

Budget, Governance, and Intergovernmental Relations Committee

Pre-Read for May 1, 2023, Committee Meeting
Regarding Appointed Positions Personnel Evaluations

BACKGROUND

POLICY QUESTION AND COMMITTEE CHARGE

How can Council staff appointees' performance be evaluated most effectively?

- Assess and make recommendations specific to how to effectively evaluate City Council staff appointee's performance.
- Report to full Council on suggestions and recommendations.

APRIL 3, 2023, ASSIGNMENT:

- Benchmark cities and counties across the state and the nation to determine how or if 360 assessments are included in performance evaluations for appointed positions
- Create a performance conversation framework for each appointed position to display the alignment of their objectives to Council's defined Strategic Priorities and Initiatives

RESULTS

13 Jurisdictions replied to the survey

10 out of 13 (77%) of respondents conduct an appointee evaluation

- 6 of the respondents conduct a performance evaluation for appointed officials
 - *Austin, San Antonio, Dallas, Phoenix, Mecklenburg County, Wake County*
- 3 of the respondents do not conduct performance evaluations for appointed officials
 - *Fort Worth, Oklahoma, Greensboro*
- 1 of the respondents reported that appointee evaluation is conducted in closed session
 - *Raleigh*
- 3 of the respondents stated "unknown" to the performance evaluation objectives, measures, and frequency questions

Are performance objectives included in the performance evaluation process?

- 80% of the 10 respondents who reported that they conduct performance evaluations include performance objectives in the appointee evaluations

Measurable Performance Goals:

- 50% of the 10 respondents indicated that measurable goals were included in the performance evaluation process

Use of External Consultants to Perform Evaluations:

- 10% of the cities (1 city, Dallas, TX) reported that they use an external consultant to assist the organization when conducting the performance evaluation for City Council or board appointed positions

Does your organization use a 360 Assessment for any of the appointed positions

- None of the respondents reported that they use a 360 Assessment as part of the performance evaluation process or as a supplement to the evaluation process.

UNC SCHOOL OF GOVERNMENT BEST PRACTICES RESPONSES:

In addition to conducting a survey of certain cities and counties, Human Resources contacted several faculty members of the UNC School of Government to gather feedback regarding the City Manager, City Attorney, and City Clerk positions' evaluation process throughout the State of North Carolina. Best practices and legal requirements that govern these roles were of focus.

Questions asked:

1. Are there and best practices that the staff or at UNC-School of Government has established and includes in your Municipal Government course materials that I may reference?
2. Beyond, these statues GS 160A-17, GS 160A-173 and GS 160A-148A are their other laws or governance regulations in our state that specify duties and roles required of these three roles and are there any laws that state what must be included in their performance evaluations versus, what may be included?

Summarization of Feedback and Recommendations from the UNC- Chapel Hill School of Government

- **Kristina Asst. Professor of Public Law & Gov – UNC-Chapel Hill, School of Government Wilson**
 - There are no laws or regulations that address or require the reviewing and evaluating the City Manager, City Clerk and City Attorney. SOG only references best practices and recommendation for the process to hire or evaluate all three positions.
 - How and when a review is conducted would be entirely within the discretion of council or the town (i.e., city) manager, depending on who has supervisory authority over these positions.
- **Peg Carlson – Director, Center for Public Leadership and Governance, Professor of the Practice in Public Leadership and Organizational Development, UNC-Chapel Hill, School of Government**
 - Each of the three positions should have established competencies and goals, that are determined at the beginning of the review period.
 - It is recommended that the evaluation is completed each fiscal year, not employee anniversary date or calendar year.
 - All goals should have a hierarchy established by their City Council or Board, then cascade down through the organization from its leadership.
 - Board members should provide direct, open, and transparent feedback to appointees, not anonymous feedback.
- **Carl Stenberg – Professor of Public Administration and Government – UNC Chapel Hill, School of Government and Kim Nelson – Professor of Public Administration and Government – UNC Chapel Hill, School of Government**
 - In addition to an annual evaluation based on a previously discussed and approved work plan, with metrics, as a best practice, the evaluation of progress on personal, professional, and organizational goals during the year, by the council should be a two-way street. The appointee, specifically the manager should have an opportunity to share with the council his/her thoughts on effects of the council's actions or inactions on performance and progress.

