

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

DATE: June 12, 2008

ITEM #: Action A 4

SUBJECT: Civil Service Code Amendments

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

SUMMARY STATEMENT:

The issue before the Council is 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 unclassified staff in the police department. Currently all the positions in the department are covered under Civil Service SMC 2.52 (Attachment C). RCW 41.12.050(2) (Attachment D) 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.

Ordinance 950-07 (Attachment A) and Ordinance 951-07 (Attachment B) were introduced for a first reading on June 28, 2007. No further action was taken. To reference the correct year of adoption, the Ordinance numbers will be changed to Ordinance 950-08 and 951-08.

BACKGROUND

The last Police Chief was hired in 1996 and at the time, the city did not have six full paid commissioned officers and therefore the Chief's position was subject to civil service rules, as were all staff. The City now has six full paid commissioned officers, including the police chief. Exemption of the police chief and up to staff from civil service is now permissible.

Most employees 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 eligibility 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. 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.

At the Council meeting on June 28, 2007, the City Council discussed alternatives for "buffering" the Police Chief's position from City politics. The Civil Service commission expressed concerns

that without Civil Service protecting the Mayor could fire the Chief without the benefit of oversight from an outside, independent board. One alternative to address this concern is to require the Mayor to negotiate an employment contract, for Council approval, similar to the type of contract with the City Administrator.

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 the hiring process 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 and exempt the position of police chief and administrative staff from civil service. As written, this will allow the police chief to exempt executive staff from civil service as well. This will allow the Mayor and council to determine the hiring process for the position of Police Chief. This position will no longer be subject to grievance rights to the civil service commission nor subject to just cause rights under the personnel ordinance or resolution. Two unclassified positions would also be created, not subject to civil service, but still subject to the personnel ordinance and resolution.

FISCAL IMPACT:

To be determined as either hiring process will require expenditures for advertising, interviews and background checks.

RECOMMENDED ACTION:

Staff recommend approval of the amending ordinances.

MOTION:

- 1) Move to adopt Ordinance 950-08, Civil Service Code Amendment.
- 2) Move to adopt Ordinance 951-08, Personnel Ordinance Amendment

Attachments: A. Ordinance 950-08 - Civil Service Code Amendment
 B. Ordinance 951-08 - Personnel Ordinance Amendment
 C. SMC 2.52 Civil Service
 D. RCW 41.12 Civil Service Section
 E. Minutes of the June 28, 2008 Council meeting

COUNCIL ACTION:

DATE:

**CITY OF SULTAN
ORDINANCE 950-08**

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. In accordance with RCW 41.12.050 (2)(b), 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 day of , 2008.

Carolyn Eslick, Mayor

Attest:

Laura J. Koenig, City Clerk

Approved as to form:

Kathy Hardy, City Attorney

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)

ATTACHMENT D

The following is the excerpt 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.

CITY OF SULTAN COUNCIL MEETING – June 28, 2007

The regular meeting of the Sultan City Council was called to order in the Sultan Community Center by Mayor Tolson. Councilmembers present: Champeaux, Wiediger, Slawson, Flower, Boyd and Blair.

Change to Civil Service Rules to Exempt Personnel – Ordinance 950-07, Ordinance 951-07 and Resolution 07-13. The issue before the Council is 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 unclassified staff in the police department. Currently all the positions in the department are covered under Civil Service SMC 2.52. RCW 41.12.050(2) 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. Most employees 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. Cindy Broughton, Civil Service Commission Chairperson, expressed concern over the changes as the Commission has not had time to review the proposed ordinance.

Ordinance 950-07: On a motion by Councilmember Flower, seconded by Councilmember Seehuus, Ordinance 950-07, Civil Service Code Amendment was introduced for a first reading and passed on to a second reading. All ayes.

Ordinance 951-07: On a motion by Councilmember Flower, seconded by Councilmember Champeaux, Ordinance 951-07, Personnel Ordinance Amendment was introduced for a first reading and passed on to a second reading.

Resolution 07-13: On a motion by Councilmember Flower, seconded by Councilmember Slawson, Resolution 07-13 amending the Personnel Policy was adopted. All ayes.