



CITY COUNCIL AGENDA ITEM

Date: September 1, 2016

To: Brian Kischnick, City Manager

From: Thomas Darling, Director of Financial Services
Lisa Burnham, Accounting Manager
Kurt Bovensiep, Director of Public Works
MaryBeth Murz, Purchasing Manager
Enna Bachelor, Buyer

Subject: POPE Project – Purchasing Monthly Report August 31, 2016

Overview

On July 25, 2016 the City Manager established the Plan of Process and Education initiative or “POPE Project” and created teams to review and examine current purchasing and personnel policies and directives. The City Manager determined the scope of the project and the executive team (City Manager, Financial Services Director and Human Resources Director) worked together to clarify the processes and expected outcomes for the teams.

The POPE “Purchasing” review team has been meeting twice a week since July 27, 2016. On August 22, 2016 City Council approved the “City Manager Plan of Action”.

The purpose of the POPE-Purchasing team is to examine the City Charter, City Code (Ordinances), and Administrative Memoranda related to the purchasing process and develop recommendations to further the addition to, deletion of, consolidation of and clarification to those documents.

Our first step was to identify the sections for review. The following sections were selected:

City Charter

Section 6.12 – Pecuniary Interest Prohibited (status complete)

Section

Section 12.1 – Purchase and Sale of Property (status complete)

Section 12.2 – Contracts (status complete)

Section 12.3 – Restrictions on Powers to Lease Property (status complete)



CITY COUNCIL AGENDA ITEM

City Ordinance

Chapter 4 – Administrative Policy and Procedure – Selected Topics (In process)
Chapter 7 – Purchases, Contracts and Sales (status complete)

Administrative Memorandum

1-PU-1through 1-PU-30 (In process)

Issues and Recommendations:

Progress to date reflects the following issues and recommendations:

Issue 1

The purchasing review team for “Plan of Process Review & Education” (POPE) reviewed City Ordinance Chapter 7 Item 9. During our review we noted particular references that the team concluded were either ambiguous or required further clarification.

Code

City Ordinance Chapter 7 Item 9

Interpretation

The ordinance refers to “officially declared emergency” but does not offer nor was one noted during the review of the City Charter and other ordinances of “who” has the authority to “officially declare an emergency”. We did however note that a police or fire supervisor can activate the Emergency Operations Plan.

The team also noted that the ordinance did not define and/or link to other Charter directives, the conditions in which an emergency can be declared. Although Charter Section 12.1 paragraph 5 indicates an emergency condition because of a natural disaster, civil disturbance or “similar calamity”, the team concluded that further clarification of “similar calamity” is required.

The ordinance refers to the notification of emergency purchases to City Council at the next regularly scheduled meeting. The team concluded that because this is a timing requirement, the definition of when a “purchase” has occurred should be referenced.

The purchasing team reviewed other “Emergency Purchase” policies and procedures for other governmental units including Oakland County and the City of Detroit when developing the recommendation below.



CITY COUNCIL AGENDA ITEM

Finally, the issue of the Emergency Purchase as in relation to the City Charter revolves around the issue of City Management retaining the ability for purchases over \$10,000 to:

1. Waive the competitive bidding process
2. Obligate the City to expend funds in excess of \$10,000 prior to Council approval.

Recommendation

The team recommends modification to the City Ordinance Chapter 7 Item 9 as follows:

7.9 Declared Emergency. Upon declaration of the City Manager or designee or by the activation of the City Emergency Operations Plan, an emergency will be declared. An emergency is defined as a condition that threatens public health, welfare or safety, which demands an immediate remedy on property, operations or conditions that will continue to degrade and become increasingly costly and difficult to restore if immediate action is not taken. In the event of an officially declared emergency, the City Manager is permitted to make purchases without sealed bids, prior to Council approval and in excess of the limitations provided by the Charter. All purchases in excess of the limitations provided by the Charter, shall be reported to the Council at the next regularly scheduled meeting. A purchase will deem to have occurred at the time the City has incurred an obligation to expend resources.

Issue 2

The purchasing review team reviewed City Charter 6.12 "Pecuniary Interest Prohibited". During our review we noted that a,) disclosure forms do not include information about spouse, children or spouses of children as required under the charter and, b.) Information collected by Clerk Department is not disseminated and routed to other departments such as Purchasing and Finance where the controls over purchases are regulated.

