

Work Session

Agenda Item #	6
Meeting Date	September 18, 2012
Prepared By	Jessie Carpenter City Clerk
Approved By	Suzanne Ludlow Acting City Manager

Discussion Item	Discussion of Council Proposal to Establish a Council Role in Department Director Hires and to Establish a Residency Requirement for the City Manager, Deputy City Manager, and Certain Department Directors
Background	<p>At its work session on July 30, the City Council discussed establishing a residency requirement for the position of City Manager and for selected department heads. At that time, the majority favored establishing a residency requirement for the City Manager with the understanding that the Council would be able to vote to waive the requirement if it so desired. Under the proposal supported by the majority, newly hired department heads would be required to live within a ten-mile radius of Takoma Park.</p> <p>If the Council desires to establish a residency requirement, it could be enacted by adoption of a two-reading ordinance amending the City Code. The Council would need to determine which positions would be included in the department head category.</p> <p>Also on July 30, the City Council discussed a proposal to require a Council vote (up or down) on the City Manager's hiring of department heads. Again, if the Council wishes to pursue this change, it would need to determine which positions would require Council approval.</p> <p>As proposed, the Council would not be involved in the recruitment, application review, or interview process. Once the City Manager has selected his or her top candidate, the Council would have an opportunity to approve or disapprove the City Manager's decision. If the first candidate is not approved by the City Council, a second candidate could be brought forward by the City Manager.</p> <p>The two proposals were drafted in ordinance form by Councilmember Male prior to the work session on July 30. The document he prepared has not been revised by staff for this discussion. The draft ordinance imposed a residency requirement for all department heads, the City Manager and Deputy City Manager, hired on or after August 15, 2012. At the work session on July 30, the Council specifically excluded the new Police Chief from any policy that would be imposed by the ordinance.</p> <p>Staff requested the City Attorney's review of the appointment ratification proposal to confirm whether or not a Charter Amendment would be necessary before amending the City Code. The City Attorney opined that certain sections of the City Charter may have to be amended before such a Code amendment can be enacted. The Charter sections to be reviewed for conflict with the proposed ordinance are Paragraph (a) in Section 701 - Powers and Duties (of the City Manager); Section 702 - Council Not to Interfere with Appointments or Removals; and, Section 903 - Authority to Employ Personnel. These sections are attached for reference.</p>

Policy	The City Council sets policy for the City of Takoma Park. The Charter Amendment process is governed by the State of Maryland. The City Code is amended by adoption of a two reading ordinance.
Fiscal Impact	N/A
Attachments	<ul style="list-style-type: none"> • Draft ordinance prepared by Councilmember Male amending the City Code to Establish a Council Role in Department Director Hires and Residency Requirements for the City Manager, Deputy City Manager, and Certain Department Directors • Selected sections of the City Charter that may need to be amended prior to establishing a Council role in the City Manager's appointment of the Deputy City Manager and department directors • Procedures for amending the City Charter
Recommendation	Hold a discussion and determine next steps.
Special Consideration	

SELECTED SECTIONS OF THE CITY CHARTER

Section 701 Powers and Duties

The City Manager shall be the chief administrative officer of the city, may head one or more departments, and shall be responsible to the City Council for the proper administration of all affairs of the City. The City Manager shall serve at the pleasure of the council and may be removed by an affirmative vote of four (4) of its members. To that end, the Manager shall have the power and shall be required to:

- (a) Appoint and, when necessary for the good of the City, suspend or remove other applicable officers and employees of the city except as otherwise provided by the City Charter or applicable law. The City Manager may authorize the head of a department or office to appoint, suspend, or remove subordinates in such department or office.
- (b) Prepare the budget annually and submit it to the Council together with a message describing the important features and be responsible for its administration after adoption.
- (c) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City Council for the preceding year.
- (d) Keep the Council advised of the financial condition and future needs of the City, and make such recommendations as may be deemed desirable.
- (e) Recommend to the governing body a standard schedule of pay for each appointive office and position in the City service, including minimum, intermediate, and maximum rates.
- (f) Recommend to the governing body (from time to time), adoption of such measure as may be deemed necessary or expedient for the health, safety, or welfare of the community or for the improvement of administrative services.
- (g) Consolidate or combine offices, positions, departments, or units under his/her jurisdiction, with the approval of the City Council. The City Manager may be the head of one or more departments.
- (h) Attend all meetings of the City Council unless excused there from and take part in the discussion of all matters coming before the Council. The Manager shall be entitled to notice of all regular and special meetings of the Council.
- (i) Supervise the purchase of all materials, supplies, and equipment for which funds are provided in the budget; let contracts necessary for operation or maintenance of the City services as provided in the City Code.
- (j) See that all laws and ordinances are duly enforced.

(k) Investigate the affairs of the City or any department or division thereof. Investigate all complaints in relation to matters concerning the administration of the government of the City, and in regard to service maintained by the public utilities in the City, and see that all franchises, permits, and privileges granted by the City are faithfully observed.

(l) Devote his/her entire time to the discharge of all official duties unless otherwise authorized by the Council.

(m) Perform such other duties as may be required by the Council, not inconsistent with the City Charter, law, or ordinances.

Section 702 Council Not to Interfere with Appointments or Removals

Neither the Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the City Manager or any of the manager's subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative services of the City. Except for the purpose of inquiry, the Council and its members shall deal with the administration solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

Section 903 Authority to Employ Personnel

The City, through the City Manager, shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other authority and to operate the City government, except as otherwise provided in this Charter.

CHARTER AMENDMENT SCHEDULE
First newspaper notice of Public Hearing (Once a week for two successive weeks.)
Second newspaper notice of Public Hearing
Public Hearing on proposed Charter Amendment (No sooner than 10 days after the second notice of public hearing.)
First Reading of Charter Amendment Resolution (First reading can take place the same evening as the public hearing.)
Second Reading of Charter Amendment Resolution (No sooner than 14 days following the public hearing.)
Publication of Fair Summary of Charter Amendment (Published four times - at weekly intervals - within a 40 days after the adoption of the resolution.)
Effective Date - The Charter Amendment becomes effective on the 50 th day after passage of the Charter Amendment Resolution, unless a valid Petition for Referendum is received on or before the 40 th day.

SUMMARY OF PROCEDURES FOR PASSAGE OF A CHARTER AMENDMENT

1. **PASSAGE.** Council passes Charter Amendment Resolution (2 readings)
2. **POSTING.** The Charter Amendment Resolution must be posted at the Municipal Building for a period of at least 40 days after adoption of the Charter Amendment Resolution.
3. **PUBLICATION.** A Fair Summary of the Charter Amendment must be published once a week, for four consecutive weeks within 40 days after the date the Charter Amendment Resolution was passed by the Council.
4. **EFFECTIVE DATE.** The Charter Amendment becomes effective on the 50th day after passage of the Charter Amendment Resolution . . . unless a valid Petition for Referendum is received.
5. **PETITION FOR REFERENDUM.** If a valid petition for a referendum on the Charter Amendment is signed by 20% or more of the qualified voters of the City and is properly presented to the Council on or before the 40th day after the Charter Amendment is passed, then a referendum election on the Charter Amendment must be held.
6. **REGISTRATION OF THE CHARTER AMENDMENT.** The Charter Amendment Resolution must be sent to the Department of Legislative Services (Legislative Services Building, 90 State Circle, Annapolis, MD 21401-1991, phone (301) 970-5350, fax (301) 970-5395)–the Department of Legislative Services has forms to use in sending charter amendment resolutions. The Charter Amendment is not considered effective unless it is registered with the Department of Legislative Services.