



DATE: February 27, 2018

CATEGORY: Consent

DEPT.: City Manager's Office and City Attorney's Office

TITLE: **Consideration of Amendments to City Policies to Clarify Membership Requirements and Allow City Employees to Serve on City Advisory Bodies**

RECOMMENDATION

Approve the Council Procedures Committee's (CPC) recommendations to clarify membership requirements for City advisory bodies and to enact a two-year pilot program which would allow City employees to serve on non-Charter City advisory committees, to be enacted through the following actions:

1. Amend City Council Policy K-2, Council Advisory Body Appointments (Attachment 1 to the Council report).
2. Adopt a Resolution Superseding Resolution No. 16148 of the City Council Establishing a Human Relations Commission (Attachment 2 to the Council report), to be read in title only, further reading waived.
3. Adopt a Resolution Superseding Resolution No. 15980 of the City Council Establishing a Performing Arts Committee for the City of Mountain View (Attachment 3 to the Council report), to be read in title only, further reading waived.
4. Direct the City Clerk's Office to Amend Pages A-10 and B-1 of the Council Advisory Bodies Handbook (Attachment 4 to the Council report).

BACKGROUND

This item addresses two aspects related to advisory body membership eligibility that have been discussed by the CPC in a series of meetings in 2015 and 2017; the first issue seeks to clarify membership requirements related to immigration status; the second issue establishing a pilot program relates to allowing City employees to serve on City

advisory bodies. The CPC has recommended the above policy changes for Council approval.

The City has a number of advisory boards, commissions, and committees, each with a specific focus. Rules governing the eligibility, selection process, and conduct of advisory body members are contained in four City documents: the City Charter (Charter); the Council Policy Manual (Policy Manual); the Council Code of Conduct (Code of Conduct); and the Council Advisory Bodies Handbook (Handbook). Within the different regulations, there are subtle distinctions as to eligibility requirements for membership.

The City Charter created three boards and commissions:

- Library Board of Trustees
- Environmental Planning Commission
- Parks and Recreation Commission

Subsequently, the City Council created a number of different advisory bodies, each with a very specific and focused mission, commonly referred to as “advisory committees” as follows:

- Human Relations Commission
- Bicycle/Pedestrian Advisory Committee
- Downtown Committee
- Performing Arts Committee
- Senior Advisory Committee
- Visual Arts Committee
- Youth Advisory Committee

These advisory bodies are not governed by the Charter, but rather by other City regulations. The recommendations under consideration are limited only to advisory committees not created and governed by the Charter.

ANALYSIS

Clarification of Membership Requirements Related to Immigration Status

The impetus for this action began when the CPC met on January 27, 2015 and moved to recommend to Council that, with the exception of the three Commissions established by the City’s Charter, all members of advisory bodies be required to take either the State of California Constitutional oath or, if not a U.S. citizen, take an oath prepared by the City

Attorney that will be specific to performing duties as a member of the City advisory body. The bodies included in the Charter (the Environmental Planning Commission, Library Board, and Parks and Recreation Commission) were not included because the Charter requires members of these bodies be qualified electors of the City.

The City Council considered the CPC's recommendation on February 10, 2015. The Council report for this meeting noted the CPC's interest in removing the requirement that advisory body members be registered voters was to ensure that "non-Charter advisory bodies reflected the community as a whole, which includes noncitizens." Because this matter was raised in a specific context and the term "noncitizen" was not defined, it has not been clear whether Mountain View residents with undocumented immigrant status are eligible for membership on non-Charter advisory bodies. However, based on recent Council action related to equitable treatment for Mountain View residents, staff brought the matter back to the CPC on November 28, 2017. (The staff report for the November 28, 2017 CPC item is included as Attachment 5).

At that meeting, the CPC voted (3-0) to:

1. Recommend that the City Council clarify that Mountain View residents (or other constituencies, depending on the particular membership requirements of individual advisory bodies) are eligible for membership on non-Charter advisory bodies regardless of immigration status.
2. Direct staff to revise relevant policy documents to reflect this clarification and to provide general consistency and clarity regarding the membership eligibility requirements for non-Charter advisory bodies.

