



Testimony on:

Bill No. 080006 and Resolution No. 080041

Bill No. 080007 and Resolution No. 080039

Bill No. 080008 and Resolution No. 080040

Philadelphia City Council Committee on Law and Government

Tuesday, February 19, 2008

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I am Zack Stalberg, president of the non-partisan Committee of Seventy, here today to testify on three City Charter amendments proposed by Mayor Nutter. I want to thank City Council and Law and Government Chairman Bill Greenlee for this opportunity.

We are submitting more detailed testimony to this committee. But, in short, the Committee of Seventy supports the administration's proposal to make the Inspector General's Office permanent and independent and the administration's proposal to split the roles of City Representative and Commerce Director.

While we agree with the Administration that the City Charter should be amended to permit department heads more than two exempt deputies, we disagree with its proposal allowing the Administrative Board this discretion. Instead, we propose using an objective formula to determine the number of exempt deputies in each department.

Very early this year -- because of the crime emergency in the city -- the Committee of Seventy made four proposals intended to help Police Commissioner Ramsey have the greatest possible freedom to smartly manage officers selected from the largest possible pool of talent.

One of those initiatives involved an increase in the number of deputies the Police Commissioner could select. The second -- a Councilman Kenney-sponsored proposal to permanently change the residency requirement for job applicants -- will get a Council hearing tomorrow (although the Civil Service Commission recently put a waiver in effect for candidates for the Police Department).

There is no question that the Charter's current limit on deputies -- which was written when patronage abuses and not an epidemic of gun violence was the public's major concern -- makes it difficult for a commissioner to drive change in an era when quick-

moving change is a vital characteristic of any successful organization. The inability to hire a trusted management team, or to remove those who are unwilling or unable to carry out the commissioner's policies, is also a barrier to the recruitment and retention of high-level managers.

All types of organizations – including this Council -- permit their senior officials the authority to hire and fire his or her top people.

While Seventy fully supports increasing the number of exempt deputies in city departments, the Mayor's proposal giving the Administrative Board unchecked power to do so is too imprecise and runs counter to the spirit of the City Charter. The Administrative Board is made up of the mayor and two of his appointees. The meetings might technically be open, but as a practical matter they get very little attention.

The administration's proposal allows room for abuse because it does not provide any limitation on, or guideline for, the number of deputies exempt from civil service. A particular mayor or Administrative Board might be trusted to judiciously expand the number of exempt deputies in various departments. Political figures come and go, however. This provision would remain in the Charter.

Now, as in the past, Seventy suggests using an objective formula to determine the number of exempt deputies in a department, which supplies a reasonable rule but also permits increased flexibility.

We have proposed tethering the number of exempt deputies to the design of the organization chart – such as the number of bureaus within the Police Department. It also could be tied to the number of employees in a department, or the size of its budget.

The formula we proposed for the Police Department is valuable because it is sensitive to the department's particular structure, which derives from the nature of the department's work. Under our proposal, for instance, the police commissioner would have roughly 16 exempt deputies in his or her inner circle, most of whom would be running bureaus. This is not a large number when you consider that Philadelphia's Police Department has more than 7,000 civil service-protected uniformed and civilian employees.

Bureaus (or divisions in departments other than Police) are the first major sub-units within a department. Bureaus (or divisions) are responsible for a particular function or subject area within a department's mandate, such as internal affairs, narcotics or patrol. While department heads are permitted the flexibility to establish new bureaus or divisions with the approval of the Administrative Board, we believe our proposal is more objective and more transparent than the administration's. Essentially, our proposal provides for a rule, whereas the Mayor's proposal does not.

The Committee of Seventy limited its proposal regarding deputies to the Police Department for several reasons. The urgency of dealing with the crime emergency. The open-mindedness of the Fraternal Order of Police on this matter. And the complication

that some deputies in other city departments have Civil Service protection, while deputies in the Police Department do not.

We favor giving other commissioners leading other departments more deputies and greater flexibility in supervising them. But because of the desire to put this change on the ballot in a matter of weeks, this committee will have to weigh the risk and the benefits of asking the voters to change this practice in all city departments at the same time.

The Mayor has also proposed an amendment to embed the Office of the Inspector General in the City Charter, making the IG permanent and independent of the executive branch. It makes sense to insulate the IG from the administration. By structuring the IG as permanent and independent, the Inspector General and his or her staff are more likely to operate beyond the reach of political influence – which has not always been the case.

While we do not suggest changing the mayoral appointment of an Inspector General, we suggest Council consider some additional precautions to strengthen the independence and effectiveness of the Office:

- The Charter amendment should be as clear as possible on the division of responsibilities between the City's ethics agencies, which include the Board of Ethics, the Controller's Office, the Chief Integrity Office, and the Office of the Inspector General.

For example the Special and Fraud Investigations Division of the Controller's Office is charged with investigating contract fraud, which would also come under the purview of the IG. This is especially relevant because the amendment here would extend the IG's reach to all parts of city government, not just individuals and transactions under the mayor's jurisdiction.

- Council should amend the legislation so that the appointment and removal of the Inspector General mirrors the Charter requirements for the Board of Ethics. Under the Mayor's proposal, the Inspector General is appointed by the Mayor. Members of the Board of Ethics are appointed by the Mayor, but must be confirmed by City Council. This is the method used for appointing Chicago's Inspector General.

Also under the Mayor's amendment, the Inspector General can only be removed for cause and is given the opportunity for a hearing before the Mayor. Seventy favors the more stringent test for removal that applies to members of the Board of Ethics. Removal of an Ethics Board member requires concurrence of two-thirds of Council members and can take place only after a public hearing in City Council.

- It also makes sense to appoint an Inspector General whose professional experience qualifies him or her to perform the investigative duties of the office. The proposed Charter amendment here does not specify any criteria for choosing an Inspector General.

- The amendment also embeds the Inspector General's salary in the Charter. Given the adjustable nature of salaries, Council should amend the provision to explicitly define the salary as a minimum amount, as opposed to a fixed number.

The Mayor's third and final proposal would separate the roles of City Representative and Commerce Director, which are unified in the current Charter. Seventy supports this change due to the increasingly divergent responsibilities of each position.

Under the Mayor's amendment, the new City Representative would have a more defined role as the chief marketer of the City. He or she will be responsible for coordinating the City's print and web-based marketing and promotional materials. The City Representative will also be responsible for coordinating ceremonial and special events on behalf of the City, as well as reviewing plans for private events held on public property.

Given the City's immediate need to better market the city, especially to businesses that will bring jobs, it makes sense to charge a specific city official with this task. However, it is worth noting:

- The mayor's proposed amendment would also permit the City Representative to remain in the mayor's cabinet. Council may want to reexamine this provision -- given the level of importance of other members of the mayor's cabinet.
- As with the IG amendment, this amendment also places the Commerce Director's salary in the Charter, which given the adjustable nature of salaries, Council should amend.

Thank you very much.