



Minneapolis

City of Lakes

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TO: Charter Revision Work Group Members

FROM: Dana Banwer, Assistant City Attorney

DATE: October 27, 2009

RE: Charter Revision – Civil Service Commission

MEMORANDUM

OVERVIEW

The Charter Revision Work Group plan requires this office to review the proposed Charter revisions and provide an overview as to specific changes in the Charter that would affect various City departments. Among the changes in the proposed Charter revision are changes in how the Charter treats the Civil Service Commission. This memorandum addresses impact of this proposal on the City and the Civil Service Commission.

ANALYSIS

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. Chapter 19, Sec. 2 of the current Charter establishes a civil service fund to be used by the Civil Service Commission, by levying a tax on real and personal property in the City at the rate of \$25 per thousand citizens. Unexpended funds at year's end are to be returned 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. In addition to the above, 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

Chapter 19, Sec. 3 of 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:

1. 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.
2. 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. It should be noted again that several collective bargaining agreements provide for or result in deviations from the current Charter and proposed Charter revision.

Under the Minnesota Public Employment Labor Relations Act (PELRA), no contract provisions may be in conflict with Minnesota law or rules under law, or municipal charters, ordinances or resolutions, provided that the rules, charters, ordinances, and resolutions are consistent with Chapter 179A. Minn. Stat. §179A.20. Chapter 179A further provides that a public employer has a duty to meet and negotiate in good faith terms and conditions of employment, and that this duty exists notwithstanding contrary provisions in a municipal charter, ordinance or resolution. A provision of a municipal charter, ordinance, or resolution which limits or restricts a public employer from negotiating or from entering into binding contracts with exclusive employee representatives is superseded by this provision of state law. Minn. Stat. §179A.07, subd. 2. The Eighth Circuit has specifically interpreted Minneapolis City Charter Chapter 19, Sec. 11 (related to the six-month probationary period) in the case of *Somers v. City of Minneapolis*, 245 F.3d 782 (2001), where an employee (Somers) was terminated after six months, but prior to one year of service. Somers argued that the City could not terminate him without cause because the Charter specified a six-month period, while the City argued that the collective bargaining agreement (CBA) between the City and Somers’ bargaining unit specified a one-year probationary period, and that the agreement supersedes



the Charter. In upholding the termination both the district court and the Eighth Circuit found that whether an employee may be terminated without cause is a mandatory subject of collective bargaining imposed by Minn. Stat. §179A.07, subd. 2, and that the City and Somers' bargaining unit negotiated a CBA in which employees gain a right not to be terminated without cause after one-year probationary period. The Charter's grant of that right after a six-month probationary period conflicts with the collectively bargained provision and is therefore inconsistent with PELRA. *Id.* at 787.

We recommend that the six-month probationary period language be removed from the City Charter as courts have ruled that this provision conflicts with PELRA's requirement that the City negotiate terms and conditions of employment.

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 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. All felony-level offenses are prosecuted by the County Attorney's Office. This provision should be revised accordingly.

IX. Removal of Charter Powers to Ordinance

Under 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."

Moving provisions to ordinance, however, results in a significant difference as to how easily those provisions may be altered. Amending a Charter provision requires either a 13-0 vote of the City Council or a majority popular vote in favor of a ballot questions. Amending an ordinance, however, requires only a majority vote of all Council Members present. Shifting the specific Civil Service Commission provisions to ordinance will mean that those powers and duties can be much more easily changed, or even eliminated by the Council.

Following is a side-by-side comparison of current Charter provisions related to the Civil Service Commission compared with the proposed Charter revisions.¹

¹ Language appearing in italics is recommended for reclassification as an ordinance under the proposed Charter revision.



