

ALBANY CALIFORNIA



CITY OF ALBANY
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ALBANY, CA 94706
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Agenda Date: 20 May 2024

MEMORANDUM

To: Albany City Council Members

From: Councilmember Jordan

Re: Authority for appointing officers/directors and organizing the City

RECOMMENDATION

Direct staff to prepare a ballot measure amending the Charter to provide the City Manager authority for appointing officers/directors, other than the City Attorney, and organizing the City.

BACKGROUND

Officer/Director Appointment Authority

Charter § 3.01(a) consists of:

“All officers and department heads shall be appointed by the City Council and shall hold office at the pleasure of the City Council. The Council shall establish by ordinance the administrative offices of the City and shall designate the department heads of the City. The City Council shall be empowered to create, abolish, or reorganize departments and divisions as necessary for the proper administration of the City business, but not inconsistent with other sections of this Charter.”

The Charter does not specify the officers by that word. Section 3 does create the positions of:

- City Manager,
- City Clerk,
- City Treasurer,
- City Attorney,
- City Tax Collector,
- Chief of Police, and
- Chief of the Fire Department.

The Charter defines the Chief of Police as the head of the Police Department and, as mentioned in the list above, the Fire Chief as head of the Fire Department.

Albany Municipal Code (AMC) Chapter 2 Article II defines the first five of positions in the list above as officers of the City. It defines the position of City Engineer as a sixth (§ 2-6).

The AMC defines the following Director positions:

- Finance (§ 2-9.2),
- Parks and Recreation (§ 2-12.2), and
- Planning (§ 2-13.2).

The qualifications for City Engineer (AMC § 2-6) essentially define it as the head of the Public Works Department without stating as much. The positions of City Engineer and Public Works Director are currently combined, as they have been for about a decade, and so filled by the same person. At times previously the positions have been separate and so filled by different people. Even though the position of Public Works Director is not defined in the Charter or the AMC. AMC § 15-1 which regards sewers, does reference a Director of Public Works.

AMC § 14-1 and § 14-7, which regard work and wireless facilities on city property, respectively, refer to the Director of Community Development and the Director of Community Development and Environmental Resources, respectively. Neither position is defined in the Charter or AMC.

Both the Charter and the AMC assign the duties of the City Tax Collector to the City Treasurer. Charter Section 3.18(a) authorizes the City Council to transfer tax collection to the County of Alameda, which is the current situation.

The table below lists where authority for appointing department heads resides in each of the other 13 cities in Alameda County.

City	Appointment Authority
Alameda	City Manager
Berkeley	City Manager – with Council affirmation
Dublin	City Manager
Emeryville	City Manager
Fremont	City Manager
Hayward	City Manager
Livermore	City Manager
Newark	City Manager
Oakland	City Administrator
Piedmont	City Administrator
Pleasanton	City Manager
San Leandro	City Manager
Union City	City Manager – with Council approval

The following officer and director positions, other than City Manager, have been filled in Albany over the last eight years.

Officer/Director	Year
Public Works Director	2016
City Clerk	2018
Police Chief	2018
Finance Director	2018
Fire Chief	2021
Recreation & Community Services Director	2023

In each case, the Council appointed each candidate nominated by the City Manager.

City Organization Authority

The [City's current organizational chart](#) shows nine departments. These are listed below along with the Charter or AMC section that establishes each:

Department	Originating Charter or Code section
Administration	AMC § 2-9 ("Administrative Services Division")
City Clerk	None
Finance/City Treasurer	None
Human Resources	None
Community Development	AMC § 2-13 ("Planning Department")
Fire & Emergency Medical Services	Charter § 3.09 ("Fire Department")
Police	Charter § 3.09
Public Works	None
Recreation and Community Services	AMC § 2-9 ("Parks and Recreation Department")

Below are the departments listed in the staff schedules contained in [the biennial budgets](#).

Department	2016/17	2018/19	2020/21	2022/23	2024/25	Org. Chart
City Manager	x	x	x ¹	x ²	x ²	x ³
Cable TV/Public Information	x					
City Clerk	x					X
Finance	x	x		x	x	x ⁴
Human Resources				x	x	X
Information Systems	x					
Community Development	x	x	x	x	x	X
Fire & Emergency Medical Services	x	x	x	x	x	X
Police	x	x	x	x	x	X
Public Works	x	x	x	x	x	X

Recreation & Community Services	x	x	x	x	x	X
¹ General Government						
² City Manager/Administration						
³ Administration						
⁴ Finance/City Treasurer						
⁵ Recreation						

DISCUSSION

Officer/Director Appointment Authority

As provided above, of the 14 cities in Alameda County, all but three, including Albany, provide their City Manager or City Administrator sole authority to appoint officers and directors. The other three, with the others being Berkeley and Union City, require confirmation of the candidate recommended for each position by the City Manager/Administrator by the City Council. This has two potential negative effects. First, it could reduce Albany's competitiveness contracting a City Manager in the future because the position confers less authority to construct a managing team.

Second, it adds a step to hiring candidates for these senior positions. A step that adds time due to the frequency with which the Council meets, the agenda publishing lead time required by the Brown Act, and the greater lead time that is the practice of the City. At the most, it could be eight weeks from the time a candidate could otherwise be appointed to the next regular Council meeting at which the matter could be placed on the agenda. This adds risk the candidate will accept an offer from another entity in the meantime, such as occurred with the recent Finance Director candidate.

Against these is the potential positive effect of another layer of vetting by the City Council. Vetting whose effectiveness would be most signified by the City Council declining to appoint a candidate put forward by the City Manager. In practice, this has not occurred in at least almost a decade, the furthest back institutional memory is readily available.

Given the above, I find the downside risk of the City Council appointing officers and directors greater than the upside benefit. I recommend amending the Charter to provide the City Manager authority to do so, excepting the City Attorney. As shown by the organizational chart, the City Attorney is the only officer other than the City Manager with whom the City Council can engage directly without authorization by the City Manager. This is per Charter § 3.10 stating "The City Attorney shall be the legal advisor of the Council." As such, authority for appointing the City Attorney should remain with the Council.

City Organization Authority

Other than Public Works, each of the departments not established in the Charter or AMC has been variously added and/or removed over the last decade of biennial budgets, including the current one. To my institutional knowledge, none of these actions have been considered by the Council other than by way of approving the budgets.

The organization of the City is a part of facilitating the implementation of policy set by the Council. In the Council-Manager form of government, which is that of the City's, the Manager is responsible for implementing policy.

Given the changes in the organization of the City over the years, the Council's general lack of remark on those, and the City Manager's responsibility to implement policy, I recommend amending the Charter to transfer authority for the organization of the City to the Manager. Other than those departments established in the Charter. This will facilitate the Manager's implementation of policy by allowing them to change the organization as needed to meet that goal.

SUSTAINABILITY CONSIDERATIONS

The recommended actions do not have sustainability implications.

SOCIAL EQUITY AND INCLUSIVITY CONSIDERATIONS

The recommended actions do not have social equity and inclusivity implications.

CITY COUNCIL STRATEGIC PLAN INITIATIVES

The recommended actions do not have a nexus with the Council's Strategic Plan.

FINANCIAL CONSIDERATIONS

The recommended actions do not have financial implications. The City Council would remain responsible for approving the budget (Charter § 4.06) and so for maintaining the financial solvency of the City.