

MEMO

Date: April 24, 2014
To: Reno Civil Service Commission
Subject: Revisions to Article I, Article III, and Article IX of the Reno City Charter
Prepared By: Jean Atkinson, Chairperson, Reno Civil Service Commission

Summary:

Over the last two months, the Reno Charter Review Committee has explored questions regarding the structure of and checks and balances within those sections of the Reno City Charter that address *appointive officers and appointive employees* and coverage under the *City's Civil Service system*. Below (under Discussion) is a summary of the action taken to date.

Recommendation:

It is requested that the Civil Service Commission provide direction to the Chairperson regarding the Commission's position on these proposed changes.

Background:

Section 1.090 Appointive Officers and Appointive Employees -- This section of Charter contains the primary language within which appointive officers and appointive employees are identified. There are additional references to appointive offices and appointive employees in Sections 3.020, 3.040, 3.060, 3.070, and 3.080. As a result, it is not easy to discern who or what falls under the appointive officer/appointive employee category for someone unfamiliar with Reno's Charter.

Section 9.020 Civil Service and Exempt Positions -- This section of the Charter addresses who is covered by and exempt from the provisions of the City's Civil Service System; however, rather than specifically listing the other Charter sections involved, the current language uses the general reference "...pursuant to this Charter..." The net effect is that someone has to be a student of the Charter to piece together the individual parts.

Appointive vs. Civil Service -- The primary distinctions between an appointive position and one covered by the Civil Service are the nature of the appointment and the context within which the work is performed. Appointive positions are those positions which may, but are not required to be filled through an open competitive recruitment process. Typically these appointments are made from qualified individuals who are either known to or recruited by the elected body or the City Manager or his designee.

In the public sector, appointive positions are generally reserved for the highest level executives in the organization and their immediate assistants (Department Heads, Division Managers, Assistant City Managers, Executive Assistants, etc.) The theory behind these types of appointments is that these individuals are an extension of the elected official and/or chief executive officer and are charged with responsibility for carrying out policy direction. As such, these appointments may start and end with elections.

Civil Service, on the other hand, is comprised of those positions who provide the work and professional expertise necessary to put a product or service 'on the road'. The ethics and principles governing the work is standardized and the procedures followed generally conform to best practices. As a consequence, change in political and appointive leadership does not alter *how the work is done*, only the *focus of where that effort will be applied*.

In the public sector, civil service systems (and their merit system counterparts) are governed by a set of principles including:

- 1) open, competitive recruitments -- i.e., insuring that all members of society have an opportunity to participate in the recruitment and a reasonable chance to gain public employment,
- 2) fair and equal treatment in all aspects of personnel management -- e.g., promotions are based on merit, dismissals are based on legitimate business concerns, and tenure in the job is not tied to changes in elected leadership,
- 3) all of which is exchanged for high standards of integrity, conduct and concern for the public interest, as well as an expectation of high levels of performance and efficiency.

In the end, appointive positions and civil service positions serve the same overall purpose -- to provide the public with the best possible service in a financially sound manner.

Discussion:

The proposed language under review by the Charter Committee was developed as a joint effort between the City and the Civil Service Commission. This effort was undertaken at the request of the Charter Review Committee. The language addresses issues raised by the Charter Review Committee and reflects the results obtained through a survey of prevailing practices, which was conducted as part of this process. The proposed revisions are summarized below and the current status of the revision is referenced in red:

Section 1.012. "Appointive employee" defined -- Correction to the citation to reflect new numbering within the referenced section. Approved.

Section 1.015 "Civil Service" or "Civil Service System" defined -- Correction to the citation to reflect that the *system* is as defined in the whole of Article IX, not just section 9.020. Approved.

Section 1.090 Appointive officers and appointive employees :

1. Rewritten to provide a comprehensive reference to appointive officers/appointive employees. Although there may be references in other sections, Section 1.090 becomes the primary guide in identifying those positions in appointive officer/appointive employee category. Approved.
2. Identified the appointing authority in all instances. Approved.
3. Expanded the definition of appointive officer in the Police and Fire Departments to include "Assistant Fire Chief" and "Deputy Chief of Police." This most likely will have some bargaining unit impact, however, the language that protects the civil service status for all other Police and Fire employees has been moved to Article IX (Civil Service), Section 9.020, where it falls more into context. Approved; outstanding question re: if specific language protecting the civil service status for all other Police and Fire employees remains as placed under Section 9.020.
4. Redefined "special technical staff":
 - a) removed the restriction of "... report[ing] directly to the City Manager." This allows the City greater flexibility in using these appointive employees throughout the organization, not just within the Office of the City Manager, in an effort to better meet changing service demands.
 - b) updated the definition, using the administrative employee definition found in NRS 288.
 - c) established a cap on the number of appointive positions that can be declared under this section. The cap limits the number to "3% of the permanently established positions as authorized by the City Council." This cap is consistent with the cap established under NRS 245 which governs Washoe and Clark County. It was chosen because it simplifies the language and, when taken together with the other appointive positions specifically listed in this section, approximates the number of appointive positions existing under current practice.