Current Charter Provision	Proposed Charter Revision
Chapter 19 Civil Service	
<p>§ 1. Civil Service Commissioners of Minneapolis to Be Appointed by Mayor with Approval of a Majority of City Council and To Receive Salary To Be Set by City Council— Mayor To File Names of Prospective Appointees</p> <p>There shall be in the City of Minneapolis a civil service commission (hereinafter called the commission) of three commissioners, who shall be citizens of the State and residents of the City, and for this service each commissioner shall receive a salary, payable in equal monthly installments in an amount to be set from time to time by the City Council, but not less than the rate of fifteen hundred dollars (\$1,500.00) per annum. No commissioner shall at the time of appointment, or while serving, hold any other office or employment under the City, the United States, the State of Minnesota, or any public corporation or political division thereof other than the office of notary public. The Mayor shall, with the consent and approval of the City Council, expressed by a majority vote thereof, appoint as commissioners, persons known to favor the principle of merit, efficiency and affirmative action in the public service. The term of office of that commissioner which was heretofore set by this section to expire on the 1st day of August, 1980, shall instead expire on the 1st day of March, 1980. The term of office for that commissioner which was heretofore set by this section to expire on the 1st day of August, 1981, shall instead expire on the 1st day of March, 1981. The term of office of that commissioner which was heretofore set by this section to commence on the 1st day of August, 1979, and expire on the 1st day of August, 1982, shall commence on the 1st day of August, 1979, but shall expire on the 1st day of March, 1982. Commencing in 1980, and thereafter, the term of office of each commissioner shall be three years from and after the 1st day of March of the year of such person’s appointment. In case of a vacancy occurring otherwise the appointment shall be for the unexpired term. The commissioners shall continue in office until their successors are appointed and have duly qualified. Each commissioner, before entering upon the duties of office, shall subscribe and file with the City Clerk an oath for the faithful discharge of such duties. <i>Thirty days prior to the appointment of a commissioner, the Mayor shall file with the City Clerk the name of the person whom the Mayor proposed to so appoint.</i></p>	<p>[§ 9.5(c)(2)]</p> <p>Composition. The Commission comprises three citizens, appointed under section 9.4(b), who—</p> <p>(A) favor merit, efficiency, and affirmative action in the public service; and</p> <p>(B) hold no other office or employment under the federal, state, municipal, or any other government, or any department, agency, court, or political subdivision of any such government. Each commissioner serves a three-year term, with one commissioner’s term expiring each year on March 1.</p>
<p>§ 2. Civil Service Fund Authorized</p> <p>The City Council shall set apart on the first Monday in January of each year, in the City treasury, a sum not less than twenty-five dollars (\$25.00) for each thousand of the population of the City, according to the next preceding state or national census, to be known as the civil service fund and to be used only for the purposes of this Chapter. Unexpended balances at the end of the year shall revert to the current expense fund of the City. To</p>	<p>[§ 9.5(f)]</p> <p>Fund. The City Council must annually establish a civil-service fund for this section 9.5’s purposes by levying, in addition to any other tax, a tax upon all taxable property in the City that yields at least 2.5 cents per citizen. The Commission may use the proceeds from this fund and controls its own finances.</p>



provide such fund, the City Council shall levy a sufficient annual tax upon all the taxable property of the City, real and personal, in addition to all other taxes authorized by law. <i>Warrants on the fund shall be drawn by order of the commission and signed by its president or vice-president and secretary and countersigned by the City Finance Officer. The commission shall audit its own bills and payrolls.</i>	
§ 3. Commission To Meet on Second Monday of August for Organization and All Employees to Be in Classified Service The commission shall meet on the second Monday of August of each year, and at each said meeting elect a president and vice-president to serve until their successors are elected.	[§ 5.2(b)] President. Each board at its organizational meeting must elect from its membership a president.
The commission shall select a secretary <i>who shall keep the records and files of the commission and be ex-officio the chief examiner.</i>	[§ 5.2(d)] Secretary, other officers. Each board must elect a secretary and may elect or appoint, or provide for the election or appointment of, any other necessary officer. A board’s rules may require that its secretary or any other officer must (or must not) come from or serve on the board, otherwise the officer may but need not come from or serve on the board.
The commission shall from time to time fix the times of its meetings, and adopt, amend and alter rules for its procedure.	[§ 5.3(d)] Rules. Each board may adopt rules of order for the conduct of its own business.
The commission may appoint other necessary employees.	[§ 5.4(b)] Employment. Each board may employ— (1) an appropriate staff, for which purpose it may hire, regulate and direct, and discipline or discharge any employee (subject to the Civil Service Commission’s rules, in the case of an employee in the classified service);
All employees of the commission shall be in the classified service.	[§ 9.5(b)(1)] Classified service. The “classified service” includes— (A) each employee of the Commission
§ 4. Powers of Commission To Extend Only To Classified Service The powers of the commission shall extend only to the classified service which shall embrace the entire service of the City except	[§ 9.5(c)(1)] Function and powers. The Civil Service Commission administers the classified service,
the following officers, and employees, which shall be known as the “unclassified service”, namely: Officers who are elected by the people; members of boards and commissions; the city clerk; secretaries of the several boards and commissions serving without pay; the city engineer, the chief health officer; the Chief of police; the City assessor; superintendents, principals, supervisors of teachers and teachers in the public schools; the city attorney; the attorney of the park board; the director and librarians of the public library; the superintendent of parks; a landscape architect; a chief of park police; and the Mayor’s private secretary.	[§ 9.5(b)(2)] Unclassified service. The “unclassified service” includes the elected officers and— (A) for each board— (i) its members, and (ii) its secretary, if he or she serves without pay; (B) the city clerk; (C) the city assessor; (D) the city attorney; (E) the chief engineer; (F) the chief health officer; and (G) any officer or other employee for whose unclassified status this charter or a general or special law provides.
	[§ 8.3(a)(1)(C)] The [police] chief serves in the unclassified service,
	[§ 7.2(h)(2)] Unclassified service. The [Park & Recreation] Board may



