



MEMORANDUM

Overview

The Charter Revision Work Group plan required this office to review the proposed Charter revisions and provide an overview to the Charter Revision Work Group as to specific proposed Charter amendments that would affect various City departments. Over the course of the past several months, we reviewed the proposed Charter amendments, discussed the changes with representatives from each department, and discussed the amendments with the Charter Revision Work Group. In the case of the Police Department, the Work Group did not discuss the proposed amendments as a group, but the City Attorney's Office met with Assistant Chief Lubinski to discuss the proposed amendments. This memorandum summarizes the impact of this proposal on the City and the Police Department.

I. Powers of Mayor over Police Chief

The existing Charter gives the Mayor certain broad powers over the Police Department and the police chief. *See* Memorandum to Charter Revision Work Group. In contrast, the proposed Charter revision simply states that "the Mayor regulates and commands the police department. Except where the law vests an appointment in the department itself, the Mayor appoints and may discipline or discharge any employee in the department..." This change in language could affect the Mayor's ability to exercise power over the police department. Under the current Charter the Mayor is free to exercise "all powers of said city" as regards the police department. Under the proposed Charter revision, the Mayor is limited to only "regulating and commanding" the police department and appointing and disciplining certain employees.

II. Term of Chief's Service

Unlike the current Charter, the proposed Charter revision does not specify a commencement date or a termination date. This issue could be resolved by specifying the date a Chief's term begins. The length of the Chief's term (three years) is the same under the proposed Charter revision as it is currently.

In addition, unlike the current Charter, the Proposed Charter revision does not contain a provision explaining that when vacancies for Chief are filled, the appointment is for the remainder of the term. Again, this issue could be resolved by adding language noting that an appointment is for the rest of the term.

III. Appointment of Temporary Police and Special Police

The current Charter allows the Mayor to appoint temporary police officers, for one week or less, if necessary in times of “riot, large public gatherings or other unusual occasions.” The proposed Charter revision retains this power, but omits the language stating that such appointments do not require approval by the Council.

In addition, the current Charter allows the Mayor to appoint special police at the request of “any firm, society, or organization. . .” who “have police powers to preserve the peace and protect the property at such places and within such limits as may be designated . . . but such special police officers or guards shall not exercise authority or wear any badge of office outside the limits so designated.” The proposed Charter revision retains this power in substantially the form as the current Charter. As discussed in the Memorandum to the Charter Revision work Group, these provisions may be unnecessary because the MPD is a party to mutual aid agreements that will allow the City to enlist assistance from other law enforcement agencies if necessary. In addition, POST Board requirements may limit the City to appointing only those individuals who are licensed by the POST Board.

IV. Funding Requirements

The current Charter requires the City Council to impose a tax annually (in addition to the general fund levy) that allows the City to maintain a required Police personnel ratio (1.7 employees per 1,000 citizens), but places a limit on the levy of no more than three (3) mills on each dollar of assessed valuation on all taxable real and personal property of the City. The proceeds from this levy are to be appropriated only to the use of the Police Department personnel, and related other than personnel items, and the City Council is not to reduce any other appropriation made for police purposes because of this additional tax and levy.

The current language is mandatory in two respects. It states both that the City must fund the police department at a certain level and it shall levy a tax annually. The proposed Charter revision states that the Council “must” fund a police force but goes on to state that it “may” annually tax residents to do so. It therefore makes the tax requirement **permissive**, rather than mandatory. The proposed Charter revision also eliminates the requirement of Charter Chapter 6 Sec.2, that the tax be only that amount in excess of the sum used to maintain the number of employees in the police department on January 1, 1961. Finally, the language of both the current Charter and the proposed Charter revision is unclear about whether the funding ratio stated applies to all police personnel or sworn personnel.

V. Crime Prevention Bureau

The Crime Prevention Bureau referenced in both the current Charter and in the proposed Charter revision no longer exists as contemplated in the Charter, nor does the director of the Crime Prevention Bureau have the responsibility that the director had prior to decentralization of the duties to the precincts. Accordingly, we recommend that this provision be removed from the Charter.