



Office of the City Attorney

City Hall, Room 206
201 Delafield Street
Waukesha, Wisconsin 53188-3688
Telephone (262) 524-3520
Fax (262) 650-2569
Email attorneys@ci.waukesha.wi.us

Brian E. Running
City Attorney
Miles W.B. Eastman
Assistant City Attorney
Julie M. Gay
Assistant City Attorney
Anne Marie Iselin
Assistant City Attorney
Donna Hylarides Whalen
Assistant City Attorney

Memorandum

October 15, 2014

To: Ordinance and License Committee, Mayor, City Administrator
From: Brian Running

Re: Follow-Up to City Administrator Appointment Authority

When amendments were made to Code §2.01, changing the authority for appointment of certain city officials from the Mayor to the City Administrator, it affected a number of other sections throughout the Code. Sections 3.06 and 3.08 were dealt with in the same resolution that changed §2.01. We have reviewed the entire Code and found two other sections that need to be changed, 4.11 and 5.04.

Current §4.11 assigns the responsibilities of the former comptroller to the city administrator. In order to avoid placing both the authority to create the budget and the duty to act as a watchdog on the budget in the same official, the comptroller's duties were re-assigned to the Finance Committee in the resolution that amended §2.01. Therefore, §4.11 has to be amended, and we recommend the following changes:

Current §4.11:

4.11 Duties of Comptroller Assigned to City Administrator (Cr. #28-02)

As allowed by sec. 62.09(1)(b), Wis. Stats., all duties required by law of the Comptroller shall be performed by the City Administrator, who may delegate such duties to appropriate subordinates.

Proposed §4.11:

4.11 Duties of Comptroller. Pursuant to Wis. Stats. §62.09(1)(b), the City has elected to dispense with the position of comptroller. The duties of



comptroller, as defined in Wis. Stats. §62.09(10), are assigned to the Common Council Finance Committee, which shall remain at all times a standing committee of the Common Council. The Director of the Finance Department is authorized to countersign contracts on behalf of the Finance Committee, as required by Wis. Stats. §62.09(10)(f).

Section 62.09(1)(b) allows a city to dispense with the position of comptroller, but the duties of the comptroller can't be dispensed with and have to be assigned to another official, the Council, or a committee of the Council. Because the Director of Finance is appointed by the City Administrator, that position is not eligible to assume the duties of comptroller, so the Finance Committee is the most logical available choice.

The duties of the comptroller are defined in §62.09(10), and one of those duties is to sign off on every city contract that binds the City to pay any amount of money. Because it would be ridiculously cumbersome to require the Finance Committee to sign off on every City contract, the authority to sign on behalf of the Finance Committee is delegated to the Director of Finance. This doesn't relieve the Finance Committee from the duty of verifying that City contracts are fully funded, it just allows the Finance Director to sign off for the Committee, so that contracts aren't held up waiting for meetings of the Committee to obtain signatures.

Because the duties of comptroller must always be accounted for, the proposed draft also adds the requirement that the Finance Committee must always remain in existence as a standing committee. Currently, that is only required by Council Rule, and not by ordinance.

Current §5.04 states that the Director of Emergency Management is appointed by the Mayor, but amended §2.01 states that the City Administrator is the Director of Emergency Management.

Current §5.04:

5.04 Director of Emergency Management

(1) (Am. #16-03) The Director shall be appointed by the Mayor subject to confirmation by the Common Council and shall receive such salary as may be authorized by the Common Council. The Director shall take and file an official oath.

(2) DUTIES.

(a) (Am.#46-03) Develop and promulgate emergency plans, appendices and standard operating procedures, consistent with the State and County plans.

(b) (Am. #16-03) Direct local emergency management training programs and exercises.



(c) (Am. #16-03) Direct participation in emergency management programs and exercises of other governmental units when practicable and determined to be mutually beneficial.

(d) (Am. #46-03) Cooperate with the County Emergency Management programming and the Wisconsin Division of Emergency Management where applicable.

(e) (Am. #16-03) Prepare and submit all reports and documentation necessary for the proper conduct of the emergency management operation.

Proposed §5.04:

5.04 Director of Emergency Management

- (1) Appointment.** The City Administrator shall serve as the City's Director of Emergency Management. (Am. #16-03)(Am. #-14)
- (2) Duties.** The Director of Emergency Management shall perform the following duties:
 - (a)** Develop and promulgate emergency plans, appendices and standard operating procedures, consistent with the State and County plans. (Am. #46-03)
 - (b)** Direct local emergency management training programs and exercises. (Am. #16-03)
 - (c)** Direct participation in emergency management programs and exercises of other governmental units when practicable and determined to be mutually beneficial. (Am. #16-03)
 - (d)** Cooperate with the County Emergency Management programming and the Wisconsin Division of Emergency Management where applicable. (Am. #46-03)
 - (e)** Prepare and submit all reports and documentation necessary for the proper conduct of the emergency management operation. (Am. #16-03)

We recommend that these changes be made as soon as possible. Please let us know if you have any questions or concerns about this.