	employ in the unclassified service— (A) the superintendent, (B) its attorney, (C) the park police chief, (D) a landscape architect, and (E) any officer or other employee for whose unclassified status this charter or a general or special law provides.
	[§ 8.1(g)(1)] The Mayor’s staff serves in the unclassified service.
None of the unclassified service shall be subject to examination or affected as to their selection, appointment, discharge or removal by the provisions of this Chapter.	
§ 5. “Employee” Designated The term “employee” as used in this Chapter, shall include every officer, agent, employee and other person in the classified service of the City.	[§ 9.1(b)] an “employee” includes— (1) each officer, and (2) everyone in the classified or unclassified service who is not an officer.
§ 6. Listing, Grading and Classifying Employees All employees of the City of every nature excepting those in the unclassified service, shall be listed, graded and classified, and a service register prepared for the purpose, in which shall be entered, in their classes, the names, dates of birth, compensation, period of past employment, and such other facts and data as to each employee as the commission may deem useful.	[§ 9.5(c)(1)] Function and powers. The Civil Service Commission administers the classified service, with respect to which it— (A) must classify each job into a grade based on the job’s description and duties, so that each grade includes jobs with similar descriptions and duties; (B) must establish standards and qualifications for each job, and design a competitive examination that measures those standards and qualifications; (C) must administer or provide for the administration of a competitive examination after giving public notice for each job in the classified service, and must— (i) maintain an application register of each applicant for examination, listing the job sought; (ii) based on the results, maintain an eligibility register listing eligible applicants in order of their standing on the examination, on which eligibility expires within two years unless the Commission extends it; and (iii) certify to the board, department, or officer that will fill any vacancy a list of eligible applicants standing highest on the appropriate list from the eligibility register (see sec. 9.5(d)(2)); (D) must maintain and monitor a service register of each employee in the classified service, listing his or her title, compensation, employment record, and any other useful information;
To enable the commission to make such service register, the Mayor, City Council, each board and commission and each appointing or employing officer shall prepare and furnish to the commission required information about all employees in the classified service, including the names and data aforesaid and such other information as the commission may call for.	[§ 9.5(e)(2)] Cooperation. Each officer, board, and department must— (A) furnish any information that the Commission requests for the service register;
§ 7. Commission to Make, Alter and Change Rules	
The commission shall, from time to time, make, amend, alter and change rules, to promote efficiency in the City service and to carry out the purposes of this Chapter. The rules shall provide, among other things, for:	[§ 9.5(c)(4)(A)] Notice for rulemaking. The Commission may, after giving public notice, adopt any necessary or prudent rule in furtherance of this section 9.5’s purposes.

