



## City Council Agenda Item

**City Council Meeting Date:** February 1, 2022

**TO:** Honorable Mayor and City Councilmembers

**FROM:** Jeff Malawy, City Attorney  
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**SUBJECT:** Introduction of Ordinance No. 1688(22) and Adoption of Resolution No. 6474(22) Changing the Method For Filling Vacancies on Some City Commissions to Allow Commissioners to Be Appointed from Outside the Appointing Councilmember's District, in Some Circumstances

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### **Recommendation:**

Staff recommends the City Council:

- 1) Introduce, for first reading by title only with further reading waived, Ordinance No. 1688(22) changing the method for filling vacancies on the Beautification & Appearance Commission, Parks & Recreation Commission, Planning Commission, and Utility Commission to allow commissioners to be appointed from outside of the appointing Council Member's district, in some circumstances (Attachment 1); and
- 2) Adopt Resolution No. 6474(22), changing the method for filling vacancies on the Human Services Commission and Public Safety Commission to allow commissioners to be appointed from outside of the appointing Council Member's district, in some circumstances, by updating the Commission Handbook to include these new procedures (Attachment 2).

### **Background:**

At its meetings on December 15, 2020, and January 5, 2021, the City Council took action to require that members of certain City commissions reside in the same district as the Council Member who nominated them for appointment. This action applied to the Beautification & Appearance, Human Services, Parks & Recreation, Planning, Public Safety, and Utility Commissions. Effective March 16, 2021, all seats on those commissions were vacated and were thereafter required to be filled in accordance with the new requirements.

At its meeting on December 7, 2021, the City Council directed staff to make further revisions to the appointment method for members of those commissions, in order to

provide some flexibility in the event that a candidate to fill the commission seat could not be found within the nominating councilmember's district.

Staff has prepared an ordinance and resolution, which, if adopted, will bring about the changes requested by the City Council at the December 7 meeting. The changes are discussed in further detail below.

**Discussion:**

Staff has prepared both an ordinance and a resolution because some commissions are governed by ordinance and others by resolution. However, the same changes to the current appointment structure are included in both the ordinance and resolution.

Under current procedures, if the Council Member entitled to make a nomination does not nominate a person to fill a vacant commission seat for six consecutive regular or adjourned City Council meetings, then the Mayor or any other Council Member may make a nomination and such nominee may be appointed by a majority vote of the City Council. However, the nominee still must reside within the district of the Council Member originally entitled to make the nomination.

This current process would be replaced by the procedure in the proposed ordinance and resolution.

*Proposed Changes*

The proposed changes are as follows, and are intended to implement the City Council's direction at the December 7 meeting:

1. If no qualified person has filed an application to fill a commission vacancy within 90 days after the vacancy was created or a previous commissioner's term expired, then the Council Member entitled to make a nomination may nominate a person from any district to fill the commission seat, so long as the person meets all the other qualifications to fill the seat.
2. If the nominee is appointed, then the appointee will be considered a "temporary appointee."
3. A temporary appointee's term shall expire either:
  - (i) 12 months following the date of appointment, unless a majority of the City Council votes to extend the term, or
  - (ii) concurrently with the expiration of the term of office of the nominating Council Member if the nominating Council Member is not reelected, whichever occurs first.

Upon expiration of their term, the temporary appointee shall stop serving on the commission immediately, regardless of whether a successor has been appointed.

4. A temporary appointee may not be reappointed to the same seat on the commission as a temporary appointee after the expiration or termination of the temporary term.
5. If, during the term of the temporary appointment, an application is submitted by a person who is qualified to fill that commission seat (including living in the relevant district), the City Clerk shall place an item on the next available City Council agenda for the City Council to consider appointment of the applicant.
6. If the applicant is appointed, then such person shall immediately replace the temporary appointee.

#### *Amendment to Commission Handbook*

The proposed resolution would update the Commission Handbook to reflect these new appointment procedures. The changes to the Handbook would become effective on the date that the proposed ordinance becomes effective. The redlined pages of the updated Handbook are attached to this staff report (Attachment 3).

#### *Notice of Unscheduled Vacancies*

Government Code Section 54974 requires the City to provide notice to the public whenever an unscheduled vacancy occurs in any board, commission, or committee for which the legislative body has the appointing power. Pursuant to direction from City Council at the December 7 City Council meeting, commission seats filled by temporary appointees will still be treated as vacant for purposes of this required notice to ensure that members of the public are aware that they can still apply to fill the seats with temporary appointees.

#### **Fiscal Impact:**

There is no fiscal impact due to the changes proposed to the Handbook, as copy and printing charges would be covered in the City Clerk's regular budget.

#### **Conclusion:**

Adoption of the proposed ordinance and resolution would put into effect the direction given by the City Council at the December 7 meeting and would provide more flexibility regarding appointment of commissioners.

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Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Jeff Malawy', is written above a horizontal line.

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Jeff Malawy, City Attorney

- Attachments:
- 1) Ordinance No. 1688(22)
  - 2) Resolution No. 6474(22)
  - 3) Redlined Pages of Commission Handbook Showing Changes