



# Proposed Charter Amendments

Public Hearing

February 7, 2023

# Ordinance Ordering a Special Election for May 6, 2023

## PROPOSED AMENDMENTS FOR SPECIAL ELECTION INCLUDE:

- A. **Section 3.1:** to allow District Representatives to appoint and remove District Office Staff
- B. **Section 3.18:** to allow City Council to authorize leases for 40 years or less by Resolution or Ordinance
- C-D. **Section 3.5A:** to allow Council to reschedule meetings for holidays and allow the Mayor to cancel a Council meeting if required due to a Declared Emergency (2 measures)
- E. **Section 3.9B, 3.10B, and 6.1-12:** to align to State law and update obsolete references
- F. **Section 6.1-4:** to authorize the City to create a policy regarding appointments to the Civil Service Commission to reflect the community and City Workforce
- G. **Section 6.7-1 and 6.8-1:** to allow the City to establish more flexible policies in hiring employees
- H. **Section 6.13-11D:** to establish the City contribution to the Police and Fire Pension Fund of no less than 18% of the wages of the participants, and remove the limit on the City's contribution
- I. **Section 3.11:** to remove the requirement for a second petition in initiatives and provide a procedure for citizens to Initiate City Ordinances
- J. **Section 3.20B:** to change the reporting structure for the Chief Internal Auditor to report directly to City Council

# Council-Approved Amendment for Sec. 3.11

**ARTICLE III SECTION 3.11 INITIATIVE:** review the initiative petition process for benchmarking purposes.

## **PROPOSED BALLOT LANGUAGE:**

- Should section 3.11 relating to the initiative petition of the City Charter be amended to remove the requirement for a second petition, and institute a process for the public to initiate a City ordinance, and to clarify that no ordinance may be initiated through this process appropriating or allocating City funds, zoning or rezoning, levy of taxes, setting utility rates, purchase or sale of an interest in real property, or granting a franchise?

# Council-Approved Amendment for Sec. 3.11

## PROPOSED AMENDED LANGUAGE:

..., no ordinance may be initiated through this process ~~regarding required~~ appropriating or allocating of City funds, zoning or rezoning, levy of taxes, setting utility rates, purchase or sale of an interest in real property, or granting a franchise.



# Council-Approved Proposition to Amend Sec. 3.20B

## MOTION MADE ON JAN. 24, 2023:

Motion made by Rep. Kennedy, seconded by Rep. Annello and carried to add a Charter Amendment to change the reporting structure of the Internal Auditor so the position reports directly to City Council.



# Council-Approved Proposition to Amend Sec. 3.20B

## SECTION 3.20B INTERNAL AUDIT FUNCTION PROPOSED AMENDED LANGUAGE:

1. The Council shall establish and create an internal audit function to ensure that appropriate internal audits will be performed in accordance with professionally recognized auditing standards of the operations of all City departments, offices, agencies and programs.
2. The function shall be staffed by a Chief Internal Auditor and such other appropriate positions as are authorized by the Council who shall report to the Chief Internal Auditor. City employees in such positions shall be protected by the Civil Service System rights and processes (related to discipline) that are afforded to classified employees, even if considered unclassified by other sections of this Charter or the City's Civil Service System.



# Council-Approved Proposition to Amend Sec. 3.20B

## SECTION 3.20B INTERNAL AUDIT FUNCTION (CONT.)

3. Consistent with the provisions of this Charter, the Council shall by ordinance or resolution provide for the powers and duties of the Chief Internal Auditor as needed for the performance of the function.
4. The Financial and Audit Oversight Committee shall maintain legislative oversight over the internal audit function as provided in Section 3.6 B.
5. On and after the effective date of this amendment, the Chief Internal Auditor shall be appointed and removed by , and report to the ~~City Manager subject to the approval of the~~ Council. The City Manager shall maintain operational oversight over the internal audit function and be responsible for the implementation of any audit recommendations for changes to City administrative procedures and operations as requested by the Council.





# Council Approved Proposition to amend Sec. 3.20B

## 2023 PROPOSED BALLOT LANGUAGE:

- Should Section 3.20B of the El Paso City Charter be amended to change the reporting structure of the Chief Internal Auditor so the position reports directly to City Council, and to provide Civil Service protections to employees in positions that report to the Chief Internal Auditor?



# Background History and Best Practices

## DUE DILIGENCE PROCESS



# Internal Auditor: Best Practice

## ABOUT THE INSTITUTE OF INTERNAL AUDITORS Attribute Standards

### 1100 – INDEPENDENCE AND OBJECTIVITY

The internal audit activity must be independent, and internal auditors must be objective in performing their work.



