

January 29, 2015 City Council Agenda

**Subject: Approve an ordinance amending City Code Title 2 relating to the functions and duties of the City Auditor and the Ethics Review Commission.**

On October 16, 2014, the Council considered an Item from Council (IFC) resolution relating to the duties and functions of the City Auditor and the Ethics Review Commission (ERC). The resolution set out a proposal for changing the jurisdiction of the ERC, clarifying the role of the City Auditor, and enhancing employee due process protections during City Auditor investigations.

A key element of the proposal involved the entity that would have jurisdiction for making a final determination on Code of Ethics violations alleged against a City employee covered by the City's classified municipal civil service system (the majority of the non-executive workforce). Currently, the City Code establishes the Ethics Review Commission as the final arbiter on all allegations of Code of Ethics violations. Because Municipal Civil Service is now available to review ethics violations, the proposed changes remove the jurisdiction from the Ethics Review Commission, allowing for City management to make the determinations, with an appeal to the Municipal Civil Service Commission as added protection for employees.

Later draft ordinances addressed allegations of Code of Ethics violations against employees who are members of a state civil service system (Police, Fire, and Emergency Medical Services). Because the systems that are in place for these employees are longstanding and provide due process protections, later drafts of the ordinance also removed this group from the ERC jurisdictions.

The item was on the Council December 11, 2014 agenda. At that time, Council postponed the item and gave direction for the stakeholders to review the proposed ordinance and come to Council on January 29, 2015 with recommendations. The City Auditor, City management staff, and stakeholders have met together and in smaller subject area working groups. Many items are still in review and will likely be brought to Council in the next 60 to 90 days. However, the stakeholders all agree that the provisions removing employees who are members of the City's classified municipal civil service system or a state civil service system from ERC jurisdiction should proceed at this time. There are existing cases pending with the City Auditor that need to move forward. The ERC, City Auditor, City Management and other stakeholders believe that it is important for the cases to move forward through a system that will provide the protections of the municipal civil service system. The stakeholders also want to avoid a situation in which the process changes midstream for some investigations or in which some employees are reviewed under one system and some under another.

To summarize, the proposed ordinance has been narrowed to only provide that the ERC will not hear or initiate a complaint against a member of the City's classified municipal civil service or a member of a state civil service system. We will continue to work on the remaining issues with all the stakeholders and expect to bring another ordinance to Council in the next 90 days.