to processes and procedures for City Boards, Commissions and Committees.

**BACKGROUND:** In March 2019, City Council established a committee to review and audit City boards commissions, and committees. The composition of the group consisted of the following members:

- 2 Members of City Council appointed by the Mayor (Councilman Canek Aguirre and Councilman John Chapman)
- City Clerk and Clerk of Council/Executive Secretary for Boards and Commissions (Gloria Sitton)
- City Attorney's Office representative (Adrienne Fine, Assistant City Attorney)
- 1 Staff Liaison to a City Board (Diane Ruggiero, Deputy Director, Recreation, Parks, and Cultural Activities)

The Boards and Commissions Audit/Review Committee was charged with reviewing processes, procedures and policies as they relate to the advisory bodies and to return to Council with recommendations on any modifications and/or changes to boards and commissions including reviewing the application and appointment process, term limits, residency waiver, member conduct and removal from committee, meeting processes, by-laws, social media/communication policy, and a fundraising policy..

**DISCUSSION:** The following are the Committee's recommendations or improvements::

**Update to Boards/Commissions Database/Website**

In 2018, the City Clerk's Office worked with Information Technology Services (ITS) to vet and acquire a data management system to manage the applications and member information received for boards and commissions. The Granicus Boards and Commissions module was purchased to replace an over twenty year old system. In 2019, the system was integrated into the City's website and began collecting applications and data for boards and commissions. The system displays vacancies 90 days in advance (along with a monthly vacancy listing), allows for citizens to save applications and return to edit them prior to submission, and allows the City Clerk's Office to automate reminders to members about term expirations, send electronic rejection emails, and collect demographic information about applicants. These changes have been implemented.

### **Appointment Notifications/Onboarding for Members**

The City Clerk's Office sends out physical letters to each applicant that was successfully appointed immediately following the Legislative meeting. The letter includes the following information for the member: term of the appointment, an oath of office (to be completed and returned to City Clerk's Office), Freedom of Information Act information, City Code section pertaining to boards and commissions, a member handbook (Attachment 1), and (if needed) a Financial Disclosure Statement. A member handbook was developed in 2019, with assistance from the City Attorney's Office. The member handbook is a guide to familiarize new members with the basic rules and procedures of City boards and commissions. In 2017, City Council authorized oaths to be mailed into the City Clerk's Office instead of coming in the office to take the oath. The City Clerk's Office and the City Attorney's Office provides an annual training to chairs and staff liaisons on Freedom of Information Act/Conflict of Interests and rules and procedures for City boards and commissions. These changes have been implemented.

### **Applications for appointment**

The improvements to the application for appointment to boards and commissions are part of the updated database. The system allows for the inclusion of new questions, making questions and sections required in order to submit an application and for the attachment of supplemental materials by applicants. All applications are submitted electronic or input into the system electronically for distribution to City Council members.

### **Recommendation:**

The Committee is recommending that the statement of interest and all other fields, with the exception of the voluntary demographic portion, of the application be required for completion before submission, providing City Council with the maximum amount of information about the applicant. The Committee also recommends that language be added to the application indication that all application are subject to the terms of the Virginia Freedom of Information Act. The Committee also recommends that boards and commissions review the supplemental questions portion of the application that are specific to that committee to determine whether more or less informative questions would be helpful in evaluating applicants.

### **Composition of Boards/Commissions/Review of Boards/Commissions**

The Committee discussed the number of boards and commissions that are active in the City. (Attachment 2). The discussion centered around the utility of the committees, the size of the membership of the committee, whether the committee was actively meeting the goals of the enabling legislation, and whether those goals align with the City's strategic goals. There are committees that have expressed interest in reviewing their membership composition because of lack of appointment or changes to programs. Some have sought and initiated changes to their enabling legislation.

Recommendation:

The Committee did not generate a list of specific boards, commissions, and committees that should be consolidated, restructured, or abolished. The Committee's focus was refining the process and procedures that govern the established committees. Boards and commissions may currently seek changes to membership composition with the help of the City Clerk's Office, their staff liaison, and the City Attorney's Office. The Committee is recommending that there need to be further guidance from City Council about whether (if any) committees should be changed or abolished.

**Term Limits**

The City Code has a provision in City Code 2-4-4(b.1) that states, "no person shall be eligible for reappointment to any committee after having served 10 consecutive years as a member thereof. This provision may be waived by city council by resolution."

