



# CHARTER REVIEW COMMITTEE

## COMMITTEE MEETING

~ AGENDA ~

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**Tuesday, June 27, 2023**

**5:30 PM**

**Remote Meeting**

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### **I. The Charter Review Committee**

A communication was received from Charter Review Project Manager, Anna Corning, transmitting the Charter Review Agenda.

A communication was received from Charter Review Project Manager, Anna Corning, transmitting an updated Charter Review Agenda.



# City of Cambridge

COF 2023 #111  
**IN CITY COUNCIL**  
June 27, 2023

**A PUBLIC MEETING OF THE CAMBRIDGE CHARTER REVIEW COMMITTEE**

June 27, 2023, @ 5:30 p.m.  
 REMOTE ONLY – VIA ZOOM

Pursuant to Chapter 2 of the Acts of 2023 adopted by Massachusetts General Court and approved by the Governor, the City is authorized to use remote participation at meetings of the Cambridge Charter Review Committee.

The zoom link is: <https://cambridgema.zoom.us/j/83253118929>

Meeting ID: 832 5311 8929

One tap mobile +13092053325,,83253118929# US

Agenda Items – Tuesday, June 27, 2023

- I. Roll Call 5:30 PM
- II. Introduction by Chair, Kathy Born
- III. Meeting Materials Submitted to the Committee to be placed on file
  - Communications from Committee Members
    - i.* A communication from Valerie Bonds, regarding a public engagement event at 808 Memorial Drive.
    - ii.* A communication from Nathanael Fillmore, regarding downsides of ward councilors
  - Communications from Council Members
  - Communications from the Public
  - Other Meeting Materials
- IV. Public Comment
  - Members of the public are invited to share their ideas or comments with the committee.
- V. Legislative Branch Discussion
  - **Facilitator:** Anna, Libby, Mike. **Goal:** Continue discussion on 1) term limits for city councilors, 2) the election and powers/duties of the chair of mayor (chair of city council), 3) appointment process for department heads and multimember bodies

**From:** [Valerie A Bonds](#)  
**To:** [Cambridge Charter Review Committee](#)  
**Subject:** Anna Corning  
**Date:** Thursday, June 15, 2023 12:27:46 PM

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I want to thank Anna for attending the Charter E Committee Outreach at our housing complex.

Despite the fact that there was no early notification and the 6 or 7 Tenants who attended, asked many questions, offered many suggestions and added a few asides along the way. , I believe the meeting was productive.

Anna answered our questions, explained the purpose of the Charter E Committee and treated our small group as if we were a group of many.

We are hoping Anna can return at a later date when adequate notification will be in place to provide a much more respectable turnout from the 300 households that reside in the Rivermark , 808-812 Memorial Drive Housing Complex.

Again, thank you for the Charter E Committee Outreach.

Regards,  
M. Bonds/Valerie  
Tenant  
812 Rivermark  
808-812 Memorial Drive  
Cambridge,MA 02139

Sent from my iPhone

**From:** [Nathanael Fillmore](#)  
**To:** [Cambridge Charter Review Committee](#)  
**Subject:** example of downsides of wards from Somerville  
**Date:** Tuesday, June 6, 2023 10:08:36 AM

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Dear Charter Review Committee:

I wanted to write briefly with an example from the news yesterday from our neighbor to the north of the negative effect wards have on the competitiveness of council races.

An [article in Cambridge Day yesterday](#) relates that a ward councillor in Somerville, Beatriz Gomez Mouakad, decided not to run for re-election. She was running unopposed. Then her former aide, Jack Perenick, made a "snap-of-the-moment decision" to run. Unless someone else files today, Mr Perenick will also run unopposed and will be newly elected as a Somerville ward councillor with no competition and having never been chosen in any meaningful sense by the voters.

I happen to like the positions Mr Perenick espouses in the article, at least on my favorite topic, multimodal transportation. But not everyone likes those positions, and I'm sure there are difference of opinion on these topics within the ward. It's a bad thing for democracy for there to be only one person running for an election. Ward seats reduce competition and thus reduce accountability of elected officials to the people.

Sincerely,  
Nate

The president of the Massachusetts Young Democrats and a former campaign adviser for Gomez Mouakad, Jack Perenick, filed papers to enter the Ward 5 on Friday after her emailed announcement.