a. The classification of all officers, positions and employments in the classified service.	[§ 9.5(c)(1)(A)] must classify each job into a grade based on the job's description and duties, so that each grade includes jobs with similar descriptions and duties;
b. Public competitive examinations to evaluate the relative fitness of applicants.	[§ 9.5(c)(1)] (B) must establish standards and qualifications for each job, and design a competitive examination that measures those standards and qualifications; (C) must administer or provide for the administration of a competitive examination after giving public notice for each job in the classified service,
c. Public advertisement of all entrance examinations using methods determined by the commission to insure notice to the general public. Such advertisement may include publication in a newspaper of general circulation, and posting such advertisement in a conspicuous place and other methods of insuring adequate public notice.	[§ 9.5(c)(1)(C)] must administer or provide for the administration of a competitive examination after giving public notice for each job in the classified service,
d. The creation of lists of eligible candidates after successful examination, in the order of their standing in the examination, and without reference to time of examination. Such lists of eligibles shall be embraced in a register. The commission may by rule provide for striking any names from the register including any names that have been two years thereon.	[§ 9.5(c)(1)(C)(ii)] based on the results, maintain an eligibility register listing eligible applicants in order of their standing on the examination, on which eligibility expires within two years unless the Commission extends it;
<i>e. The rejection of candidates or eligibles who, after the entry of their names, shall fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition or otherwise, or who have been guilty of criminal, infamous or disgraceful conduct, or of any wilful misrepresentation, deception or fraud in connection with the examination or in connection with their applications.</i>	
f. The certification of the name standing highest on the appropriate list to fill any vacancy.	[§ 9.5(c)(1)(C)(iii)] certify to the board, department, or officer that will fill any vacancy a list of eligible applicants standing highest on the appropriate list from the eligibility register (see sec. 9.5(d)(2));
g. Temporary employment without examination, but with the consent in each case of the commission, in cases of emergency and pending appointment from the eligible list; but no such temporary employment shall continue longer than sixty days, nor shall successive temporary employments be permitted for the same position.	[§ 9.5(c)(4)(B)(vi)] with the Commission's consent, temporary employment without examination in an emergency or pending a hire from the eligibility register, for up to 60 days per vacancy.
h. Transfer from one position to a similar position in the same class or grade and for reinstatement of persons who, without fault or delinquency, are separated from the service or reduced.	[§ 9.5(c)(1)(B)(iii)] transfer among jobs in the same grade or class;
i. Promotion based on competitive examination and upon records of efficiency, character, conduct and seniority. Promotion shall be deemed, among other things, to include increase in salary, and the rules shall be framed to encourage the filling of vacancies by promotion rather than otherwise.	[§ 9.5(c)(4)(B)] Contents. These rules must encourage the filling of each vacancy by promotion, [§ 9.5(c)(4)(B)(ii)] promotion (including raised compensation) based on competitive examination, efficiency, character, conduct, and seniority;
j. Suspension, with or without pay, for not longer than ninety days, and for leave of absence, with or without pay.	[§ 9.5(c)(4)(B)(i)] discipline (including by suspension for up to 90 days, with or without pay),

	[§ 9.5(c)(4)(B)(iv)] leaves of absence;
k. Appointment of unskilled laborers in a fair and equitable manner, without competitive examination, except such tests of physical fitness or other qualifying tests as the Commission may prescribe.	[§ 9.5(c)(4)(E)] may waive an examination for unskilled labor, and instead provide for hiring by fair and equitable means or arrange for tests of physical fitness or other qualifying tests;
<i>l. Removing names from the service register upon termination of service.</i>	
The commission shall adopt such other rules not inconsistent with the provisions of this Chapter, as may from time to time be found necessary to secure the purposes of this Chapter. § 8. Commission to Give Notice of Change of Rules Before the adoption, amendment or repeal of any rule, the commission shall give notice of consideration thereof by publishing and posting of brief notice, as required in Section 7, stating the subject of the rule or rules to be acted on.	[§ 9.5(c)(4)(A)] Notice for rulemaking. The Commission may, after giving public notice, adopt any necessary or prudent rule in furtherance of this section 9.5's purposes.
§ 9. Application Register to Be Kept The commission shall keep an application register, in which shall be entered the names of applicants for examination, and the offices or employments they seek. <i>All applications shall be upon forms prescribed by the commission.</i>	[§ 9.5(c)(1)(C)(i)] maintain an application register of each applicant for examination, listing the job sought;
§ 10. Mayor to Be Notified of Rules and Amendments The commission shall notify the Mayor, the City Council, the several boards and commissions, and each appointing officer of the city, of the rules adopted by them and all amendments thereof.	[§ 9.5(c)(4)(C)] Notice of rules. The Commission must send its rules, including each amendment, to— (1) the Mayor, (2) the City Council, (3) each other board, and (4) each officer who can hire an employee in the classified service.
No office, position or employment shall be filled in the classified service except from names certified by the commission and in accordance with the provisions of this Chapter.	[§ 9.1(a)] Except as this charter otherwise provides, the City must fill each vacancy in the classified service in a fair and impartial manner with the most qualified applicant according to an examination that measures qualifications and fitness for the job.
§ 11. Officers or Employees Not to Be Removed After Six Months Except for Cause—Investigation of Charges With the exception of firefighters initially employed after the effective date of this amendment, the police officers and assistant city attorneys, no officer or employee, after six months' continuous employment shall be removed or discharged except for cause, upon written charges and after an opportunity to be heard. No police officer after twelve months' continuous employment following the satisfactory completion of the basic peace officers' training course of the Minneapolis Police Department and no assistant city attorney or firefighter, after twelve months of continuous employment, shall be removed or discharged except for cause, upon written charges and after an opportunity to be heard. Such charges shall be investigated by or before said Civil Service Commission or by or before some officer or board appointed by said commission to conduct said investigation. The finding and decision of such commission or investigating officer or board when approved by said commission shall be certified to the appointing officer and	[§ 9.5(d)(4)] Tenure. After a probationary period that begins upon hiring, an employee in the classified service may be disciplined or discharged only as this charter, the Commission's rules, or any other applicable law or agreement provides. (A) Probation. The probationary period is— (1) for police officers, 12 months following satisfactory completion of basic training; (2) for an assistant city attorney or a firefighter, 12 months; and (3) for each other job, six months. (B) Discharge. No employee in the classified service, having completed the probationary period, may be discharged except for just cause after— (1) written notice of the cause for dismissal; (2) a hearing before the Commission, or an officer or board that the Commission designates; and (3) a finding by the hearing authority that the evidence supports the cause charged and warrants dismissal.