HR PROCESS RECOMMENDATIONS:

1. Complete the current year performance evaluation process.
2. Re-establish the regimen to conduct an annual performance evaluation with each appointee. Designate the fiscal year to be the performance period.
3. Currently, Council holds a mid-fiscal year Strategy Session (a.k.a. Council Retreat) and determines the strategic priorities and key initiatives for the next fiscal year.
4. Council should adopt a business practice to set goals for each appointee, within three to six months of the close of that session. Effective goals articulate specific and attainable measures with desired milestones, timelines, and other key performance indicators (KPIs).
5. Council should decide if they want to adopt a formal mid-year performance conference or maintain the current process of holding an annual, fiscal year-end performance conference.
6. The performance conversation framework does not replace the annual performance conference. It is designed to assist Council to hold timely performance related conversations and share meaningful and timely feedback and address questions with the appointee throughout the performance period.
7. At New Council Member Orientation, Human Resources should conduct training to inform Council of their appointee's performance evaluation process.

PROPOSED APPOINTEE PERFORMANCE REVIEW DATES

June 12th- City Attorney

June 26th- City Manager

July 10th- City Clerk

APPENDICES

Appendix 1: Performance Evaluation Conversation Framework

- City Manager A2
- City Attorney A4
- City Clerk A6

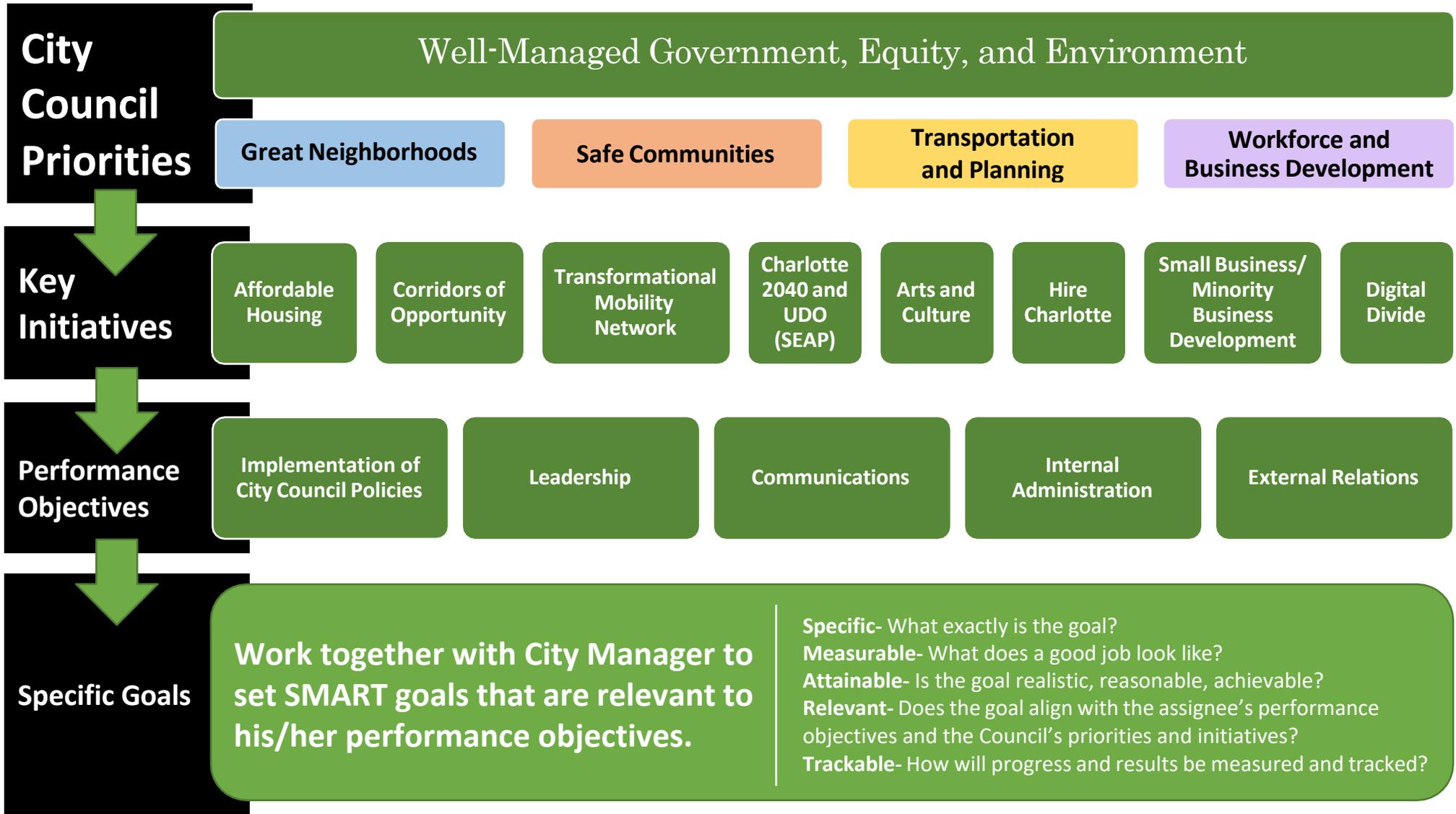
Appendix 2: Legal Framework A8

Appendix 3: Appointee Roles and Responsibilities

- City Attorney A9
- City Clerk A10
- City Manager A11

City Manager Performance Evaluation Conversation Framework

Talking Point Suggestions: During the one-on-one meetings, share with the appointee questions, concerns, or compliments you have about their leadership, their department operations, finances, budgets or general questions about city culture that you would like to address.