Allowing City Employees to Serve on City Advisory Committee Bodies:

Based on a citizen request, on July 29, 2017, the CPC reviewed City policies to explore the possibility of allowing City employees to serve on City advisory committees where no conflict exists between the work performed by the employee and the role as an advisory body member. The CPC made a recommendation to Council to adopt a two-year pilot program limited to allowing City employees to serve on advisory committees not governed by the City Charter.

The CPC's recommendation was for Council to remove the Handbook's prohibition against advisory committee members from also being employees of the City to enable a two-year pilot period. The Handbook also contains provisions specific to the

Performing Arts Committee which also need to be amended. In addition, parallel revisions to the Policy manual are required to be consistent with the Handbook.

The July 29, 2017 CPC staff report describes in detail the philosophy behind the employee prohibition. In simplest terms, advisory bodies make policy recommendations to the City Council on areas within their purview. Staff's role, on the other hand, is to implement this policy direction and perform the day-to-day work necessary to bring issues and projects before the advisory bodies for their consideration. Usually, separation between these two areas is desirable to avoid a potential conflict.

For example, a City Public Works employee could be in charge of a project to install public art at the Library. It would pose a conflict for this employee to also serve on the Visual Arts Committee, whose role it is to make recommendations on that same art installation. The CPC's recommendation to amend the Handbook to remove the employee prohibition, therefore, includes protective language which would prohibit conflicting roles.

The CPC's main rationale for recommending the removal of the prohibition on City employees serving on advisory committees is to increase opportunities for public service on committees with focused missions by allowing City employees to serve as members provided they meet other eligibility requirements.

The CPC voted (2-1, Committee members McAlister and Showalter—Yes; Committee member Abe Koga—No) to recommend that the City Council adopt the necessary amendments in City policies to allow City employees to serve on City advisory committees. The CPC also recommended the amended policies be tested as a pilot program for a period of two years.

Recommended Policy Language Revisions

The policy documents requiring amendments to clarify membership eligibility regarding immigration and City employment status are: the Council Policy Manual; the Council Advisory Bodies Handbook; and the resolutions establishing the Human Relations Commission and Performing Arts Committee. The amendments are shown in tracking in attachments to this report. These documents establish a two year pilot program that would begin on February 27, 2018 and terminate on February 27, 2020, unless further action is taken by the City Council. A representative example of the amended text (with deletions shown in ~~strikeout~~ and additions shown underlined) from the Resolution establishing the Human Relations Commission, which appears in substantially the same form throughout the other amended documents, is as follows:

Establishment of Commission.

The City of Mountain View Human Relations Commission (HRC) is hereby established and shall consist of seven (7) voting members to be appointed by the City Council. All candidates for membership ~~must be registered voters of the City~~ and may not be a current officeholder ~~or employee~~ of the City. Mountain View residents are eligible for membership regardless of immigration status. Appointments made during a two-year pilot period beginning February 27, 2018 may include individuals who are employed by the City of Mountain View if there is no conflict between the duties, functions, or responsibilities of the Commission position and the roles and duties of the City employment position, and provided the individual meets other advisory body eligibility requirements. The Pilot Program will terminate February 27, 2020, unless further action is taken by the City Council. The candidates chosen should be representative of the community as a whole.

FISCAL IMPACT

There is no fiscal impact for this item.

ALTERNATIVES

Council could decline to follow the CPC's recommendation and not adopt amendments to City policies to clarify membership requirements and allow City employees to serve on City advisory bodies.

PUBLIC NOTICING – Agenda posting.

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KC/2/CAM
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- Attachments:
1. Amendments to Council Policy K-2
 2. Resolution Superseding Resolution No. 16148 of the City Council Establishing a Human Relations Commission
 3. Resolution Superseding Resolution No. 15980 of the City Council Establishing a Performing Arts Committee
 4. Amendments to the Council Advisory Bodies Handbook
 5. November 28, 2017 CPC Report