



Date: March 22, 2019

To: Mayor and Members of the City Council

From: Charles Parkin, City Attorney *CP*
Patrick H. West, City Manager *P.H.W.*
Monique de la Garza, City Clerk *MD*

Subject: **Ethics Commission Implementation**

On November 6, 2018, Long Beach voters approved Measure CCC (attached), which creates in the City Charter an Ethics Commission (Commission) for the purpose of monitoring, administering, and implementing governmental ethics in the City of Long Beach (City). This memorandum provides the next steps and timeline for the implementation of the Commission.

Commission

The Commission is to be composed of seven Long Beach residents. The Mayor and the City Auditor appoint two members each, and the City Council confirms the appointments. The Charter Amendment specifies that two members have involvement with local civic organizations with a demonstrated history of involvement in local governance, and two members have a background in public policy or public law, governmental ethics or open government matters, campaign finance, auditing of compliance with ethics laws, protection of whistleblowers, or technology as it relates to open government. The remaining three members are appointed by the confirmed four Commissioners. Commissioners term of office is for a four-year term, with a two-consecutive term maximum. No member of the Commission, during his or her term, shall currently hold elective office in the City, including the Long Beach Unified School District Board or the Long Beach Community College Board of Trustees, serve as an officer in any election campaign for or against a candidate for any current elected office or any City or District measure, be an employee of the City, or be employed as a registered lobbyist with the City.

The Commission will have the responsibility for the impartial and effective administration and implementation of the provisions of the City Charter, statutes and ordinances concerning campaign financing, lobbying, conflicts of interest, and governmental ethics. The Commission will have the following duties and responsibilities:

- Provide support to agencies and public officials in administering the provisions of the Charter and other laws relating to campaign finance, conflicts of interest and governmental ethics;
- Make recommendations to the Mayor and the City Council concerning campaign finance reform, lobbying, governmental ethics and conflicts of interest and to report to the City Council concerning the effectiveness of these laws;

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- Assist departments in developing their conflict of interest codes as required by state law;
- Advocate understanding of the Charter, City ordinances and the roles of elected and other public officials, City institutions and the City electoral process;
- Develop an educational program to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with City, state and federal ethics laws and the importance of ethics to the public's confidence in municipal government;
- Other duties as may be established by the City Charter or the Long Beach Municipal Code (LBMC).

Staff Assistance and Budget

The City Clerk will be charged with the staffing for administrative and management functions of the Commission. The Commission will also be supported by the City Manager's Office and the City Attorney's Office. The proposed budget for the Commission will include one dedicated City Clerk position, and time from management position in the City Manager's Office and the City Attorney's Office, which should initially be sufficient to conduct the Commission's mission and business. If there are further staffing needs to appropriately staff the Commission, the City Manager will assess those needs through FY 20 Proposed Budget process.

Next Steps

Below are the steps and tentative timeline for the creation of the Commission:

- Mayor and Auditor announce application process via media (April 2019)
- Mayor announces 2 appointments of individuals who have represented local civic organizations (June 2019)
- City Auditor announces 2 appointments of individuals who have a background in public policy or public law etc. (June 2019)
- Personnel and Civil Service Committee confirm 4 appointments (July 2019)
- City Council approves 4 appointments (July 2019)
- Commissioners complete Livescan, Ethics Training, Form 700 and Oath (August 2019)

While the City Charter Amendment does not specify a minimum number of meetings, it is recommended that the Commission meet at least quarterly, and a schedule of regular meetings be adopted to facilitate planning and attendance. The frequency of meetings can be adjusted as needed.

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Topics for the first Commission agenda should include:

- Review of the Brown Act and Roberts Rules of Order;
- Review applications for remaining 3 commissioners;

Topics for second Commission agenda should include:

- Interview top applicants for commissioner

Topics for third Commission agenda should include:

- Selection and Appointment of 3 new commission members;
- Review of the Brown Act and Roberts Rules of Order;
- Election of a Commission Chair and Vice Chair;
- Review of the Measure CCC initiative;
- Review of the City's current ethics handbook and policies and procedures;
- Review of the City's current ethics requirements and training for Commissioners and elected officials;
- Review of tracking and report of Statement of Interest documents, campaign financing, and Behest Reports; and,
- Review of training and ethics communications,

At subsequent meetings, the Commission may consider adopting rules and procedures relating to the conduct of Commission meetings.

