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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director
Legislative Policy Division Staff 

DATE: February 5, 2025

RE: **REPORT ON THE FEASIBILITY OF PUBLIC OVERSIGHT COMMITTEES**

City Council Member Latisha Johnson has requested the Legislative Policy Division (LPD) to produce a report detailing the logistical, legal, and operational considerations for establishing public oversight committees for each of the City Council Standing Committees.

The first consideration regarding the establishment of public oversight committees is their intended role and purpose. Presumably, “oversight” implies that these committees will observe the actions of City Council during Standing Committee meetings to promote transparency and accountability. However, it is not clear how the establishment of oversight committees would achieve a higher degree of transparency or accountability than the status quo.

Currently, the 2012 Detroit City Charter provides that “[a]ll business which the City Council may perform shall be conducted at a public meeting held in compliance with the Michigan Open Meetings Act,” (OMA) MCL 15.261, *et. seq.* The OMA requires that all deliberation and decisions by the Council take place during a meeting that is open to the public.¹

Any member of the public is free to attend all Council meetings in person or virtually.² The City provides public notice in advance of every meeting to ensure that the public is aware of when and where the meetings will take place. The meetings are also recorded and archived so that members of the public

¹ MCL 15.263(2) and (3).

² Aside from closed sessions for very limited purposes.

can review past meetings. The minutes of all Council meetings are recorded, preserved, and made available for public review. Additionally, members of the public may request that the City provide any documents and records pursuant to the Michigan Freedom of Information Act to the extent that the records are not exempted under the statute

All members of the public are afforded the opportunity to provide their public comment during each meeting. They can also provide information that they wish to be included in the record. Each Council office has a publicly available phone number and email address where members of the public can reach out for a variety of reasons, whether that is to discuss a topic, bring an issue to the Council's attention, advocate for or against a certain issue, or provide praise or criticism regarding the Council's performance of its duties.

The First Amendment of the U.S. Constitution guarantees the right of every member of the public to express their opinions regarding the Council's actions through direct speech, print, video, or social media with few exceptions. As elected officials, the Council Members are accountable to the public by the ballot box. Council Members themselves are members of the public elected by their fellow Detroit residents. Once elected, Council Members must seek reelection every 4 years if they wish to retain their seat. Members of the public can campaign for or against any particular candidate or run against them if eligible. Council Members are also subject to recall as provided for by state law.³

The Charter provides for oversight entities which are intended to ensure that all City employees, appointees, and elected officials conduct themselves within the applicable legal and ethical boundaries. These entities are the offices of the Auditor General, Inspector General, Ombudsperson, and the Board of Ethics. The Board of Ethics in particular must consist of residents and may not be elective officers, appointees, or employees of the City.⁴ If Council Member is found to have violated section 2-106.1 through 2-106.10 of the Charter with intent, or willful or gross neglect, the Member will be subject to a recommendation to the City Council for removal or forfeiture proceedings, and potential criminal charges may follow.⁵

The Charter does not contemplate the existence of public oversight committees. Therefore, these entities would not derive any authority from the Charter. The most similar language in the Charter is found in Article 9, which provides for the creation of Community Advisory Councils (CACs). The stated intent of the CACs is "to improve citizen access to city government."⁶ As the name implies, CACs function in an advisory capacity and are intended to facilitate dialogue between the residents of each Council district and the elected officials representing them. The only direct authority granted to CACs is the ability to "require that the City Council representative for that district receive prior consultation from the Community Advisory Council on issues that relate exclusively to that district."^{7, 8}

There are many logistical and operational issues that would need to be resolved prior to the establishment of public oversight committees. The qualifications for members and the process for becoming a member would need to be established. If the desire is for members to be Council appointees, presumably there would be a member representing each Council district appointed by the Council Member representing each district and it is likely that the at-large Members would also desire to have appointees. Appointing 9 members for each subcommittee would be a total of 45 appointees. If there is a concern that choosing

³ Michigan Election Law, Act 116 of 1954.

⁴ 2012 Detroit City Charter, Sec. 2-106.8.

⁵ *Id.*, Sec. 2-106.11.

⁶ *Id.*, Sec. 9-101.

⁷ *Id.*, Sec. 9-103; 2019 Detroit City Code Sec. 12-2-7.

⁸ For information regarding the creation of CACs, please see LPD's May 6, 2022 report "Community Advisory Council Formation."

members by Council appointment creates a potential conflict of interest, a different method would need to be determined.

It also needs to be determined whether these committees would require funding, and the source of that funding would need to be identified. CACs are forbidden from receiving any appropriations from City funds.⁹ It would also be incongruous to fund public oversight committees, which appear to have a similar function to CACs, where CACs are specifically provided for in the Charter and prohibited from receiving City funds.

It would then need to be determined whether the members are required to attend Standing Committee meetings and if there is a quorum requirement. Another consideration is whether the committees would have to hold their own independent meetings and whether those meetings would be subject to the OMA.

The intended function of public oversight committees is unclear, as it is not known whether the committees would have the ability to participate directly in Standing Committee meetings, whether they would generate reports on the meetings, or whether they would serve in some sort of advisory capacity. If the committees are not provided with any authority, there is nothing to distinguish the committees from the general public. To the extent that they would be given some type of oversight or advisory authority, it seems likely that it would be duplicative of the authority given to the oversight agencies and CACs already provided for in the Charter. Either way, any authority granted to public oversight committees would likely need to be established by ordinance and/or Charter amendment, particularly if the intention is to provide them with an ability to affect or impede the duties of City Council in some way.

There are clearly numerous hypothetical logistical issues with the creation of public oversight boards. These largely depend on the answer to what is meant by “oversight.” As stated above, the City Council is currently subject to various layers of oversight and must conduct all its business in full view of the public. To the extent that there are gaps in these layers of oversight, they must be identified, and the public oversight committees should be structured to fill these gaps. Otherwise, these committees appear to be a solution in search of a problem.

Please let us know if we can be of further assistance.

⁹ 2012 Detroit City Charter, Sec. 9-103.