Code

City Charter Chapter 6.12

Interpretation

Section 6.12(a) prohibits contracts or purchases involving an amount in excess of \$100 by the City which any elective or appointive officer or **any member of his family has any pecuniary interest, direct or indirect**. This section continues to define "member of his family" as spouse, children and the spouse of any of them.



CITY COUNCIL AGENDA ITEM

During our review of the disclosure form, we did not note a section for disclosure of other family members.

In addition, during our review of the data collection process we noted that although the information is collected it does not appear to be disseminated and routed to other departments including departments with responsibilities for regulating such purchases.

Recommendation

The purchasing review team recommends a review of the disclosure form to assure that it requires information about family members and further defines spouse, children and the spouses of any of them.

In addition, it is recommended that the City Clerk Office disseminates information by person, firm or corporation listing the elective or appointive officer and/or the family member and routes such information to regulating departments.

Issue 3

The purchasing team noted different interpretations between a “standard city purchase order form” and “any contract or agreement with terms other than the standard city purchase order form”

Code

City Charter 12.2 paragraph 2

Interpretation

The purchasing team reviewed Section 12.2 of the City Charter paragraph 2 “Any contract or agreement in an amount of one thousand dollars or more made with form or terms other than the standard city purchase order form shall before execution be submitted to the Attorney and his opinion obtained with respect to its form and legality.

There were different interpretations between team members of the definition of “contract” or “terms other than the standard city purchase order”. This difference was primarily due to that many standard purchase orders contain certain conditions.

Recommendation

Provide guidance to distinguish “contract or agreement with form or terms other than the standard city purchase order” in an administrative memo.



CITY COUNCIL AGENDA ITEM

Issue 4

Define timing when accounting officer has certified that an appropriation has been made for the purchase of \$1,000 or more and remedies if actual amount is in excess of purchase order.

Code

City Charter 12.2 paragraph 3

Interpretation

“Before any contract, agreement or purchase order obligating the City to pay an amount of one thousand dollars or more is executed the accounting officer of the City shall first have certified that an appropriation has been made for the payment thereof”.

The City adopts the budget at the functional level and management monitors the budget at the business unit level. Because available appropriations (difference between total budget and expenditures charged) changes on a daily basis, the accounting officer would like further clarification that the appropriation is available “at the time” the agreement or purchase order is certified.

As a related topic, at times actual invoices are in excess of the purchase order that was certified in which no guidance currently exists.

Recommendation

Provide guidance recognizing that “available appropriation” is at the time of certification in an administrative memo format. In addition, provide guidance as to available remedies should an invoice exceed the original certified purchase order.

Issue 5

The purchasing team noted that while City Charter Section 12.2 paragraph 4 addresses circumvention issues to avoid dollar thresholds contained in the section, further guidance defining and providing examples would reduce the risk of non-compliance.

Code

City Charter Section 12.2 paragraph 4

Interpretation



CITY COUNCIL AGENDA ITEM

“No contract or purchase order shall be subdivided for the purpose of circumventing the dollar value limitations contained in this Section”.

Although the City Charter appears straight forward, the recognition of circumvention can be a matter of professional judgement. Accordingly, guidelines and remedies for non-compliance should be addressed.

Recommendation

Provide guidelines, examples and remedies for non-compliance in an Administrative Memo format.

Issue 6

The purchasing team noted that Charter Section 12.2 paragraph 7 requires definition of “contract” as it relates person, firm or corporation in default to the City.

Code

City Charter 12.2 paragraph 7

Interpretation

“No contract shall be made with any person, firm or corporation in default to the City”.

The purchasing team had a few interpretation issues with “contract” and the lack of any dollar threshold that would require every purchase to be vetted against receivables or some type of “Default Listing” to the City. In addition the term “default” would require further definition and guidance.

Recommendation

Provide additional definitions and guidance in an Administrative Memo type format.

Issue 7

The purchasing team noted that Chapter 7.2 second paragraph should include the term “Manager or designee” in reference to declining comparative price quotations on a purchase under \$10,000.

Code

City Ordinance Chapter 7.2



CITY COUNCIL AGENDA ITEM

Interpretation

“Records shall be kept for two (2) years of all purchases made that were not based on comparative price quotations, along with a statement by the Manager giving the reason why that procedure was not used”.

The purchasing team noted that “Manager” should be replaced by “Manager or designee” in this section of the ordinance to provide consistency with Chapter 7.1 of the City Ordinance.