Conversation Starters:

- What should this leader **stop** doing to be a better leader?
- What should this leader **start** doing to be a better leader?
- What should this leader **continue** doing?

City Manager Performance Objectives Details

Implementation of City Council Policies

- Assist City Council in policymaking.
- Assist City Council to establish strategic priorities and initiatives
- Assist City Council to set short-term, mid-term, and long-term performance organizational performance objectives and goals.
- Proactively provide timely information, solution-oriented advice, and recommendations to Mayor and City Council members on matters that are time sensitive and/or matters that require immediate attention.
- Routinely provide inform Council regarding community or internal operations that reach beyond general administrative in nature.

Leadership (Communication, Effective City Leadership, Exhibit a balance of directive and collaborative management Style)

- Strategic and forward thinker
- Sets a vision, creates a sense of common purpose and direction
- Anticipate change and looks for opportunities to prepare for and invest in the future.
- Inspire others to achieve and contribute at the highest levels of public service
- Embrace a spirit of excellence, accountability, and customer service

Communications

- Respond in a timely manner to requests from Mayor and City Council members
- Demonstrate effective oral communications and listening skills and embrace diverse opinions
- Provide regular information and updates to Mayor and City Council concerning important city initiatives.
- Effectively build rapport with groups and individuals of diverse perspectives and opinions
- Demonstrate the ability to be decisive and an effective mediator and negotiator

Internal Administration (Financial Management and Human Capital Management)

