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PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

To: Mayor Todd Meier and Members of the Addison City Council
Cc: Wes Pierson, Town of Addison City Manager
Laura Bell, City Secretary
From: Brenda N. McDonald
Date: January 16, 2017
Re: Effect of Term Limit on Ability to Run for Office

Mayor Meier has asked: “[D]o term limits restrict my ability to run for council this spring?” My response is set forth below.

Short Answer

Having served the maximum number of terms in the office of Mayor would not prohibit the Mayor from seeking election to the office of Council member.

Analysis

The primary provision of the Addison Charter pertinent to this matter is Section 8.04(h) which states:

- h. No person shall serve as Mayor for more than three (3) successive terms of office, and no person shall serve as a council member for more than three (3) successive terms of office. For purposes of this section, the phrase “terms of office” shall not include any unexpired portion of any two-year term.

In construing this provision, the first question is whether the office of Mayor and the office of Council member are the same office or different offices. Former City Attorney John Hill wrote regarding this issue in a 2009 memo:

City Council Offices

Regarding City Council offices, there is a distinction between the office of Mayor and the office of Council member. For example, Section 2.01 of

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the Charter states that Council is “composed of a mayor and six (6) council members” and that “[w]hen used in this Charter, the phrase “member of the Council” shall mean and include the Mayor or any council member.” Section 2.06 describes the office of Mayor, and distinguishes between that office and the office of Council member by stating that a vacancy in the office of mayor is “filled by the Council in the same manner as provided in Section 2.05 except that one of the remaining Council members may be selected as Mayor.” Section 8.03 distinguishes between a candidate for Mayor and for Council member. Section 8.04 states that the Council is “composed of a Mayor and six (6) council members...” Therefore, the office of Mayor and the office of Council member are distinct offices. Accordingly, if a person who holds the position of Mayor “becomes a candidate” for the office of Council member, that person forfeits the office of Mayor upon becoming a candidate for election to the office of Council member; likewise, a person who holds the office of Council member and “becomes a candidate” for the office of Mayor forfeits the office of Council member upon becoming a candidate for election to the office of Mayor.

Having determined that the office of Mayor is distinct from the office of Council member, I turn to the language of Section 8.04(h) itself. The cardinal rule of statutory interpretation is to discern and give effect to the intent of the enacting body. *Rosenblatt v. City of Houston*, 31 S.W.3d 399, 403 (Tex. App. – Corpus Christi 2000, pet. denied), citing *Sorokolit v. Rhodes*, 889 S.W.2d 239, 241 (Tex. 1994). In determining this intent, a court first seeks to discern the intent from the plain language of the statute or ordinance. *Id.* The rules that apply to the construction of statutes apply as well to the construction of municipal ordinances. *Id.*

Given a plain reading, considering the other Charter language regarding the offices of mayor and council member, and absent any evidence of different intent by the governing body that drafted the language, the Addison Charter, Section 8.04(h) establishes a 3-term limit for the office of Mayor and a 3-term limit for the office of Council member. Thus, a Mayor who has served 3 terms is not prevented from seeking the office of Council member. Likewise, a Council member who has served 3 terms is not prevented from seeking the office of Mayor.

I hope this information is helpful. Please let me know if you have any questions.