The Institute of  
**Internal Auditors**

### Interpretation

Independence is the freedom from conditions that threaten the ability of the internal audit activity to carry out internal audit responsibilities in an unbiased manner. **To achieve the degree of independence necessary to effectively carry out the responsibilities of the internal audit activity, the chief audit executive has direct and unrestricted access to senior management and the board. This can be achieved through a dual-reporting relationship.** Threats to independence must be managed at the individual auditor, engagement, functional, and organizational levels.



# Internal Auditor: Background History

## HISTORY

- In 2010, City Council the El Paso City Code to codify the Internal Audit function.
- In 2012, City Council creates the Financial and Audit Oversight Committee by resolution to provide legislative oversight of the Internal Audit function.
- In 2013, the City Council activates an Ad Hoc Charter Advisory Committee that was asked to consider the Internal Audit Function.

## Previous Learning Opportunities

### Auditor Reports to Elected

2011: FBI uncovers bribery scheme involving former County Judge's vote and influence on County contracts

### Auditor Reports to Administrator

2012: U.S. Attorney's Office conducts an investigation into no-bid contract and cheating scheme involving El Paso ISD Superintendent



<https://www.governing.com/archive/tt-el-paso-school-board-cheating-scandal.html>

<https://www.justice.gov/usao-wdtx/pr/former-el-paso-county-judge-anthony-cobos-sentenced-federal-prison-el-paso-corruption>





# 2013 Voter-Approved Sections 3.6B and 3.20B

## RESOLUTION

**WHEREAS**, the City Manager is the Chief Administrative Officer of the City of El Paso and as such is responsible to the City Council for the administration of all City affairs placed in the City Manager's charge by or under the El Paso City Charter ("Charter");

**WHEREAS**, the Charter provides that City Manager shall direct and supervise the administration of all departments, offices and agencies of the City except as provided by the Charter or by law;

**WHEREAS**, the Charter provides that City Council may exercise the power to adopt any administrative code and establish, abolish, alter or combine any City department by adoption of an ordinance only;

**WHEREAS**, on August 24, 2010 the El Paso City Council adopted ordinance Number 017383 to amend Title 2 of the El Paso City Code (Administration and Personnel) to revise the structure of the City Manager's Office to create the internal audit function as well as other matters;

**WHEREAS**, the function of the internal auditor was established as a function of the City Manager's Office, shall be staffed by the City's Chief Internal Auditor ("Internal Auditor") and such other appropriate positions as are authorized by City Council; provided, however that the City Manager may assign duties to other departments and staff as she deems appropriate;

**WHEREAS**, the Internal Auditor and his designees shall perform such internal auditing functions relating to City operations as are needed and required by the City Manager and the City Council; and

**WHEREAS**, the City Council desires to create a Financial and Audit Oversight Committee for the purpose of providing legislative oversight of the function of the Internal Auditor; to review other financial policies of the City and to formulate recommendations for the City Council regarding City finances and other matters referred to the Financial and Audit Oversight Committee by the City Council; or which the City Manager presents to the committee for consideration.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

**1. Creation of Committee:** By adoption of this Resolution, the City Council has established the Financial and Audit Oversight Committee ("FAOC") which shall be comprised of the following:

- 4 members of City Council;
- Internal Auditor
- City Manager or her designee

CITY CLERK DEPT.  
2012 AUG 16 PM 12:29

## HISTORY

The current Charter language is based on:

- Section 2.110.030 of the City Code
- a Resolution of the Council adopted on August 21, 2012, creating Audit Oversight
- recommendations submitted in a study conducted by KPMG Global (an international independent external auditor)

