

**Performance Audit 19-08:  
Clerk to the City Council**

**November 2019**

**City Auditor**

Stan Sewell, CPA, CGFM, CFE

**Senior Auditor**

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# OFFICE OF INTERNAL AUDIT

## Stan Sewell, City Auditor

November 13, 2019

To: Mayor Andy Berke  
City Council Members

**RE: Clerk to the City Council Audit (Report #19-08)**

Dear Mayor Berke and City Council Members:

The attached report contains the results of our audit of the Clerk to the City Council. Our audit determined that the operations of the Clerk to the City Council office substantially comply with all requirements established by the City Charter, City Code, and Council Rules of Operation. However, our audit disclosed key opportunities to strengthen and improve internal control activities.

In order to address noted areas for improvement, we recommended the implementation of comprehensive written procedures to ensure the Clerk to the City Council office continues to operate efficiently and in compliance with state and local law and regulations.

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

Sincerely,

Stan Sewell, CPA, CGFM, CFE  
City Auditor

Attachment

cc: Audit Committee Members  
Phil Noblett, City Attorney  
Nicole Gwyn, Clerk to Council  
Jim Arnette, Tennessee Local Government Audit

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## AUDIT PURPOSE

This audit was conducted in addition to the Office of Internal Audit's 2019 Audit Agenda. The objectives of this audit were to determine if the Clerk to the City Council:

- 1) Maintains governmental records and performs duties consistent with requirements established by law, regulations, and City Council directives;
- 2) Maintains adequate internal controls to ensure compliance with accountabilities.

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## BACKGROUND

The Clerk to the City Council (“Clerk”) serves as the records custodian for all actions taken by City Council (“Council”). The Clerk is an appointed position under the general supervision of the Council chairperson. The Council appointed Nicole Gwyn as Clerk in November 2014.

The City Charter and Code, Council Rules of Operation, and Clerk job description establish the principal duties of the Clerk:

- Preserve and retain Council and governmental records;
- Certify the correctness of Council records when requested;
- Custodian of the municipal seal;
- Record and transcribe Council meeting minutes;
- Maintain a "resolution book" of resolutions adopted by Council;
- Maintain a "franchise book" documenting franchises granted by the City;
- Maintain City ordinances;
- Advertise franchise ordinances;
- Prepare Council meeting agendas, read impending ordinances and resolutions, record councilmember votes;
- Publish public notices of Council meetings, rezoning, annexation requests, and City Charter amendments
- Manage the Council library and filing systems; and
- Supervise office personnel.

The Clerk is also responsible for maintaining important maps, manuals, and technical guides referenced in the City Code, including the International Plumbing Code, the International Gas Code, the International Building Code, the Manual on Uniform Traffic Control Devices, and the Handicap and Accessibility Code.

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## FINDINGS AND RECOMMENDATIONS

### **The Clerk to Council is responsible for maintaining City Council and governmental records**

We determined the operations of the Clerk's office substantially comply with the requirements established by the City Charter, City Code and Council Rules of Operation. However, our audit test procedures (discussed below) disclosed one (1) exception related to franchise ordinances.

#### ***Audit Test: Resolutions and Ordinances***

***Requirement(s):*** The Clerk is required to maintain a resolution book of all Council resolutions. The Clerk must enter an appropriate caption describing the nature of the resolution, the name of the moving party, the number of the resolution and the number of the page in the resolution book (Code § 2-64). Ordinances upon final passage must be signed by the Council chairperson, vice-chairperson or chairperson *pro tempore*, approved or vetoed by the mayor, and maintained by the Clerk as required by law (Charter § 11.5).

***Findings:*** The resolution book contained copies of all resolutions adopted by Council, indexed by number and appropriate caption. The resolution book index identified the name of the moving party.

#### ***Audit Test: Franchise Records/Advertisements***

***Requirement(s):*** The Clerk is required to keep a record of franchises granted by the City, including the date of the ordinance, right-of-way limitations, and the motive power to be employed, if any (Code § 2-66). Franchise ordinances must be published at least five (5) days before final passage in a local daily newspaper (Charter § 7.2).

***Findings:*** The franchise ordinances we examined were not published in the newspaper before final passage as required by the City Charter.

#### ***Audit Test: Council Meeting Minutes***

***Requirement(s):*** T.C.A. § 8-44-104(a) requires "[the] minutes of any governmental body shall be promptly and fully recorded, open to public inspection, and shall include a record of 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".

