SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET

DATE: August 23, 2007

ITEM #: Consent Items C 6, C-7 and C-8

SUBJECT: Civil Service Code Amendments

CONTACT PERSON: Laura Koenig, City Clerk/Deputy Finance Director

SUMMARY STATEMENT:
The issue before the Council is the adoption of Ordinance 950-07 Civil Service, Ordinance 951-07 Personnel Policy and Resolution 07-13 Personnel Police.
Ordinance 950-07 has been amended to exempt the Police Chief when there are six or more commissioned officers in the Police Department.
Ordinance 951-07 and Resolution 07-13 will exempt the Police Chief position from the personnel ordinance and personnel policies and will remove "just cause" rights from the position.

BACKGROUND
The ordinances and resolution were introduced for a first reading on June 28, 2007. At that meeting, the issue before the Council was a policy decision to change the civil service requirements and the personnel policies and procedures applicable to the Police Chief position and up to two other unclassifed staff in the police department. Currently all the positions in the department are covered under Civil Service SMC 2.52 (Attachment A). RCW 41.12.050(2) (Attachment B) allows a city with a police department with six or more commissioned officers, including the police chief, to exempt the police chief and two unclassified staff from civil service. This change will not effect the current staff.

Most employess of the city are subject to the personnel ordinance and the personnel policies. Staff has provided an ordinance and resolution to exclude the Police Chief from the personnel ordinance and the personnel policy, to remove "just cause" rights from the position and put it on a par with other management positions in the organization.

The purpose of the Civil Service Commission is to provide an independent body to carry out the provisions of RCW 41.12.020. It is responsible for adopting rules for the regulation of personnel administration for the classified service (full paid police department personnel). The Commission provides testing for open positions and prepares eligiblity lists. They also hold hearings to ensure compliance with Civil Service law.

DISCUSSION:
The City has the authority to exempt the Police Chief or Chief Law Enforcement Officer and up to two unclassified staff from the Civil Service process when there are six or more commissioned officers, including the police chief. This would allow the Mayor and Council to develop a process for hiring the Police Chief and the unclassified staff outside of civil service rules. The purpose of using the Civil Service Commission is to make the appointment non-political.

The Council decsion to exempt the police chief from civil service will not affect the current department staff or the chief selected to replace Chief Walser. However, at such time as the department exceeds the minimum of six or more commissioned, the change would be effective. Personnel hired under the Civil Service process are "grandfathered" in and remain under Civil Service even if the department exceeds six commissioned officers.

ALTERNATIVES

1. Do not approve the ordinances and leave the police chief position and administrative staff under the jurisdiction of the civil service and the just cause provisions of the personnel ordinance and resolution. This will require future hiring processes to be handled by the Civil Service Commission and the Police Chief's position will be subject to civil service grievance rights, and the just cause provisions of the personnel ordinance and personnel resolution.
2. Adopt the amending ordinances to provide for the exempt of the position of police chief and administrative staff from civil service when allowed by state law.

FISCAL IMPACT:

RECOMMENDED ACTION:
Staff recommend approval of the amending ordinances.

MOTION;

1) Move to adopt Ordinance 950-07, Civil Service Code Amendment as amended.
2) Move to adopt Ordinance 951-07, Personnel Ordinance
   Move to adopt Resolution 07-13 Personnel Resolution Amendment

Attachments:

A. Ordinance 950-07 - Civil Service Code Amendment
B. Ordinance 951-07 - Personnel Ordinance Amendment
C. Resolution 07-13 – Personnel Policy
D. SMC 2.52 Civil Service
E. RCW 41.12 Civil Service Section

COUNCIL ACTION:
DATE:

The following is the exert from the RCW:

RCW 41.12.050 Persons included--Restricted exemptions--Competitive examinations--Transfers, discharges, and reinstatements.

(1) For police departments with fewer than six commissioned officers, including the police chief, the classified civil service and provisions of this chapter includes all full paid employees of the department of the city, town, or municipality.

(2) For police departments with six or more commissioned officers, including the police chief, the legislative body of a city, town, or municipality may exempt from civil service individuals appointed as police chief after July 1, 1987.

(a) If the police chief is not exempt, the classified civil service includes all full paid employees of the department of the city, town, or municipality, including the police chief.

