

Office of Internal Audit

Performance Audit 24-01: City Council Clerk

March 2024

City Auditor

Stan Sewell, CPA, CGFM, CFE

Senior Auditor

Jeff Connor, J.D.





OFFICE OF INTERNAL AUDIT

Stan Sewell, City Auditor

March 20, 2024

To: Mayor Kelly
City Councilmembers

RE: City Council Clerk Audit (#24-01)

Dear Mayor Kelly and City Councilmembers:

The attached report contains the results of our City Council Clerk audit. Based on our findings, we determined the operations of the Council Clerk substantially complied with all governing provisions of the City Charter and Code, the Tennessee Open Meetings Act (Sunshine Law), and the Council Rules of Operation during the audit period (CY 2023). However, we recommend the Council Clerk work with the City Engineer to update the maps/plats book showing rights-of-way granted by the City.

We would like to thank the Council Clerk and staff for their courtesy, cooperation and assistance during this audit.

Sincerely,

Stan Sewell, CPA, CGFM, CFE
City Auditor

Attachment

cc: Audit Committee Members
Jermaine Freeman, Chief of Staff
Ryan Ewalt, Chief Operating Officer
Julia Bursch, Deputy Chief Operating Officer
Nicole Gwyn, Council Clerk
Phil Noblett, City Attorney
Jim Arnette, Tennessee Local Government Audit

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AUDIT PURPOSE

This audit was performed in accordance with the Office of Internal Audit’s 2024 Audit Agenda. The objective of the audit was to determine if the City Council Clerk maintains records and performs official duties in compliance with applicable law, regulations and City Council directives.

BACKGROUND

The City Council Clerk (“Council Clerk”) serves as the custodian of record for all actions taken by City Council (“Council”). The Council Clerk operates under the general supervision of the Council Chair. The Council authorized the employment of Nicole Gwyn as Council Clerk in November 2014 pursuant to Council Resolution No. 28071.



The Council Clerk is entrusted with many important and diverse duties that serve the Council and public. For instance, the Council Clerk is responsible for executing ordinances and resolutions, archiving official records, and being the custodian of the municipal seal. The Council Clerk assists the public on a daily basis in requesting City services, noticing public hearings, disseminating information on Council actions and helping constituents contact their Council representatives. The Council Clerk is also responsible for recording the minutes of all open meetings of the Council.

FINDINGS AND RECOMMENDATIONS

Council Clerk operational compliance

We determined the operations of the Council Clerk substantially complied with the governing provisions of the City Charter and Code, the Tennessee Open Meetings Act (Sunshine Law), and the Council Rules of Operation during the audit period (CY 2023). However, our

audit testing (discussed below) disclosed the right-of-way map/plat book on file in the Council Clerk's Office requires updating.

Audit Test 1: Resolution Book

Requirement(s): City Code § 2-64 requires the Council Clerk to maintain a "resolution book" containing all resolutions passed by Council. The Council Clerk must place an appropriate caption indicating the nature of the resolution, the name of the mover, and enter the number of the resolution and page number in the resolution book.

Audit Test Outcome: The resolutions we selected for audit review were appropriately captioned and properly recorded in the resolution book. The name of the moving party for each resolution was recorded in the resolution book index. **We found no exceptions or deficiencies.**

Audit Test 2: Ordinances and Resolutions

Requirement(s): City Charter § 11.5 requires ordinances be signed by the Council Chairperson, Vice Chairperson, or Chairperson *pro tempore*, approved or vetoed by the Mayor, and maintained by the Council Clerk. Resolutions are not required to be signed. However, resolutions must be numbered and maintained by the Council Clerk for such period as required by applicable law and regulations or directive of Council.

Audit Test Outcome: All ordinances selected for review contained the signature of the Council Chairperson and approval by the Mayor as required by the City Charter. All resolutions were sequentially numbered and properly recorded in the resolution book. Digital copies of ordinances and resolutions are accessible to the public on the City's website. Original documents were archived in labeled binders located in the Council Clerk's office. **We found no exceptions or deficiencies.**

Audit Test 3: Franchise Book and Advertisements

Requirement(s): City Code § 2-66 requires the Council Clerk to keep a separate "franchise book" of franchises granted by the City, including the date of the ordinance granting the franchise, right-of-way limitations, and the motive power to be employed in the exercise of such franchise, if any. In addition, City Charter § 7.2 requires ordinances granting franchises be published in full at least five (5) days before final passage in a daily newspaper published in Chattanooga.

Audit Test Outcome: There was one (1) franchise ordinance passed during the audit period. Therefore, we expanded our scope to include all franchise ordinances passed within two (2) years prior to the audit

period. All franchise ordinances selected for review were properly recorded in the franchise book and advertised in the local newspaper at least (5) days before final passage. **We found no exceptions or deficiencies.**

Audit Test 4: Council Meeting Minutes

Requirement(s): T.C.A. § 8-44-104(a) requires Council meeting minutes be promptly and fully recorded, open to public inspection, and include a record of the persons present, all motions, proposals and resolutions offered, the results of votes taken, and a record of individual votes in the event of roll call. Additionally, as a best practice, the Council Clerk should transcribe the minutes as soon as practicable and distribute copies to the Mayor and Councilmembers together with all pertinent materials.¹

Audit Test Outcome: The Council meeting minutes we examined were promptly recorded, fully transcribed, and accessible to the public on the City's website. All meeting minutes included a complete record of the persons present, all motions, proposals and resolutions offered, and the results of votes taken. **We found no exceptions or deficiencies.**

Audit Test 5: Council Meeting Notices

Requirement(s): T.C.A. § 8-44-103 requires adequate public notice for regular and special meetings of Council.² City Charter § 8.5 provides that Council rules shall specify the schedule for regular meetings, which shall be held at least twice a month, and the procedures for calling special meetings.