"I was not intending to get into the Ward 5 race or any race until Beatriz decided to withdraw," Perrenick said. "It was a snap-of-the-moment decision. I've been involved in city politics for a while. I've worked with councilors, the mayor and on Beatriz's campaign. I've seen the good work she has done, specifically on bikes and wage theft. I didn't want all of that work to end."

Barring another candidate filing before the Wednesday deadline, Perenick is running unopposed in Ward 5 and is all but certain to take Gomez Mouakad's seat.



# City of Cambridge

COF 2023 #121  
**IN CITY COUNCIL**  
June 27, 2023

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  - Communications from the Public
    - i.* A communication from Henrietta Davis, regarding election of Mayor
  - Other Meeting Materials
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# Fwd: Voting for mayor

1.a

1 message

**Kathleen Born** <kathyborn@gmail.com>

Tue, Jun 27, 2023 at 3:52 PM

To: Anna Corning <acorning@cambridgema.gov>, Anna Corning <akcorning@gmail.com>

Cc: Henrietta Davis <henridavis@gmail.com>, "Erwin, Nicole" <nerwin@cambridgema.gov>

Anna,

I received the attached email this morning from Former Mayor Henrietta Davis regarding the election of a Mayor under the Council/CM form of government.

Is it possible to include it in the agenda as a late Communication? I think it has particular and timely relevance to the Charter Review Committee meeting agenda for this evening.

You could include it with this email as cover if you feel appropriate.

Regards,

Kathy Born

Begin forwarded message:

**From:** Henrietta Davis <henridavis@gmail.com>

**Subject:** Voting for mayor

**Date:** June 27, 2023 at 8:19:44 AM EDT

**To:** Kathy Born <kathyborn@gmail.com>

Dear Kathy-

You and I discussed whether I had comments on the process of electing a mayor. I participated in eight elections for mayor and certainly have some observations!

Of course it would be good to create some certainty about when the mayor would be elected and that the election would take place in a reasonable amount of time.

Overall, I understand the choice is between the council electing its leader/ chair and direct election by the public.

First on election by the public: If there is to be a city manager, I don't believe a directly elected mayor would be prudent. Direct election confers implied power. It may be inevitable for there to be conflict between the mayor— who would have the weight of the public endorsement behind her or him —and the professional manager. Not to mention the other councillors who would have equal votes to the mayor. The election by the public sets up expectations of what the mayor can do. Direct election of the mayor also erodes the implied power of other city councillors who would still have equal voting power.

As for election by the council, it has its own issues. I support a defined period to conduct the election under a modification to the current council rules with the senior member (in age or service) who has not served as mayor being installed for the entire term after 21 days. I think the voting process could be overhauled to work better, but not through a single transferable ballot. I tried experimenting with instant runoff voting but there are too few people/ too many people possibly voting for themselves for that to work. Is there a system - for example- where everyone gets 5 votes and must cast them for different people- not all for one candidate? Or a weighted ballot system?

No matter what, the election of the mayor has always taken into account many factors - more than are obvious-and involved negotiations around support for issues like affordable housing, committee assignments, who has served before. Those negotiations still need a chance to happen. How and when does this happen?

In summary, I support improving the council's method for electing the mayor and having a deadline in place that predictably installs someone as mayor.

Thanks for all the work you are doing on this. Feel free to share this email.

Henrietta Davis

120 Chestnut St  
Cambridge, MA 02139  
617-259-0737

Attachment: updated Charter Review Committee Agenda 627 (COF 2023 #121 : A communication was received from Charter Review Project

## Legislative Branch Deliberation Planning Document - June 27, 2023

Continued discussion on the following topics related to the legislative branch

- I. [Does the committee want to establish term limits for city councilors?](#)
- II. [Role of Mayor/Chair of City Council. How the mayor/chair is elected? What should the power and duties of the mayor/chair of city council be?](#)
- III. [Appointment process for Department Heads and Multi-Member Bodies](#)

## I. Does the committee want to establish term limits for city councilors?

**Currently:** Cambridge has 2-year terms for city councilors and no term limits.

### Cambridge Charter Language:

**Section 96.** The city council shall consist of seven or nine members, as provided in this section, all of whom shall, at each regular municipal election, be elected at large for *terms of two years* each by proportional representation as hereinafter provided and shall serve until their successors are qualified. The city council in any city having seven wards or less at the time of adoption of this plan shall be composed of seven members and the city council in any city having more than seven wards at the time of adoption thereof, nine members.

### Model City Charter (read more on pg. 14):

(b) Terms. The term of office of elected officials shall be four years elected in accordance with Article VI.

