

CITY COUNCIL RULES AND PROCEDURES

ARTICLE _____. INQUIRIES AND INVESTIGATIONS RULES AND PROCEDURES

Sec. _____ **City Council Inquiries and Investigations**

(A) **Scope.** This section governs all inquiries and investigations conducted by City Council under Section 4.02(a)(3) of the City Charter for the City of Pensacola.

(B) **Authority.** City Charter Section 4.02(a)(3) authorizes City Council “To inquire into the conduct of any municipal office, department, agency or officer and to investigate municipal affairs, and for that purpose, may subpoena witnesses, administer oaths and compel the production of books, papers, or other evidence.”

(C) **Definitions.**

a. **Inquiry.** Under this section, the word “inquiry” shall mean any legislative inquiry authorized in good faith as required by City Charter by resolution of City Council by the affirmative vote of the majority of the full City Council and conducted by City Council under the authority of City Charter Sections 4.02(a)(3) and 4.04(b) and in accordance with City Council Rules and Procedures under this section, for the purpose of requesting information to provide necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council under the City Charter.

b. **Investigation.** Under this section, the word “investigation” shall mean any legislative investigation authorized in good faith by resolution of City Council by the affirmative vote of at least a majority of the full City Council members and conducted by City Council under the authority of City Charter Sections 4.02(a)(3) and 4.04(b) in accordance with City Council Rules and Procedures under this section, said investigation to include a public hearing of City Council at which witnesses may be requested or compelled by subpoena to appear and provide testimony and to produce records to provide necessary factual knowledge to City Council to aid it in carrying out the legislative powers and duties imposed on City Council under the City Charter.

c. **Subpoena.** Under this section, the word “subpoena” shall mean a subpoena or subpoena duces tecum directed to be issued by resolution of City Council under the authority of City Charter Sections 4.02(a)(3) and 4.04(b) for the purpose of requesting

the production of documents, books, papers, witnesses or other evidence pertinent and material to providing necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council by City Charter.

d. **Agency.** Under this section, the word “agency” shall mean a City board, commission or authority as contemplated by City Charter Section 5.05.

(D) **Request for City Council to Authorize an Inquiry or Investigation.**

a. **Complaint.** An individual City Council member may submit a written request for City Council to authorize an inquiry or investigation under the authority of City Charter Sections 4.02(a)(3) and 4.04(b) to assist City Council in carrying out the legislative powers and duties imposed on City Council by City Charter.

b. **Sufficient Legal Basis.** The complaint shall set out a factual basis and provide the legal rationale for the inquiry or investigation to ensure the legal basis is appropriate and justified in assisting City Council in carrying out the legislative powers and duties of City Council under the City Charter.

c. **Insufficient Legal Basis.** Upon review of the request, should City Council determine that the legal basis of the complaint is insufficient to invoke the inquiry or investigative authority of City Council under the City Charter or not within the jurisdiction of City Council under the City Charter, it shall suspend further consideration of the complaint and state the reasons.

d. **No Presumption Raised.** City Council authorization to conduct an inquiry or investigation does not give rise to a presumption of violation of the City Charter or City Code, or rules or policies of the City, or any other local, state or federal laws.

e. **Criminal Law Violation.** Should City Council have a reasonable belief that the subject matter would violate a criminal law, City Council will refer the matter to the appropriate authority and state the reasons.

(E). **Authorization by Resolution.**

a. **Agenda Item.** A request for City Council to authorize an inquiry or investigation shall be considered as an item on the agenda of a properly noticed meeting of City Council. City Council may only discuss the legal basis for the inquiry or investigation and may not discuss the merits of the complaint nor make factual determinations or findings relating to the complaint.

b. **Inquiry shall be authorized by Majority Vote.** An inquiry by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter shall be authorized by

resolution approved by the affirmative vote of the majority of the full City Council, at a properly noticed meeting of City Council.

c. **Investigations shall be authorized by Majority of the Full City Council Members.** An investigation by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter shall be authorized by resolution approved by the affirmative vote of at least a majority of the full City Council members, at a properly noticed meeting of City Council.

d. **Time Frame.** City Council shall determine the appropriate time frame for completion of an inquiry or investigation on a case by case basis provided that such time frame does not exceed ninety (90) days from the date of the authorizing resolution. Every reasonable effort shall be made to complete an inquiry or investigation within the time frame set by City Council. However, each case presents different circumstances and it is not always possible to maintain the time frame set by City Council. Extensions of time may be allowed by the affirmative vote of the majority of the full City Council upon good cause shown.

e. **Progress Reports.** The City Council Executive shall report monthly on the progress of each pending inquiry and investigation at a properly noticed meeting of City Council.

