

ITEM 9.G.

MOORPARK CITY COUNCIL AGENDA REPORT

TO: Honorable City Council

FROM: Deborah Traffenstedt, Administrative Services Director/City Clerk *DST*
BY: Maureen Benson, Assistant City Clerk *mb*

DATE: June 24, 2009 (CC Meeting of 7/1/09)

SUBJECT: Consider Ordinance Amending Sections 2.32.020 and 2.32.030 of Chapter 2.32, Parks and Recreation Commission; Sections 2.36.020 and 2.36.030 of Chapter 2.36, Planning Commission; Sections 2.38.020 and 2.38.030, of Chapter 2.38, Moorpark Arts Commission; and Section 2.04.070 of Chapter 2.04, City Council; of Title 2 – Administration and Personnel of the Moorpark Municipal Code

DISCUSSION

The City Council had previously given staff direction to standardize the Municipal Code chapters for the City's Parks and Recreation, Planning, and Arts Commissions related to the term of office. Staff has drafted an ordinance to revise the Membership-Term of Office sections for all three commissions (Sections 2.32.020, 2.36.020, and 2.38.020) to provide consistency and is also recommending deletion of the sentence "The term of the ex officio or advisory member shall correspond to their respective terms of office" from Sections 2.32.020.A and 2.36.020.A. The City Attorney has confirmed that this deletion is appropriate, since the commissioners are not elected.

Another language consistency change staff is proposing is to remove "No member of the city council shall be eligible for membership" from Section 2.38.020 (Arts Commission) and add "No member of the City Council shall be eligible for membership on any city commission" to Section 2.04.070 of Chapter 2.04 (City Council).

At the May 20, 2009, regular City Council meeting, the Council removed an item from the agenda calendar pertaining to a proposed agreement with a company owned by a seated Commissioner to perform services for compensation for the City. Council requested the City Attorney address this issue to determine if changes were needed in the Municipal Code to clarify compensation for Commissioners to avoid any appearance of impropriety or any perception of bias. The City Attorney has provided amendments to the language of the Commission Qualifications sections of the Municipal Code (Sections 2.32.030, 2.36.030, and 2.38.030) to address these concerns.

The City Attorney's office has reviewed and concurs with the revisions shown with legislative format in the attached draft ordinance. The final ordinance would not include legislative format.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

Introduce Ordinance No. ____ for first reading, waive full reading, and schedule second reading and adoption for July 15, 2009.

Attachment: Draft Ordinance

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING SECTIONS 2.32.020 AND 2.32.030 OF CHAPTER 2.32, PARKS AND RECREATION COMMISSION; SECTIONS 2.36.020 AND 2.36.030 OF CHAPTER 2.36 PLANNING COMMISSION; SECTIONS 2.38.020 AND 2.38.030 OF CHAPTER 2.38, MOORPARK ARTS COMMISSION; AND SECTION 2.04.070 OF CHAPTER 2.04, CITY COUNCIL; OF TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE MOORPARK MUNICIPAL CODE

WHEREAS, the City Council seeks to standardize the language in Sections 2.32.020, 2.36.020, and 2.38.020, Membership--Term of office, for the Parks and Recreation Commission, Planning Commission and Moorpark Arts Commission; and

WHEREAS, the verbiage "The term of the ex officio or advisory members shall correspond to their respective terms of office" as contained in Sections 2.32.020 and 2.36.020 applies to elected positions, not appointed positions and should be deleted; and

WHEREAS, the verbiage "No member of the city council shall be eligible for membership." contained in Section 2.38.020, more appropriately belongs in Section 2.04.070; and

WHEREAS, the City Council finds and determines that the Moorpark Municipal Code contains provisions that govern the qualifications of persons eligible to serve on Moorpark commissions; those provisions indicate that members of Moorpark commissions shall not hold remunerative offices or positions with the City in addition to their service on the commissions; and in order to avoid the appearance of impropriety or any perception of bias, the City Council wishes to further refine such provisions in Sections 2.32.030, 2.36.030 and 2.38.030.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2.32.020 of the Moorpark Municipal Code is hereby amended in its entirety to read as follows:

2.32.020 Membership—Term of office.

A. The parks and recreation commission shall consist of five (5) members to be appointed by the city council through an advertisement and recruitment process as established by council policy and/or resolution. Pursuant to that policy, ~~The the~~ mayor

shall solicit suggested nominees from members of the council; prior to making a motion for appointment, the mayor shall announce the names of all persons he/she intends to nominate, and in the order to be nominated; the. ~~The mayor shall then make a motion putting forth a single~~ each individual name to be approved for appointment; a. ~~A second (2nd) shall be required; and the.~~ The council shall vote on each appointment to the commission individually. The term of the parks and recreation commissioner shall be for a period of two (2) years. All appointments ~~The appointment, or reappointment, as the case may be, shall occur at the reorganization meeting of~~ during the second regularly scheduled- the city council meeting held in December every even-numbered year, or as soon as possible thereafter. The existing term of each parks and recreation commissioner shall be extended until such new appointments occur. If a vacancy occurs otherwise than by expiration of a term, it shall be filled for the unexpired portion of the term of office by the same nomination process described herein for a new term of office. The term of the ex officio or advisory members shall correspond to their respective terms of office.

