



## **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 and processes. Over the course of the past several weeks, we reviewed the proposed Charter amendments, discussed the changes with representatives from each department, and discussed the amendments with the Charter Revision Work Group. This memorandum summarizes the impact of this proposal on the City the appointment and removals policies, procedures and processes.

### **I. Executive Committee**

#### **A. Executive Committee under Current Charter**

Under the current Charter (Chap. 3, Sec. 4), the City's Executive Committee (members include Mayor (who is chair), City Council President, and up to 3 additional Council members, but not all from the same party, unless all Council members from same party) has the exclusive power to appoint and remove: police chief, fire chief, director of public works, health commissioner, city attorney, city assessor, city coordinator, civil service commissioner, and "any officer in a department or agency, who, by statute, Charter or ordinance, is appointed by the Mayor or City Council or by any public board the majority of whose members are members of the City Council".

## **B. Appointment Process under Current Charter**

Current Charter Chap. 3, Sec. 4 provides that the Mayor **nominates** the individual to be appointed, the Executive Committee **appoints** the Mayor's nominee, and the City Council **votes to approve** the nominee, after notice and public hearing.

## **C. Executive Committee under Proposed Charter Revision**

The composition of the Executive Committee remains the same as above in the proposed Charter revision. The Executive Committee appointment/removal process is found in proposed Charter revision Chapter 9. Section 9.1 of the proposed Charter defines an "officer" to include each elected officer, each board's members and officers for which the Charter or a general law, special law, or ordinance provides, and each employee that the Charter, a general law, special law, ordinance or boards designates as an officer. In addition, the proposed Charter revision defines "board" to include "(1) City Council; (2) the Executive Committee; and (3) any other body that this charter or an ordinance calls a 'board' or a 'commission' but . . . does not include a department (but does include a commission heading a department)."

## **D. Appointment Process under Proposed Charter Revision**

The Executive Committee appointment process itself is substantially the same under the proposed Charter revision as it is under the current Charter; however there are a few **differences** as listed below:

1. Based on our interpretation of the proposed Charter revision, the Executive Committee appointment and removal process would be expanded to include appointments to all of the boards and commissions to which appointments are routinely made by the Mayor and Council, including, for example: Civil Rights Commission, Housing Board of Appeals, Nicollet Mall Advisory Board, and Downtown Special Services District Board.
2. The department heads and/or departments listed in the proposed Charter are different than those listed in the current Charter (*see pp. 5-6 of Appointments memo*).
3. The proposed Charter revision contemplates that City departments will be established by ordinance (*see proposed Charter revision, Sec. 9.4*).
4. City Council must "prescribe the Executive Committee process" vs. current Charter says Executive Committee establishes its own rules and procedures.
5. If Executive Committee fails to act on a Mayoral nomination for 60 days, the candidate is automatically appointed.

## **III. Removal**

**A.** Current Charter Chap. 2, Sec. 19 addresses the circumstances that lead to removal of both elected and appointed officials, while the proposed Charter revision removes this section of the Charter to ordinance and adds language stating that an ordinance may impose a duty and provide that a violation will result in forfeiture of office or removal.

## **B. Removals Subject to Executive Committee Process**

The proposed Charter revision (Chap. 9, Sec.9.4(b)(6)) provides that the City Council may not remove an officer appointed pursuant to the Executive Committee process unless the Executive Committee process is followed for removal. In addition, a Civil Service Commissioner may not be removed unless for

“cause”. Since, as explained above, the Executive Committee process arguably applies to members of boards and commissions, the Executive Committee removal process would also apply to those individuals.

### **C. Standard of Cause for Removal**

As with the current Charter, the proposed Charter revision lacks clarity regarding the standard of cause necessary to remove officers other than Civil Service Commissioners.

### **IV. Removal of Charter Provisions to Ordinance**

Throughout the proposed Charter revision, certain current Charter provisions have been removed from Charter to ordinance. This is in keeping with the philosophy of the Model Charter for Minnesota Cities, which, according to the comments, “is based on 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.”

### **IV. Suggested Additional Revisions**

Throughout the Charter review process, the Charter Work Group reviewed the proposed Charter revision with an eye toward the proposed revisions as well as with an eye toward recommending additional modifications where the group deemed it necessary or desirable. Following are recommendations related to the Executive Committee and the appointments and removal processes:

A. The Human Resources Director recommends that the “hold-over” concept be amended to avoid the situation where an department head/appointed person who is not reappointed continues to hold his/her office until a successor is appointed or until up to six months after the person’s term has expired.

B. As articulated above, neither the current Charter nor the proposed Charter revision specify the standard of “cause” for removal of officers and appointed individuals, other than Civil Service Commissioners. We recommend that the Charter be revised to specify a standard of cause for removal.