Recommendation

Revise Chapter 7.2 of the City Ordinance as follows:

“Records shall be kept for two (2) years of all purchases made that were not based on comparative price quotations, along with a statement by the Manager or designee giving the reason why that procedure was not used”.

Issue 8

The purchasing team noted that Chapter 7.3.4 requires the presence of the Purchasing Agent, the City Clerk and at least one other City Official. This leaves little flexibility for presence of City Clerk.

Code

City Ordinance Chapter 7.3.4

Interpretation

“Bids shall be opened in public at the time and place designated in the notice requesting bids, in the presence of the Purchasing Agent, the City Clerk and at least one other City official.

The team noted that the City Clerk may not always be able to attend the bid opening. Accordingly, the ordinance should allow a Clerk designee.

In addition, the term “City official” is somewhat ambiguous as it is defined differently in various parts of the City Charter and City Ordinance. The team noted that more clarification or replacement with “city employee at a supervisory level or higher” should be considered.

Recommendation

Modify City Ordinance Chapter 7.3.4 as follows:



CITY COUNCIL AGENDA ITEM

“Bids shall be opened in public at the time and place designated in the notice requesting bids, in the presence of the Purchasing Agent, the City Clerk or designee and at least one other city employee at a supervisory level or higher.

Issue 9

The purchasing team noted that City Ordinance Section 7.3.4 requires all bids to be examined, tabulated and reported to City Council within sixty (60) days after the bid opening. However, the purchasing team noted that some bids result in non-actionable items such as no award, over budget or rejected bid results. The purchasing team believes further clarification in the ordinance is required.

Code

City Ordinance Chapter 7.3.4

Interpretation

“The bids shall thereupon be carefully examined and tabulated and reported to the Council with the recommendation of the Purchasing Agent (as approved by the Manager if the Manager is not acting as Purchasing Agent) within sixty (60) days after bid opening.

The team believes there should be exceptions for “Non-Actionable” items.

Recommendation

Modify City Ordinance Chapter 7.3.4 as follows:

“The bids shall thereupon be carefully examined and tabulated and reported to the Council with the recommendation of the Purchasing Agent (as approved by the Manager if the Manager is not acting as Purchasing Agent) within sixty (60) days after bid opening with the exception of “non-actionable” bid results.

Issue 10

It was noted that Section 7.3.7 of the City Ordinance requires a successful bidder who fails or refuses to enter into the proposed contract within five (5) days after it has been awarded, or to file any bond required to forfeit any deposit submitted with their proposal. The purchasing team concluded that some flexibility or professional judgement is required when determining the forfeiture.

Code

City Ordinance Chapter 7.3.7



CITY COUNCIL AGENDA ITEM

Interpretation

“If any successful bidder fails or refuses to enter into the proposed contract within five (5) days after it has been awarded, or to file any bond required within the same time, the deposit accompanying the bid shall be forfeited to the City, and the Council may, in its discretion, award the contract to the next lowest competent bidder meeting specifications, or to another competent bidder meeting specifications if the Council shall, determine that the public interest will be better served by accepting such other bid or said contract may be re-advertised.”

The purchasing team concluded that the term “shall be forfeited” should be modified to allow flexibility and professional judgement in requiring the forfeiture.

Recommendation

Modify City Ordinance Chapter 7.3.7 as follows:

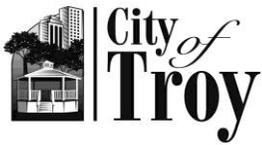
“If any successful bidder fails or refuses to enter into the proposed contract within five (5) days after it has been awarded, or to file any bond required within the same time, the deposit accompanying the bid may be forfeited at the discretion of the City Council, and the Council may, in its discretion, award the contract to the next lowest competent bidder meeting specifications, or to another competent bidder meeting specifications if the Council shall, determine that the public interest will be better served by accepting such other bid or said contract may be re-advertised.”

Conclusion

The purchasing team will modify this report as the project progresses. Accordingly, this is not intended to be a final determination on any item noted above but rather to demonstrate progress to date.

However, based upon the assessed critical nature, a proposed amendment to City Ordinance Chapter 7 Item 9 “Declared Emergency” has been forwarded to the City Council Agenda for the September 19, 2016 meeting. This proposed amendment is recognized as “Issue 1” of this report.