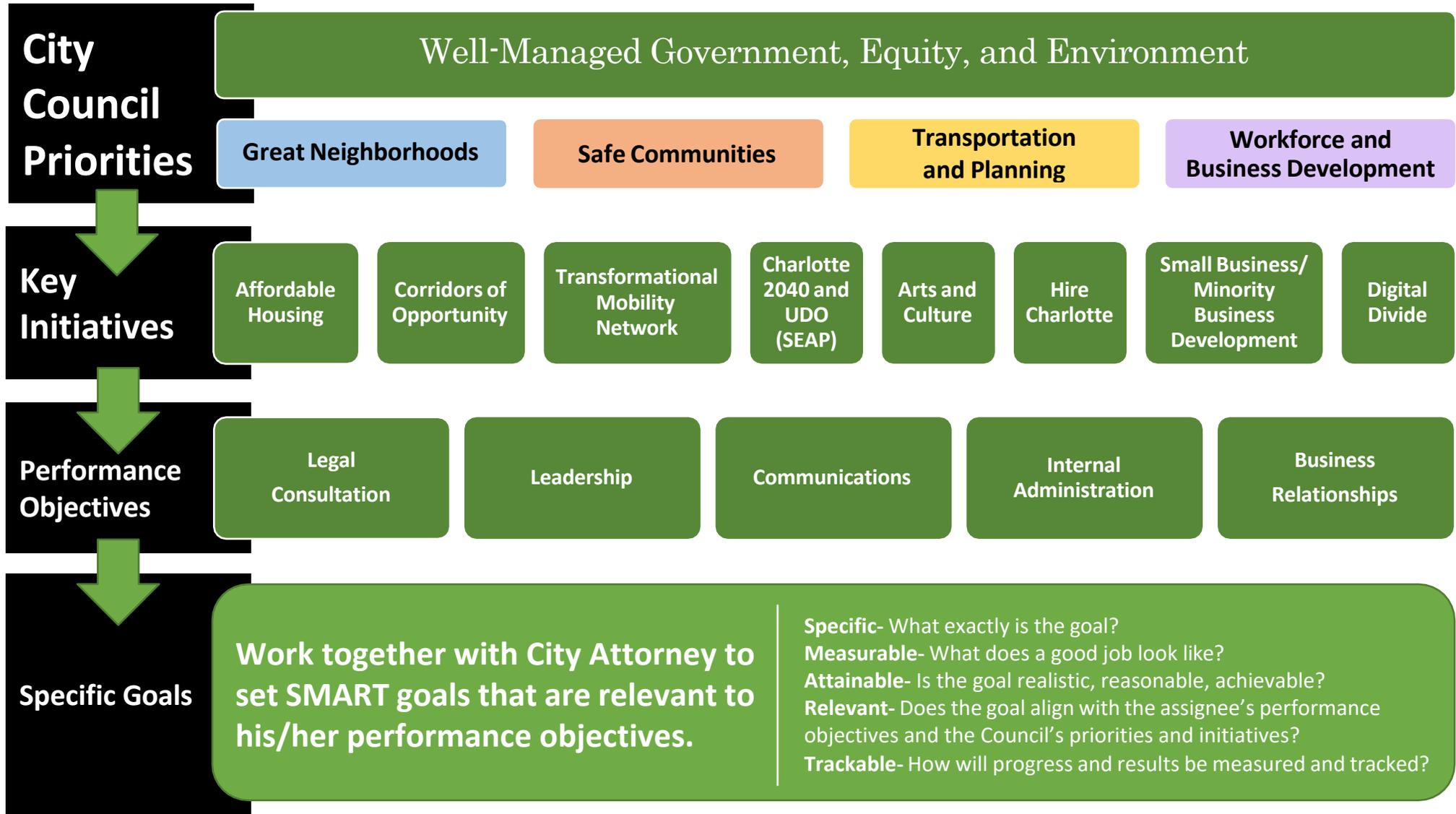
- Prepare a balanced budget to provide services aligned with Mayor and City Council priorities
- Demonstrate a strong financial performance and maintain a high performing credit rating of the Annual Comprehensive Financial Report
- Implement, City Council Priorities.
- Monitor, and measure organizational performance against the Council priorities.
- Recruit and retain competent personnel for leadership positions
- Sets performance objectives for leaders that align with Council priorities and hold them accountable to meet the associated expressed intent of council objectives.

