

Prior to Monday's meeting of the Commissioners of the City of Cambridge, a proposed Charter revision was placed for introduction on the meeting agenda dealing with structural matters including the provision of human resources services for the City's professional staff. This proposal had initially been proposed and drafted in the first days of April, then revised multiple times as a result of discussion with the City Attorney and with each of the Commissioners of Cambridge individually, and following review of practices in other municipalities to ensure its appropriateness. In discussions with some members of City staff, with the City Attorney, with other elected officials, and with citizens familiar with ongoing internal friction at the City, this proposal was viewed as a needed response to a failed aspect of the City's current organizational structure.

Unfortunately and incorrectly, it has been suggested that this effort, which serves to better protect and insulate the City, the executive and administrative leadership, and the City of Cambridge's employees from an insufficient diversification of responsibility, is a power grab on the part of the individuals elected to serve as fiduciaries of the City's interests. This suggestion is objectively and demonstrably false.

Perhaps the easiest and clearest example of a failed understanding with regard to the proposal is the argument presently being made with regard to the establishment of a "Department of Legal Services." This establishment is in fact only titular. The change relates only to uniformity of organizational language, and provides no functional change. The City Attorney position now is already an appointee of the Mayor and Commissioners, historically a contracted position, and answerable to the Mayor and Commissioners as a body. At present, the Mayor and Commissioners as a body already negotiate the contracted rate, in consultation with the City Manager and any Finance Director. The proposed change does not introduce a requirement that the position be made a full-time member of City staff. Though not currently the case, the Finance Director position is a prime example of just how this would function, having likewise been filled by a contracted consultant while being titled as a directorship. Indeed, so married are we as elected officials to continuing the practice of contracting legal counsel that an RFP has been run since April to seek new proposals from outside firms to perform the function. One might question the need to make an admittedly nominal change now, and, should the other matters of establishment of a Human Resources Department and its structuring not have become so pressing, the titular change would likely never have been broached. Given the other matters, however, further distilling and perfecting the City's organizational design is desirable, and performing such an effort, even if comparatively trivial, is thus also desirable.

Incorrectly, the City Attorney is implied to be limited in his communication to direct communication only with the City Manager by language within the City of Cambridge's Charter. This is false, and has no basis within the language found within the Charter. Indeed, the Charter in Section 3-39(d)(2) gives power to direct and supervise ALL City departments to the Manager, with the direct and explicit exception of the City Attorney. Though the Charter goes on to encourage coordination and open communication between the City Attorney and the City Manager, in no way is a limitation or prohibition currently in place within the Charter upon the same coordination and communication between the City Attorney and the Mayor, the Commissioners as individuals, or the Commissioners as a body. Within the argument that this new structuring is somehow problematic, the implication is also made that the Mayor and individual Commissioners shall have

carte blanche authority in their use of the Attorney's services, with a fragmented portion of one line of text, having all context removed, quoted: "...perform such duties in this connection as required by the Mayor and Commissioners..." Several important and limiting realities are purposely ignored in this assertion. Firstly, that the "duties" in this role are limited to the position of the Attorney as the head of a municipal department focused solely upon legal services, secondly that the "duties" are limited to the role of that department's director as the legal advisor for the City, not for the individual elected officials themselves. Finally, and likely most importantly, the Charter as presently constructed does not in any way limit the scope of use individual Commissioners or the Mayor may place upon the Attorney's services, with no language in place delineating the limited but important advisory role of the City Attorney.

Regarding the establishment of a more professional and specialized Department of Human Resources, the ongoing realities faced, the immediate reasons for introduction, and the long-term benefits of the department as proposed have likewise been obfuscated by a number of incorrect assumptions and failures to plainly read the language as proposed. Additionally, several suggestions and opinions have been floated as being acceptable alternative paths to creation of such a department that are incorrect when a clear and direct reading of the Charter is performed. Those suggestions are confirmed as incorrect according to subsequent opinions received from the current City Attorney as well. Indeed, statements have been made that establishment of the Department of Human Resources with an independent placement within the City's organizational structure will create competing interests between the Director of Human Resources and the City Manager, and may even supersede the final executive authority ultimately placed upon the position of City Manager. This, too, is objectively incorrect. To clarify why this is, I'll discuss the alternative options that exist outside the establishment of an independent Department of Human Resources and why they are not solutions. I'll then shift to the proposal that was floated and explain the benefits of that proposal as I see them.