The redline version to the proposed amendment is as follows:



CITY COUNCIL AGENDA ITEM

7.9 Declared Emergency. Upon declaration of the City Manager or designee or by the activation of the City Emergency Operations Plan, an emergency will be declared. An emergency is defined as a condition that threatens public health, welfare or safety, which demands an immediate remedy on property, operations or conditions that will continue to degrade and become increasingly costly and difficult to restore if immediate action is not taken. In the event of an officially declared emergency, the City Manager is permitted to make purchases without sealed bids, prior to Council approval and in excess of the limitations provided by the Charter. All purchases in excess of the limitations provided by the Charter, shall be reported to the Council at the next regularly scheduled meeting. A purchase will deem to have occurred at the time the City has incurred an obligation to expend resources.

Next Steps

- Continue review of selected documents (City Ordinance Chapter 4 “Administrative Policy and Procedure (Selected items) and Administrative Memorandum.
- Staff Leadership meeting presentation September 20, 2016.
- Retreat presentation October 26, 2016.



CITY COUNCIL AGENDA ITEM

Date: September 8, 2016

To: Brian Kischnick, City Manager

From: Jeanette Menig, Human Resources Director
 Elaine Bo, Recreation Director
 Kurt Bovensiep, Public Works Director
 Lynne Lambert, Human Resources Specialist
 Beth Tashnick, Office Coordinator

Subject: POPE Project - Personnel Policy Review Monthly Report August 31, 2016

Overview

On July 25, 2016 the City Manager established the Plan of Process and Education initiative or “POPE Project” and created teams to review and examine current purchasing and personnel policies and directives. The City Manager determined the scope of the project and the executive team (City Manager, Financial Services Director and Human Resources Director) worked together to clarify the processes and expected outcomes for the teams.

The Personnel Policy Review Team began meeting on August 4, 2016 and has met regularly since then. On August 22, 2016 the City Council approved the City Manager’s Plan of Action.

The purpose of the Personnel Policy Review Team is to examine the City Charter, City Code (Ordinances), and Administrative Memoranda related to personnel matters. Our first step was to identify the sections to review. The following sections were selected:

City Charter

<u>Location</u>	<u>Description</u>	<u>Details/Issues for examination</u>
Chapter 3	Organization of Government	3.9 Administrative Officers
Chapter 5	Legislation	5.16 Anti-Nepotism
Chapter 6	General Provisions Regarding Officers and Personnel of the City	6.1 Eligibility for office and employment 6.6 Filling Vacancies in Appointive Offices 6.8 Change in Term of Office or Compensation 6.10 Surety Bonds 6.11 Delivery of Office 6.12 Pecuniary Interest Prohibited 6.13 Compensation of Employees and Officers 6.14 Employee Welfare Benefits
Chapter 15	Miscellaneous	15.3 Interpretations 15.13 Retirement and Pension System 15.14 Civil Service System



CITY COUNCIL AGENDA ITEM

City Code (Ordinances) Title I - Administration

<u>Location</u>	<u>Description</u>	<u>Details/Issues for examination</u>
Chapter 3	Administrative Service	1. Division of Administrative Service
Chapter 4	Administrative Policy and Procedure	1.132 – 1.134 Dept. Heads, Vacancies, All Departments 8. Surety Bonds 9. Code of Conduct 10. Insurance and Indemnification
Chapter 9	Troy Public Library	4. Staff
Chapter 10	Employee Retirement System	<i>Sections not yet identified</i>
Chapter 11	Personnel Board	Entire Chapter
Chapter 14	Officer and Employee Public Disclosure Enforcement	<i>As references back to Charter</i>

Administrative Memoranda

We have not yet identified all of the Administrative Memoranda to be evaluated. The possible memos in the Personnel section range from 1-P-1 to 1-P-87 and in the General section 1-G-1 to 1-G-38. Revisions to some memos, such as those related to employee vehicle use and reimbursement were underway prior to the team’s inception. It is anticipated that there will be several additional memos which will need to be updated. Our focus will turn to Administrative Memoranda after we complete the City Charter and City Code.

Issues and Recommendations – City Charter

Our analysis began with a review of the City Charter. This review did not elicit any suggestions for revision but did bring to our attention the following issues which need further attention.