External Relations (Community, Residents, Businesses, and Intergovernmental Relations)

- Develop partnerships and demonstrates dedication to local businesses and community groups
- Support the actions of the governing body after a decision has been reached, both inside and outside the organization
- Meet with, and listen to, members of the community to discuss their concerns and strive to understand their interests
- Cooperate with regional, state, and federal government agencies and legislators to influence legislative efforts consistent with the City Council's interests and needs

City Attorney Performance Evaluation Conversation Framework

Talking Point Suggestions: During the one-on-one meetings, share with the appointee questions, concerns, or compliments you have about their leadership, their department operations, finances, budgets or general questions about city culture that you would like to address.



Conversation Starters:

- What should this leader **stop** doing to be a better leader?
- What should this leader **start** doing to be a better leader?
- What should this leader **continue** doing?

City Attorney Performance Objectives Details

Legal Consultation

- Demonstrate effective knowledge of State and municipal government regulations and laws, including case law regarding issues facing the City Council
- Provide relevant legal advice to City Council regarding specific issues relating to City Council as a board
- Offer sound alternatives and innovative solutions when problem solving
- Consider internal and external environmental factors when providing advance or presenting plausible solutions
- Maintain City Council's and City staff's confidence while informing them of different legal risks that proposed actions might generate

Leadership

- Effectively adjust priorities to meet fluctuating and multiple demands
- Exercises sound judgement
- Proactively provide City Council updates of issues being evaluated by the NC General Assembly or local initiatives occurring in the Charlotte Region

Communications

- Proactively prepare for an anticipates questions that Council members may have pertaining to Council agenda topics
- Address legal matters and provides answers in a timely and understandable terms
- Provide timely responsiveness to requests from Mayor and City Council members
- Respond to client department concerns in a timely manner
- Proactively identifies potential issues and informs City Council as appropriate

Internal Administration

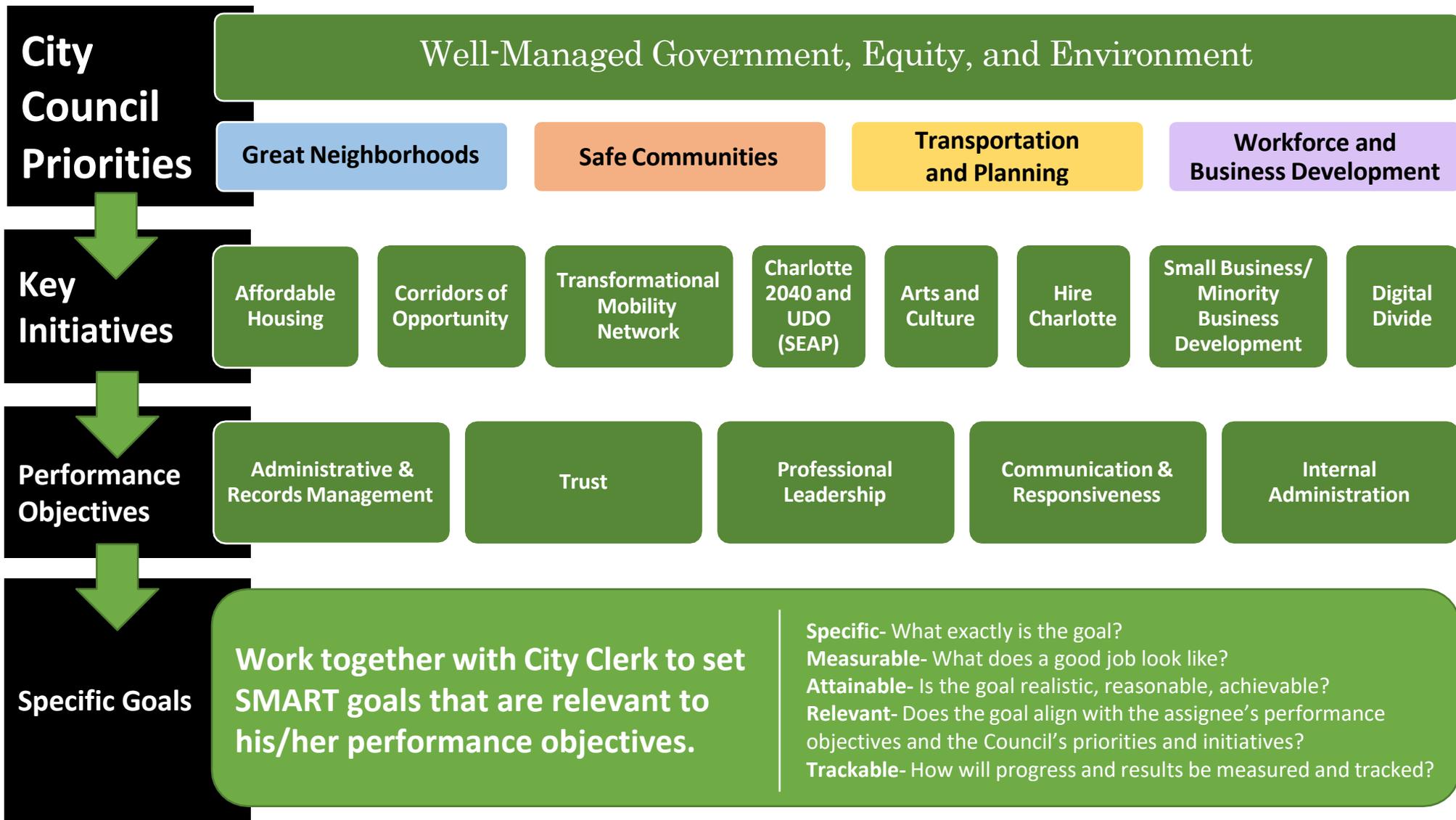
- Equip the City Attorney's Office with diverse and high talent staff
- Provide professional and personal development opportunities to City Attorney's Office staff
- Propose ordinances or prepare resolutions, contracts and other legal documents to meet the direction and objectives of City Council
- Control the cost of litigation
- Actively review recurring risk management determinants to mitigate future occurrences
- Provide staff opportunities to learn and develop different skills