Recommendation:

The Committee recommends removal of the waiver provision. The Committee recommends additionally that this section be clarified to state that an individual subject to this provision shall be available for reapplication and reappointment after he or she has been off a City committee for one calendar year.

**Residency Waiver**

The City Code has a provision in City Code 2-4-7(d) that states, "Unless its enabling legislation expressly so provides, or unless waived by a majority of the city council when it deems such waiver in the best interest of the city and such waiver is not prohibited by any provision of law, no person shall be appointed to a committee unless at the time of the appointment the person is a resident of and residing in the city, and the person shall cease to be a member of a committee upon becoming a resident of any other jurisdiction."

Recommendation:

At this time, the Committee does not recommend any changes to the provision, but this provision should be enforced better. The liaisons should be trained to inquire as to this matter annually in conjunction with the Annual Report and inform the City Clerk's Office immediately of any changes they become aware of.

**Annual Report**

Committees are required to provide an Annual Report to City Council containing a list of all members of the committee, a description of the committee's most important activity during the reporting year and recommendations of the committee for improving its functions and duties, along with changes that should be made to other laws, policies, procedures, and programs within the expertise of the committee.

The City Clerk's Office does not consistently and timely receive Annual Reports from the committees. The Committee explored options for increasing the timeliness and quality of the Annual Reports filed by the committees.

Recommendation:

The Committee recommends adding an examination of how a committee's work ties into the City's strategic plan as a component of the Annual Report to increase the utility of the report.

The Committee also recommends that the City Code be amended to explicitly enumerate the requirements of the Annual Report and that an enforcement provision be added to 2-4-4 to encourage timely and consistent filing of Annual Reports. The nature of the enforcement provision should be discussed by City Council as a whole, but potential options for discussion are: i) removal of the chair of a committee if he or she fails to file the report within 60 days of the deadline; ii) dissolution of the committee if it fails to file its annual report within 60 days of the deadline; or iii) designation of a meeting 60-90 days after the Annual Report deadline at which a representative of any committee that has not filed an Annual Report would be required to appear before City Council regarding the delinquent report.

### **Removal of Members for Misconduct**

The Committee has received feedback that some members of City Council, staff, and the City Clerk's Office have been contacted regarding the ability of City Council to remove members from committees if warranted by the actions or alleged misconduct of the member.

The City Code currently provides the following language on removal of members from committees: "Any person appointed to a committee by the city council may be removed by the city council for neglect of duty or violations of this article or any other provision of law." City Code 2-4-7(j)

#### **Recommendation:**

The Committee recommends that City Council amend City Code 2-4-7(j) to provide that City staff or a committee itself, by resolution, may file a request for a resolution with the City Clerk's Office for removal of a member of a committee by City Council for member misconduct.

The Committee recommends that City Council as a whole determine the criteria for removal of members. Options for such criteria include removal for violation of the City of Alexandria Code of Ethics and Conduct or removal for "just cause."

### **Meeting Places**

The Committee considered whether to add a provision under the Procedure for Committee Meetings in City Code 2-4-5 requiring that all committee meetings occur on City-owned or government property.

Currently, there is no regulation in the City Code, Administrative Regulations, or the Freedom of Information Act requiring that committees meet in City-owned facilities.

#### **Recommendation:**

The Committee does not currently recommend any change on this matter at this time. Based upon the information provided by committees, there does not appear to be wide-spread meeting at non-government facilities. The Committee recommends that there be a preference that meetings occur at City-owned facilities, whenever possible. The Committee recommends that there be information about City-owned facilities available for meeting be placed in the training materials provided to staff liaisons and committee members.

## **Oath of Office**

City Code 2-4-7(h) requires that committee members who are appointed to a committee take an oath after appointment and prior to undertaking the position on a committee. City Council has in recent years attempted to reduce the burden of taking this oath by providing that the oath can be made either: “i) verbally before the city clerk, or other officer authorized to administer oaths or affirmations, or ii) in writing on a form provided by the office of the city clerk and clerk of council.”

Members are not supposed to vote or take any actions as a member of a committee without first returning this form. Unfortunately, the City Clerk’s Office still does not receive the returned oath forms on a consistent and timely basis from members.

### **Recommendation:**

The Committee recommends that an enforcement provision be placed into the oath requirement. The recommended provision is that if an oath of office is not returned within 60 days of appointment, the member would be subject to removal from the committee.