Section 6.1 - Eligibility for office and employment:

1. Administrative Officers as defined in the Charter (City Manager, Attorney, Clerk, Treasurer, Assessor, Fire Chief and Police Chief) would be disqualified for the position if they were “in default to the City or to any other governmental unit of the State.” Attention is needed to address this requirement when filling vacancies in these positions. The requirement also applies to elected officials and individuals appointed to boards and commissions.
2. The Administrative Officers (as well as elected officials and boards and commission members) are required per this section to be United States citizens. Federal law states that it is illegal for employers to discriminate based on an individual’s citizenship or immigration status, *unless required to do so by law*. We recommend this matter be reviewed by legal counsel to ensure that we are legally compliant. Should we be required to identify the citizenship of these individuals, attention is needed to address this requirement, too, when filling vacancies in these positions. Careful consideration will be needed as it is illegal to inquire on citizenship for all other employment relationships.

Following the Charter review, the group turned our attention to the City Code. Initially, we have focused our efforts on evaluating Chapter 11 of the City Code. Chapter 11 details personnel policy as it applies to employees in the full-time, non-union, non-exempt Classified employee group and it explains the scope of the Personnel Board as a policy advisory board and an appeal board for employee discharge.



CITY COUNCIL AGENDA ITEM

Issues and Recommendations – City Code

Issue One

Chapter 11 – Personnel Board

The primary concern with the Chapter as written is its narrow scope and practicality. It applies only to the specific group of employees in the Classified employee group. Currently this group contains 43 employees. We believe that this section would be better utilized as a guide for employment and personnel methods as they relate to the wider employee population.

Issue Two

Chapter 11 – Personnel Board

We found sections of policy that were repetitive and some that were unnecessary. The Chapter as it exists clearly delineates processes as they relate to the Classified employee group, but the processes would be better if they were modernized and streamlined.

Issue Three

Chapter 11 – Personnel Board

We question the need for a five member Personnel Board. Chapter 11 originated in 1964, prior to a Personnel or Human Resources Department being added to the City's organizational structure. At that time there was likely a need for direction in personnel matters. Per the chapter, the Personnel Board is to consist of "persons in sympathy with the application of merit principle to public employment." The purpose of the board is to "advise the City Manager on matters of personnel policy and problems of personnel administration, including the personnel rules; job classification plan and pay plan" and "represent the public interest in the improvement of personnel administration for Classified in the City service." We believe that the Human Resources Department provides these services to the City and does so with the aid of professional education, experience and access to relevant data/resources.

Additionally, continuing the function as an appeal board for employee discharge is questionable, since all non-union employees are at-will employees by law. As an employer we can legally terminate an employee at any time for any reason, except an illegal one, or for no reason. We believe that offering an option that appears to weaken our at-will relationship is not in the City's best interest.

Recommendations to Address Issues One, Two and Three

Considering these points, we have completed and attached a draft of potential changes to this chapter moving its focus to general employment and personnel policies, and eliminating the Personnel Board. The draft recommendations address the following:

- Broaden the scope of the chapter to general employment
- Clarify at-will status and remove the opportunity for formal termination appeal
- Remove list of Classified job titles (maintained in other City documents)
- Clean up language that refers to the initial creation of job classification and pay plans
- Update examples of methods used to evaluate candidates
- Modernize language from candidate "examination" to "evaluation."
- Eliminate references to re-employment lists and Classified lay-off procedures

- Clarify that eligible lists are needed for full-time positions
- Extend some abilities to a designee of the City Manager
- Clarify that promotions or temporary appointments can occur without competitive evaluation when in the City's best interest
- Include a notation that the hiring practices detailed do not apply to periodic election inspectors
- Remove several repetitive references

Conclusion

It should be noted that these revisions have been completed as a first step in the evaluation process. Since we have not completed our comprehensive evaluation of the rest of the City Code nor the Administrative Memos, our analysis is not yet incomplete. It is possible in the review of the Administrative Memos the team will find topics or issues which may cause us to recommend new items be added to City Code or other items removed. We believe that due to the importance of this task, dedicating additional time to ensure a thorough examination is sensible. We recommend to taking no action on these draft revisions until we have been able to complete the entire review.

Next Steps

Our next step is a review of the Personnel Rules & Regulations, a document historically linked to Chapter 11. This examination will include a comparison to our current full-time employee handbook. We will also continue our review of the City Code, followed by Administrative Memos. Before a final recommendation is formulated, we anticipate convening the Personnel Board to receive their input on the issues raised and the best course of action.

