



Minneapolis
City of Lakes

Office of the City Attorney
Susan L. Segal
City Attorney

350 South 5th Street – Room 210
Minneapolis, MN 55415

Office 612 673-2010
Civil Division Fax 612 673-3362
Criminal Division Fax 612 673-2189
CPED Fax 612 673-5112
TTY 612 673-2157

TO: Council Member Betsy Hodges and Members
of the Intergovernmental Relations Committee

FROM: Dana Banwer, Assistant City Attorney

DATE: October 27, 2009

RE: Proposed Charter Revision – Summary of
Changes Related to Civil Service Commission

MEMORANDUM

Overview

The Charter Revision Work Group plan required his office to review the proposed Charter revisions and provide an overview as to specific changes in the proposed Charter revision that would affect various City departments and processes. Over the course of the past several months, we reviewed the proposed Charter amendments, discussed the changes with representatives from each department, and in some cases, with the Charter Revision Work Group. This memorandum summarizes the impact of this proposal on the City and the Civil Service Commission.

I. Civil Service Commissioners

A. The current Charter provides that the Mayor appoints and the City Council approves the three Civil Service Commissioners that preside over the Civil Service Commission, as set out in Charter Chap. 19, Sec. 1. It is our understanding that the current Civil Service Commissioner appointment process is handled much the same way as the appointment of department heads, and includes the Executive Committee, the Ways & Means Committee and the full City Council. The proposed Charter revision provides that the Commissioners are to be appointed pursuant to the Executive Committee appointment process, as is the case with other City officers. Accordingly, no change in the appointment process for Civil Service Commissioners is anticipated.

B. The proposed Charter revision removes obsolete language pertaining to the terms of the original Civil Service Commissioners and establishes terms consistent with the current Charter's



establishment of three-year staggered terms, one term expiring on March 1 of each year.

C. The proposed Charter revision eliminates the minimum salary requirements for the Civil Service Commissioners. The proposed Charter also removes to ordinance a filing requirement pertaining to the Mayor's filing nominees' names with the City Clerk's Office.

II. Civil Service Fund

A. The current Charter establishes a civil service fund to be used by the Civil Service Commission, with whatever remains at year's end to go to the City's general fund. The proposed Charter revision substantially retains the provisions of the current Charter; however, the proposed Charter revision removes the requirement that all unexpended funds be returned to the City's general fund. Without such a requirement, the Civil Service Commission would have the authority to retain any unspent funds in the Civil Service account.

B. The proposed Charter revision removes to ordinance the requirement that money drawn against the civil service fund be signed by the commission president, or vice-president and secretary, and countersigned by the City Finance Officer.

III. Civil Service Commission Organization

The current Charter sets the date for a required organization meeting (second Monday of August), requires that the civil service commission elect officers for its own organization, and provides for the Commission to pass meeting schedules, internal procedures, etc. The proposed Charter revision removes the specificity contained in the current Charter related to a specific date for the annual organizational meeting.

IV. Powers of Commission to Extend Only to Classified Service

A. The proposed Charter revision excludes some previously listed unclassified employees and broadens other categories of unclassified employees, aside from department heads and their senior deputies and supervisors. For instance, the current Charter only provides for the Mayor's secretary to be in the unclassified service, while the proposed Charter revision provides that the Mayor's entire staff be in the unclassified service.

B. The current Charter lists the following City officers as being in the unclassified service: elected officials, unpaid members of boards and commissions, city clerk, city engineer, chief health officer, chief of police, city assessor, superintendents, principals, supervisors of teachers and teachers in public schools, city attorney, park board attorney, library director and librarians, parks superintendent, landscape architect, chief of park police, and the mayor's private secretary, while the proposed Charter revision lists the following city officers: elected officials, each board's members



and secretary, city clerk, city assessor, city attorney, “chief engineer”, chief health officer, and the police chief. In addition, the proposed Charter revision provides that the Park Board superintendent, attorney, park police chief, landscape architect and “any officer or other employee for whose unclassified status this charter or a general or special law provides” and the Mayor’s staff are in the unclassified service.