(b) If the police chief is exempt, the classified civil service includes all full paid employees of the department of the city, town, or municipality, except the police chief and an additional number of positions, designated the unclassified service, determined as follows:

Department Personnel Position Appointments		Unclassified
6	through 10	2
11	through 20	3
21	through 50	4
51	through 100	5
101	through 250	6
251	through 500	8
501	and over	10

(3) The unclassified position appointments authorized by subsection (2)(b) of this section may only include selections from the following positions up to the limit of the number of positions authorized: Assistant chief, deputy chief, bureau commander, and administrative assistant or administrative secretary. The initial selection of specific positions to be in the unclassified service and exempt from civil service shall be made by the police chief, who shall notify the civil service commission of his or her selection. Subsequent changes in the designation of which positions are in the unclassified service may be made only with the concurrence of the police chief, the mayor or the city administrator, and the civil service commission, and then only after the civil service commission has heard the issue in an open meeting. If a position initially selected by the police chief to be in the unclassified service is in the classified civil service at the time of the selection, and if the position is occupied, the employee occupying the position has the right to return to the next highest position or a like position in the classified civil service.

(4) All appointments to and promotions in the department shall be made solely on merit, efficiency, and fitness except as provided in RCW 35.13.360 through 35.13.400, which shall be ascertained by open competitive examination and impartial investigation. No person in the unclassified service shall be reinstated in or transferred, suspended, or discharged from any such place, position, or employment contrary to the provisions of this chapter.

ATTACHMENT E

CITY OF SULTAN
ORDINANCE 950-07

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, AMENDING SMC CHAPTER 2.52 REGARDING CIVIL SERVICE.

WHEREAS, the RCW 41.12.050, allows the City to exclude the Police Chief and two assistants from Civil Service when there are six or more commissioned officers, including the police chief in the Police Department; and

WHEREAS, the City Council has determined that it would be in the best interest of the City to exclude the Police Chief from Civil Service and to allow the Police Chief to designate two unclassified assistants;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SULTAN AS FOLLOWS:

Section 1: SMC 2.52.010 is hereby amended to read as follows:

> **2.52.010 Established**: Pursuant to the authority conferred by Chapter 41.12 RCW, there is created a civil service commission to substantially accomplish the exercise of powers and the performance of the duties established by state law relative to the selection, appointment and employment in the police department of the City of Sultan, excluding the city marshal and/or police chief and excluding two unclassified assistants when there are six or more commissioned officers, including the police chief in the police department.
> In accordance with RCW 41.12.050 (2)(b), if the Police Chief is exempt, the Police Chief may designate two unclassified positions as exempt which may include the administrative assistant or administrative secretary.

Section 3 Severability: This ordinance is severable and if any portion of it shall be declared invalid or unconstitutional, the remaining portion shall remain valid and enforceable.

Section 4. Effective Date: This ordinance shall take effect and be in full force five (5) days after publication as required by law.

REGULARLY adopted this 23rd day of August, 2007.

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Benjamin Tolson, Mayor

Attest:

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Laura J. Koenig, City Clerk

Approved as to form:

_____
Thom Graafstra, City Attorney

ATTACHMENT A

CITY OF SULTAN
ORDINANCE 951-07

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTION, AMENDING SMC CHAPTER 2.30.010 (c) PERSONNEL POLICY OF THE CITY OF SULTAN

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SULTAN AS FOLLOWS:

Section 1: SMC 2.30.010 is hereby amended to read as follows:

> **2.52.010 Exclusions:** This ordinance shall not apply to the following personnel: Mayor, members of the council, members of commissions or boards, reserve police officers, contract personnel, the city attorney, the city administrator and the police chief or chief law enforcement officer.

Section 3 Severability: This ordinance is severable and if any portion of it shall be declared invalid or unconstitutional, the remaining portion shall remain valid and enforceable.

Section 4. Effective Date: This ordinance shall take effect and be in full force five (5) days after publication as required by law.

REGULARLY adopted this day of , 2007.

_____
Benjamin Tolson, Mayor

Attest:

_____
Laura J. Koenig, City Clerk

Approved as to form:

_____
Thom Graafstra, City Attorney

ATTACHMENT B

CITY OF SULTAN
SULTAN WASHINGTON

RESOLUTION 07-13

A RESOLUTION AMENDING THE CITY OF SULTAN PERSONNEL POLICIES

WHEREAS, the City Council of the City of Sultan has determined that it is in the best interests of the City to exempt certain positions from the personnel policies of the city; and

WHEREAS, the City needs to be consistent in the policies adopted under the Personnel Policy Ordinance

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sultan as follows:

The City of Sultan Personnel Policies adopted under Resolution 00-01 are hereby amended to read as follows:

Chapter 1.03 Scope of Policies: These personnel policies shall apply to all City employees except the following, Mayor, members of the council, members of commissions or boards, reserve police officers, contract personnel, the city attorney, the city administrator and the police chief or chief law enforcement officer. In cases where these polices conflict with any City ordinance, state or federal law, personal services contract, collective bargaining agreement or civil service law, the terms of that law or contract prevail. In all other cases, other than those excepted herein, these policies apply.