With the establishment of the City Manager position, the Manager as an individual was vested with chief operational, administrative, financial, personnel, and executive authority. Explicitly within the Charter's text as part of the chief personnel authority provided, the City Manager was also named the Director of Human Resources for the City. In the time since the City Manager position has been in place, this responsibility has not been exercised to a level that would be appropriate. The City of Cambridge Personnel Manual has not been fully updated in over two decades. Performance evaluations are either not being performed or not being answered, and the few that may have been completed have not been utilized to guide staffing decisions, strategic planning, employee discipline decisions, or any other functions related to improving outcomes for the City, its residents, and its staff. Hiring for key, needed positions is deferred or ignored, leaving important positions unfilled for many months, even as they remain budgeted by the City. Employees working to undermine their peers, either purposely or due to a lack of competency are not disciplined or terminated. Ongoing staff training is not scheduled and is not provided. Employee records are not maintained to the level necessary within a governmental organization. Numerous other issues continue to exist that all directly relate to the human resources function. This is due most primarily to an untenable consolidation of nearly total responsibility and authority upon the shoulders of one singular individual, who is on a daily basis managing the operational, financial, and administrative activities of the City, while also trying to manage four dozen civilian

staff and an equivalent number of law-enforcement officers. Clearly, business as usual is not the answer.

Alternative proposed Option (1) is the funding of the authorized Human Resources Assistant referenced within the Charter. Beginning several months ago, prior to the work beginning on a potential Charter amendment, I sat in with the City Manager to discuss employee matters, ongoing concerns regarding a personnel matter, and other needs with regard to immediate modernization of human-resources practices. At that time, I suggested the possibility of filling the role, and potentially expanding the authority of the role to be more of a “deputy director” position. A long conversation ensued, and no action was taken. Likewise, on at least one, and possibly more occasions, another of the Commissioner(s) made similar suggestions. Instead, comments were made that a greater focus upon meeting the needs of the role would be sufficient, and a potential clerical staffer might be of assistance.

Within the budget process, the Commissioners absolutely determine priorities to be funded. Yet, as Chief Personnel Officer, the City Manager determines which budgeted positions will ultimately be filled. As previously mentioned, priority positions often remain unfilled, so the likelihood that a position dismissed as unneeded by that Chief Personnel Officer ultimately being filled is terribly unlikely. Additionally, having the legislative body of the City command the filling of a particular role also usurps the Manager’s authority to act in an executive fashion and as Chief Personnel Officer, and, ironically, makes nearly wholly political the Human Resources Assistant position, if not the individual holding the position, whether the hire be made directly by Council or it simply be filled to meet the desire of the political body. Indeed, to order the filling of a specific position would be in violation of the Charter’s very structuring in establishing a professional Manager’s position that directs daily City operational activities, and would in many ways reflect the kind of perceived interference that has become a point of contention in the structuring of our County’s government, wherein the County Council is criticized for too directly guiding the staffing and operational decisions of the professional manager of their organization.

Another option, Option (2) that has been floated, and appears to be the preferred method of human resources establishment for those critical of the Charter amendment for the addressing of this need, is the establishment of a Department of Human Resources with a department-head directorship. Functionally, this differs very little in most instances from the language present in the proposed Charter amendment. However, several issues arise with this proposal that prevent its being a workable solution. The primary issue, that is quite direct and clear, is that, without a Charter amendment, the City Council has no authority to initiate the establishment of a new City department headed by a Director of Human Resources other than the City Manager himself because, by the language found in Section 3-39(d), the City Manager is that director and would thus serve as the department head, in keeping with other language found in Section 3-39(d). This is inarguable; in Section 3-39(d)(2) the Manager is given authority to, “...create, consolidate, separate, or combine offices, positions, departments, or units under his/her jurisdiction, with the approval of the city commissioners,” but not to relinquish his own vested authority that is clearly defined in the language of the Charter. Additionally, though the Commissioners may create departments under the authority found in Section 3-27(18), they do not have the power to, “[D]iscontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.” Thus, the human resources authority

vested with the Manager, as well as the ability for the Manager to assign an assistant, could not be redirected to a separately established Human Resources Department unless the Manager ultimately served as Director of such department. This language is functionally and specifically different than the language relating to the Manager's authority as Chief Financial Officer, wherein authority exists for the assignment of a Finance Director to head the City's Finance Department.

By the Charter's current construction, any Human Resources Department establishment performed without a Charter amendment will result in only one outcome: the City Manager would serve as department head, providing us functionally the same situation that currently exists. Of course, the "assistant human resources director" could serve as the operational director of the department, but would not be a position filled by advice and consent of the Council, and would also provide a structure that is functionally if not titularly identical to Option (1). We see an ongoing situation in the City now where a non-director is performing director-level management of a City department with the current situation at the Department of Public Works: rather than fill the position of Director of Public Works, the position of "Superintendent" was created, and the Department has had an opening for Director since Odie Wheeler left in 2019. The Department has been managed for approximately two years by someone who is essentially the "assistant director" without the need for advice and consent from the Commissioners. Perhaps the language present in the Charter, wherein a "Finance Director" but not a "Human Resources Director" may be separately appointed was an error when the language was composed. Whether an error or not, however, the appointment of a "Human Resources Director" who is not the City Manager is not currently allowable by the language present in our City Charter, thus nullifying the possibility of Option (2) and leading to the need for Charter amendment.