shall be forthwith enforced by such officer.	
Nothing in this chapter shall limit the power of any officer to suspend a subordinate for a reasonable period, not exceeding thirty days, for purposes of discipline.	[§ 9.5(d)(4)(C)] (C) Suspension. A supervisor may, without regard to this article X's other provisions, discipline a subordinate employee by means of a suspension for up to 30 days.
In the course of an investigation of charges, each member of the commission and of any board so appointed by it or any officer so appointed shall have the power to administer oaths and shall have power to secure by its subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such investigation.	[§ 9.5(e)(1)] Any commissioner in the exercise of the Commission's functions and powers, and any hearing authority that the Commission designates, may compel the testimony of any witness who may have relevant information, or the production of any relevant book, document, or thing.
§ 12. Duties of Each Office to Be Ascertained and Class and Grade Established The commission shall ascertain the duties of each office, position and employment in the classified service, and designate by rule as well as may be practicable, the grade and title of each office, employment or position. Each class shall comprise those offices, employments and positions having substantially similar duties. The commission shall prescribe standards of efficiency for each office, position and employment and for each class, and adapt its examinations thereto.	[§ 9.5(c)(1)(A)] must classify each job into a grade based on the job's description and duties, so that each grade includes jobs with similar descriptions and duties;
§ 13. Conduct of Examinations All examinations shall be impartial, fair and practical and designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill.	[§ 9.5(a)] Policy. Through the Civil Service Commission, the City will adopt and follow fair, impartial, and practical rules for the classified service. Except as this charter otherwise provides, the City must fill each vacancy in the classified service with the most qualified applicant according to an examination that measures qualifications and fitness for the job.
No question in any examination shall relate to the race or national origin, political or religious convictions or affiliations of the applicant.	[§ 9.5(a)(2)] Nondiscrimination. The examination may not inquire into any applicant's— (1) ancestry, color, or race; (2) cultural or ethnic background; (3) political, ideological, or philosophical belief or affiliation; (4) marital or parental status; (5) national or regional origin; (6) religion, or religious or denominational affiliation; or (7) sexual or affectional orientation or preference, or into any other status on the basis of which discrimination is unlawful. [Minn. Stat. § 363A.02, subd. 1(a)] It is the public policy of this state to secure for persons in this state, freedom from discrimination: (1) in employment because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and age; (2) in housing and real property because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and familial status; (3) in public accommodations because of race, color, creed, religion, national origin, sex, sexual orientation, and disability;



