

# Mayor's Advisory Panel Recommendations for River Commission April 3, 2007

## Summary

The Mayor's Advisory Panel studied issues regarding the San Antonio River and recommends that a River Commission ("Commission") be established by the City Council to help protect the experience and ambience of the River Walk area, as well as the Museum Reach and Mission Reach as these areas expand and develop. The River is one of the city's most valued treasures. The panel recommends the establishment of this Commission to provide more focus, public oversight and policy advice regarding the San Antonio River.

## Background

In January 2007, Mayor Phil Hardberger formed an advisory panel to evaluate recommendations that the City of San Antonio establish a River Commission in order to protect the ambience and charm of the San Antonio River Walk.

Some community leaders point to successes of the former River Walk Commission which existed until 1993, when it was combined with the Fine Arts Commission and Historic Commission to form the Historic and Design Review Commission ("HDRC"), which exists today. Some other community organizations have expressed concern that another public commission could simply create more bureaucracy and potentially lead to conflicting policy or design guidance for the San Antonio River. However, almost everyone agrees that the current oversight of the river is incomplete and fragmented.

## Legal Matters

The Advisory Panel determined that three existing laws limit the potential role of the proposed River Commission:

- (1) **Advisory Role**—The City Charter (Section 49) specifies that, "the Council by ordinance may create boards, commissions or committees to assist in only an advisory capacity the City Council and heads of municipal departments in the performance of their duties." **Therefore, any recommendation of a River Commission is subject to the review and approval of either the City Council or department head.**

- (2) **Historic Review**—Texas Administrative Code (Title 13, Part 2, and Chapter 15) permits the Texas Historic Commission to partner with municipalities to become “certified local governments” for the purpose of protecting historic resources through municipal resources. This local control has been achieved by the City of San Antonio meeting several requirements, including the establishment of the HDRC as “an adequate and qualified review commission, board, or committee for historic preservation composed of professional and lay members.” The State law contemplates a single municipal board possessing this authority. **The current authority and role of the HDRC over historic review cannot be divided or delegated in part to a River Commission.** It should be noted, however, that the non-historic design review for the RIO districts and public art along the river may be assigned to the River Commission.
- (3) **Land Use Control**—State law (Section 211 of the Local Government Code) permits municipalities to regulate land use through a Zoning Commission. However, the statute does not allow for the delegation of zoning powers to another body. **Therefore, the powers and duties of the Zoning Commission must remain with the Zoning Commission.**

### River Commission Mission Statement

The River Commission’s mission would be to provide oversight of the development and operations of the San Antonio River in a manner which protects, preserves, and enhances the history, heritage, charm, and uniqueness of the River both Downtown and along future expansions of the River. Because the Mission Reach is more natural and park like, it appears that oversight, policies, and regulations may be necessary on this part of the River that differ from other segments.

### River Commission Purpose, Roles, Authority, and Procedures

**Purpose:** The primary purpose of the River Commission would be to provide public oversight, devise strategy, and provide public policy advice regarding the River Walk and San Antonio River to preserve, protect, and enhance the history, heritage, and ambiance of the River.

**Roles:**

- (1) The River Commission shall provide public oversight and advice on policies related to the following issues in order to protect the experience on the River Walk, such as:
  - Comprehensive Plans and Land Use
  - Design Requirements
  - Preservation of History and Ambience
  - Operations and Maintenance Standards
  - Development Process
  - Events and Activities
  - Water Quality, Quantity, and Clarity
  - Compliance with laws, ordinances, and permits
- (2) The River Commission shall advise and propose changes and updates to the Unified Development Code (UDC), the design requirements and guidelines along the San Antonio River, and other ordinances and regulations that impact the River. The Commission shall provide advice on considerations of any proposed master plans, conservation districts, landmarks, overlay districts, neighborhood plans, TIRZ designations, and zoning policy proposed along the San Antonio River.
- (3) The River Commission shall function to support a business-friendly, simplified, and timely process for those who are developing along the River. The Commission should encourage public/private collaboration to facilitate public dialogue and recommend policy and make recommendations of the use of incentives to encourage local business and desirable land use and designs that preserve, protect, and enhance the history, heritage, and ambience of the River. Additionally, the Commission shall provide policy advice governing activities and events, operations and maintenance along the San Antonio River.
- (4) The Commission shall provide advice to the City Council or other public agencies on polices related to flood control, water quality, quantity, and clarity, to the extent that they impact the ambience and charm of the San Antonio River.
- (5) The River Commission should advise the City Council, Historic and Design Review Commission (HDRC), Planning Commission, Zoning Commission, and Board of Adjustments on zoning, land use and design requirements related to both public and private projects along the San Antonio River (RIO 1-6).

**Authority:** The Advisory Panel recommends that the City Council amend current ordinances, including the Unified Development Code as necessary, to modify development review procedures and applicable deadlines for approval to permit the River Commission, at its discretion on a case-by-case basis, to:

1. Receive information or public briefings by applicants regarding Development Matters submitted to the City for consideration or approval by public review boards and commissions; and
2. Provide written comments, advice, or recommendations to those boards and City staff regarding the Development Matter in question.
3. "Development Matters" may include, but are not limited to, applications or other matters being considered by the HDRC, Zoning Commission, Planning Commission (except plats), and Board of Adjustment.