What then of this unexpectedly controversial proposal to establish an independent Human Resources Department? Why structure it in such a fashion? Several simple answers exist, many of which reflect back to the very structure already functionally existing, if not specifically elaborated, in the Charter with respect to the City Attorney. Already on the City's organizational chart as designed by the sitting City Manager and approved by the last City Council, the City Attorney exists outside the regular flow of the organizational structure of the City bureaucracy, answerable to the Mayor and Commissioners as a body, but neither superior to, nor subordinate to, the City Manager. Though neither a superior nor a subordinate of the Manager, language in the Charter as referenced earlier specifically directs regular communication and coordination of the City Attorney's efforts with the City Manager on matters of legal importance for the City of Cambridge. Likewise, the proposed change places the "Director of Human Resources" as neither a superior, nor parallel, nor subordinate position of the Manager, who continues to maintain chief financial, operational, administrative, and executive roles, but instead forms the human resources role as an independent position similarly positioned to that of City Attorney.

As a functionally independent position, though, the Director of Human Resources would not be given free ability to hire, fire, remove, discipline, or otherwise make personnel decisions unilaterally, but is specifically required to perform such functions "in consultation with the City Manager," a check upon unfettered power in the area of staffing management that appears to be ignored in criticism of the language proposed. Indeed, in criticism levied, the need to keep such specific actions performed in close coordination with the City Manager is dismissed, and a suggestion is instead made that providing such powers to another individual may instead be done

by ordinance; to do so by ordinance is not possible given the City Manager's Charter-established position as both Chief Personnel Officer and as Director of Human Resources. However, even if such a change could be made by ordinance, to do so would severely limit the ability by the City Manager to provide input into hiring or severance decisions in the City, and the desire is to ensure the Manager remains closely involved in that process, while also being safely insulated when such decisions must be made, ensuring he is protected from accusations of unfair or inequitable practice.

How then can the Manager be ensured to maintain his authority and not be undermined by employees going to the Human Resources Director to undermine his position? Just the same as any manager maintains his authority in corporate America, because the Human Resources Director must work in consultation with the Manager on matters of discipline that involve the employment status of staff. Likewise, because the Human Resources Director is limited in scope to matters of human resources, and does not have any additional operational, administrative, or executive authority, the only circumstances in which staff would have a need to be in communication with the Human Resources Director would be in circumstances of general human resources inquiry (training, employee benefits requests) or in circumstances of an employee grievance. Should such a grievance be filed, whether against a peer, superior, or the City Manager himself, such a circumstance requires yet again the independence present in this structural design to ensure that the Human Resources Director shall perform the function of the role without bias and from a standpoint of objectivity. To do so requires being a subordinate of neither other department heads, nor the Manager, yet also does not make the role functionally superior. Instead, the role is simply detached.

Criticism levied has included statements and suggestions that, should the Human Resources responsibility be removed from the City Manager's portfolio, the City Manager position would become impossible to fill, and the Director of Human Resources would be politicized. This is a wildly inaccurate assertion. One need only look to successful communities throughout Maryland, and even to our current City Attorney and City Engineer appointments, to find why this is untrue. Looking internally, having the position answerable to the Mayor and Commissioners only when assembled as a body insulates the position from individual meddling. The language proposed, sought to have removal require a supermajority vote, protecting the position from the whims of the Council's majority, one of the concerns we see in County-level administration, and would make the position even more politically insulated than our Attorney or Engineer (the language was incorrectly omitted from the circulated draft but was to be inserted upon introduction). The "political nature" of such a position, which has a generally mundane responsibility, would likely be less than the "political nature" of the Manager position (which was argued as necessary in part due to being more apolitical and non-elected than a strong Mayoral authority), and be little greater than that of the City Attorney or City Engineer, other roles specifically placed in the Charter as appointments of the Commissioners. Indeed, in being an appointment that answers to the body broadly, its independence is enhanced rather than being reduced, owing to its being less subject to the whim of a single personality or single factional group within the Council.

