



**Request for City Council Committee Action
From the Department of City Coordinator**

Date: December 1, 2009
To: Betsy Hodges, Chair, Intergovernmental Relations Committee
Referral to: None

Subject: Proposed Charter Amendment regarding the Director of Regulatory Services' appointment through the appointment process outlined in Charter Chapter 3, Section 4.

Recommendation: That the IGR Committee recommend that the City Council approve the ordinance amending the City Charter by a vote of 13-0.

Previous Directives: None.

Prepared by: Steven Bosacker, City Coordinator Phone: (612) 673-2032

Approved by: _____
Steven Bosacker
City Coordinator

Permanent Review Committee (PRC) Approval _____ Not Applicable X

Note: To determine if applicable see <http://insite/finance/purchasing/permanent-review-committee-overview.asp>

Policy Review Group (PRG) Approval ____ Date of Approval ____ Not Applicable X

Note: The Policy Review Group is a committee co-chaired by the City Clerk and the City Coordinator that must review all requests related to establishing or changing enterprise policies.

Presenter in Committee: Steven Bosacker, City Coordinator

Financial Impact (Check those that apply)

X No financial impact (If checked, go directly to Background/Supporting Information).

____ Action requires an appropriation increase to the ____ Capital Budget or ____ Operating Budget.

____ Action provides increased revenue for appropriation increase.

____ Action requires use of contingency or reserves.

____ Business Plan: ____ Action is within the plan. ____ Action requires a change to plan.

____ Other financial impact (Explain):

____ Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact

Neighborhood Notification

City Goal(s):

Comprehensive Plan

Zoning Code

Other

Background/Supporting Information:

The proposed charter amendment is an organizational change that will properly align City services, reporting structure and accountability. Currently, the Department of Regulatory Services is managed by an Assistant City Coordinator who is

appointed by and reports to the City Coordinator. This reporting structure was the result of a special law enacted by the Legislature (Laws 1969, Chapter 927, as amended by Laws 1982, Chapter 491, as amended by Laws 1983, Chapter 220, Laws 1986, and Chapter 473, Laws 1988 Chapter 433, authorizing the City Coordinator to appoint, among others, the Manager of the Convention Center and the Director of Regulatory Services), and approved by the City Council in 1989.

The City Coordinator Department is currently comprised of nine separate departments/divisions, including the new Department of Neighborhood & Community Relations. Most of the Coordinator's departments are responsible for citywide functions (finance, human resources, intergovernmental relations, etc.), and exist to support all other departments with their respective management and subject matter expertise.

Unlike the other City Coordinator departments, the Regulatory Services Department serves mainly external customers, and like the City's other charter departments, it should be more directly accountable to the electorate via appointment of a Director through the Executive Committee process of the City Council.

Because the special law referenced above is expressly stated in Charter Chapter 3, Section 3, the City Attorney's Office has opined that a charter change is necessary to accomplish this proposal. Under the Minnesota Constitution, a special law may only be modified by a further act of the state legislature (as by repeal of the special law), or by modification of a home rule charter.

The first step in initiating a charter amendment by ordinance is to obtain a recommendation from the Charter Commission for the amendment.

Minn. Stat. § 410.12, subd. 7, specifies the requirements for a charter amendment by the City Council:

Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing on the proposal and the notice must contain the text of the proposed amendment. The city council must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The ordinance is enacted if it receives an affirmative vote of all members of the city council and is approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance.

On October 30, 2009, the City Council referred the ordinance amending the Charter to the Charter Commission. Following a presentation from Council President Barbara Johnson and City Coordinator Steven Bosacker, the Charter Commission reviewed the ordinance (amending the Charter) at its meeting on November 4, 2009, and recommended that the City Council approve the proposed Charter amendment by affirmative vote of all 13 members of the City Council. The Charter Commission's recommendation is attached hereto.

The proposed Charter amendment, adding the Director of Regulatory Services to the list of department heads appointed by the Executive Committee, and the proposed amended organizational structure appear on the attached documents.

Amend Charter Chapter 3 – Powers and Duties of Officers – as follows:

Section 4. Executive Committee. There is hereby established an executive committee consisting of the Mayor, the President of the City Council, and up to three additional members of the City Council to be chosen by the Council; provided, however, that not all of the members of the executive committee shall be of the same political party, unless the Mayor and all of the members of the City Council shall be members of the same political party. The executive committee shall establish its own rules and procedures. It shall be chaired by the Mayor.

Notwithstanding any other provision of this Charter or special law to the contrary, the executive committee shall have the exclusive power to appoint and remove during their terms of office the Police Chief, Fire Chief, Director of Public Works, Commissioner of Health, City Attorney, City Assessor, City Coordinator, Civil Service Commissioner, Director of Regulatory Services, 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. An appointment or removal shall be effective only upon approval by action of the City Council taken in compliance with the requirements of Chapter 2, section 2, and Chapter 3, section of this Charter. When considering an appointment or removal the executive committee shall follow the procedures prescribed by ordinance or resolution of the City Council which may include provision for participation by members and committees of the City Council, but in the case of an appointment such procedures may not impose a limitation on the candidates to be considered by the executive committee.

All appointments by the executive committee shall be made from nominations submitted by the Mayor. If after three nominations or if within ninety days after a position becomes vacant, the Mayor has failed to gain an executive committee appointment and Council approval to fill the position, a majority of the executive committee may submit in writing to the Mayor a list of at least three qualified persons from which the Mayor shall nominate a person to fill the position. If that nomination fails of approval, the executive committee may submit a new list of three qualified persons and the mayor shall again nominate from such list, and these steps shall be repeated until a nomination results in an appointment and in its approval by the Council. If the Mayor fails to nominate from a list within twenty days after receipt thereof, then a majority of the executive committee may appoint from such a list.

A person holding an office or seat filled by appointment by the executive committee who has not been reappointed and approved by the City Council within six months after expiration of his or her term shall vacate the office or seat and shall remain vacant until a new appointment is made and confirmed. The executive committee may designate someone to fill the vacated office on a temporary basis for a period not to exceed ninety days.

The executive committee may suspend without pay any officer appointed by it in the unclassified service for a period not to exceed five (5) working days at one time, and for longer periods with the approval of the City Council.

Further duties of the executive committee shall be only as prescribed by ordinance or resolution of the City Council.