

Culver CITY

INTEROFFICE MEMORANDUM

DATE: 07/23/2010
TO: Honorable Mayor Armenta and Members of the City Council
Commissions
FROM: Carol Schwab, City Attorney
Heather Baker, Assistant City Attorney
SUBJECT: July 26, 2010 Council Meeting - Discussion of Commission Roles
CC: Lamont Ewell, City Manager
Martin Cole, Assistant City Manager
Serena Wright, Human Resources Director
Sol Blumenfeld, Community Development Director
Pam Robinson, PRCS Director

The City Manager has requested the City Attorney provide a Memorandum related to the role of the City's Commissions under the City Charter as approved by the voters in April, 2006 (which became effective on July 1, 2006).

BACKGROUND:

The California Constitution provides the voters in a municipality the ability to adopt a City Charter, which serves as the highest form of local law within the City, except to the extent preempted by state or federal law. Culver City voters exercised their rights to enact a Charter, which made Culver City a Charter City.

Approximately six years ago, the City Council appointed a Charter Review Committee, which reviewed and submitted proposed substantive changes to the City Charter to the City Council. The City Council voted to place the proposed Charter revisions on the ballot for a vote of the People. On April 11, 2006, after significant discussion and an informative campaign conducted by both those in support and opposed to the proposed Charter, the voters of the Culver City approved a new City Charter (the "Current Charter"). The primary and significant change contained in the Current Charter was a shift to a Council-Manager form of government from the Chief Administrative Officer structure that existed in the former City Charter, which was last revised in 1979 (the "Former Charter").

Under the Former Charter, the City Council appointed a Chief Administrative Officer ("CAO"), the City Attorney, and all other Department Heads. In regards to the CAO position, the Former Charter contained provisions relating to the appointment of the CAO and the duties of the CAO with respect to the budget. The Former Charter contains a broad statement of the Council's duties found in Section 506: "All powers of

the City shall be vested in the City Council, subject to these provisions of the Charter and of the Constitution of the State of California.”

In addition, the Former Charter established three specific Commissions, including the Civil Service Commission, Parks, Recreation and Community Services Commission and the Planning Commission. However, the Current Charter does not create any Commissions, giving the City Council more flexibility and authority to create its Commissions in a manner it deems appropriate.

DISCUSSION:

Role of City Manager:

In contrast with the broad language contained in the Former Charter, Section 300 of the Current Charter provides: "The municipal government established by this Charter shall be the 'Council-Manager' form of government, under which the City Council sets policy and the City Manager administers the government." When compared with the Former Charter, this Section provides for the specific policy-making role of the City Council and the administrative role of the City Manager.

Further, unlike the Former Charter, the Current Charter provides numerous other references to the City Manager. Particularly, Article VII of the Current Charter relates to City Administration and provides significant authority and responsibility for the City Manager (see Attachment 1). Pertinent Sections include:

Section 700:

"The City Council shall appoint the City Manager who shall be the chief executive officer of the City, responsible to the City Council for the management of all City affairs placed in the City Manager's charge by or under this Charter, by ordinance, resolution or other action of the City Council. The City Manager, or his or her designee, shall:

(a) Appoint, suspend and remove all City employees, including Department Heads, the City Clerk and the City Treasurer, except as otherwise provided by State law or this Charter;

(b) Direct and supervise the administration of all City departments, except as otherwise provided by this Charter;

(c) Attend all City Council meetings, at which the City Manager shall have the right to take part in discussion, but shall not vote;

(d) Prepare and submit to the City Council an annual budget pursuant to this Charter, and implement the final budget approved by the City Council; and

(e) Perform such other duties as are specified in this Charter, or by ordinance, resolution or other action of the City Council.”

Section 701:

“Neither the City Council, nor any Council Member shall:

(a) Order or direct the City Manager to appoint or remove any person to or from any position of employment with the City;

(b) Except as otherwise permitted by this Charter or by ordinance, order or direct the City Manager to enter into a municipal contract or make a purchase of supplies from any particular person or entity;

(c) Interfere in any way with the performance of the duties of any City employee; or

(d) Interfere in any way with the duties of the City's elections official in the conduct of elections.

Nothing in this section shall prevent the City Council, or any of its members, from advising the City Manager of any information which might assist the City Manager in the discharge of the City Manager's duties; or contacting City employees for the purpose of inquiry, obtaining information or advising employees of citizen complaints.”

The provisions of these Sections further demonstrate the intent of the Current Charter that the City Manager shall administer and manage the operations of the City and implement the policies adopted by the City Council.

Role of Commissions:

In contrast with the Former Charter, Section 1100 of the Current Charter does not establish any specific Commissions or duties of Commissions; rather, it provides: “The City Council may, by ordinance, establish and abolish such commissions and boards as it may determine, from time to time, to be necessary for the effective and efficient governance of the City, to encourage citizen participation in local government and maintain positive human relations in the community.”

The City Council, as the appointive body of the Commissions, may not convey any authority to the Commissions that the Council itself was not given by the Charter. The City Council is not required to establish any Commissions by the Current Charter; however, a Planning Commission is required by state law. Further, any commissions created by the City Council are bound by the provisions of the Current Charter in the same manner as they relate to the City Council, including, but not limited to, the non-interference clause set forth in Section 701 as discussed above.

Two types of commissions can be found in local government—advisory and managerial. An advisory commission differs from a managing commission in important ways. A key difference is that a managing commission is involved with the operation and management of a city. An advisory commission is not involved in this area and cannot issue instructions to a city manager or other department head with regard to the operations of the city or department. It should be noted that the Planning Commission, pursuant to State law, does perform quasi-judicial duties. Under the Current Charter, due to the administrative/management authority being vested solely in the City Manager, any commission created by the City Council should be structured so it does not interfere with the City Manager's performance of his duties.

CONCLUSION:

In order to fully and properly implement the Current Charter, it is advisable that the City Council, its appointed Commissions, the City Manager and the Departments review and make determinations about changes to the Municipal Code, City Resolutions, Rules and any policies or procedures, so that they conform with the voter-adopted Council-Manager form of government. Under this structure, the City Council sets policy and the City Manager administers the government by implementing the policy directives of the City Council.

As discussed above, in some cases, such review has resulted in significant changes to the duties and roles performed by the City Council, the City Manager, the Commissions, and/or Departments under the Current Charter when compared to those duties performed under the Former Charter. Further, where the Culver City Municipal Code, City Council Policies, Administrative Procedures, or any other local rule or regulation is determined to be in conflict with the Current Charter, they should be revised where appropriate, and repealed when necessary.