#### **Commentary.**

The Model recommends four-year, staggered terms (§ 6.03). Under this approach, elections of council members take place every two years. In the seventh edition, the Model listed concurrent terms as an alternative. However, a strong majority of cities have chosen staggered terms over concurrent terms to avoid dramatic changes in council composition at each election. The Model *does not restrict reelection* to subsequent four-year terms. Limiting reelection restricts the voters' opportunity to keep in office council members of whom they approve. Unlimited terms allow voters to provide a vote of confidence for council members who represent majority sentiment and a vote of opposition for members in the minority. Finally, the city benefits from the institutional memory of reelected council members.

#### **Term Limits in Other MA Cities**

- Methuen (3, 2-year consecutive terms),
- Southbridge, MA (3, 3-year consecutive terms)
- Framingham, MA (3 4-year consecutive terms for at-large councilors, 6 2-year consecutive terms for district councilors)

#### **Articles / Research on Term Limits**

[NYTimes Debating the Pros and Cons of Term Limits](#)

[Atlanta Civic Circle - City Council Term Limits are a Popular Idea](#)

[NYU Patrick Egan - Term Limits for Municipal Elected Officials: Executive and Legislative Branches](#)

- prepared for the New York City Charter Revision Commission June 2010

[Term Limits and Electoral Accountability](#)

[New Bedford Ballot Initiatives - City Council Term Limits](#)

[Southwick Seeks Selectboard Term Limit](#)

### Term Lengths & Limits of City Councilors in Other Cities

City	Pop.	Form of Government	Council Composition	Term Lengths + Limits
Boston, MA	617,459	Mayor-Council	4 at-large + 9 district councilors	2-year terms, no term limits
Somerville, MA	77,800	Mayor-Council	4 at large + 7 district councilors	2-year terms, no term limits
Newton, MA	85,157	Mayor-Council	16 at-large + 8 district councilors	2-year terms, no term limits
Bridgewater, MA	27,395	Town Manager -Town Council	2 at-large + 7 district councilors	3-year staggered terms, no more than 12 consecutive years on council
Framingham, MA		Mayor-Council	2 at-large + 9 district councilors	Limit of 3 4-year consecutive terms for at-large councilors, limit of 6 2-year consecutive terms for district
Philadelphia, PA	1.576 million	Mayor-Council	7 at-large + 10 district councilors	4-year terms, no term limits
Denver, CO	711,463	Mayor-Council	2 at-large + 11 district councilors	4-year terms, no term limits
San Francisco, CA	815,201	Mayor-Council	11 district councilors	4-year terms (staggered), limit of two 4-year consecutive terms
Lowell, MA	111,496	Council-Manager	3 at-large + 8 district councilors	2-year terms, no term limits
Worcester, MA	205,272	Council-Manager	6 at-large + 5 district councilors	2-year terms, no term limits
Phoenix, AZ	1.625 million	Council-Manager	Mayor at-large + 8 district councilors	4-year term (staggered), limit of two 4-year terms for mayor and three consecutive 4-year terms for councilors
Austin, TX	964,177	Council-Manager	Mayor at-large + 10 district councilors	4-year term (staggered). Limit of two 4-year consecutive terms
Vancouver, WA	190,915	Council-Manager	Mayor + 7 Councilors at-large **voters elect mayor	4-year term (staggered), no term limits
Rockville, MD	67,139	Council-Manager	Mayor + 4 Councilors at-large **voters elect mayor	4-year term, no term limits

Topeka, KS	125,963	Council-Manager	Mayor + 9 district councilors **voters elect mayor	4-year term (staggered), no term limit
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Public Comment:

Courbanize Feedback

About 10 commenters mentioned an opinion about the length of term for councilors. Most were in favor of maintaining 2-year terms for councilors.

Common Statements / Ideas:

- “Please keep current 2 yr. City Council terms, NOT 4 yr. terms which would be far too long. We citizens need to maintain accountability from our elected council.”
- “I urge the City Council to retain the current 2-year City Council term and to reject the proposed 4-year term for the Council. It is my opinion that too many members of this Council are already far too unresponsive to current citizens and residents and a change from a 2-year term to a 4-year term will make this unacceptable situation even worse.”

### III. Role of Mayor/Chair of City Council. How the mayor/chair is elected? What should the power and duties of the mayor/chair of city council be?