***Findings:*** We did not find any exceptions or deficiencies in the Council meeting minutes we reviewed.

#### ***Audit Test: Publication of Meeting Notices***

***Requirement(s):*** Council meetings must be open to the public, and held at the place provided for such meetings and cannot be changed except by ordinance (Charter § 8.6). Furthermore, Tennessee's

Sunshine Law requires adequate public notice for regular and special meetings of Council.<sup>1</sup>

*Findings:* The Council meeting notices published during the audit period complied with the provisions of the City Charter and Tennessee’s Sunshine Law.

***Audit Test: Agenda Preparation***

*Requirement(s):* The Clerk and the City Attorney share responsibility for preparing the agenda for official sessions of Council. Proposed ordinances and resolutions must be submitted no later than 11:30 a.m. on the Tuesday a full two (2) weeks prior to the Council meeting (Council Rules of Operation).

*Findings:* We did not find any exceptions or deficiencies in the Council meeting agendas we reviewed.

***Audit Test: Other***

*Requirement(s):* The Clerk is required to keep the following reference materials on file: maps showing rights-of-way granted by the City (Code § 2-85); the International Plumbing Code (Code § 27-1); the International Gas Code (Code § 19-1); the International Building Code (Code § 10-1); the Manual on Uniform Traffic Control Devices (Code § 24-261); and the Handicap and Accessibility Code (Code § 10-7).

*Findings:* We confirmed all required maps, manuals, reference guides and materials were on file in the Clerk’s office.

**Recommendation 1:** We recommend the Clerk implement additional controls and safeguards to ensure franchise records comply with the City Charter and City Code requirements, as described in Recommendation 2 below.

***Auditee Response:*** *We concur with the audit finding and recommendation.*

**The Office of the City Council Clerk should develop a system of internal controls through policies and procedures**

Our audit did not disclose any significant operational issues or concerns. However, Tennessee law requires local governments to establish and maintain a system of internal controls for purposes of financial reporting, managing operations, and legal compliance.<sup>2</sup> The *Internal Control Manual for Local Governmental Entities and Other Audited Entities in Tennessee* instructs local governments to implement internal control activities through policies and procedures that document specific responsibilities of each department. The Clerk maintains a policy manual that includes a “responsibilities checklist” for staff

<sup>1</sup> T.C.A. § 8-44-103

<sup>2</sup> T.C.A. § 9-18-102

members. However, the Clerk has not implemented written operational procedures to ensure compliance with required duties and functions.

Written procedures promote uniformity and consistency in day-to-day operations. Internal guidelines describing organizational practices, and their communication throughout the organization, are an essential part of a policy and procedure manual. Formalized procedures reinforce expectations for the office and reduce the risk of noncompliance due to changes in management or key personnel. Moreover, the absence of internal procedures may result in undefined processes that can lead to inconsistency in operations, as well as actions and discipline that are inconsistent with the intentions of management.

**Recommendation 2:** We recommend the Clerk develop and implement comprehensive written procedures for maintaining Council records, document retention, advertising franchise ordinances, preparing and distributing Council meeting agendas, publishing public meeting notices, recording and preparing Council meeting minutes, and other required functions.

***Auditee Response:*** *We concur with the audit finding and recommendation. We are currently in the process of developing a comprehensive procedure manual for the office.*

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## APPENDIX A: SCOPE, METHODOLOGY AND STANDARDS

Based on the work performed during the preliminary survey and the assessment of risk, the audit covers the operations of the Clerk to the City Council from July 1, 2018 to June 30, 2019. When appropriate, the scope was expanded to meet the audit objectives. Source documentation was obtained from archived records and the Oracle system. Original records as well as copies were used as evidence and verified through physical examination.

To develop our recommendations, we researched state and local law and regulations, reviewed policies and performance requirements, examined records maintained by the Clerk, interviewed Clerk staff, assessed key risk factors, and evaluated best practices for maintaining municipal records.

We used non-statistical sampling to determine the sample size and selection of the records, resolutions, and ordinances 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, acceptable error, 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 procedure. We did not extrapolate the results of our testing to draw conclusions over the population as a whole. We used judgmental sampling when appropriate to improve audit efficiencies.

We conducted this performance audit from September 2019 to November 2019 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



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