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April 3, 2017

Via E-mail and U.S. Mail

Barbara Mayall
3011 Windemere Dr.
Pensacola, FL 32503
Email: bhealthy10@gmail.com

Re: Review of Charter for the City of Pensacola re: Budget Analyst position
Our File No. EPF-00-0001

Dear Ms. Mayall,

At your request, I have reviewed the applicable provisions of the Charter for the City of Pensacola, as well as Ordinance 10-16, which created sec. 2-4-52 of the City Code. The Ordinance created the position of budget analyst or expressly authorized by Article IV, Section 4.02.(a)(6) of the City Charter. I also have reviewed the motion to implement this Ordinance, as well as Mayor Ashton Hayward's purported "veto" of implementing the Ordinance as found in his letter of March 14th to Brian Spencer as Council President.

It is my understanding that the Mayor did not veto¹ the Ordinance creating the position of budget analyst, a power expressly granted to the City Council by the Charter.

The question you raised is whether the Mayor has the authority under Charter to "veto" the City Council's administration of a duly-enacted ordinance addressing a power

¹ It is questionable as to whether the Mayor could have vetoed an ordinance creating a position that Council was expressly authorized to create, by majority vote, under the Charter. That question needs not be addressed, however, as there was no timely veto, and the Ordinance has become law that the Mayor and Council have a duty to administer.

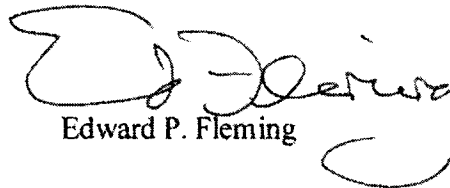
expressly, and exclusively, granted by the Charter. The short answer to that question is "no, he does not."

The Charter provides for a separation of powers between the Mayor, as head of the executive branch, and City Council, as the legislative branch. The powers do not overlap, although both the executive and legislative branches have administrative duties. Once sec. 2-4-52 was created, it was incumbent on City Council to see that it was given effect. The Mayor has no authority to obstruct the City Council's efforts to implement the duly-enacted ordinance. The Mayor's statement that "there are more pressing needs," and that the City "currently has full time staff" to perform those functions, ignores the Charter's provision for an independent budget analyst who works solely for, and at the direction of, City Council. That position can be compared to the Congressional Budget Office that works for and reports to Congress as the legislative branch of government. The fact that the President has direction over the Treasury Department does not negate the right of Congress to an independent budget analyst. The same is equally true with the City of Pensacola.

Any other interpretation of these facts would make the Charter's express provisions for the right of City Council to have an independent budget analyst a nullity. I do not believe any Court would reach that absurd result.

Please let me know if this answers your question fully, and whether I can be of any further assistance in this matter.

Sincerely,



Edward P. Fleming

EPF/dbl