**Currently:** Cambridge's city council elects the mayor from among themselves. The mayor acts as the chair of the city council and the school committee. The mayor is the head of the city for ceremonial purposes.

Possible Additions to Mayor's Power and Duties (if council-manager structure)

1. Goal Setting: leading city council through city strategic goal setting, in addition to language about the Mayor collaborating with the City Manager on city council budget priorities
2. Lead collaboration with City Manager on department head appointments, establishing priorities for department and role

#### Cambridge Charter Language:

Thereupon the city council shall, by a majority vote of all the members elected, elect a mayor and a vice-chairman from its own members and the persons elected as such shall likewise make oath to perform faithfully the duties of the respective offices to which they are so elected, and they may so make oath at the same meeting at which they are so elected.

The mayor, or the vice-chairman of the city council, or any four members thereof, or any three members thereof in the case of a city council composed of seven members, may at any time call a special meeting by causing written notices....

The mayor, if present, shall preside at the meetings and may vote.

The mayor shall be recognized as the official head of the city for all ceremonial purposes and shall be recognized by the courts for the purpose of serving civil process and by the governor for military purposes. In time of public danger or emergency, as determined by the city council, he may, with its consent, take command of the police, maintain order and enforce the laws; and he shall have all the authority and powers conferred upon mayors by sections eighteen and nineteen of chapter thirty-three. He shall be chairman of the city council and chairman of the school committee. He shall have no power to veto but shall have the same powers as any other member of either such body to vote upon all measures coming before it. He shall perform such other duties consistent with his office and with sections ninety-three to one hundred and sixteen, inclusive, as may be imposed upon him by the city council. ... The mayor shall have no power of appointment, except of the employees mentioned in section twenty-five and except as provided in section one hundred and two.

#### Model City Charter (read more on pg. 16-17):

Section 2.03. Mayor.

(a) Powers and Duties. The mayor shall be a voting member of the city council and shall attend and preside at meetings of the council, represent the city in intergovernmental relationships, appoint with the advice and consent of the council the members of community advisory boards and commissions, present an annual state of the city message, appoint the members and officers of council committees, assign subject to the consent of council agenda items to committees, and perform other duties specified by the

council. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties.

(b) Election. At each regular election the voters of the city shall elect a mayor at large for a term of [the same term as other council members] years. The council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor for the remainder of the unexpired term.

### **Commentary**

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. As the presiding officer of the council and ceremonial head of the city, the mayor is the most conspicuous official of the city. Freedom from executive responsibilities for the day-to-day municipal operations allows the mayor to focus attention on major policy issues and important facilitative activities.

The mayor fills three facilitative roles that offer enormous leadership opportunities. 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.

Finally, the mayor delivers the state of the city message. When the state of the city message includes the setting out of needs and goals for the city, it should reflect the thinking of the council and information provided by the staff, as well as the mayor's own priorities. In presenting the state of the city message, the mayor acts as spokesperson, educator, team leader, goal setter, and policy advocate. To avoid confusion, the time of delivery of the message should be sufficiently distanced from the presentation of the budget by the manager.

### **Other Communities Election and Role of Chair of City Council / Mayor**

In most Council-Manager city charters the language about the powers and duties of mayor (chair of city council) is similar - 1) head of the city for ceremonial purposes and service of civil process, 2) no veto power, but all other powers of city councilor, 3) preside over council meetings, 4) have no regular administrative duties

In Mayor-Council city charters the powers and duties given to the city council president or chair of city council are even less - the city council president presides over council meetings, and serves as acting mayor in the event of a vacancy

*A few examples of language from other charters:*

Philadelphia, PA

“‘Council’ it shall elect a president from among its members and a chief clerk who shall not be a member.”



San Francisco, CA

“the Board of Supervisors shall by majority vote elect one of its members as President for a two-year term”

Worcester, MA

All candidates nominated in the preliminary election for the office of councilor at large in accordance with section 7-4, shall appear on the ballot as candidates for councilor at large in the regular municipal election and shall also be listed on a separate portion of the ballot as candidates for the office of mayor. The candidate elected to the office of councilor at large and receiving the highest number of votes for the office of mayor shall be mayor.

Powers / Duties

- The official head of the city
- No veto power, but the same powers as other city councilors
- Chair of school committee

Phoenix, AZ

“The Mayor shall be elected from the City at large,

The Mayor shall be recognized as the official head of the City by the courts for the purpose of service of civil process upon the City and the instituting of any action or proceeding at law or equity for and in behalf of the City, and appearing in any manner before the courts on behalf of the City; he shall be recognized by the governor and other State officials as the chief and official head of the City.”