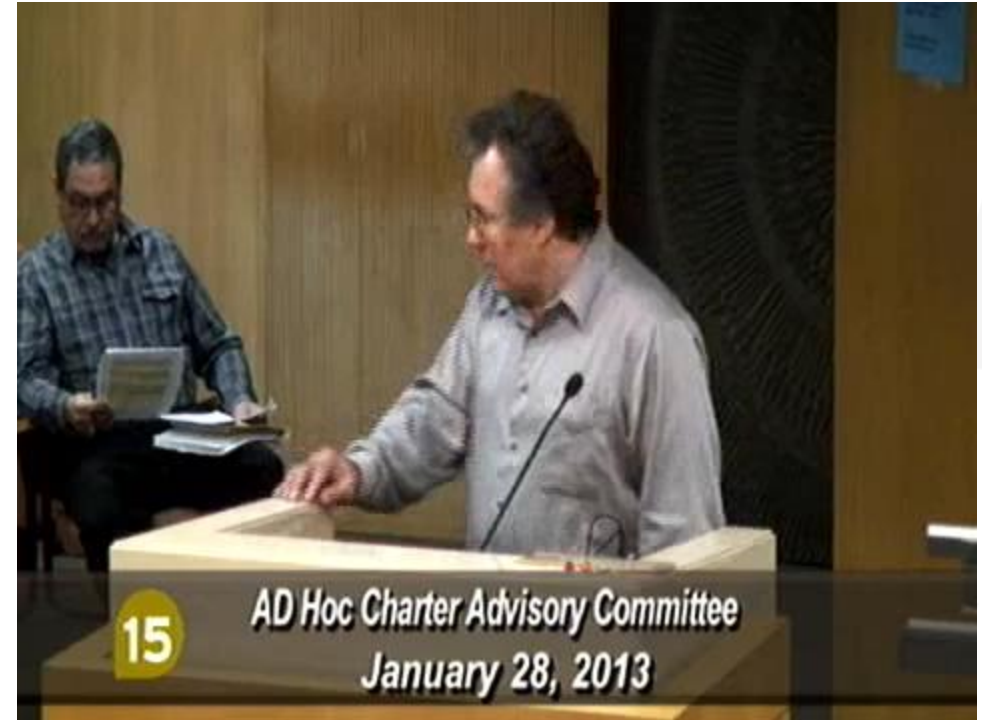
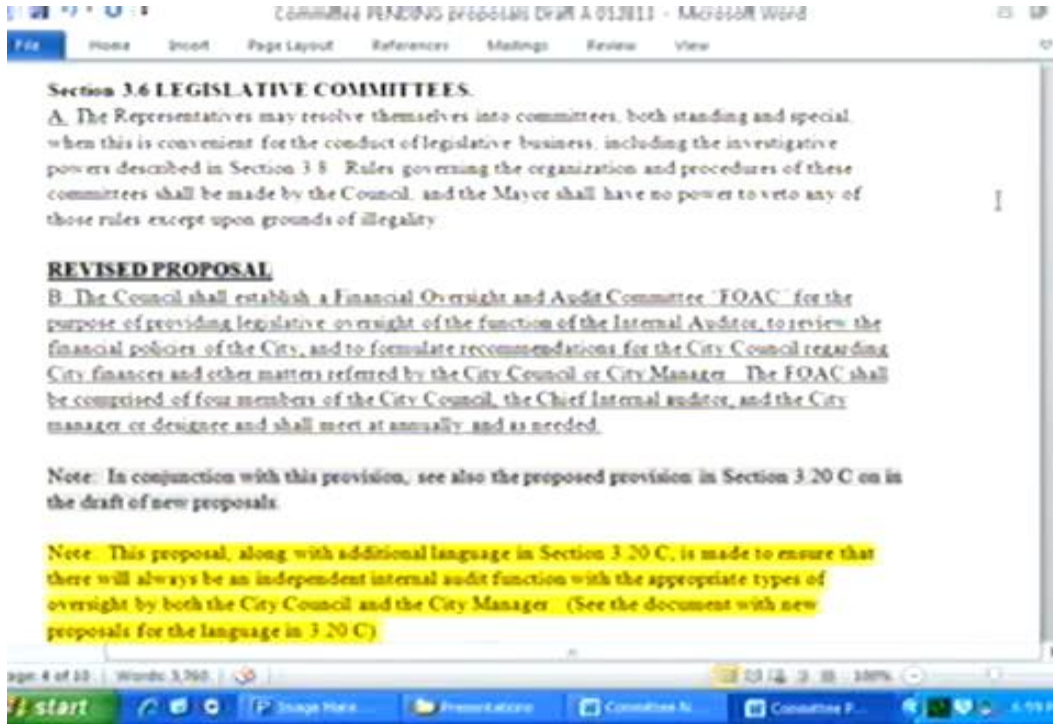
Sections 3.6B and 3.20B, 2. as adopted:

- allowed for dual reporting structure and solidified transparency
- was modeled after International Standards for the Professional Practice of Internal Auditing



