

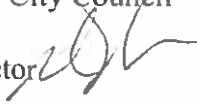
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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director 

DATE: March 22, 2019

RE: **Proposed Amendments to the Executive Organization Plan**

The Mayor has submitted a proposed amendment to the Executive Organization Plan (EOP) to “increase the number of Deputy Directors within the Buildings, Safety Engineering and Environmental Department from one to two, serving under the Director of the Department.” The Mayor explains, “[g]iven the unprecedented level of blight enforcement needed to improve the quality of life for Detroit residents, it is imperative that the Department have a deputy director that is responsible for code.”

Pursuant to section 7-102 of the 2012 City Charter, “the Mayor shall prepare an executive organization plan which, consistent with law and this Charter, sets forth all agencies of the executive branch and assigns authorized programs, services and activities to each agency.” Once the plan is proposed and made public, it is City Council’s role to review the plan, conduct hearings¹ on the Mayor’s proposed amendments, and where appropriate, request that the Mayor make modifications to the amendments. According to the Charter, “all amendments to the plan must originate with the Mayor.” (Charter section 7-102) The City Council can only approve or disapprove the Mayor’s amendments; Council has no independent ability to modify what the Mayor proffers.

The proposed amendment, dated March 7, 2019, was filed with the City Clerk on March 7, 2019. Sixty *business* days after the Mayor files the plan with City Council, “it shall become effective, with such modifications as are accepted by the Mayor, unless disapproved² by a resolution adopted by a two-thirds (2/3) majority of City Council members serving.” The Mayor’s filing calculates May 31, 2019 as sixty (60) business days from when the Plan was filed with the City

¹ A hearing can be held within the context of a formal session immediately preceding a vote on the amended EOP.

² City Council disapproval requires a vote of two-thirds (2/3) of serving City Council members.

Clerk.³ Thus, a vote to accept or reject the proposed EOP should be taken by that date.

Applicable City Charter Limitations

The Mayor's proposed EOP, which "assigns authorized programs, services and activities to each agency", is intended to increase transparency in governmental operations and provide a road map for the public to navigate through City government. Although the Mayor has great latitude in organizing City government, the plan must comport with the requirements of the Charter and other potentially applicable law. In that regard, section 5-105 states:

Sec. 5-105. Appointment of Deputies. Except as otherwise provided by law or this Charter, the Director of each department of the executive branch may, with the consent of the Mayor, appoint a Deputy. The appointment shall be made and may be revoked without cause by a writing filed with the City Clerk.

Section 5-105's specificity with respect to the appointment of a **single** deputy, is confirmed by the dictates of Section 5-107:

Sec. 5-107. Powers of a Departmental Deputy.

The Deputy in each department of the executive branch shall, under the Director's supervision, during the director's absence or disability, or while the director's position is vacant, exercise all the powers and perform all the duties of the director to the full extent permitted by law.

Section 5-107 clearly contemplates a single departmental deputy to stand in for an absent director.

While the Mayor's explanation of the need for an additional deputy is entirely reasonable, particularly given the resumption of demolition responsibilities within our city departments – an outcome this Honorable Body has strongly urged; however, the plain language of the Charter prohibits the appointment of more than one deputy per department. Appointment of an individual responsible for blight enforcement to serve in an appropriately titled position below the level of deputy director may be an alternative.

LPD recognizes that other departments have increased the number of deputy directors over the past few years, most recently the Department of Public Works (DPW).⁴ Careful review of the Charter in anticipation of the work of the Charter Revision Commission highlighted the discrepancy between the language of the Charter and the reality of the administrative structure of City government. The Charter Commission may reconsider the

³ This computation of time apparently assumes that Good Friday (April 19, 2019) is a business day, although Memorial Day (May 27, 2019), a federal holiday, is **not** a business day; the sixty day count customarily begins on March 8, 2019, the first business day following the March 7, 2019 filing of the proposed amendment with the City Clerk.

⁴ A survey of other departments may reveal that there are multiple deputies appointed under the authority of the Emergency Manager. However, absent the authority of an EM, the Charter currently limits appointment to one deputy per department.

limitations of Section 5-105 during the course of its work. However, in the interim and pending a revision of this section, the Charter controls. An EOP amendment cannot operate to amend the Charter.

As the primary goal of the proposed EOP currently under consideration is to create a second position for a deputy director for BSEED, City Council might request that the Mayor withdraw or amend the document to comport with the Charter.

Should the Council have further questions, LPD will respond.