Austin, TX

“(1)a mayor elected from the city at-large”

“The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for military purposes, but he or she shall have no regular administrative duties. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council, but shall have no veto power.”

#### IV. Appointment process for Department Heads and Multi-Member Bodies

##### Currently:

1. **Department Heads:** City Manager makes all appointment for department heads.
  - a. City Council Appoints: City Manager, City Auditor and City Clerk
2. **Multi-Member Bodies:** Subject to specific enabling legislation, includes City Manager appointments (some subject to council approval), and other specific membership requirements. See details of all MMBs here - [Document Link](#)

**Other Communities:** Most Council-Manager cities outline the city manager appoints all department heads and council does not confirm. Examples: [Phoenix, AZ](#), [San Diego](#), [Dallas, TX](#)

##### [San Diego:](#)

“The Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his charge, and to that end, subject to the Civil Service provisions of this Charter and except as otherwise provided herein, he shall have the power to appoint and remove all officers and employees in the administrative service of the City under his control.”

“All members of such boards shall be appointed by the Mayor with Council confirmation, and the terms of office of such members may extend beyond the elective term of the appointing Mayor.”

##### **City Attorney:**

“A City Attorney shall be elected for a term of four years”

##### [Dallas:](#)

[city manager shall] Appoint and employ all directors of departments and other employees not otherwise provided for in this Charter or by ordinance. Appointments made by the city manager shall be on the basis of executive and administrative experience and ability and of training fitness and efficiency of such appointees in the work that they are to administer. All such directors of departments shall be immediately responsible to the city manager and may be removed by the city manager at any time.

##### **City Attorney Appointment:**

“The city attorney shall be appointed by a majority vote of all the members of the city council and shall serve for a period of two years from the date of appointment and thereafter until a successor is appointed, unless sooner discharged by the council, and the city attorney shall not be discharged during his or her term of office except upon a majority vote of all members of the city council.”

##### [Cambridge Charter Language:](#)

The city council shall appoint a city manager who shall be sworn to the faithful performance of his duties and who shall be the chief administrative officer of the city and shall be responsible for the administration of all departments, commissions, boards and officers of the city, whether established before its adoption of this plan or thereafter, except that of the city clerk, city auditor, any official appointed by the governor or any body elected by the voters of the city

He shall make all appointments and removals in the departments, commissions, boards and offices of the city for whose administration he is responsible, except as otherwise provided in this chapter,

Such officers and employees as the city council, with the advice of the city manager, shall determine are necessary for the proper administration of the departments, commissions, boards and offices of the city for whose administration the city manager is responsible shall be appointed, and may be removed, by the city manager. The city manager shall report every appointment and removal made by him to the city council at the next meeting thereof following such appointment or removal

### Model City Charter

#### **Section 4.01. General Provisions.**

**(a) Creation of Departments.** The city council may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies. No function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

**(b) Direction by City Manager.** All departments, offices, and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the city manager may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

#### **Commentary.**

This section authorizes the city council to establish city departments, offices, and agencies. It neither enumerates the operating departments nor details their internal organization. It provides that the manager appoint, direct, and supervise the officer who administers city departments, thus precluding administration by a board or commission. The number of departments will vary in accordance with local needs as well as the distribution of functions among units of local government; for example, in some cases, cities or special districts will be responsible for services elsewhere performed by counties.

An administrative code adopted by the council is the appropriate place for the details of departmental organization and operating rules and regulations; this allows for change without necessitating a charter amendment. In addition, many aspects of the internal organization of specific departments or divisions should be governed by administrative order rather than by council action.

In a full-service city, operating departments typically will include public works, parks and recreation, police, fire, health, library, water and other utilities. In large cities, public works may be subdivided into separate departments such as transportation, buildings, and sanitation. State law generally will prescribe the organizational arrangement for housing and urban renewal functions.

The staff departments—such as finance, personnel, planning and law—likewise should be covered by the administrative code. To varying degrees, their organization may depend upon state law. For example, it may not be possible to provide for an integrated finance department which includes all aspects of finance administration. Instead, it may be necessary to provide for a city assessor and tax collector.

