



LEGAL SERVICES DEPARTMENT

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TO: Members of the Human Resources/Information Technology Committee
Aldersperson Patti Coenen

FROM: Darrin M. Glad, Assistant City Attorney

DATE: January 22, 2020

RE: Resolution #1-R-20 – Form of Government

This memo is in response to Ald. Spears' questions of "Are we too far along in the process for the election now to do any type of changing...what if we chose not to have a mayor?"

If the Common Council were to adopt a manager form of government, then per Wis. Stat. §64.01(2) the new form of government would "take effect and become operative on the third Tuesday in April." At that point the Office of the Mayor would cease to exist (along with any obligation to pay or right to collect a salary for that position).

As to the question about current timing, based on the effective date noted in Chapter 64, the next third Tuesday in April is April 21, 2020. Common Council can adopt a city manager form of government through the passage of a charter ordinance, which requires a 2/3 majority vote. Per Wis. Stat. §66.0101(5) a charter ordinance cannot go into effect for 60 days after its passage and publication, which allows time for a petition "demanding that the charter ordinance be submitted to a vote of the electors" to be filed with the City Clerk. If Council passed the amendment to the Charter Ordinance at the upcoming February 5th meeting, publication occurs on February 10th and goes into effect 60 days later on April 10th, which is after the upcoming election and assumes that no petition is filed. Under these circumstances, the newly-elected mayor would not take office on the third Tuesday in April because the Manager-Council form would take effect on that date.

If Council passes the amendment to the Charter Ordinance after the February 5th meeting, for example at the next scheduled Council meeting on February 19th, then the timelines in Chapter 64 would cause the effective date to go beyond the third Tuesday of April 2020, and cause the effective date to be the third Tuesday of April 2021.

Similarly, if Council passes the amendment to the Charter Ordinance at the upcoming February 5th meeting, but a petition is filed within the 60 days following its publication, then the timelines under Wis. Stat. §9.20(4) would prevent the new form of government (if passed) from taking effect until the third Tuesday of April 2021.

If any further clarification of this opinion is requested, I will gladly provide that information as soon as possible.

CL20-0052

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