



OFFICE of the CITY ATTORNEY

To: Council President Spencer and Members of City Council
From: Lysia H. Bowling, City Attorney *LHB*
Date: May 11, 2017
Re: Legal Opinion Regarding City Council Consent of Mayoral Appointment of the Head of Each Department Under Charter

A legal opinion has been requested of me as to whether the City Council is authorized to direct questions to a Mayoral appointee, whose appointment is subject to City Council consent, at the time City Council votes on the appointment at a public meeting.

The Charter gives the Mayor the exclusive authority to appoint the head of each department. The Charter also requires City Council consent to the Mayor's appointment before the appointment process is complete. However, the Mayor does not share his authority to appoint the head of each department whose appointment is subject to City Council consent under Section 4.01(a)(7) of the Charter. The appointment authority is the Mayor's only. When the Mayor selects an appointee in the exercise of his executive powers, the action is exclusively his, and as such, separate and independent from the action of City Council to consent.

City Council is the consenting authority for Mayoral appointments of the head of each department. The authority of City Council to consent to a Mayoral appointment of the head of each department is a separate legislative power. As provided for under Section 4.01(a)(7) of the Charter, City Council possesses authority to consent to the Mayoral appointment of the head of each department by the exercise of a majority vote. In the context of the allocation of powers structure of a strong mayor form of government, the City Council does not share its authority with the Mayor.

The extent of City Council authority under Section 4.01(a)(7) is limited to the power to vote. City Council is authorized to consent, or not, to the Mayor's appointment. Section 4.04(a) of the Charter authorizes the City Council "... to express its view and fully and freely discuss any and all matters with the Mayor pertaining to the appointment... ."

Therefore, it is my opinion, the Charter does not authorize the City Council to direct questions to Mayoral appointees at the time Council votes on the appointment at the public meeting. Instead, according to the Charter, they are authorized to direct questions to the Mayor concerning the Mayoral appointment.