In addition, the executive team (City Manager, Financial Service Director, and Human Resources Director) has identified the need for a sub-committee to review policies specifically related risk management issues (including vehicles and accident reporting). This team has been supplemented with Brian Varney, Fleet Operations Manager and Scott Salter, Police Lieutenant. The sub-committee will be focusing on Administrative Memos. Updates will be forthcoming.

Chapter 11 - Personnel ~~Board~~ Policy

1. GENERAL PROVISIONS.

1.1 It is hereby declared personnel policy of the City that:

- a) Employment in the City government shall be based on merit and qualifications, free of personal and political considerations without regard to religion, race, color, national origin, age, sex, marital status, height, weight, arrest record or disability.
- b) City government shall promote efficiency and economy of operations.
- c) Positions having similar duties and responsibilities shall be classified and compensated on a similar basis.
- d) Appointments, promotions and other actions requiring the application of the merit principle shall be based on ~~systematic tests and~~ **objective** evaluations.
- e) ~~The rights and interests of employees covered by this Chapter~~ **Personnel policies** shall be fairly administered in a manner consistent with the best interests of the public and the City.
- f) ~~Any individual whose employment is subject to the provisions of this Chapter may be disciplined or discharged for misconduct or unsatisfactory work performance.~~ **City of Troy employees are at-will employees (unless covered by a collective bargaining agreement) and may be disciplined or discharged accordingly.**
- ~~g) The Employment of any individual subject to this chapter is conditional upon the necessity for the performance of work within the employee's classification and the availability of funds.~~

~~1.2 The Personnel Board shall consist of five (5) members appointed by the Council. The members of the Board shall be persons in sympathy with the application of merit principles to public employment. No member of the Board shall be employed by or be an official of the City; nor shall be a member of any local, state or national committee of a political party or an official or member of a committee in any partisan political club or organization, nor shall hold or be a candidate for any governmental elective office. The members of the Board shall serve for a term of three years. Vacancies occurring during a term shall be filled for the balance of the term. Members of the Board shall serve without compensation, but funds will be provided for reasonable and necessary expenses. The Board shall elect its own chairman. The Council may remove any member of the Board with five affirmative votes upon stating in writing the reasons for removal and allowing the member an opportunity to be heard. Three members shall constitute a quorum at any meeting of the Personnel Board.~~

~~1.3 In addition to the duties set forth elsewhere in this chapter, the Board shall:~~

- ~~a) Advise the City Manager on matters of personnel policy and problems of personnel administration, including the personnel rules; job classification plan and pay plan as they apply to Classified employees.~~
- ~~b) Represent the public interest in the improvement of personnel administration for Classified employees in the City service.~~

Chapter 11 - Personnel ~~Board~~ Policy

~~2. SCOPE OF CIVIL SERVICE SYSTEM.~~

~~2.1 All offices and positions of the City are divided into the classified service and the exempt service.~~

~~2.2 The Classified service shall include the following classifications:~~

Accountant	Legal Assistant
Administrative Aide	Legal Secretary
Administrative Asst. to the City Manager	Librarian-I
Appraiser	Library Aide
Assistant Naturalist	Manager's Office Secretary
Building Inspector	Museum Archivist
Building Maint. Specialist	Office Coordinator
Civilian Communications Supv.	PC Specialist/Help Desk
Community Affairs Officer	Plan Analyst
Cross Connection Inspector	
Education Coordinator	
Engineering Assistant	
Engineering Technician	Planning Technician
Field Supervisor	Project Manager (Engineering)
GIS Data Analyst	Right-of-Way Representative
Inspector	
Inspector Supervisor	Secretary II
Insurance & Safety Coordinator	
Inventory Control Assistant	Survey Supervisor
Landscape Analyst	

~~(Rev. 06-19-2006)~~

~~2.3 The Exempt service shall include the following:~~

- ~~a) Elected officials, members of boards and commissions~~
- ~~b) Volunteer personnel and personnel appointed to serve without pay.~~
- ~~c) Consultants and counsel rendering temporary professional service.~~
- ~~d) Such positions involving seasonal or part-time employment, as may be specifically placed in the exempt service by the personnel rules.~~
- ~~e) Positions in the City service that are represented by an exclusive bargaining representative pursuant to the Public Employment Relations Act, MCLA 423.201 et seq.~~
- ~~f) Positions of City Manager and City Attorney which serve at the pleasure of City Council pursuant to City Charter.~~
- ~~g) All other employees in the City service that are not placed in the Classified service by this~~

Chapter 11 - Personnel ~~Board~~ Policy

~~Chapter and are not represented by an exclusive bargaining representative pursuant to the Public Employment Relations Act, MCLA 423.201 et seq.~~

3. ADMINISTRATION.

3.1 The City Manager shall be responsible for the execution of the personnel **policy**. ~~program and all advice and rulings of the Board in pursuance of this chapter.~~

~~3.2 The City Clerk shall serve as secretary to the Board.~~

3.3 The City Manager, with approval of City Council if required by City Charter, may contract with any qualified person or agency for the performance of such technical services as may be desired in establishment and operation of the personnel programs.

