CITY OF ROCKVILLE
COMPENSATION COMMISSION REPORT
March 20, 2015

INTRODUCTION

In accordance with Chapter 2, Section 2-21 of the Rockville City Code, the Compensation Commission met between January and March, 2015, to discuss and prepare a recommendation for the Mayor and Council's annual compensation. Members of the Commission are: Jim Coyle (Chair), Norm Hampton, James Marrinan, and Thomas McKenna. Assisting the Commission were Acting City Clerk, Sara Taylor-Ferrell, Deputy City Clerk Brenda Bean, and City Attorney Debra Daniel. In addition, staff from the Finance and Human Resources Departments provided important data and information.

2013 COMPENSATION COMMISSION REPORT

The Compensation Commission was gratified that the Mayor and Council in 2013 approved without change the recommendations set forth in the 2013 Compensation Commission Report. The Commission is especially appreciative of the process installed by the City Manager that assures the calculation and addition to the Mayor and Council's compensation any positive change in the Washington-Baltimore CPI-U. This process has assured that the future Mayor and Councils will remain properly compensated for their commitment to the community.

RESEARCH

The Compensation Commission undertook a wide-ranging review of all previous reports, as well as new data requested of staff by Commission members. In addition, the Commission undertook thoughtful discussion with City staff and among the Commission members, as well as several conversations with former City Staff and a public hearing as part of its research and analysis of Mayor and Council compensation.

This year the Commission received an e-mail request from the City Manager to include in the Commission's report a discussion regarding benefits provided to the Mayor and Council. In addition, the City Manager's e-mail noted that the Mayor and Council had expressed an interest in having the Compensation Commission discuss the issue of cell phone allowances. The City Manager suggested that the Commission discuss what expenses the current Mayor and Council stipend is intended to cover and whether a separate cell phone allowance is warranted.

In response to the City Manager's e-mail, the Compensation Commission first looked into whether employee benefits were considered compensation under State and local law in order to determine whether this issue was within its authority to consider. The Commission concluded that any monies paid by the City to subsidize the premiums for any benefits provided to the Mayor and Council did constitute compensation under State and local law and, therefore, the Commission's consideration of what benefits if any, should be offered to the Mayor and Council were within the Commission's authority to consider.

The Commission then considered whether the Mayor and Councilmembers were considered employees under the City Charter and Code. The Commission concluded that under the City's Charter and Code, the Mayor and Council are not employees of the City. The Commissioners concluded that the Mayor and Council is analogous to a corporate part-time Board of Directors. The Commission also looked into whether the City paid a portion of the Mayor and Council's tax withholdings and discovered that for federal tax purposes, the IRS classifies elected and appointed officials as employees of the government for whom the official serves. Thus, the City is responsible for withholding and paying federal income taxes, social security, and Medicare taxes and the Mayor and Councilmembers receive W-2s.

The Commission then looked into what, if any, benefits were currently being offered to the Mayor and Council and discovered that the Mayor and Council were currently being offered certain employee benefits including health insurance, dental insurance, vision insurance, life insurance and legal resources. In addition, the Commission discovered that the Mayor and Council members were receiving the benefits in the same manner as full-time employees and, as such, for some of the benefits offered, a certain amount of the premiums were being paid by the City. These benefits include health insurance, dental insurance, vision insurance, and basic life insurance. For legal resources and supplemental life insurance, both employees and the Mayor and Council are currently paying 100% of the premiums themselves.

The Commission tried to determine when the Mayor and Councilmembers were first offered these benefits but was unable to determine when these benefits first began to be offered to the elected officials. It appears, based on the recollection of certain Commissioners and on information provided by City staff as well as from conversations with former City staff members, that certain benefits, in particular health insurance, have been offered to Mayor and Councilmembers for over 20 years, possibly dating back to the late 1980s. It is unclear when the other benefits began to be offered to the Mayor and Council.

The Compensation Commission researched how other jurisdictions handle benefits for their elected officials. In summary, of the 27 Maryland jurisdictions from which the Commission received information, 21 of the jurisdictions did not offer employee benefits to the elected officials. Of the six jurisdictions that offer some employee benefits, two of the jurisdictions require that the elected officials pay the full amount of the premiums themselves, three offer the benefits in the same manner offered to full-time employees, and one splits the premiums with the elected officials.

The Compensation Commission also looked at the Mayor and Council's budget to determine how much the City has spent on benefits for the Mayor and Council in the past couple of years. In FY 2013, the City paid $20,311 for Mayor and Councilmembers' health, life and dental insurance. In FY 2014, the City paid $27, 068 and the budgeted amount for FY 2015 for these benefits is $19,960. As of December 12, 2014, the City has paid out $14,460 for Mayor and Councilmember benefits for FY 2015. According to the information provided to the Commission, the FY 2016 estimated amount for Mayor and Councilmember health, life and dental insurance is $34, 670.