Discussion continued until May 1st meeting.

5. Moved the "special technical staff" group back under the requirement for declaration by ordinance. This requirement existed prior to the last legislative session and was inadvertently dropped. By bringing this requirement back into place, an important check and balance is re-established. Approved.
6. Moved the appointment ratification language, which currently appears under section 3.020, to section 1.090 where it falls more into context. Approved.
7. Added a requirement that the City Manager publish an organizational chart and list of appointive employees each year (presumably as part of the budget). This requirement addresses the issue of transparency. Approved, modified to require documents to be filed at least annually with the City Clerk.

Section 1.110 Appointive officers and appointive employees: Duties; salary; benefits -- Minor corrections. Approved.

Section 3.020 City Manager: Duties; compensation -- Modified to reflect prevailing practice (see attached chart) by bringing clerical and office support personnel under Civil Service. These positions do

not engage in the development or implementation of policy, but rather provide functional support to the office. The nature of that support extends beyond changes in leadership and insures continuity of services and systems over time. However, the proposed language does maintain the City Manager's right to hire such appointive staff as he may deem necessary to the proper functioning of his office. The appointive staff would be exempt from Civil Service. Approved.

Section 3.040 City Clerk: Duties -- Minor correction. Approved.

Section 3.060 City Attorney: Qualifications; duties; salary -- Modified in substantially the same manner as Section 3.020. And, as with the City Manager, the language retains the City Attorney's right to hire an Executive Assistant and such Chief Deputy City Attorneys as he may deem necessary for the proper functioning of his office. These individuals would be exempt from Civil Service.

Of note, the proposed language brings Assistant City Attorneys under Civil Service. The rationale for this proposal is as follows:

1. There are emerging trends recognizing employee rights for non-policy level attorneys. In Nevada, NRS 252.070 places Deputy District Attorneys under the County's merit system; the City of Sparks extends to its Assistant City Attorneys the right to appeal dismissal; and NRS 288 permits attorneys, other than those in the civil division, to organize and engage in collective bargaining.
2. It makes good business sense. It provides continuity in operations. It insures retention of expertise and depth of knowledge in issues relating to the City's past and present legal matters. It protects professional freedom to provide the very best legal advice possible, minimizing political considerations (even if the advice is not what the agency wishes to hear). And it lessens the demoralization that accompanies each election season and the unknown as to what happens once the election is decided
3. By the same token, this proposal does not alter the requirement for efficient and effective performance or alter the fact that the City Attorney retains hiring authority for these Assistant City Attorneys.

Proposal to bring Assistant City Attorneys under Civil Service rejected; other language approved.

Section 9.020 Civil Service and exempt positions.

1. Rewritten so that the section serves as a single point of reference for positions exempted from Civil Service. References within this section now provide specific citations.
2. Deleted "trainee" from the list of exemptions. This exemption does not make sense.

Approved.

Section 9.060 Rules -- Modified to address that part of the classification concern which falls within the authority of Civil Service Commission as defined in Article IX:

- a) Extended approval of class specifications for Civil Service positions from *minimum qualifications only* to *whole class specification*. This enables the Commission to better meet the objectives set out in Article IX but, at the same time, this language does not alter the City's right to determine service priorities and the means and methods of offering those services. The language attempts to strike a proper balance between the legitimate interest of both parties.
- b) Added an appeal process for Civil Service employees aggrieved by the City Manager decision on classification assignment. Under current practice, the decision of the City Manager is final without right of appeal. An appeal process allows the Commission to sort through claims of unequal treatment, a core concept under merit system principles.

Discussion tabled until May 1st meeting.

Section 9.120 Blanketing into Civil Service. Modified to allow the Commission the ability to create a special rule to help facilitate conversions in situations where positions which have not been within the Civil Service are declared by law to be included in the Civil Service...which may occur if the language set out above is adopted. Approved.

Section 9.080 Classification specifications -- Modified this section as an extension of the discussion above in Section 9.060. The proposed language provides structure and clarity.

Discussion tabled until May 1st meeting.

On one final note -- The proposed revisions do not attempt to address the concern raised regarding declaring positions "confidential" rather than placing them in a bargaining unit. The Charter Review Committee believes this issue does not fall under a provision within the Charter; rather, by its nature, it appears to be more appropriately addressed under the terms of a specific labor agreement or through an appeal to the Employee Relations Management Board created under NRS 288.

RECOMMENDATION: