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TO: The Internal Operations Standing Committee
The Honorable Roy McCalister, Jr., Chair

FROM: David Whitaker, Director
Legislative Policy Division Staff 

DATE: May 11, 2020

RE: **Proposed 2020 Amendments to the Executive Organization Plan**

The Mayor has submitted proposed amendments to the Executive Organization Plan (EOP), dated March 10, 2020, to “create a Demolition Department for residential and commercial demolition activities of the City of Detroit”, and “transfer the Health Department roles and responsibilities for enforcement of Chapter 6, *Animal Care, Control and Regulation*, to the General Services Department, Planning and Operations Division.” The Mayor explains,

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.

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

The proposed amendment, dated March 10, 2020, was filed with the City Clerk on March 11, 2020, and effectively conveyed to City Council. 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 Notice and Resolution included in the Mayor’s filing erroneously calculates May 10, 2020, as sixty (60) **business** days from when the Plan was filed with the City Clerk.³ However, sixty (60) business days excludes weekends and holidays – in this instance, Good Friday (a City-recognized holiday) and Memorial Day – resulting in a deadline of Friday, June 5, 2020. Thus, a vote to accept or reject the proposed EOP should be taken by City Council no later than that date.

Applicable City Charter Limitations on Assignment and/or Combining of Authorized Functions

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. See, Charter section 7-102. 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 7-102 states:

The Mayor may not reassign or combine the functions of staff departments, but may, except as to departments created under Chapters 3, 6, 7, 8, 12 and 13 of this Article⁴, assign any of the functions of an operating department to a staff department, reassign the functions of one (1) operating department to another operating department or combine operating departments.

It should be noted in determining if a department's function can be reassigned that the Charter has divided the departments into three categories. The first category is composed of "staff departments," which, in general, provide services to other City departments that cannot be combined with other staff departments. The second category is composed of "operating departments," which, in general, provide direct services to City residents that can be reassigned to either a staff department or another operating department. The third category is an operating department, whose functions cannot be reassigned. Thus under Section 7-102, the mayor may only combine or transfer the functions of certain "operating departments" to other “operating departments” or "staff departments".

Review of Proposed Amendments

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

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 The Mayor may therefore reassign or combine the functions of any Article 7 departments except for Arts (Ch. 3), Historical (Ch. 6, Human Rights (Ch. 7), Police (Ch. 8), Water (Ch. 12), and Zoo (Ch. 13).

The Mayor proposes to:

Create a Demolition Department for residential and commercial demolition activities of the City of Detroit. The purpose for establishing a new department is to centralize operations to maximize coordination and process efficiencies. This will provide more streamlined and efficient operation of demolition functions with additional oversight.

As acknowledged above, the Mayor has great latitude in determining the organization of City governmental operations and services, provided it abides by the Charter. The Charter does not appear to prohibit the creation of a Demolition Department to consolidate services related to blight management in the city.

The Mayor also proposes bifurcating the assignment of functions for *Animal Care, Control and Regulation*, leaving animal care functions with the Health Department, but transferring the enforcement role to the General Services Department. This is a straightforward reassignment of operating functions from one operating department to another operating department. It is the type of EOP amendment specifically contemplated by Section 7-102 of the Charter.

The EOP as presented, therefore, appears to be within the guidelines delineated by the City Charter in section 7-102. If City Council does not act to disapprove the proposed amendment, it will become effective after sixty business days, that is, after June 5, 2020. Recognizing the value of City Council action in this context, it is LPD's recommendation that City Council schedule a public hearing⁵ and take action to approve (or disapprove⁶, if so desired) the proposed amendment. The hearing can be held in the context of a formal session, immediately preceding the vote.

Should the Council have further questions, LPD will respond.

⁵ The Mayor's March 10, 2020 cover letter accompanying the proposed EOP amendments indicates that a "Resolution to Set and Provide Notice of the Public Hearing" is included in the Mayor's submission; the resolution was not, however, included.

⁶ Disapproval of the amendment, should that be Council's decision, requires a vote of two-thirds of serving City Council members.