(F) **Inquiry.** An inquiry by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter, into the conduct of any municipal office, department, agency or officer, shall be for the purpose of providing necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council by City Charter and shall be authorized by resolution approved by the affirmative vote of the majority of the full City Council, at a properly noticed meeting of the City Council.

a. Such resolution shall describe with particularity the subject matter of the inquiry, specifically the alleged conduct and related municipal office, department, agency or officer, the conduct of which is subject to inquiry.

b. Such resolution shall request a written response from the appropriate representative of such municipal office, department or agency or in the case of a municipal officer, from such officer, and may direct responses to specific questions to be provided, request supporting documentation and other relevant material be included with the response, and shall also request that other individuals with relevant information be identified.

c. Such resolution shall set a date for the written report to be submitted to City Council as an agenda item at a properly noticed meeting of the City Council.

d. Such responsive information shall be submitted into the record at the public meeting scheduled for submitting the response. City Council shall review the responsive information at the meeting and deliberate and make findings. Such findings shall be adopted by resolution approved by a majority vote of the full City Council.

(G) **Investigation.** An investigation by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter, into municipal affairs, shall be for the purpose of providing necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council by City Charter and shall be authorized by resolution approved by the affirmative vote of at least a majority of the full City Council members, at a properly noticed meeting of the City Council.

a. Such resolution shall describe with particularity the subject matter of the investigation, detailing with specificity the scope and purpose of the investigation, and shall provide the course of action to be followed in carrying out such investigation and investigative hearing.

b. City Council may employ an expert for assistance in conducting an investigation pursuant to this section herein. The terms of the employment agreement shall be for the sole purpose of assisting with an investigation consistent with and limited to the scope of City Council's investigative authority under Sections 4.02(a)(3) and 4.04(b) of the City Charter and shall be set forth and authorized by a resolution approved by City Council. Investigative information shall be subject to public disclosure as required by law.

(H) **Investigative Hearing.** City Council shall determine on a case by case basis whether an investigative hearing shall be conducted. An investigation by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter, into municipal affairs, shall be for the purpose of providing necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council by City Charter and shall be authorized by resolution approved by the affirmative vote of at least a majority of the full City Council members, at a properly noticed meeting of the City Council. Such investigative hearing shall be open to the public.

a. An investigative hearing is legislative in nature and not a judicial proceeding. Normal procedural guarantees which surround the conduct of a trial, therefore, are not required as a matter of general law in such investigations. Accordingly, except for the

constitutional privilege against self-incrimination, and the guarantee of the First Amendment, witnesses before investigative hearing of City Council shall have those rights which City Council determines are appropriate to ensure that all procedures are orderly and fair.

b. At the conclusion of an investigative hearing, City Council shall make written findings and conclusions.

(I) **Authorization for Preparation and Issuance of Subpoenas.** City Council shall authorize by resolution, at a properly noticed meeting of City Council, the preparation and issuance of subpoenas or subpoenas duces tecum for purposes of an investigation under this section by the City Clerk in accordance with state statute. The authorization shall direct the City Council Executive to prepare subpoenas or subpoenas duces tecum and submit such subpoenas or subpoenas duces tecum to the City Attorney for review for legal sufficiency.

(J) **Authorization for Contempt Order.** The punishment for violation of a subpoena or subpoena duces tecum that City Council may impose against any person who violates a subpoena or subpoena duces tecum shall be prescribed by ordinance.

a. Pursuant to such ordinance, City Council is authorized to hold a person in contempt for violation of a subpoena or subpoena duces tecum and to impose a fine, not to exceed five hundred dollars (\$500), against any person for such violation.

b. City Council shall determine whether grounds for a contempt order exist and shall prescribe the fine amount for violation of the ordinance.

c. **Public Notice.** The City Clerk shall publish legal notice of each investigative hearing authorized under this section at least one time in a newspaper published in the city which meets the requirements of Section 50.031, Florida Statutes.

d. **Transcripts of Investigations.** The investigative hearing under this section shall be recorded and transcribed verbatim and provided to City Council.