# 2013 Voter-Approved Sections 3.6B and 3.20B

## HISTORY



Ad Hoc Charter Advisory Committee Meeting  
January 28, 2013

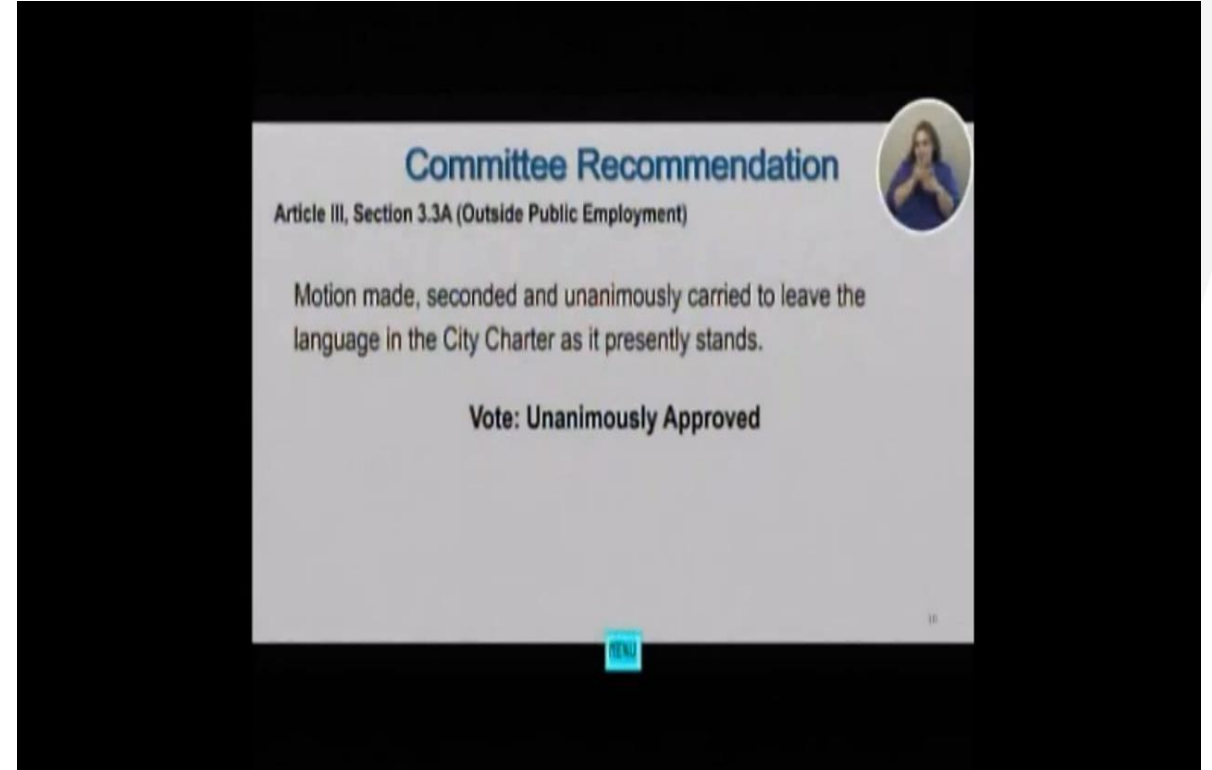


# 2013 Voter-Approved Sections 3.6B and 3.20B

## HISTORY



**City Council Meeting**  
February 26, 2013



**City Council Meeting**  
June 12, 2018



# 2013 Voter-Approved Sections 3.6B and 3.20B

## HISTORY

### 2013 Proposition Language (Amendment #5)

Shall Section 3.20, Ethics and Accountability, of the City Charter be created, Section 3.6 be amended, and Section 2.2 G be deleted, relating to Ethics and Accountability: to move and amend the provision governing the Ethics Review Commission to give the Commission the power to enforce its decisions by assessing civil fines and sanctions as authorized by ordinance, and to create requirements for the establishment of an independent Internal Audit function and a Financial Oversight and Audit Committee to provide oversight of the audit function and review city financial policies?

## ELECTION RESULTS:

**FOR:** 22,328 (52.42%)

**AGAINST:** 20,266 (47.58%)

# City Progress Under Sec. 3.20B

## HISTORY

- In 2014, the external auditor reported 21 audit findings.
- From 2015 to 2023, the external auditor reported ZERO audit findings for six—going on seven—years in a row.
- Every three years the internal audit office undergoes an external quality control review. The last review was conducted in 2019. The report states the office excels in the following:
  - Work papers are well documented, understandable, and consistent across all engagements reviewed.
  - The Office has established a culture and expectation of independence and objectivity within the organization.
  - The Internal Audit Office is highly regarded and considered a valuable resource by the organization.
  - The Office staff contains highly qualified professionals holding a variety of certificates and licenses which increase the value of their work product.





# City Progress under Sec. 3.20B

## HISTORY

The 2021 Baldrige Feedback Report outlines a Strength in Section 1.1.a.1 – Senior Leadership as follows:

The City’s governance system reviews and achieves strategic and fiscal accountability, transparency in operations, and independence and effectiveness of internal and external audits through a system of checks and balances integrated across the organization.

For example, both internal and external audits are reviewed by the Financial and Oversight Advisory Committee (FOAC) and publicly shared at council meetings; quarterly and annual Integrated Business Planning (IBP) reports go to the council; systematic performance reviews of the city manager are conducted; and Council Request (CR) process review and resolution rates by District are measured. These well-deployed governance approaches support the City’s strategic vision, helping to ensure accountability to the public and fair treatment of all stakeholders.

# Next Steps

## February to April

Community Meetings/Information Sessions  
About Proposed Amendments

## April 24 to May 2

Early Voting

## May 6

Election Day

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JUST THE  
FACTS

## MISSION



Deliver exceptional services to support a high quality of life and place for our community

## VISION



Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government



## VALUES

Integrity, **R**espect, **E**xcellence,  
**A**ccountability, **P**eople