

ORDINANCE 2023-03-006

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON REGARDING THE CIVIL SERVICE COMMISSION; AMENDING CHAPTER 3.16 OF THE BELLINGHAM MUNICIPAL CODE

WHEREAS, the Civil Service System in the City of Bellingham is established in Article VII of the City Charter and Chapter 3.16 of the Bellingham Municipal Code; and

WHEREAS, the Commission provides for the classification of all employees, except those exempted by charter, ordinance, or state or federal law, and provides for the open, competitive, and free examination of candidates as to fitness for City employment; and

WHEREAS, the Public Employees Collective Bargaining Act, RCW 41.56 ("the Act"), gives public employees the right to join and be represented by labor organizations of their own choosing and provides a uniform basis for implementing that right; and

WHEREAS, the Guild of Pacific Northwest Employees, Local No. 1937 ("Local 1937") represents employees in various City of Bellingham ("City") departments, the Museum, the Library, and Bellingham Municipal Court; and

WHEREAS, under the authority of RCW 41.56, the City and Local 1937 entered into a Collective Bargaining Agreement ("Agreement"), effective January 1, 2022 through December 21, 2023, which covers Court employees; and

WHEREAS, on September 23, 2022, the Court and Local 1937 entered into a Memorandum of Agreement agreeing, among other things, to exclude Municipal Court employees from Civil Service; and

WHEREAS, under Washington law, an agreement between a municipality and a union to exclude a workgroup from civil service controls over any contrary provisions in municipal code; and

WHEREAS, it is therefore necessary to amend Bellingham Municipal Code 3.16.010 to recognize that Municipal Court employees are no longer part of the City's Civil Service system; and

WHEREAS, the Civil Service Commission conducts appeals on matters within its purview, including but not limited to job audit and disciplinary appeals; and

WHEREAS, the City Attorney's Office is currently tasked under applicable Charter and Code provisions with providing legal counsel to both the Civil Service Commission and to the department head whose decision is on appeal before the Commission; and

WHEREAS, to better promote the appearance of fairness in all matters and appeals that come before the Commission, the City Attorney's Office has recommended that BMC 3.16 be amended to provide for the appointment of special counsel to serve as legal advisor to the Civil Service Commission on all matters and appeals; and

WHEREAS, the appointment of special counsel for special matters is authorized by Section 6.03 of the City Charter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLINGHAM DOES HEREBY ORDAIN THAT:

Section 1. Bellingham Municipal Code is amended as set forth below in strikethrough/underline format. Only those sections being amended are shown. All other sections remain unchanged.

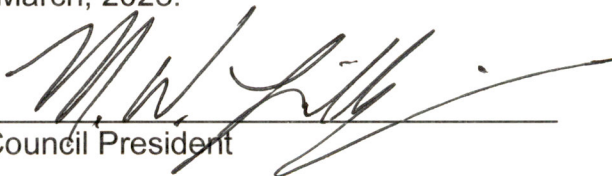
3.16.010 Extended to certain departments.

Civil service is hereby extended to all positions and employees within the city's collective bargaining units, except: (A) those in the supervisory and professional unit; (B) library, municipal court and museum positions and employees; and (C) positions of less than 20 hours per week or those not expected to continue more than nine consecutive months, and the employees filling those positions.

3.16.040 Legal counsel.

Legal counsel to the civil service commission shall be provided by special counsel licensed to practice law in the state of Washington. The special counsel shall be appointed by the mayor, confirmed by city council, and shall serve at the pleasure of the civil service commission, provided that sufficient funds have been appropriated for that purpose. ~~a designated attorney within the city attorney's office. The city attorney's office shall take measures to ensure that all rules of professional conduct, including rules regarding conflict of interest, are met when providing such legal counsel.~~

PASSED by City Council this 13th day of March, 2023.




Council President

APPROVED by me this 15th day of March, 2023.



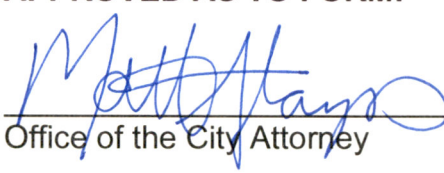
Mayor

ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

Published:

March 17, 2023