	(4) in public services because of race, color, creed, religion, national origin, sex, marital status, disability, sexual orientation, and status with regard to public assistance; and (5) in education because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and age.
All applicants for positions of trust shall be specially examined as to moral character, sobriety and integrity, and all applicants for positions requiring special experience, skill or faithfulness shall be specially examined in respect to those qualities.	[§ 9.5(a)(1)] Examination. The examination may inquire into the applicant's experience, skill, and character to the extent that the job requires them.
Where written answers are required from applicants for positions calling for expert knowledge, the rules may provide for examination of the answers and the comparative ranking of the various applicants, without a disclosure of the names of the applicants to the examiners.	[§ 9.5(a)(3)] Written answers. Where a job requires expert knowledge, the examination may seek narrative answers, in which case the examiners must examine the answers and rank the applicants without seeing their names.
<i>The commission may furnish to the chief examiner such assistance as may be necessary.</i>	
It shall be the duty of every employee of the city to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. <i>The members of the commission, collectively or individually, may act as examiners or assistant examiners.</i>	[§ 9.5(e)(2)] Each officer, board, and department must— ... (B) administer an examination as the Commission requests, without additional compensation
§ 14. Notice of Examination <i>Reasonable notice of the time, place and scope of each examination shall be given to each qualified applicant upon the appropriate list of the application register. The names of those found eligible shall be entered on the appropriate register.</i>	[§ 9.5(d)(1)] Application register. Each applicant on the application register is entitled to notice of each examination for a job for which he or she has applied and qualified.
§ 15. Filling of Vacancies When a vacancy is to be filled in the classified service, the Mayor, City Council, board, commission or employing officer shall notify the commission, and the commission shall certify the highest name from the appropriate list of the eligible register, except in the case of unskilled labor, and then shall certify the name first in time on the list. All vacancies shall be filled from the names so certified and the commission shall be immediately notified of the employment, and of the compensation to be paid. The names selected shall be stricken from the eligible register and transferred to the service register. All changes in grade, title or compensation shall be likewise reported.	[§ 9.5(c)(1)(C)(iii)] certify to the board, department, or officer that will fill any vacancy a list of eligible applicants standing highest on the appropriate list from the eligibility register (see sec. 9.5(d)(2)); [§ 9.5(d)(2)(A)] each vacancy in the classified service is filled from the eligibility register; [§ 9.5(d)(2)(B)] 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. [§ 9.5(c)(1)(D)] must maintain and monitor a service register of each employee in the classified service, listing his or her title, compensation, employment record, and any other useful information;
§ 16. Filling of Certain Positions Without Examination In case of a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional or expert character, the commission, upon satisfactory evidence that competition is impracticable, and that the position can best be filled by the selection of some person of recognized attainments, without examination, and after hearing in an	[§ 9.5(c)(1)(F)] may waive an examination in a particular case if— (i) the job requires unusual professional or scientific credentials or expertise; and (ii) the Commission unanimously concludes after a public hearing that a competitive examination is impracticable, in which case its next report must so note.



<p>open, regular meeting of the commission and by the affirmative vote of all three members, may suspend competition; but no such suspension shall be general in its application to such position, and all such cases of suspension shall be reported, together with the reasons therefor, in the annual reports of the commission.</p>	
<p>§ 17. Restrictions on City Finance Officer in Payment of Salaries After the receipt by the City Finance Officer of the payroll, the Finance Officer shall not approve the payment of any salary, wages or compensation for any office or employment in the classified service, nor countersign any warrant therefor, unless the name of the person claiming the same appears upon the service register for the time for which such salary, wages or compensation is claimed, nor at any higher rate than shown on such register; <i>and if the City Finance Officer shall willfully or negligently approve any payment or countersign any warrant in violation of this section, the Finance Officer and the sureties on the Finance Officer's bond shall be liable to the city for the amount thereof and action may be brought therefor by any taxpayer for the use of the city without making previous request to the city to sue.</i></p>	<p>[§ 9.5(d)(3)] Service register. The City must pay an employee in the classified service only for the time and at the rate that the service register shows his or her employment.</p>
<p>§ 18. Commission to Make a Report on or Before January 30 of Each Year The commission shall in each year, on or before the 30th day of January, make to the Mayor and City Council a report, showing as fully as may be the acts and disbursements of the commission for the preceding calendar year; the rules in force at the beginning of such year and changes made during the year; the practical effect and working of the rules and of this Chapter; the results of the efforts to standardize services and compensation and the departure therefrom; together with such recommendations as the commission may see fit to make, to promote the efficiency and integrity of the public service. The commission shall furnish a suitable number of copies of such report to the Mayor, the City Council and each board and commission and each employing Officer of the city.</p>	<p>[§ 9.5(c)(4)(D)] Report. The Commission must annually report in January to the Mayor and the City Council, and publish its report to each other board and each officer who can hire an employee in the classified service. The report must cover the preceding calendar year, and include— (1) the Commission's rules, including any amendment during the preceding year; (2) each action under this section 9.5(c); (3) an accounting for the civil service fund; (4) the state of the civil service and any results of the Commission's work; and (5) any recommendation for the civil service's greater efficiency and integrity.</p>
<p>§ 19. Investigation by Commission or Individual Commissioner and Trial of Accused</p>	
<p>The commission shall from time to time investigate the enforcement of this act and of the rules made under it; the action of all examiners; the duties of all departments and of all employees of the city; the efficiency of the service, and such other matters as come within the scope of this Chapter. In the course of such investigations each commissioner shall have power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. <i>Any person who shall willfully testify falsely shall be guilty of perjury and any person who shall refuse to obey the lawful subpoenas or directions of the commission or any commissioners in any such investigation shall be guilty of a misdemeanor. Any member of the commission shall have power to file written charges against</i></p>	<p>[§ 9.5(e)(1)] Enforcement. The Commission must take care that this section 9.5 and its rules are faithfully observed and enforced, for which purpose any commissioner may inquire of any responsible officer, board, or department. Any commissioner in the exercise of the Commission's functions and powers, and any hearing authority that the Commission designates, may compel the testimony of any witness who may have relevant information, or the production of any relevant book, document, or thing.</p>