Measure CCC refers to the adoption of an Ordinance to add or clarify Commission duties. Staff recommends the Ordinance be brought to the City Council for adoption after the Commission has had the opportunity to meet a few times to include their input.

Ethics Commission and Citizen Redistricting Commission (Measure DDD)

On November 6, 2018, Long Beach voters also approved Measure DDD, which creates in the City Charter a Citizen Redistricting Commission (Redistricting Commission). The Redistricting Commission will be charged with the exclusive authority to redraw Long Beach boundaries into nine Council districts. The Redistricting Commission will be (1) independent of Mayor and City Council control; (2) conduct an open and transparent process enabling full public consideration of and comment on the drawing of Council district boundaries; (3) comply with the provisions in this article; and, (4) conduct itself with integrity and fairness.

The Ethics Commission must be in place prior to the establishment of the Redistricting Commission. The Ethics Commission will serve as a screening panel to select a subpool of 20 to 30 qualified applicants, including 2 from each Council District. Then the Ethics Commission Chair selects 9 names at random from the subpool to have one

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representative for each Council District. The selected 9 members then select the remaining members until a body of 13 commissioners and 2 alternates is formed. The selection process is designed to produce a Commission that is independent and reasonably reflects the diversity of the City. The City Clerk, beginning in 2020, will initiate and widely publicize an application process that aligns with the 2020 Census. The City Clerk will publish and transmit to Ethics Commission a list with the names of all qualified applicants for review.

ATTACHMENT

**CC: CHARLES PARKIN, CITY ATTORNEY
LAURA L. DOUD, CITY AUDITOR
TOM MODICA, ASSISTANT CITY MANAGER
KEVIN JACKSON, DEPUTY CITY MANAGER
REBECCA GARNER, ADMINISTRATIVE DEPUTY TO THE CITY MANAGER
DEPARTMENT HEADS
MONIQUE DE LA GARZA, CITY CLERK (REF. FILE #19-0090)**

MEASURE "ccc"

SECTION 1. THE PEOPLE OF THE CITY OF LONG BEACH DO HEREBY AMEND THE LONG BEACH CITY CHARTER BY ADDING THE FOLLOWING ARTICLE __ TO THE CITY CHARTER:

"ARTICLE – ETHICS COMMISSION.

Section ____ - CREATION OF ETHICS COMMISSION.

An Ethics Commission is hereby created.

Section ____ - ORGANIZATION.

(a) The Ethics Commission shall be composed of seven residents of the City of Long Beach. No member of the Commission, during his or her term, shall:

(1) currently hold elective office in the City of Long Beach, including the Long Beach Unified School District Board or the Long Beach Community College Board of Trustees;

(2) serve as an officer in any election campaign for or against a candidate for any current elected office in the City of Long Beach, Long Beach Unified School District or the Long Beach Community College District, or any City or District measure;

(3) be an employee of the City;

(4) employ or be employed as a person required to register as a lobbyist with the City of Long Beach.

(b) Members Appointed by the Mayor and City Auditor.

(1) The Mayor shall appoint two (2) members who have represented local civic organization(s) with a demonstrated history of involvement in local governance;

(2) The City Auditor shall appoint two (2) members who have a background in public policy or public law, governmental ethics or open government matters, campaign finance, auditing of compliance with ethics laws, protection of whistleblowers, or technology as it relates to open government.

(3) The appointments made by the Mayor and City Auditor shall be agendized for confirmation by the City Council.