Audit Test Outcome: Public notice of Council meetings is provided in the local newspaper and on the City's website. **We found no exceptions or deficiencies.**

Audit Test 6: Council Meeting Agendas

Requirement(s): T.C.A. § 8-44-110(a) requires Council meeting agendas be made available to the public at least 48 hours prior to the meetings. Posting the agenda on the City's website satisfies this requirement. The City Attorney, in consultation with the Council Clerk, is responsible for preparing the agenda for official sessions of Council.

Audit Test Outcome: We confirmed the agendas selected for audit review were posted on the City's website each week on the Friday

¹ Tennessee Recorder Handbook (October 2009 edition).

² The Tennessee Open Meetings Act does not define "adequate public notice". However, in *Memphis Publishing Co. v. City of Memphis*, 513 S.W.2d 511 (Tenn. 1974), the Tennessee Supreme Court held that adequate public notice depends on the circumstances or the totality of circumstances as would fairly inform the public.

before the regularly scheduled Tuesday Council meeting. Additionally, copies of agendas are provided to various local media outlets at least 48 hours prior to each meeting. **We found no exceptions or deficiencies.**

Audit Test 7: Miscellaneous Records

Requirement(s): The Clerk is responsible for maintaining important maps, manuals, and technical guides, which have been adopted by reference in the City Code, including:

- Maps and plats showing rights-of-way granted by the City;
- 2018 edition of the International Plumbing Code;
- 2018 edition of the International Fuel Gas Code;
- 2018 editions of the International Building Code and International Residential Code;
- 2018 editions of the International Fire Code and NFPA 101 Life Safety Code;
- 2009 edition of the Manual on Uniform Traffic Control Devices; and
- American National Standard Accessible and Usable Buildings and Facilities.

Audit Test Outcome: We confirmed the aforementioned records have been on file in the Council Clerk's Office for at least fifteen (15) days, consistent with City Code requirements. However, the map/plat book describing rights-of-way granted by the City should be updated.

Recommendation 1: We recommend the Council Clerk, in consultation with the City Engineer, update the maps/plats book showing rights-of-way granted by the City in accordance with City Code § 2-85.

Auditee Response: We agree with the audit finding and recommendation.

Estimated Implementation Date: April 6, 2024

Priority Level: 3

APPENDIX A: SCOPE, METHODOLOGY AND STANDARDS

Based on the work performed during the preliminary survey and our assessment of risk, this audit covers the operations of the Council Clerk from January 1, 2023 through December 31, 2023. When appropriate, the scope was expanded to meet the audit objectives. We obtained source documentation from archived records in the Council Clerk's office and the Oracle system. Original records and digital copies were used as evidence and verified through physical examination.

We examined evidence on a test basis and applied other procedures required to meet the audit objectives. The procedures included:

- Reviewing applicable laws, regulations and Council directives;
- Reviewing internal controls, policies, procedures and performance requirements;
- Evaluating best practices and standards for municipal clerks;
- Conducting a risk assessment to identify high-risk activities and potential fraud risks;
- Interviewing key personnel; and
- Examining records on file with the Council Clerk.

We used non-statistical sampling to determine the sample size and selection of the records we tested for compliance. Non-statistical sampling is the selection of a test group based on the auditor's judgment, rather than a formal statistical method. To determine the appropriate sample size, we considered sampling risk and the extent to which errors were expected. Sampling risk arises from the possibility that a conclusion may be different from the conclusion reached by subjecting the entire population to the same testing procedures. We did not extrapolate the results of our testing to draw conclusions on the population as a whole. We used judgmental sampling when appropriate to improve audit efficiencies.

To achieve the audit objectives, we relied on data maintained in the Oracle system. We assessed the reliability of the data and conducted sufficient tests of the data. Based on these assessments and tests, we concluded the data was sufficiently reliable to achieve the audit objectives.

We conducted this performance audit from January 2024 to March 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence we obtained provides a reasonable basis to support the findings and conclusions expressed herein.

APPENDIX B: PRIORITY LEVEL DEFINITIONS

Priority 1: Critical control weakness exists that exposes the Auditee to a high degree of risk. Noncompliance with federal, state or local law, regulation, statute, charter or ordinance will always be considered a priority 1.

Priority 2: Control weakness exists that exposes the Auditee to a moderate degree of risk.

Priority 3: The opportunity for improved efficiency or reduced exposure to risk exists.

City of Chattanooga Fraud, Waste, and Abuse Hotline

Internal Audit's Fraud, Waste, and Abuse Hotline gives employees and citizens an avenue to report misconduct, waste or misuse of resources in any City facility or department.

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