Business Relationships

- Build relationships with key stakeholders to include City Council, City Leadership, and outside attorneys
- Demonstrate effective communication with City staff
- Engage with other City leaders/clients to understand, assess and meet client needs
- Develop appropriate relationships with internal and external business partners

City Clerk Performance Evaluation Conversation Framework

Talking Point Suggestions: During the one-on-one meetings, share with the appointee questions, concerns, or compliments you have about their leadership, their department operations, finances, budgets or general questions about city culture that you would like to address.



Conversation Starters:

- What should this leader **stop** doing to be a better leader?
- What should this leader **start** doing to be a better leader?
- What should this leader **continue** doing?

City Clerk Performance Objectives Details

Demonstrates effective and efficient administrative and records management skills.

- Satisfactorily meet the administrative support needs of City Council.
- Ensures that staff provides timely and accurate meeting minutes.
- Hire and retain qualified staff to support the Office.
- Provide quality support to the Citizen's Review and Civil Service Boards and other community boards as needed.

Exhibit trust Inherent with Local Government

- Maintain impartiality required of a partisan administration
- Professionally serve as a liaison between the public and the City Council.
- Provide a high level of customer service to the public, City of Charlotte departments and City Council.

Model Professional Leadership

- Demonstrate competency in North Carolina Records Management statutes. Actively participate with professional organizations in the industry.
- Ensure that critical information is shared with City department heads as needed.
- Participate with other city leaders to support City of Charlotte employee engagement events

Communication with and Responsiveness to City Council

- Provide clear, concise and timely responses to Council Members' questions. Provide well written correspondence and reports to support the Mayor and City Council.
- Provide clear, complete and timely information to public questions raised to the City Clerk's Office.