Adopting an equity lens will reshape decisions and activities across all departments and programs, and advancing equity through local governments requires a fundamental reorientation of day-to-day operations. To support such efforts, municipalities may consider creating a department, office, or agency whose sole task is to provide support to other divisions in local government with respect to the adoption of an equity lens. Given the breadth of implementation required for an equity lens – and the stated urgency of the issue – an equity office is best organized as a direct report to the City Manager’s office.

Social equity will be best advanced through the organization if each unit has designated an individual or a small team to serve as a lead resource within their department and a liaison to the City Manager’s equity office. This office should be tasked with supporting the implementation of an equity lens, through the development of trainings, tools, communications, and other activities related to equity. The city manager is the chief equity officer, and that role could be delegated to another office of the organization as appropriate. Still, the city manager should be the person responsible for equitable administration.

#### **Section 4.03. City Attorney.**

**Alternative I – Full time City Attorney – sole counsel to city.** The city manager shall appoint a city attorney, subject to confirmation by the council. The city attorney shall be the chief legal officer of the city, conduct all the law business of the city, be the legal advisor to the council, the city manager, all departments, and other instrumentalities of the city government. The city attorney shall represent the city in all actions in which the city is a party and shall have the authority to settle claims and compromise debts in amounts not to exceed {\*\*\*} and to settle claims and compromise debts in greater amounts with the consent of the city manager. The city attorney and the staff of the office shall engage in no other law practice. The city attorney may, with the approval of the council, temporarily employ special legal counsel to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the city attorney. The city attorney shall serve until removed from office by the joint action of the city manager and the Council.

**Alternative II – Full time City Attorney – sole counsel to city – removal by Council only.** The city manager shall appoint a city attorney, subject to confirmation by the council. The city attorney shall be the chief legal officer of the city, conduct all the law business of the city, be the legal advisor to the council, the city manager, all departments, and other instrumentalities of the city government. The city attorney shall represent the city in all actions in which the city is a party and shall have the authority to settle claims and compromise debts in amounts not to exceed {\*\*\*} and to settle claims and compromise debts in greater amounts with the consent of the city manager. The city attorney and the staff of the office shall engage in no other law practice. The city attorney may, with the approval of the council, temporarily employ special legal counsel to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the city attorney. The city attorney shall serve until removed from office by the council.

Alternatives III & IV - are regarding part time city attorney

**Commentary.** The role of the city attorney fulfills both the legal requirement and the practical requirement that the legal entity have counsel. As counsel to the organization, the attorney must offer legal counsel to the organization as a legal entity and not to the council, manager, or agencies of the government as separate clients. The Rules of Professional Conduct for Lawyers, as adopted throughout

the United States in various forms and versions, considers in Rule 1.13 these duties and obligations and offers the ethical rubric under which attorneys must act. Obligating the attorney to act on behalf of the organization rather than individual constituent members of the organization requires the attorney to provide counsel in the best interest of the entity, not the interest of one inquiring source.

a. Models 1 & 3 require that the attorney be nominated by the manager and confirmed by the council and serve until removed by the joint action of both council and manager. Requiring action by both council and manager is designed to limit concern that the attorney's advice is tilted to either the legislative or executive branch. Oftentimes, a council or manager will ask for the attorney's legal opinion and this requirement provides an element of protection for the attorney when that advice conflicts with the goals of either the council or the manager. In any of these options mayor can be substituted for manager.

b. Models 2 & 4 require that the attorney be nominated by the manager and confirmed by the council and serve until removed by the council. These models are the more common practice but create conflicts between the attorney's duty to the organization as the legislative and executive branches may disagree on whether the attorney's advice favors one branch or the other. In any of these options Mayor can be substituted for manager.

c. Where the position is full-time, the attorney should not be allowed to have a private practice but may be able to engage in other activities such as teaching or charitable work subject to the city's ethics laws.

d. In option 1, the city attorney holds sole responsibility for the legal work of the city. This option offers the city a single resource for legal analysis and advice. Should agencies, including the council or manager, feel they need a second opinion from another source, they must get both the approval of the city attorney and the council. By creating this process, shopping for legal opinions will be constricted but will also be available when appropriate and necessary.

e. Options 3 & 4 address part time city attorneys who represent the city as part of a private practice.

f. Each option includes an authority to settle or compromise claims and debts. Those matters should be handled by the attorney with some specific authority and by both the attorney and manager beyond that authority. There may be a need to address the issue in the Finance section as well. Moving settlements of cases outside the council process can help to resolve more claims and eliminate the political posturing in cases of sensitivity.