

Special Session

Agenda Item #	4
Meeting Date	November 5, 2012
Prepared By	Susan Silber, City Attorney
Approved By	Suzanne Ludlow, Acting City Manager

Discussion Item	Charter Amendment Resolution to Amend Article VII, The City Manager, of the City of Takoma Park Municipal Charter to Enable the Council, by Ordinance, to Establish a Residency Requirement or Residency Preference for the City Manager and/or for Executive Employees and to Require the City Manager to Consult with the Council in the Selection of Executive City Employees.
Background	<p>The position of City Manager is established by the Takoma Park Charter. Under the Charter, the City Manager is solely responsible for the appointment of City employees, and the Charter expressly prohibits the City Council from participating in the selection of City employees. The Charter does not address the issue of whether the City Manager or any other executive City employees must become residents of the City as a condition of employment.</p> <p>The proposed Charter Amendment Resolution would add a new Section 705, Residency, to the Charter to provide that the Council, by Ordinance, may establish the terms for a residency requirement or residency preference for the City Manager and Executive City Employees (<i>i.e.</i>, the Deputy City Manager, City Clerk, Treasurer, City Department Heads, and all other employees who report directly to the City Manager) and also may provide for a waiver from any such residency requirement.</p> <p>The proposed Charter Amendment Resolution also amends Section 702 (renamed as Council Role in Appointments or Removals) by requiring the City Manager to confer with the Council on certain aspects of the hiring of executive City employees.</p>
Policy	The proposed Charter Amendment would strengthen the ties between the City Manager and/or executive employees and the Takoma Park community by allowing the Council, by Ordinance, to establish residency requirements or residency preferences/incentives for the City Manager and/or for executive City employees. The proposed Charter Amendment also requires the City Manager to consult with the Council in the selection of key City employees.
Fiscal Impact	N/A
Attachments	Proposed Charter Amendment Resolution
Recommendation	Vote on the proposed Resolution at second reading.
Special Consideration	This Charter Amendment Resolution should be considered in conjunction with the related Ordinance Amending the Takoma Park Code to Establish a Residency Requirement for the City Manager and to Allow for the Establishment of Residency Preferences and Incentives to Encourage Executive Employees to Reside in the City.

Introduced by: Councilmember Male

Introduction and First Reading: October 22, 2012
Second Reading and Adoption:

CITY OF TAKOMA PARK, MARYLAND

CHARTER AMENDMENT RESOLUTION NO. 2012-1

A Resolution to Amend Article VII, The City Manager, of the City of Takoma Park Municipal Charter to Enable the Council, by Ordinance, to Establish a Residency Requirement or Residency Preference for the City Manager and/or for Executive Employees and to Require Council Confirmation of the City Manager to Consult With the Council in the Selection of Executive City Employees 's ~~Appointment of the Deputy City Manager, City Clerk, Treasurer, and City Department Heads.~~¹

WHEREAS, the Council seeks to strengthen the ties between the City Manager and the community of City of Takoma Park by providing that the Council may adopt an Ordinance requiring the City Manager and/or executive City employees to reside within the City limits; and

WHEREAS, the Council desires to have a greater role in the appointment of unclassified executive City employees (*i.e.*, the Deputy City Manager, Clerk, Treasurer, and City Department Head Positions) by requiring the ~~Council to confirm the City Manager's~~ to confer with the Council on the hiring appointment of such executive City employees; and

WHEREAS, the Council seeks to maintain the City Manager's authority over the removal of officers and employees and, except for a requirement that ~~confirmation of~~ the City Manager's confer with the Council regarding the appointment of executive City employees, to preserve the current Charter requirement that the Council not take part in the City Manager's appointment or removal of officers and employees.

SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, pursuant to Article XI-E of the *Constitution of the State of Maryland*, Article 23A of the *Annotated Code of Maryland*, and Article V, Amendment Procedures of the *City of Takoma Park Municipal Charter*, that the *City of Takoma Park Municipal Charter* is amended as follows:

ARTICLE VII THE CITY MANAGER

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

¹ Additions to the title and "Whereas" clauses of Charter Amendment Resolution No. 2012-1 are shown by underlining and deletions to the title and "Whereas" clauses of Charter Amendment Resolution No. 2012-1 are shown by ~~strike through~~.

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 ROLE IN ~~[Not to Interfere with]~~ Appointments or Removals

(A) 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 AS SET FORTH IN SUBSECTION (B).**

(B) **"EXECUTIVE EMPLOYEES" INCLUDE THE DEPUTY CITY MANAGER, CITY CLERK, TREASURER, CITY DEPARTMENT HEADS, AND ALL OTHER EMPLOYEES WHO REPORT DIRECTLY TO THE CITY MANAGER. ~~[[EXCEPT THAT THE COUNCIL, BY ORDINANCE, MAY ESTABLISH A REQUIREMENT THAT NEWLY HIRED UNCLASSIFIED SERVICE EMPLOYEES RESIDE IN OR NEAR THE CITY LIMITS OR A PREFERENCE FOR NEW UNCLASSIFIED SERVICE EMPLOYEES WILLING TO RESIDE IN OR NEAR THE CITY LIMITS THE CITY MANAGER.]]~~ BEFORE SOLICITING CANDIDATES FOR EXECUTIVE EMPLOYEE ~~[[TO FILL THESE]]~~ POSITIONS. THE CITY MANAGER SHALL CONFER WITH THE ~~[[CITY]]~~ COUNCIL REGARDING DESIRABLE QUALIFICATIONS OF THE PERSON TO BE HIRED, SHALL PROVIDE UPDATES TO THE COUNCIL THROUGHOUT THE HIRING PROCESS, AND SHALL CONSULT WITH THE COUNCIL WHEN THE CITY MANAGER HAS IDENTIFIED A CANDIDATE.**

(C) 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 703. Emergencies

In case of accident, disaster, or other circumstance creating a public emergency, the City Manager may award contracts and make purchases for the purpose of meeting said emergency; but the manager shall file promptly with Council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.