## **By-laws**

Currently, committees currently have authority in City Code 2-4-5(a) to hold and conduct its meetings in the form and manner set forth in its enabling legislation and establish procedures as may be most conducive to the conduct of its business.

Some committees have specifically been provided authority to promulgate by-laws in their enabling legislation, while others have not. There is currently no general provision on by-laws in the City Code.

### **Recommendation:**

The Committee recommends that by-laws be added as a mandatory requirement with enumerated areas that can be addressed in the by-laws to promote consistency among the committees.

The Committee recommends that City Council create a new City Code provision at 2-4-7(c)(3) that would require committees to prepare by-laws consistent with the City Code, state and federal law, and any enabling legislation regulating procedures regarding the committee mission, membership, meetings, officers, committees, and amendments.

Such by-laws should be filed with the City Clerk’s Office and reviewed by the committee annually in conjunction with the Annual Report. The Committee recommends that this be required as of the filing of the next Annual Report in August 2020. The City Clerk’s Office would provide a template for the by-laws to assist the committees in this effort.

## **Social Media and Communications Policy**

City staff has indicated that there is not any consistent standard for committee communication with the public or outside organizations and social media presence of committees. Staff seeks guidance as to whether letters on behalf of the committees can be sent, social media accounts can be established, City letterhead can be used, and other questions regarding communication raised by committees.

There is no current policy governing this conduct and no City Code provision on these matters. Recent changes in case law have provided a new framework about how social media sites have to be administered regarding removal of posts, blocking of users, and other procedures that require administrators of any City-associated social media account to be cognizant of and trained on compliance.

**Recommendation:**

The Committee recommends that a social media and communication policy be established for official communication by committees. The Committee recommends that this authority be delegated to the City Manager's Office, which has successfully established a procedure for City departments and staff already. This approach would provide flexibility as social media changes and additional questions arise regarding communication by committees.

There would not be any policy enacted regarding communication or social media usage by individual members in their personal or individual capacity.

**Fundraising Policy**

City staff and the City Clerk's Office have received questions from staff liaisons, committees, and the public about the ability of committees to participate in fundraising, sponsorships, solicitations, and other efforts to raise funds. The City does not currently have any regulation in the City Code or policy that governs the ability of committees to raise funds.

The lack of policy raises concerns, such as accounting for funds raised if not deposited properly with the Finance Department, whether fundraising is consistent with the enabling legislation of a committee, and whether the matters for which funds are being raised are consistent with the City's mission and goals.

**Recommendation:**

The Committee recommends that the general or default rule should be that fundraising, which is to be defined as the solicitation of and collection of funds, by committees is prohibited unless it is permitted by the enabling legislation or permission is received from City Council. The Committee recommends that City Council as a whole discuss and determine appropriate exceptions, whether to grandfather in groups that are currently fundraising, and other components of this prohibition.

The City Manager's Office and Finance Department should be delegated the authority to promulgate procedures for fundraising for committees that are permitted to do so, including regulation of accounts and accounting of funds, the role of City resources in the fundraising efforts, and other considerations.

The Committee additionally discussed the existence of 501(c)(3) tax-exempt, non-profit organizations that may operate as "friends of" committees. The creation of these organizations is generally regulated by federal and state law. The Committee did not make a recommendation about these organizations, but the City's authority to regulate formation of these organizations would be limited to a prohibition on committees from forming the groups or addressing the use of the City's logo, letterhead, or name of a committee in formation of the 501(c)(3).

**FISCAL IMPACT:**

Boards and Commissions management is part of the City Clerk's Office budget and a majority of the boards and commissions responsibilities are handled by City Clerk's Office staff, with a majority of the responsibilities being addressed by the City Clerk and the Deputy City Clerk. The cost for the Boards and Commissions module is paid for by the Office of Communications and Public Information, at this time, as part of the Granicus Solution, which includes web-streaming and the agenda management module. The cost for the module is approximately \$10,000 annually.

Departmental liaisons have inquired whether there are additional funds available to help with the administrative management and services provided to boards and commissions. There are not additional funds earmarked for this activity and departments have to absorb the costs.

**ATTACHMENTS:**

Attachment 1: Member Handbook

Attachment 2: List of Active Boards

**STAFF:**

Gloria Sitton, City Clerk and Clerk of Council

Adrienne Fine, Assistant City Attorney

Diane Ruggiero, Deputy Director, Recreation, Parks, and Cultural Activities