<p><i>any employee in the classified service, and thereupon the commission shall try the charges, after not less than ten days' written notice to the person accused, in the manner and with the powers prescribed in this section; but in such case the complaining commissioner shall not sit. If found guilty of breach of duty, such employee may be removed by the commission and such person's name be stricken from the service register.</i></p>	
<p>The commission may make complaint to the District Court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require that the person obey the commission's subpoenas and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of the court. <i>Witnesses shall be entitled to the same fees and mileage as for attendance upon the District Court, except that any officer, agent or employee of the city who receives compensation for services, shall not be entitled to fees or mileage.</i></p>	<p>[§ 1.5(b)] Jurisdiction. The district court has jurisdiction . . . (2) for enforcing any subpoena issued by an officer or board under this charter who can lawfully compel the attendance or testimony of any witness or the production of any book, document, or thing.</p>
<p>§ 20. False Answers or Statements Cause for Forfeiture of Right to Be Entered Upon Register Any applicant for an office or employment in the classified service, who shall knowingly make any false answer or statement upon any examination in regard to any material matter upon which such person is examined, shall thereby forfeit the right to be entered upon the register, and, in case such person has been appointed to any office or employment, shall forfeit the same and shall not within three years thereafter be eligible to any office or employment in the unclassified service of the city, nor shall such person be entitled to any of the examinations of the commission during such time.</p>	<p>[§ 9.5(e)(3)] False statement. Any applicant who knowingly furnishes false information on an application for employment in the classified service forfeits— (A) his or her entry on the application register, (B) any employment held in the classified service, and (C) eligibility for such employment for three years.</p>
<p>§ 21. Giving or Taking of Money or Service for Position a Misdemeanor Any applicant for examination or for appointment to the classified service, who shall, either directly or indirectly, give, render or pay or promise to give, render or pay any money, service or other thing to any person for or on account of or in connection with such person's examination, appointment or proposed appointment, or who shall ask for or receive any recommendation or assistance from any person in the classified or unclassified service of the city, except a statement of such person's previous service and the character thereof, if any, to the city, as a subordinate under such officer or employee, shall be guilty of a misdemeanor.</p>	<p>[§ 9.5(e)(4)] Bribery. Any person who, in connection with or for the purpose of influencing any examination or other action under this section 9.5— (A) offers, accepts, or solicits any money, service, or other thing of value; or (B) seeks or accepts any recommendation from any officer or employee of the City, is guilty of a misdemeanor.</p>
<p>§ 22. [Reserved]</p>	
<p>§ 23. [Reserved]</p>	
<p>§ 24. Action of Superior Officers or Employees Declared a Misdemeanor in Certain Cases Any officer or employee in the classified or unclassified service of the city, who shall discharge, promote or reduce in rank or in any manner change the official rank or compensation of any other officer or employee or promise or threaten so to do, for giving or withholding or neglecting to make any service or contribution of money or other valuable thing for any party or</p>	



CONCLUSION

This memorandum exists only to provide a guide as to the suggested changes contained in the Proposed Revised Charter and to assist the Work Group in its discussion of those changes.