CAMBRIDGE MATTERS - 2021-05

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Dear Readers:

I am following up on the City Council meeting on Monday where a proposed Charter Change was removed from the agenda for consideration at some future date. The document is attached for those who might want to read it. It proposes in general terms the creation of a Human Resources Department for the City as well as the creation of a Legal Department. It also increases the authority of the mayor with regard to these two positions, which goes against the current role of the mayor in what has been for generations in Cambridge a “Weak Mayor – Strong Council” form of government.

As I think that the proposal is ill advised, I will not go into all of its detail but rather focus on why what is being sought with regard to the Human Resources Department can happen under the current Charter and why creation of a Legal Department is simply creating more bureaucracy without any benefit to the city.

Let me be clear from the outset that I think that the city needs a Human Resources Department that is managed by a company or at least a full time Department Head. Another option would be a Human Resources Assistant to the City Manager. Having either will improve how the city functions. Either can be accomplished without changing the Charter.

With regard to the proposed Legal Department, the current and long-standing policy of contracting with an independent attorney has worked well for the city for many years and creating a department that would make the lawyer a city employee with its related health and retirement benefits that also has the mayor involved in determining compensation for the lawyer simply complicates that relationship for no good reason or improvement in providing legal services.

To that end, let me provide some history that I hope will be helpful.

When the city manager position was created through the first Charter Change in 2015, City Council included language as follows:

(d)  *Powers and duties of the city manager.* **The city manager shall be the chief executive officer of the city and head of the administrative branch of the city, and may head one or more departments**, and shall be responsible to the mayor and city commissioners as a body, for the proper administration of all affairs of the city. **S/he shall serve as the chief personnel officer for the city, which shall include all matters regarding human resources.** **Subject to sufficient appropriations, the city manager may appoint an assistant director of human resources to assist him or her in these responsibilities**and may appoint a finance director.

(1)  **With the exception of the city attorney, who shall be appointed, suspended, or removed, directly by the mayor and city commissioners as a body**, **appoint and, when necessary for the good of the city, suspend or remove any department head with the advice and consent of the city commissioners.**The **city manager** may hire, suspend or remove any classified employee pursuant to the city's adopted merit system, or **may authorize any department head to exercise these powers with respect to subordinates within that department head's department, with the prior approval of the city manager.**

(2)  **With the exception of the city attorney and his/her office, direct and supervise the administration of all departments**, offices and agencies of the city, except as otherwise provided by this charter **or by law;** **create, consolidate, separate, or combine offices, positions, departments, or units under his/her jurisdiction, with the approval of the city commissioners.** Notwithstanding the exclusion of the city attorney from supervision and oversight by the city manager, the city attorney shall closely coordinate his/her activities with the city manager, respond to reasonable requests of the city manager, and keep the city manager apprised of and discuss with him/her city priorities, status of assignments, litigation, special needs, and issues of importance to the city that fall under the duties and responsibilities of the city attorney.

(i)  *Personnel duties.*

(1)  **All subordinate officers and employees of the offices, departments, and agencies of the city shall be appointed by the city manager.** Subject to the provisions of any adopted merit system, **all subordinate officers and employees may be removed by the city manager, or by the department head with the prior approval of the city manager.**

(2)  **Pending any changes pursuant to paragraph (3) below, the city employee manual and personnel policies in effect on the date of enactment of this Charter Amendment shall remain in full force and effect.**

**(3)  Upon the hiring of a city manager and periodically thereafter as may be needed, one of his/her duties shall be a review of the City of Cambridge Personnel Policies, which shall include convening the Cambridge Personnel Review Committee to assist in determining** **if any changes in the city's personnel policies need to be made, and, if so, to make recommended changes for the city commissioners to consider.**

In 2015 Odie Wheeler, in addition to running DPW was the HR person for the city. As HR had not been a concern or priority for years, it was felt that the new city manager needed to look at then existing personnel rules, regulations, and policies and bring them up to date. That did not happen. City Council had the ability to fund a HR assistant for the City Manager but did not do that. Between the resignation of Sandra Tripp-Jones as City Manager and the hiring of Patrick Comiskey, the city went several months with Odie Wheeler as the Acting City Manager where he was overwhelmed with too many tasks and not enough time to do them.

When Patrick Comiskey was hired, there was and still is a lot that needed to be fixed. HR was and is one of those areas. We, the last city council, however, did not provide funding to help him in that area due the economic concerns caused by other pressing financial needs including increased police salaries and the Covid-19 Pandemic. The time to make corrections, however, has come.

So, what are the alternatives to fix a pressing problem?

With regard to the legal representation of the city, there is no pressing problem that requires a Charter change. The Mayor and Commissioners as a body can “appoint, suspend, or remove” the City Attorney as noted above. Why create a “Department” for these services and have the attorney “perform such duties in this connection as required by the Mayor and Commissioners”? This could have the City Attorney having to respond to the Mayor and every Commissioner on whatever legal questions that they may have that have no relevance to the running of the city. That could mean substantial increased costs to the taxpayers for no or little benefit to the city. Under the current Charter, the City Attorney is to communicate with the City Manager but is held responsible to the Mayor and Commissioners. That has worked well during the time that I was on City Council.

With the issue of the Human Resources Department Head, the first thing that needs to be done to solve the current problems and needs is to include funding for the position as an individual or company in the upcoming FY budget. With that vote, the Commissioners can then look at what I see are the two existing and best options.

They can direct/advise the City Manager to hire an HR assistant. As noted above, it is already permitted under the Charter and should be able to be done expeditiously. While I would argue that that assistant could be a person or a company, I think that there are enough HR issues that need to be addressed that there is the need for someone who can work separately from the City Manager as a Department Head. Remember that if the City Manager hires an assistant, he can also discipline and fire that person without the Commissioners’ approval.

The next and better alternative would be to create an HR department. Under the current Charter, that can be done by the City Manager with the approval of the Commissioners. (See above). No Charter Change is required. As part of the creation of the HR Department, the Commissioners can require that the person/company leading that department be the Department Head. They can also require by the ordinance establishing duties or changes in the personnel policies that the HR Director have oversight of all city employees with regard to hiring, discipline, and firing. Under the current personnel policies, all employees have a right to appeal any adverse determination to City Council.

Anyone or any company hired needs to do many things including the review and update of the employee manual, annual staff evaluations, training for department heads and staff, and the list goes on. Any competent HR person or organization will clearly see what is needed to be done. Also, as part of any RFP or job description, these duties can be detailed. The current Charter also allows for personnel policy changes being made in the future by the following language “…**if any changes in the city's personnel policies need to be made, and, if so, to make recommended changes for the city commissioners to consider.”**

The Charter Change that was originally proposed and withdrawn at last Monday’s meeting is not the way to go. It has the current and future Commissioners, as well as the Mayor, creating a separate political position that in some ways is co-equal to the City Manager that could run into conflicts with the City Manager and conflict with the City Manager position as being the Chief Administrative Officer of the City. Under the current Charter, a Department Head can be given the authority to hire, discipline, and fire (see above) by changing the personnel policies so that could be done in this situation, which would remove the City Manager from being involved with any HR personnel issues while still maintaining his/her position at the top of the Administration of the City.

Having the system that is being proposed by the Charter Change is not consistent with normal business or governmental structure and  practices and would, I believe, give any future City Manager Candidates real concerns about coming here to work and would be a valid reason for their declining to do so. I see no reason to create two new ways to do the work of the city when reasonable options currently exist.

Thanks for reading.

Steve