

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

January 5, 2009

CALL TO PODIUM:

Fred Felton
Assistant City Manager

RESPONSIBLE STAFF:

Fred Felton
Assistant City Manager

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	11/28/08
Hearing Date	12/15/08
Record Held Open	12/26/08
Policy Discussion	01/05/09

TITLE:

Proposed Amendment to Section 61 of the Charter Entitled "Prohibitions and Restrictions Regarding Persons in Classified Service"

SUPPORTING BACKGROUND:

During the course of conducting research for the Ad Hoc Elections Ordinance Review Committee, City Attorney Lynn Board noted that the restrictions contained in Section 61 of the City Charter concerning political activity by persons in classified service of the City were entirely too broad and were unconstitutional.

The proposed Charter Amendment would eliminate the unconstitutional language but would continue to prohibit staff from participating in political activity during working hours or while representing the City in an official capacity.

The Mayor and City Council provided guidance to go to public hearing on the attached draft Charter Amendment on November 24, 2008 work session.

A public hearing was held on December 15, 2008. No one testified at the hearing, and the record was held open until Friday December 26, 2008 at 5:00 PM. There have been no public submissions to the record.

Attachment

Draft Charter Amendment

DESIRED OUTCOME:

Charter Amendment is ready for final action.

RESOLUTION NO. _____

RESOLUTION OF THE MAYOR AND CITY COUNCIL
OF GAITHERSBURG, MARYLAND, TO AMEND
SECTION 61 OF THE CITY CHARTER ENTITLED
“PROHIBITIONS AND RESTRICTIONS REGARDING
PERSONS IN CLASSIFIED SERVICE”

WHEREAS, Section 61 of the Charter of the City of Gaithersburg currently prohibits members of the classified service from engaging in any political activity other than voting; and

WHEREAS, the City Attorney has advised the Mayor and City Council that the current restrictions on political activity by members of the classified service are unconstitutional; and

WHEREAS, the Mayor and City Council has determined that members of the classified service should not participate in political activity while at the City’s workplace or while representing the City in an official capacity:

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Gaithersburg, in public meeting assembled, that Section 61 of the City Charter is hereby amended as follows:

Section 1 – That Section 61 of the Charter of the City of Gaithersburg be, and the same is, repealed and reenacted with amendments as follows:

(a) If a merit system is adopted, no person in the classified service of the city or seeking admission thereto shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of his political or religious opinions or affiliations or any other factors not related to ability to perform the work; no person shall willfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions of this Charter or of the rules and regulations made thereunder; ~~no officer or employee in the classified service of the city shall continue in such position after becoming a candidate for nomination or election to any public office; no person seeking appointment to or promotion in the classified service of the city shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or on account of or in connection with his appointment, proposed appointment, promotion, or proposed promotion; no person shall orally, by letter or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the city; no person holding a position in the classified service of the city shall~~

~~make any contribution to the campaign fund of any political party or any candidate for public office or take any part in the management affairs or political campaign of any political party or candidate for public office, further than in the exercise of his right as a citizen to express his opinion and to cast his vote.~~

(b) No person in the classified service of the City shall participate in political activity during working hours or while representing the City in an official capacity. Any member of the classified service who is elected or appointed as Mayor or a member of the City Council must resign their position with the classified service prior to taking office.

~~(b)~~ (c) Any person who by himself or with others willfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment for a term not exceeding thirty (30) days, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five (5) years be ineligible for appointment to or employment in a position in the city service, and shall, if he be an officer or employee of the city, immediately forfeit the office or position he holds.

Section 2 – BE IT FURTHER RESOLVED that the date of the adoption of this resolution is January 5, 2009, and that the amendment to the Charter of the City of Gaithersburg, as herein adopted, shall be and become effective on February 24, 2009, unless on or before said date a proper petition for referendum of this resolution shall be filed as permitted by law.

Section 3 – BE IT FURTHER RESOLVED that a complete and exact copy of this resolution shall be posted at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland 20877, until February 19, 2009, and a fair summary of the proposed Charter amendment contained in this resolution shall be published in a newspaper of general circulation in the City of Gaithersburg not fewer than four (4) times at weekly intervals before February 19, 2009.

Section 4 – AND BE IT FURTHER RESOLVED that as soon as the Charter amendment hereby enacted shall become effective, either as herein provided or following a referendum, the City shall send or cause to be sent to the Department of Legislative Reference the following information concerning this Charter resolution: (1) the complete text of this resolution; (2) the date of enactment of the Charter amendment; (3) the date of the referendum election, if any; (4) the number of votes cast for or against this resolution whether by the City Council or in a referendum; and (5) the effective date of the Charter amendment contained herein.

ADOPTED by the City Council this day 5th of January, 2009.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City Council in a public meeting assembled on the 5th day of January, 2009. This Resolution will become effective on the 24th day of February, 2009.

Angel L. Jones, City Manager

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
Single strikethrough	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
Double boldface strikethrough	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>