

CITY OF DILLON, MONTANA

125 N. IDAHO ST.
DILLON, MT 59725

DAN LINSKOTT
DIRECTOR OF OPERATIONS

G.J. LANE
TREASURER



J.A. WILSON
MAYOR

406-683-4245
FAX 406-683-4246

FAYE JONES
CLERK

ANDREW P. SUENRAM
ATTORNEY

Wednesday, January 29, 1997

Mr. Ken Weaver
Local Government Center
Montana State University
Bozeman, Montana 59717

Dear Ken:

The City of Dillon is entering into the transition period between our present form of government and the Charter form of government as approved by the voters of the city. To accomplish this transition I have assigned the responsibility to work with the study commission to a committee of the city council. These two groups; study commission - council committee; will be meeting soon to begin the process.

As I see the transition; and I would like your opinion on my impressions; the biggest hurdle will be the revision of the city's present ordinances to include the very few changes the Charter dictates. These revisions will be the responsibility of the administration (city attorney, clerk, mayor) to be accomplished. I have studied the Charter and have some questions and hypothetical situations that I would appreciate your comments and opinion on as follows:

Section 2.07 - The President of the council under our present ordinances becomes the "acting mayor" in the absence or the inability of the mayor to act. As the "acting mayor" the president of the council has all of the duties, responsibilities, and powers of the mayor. With the Charter this is not definitely spelled out and in fact it (Charter) seems to restrict the acting mayor (president of the council). The Charter does state that he/she (president) shall preside when the mayor is absent and may only vote as other members of the council. I interpret this to mean that he votes as a council member and not as the acting mayor which as such would only vote in the case of a tie. I also interpret this that the president would not have veto power.

Mr. Ken Weaver
January 29, 1997
Page 3

This section also suggests that if there is a three to three vote of the council the mayor's powers are abdicated and he (mayor) cannot cast the deciding vote because there were not four affirmative council votes.

Section 3.06 - IBID - Section 2.09

Section 3.09(3) - I define "department heads" as used in this section as persons placed in charge of specific departments such as a foreman of the water department or sewer department. At present we have only one or two department heads as so described so this section actually does little to change our present operating policy.

The appointed officers of the city are another situation and cannot be confused with the term department heads. The officers of the city are actually established by state statute (7-4-4102) and include the following: (1) city attorney; (2) city clerk; (3) police chief; (4) treasurer; and (6) other officers deemed necessary. The director of operations would fall into this last category.

There is a great deal of confusion between these two terms "department heads" and "city officers". This is especially troublesome to some councilpersons when the mayor's powers were expanded in Section 2.11 so the council hasn't any say in the appointment of any city officers.

Section 2.15 - This section provides that the council shall establish by resolution the rules of procedure and the time and place of meetings of the council. This is already an ordinance of the city and surely should suffice.

Section 5.03 calls for the establishment of a personnel management system. I don't understand just what was anticipated in this area and I am in hopes that you can shed some light on this for me and the transition team.

The City of Dillon has a very definite agreement with all employees of the city which specifically details salary schedules, vacation benefits, sick leave, health insurance, other benefits and grievance procedures. These agreements, one each for the police officers and one for the remaining employees, detail each and every right of both the employee and the employer. These are administered (enforced) through established employee associations and the administration. These agreements are renewed on an annual basis and any amendments must be approved by a vote of the employees and approved by the city council before they are in effect.

Mr. Ken Weaver
January 29, 1997
Page 2

This creates some very real and serious problems which we must address during the transition period. Is the council president the acting mayor in the situation of the inability of the mayor to act. If he is not the acting mayor and does not assume the powers of the mayor does this not handcuff the council on a tie vote; for example, three to three on what could be some very important issues and no decision made.

This section (2.07) and the wording "may only vote as other members of the council" definitely needs interpretation and adequate explanation in the revised ordinances.

Section 2.09 - This section, on examination, seems entirely superfluous due to the fact that Montana Codes Annotated dictates when the office of a council member is vacant. What is really disturbing is the fact that it takes five votes or 100% of a quorum of the council to remove a council member from office when according to Montana State law the position is already deemed vacant.

Section 2.10 - This section also deals with a council vacancy and states that it takes five affirmative votes to fill the vacancy. This requirement of five affirmative votes conceivably could mean that the council might never fill vacancies when a vote of between 80% and 100% to elect could be necessary. We just had such a situation recently when a vacancy was filled by the election of the council. The person selected was done so on a four to two vote of the six council members present. Under the Charter she would not have been seated and upon further investigation it was indicated that the two who voted for other candidates would not have switched and voted for her. STATEMATE!!!????!!!

My purpose of inquiry is to obtain your opinion as to why it is necessary to obtain a vote of between 80% and 100% of those voting to fill a vacancy when it only necessitates a vote of 50.1% to elect a councilperson at a general election.

Also, my opinion is that this completely stalls and maybe even stops the governmental process at the local level and for what purpose I cannot conceive. I would like your opinion and expertise on this short-sighted situation.

Section 2.14 - This section also needs some expert explanation. It calls for an affirmative vote of four council members for all official actions of the council and yet establishes a quorum of the council at five members. Why does the city need four affirmative votes when three votes would be a majority of a quorum.

Mr. Ken Weaver
January 29, 1997
Page 4

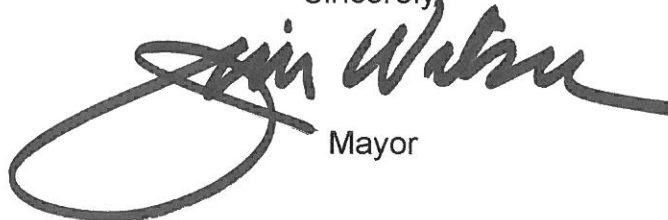
What more of a "system", in your opinion, was visualized when the Charter was drafted.

In other words, I believe that the city already has the administrative plan and personnel management system which is described in the Charter to be reviewed and adopted by the council by July 1998. These have been reviewed, revised, and adopted for years by the council and I feel it is totally unnecessary to jump through the Charter hoops again. Your opinion please.

The biggest question that I have has to do with the provision that the council must review and where necessary revise or repeal city ordinances which are not in compliance with the Charter. The question is what happens after the ordinances are revised and are in compliance with the Charter and the council wishes to amend an ordinance because, as written, it is not realistic or feasible. At that point do we deal with the ordinances as we now do with a simple amendment and two readings at the city council or is the city brought to its knees due to the Charter and its provisions which, as I understand it, will require a vote of the people to change which is extremely expensive for even simple changes.

Have we created an attorney's Mecca. Your opinions please.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Watson". The signature is fluid and cursive, with a large loop at the end of the last name. It is positioned above the word "Mayor".

Mayor