- (c) **Members Appointed by the Commission.** The three (3) members of the Commission not appointed by the Mayor and City Auditor shall be appointed, following a public recruitment and application process, by the affirmative vote of at least three members of the Commission. Any member so appointed shall reflect the interests of the greater Long Beach neighborhood, non-profit and business communities.
- (d) **Term of Office.**
 - (1) The term of office for members of the Commission shall be four (4) years. No member shall serve for more than two (2) consecutive terms.
 - (2) Notwithstanding the provisions of Subsection (d)(1) of this Section, the two (2) members first appointed by the Mayor and the two (2) members first appointed by the City Auditor shall serve for an initial two (2) year term. Members serving an initial two (2) year term shall be eligible for re-appointment to one (1) additional four (4) year term.
- (e) **Vacancies.** Appointments to fill vacancies on the Commission shall be made within sixty (60) days of the position becoming vacant. A vacancy on the Commission shall be filled by the same person (Mayor or Auditor) or the Commission who made the initial appointment, using the same method and procedure utilized for the initial Commission member appointment. Appointments to fill vacancies shall be for the unexpired term of the member whom the appointee succeeds. A vacancy or vacancies shall not impair the right of the remaining members to exercise the powers of the Commission.
- (f) **Quorum.** A majority of members of the Commission shall constitute a quorum, and the affirmative vote of at least a majority of members shall be required to take any action.

Section ___ - POWERS AND DUTIES OF THE ETHICS COMMISSION.

The Ethics Commission shall have responsibility for the impartial and effective administration and implementation of the provisions of the Charter, statutes and ordinances concerning campaign financing, lobbying, conflicts of interest and governmental ethics.

The City Ethics Commission shall have the following duties and responsibilities:

- (a) to provide support to agencies and public officials in administering the provisions of the Charter and other laws relating to campaign finance, conflicts of interest and governmental ethics;

(b) to make recommendations to the Mayor and the City Council concerning campaign finance reform, lobbying, governmental ethics and conflicts of interest and to report to the Council concerning the effectiveness of these laws;

(c) to assist departments in developing their conflict of interest codes as required by state law;

(d) to advocate understanding of the Charter, City ordinances and the roles of elected and other public officials, City institutions and the City electoral process;

(e) to develop an educational program to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with City, state and federal ethics laws and the importance of ethics to the public's confidence in municipal government;

(f) such other duties as may be established by this Charter or the Municipal Code .

Section __ - STAFF ASSISTANCE AND BUDGET

Staffing for administrative and management functions of the Commission will be addressed in the Municipal Code. The Commission will have a budget, as determined by the City Council, sufficient to conduct the Commission's mission and business.

Section ___ - RULES AND REGULATIONS.

The Commission may adopt, amend and rescind rules and regulations, subject to City Council approval, to carry out the purposes and provisions of the Charter and ordinances of the City relating to campaign finance, conflicts of interest, lobbying, and governmental ethics and to govern procedures of the Commission."

SECTION 2. Approval, Filing and Recordation of Charter Amendment. Pursuant to California Government Code Section 34460, if approved by a majority of voters, the Mayor and City Clerk shall certify, authenticate and attest to the passage of this Charter Amendment. The City Clerk shall also (i) record one copy of this Charter Amendment with the Los Angeles County Recorder's Office, (ii) file one copy in the City's archives and (iii) file one copy with the California Secretary of State. Each copy recorded with the County Recorder and filed in the City's archives shall also be filed with the following:

(a) Certified copies of all publications and notices required of the City by State law in connection with the calling of an election to propose the Charter Amendment.

(b) Certified copies of any arguments for or against the Charter Amendment that were mailed to voters pursuant to California Elections Code Sections 9281 and 13303.

(c) A certified abstract of the vote at the election at which the Charter Amendment was approved by the voters.

SECTION 3. Ratification and Effective Date. Pursuant to California Government Code Section 34459, this Charter Amendment shall be deemed ratified if approved by a majority of the eligible voters of the City of Long Beach voting at the General Election of November 6, 2018. However, this Charter Amendment shall not take effect until it has been accepted and filed by the Secretary of State pursuant to Government Code Section 34460.

SECTION 4. Severability. If any provision of this Charter Amendment or the application thereof to any person or circumstance is held invalid, the remainder of the Charter Amendment and the application of such provision to other persons or circumstances shall not be affected thereby.

PASSED, APPROVED and ADOPTED by the People of the City of Long Beach at a General Election held on November 6, 2018.

ROBERT GARCIA
Mayor of the City of Long Beach

Attest:

Monique De La Garza
City Clerk

Approved as to form:

Charles Parkin
City Attorney