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MEMO

TO: Chair VanMoorlehem and Members of the Charter Commission
FROM: Kori Land, City Attorney
DATE: January 19, 2021
RE: Council-Manager Plan

BACKGROUND:

At its meeting on January 12, 2021, the Charter Commission discussed a concern about having more oversight of the City Manager regarding the Police Chief's appointment.

State law allows Charter Cities to select its form of government, including a commission, mayor-council plan or council-manager plan.¹ The City of West St. Paul, through its Charter, has chosen a Council-Manager Plan as its form of government:

Charter Section 2.01. Form of Government.

The form of government established by this Charter is the "Council-Manager Plan". The Council shall exercise the legislative power of the City and determine all matters of policy. The City Manager shall be the head of the administrative branch of the City government and shall be responsible to the Council for the proper administration of all affairs relating to the City.

Under this form of administrative organization, the City Council has the policy-making and legislative authority, but the City Manager has the responsibility for administration of the City.² State law dictates how the Council appoints and removes a City Manager, which is repeated in our Charter.³ The Manager is carefully selected by the City Council solely based on training,

¹ Minn. Stat. §410.16

² "The form of government provided in Optional Plan B shall be known as the council-manager plan. The council shall exercise the legislative power of the city and determine all matters of policy. The city manager shall be the head of the administrative branch of the government and shall be responsible to the council for the proper administration of all affairs relating to the city." Minn. Stat. §412.611.

³ *see* Minn. Stat. 412.641 attached hereto and compare it to Charter Section 6.01.

experience and administrative qualifications.⁴ There is a reason the statute requires the Council to consider very specific qualifications of City Managers. They are given great responsibilities to manage the City.

State law goes on to define certain powers and duties of a City Manager.⁵ The Charter has articulated some of these powers and duties of the City Manager in Charter Section 6.02, which states as follows:

Charter Section 6.02. The City Manager

Subdivision 1. Subject to the provisions of this Charter and any Council regulations consistent therewith, the City Manager shall manage, control and direct the administration of the City's affairs. The Manager shall have the powers and duties set forth in the following subdivision.

Subdivision 2. The Manager shall see that this Charter and laws, ordinances and resolutions of the City are enforced.

Subdivision 3. Except for the City Attorney who shall be selected, appointed, and removed by the Council, the City Manager shall appoint, promote and remove, upon the basis of merit and fitness the City Clerk, all heads of departments and all subordinate officers and employees in the departments. No subordinate officer or employee of the City shall be discharged from his or her employment unless and until such employee has had a hearing by the Council if such employee requests the hearing within fifteen (15) days of the effective date of such discharge or such greater period as may be specified in any contract with the City covering such employee. (emphasis added)

It is clear that the hiring process for employees is not simply *delegated* to the City Manager, it is by statute and Charter *the responsibility of* the City Manager. In fact, both State law and the City Charter prevent the City Council from interfering with the City Manager's powers and duties, including the power to appoint officers and employees.⁶

City Charter Section 2.09 reflects the statutory interference language nearly verbatim:

⁴ MANAGER; BASIS FOR CHOICE; RESIDENCY; TERM; PROBATION. "The city manager shall be chosen by the council solely on the basis of training, experience, and administrative qualifications and need not be a resident of the city at the time of appointment." Minn. Stat. §412.641. Subd. 1.

⁵ *see* Minn. Stat. §412.651 attached hereto.

⁶ LIMIT ON COUNCIL POWERS. "Neither the council nor any of its members shall dictate the appointment of any person to office or employment by the manager, or in any manner interfere with the manager or prevent the manager from exercising judgment in the appointment of officers and employees in the administrative service; but this shall not be construed to prohibit the council from passing ordinances for establishing a merit system governing city employment. Except for the purpose of inquiry, the council and its members shall deal with and control the administrative service solely through the manager, and neither the council nor any of its members shall give orders to any subordinate of the manager, either publicly or privately. Minn. Stat. §412.661.

Charter Section 2.09. Interferences with Administration.

Neither the Council nor any of its members shall dictate the appointment of any person to office or employment by the City Manager, or any manner interfere with the City Manager or prevent him or her from exercising judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry the Council and its members shall deal with and control the administrative service solely through the City Manager, and neither the Council or any member thereof shall give orders to any of the subordinates of the City Manager, either publicly or privately.

As you can see, the Council-Manager form of government has granted broad discretion, authority, and management responsibility to the City Manager. To allow a hiring process for any department head or any employee that would require City Council or other outside involvement, is in direct conflict with this chosen form of government.

RECOMMENDATION:

Discussion

ATTACHMENTS:

Minn. Stat. §412.651

Minn. Stat. §412.641