**Proposed Procedure for Discretionary Review:**

1. It is contemplated that the Chair of the River Commission may submit a written request to either the Director of Development Services or the Planning Director, as appropriate, expressing the interest of the River Commission in a specific development matter or project.
2. Receipt of this written request shall serve as procedural notice that the application or matter under review must be extended for a period of time sufficient to permit the River Commission to review and comment on the matter before the matter is formally considered by another public review board or commission.
3. City staff will notify the applicant of the request for Discretionary Review by the River Commission.
4. To ensure that pending applications are not unreasonably delayed by this discretionary review, the River Commission must convene and act upon the matter within 30 days of the written request. After that 30-day period, the application may proceed in accordance with procedures and ordinances of the City.
5. Applications and development matters anticipated for public review should be communicated to the River Commission members by staff in timely fashion and to the extent possible so that the application or public review by other boards and commissions is not disrupted or delayed unnecessarily.

6. In the event that the River Commission officially provides recommendations through this process that are in conflict with a decision by staff or commission on the same application, City staff will notify City Council in writing. When appropriate, this notification may occur within agenda caption and supporting materials, in those situations when the final decision rests with City Council.

### Annual Report and First Year Review

In its advisory role, the River Commission shall provide an annual report to the City Council concerning its activities and policy recommendations. As part of the first year annual report, the River Commission shall provide a comprehensive review of its procedures, accomplishments, and interaction with other City boards and commissions. It shall, if necessary, make recommendations for changes in City procedures or ordinances to improve its effectiveness.

### Formation of River Commission

**Structure and Appointment Terms.** The panel recommends that the River Commission be made up of seven at-large board members that have staggered 3-year terms, serving a maximum of three terms, or nine years. Although this recommendation is inconsistent with current City policy, the panel believes that 3-year terms would improve continuity of the Commission's work.

**Nomination Process.** The River Commission members shall be appointed or reappointed by the City Council, following the submission of recommendations by a Nominating Committee for appointment. The Nominating Committee should be comprised of one representative from each of the following organizations:

- San Antonio Conservation Society
- Current River Commission (after initial appointments)
- Parks and Recreation Board
- Downtown Alliance/San Antonio
- Greater San Antonio Chamber of Commerce
- Paseo Del Rio Association
- San Antonio Area Tourism Council
- San Antonio Museum of Art (SAMA)
- South San Antonio Chamber of Commerce

The Nominating Committee will convene upon notification of a vacancy or conclusion of an appointment term. The Nominating Committee will elect a chair

from amongst its members to run the meeting. The Nominating Committee may conduct an application process and consider applicants. The Committee shall provide, by majority vote, recommendations of specific individuals who the Committee believes will best serve the interests of the community on the River Commission. The Chair of the Nominating Committee may present these nominations to City Council.

The qualities of individuals serving on the River Commission should include:

- High character, integrity, and ethics
- No conflict of interest, or if there is a conflict, members are required to disclose
- History of Community Service with the city's best interest at heart
- Reputation and track record for leadership, value and respect
- Passionate about the protection and preservation of the history and heritage of the River
- Forward thinking with a long-range perspective

Additionally, although not required, expertise in one or more of the areas of local business, community service, development, architecture, landscape, urban planning, the Arts, Historian, Entertainment and Tourism or experience in business along the San Antonio River is preferred.

**Eligibility for Appointment.** The City Council should not be limited in its ability to appoint high-caliber and well respected individuals that would ultimately make up a board that would oversee the River. In this regard, the Panel recommends that the City Council permit all residents of Bexar County to be eligible for appointment to the River Commission.

**Advisory Committees.** In order to support its work, it may be necessary for the Commission to possess the authority to form Advisory Committees or Technical Advisory Groups from time to time in which individuals representing certain technical disciplines or areas of special expertise may provide technical or specific professional assistance. Such ad hoc efforts would be led by two of the River Commissioners.

**Chair and Vice Chair of River Commission.** The initial Chair of the Commission would be appointed by the Mayor. Subsequent appointments of the Chair and Vice Chair would be made by election by the River Commission from amongst its members. The Chair and Vice Chair shall serve one year terms in that position with no limitation on the number terms served.

#### Staff Support for River Commission

The Advisory Panel believes that it is critical to have the appropriate staff support for the River Commission. The staff should proactively work to coordinate with

City departments and inform the Commission of all available public information regarding development, exterior renovation, and proposed construction along the River, as well as other river-related matters. The Panel recommends that the City Manager dedicate a key coordinator that reports directly to the City Manager's Office. This important position(s) should be dedicated solely to River issues.

### Interrelationship with HDRC

The Panel is not confident that the current structure and staffing of the HDRC provides the prestige and technical competencies that should be in place to protect and enhance the ambiance of the River. Staff has informed the Panel that the City Council may consider changes to the HDRC in the coming weeks. The Panel's recommendation to establish a new River Commission is largely predicated on an improved structure for the HDRC, as well as improved design standards and review process.

The HDRC should be comprised of technical experts in the field of design and historic matters. Presently, non-design professionals are involved in design review. The HDRC members should be at-large appointments, rather than the district/at-large appointment process currently in place. The HDRC should also be reduced in size.

Design review of projects occurring along the River will remain under the authority of the HDRC. However, River Commission advice provided to the HDRC should be strongly considered as a factor during the HDRC review process. Through organizational improvements of the HDRC and staff reporting, the Panel believes that the HDRC can adequately provide design review for the River. In this regard, the River Commission would focus on policies regarding land use and design and potential business policies. However, the River Commission would, at its discretion, have the ability to comment and present its recommendations on projects under review. However; this would be minimized if HDRC is functioning effectively as described above.

### River Commission Meetings

The River Commission should meet on a monthly basis at a time and place as stipulated by the Chairperson. Special meetings can occur outside of these dates as it may be necessary to carry out any outstanding issues. River Commission meetings would be open to the public. Information in regards to date, time and location of scheduled meetings could be found on the City's website and/or by contacting the City Manager's office.

Conflicts of Interest

The Commission shall be governed by the City Code of Ethics.