Looking outside our own system to those in other municipalities, even should the proposed Charter amendment be enacted, the personnel responsibility vested in the City Manager would still be greater than the responsibility present for similar roles in places like Salisbury and Annapolis. For

example, while in the proposed Charter amendment the Manager would still appoint all director-level positions with the advice and consent of the City Council, and would also still be consulting in all other hires for classified employees, in both Salisbury and Annapolis (as well as the majority of Maryland municipalities) the Mayor himself appoints all directors, and those directors hire the staffing within their individual departments. Salisbury's City Administrator performs chief administrative and operational officer functions, and has been filled with highly-professional and capable staff since its establishment. Annapolis sees their Manager in a role similar to Salisbury's, yet is limited in other ways within their personnel practices. There, the Department of Human Resources is subordinate structurally to the City Manager and supervises all hires within the departments, but performs employee discipline and separation without a legislated requirement for consultation with the Manager or the department directors. Hires of classified employees in Annapolis, like in Salisbury, are ultimately decided by the department directors with assistance from this semi-independent department. Having examples that are consistent in various ways with the proposed Charter amendment already present and functioning in other successful Maryland municipalities diminishes the argument that this is an unreasonable proposal.

Finally, looking outside the governmental sphere again to corporate America, we see the very structure proposed present throughout large organizations, where human resources is nearly always a corporate responsibility, not a responsibility of individual site managers. Applying that principle here, and looking at the Council as a functionary similar to that of a board of directors or other functional board of corporate management, having the Commissioners as a body exist with such oversight responsibility makes perfect sense, and provides the independence necessary for the Human Resources Director to perform his functions from top to bottom throughout the organization of the City's professional staff. Such ability does not diminish the executive, administrative, or operational authority of the Manager, but does allow independent handling of complaints levied either by or against the Manager without the need to bring in outside review or administration of such matters as would presently be the case should an Equal Employment Opportunity Commission complaint or other matter directly impacting the Manager would. This is one of the strongest points within the proposal.

Several important considerations drove decisions with the proposed change. First, and most importantly, the ability to contract an independent, out-of-area supplier was deemed highly important. As we try to further professionalize our government, the need to avoid personal relationships, friendships, and familial connections in personnel decision-making processes, whether those decision-making moments be with regard to hiring recommendations, employee discipline, or severance, was viewed as perhaps the most important determinant. For too long, even since the City Manager system has been in place, the best candidates for a position have often been passed over for a neighbor of a friend or an acquaintance from an organization. It is incumbent upon the Mayor and Commissioners to develop a system that avoids such cronyism in the hiring process, and contracting an out-of-area service until our need becomes great enough for a full-time professional provides such insulation. Equally viewed as important, the independence of a Human Resources Director to act in matters throughout the organizational hierarchy of the City of Cambridge, whether the matter involves the Manager himself or a newly-hired grass cutter, is of great importance. Employee mediation and discipline cannot derive from a position that is subordinate, and it would be improper to place the position above the Manager. As a result, organizational independence, but clearly delineated and limited scope is required. This protects

the City, this protects the Commissioners and Mayor as fiduciaries, and this protects the interested parties in any personnel matter.

Great importance was placed upon ensuring the Manager was left with full operational control of the City's daily functioning. This proposal does this by removing what has proven to be a hindrance upon his ability to administer public policy by reducing the stress, workload, and personality-juggling responsibilities currently being inadequately handled by the Manager as the Chief Personnel Officer and Human Resources Director as clearly and unequivocally specified within the Charter. Yet, to ensure the Manager has complete discretion with regard to his direct-report staff, the directorships remain his to name with advice and consent.

Finally, the position was designed to be independent of the professional bureaucracy of City government, yet also to be as apolitical as possible. To ensure this, daily coordination with the Manager and department heads is expected, though some latitude is present to ensure such coordination does not prevent intercession in personnel matters involving those appointees or their departments. Yet, the position is also designed to be politically insulated: a search committee would be made up equally of elected officials and city professional staff. Removal would require supermajority vote. Requirements for the position, including education, experience, and background solely provide the guidance for the selection process. Removal is by recommendation of the Mayor, a change from current practice to be sure, but a change meant to ensure such recommendation derives from the only individual DIRECTLY ANSWERABLE on a four-year basis to every resident registered to vote in the City of Cambridge.

I hope this clarifies the proposal and its various components, and alleviates the misinformation about the proposal now being circulated. I know the information being distributed is well meaning, but it is based upon an incorrect reading of the Charter, with specific statements made that the City Attorney has made clear to me and to the Commissioners as being totally incorrect based upon a clean reading of the Charter. The proposal is one that has been developed over several months, with consultation between staff, individual Commissioners, the Attorney, the Mayor, others with local government experience, and those with private-sector experience. It addresses immediate needs while also providing a framework for long-term growth, of both the Department's and the City's needs as complexities expand over the decades ahead. Finally, it reduces, rather than enhances the ability for individuals to be installed in important City positions that are underqualified for the role being filled.