PUBLIC HEARING

The Commission's meetings were advertised and public input was welcome at every session. In addition, the Commission held a public hearing on March 10, 2015. Five people spoke at the public hearing. With respect to the Mayor and Council's compensation, the input the Commission received can be summarized as follows:

- The Mayor and Councilmembers' compensation should be increased.
- The Mayor and Councilmembers should continue to have access to employee benefits as they do now.
- The Mayor and Councilmembers should receive monies for the use of their cell phones for City business purposes.
- Serving on the Mayor and Council may impose financial burdens on those members and discourage serving as an elected official.

DISCUSSION

The Compensation Commission was created by ordinance in 1994 and, since that time, it does not appear that the Commission has ever addressed the issue of providing benefits to the Mayor and Councilmembers. In addition, there does not appear to be any written policy addressing the provision of benefits to the Mayor and Council. As discussed above, the Commission has concluded that compensation under State and local law includes benefits and, therefore, whether to continue providing benefits and, if so, in what manner, is a proper consideration for the Commission.

The Commission discussed at length the role of the Mayor and Council and what the compensation was intended to cover. The Commission concluded that the City's elected officials, based on the duties of the Mayor and Council set forth in the City's Charter and Code, were intended to be essentially, the City's Board of Directors. The Commission noted in its discussions that Board of Directors are typically volunteers and unpaid. The Commission agrees that the Mayor and Councilmembers are essentially volunteers and concludes that the Mayor and Council's compensation was never intended to be a salary for the Mayor and Councilmembers but was only intended to offset any personal costs incurred by the elected officials in serving the community. These personal costs includes such items as time lost from work; time away from family; attending community meetings; time and effort reviewing agendas and various City documents; the cost of spousal participation in official events; and the purchase of personal items, such as, cell phones, office materials, etc., that aid in their community work.

Based on the Commission's conclusion of what the compensation is intended to cover, the Commission does not recommend providing additional monies to the Mayor and Councilmembers for the use of cell phones. It is the opinion of the Commission that any cell phone expenses should be and were intended to be covered by the Mayor and Council's annual compensation.

With respect to employee benefits, the Commission reiterates its conclusion that the Mayor and Council are the City's volunteer Board of Directors. It is the conclusion of the Commission that the Mayor and Council, under the City Charter and Code, are not employees of the City. Consistent with this

interpretation, the Commission notes that the Mayor and Councilmembers do not receive the full benefits of full-time employees such as vacation, sick leave, retirement, etc. Based on these conclusions, it is the opinion of the Commission that the Mayor and Council should not receive City-paid employee benefits. The Commission notes that the current benefits received by the Mayor and Council are not inconsequential. Based on the current rates for the benefits offered to the Mayor and Council, if all members of the Mayor and Council participated in each benefit offered, it would cost the City about $80,000 per year. Moreover, the Commission notes that the current system of offering the Mayor and Council benefits and providing City-paid subsidies of benefits chosen by certain Mayor and Councilmembers results in members of the Mayor and Council receiving unequal amounts of monies from the City depending on the what benefits, if any, they choose. The Commission notes that this is inequitable to those Mayor and Councilmembers who do not choose to participate in City-paid benefits.

The Commission does not recommend continuing to offer the Mayor and Councilmembers City-paid benefits. It is the conclusion of the Commission that the inequity it raises among Mayor and Councilmembers is undesirable. Instead, the Commission recommends giving access to benefits to the Mayor and Councilmembers on the condition that they pay 100% of the premiums.

In coming to this recommendation, the Commission reiterates its conclusion that the Mayor and Councilmembers' compensation was never intended to be a salary and, consequently, it was never intended that Mayor and Councilmembers would rely on the City for City-paid benefits. However, from time to time, a member of the Mayor and Council, if eligible, may want to access certain employee benefits. The Commission is not opposed to this access on the condition that the member pays 100% of the cost of that benefit.

With respect to the current provision of benefits to the Mayor and Council, the Commission recognizes that these benefits are not new to the current Mayor and Council and have been offered for many years to the Mayor and Councilmembers. The Commission also recognizes that the City has lacked an approved Commission policy on this issue. However, in accordance with the City's Code, the Commission's recommendations do not address providing benefits to the current Mayor and Councilmembers and only addresses recommendations for the compensation of the Mayor and Council that will take office after the 2015 election.