Internal Administration

- Equip the City Clerk's Office with diverse and high talent staff
- Encourage staff's professional and personal development opportunities

LEGAL FRAMEWORK

THE INFORMATION BELOW IS BEING PROVIDED AGAIN FOR CONVENIENCE

NC Statute

- The City Attorney shall be appointed by City Council to serve at its pleasure [NCGS 160A-173]
- The City Manager shall be appointed by City Council to serve at its pleasure [NCGS 160A-147]; and
- There shall be a City Clerk [NCGS 160A-171]
- The City Manager shall appoint and suspend or remove city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the city attorney and city clerk, in accordance [with Council's policies and ordinances][NCGS 160A-148A]

City Charter (Section 4.02)

“The Council shall appoint the City Manager, City Clerk, and City Attorney, each of whom shall hold office during the pleasure of the Council.”

APPOINTEE ROLES AND RESPONSIBILITIES

CITY ATTORNEY

North Carolina STATUTE REQUIREMENTS re: City Attorney

The council shall appoint a city attorney to serve at its pleasure and to be its legal adviser. (1971, c. 698, s. 1.)

City of Charlotte Charter REQUIREMENTS re: City Attorney

Chapter 1: **GENERAL PROVISIONS** Every ordinance amending or repealing any ordinance and every new ordinance shall be proposed in writing and shall be approved as to form by the city attorney, the deputy city attorney, or an assistant city attorney.

Chapter 6: Article 12 **RESIDENTIAL RENTAL REGISTRATION AND REMEDIAL ACTION PROGRAM**

Review instances referred in which a property continues to fall at or above the disorder risk threshold for a determination as to whether a public nuisance action or any other legal or equitable remedy is warranted.

Chapter 11: **HOUSING** Article 2 - Petition the superior court for an order directing an owner to comply with the order of the code enforcement official as authorized by G.S. 160D-1208.

Chapter 12: Article 2 - **CHARLOTTE-MECKLENBURG COMMUNITY RELATIONS COMMITTEE**

City of Charlotte Charter REQUIREMENTS re: City Attorney

Review complaints of for action escalated by the Community Relations Council regarding Discretionary Practices and Fair Housing.

Chapter 17: **SOIL EROSION AND SEDIMENTATION CONTROL** Article 3

Review for action requests from the city engineer to institute a civil action to recover outstanding assessments related to the city ordinances on soil erosion and sedimentation control

Chapter 18: **STORM WATER SECTION** Article 3 - Institute a civil action to recover the amount of the civil penalty.

ADDITIONAL KEY RESPONSIBILITIES re: City Attorney

Leading and directing the Office of the City Attorney

Oversees City Attorney's Office fiscal operations, budget, business plans

Overseeing all litigation, including coordinating with outside counsel

Researching and preparing oral and written legal opinions for the Mayor, City Council, City Manager, Department Heads, staff, committees, boards, and commissions

Drafting and reviewing proposed ordinances, resolutions, proclamations, policies and procedures, and contracts for consideration by the Mayor and City Council, to ensure compliance with applicable laws and requirements

North Carolina STATUTE REQUIREMENTS re: City Clerk

There shall be a City Clerk [NCGS 160A-171]

Clerk shall: 1) give notice of Council meetings; 2) keep record of Council proceedings; 3) be custodian of city records; and 4) perform any other duties required by law or Council.

Publishes public hearing notices and other legal advertisements and filings as prescribed by statute for annexation, property condemnation, etc.

Records and retains official City records, using citywide records management program; allows access for inspection and copying of records

Serves as repository for State required files

Conducts the Oath of Office for designated positions

Maintains ethics code and ethic education records for Council

Attests and certifies documents through use of City Seal

City of Charlotte Charter REQUIREMENTS re: City Clerk

Citizen’s Review Board and Civil Service Board staff support and records retention

Council-designated Boards and Commissions process administration, coordinates nominations, appointments, and attendance

Custodian of the City Seal

Receives applications for public monuments

Publishes public hearing notices and other legal advertisements as prescribed by Municipal Code for code enforcement and quasi-judicial proceedings