Even though the proposed Charter revision and the current Charter are substantially similar, the following differences should be noted:

- The proposed Charter revision refers to the “city engineer”, which is now the public works director, and also refers to the “chief engineer” which is now called the fire chief. Thus, it is unclear to which of these two positions the proposed Charter revision is referring; the public works director or the fire chief.
- Under the current Charter, only the Mayor’s secretary is in the unclassified service, while the proposed Charter revision places the Mayor’s entire staff in the unclassified service.

V. Term of Eligibility Lists

Under both the current and proposed Charters, the Civil Service Commission is to create and maintain eligibility lists, which lists are good for two years, unless extended by the Commission. This does not reflect current practice in the City in that eligibility lists expire at different intervals, depending on the situation, the position and the department’s wishes, and in any case, long before two years. This provision should be amended to accurately reflect the City’s current practice.

VI. Rule of Three

Under the current Charter, when a vacancy in the classified service is to be filled by a City employer, the Civil Service Commission is to certify the “highest name from the appropriate list of the eligible register” to the hiring authority. Under the proposed Charter revision Sec. 9.5(c)(1)(C)(iii), the Civil Service Commission is to certify to the board, department or officer that will fill any vacancy a “list of eligible applicant standing **highest** on the appropriate list from the eligibility register”. Under revised Charter Sec. 9.5(d)((2)(B), and except as otherwise provided by law, the Commission must certify the **first three eligible applicants**, unless a board, department, or officer is filling more than one vacancy from the same list, in which case the Commission must certify one additional applicant for each additional vacancy.” [Emphasis added]. This requirement has become known in the City as the “Rule of 3”. While the current Charter contains a reference to Special Law 511, 1978, which provides for the use of the Rule of 3 for filling vacancies and for promotions in the classified service, the Rule of 3 is not otherwise referenced in the current Charter. The proposed Charter revision codifies the Rule of 3 in the Charter.

In addition, given Sec. 9.5(c)(1)(C)(iii) of the proposed Charter revision (requiring the Commission



to certify the highest standing on the eligibility register to the hiring authority), and Sec. 9.5(d)((2)(B) (requiring the Commission to certify the first three eligible applicants to the hiring authority), these provisions could create confusion for the Commission and/or the hiring authorities. It should also be noted that several collective bargaining agreements and City human resources practices provide for or result in deviations from the current Charter and special state law requirements.

VII. Probationary Periods

Both the current Charter and the proposed Charter revision specify that probationary periods for City employees is six (6) months, except for firefighters, police officers and assistant city attorneys. As discussed in the Work Group memorandum, this Charter provision is in conflict with Minnesota PELRA, under which the City has a mandatory duty to negotiate terms and conditions of employment. The City has negotiated the probationary period in several, if not all of its collective bargaining agreements, and these agreements supersede the Charter in this area. This provision should not be included in a revised Charter.

VIII. Bribery

Both the current Charter and the proposed Charter revision refer to criminal charges for bribing or accepting a bribe for the purpose of influencing any examination or other action related to employment. Both versions specify that such a crime is a misdemeanor and is presumably punishable as a misdemeanor (up to 90 days in the workhouse, and/or a \$1,000 fine). However, under Minn. Stat. §609.42, bribery is a felony and is punishable by up to 10 years in prison and/or a fine of up to \$20,000, and only the County Attorney's Office has prosecutorial jurisdiction over felony-level offenses. This provision should be revised accordingly.

IX. Removal of Charter Powers to Ordinance

Throughout the proposed Charter revision, portions of the Charter related to the Civil Service Commission will be removed to ordinance. This is in keeping with the philosophy of the Model Charter for Minnesota Cities, which, according to the comments, "is based on the modern drafting principles that a charter should deal only with fundamentals, leaving to the council by ordinance the authority to provide more detailed regulations as they are needed."