PASSED AND ADOPTED this 28th day of June, 2007.

Ben Tolson, Mayor

ATTEST:

Laura J. Koenig, City Clerk

ATTACHMENT C

Chapter 2.52

CIVIL SERVICE

Sections:

2.52.010 Established.
2.52.020 Membership.
2.52.030 Duties – Compliance with state law.
2.52.040 Permanent appointment – Requirements.

2.52.010 Established.

Pursuant to the authority conferred by Chapter 41.12 RCW, there is created a civil service commission to substantially accomplish the exercise of the powers and the performance of the duties established by state law relative to the selection, appointment and employment in the police department of the city of Sultan, including the city marshal. Said commission shall perform its duties and exercise its powers only in the event that there are more than two persons, including the city marshal, in the police force. (Ord. 541 § 1, 1990)

2.52.020 Membership.

The commission shall be composed of three members who shall be appointed by the mayor of the city and who shall serve without compensation. Such commissioners shall have the qualifications prescribed by RCW 41.12.030. (Ord. 541 § 2, 1990)

2.52.030 Duties – Compliance with state law.

The commission, upon appointment, qualifications and organization, shall hold meetings, adopt rules and regulations, perform duties, and exercise powers in compliance with Chapter 41.12 RCW. (Ord. 541 § 3, 1990)

2.52.040 Permanent appointment – Requirements.

Any full-time permanent employee of the police department of the city of Sultan, who upon the effective date of the ordinance codified in this chapter shall have been employed in a specific position for the immediately preceding six months, in compliance with RCW 41.12.060, shall receive a permanent appointment to said position. Such appointment shall not be subject to any additional probationary period and shall be as equally permanent as any subsequent permanent appointment made under civil service after examination and investigation. (Ord. 541 § 4, 1990)

Chapter 2.54

LEGAL REPRESENTATION

Sections:

2.54.010 Definitions.
2.54.020 Legal representation.
2.54.030 Exclusions.
2.54.040 Determination of exclusion.
2.54.050 Representation and payment of claims – Conditions.
2.54.060 Effect of compliance with conditions.
2.54.070 Failure to comply with conditions.
2.54.080 Reimbursement of incurred expenses.
2.54.090 Conflict with provisions of insurance policies.
2.54.100 Pending claims.

2.54.010 Definitions.

Unless the context indicates otherwise, the words and phrases used in this chapter shall have the following meanings:

A. "Employee" means any person who is or has been employed by the city of Sultan (the "city").

B. "Official" means any person who is serving or has served as an elected city official and any person who is serving or has served as an appointed member of any city board, commission, or committee. (Ord. 642, 1996)

2.54.020 Legal representation.

A. As a condition of service or employment with the city of Sultan, the city shall provide to an official or employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such official or employee may have concluded service or employment with the city, such legal representations as may be reasonably necessary to defend a new claim or lawsuit filed against such official or employee resulting from any conduct, act, or omission of such official or employee performed or omitted on behalf of the city in the capacity as a city official or employee, which act or omission is within the scope of service or employment with the city.

B. Except as may be provided in any applicable policy of municipal insurance, such legal representation shall be provided by the city attorney or by an attorney designated by the city attorney. (Ord. 642, 1996)

2.54.030 Exclusions.

A. The obligations assumed under this chapter by the city and the city attorney shall not apply to:

The following is the exert from the RCW:

RCW 41.12.050 Persons included--Restricted exemptions--Competitive examinations--Transfers, discharges, and reinstatements.

(1) For police departments with fewer than six commissioned officers, including the police chief, the classified civil service and provisions of this chapter includes all full paid employees of the department of the city, town, or municipality.

(2) For police departments with six or more commissioned officers, including the police chief, the legislative body of a city, town, or municipality may exempt from civil service individuals appointed as police chief after July 1, 1987.

(a) If the police chief is not exempt, the classified civil service includes all full paid employees of the department of the city, town, or municipality, including the police chief.

(b) If the police chief is exempt, the classified civil service includes all full paid employees of the department of the city, town, or municipality, except the police chief and an additional number of positions, designated the unclassified service, determined as follows:

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(4) All appointments to and promotions in the department shall be made solely on merit, efficiency, and fitness except as provided in RCW 35.13.360 through 35.13.400, which shall be ascertained by open competitive examination and impartial investigation. No person in the unclassified service shall be reinstated in or transferred, suspended, or discharged from any such place, position, or employment contrary to the provisions of this chapter.

ATTACHMENT E