ADDITIONAL KEY RESPONSIBILITIES re: City Clerk

Leading and directing the Office of the City Clerk

Oversees City Clerk Office fiscal operations, budget, business plans

Coordinates with public speakers and disseminates speakers list to City Council, the public and city departments

Maintains the statement of Economic Interest for elected and appointed officials, boards, and commission Members

Provides guidance to ensure compliance with municipal and state governance administration laws

Notarizes documents

Oversees the City-wide Public Records Program, including the State Archives’ Records Retention and Disposition Schedule and receipt and processing of requests for public records

North Carolina STATUTE REQUIREMENTS re: City Manager

City Manager shall be the chief administrator of the city and be responsible to the council for administrating all municipal affairs placed in the manager's charge by the council.

City Manager shall have the following powers and duties:

- 1) Appoint and suspend or remove all city officers and employees not elected by the people (not otherwise provided for by law, except the City Attorney and City Clerk) in accordance with council adopted rules/regulations/policies/ordinances
- 2) Direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the council, except as otherwise provided by law
- 3) Attend all meetings of the council and recommend any measures that he deems expedient
- 4) See that all laws of the State, the city charter, and the ordinances, resolutions, and regulations of the council are faithfully executed within the city
- 5) Prepare and submit the annual budget and capital program to the council

North Carolina STATUTE REQUIREMENTS re: City Manager

- 6) Annually submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of the fiscal year
- 7) Make any other reports that the council may require concerning the operations of city departments, offices, and agencies subject to his direction and control
- 8) Perform any other duties that may be required or authorized by the council
- 9) Receive a minimum of six clock hours of education upon the occurrence, or within six months of the occurrence, of any of the following:
 - a. The Local Government Commission is exercising its authority under Article 10 of Chapter 159 of the General Statutes with respect to the city
 - b. The city has received a unit letter from the Local Government Commission due to a deficiency in complying with Chapter 159 of the General Statutes
 - c. The city has an internal control material weakness or significant deficiency in the most recently completed financial audit
 - d. The city is included on the most recently published Unit Assistance List issued by the Department of State Treasurer

b) The education shall incorporate fiscal management and the requirements of Chapter 159 of the General Statutes. The education may be provided by the Local Government Commission, the School of Government at the University of North Carolina, the North Carolina Community College System, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, or other qualified sources at the choice of the governing board and upon the prior approval of the Local Government Commission.

City of Charlotte Charter REQUIREMENTS re: City Manager

Sec. 4.03. - Council-manager relationship.

The Council shall hold the City Manager responsible for the proper management of the affairs of the City, and the City Manager shall keep the Council informed of the conditions and needs of the City and shall make such reports and recommendations as may be requested by the Council or as the City Manager may deem necessary. Neither the Mayor, the Council nor any member thereof shall direct the conduct or activities of any City employee, directly or indirectly, except through the City Manager.

Multiple chapters and sections of the City Charter - reference authorities of City Manager within the context of city services and regulations.

ADDITIONAL KEY RESPONSIBILITIES re: City Manager

Advise the City Council regarding policy issues, including short- and long-range plans to address City business, public safety challenges, economic development and job creation, infrastructure priorities, operational and administrative Objectives

Advance Citywide initiatives through participative leadership

ADDITIONAL KEY RESPONSIBILITIES re: City Manager

Lead the organization with a commitment to uphold the constructive culture present throughout the organization including valuing positive employee working relations and respecting the richness of cultures, and diversity

Promote effective and efficient delivery of City-wide programs and services through the application of strategic management tools

Ensure the overall fiscal health of the city through resource management and revenue enhancement

Sustain a culture of effective communication

Support the mission of the city through staff training and development

Use technology to address operational needs within the organization

Foster, cultivate and preserve a culture of diversity and inclusion by promoting and embracing diversity throughout the work force

Build on and enhance development and implementation of initiatives for service and quality improvement including customer satisfaction enhancement