4. RULES.

4.1 The City Manager or designee shall draft such rules as may be necessary to carry out the provisions of this chapter. ~~These rules shall be submitted to the Board for review and approval. Personnel rules approved or initiated by the Board shall be submitted for adoption by resolution of the Council. The rules as adopted shall have the force and effect of law. All rules and amendments thereto shall be made in accordance with the above procedure.~~

5. CLASSIFICATION.

5.1. ~~The City Manager or designee shall make an analysis of the duties and responsibilities of all positions in the classified service and he shall recommend to the Board a job classification plan. Each position in the Classified service~~ **Each position** shall be assigned to a job class on the basis of the kind and level of its duties and responsibilities, to the end that all positions in the same class shall be sufficiently alike to permit use of a single description title, the same qualification requirements, the same test of competence and same pay scale. A job class may contain one or more positions. The classification plan **(s) may be revised and** , ~~as reviewed and approved or initiated by the Board~~, shall be submitted for adoption by resolution of the City Council.

~~5.2. The classification plan may be revised from time to time as required.~~

6. COMPENSATION.

6.1 The City Manager or designee shall ~~prepare~~ **maintain** a **Classified** pay plan **detailing pay rates and/or ranges and** based upon accepted principles of pay administration. The **pay** rate or range for each class shall be such as to reflect fairly the differences in duties and responsibilities and shall be related to compensation for comparable positions in other places of employment.

~~6.2 The City Manager shall submit the pay plan and rules for its administration to the Board for approval. The Board may recommend that the City Council adopt the plan and the rules, with or without amendment.~~

6.3 The pay ~~plan~~ **pay rates and/or ranges** may be ~~amended from time to time as required~~, **revised** through adjustment of rates, by reassignment of job classes to different pay ranges, or by the addition or deletion of job classes by the City Manager **or designee**.

Chapter 11 - Personnel ~~Board~~ Policy

7. APPOINTMENT AND PROMOTIONS.

- 7.1 Original appointments to ~~vacancies in the Classified service~~ **City of Troy employment** shall be based on merit. ~~as determined by competitive examinations which may include prior training and experience.~~
- 7.2 ~~Competitive examinations shall be in such form as will fairly test the~~ **Candidates will be evaluated based on** job-related requirements **and job-related preferences** for the position being sought. ~~Examinations~~ **Evaluations** may include **interviews**, written **tests**, ~~oral~~, performance tests, **work product samples, prior training and experience** or any combination of these.
- 7.3 ~~Pending the approval of an eligible list based upon competitive examination,~~ **When in the best interest of the City**, vacancies may be filled by the City Manager by means of a temporary appointment. ~~Temporary appointment will only be as long as is necessary to establish an approved eligible list.~~
- 7.4 ~~Priority of Eligible lists for purposes of filling a vacancy shall be: re-employment eligible lists, promotional eligible lists and original appointment eligible lists.~~
- 7.5 ~~Re-employment lists shall contain the names of regular full-time employees laid off in good standing for lack of funds or work and the position from which they have been laid off. An employee on a re-employment eligible list shall only be able to fill a vacancy in a classification formerly held by the employee or a similar classification at a lower level that the employee is qualified to perform.~~
- 7.6 ~~Employees who have not completed the initial review period and are (1) laid off for lack of work or lack of funds, or (2) who resign and whose resignations are withdrawn within one year, upon application and with the approval of the Department Head and the City Manager, shall have their names restored to the eligible list from which appointment was originally made.~~
- (Rev. 06-19-2006)
- 7.7 Candidates who qualify for original appointment or promotion ~~eligible lists shall be placed on the appropriate eligible list for the classification in the rank order of the composite scores they obtained on the~~ **to a full-time position will be placed on an eligible list for the position in rank order based on the results of the** competitive **evaluation** examination, ~~including prior training and experience.~~
- 7.8 ~~When an appointment is to be made to a vacancy, the~~ City Manager **or designee** shall appoint from the three persons ranked highest on the ~~appropriate list (or lists, when applicable), who have indicated willingness, to accept appointment. When more than one vacancy is to be filled the number of names submitted shall not exceed the number of vacancies plus two.~~ **In each instance when an individual is removed from the eligible list the City Manager or designee may appoint from the three highest of those remaining on the list.**
- 7.9 An advancement in rank, ~~and/or pay grade, or to a salary range beyond the limits defined in the rules for the administration of the pay plan for the incumbent's current position~~ shall constitute a promotion. **All advancements will be on based on merit. When in the best interest of the City, the City Manager can promote an employee without competitive evaluation.**
- 7.10 ~~In preparation of a promotional eligible list, consideration shall be given to the qualifications of a candidate, including training and experience, and the individual's record of performance.~~