The Commission also considered whether reimbursements to the Mayor and Council are part of the Mayor and Council's "annual compensation." The Commission concluded that reimbursements for expenses associated with carrying out the Mayor and Council's official duties such as travel expenses for attending out-of-town conferences and expenses related to attending official lunches or dinners, are not part of the Mayor and Council's annual compensation. This conclusion is based, in part, on the provision in Section 2-21 of the City Code that states that compensation payments shall be made in "equal biweekly installments." Clearly, reimbursements are not made in equal biweekly installments but, instead, are made as expenses are incurred. In order to make it clear that reimbursements are separate from annual compensation, the Commission recommends that the Mayor and Council adopt a provision in the City Code providing that the Mayor and Council may receive reimbursements for expenses incurred conducting official City business in accordance with the same policies that apply to City

employees.

With respect to the Mayor and Council's annual compensation, it is the conclusion of the Compensation Commission to continue to recommend that the compensation be increased by the positive change, if any, in the Washington-Baltimore CPI-U for the twelve months preceding the previous November, for the next Mayor and Council. This will assure that the Mayor and Council's compensation remains whole moving forward for the next Mayor and Council over the upcoming four-year term. In addition, the Commission recommends increasing the Mayor and Council's base compensation in recognition that, in the past, the Mayor and Council have not increased its compensation by the positive increase in the CPI-U as recommended by the Commission. In particular, the Mayor and Council either rejected or refused to fund the Commission's recommended increase from 2007 to 2011.

In addition the Commission recognizes that the base compensation, not including the approved CPI-U adjustments, has not been adjusted for 10 years. The next Compensation Commission will not meet until 2019 due to the new four-year election cycle starting in 2015. If an adjustment is not recommended in this Commission Report, the base compensation will not have been adjusted, except for the CPI-U, for 14 years.

The Commission, as required by the City Code, reviewed the compensation levels of local cities in the State of Maryland, as well as, in the Washington Metro area. Although Rockville is in the top tier of those local jurisdictions with similar populations, the Commission deems it appropriate to increase the Rockville compensation to maintain Rockville's position with comparable jurisdictions in this top tier going forward for the next several years.

In addition, the Rockville Charter Review Commission Report of 2012 (see below), discussed the role of the Mayor and Council in making its recommendations. Their recommendation that the terms of office for Rockville's Mayor and Councilmembers be extended to four year was, in part, in recognition of the change in the complexity of our city governance, especially in its work with the State, County, and business communities. This complexity also includes the variety of communications including new social media that our elected officials undertake in carrying out their responsibilities. Although the basic responsibilities of the Mayor and Council, as recognized by the Charter Review Committee, have not changed in our form of government, the complexity of work involved certainly has changed.

Specifically, the Charter Review Commission stated as follows:

> One of the Commission's goals was to find ways to improve the effectiveness of overall governance in the City, taking into account Rockville's growing population and increasing diversity and their associated demands. Another goal established by the Commission was to encourage, bring forth and facilitate civic leadership. Both of these goals were examined as they relate to the capacity and responsibility of the City's elected officials who are not only committed to public service, but also invest considerable time, energy and other resources in carrying out their responsibilities. Based on this analysis, the Commission believes that longer terms— specifically four-year terms—will improve overall governance in the City.

The Commission wants to recognize the Charter Review Commission's objective and the current reality in City governance by its recommendations of an additional increase in the Mayor and Council's compensation levels above the CPI-U related adjustments.

FY2015-16 COMPENSATION RECOMMENDATIONS

The 2015 Compensation Commission was able to come to a complete consensus on the recommendations for Mayor and Council compensation as set forth below:

1. Beginning with the Mayor and Council elected in 2015, the Mayor's compensation amount be increased to $31,500 and the Council's compensation be increased to $25,500 which includes an increase over the current Mayor and Council's compensation to make up for past failures to fund the Commission's recommended increases as well as an additional increase to recognize the changing complexity of City governance and maintaining comparability to other similar local jurisdictions.

2. For Fiscal Year 2017, 2018, 2019 and 2020, the monetary compensation for the Mayor and Council be increased by the positive change, if any, in the Washington-Baltimore CPI-U for the twelve months preceding the previous November. The Commission further recommends that the Mayor and Council direct the City Manager to continue the established process of ensuring that the correct authorized compensation levels as set by the Mayor and Council are included in future budgets.

3. That the Mayor and Councilmembers continue to have access to City-offered benefits with 100% of the premiums to be paid by the Mayor and Councilmembers.

4. That the Mayor and Councilmembers continue to be allowed reimbursements for expenses related to official City business under the same policies that apply to City employees.

RECOMMENDED CODE AMENDMENTS

In addition, the Compensation Commission recommends that the Mayor and Council amend Section 2-21 of the City Code as follows:

1. Change the first clause in subsection (c) to reflect that the Compensation Commission should meet every four years (as opposed to every two years) starting in 2019.

2. Add a provision making clear that the Mayor and Councilmembers are entitled to reimbursements for expenses incurred in the performance of the official duties of the Mayor and Council in accordance with the policies applicable to City employees.