

To: Philippa Guthrie, Corporation Counsel; Mick Renneisen, Deputy Mayor; all department heads; and Councilmembers
From: Steve Volan, Councilmember, District VI
Date: January 14, 2020
Re: Response to Guthrie memo and other concerns over Resolution 20-01

Introduction and apology

The proposal to create new standing committees has sparked a much larger concern over the relationship between the Administration and Council. The unqualified use of the word "oversight" in Resolution 20-01, and the reference to city code regarding "removal" or "impeachment" of city employees in the Organizational Plan which accompanied the resolution, gave many Administration officials grave concern that the objectives of the proposal were to allow Council to usurp the Administration's authority to run the city.

After reviewing the documents, I understand how some staff came to these upsetting conclusions, and regret the alarm that this language has caused. It was unequivocally not my intent to ascribe to Council authority that belongs to the executive. I hope that department heads, personnel in the Mayor's office, and others who have read these documents will accept my sincere apology for causing such alarm.

Below I clarify the two statements that have caused this controversy. One, the assertion that Council can impeach and remove a city employee, is from a section of city code that has been superseded in recent years by new statute. The other, the implication that "oversight" by Council is a usurpation of the power of executive-branch officials to run their departments, was caused by my lack of care to be more specific about the multiple meanings of "oversight" and "supervision."

"Impeachment and removal"

It is clear that, since BMC 2.04.200 was last updated in 1979, Council's investigatory powers have been limited. I accept Ms. Guthrie's correction from statute; the phrase "and to remove any officer or employee against whom charges are sustained" should itself be removed, by ordinance, as Council no longer has that authority. (This is another reason why I agree with the Mayor that BMC Title 2 needs to be addressed for reasons beyond Administration concerns about boards and commissions.)

"Oversight" by Council: inspection, not supervision

Ms. Guthrie is correct in her memo of Jan. 8 that IC 36-4-9-4 (b)

clearly places departments are under the jurisdiction of the executive. It is good to see that she agrees that "the Council has investigatory powers."

But the Administration makes a significant issue of the word "supervision" as justification for their concern over this proposal. Ms. Guthrie wrote, "In addition, we could find no statutory provisions granting Council supervision of city departments, officers and employees. In fact, that power is granted by state law to the Executive in IC 36-4-9-4."

"Supervise" is literally from the Latin for "oversee." Merriam-Webster defines two senses of the word "oversee": it can indeed mean to "supervise" as department heads do, but it also means to "inspect" or "examine." This latter definition is the sense in which I described the Council's role in the Organizational Plan. It is also the way in which I have always interpreted both our code and statute wherever the word "supervise" has come up.

The Council must have this authority to "inspect" or "examine." Under IC 36-4-9-4 (a), Council is responsible for creating by ordinance each department "that it considers necessary." Under IC 36-4-9-4 (d), Council may approve the termination of a department upon the recommendation of the executive, but is not required to. Council could not make either type of decision without being able to "inspect" or "examine" the operation of departments.

Conclusion

The concerns raised during my presentation of Resolution 20-01 last Friday go beyond the creation of committees to how Council works with the Administration altogether. The concerns appear to vary among departments, but it's clear that these concerns have been long in the making.

As president of Council for the first time, and as its recent long-time parliamentarian, I take each department's concerns about Council process seriously. I want to understand what isn't working for each, by meeting with each department and division head who has concerns. And I want to fix those issues that are within my power to fix.

I have already begun reaching out to those who attended Friday to set up a time starting this week to hear about these problems. I am happy to meet with any other staff member concerned; I ask simply that they contact me.

#