Chapter 11 - Personnel ~~Board~~ Policy

~~7.11 — Vacancies in positions above the entrance level shall be filled by promotion rather than original appointment except when in the judgment of the City Manager it is not in the best interests of the City to do so.~~

~~7.12 — Policies and procedures for administering eligible lists shall be provided in the personnel rules covering the duration, cancellation, replacement and consolidation of such lists, and the removal or suspension of the names of eligibles therefrom.~~

This section excludes the hiring process for periodic election inspectors.

8. RECORDS.

~~8.1 — The City Clerk shall maintain adequate records of the proceedings of the Board.~~

8.2 The Human Resources Department shall maintain the examination record of every candidate for one (1) year, and shall maintain the employment record of every employee for a period of five (5) years after separation of employment with the City.

(Rev. 06-19-2006)

~~9. — INVESTIGATIONS, HEARINGS.~~

~~9.1 — During the course of any investigation or hearing the Board or the City Manager may direct any employee of the City to attend and give witness. Any employee refusing to do so may be subject to disciplinary action.~~

~~9.2 — The Board shall have power to subpoena and require the attendance of witnesses and the production thereby of records, books and papers pertinent to the investigations and hearings.~~

~~10. — GENERAL PROHIBITIONS.~~

~~10.1 — Employees in the Classified service shall be selected on merit and qualifications without regard to political considerations, shall not be required to contribute to any political purpose and shall not engage in improper political activity. The rules shall define the scope of improper political activity.~~

~~10.2 — There shall be no discrimination against any qualified person seeking employment or employed in the classified service because of any considerations of political or religious affiliation or belief, race, color, national origin, age, sex, marital status, height, weight, arrest record or disability.~~

~~11. — TERMINATION APPEAL.~~

~~11.1 — Any member of the Classified service, who is being considered for discharge shall be provided prior written notice of the reasons for the possible disciplinary action and an opportunity to respond to or discuss the contemplated action with the decision-maker prior to a final decision being made. If the employee is discharged, the employee shall be entitled to appeal the discharge to the Personnel Board as set forth below.~~

~~11.2 — A discharged employee is entitled to appeal the discharge to the Personnel Board by filing a written notice of appeal no later than ten (10) calendar days after receiving notice of discharge. Said notice shall be filed with the City Clerk who is Secretary of the Board. Upon receipt of a notice of appeal, the Secretary of the Personnel Board shall schedule a hearing before the Personnel Board within thirty (30) calendar days. At the hearing, the discharged employee shall be entitled to present~~

Chapter 11 - Personnel ~~Board~~ Policy

~~evidence and testimony on his or her behalf and to question the witnesses called in support of the discharge. The employee and the City may retain a representative for the hearing. A record of the hearing may be kept at the request of the employee or the City.~~

~~11.3 The Personnel Board shall then review the evidence presented at the hearing and, within thirty (30) days after the close of the hearing, render a written determination. The authority of the Personnel Board shall be limited to determining whether the discharge was arbitrary or capricious. The determination of the Personnel Board shall be final and binding on both the employee on both the employee and the City and shall constitute the sole and exclusive remedy for the employee.~~

~~11.4 At any hearing held subject to this appeal procedure, no member of the Personnel Board shall serve if he or she has been involved in the process leading to the discharge of the employee. In addition, the employee shall be entitled to challenge any member of the Personnel Board for bias or prejudice by providing the Personnel Board written notice of such claim prior to or at the hearing scheduled as set forth above.~~