Section 704. Compensation

The City Manager shall receive such compensation as the Council shall fix from time to time by ordinance or resolution.

SECTION 705. RESIDENCY

THE COUNCIL, BY ORDINANCE, MAY ESTABLISH THE TERMS FOR A RESIDENCY REQUIREMENT ~~[[AND]]~~ OR RESIDENCY PREFERENCE FOR THE CITY MANAGER AND EXECUTIVE EMPLOYEES AND MAY PROVIDE FOR ~~[[OTHER EXECUTIVES WHO REPORT DIRECTLY TO THE CITY MANAGER. THE COUNCIL, BY ORDINANCE, MAY ALSO ESTABLISH]]~~ A WAIVER FROM ANY RESIDENCY REQUIREMENT.

Section ~~705~~ 706. Absence of the City Manager

The City Manager shall designate by letter filed with the City Clerk and Mayor, a qualified employee of the City to perform the duties of the office during any temporary absence or disability. In the event of failure of the City Manager to make such designation, the Council may by resolution appoint a qualified employee of the City to perform the duties of the office until the return or cessation of disability of the City Manager.

SECTION 2. BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, that the date of adoption of this Charter Amendment Resolution is _____, 2012, and the amendment of the *City of Takoma Park Municipal Charter* enacted by this Resolution shall become effective on _____, 2012 (50 days after its passage), unless a proper petition for referendum shall be filed as permitted by Section 502 of the *City of Takoma Park Municipal Charter* and *Annotated Code of Maryland*, Article 23A, Section 13. A complete and exact copy of this Charter Amendment Resolution shall be continuously posted on a bulletin board at the Takoma Park Community Center and Sam Abbott Citizens' Center from _____, 2012, until _____, 2012, (a period of at least 40 days following its adoption), and a fair summary of the proposed Charter amendment shall be published in a newspaper of general circulation in the City of Takoma Park once a week for four weeks within 40 days after passage of this Charter Amendment Resolution.

SECTION 3. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, that the City Clerk is specifically directed to carry out the provisions of Section 2 of this Resolution and, as evidence of this compliance, the City Clerk shall maintain appropriate certificates of the publication of the newspaper in which the fair summary of the Charter Amendment Resolution shall have been published. If a favorable referendum is held on the proposed amendment, the Council shall proclaim the proposed Charter Amendment hereby enacted to have been approved by the voters and the Charter Amendment shall become effective on the date provided by law.

SECTION 4. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, that as soon as the Charter Amendment enacted by this Resolution shall become effective, either as provided in this Resolution or following a referendum, the City Clerk shall send to the Department of Legislative Services of Maryland the following information concerning the Charter Amendment Resolution: (1) the complete text of this Charter Amendment Resolution; (2) the date of the referendum election, if any; (3) the number of votes, whether in the Council or in a referendum, cast for or against the Charter Amendment enacted by this Resolution; and (4) the effective date of the Charter Amendment.

THE ABOVE CHARTER AMENDMENT was enacted by the foregoing Charter Amendment Resolution No. 2012-1 which was passed at a meeting of the Council of the City of Takoma Park, Maryland, on the ____ day of _____, 2012, ____ members of the Council voting in the affirmative, ____ members of the Council voting in the negative, ____ members of the Council abstaining, and ____ members of the Council absent, and the said Charter Amendment Resolution becomes effective in accordance with the law on the ____ day of _____, 2012.

THIS CHARTER AMENDMENT RESOLUTION IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK THIS ____ DAY OF _____, 2012, BY ROLL CALL VOTE AS FOLLOWS:

Aye:

Nay:

Abstain:

Absent:

Explanatory Note

1. UNDERLINING AND ALL CAPITAL LETTERS indicates language being added to the Charter.
2. **[Bold and strikethrough]** indicates language being deleted from the Charter.
3. **DOUBLE UNDERLINING, BOLD, AND ALL CAPITAL LETTERS** indicates language being added to the Charter at 2nd Reading and Adoption of Charter Amendment Resolution 2012-1.
4. ~~[[Double strikethrough and double brackets]]~~ indicates language being deleted from the Charter at 2nd Reading and Adoption of Charter Amendment Resolution 2012-1.

[Signature page for Charter Amendment Resolution No. 2012-1.]

COUNCIL OF THE CITY OF TAKOMA PARK

Bruce R. Williams, Mayor

Seth Grimes, Councilmember, Ward 1

Tim Male, Councilmember, Ward 2

Kay Daniels-Cohen, Councilmember, Ward 3

Terry J. Seamens, Councilmember, Ward 4

Jarrett K. Smith, Councilmember, Ward 5

Frederick L. Schultz, Councilmember, Ward 6

ATTEST:

Jessie Carpenter, City Clerk

Date: _____

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