

DATE: February 22, 2019  
TO: Charter Review Committee  
FROM: Don R. Edmonds  
SUBJECT: Revised amendatory provisions in Art. IX, Sec. 1.

At our committee meeting on February 11, several concerns were raised about certain proposed amendatory language in Art. IX, Sec. 1, dealing with responsibilities of the city attorney. After further discussion with Carlos Garza, Mark Ciavaglia, Nick and Rusty, this article is now proposed to be amended as follows and subject to your reconsideration:

## ARTICLE IX. LEGAL DEPARTMENT

### SECTION 1. CITY ATTORNEY; QUALIFICATIONS

The head of the department of law shall be the city attorney who shall be appointed by the commission. The city attorney shall be an attorney at law who shall have practiced in the State of Texas for at least three years. The city attorney shall be the chief legal adviser of and attorney for the city and all departments and offices thereof in matters relating to their official powers and duties. It shall be the city attorney's duty, to:

- (1) perform all services incident to the department of law;
- (2) attend meetings of the commission whenever requested by the commission to do so;
- (3) give advice in writing when so requested by the commission, the mayor, [and/or chief executive officer] or the director of any department;
- (4) prosecute or defend, as the case may be, all suits or cases to which the city may be a party;
- (5) prosecute all offense against the ordinances of the city and for such offenses against the laws of the state as may be required by law;
- (6) prepare all contracts, bonds, and other instruments in writing in which the city is concerned, or to endorse approval of the form and correctness thereof; [and]
- (7) perform such other duties of a legal nature as the commission may by ordinance require;
- (8) ***prepare a written report for the attention and appropriate action of the commission, first in 2025 and thereafter at intervals not exceeding five years as to the need for revision of this charter, with special attention given to conflicts, if any, between the charter and state law and recommending such amendments to the charter as may seem necessary for legal, administrative, or other reasons.***

In addition to the duties imposed upon the city attorney by this charter or required by ordinance or resolution of the commission, the city attorney shall perform any duties imposed by law upon the chief legal officer of municipalities.

[The commission shall be authorized to employ special counsel to assist the city attorney in important legal matters or to represent the city in any legal matter in which the city attorney is disqualified.] ***Upon recommendation of the city attorney, the commission shall be authorized to employ special counsel to assist the city attorney in important legal matters or to represent the city in any legal matter.*** Any special counsel appointed by the city attorney shall be subject to the confirmation of the city commission in advance of any such appointment.

Administratively, the city attorney shall report to the chief executive officer or his/her designated representative.