B. Nothing in this chapter is intended to preclude the reappointment of any parks and recreation commissioner upon the expiration of his or her term.”

SECTION 2. Section 2.32.030 of the Moorpark Municipal Code is hereby amended to read as follows:

“2.32.030 Qualifications.

A. The members of the commission shall be residents and registered voters of the city. When a person serving on the parks and recreation commission ceases to be a resident of the city, the mayor shall declare vacant such person’s position on the parks and recreation commission and shall nominate another eligible person to the unexpired term of such former member, pursuant to Section 2.32.020 A of this chapter.

B. No members of the parks and recreation commission shall receive any compensation from the City or otherwise have any interest in any City contract. For purposes of this section, an interest in a City contract shall be measured as though the parks and recreation commission were the approving body for such contract, utilizing then relevant provisions of the California conflict of interest laws and regulations. The foregoing exclusions shall not apply to any stipend received by the commissioner for service on the commission, or any reimbursement for necessary expenses, to the extent such reimbursement is permitted by City policies. ~~hold any other remunerative office or position with the city.”~~

SECTION 3. Section 2.36.020 of the Moorpark Municipal Code is hereby amended in its entirety to read as follows:

“2.36.020 Membership—Term of office.

A. The planning commission shall consist of five (5) members to be appointed by the city council— through an advertisement and recruitment process as established by council policy and/or resolution. Pursuant to that policy, ~~the~~ The mayor shall solicit suggested nominees from members of the council; prior to. ~~The mayor shall make a motion for appointment, the mayor shall announce the names of all persons he/she intends to nominate, and in the order to be nominated; the mayor shall then make a motion putting forth a single~~ each individual name to be approved for appointment; ~~a~~ A second (2nd) shall be required; and the. ~~The council shall vote on each appointment to the commission individually.~~ The term of the planning commissioner shall be for a period of two (2) years. All appointments shall occur during the second regularly scheduled city council meeting held in December every even-numbered year, or as soon as possible thereafter. The existing term of each planning commissioner shall be extended until such new appointments occur. If a vacancy occurs otherwise than by expiration of a term, it shall be filled for the unexpired portion of the term of office by the same nomination process described herein for a new term of office. ~~The term of the ex officio or advisory members shall correspond to their respective terms of office.~~

B. Nothing in this chapter is intended to preclude the reappointment of any planning commissioner upon the expiration of his or her term.”

SECTION 4. Section 2.36.030 of the Moorpark Municipal Code is hereby amended to read as follows:

“2.36.030 Qualifications.

A. The members of the commission shall be residents and registered voters of the city. When a person serving on the planning commission ceases to be a resident of the city, the mayor shall declare vacant such person’s position on the planning commission and shall nominate another eligible person to the unexpired term of such former member, pursuant to Section 2.36.020(A) of this chapter.

B. Members of the commission shall, where possible, be selected on the basis of special knowledge in the fields of real property, construction, law, zoning and architecture, or related subjects.

C. No members of the planning commission shall receive any compensation from the City or otherwise have any interest in any City contract. For purposes of this section, an interest in a City contract shall be measured as though the planning commission were the approving body for such contract, utilizing then relevant provisions of the California conflict of interest laws and regulations. The foregoing exclusions shall not apply to any stipend received by the commissioner for service on the commission,

or any reimbursement for necessary expenses, to the extent such reimbursement is permitted by City policies. hold any other remunerative office or position with the city."

SECTION 5. Section 2.38.020 of the Moorpark Municipal Code is hereby amended in its entirety to read as follows:

"2.38.020 Membership—Term of office.

A. The arts commission shall consist of five (5) members to be appointed by the city council through an advertisement and recruitment process as established by council policy and/or resolution. Pursuant to that policy, the mayor shall solicit suggested nominees from members of the council; prior to making a motion for appointment, the mayor shall announce the names of all persons he/she intends to nominate, and in the order to be nominated; the mayor shall then make a motion putting forth each individual name to be approved for appointment; a second (2nd) shall be required; and the council shall vote on each appointment individually. The term of the arts commissioners shall be for a period of two (2) years. All appointments shall occur during the second regularly scheduled city council meeting held in December every even-numbered year, or as soon as possible thereafter. The existing term shall be extended until such new appointments occur. beginning January 1st of year one (1) and ending December 31st of year two (2). No member of the city council shall be eligible for membership. If a vacancy occurs otherwise than by expiration of a term, it shall be filled for the unexpired portion of the term of office by the same nomination process described herein for a new term of office.

B. Nothing in this chapter is intended to preclude the reappointment of any arts commissioner upon the expiration of his or her term."

SECTION 6. Section 2.38.030 of the Moorpark Municipal Code is hereby amended to read as follows:

"2.38.030 Qualifications.

A. The members of the arts commission shall be registered voters and shall reside in the city's area of interest or the Moorpark Unified School District boundaries, or own a business within the city of Moorpark. When a person serving on the commission ceases to reside in the city's area of interest or the Moorpark Unified School District boundaries, or ceases to own a business within the city of Moorpark, the mayor shall declare vacant such person's position on the commission, and the city council shall appoint another eligible person to the unexpired term of such former member pursuant to Section 2.38.020 of this chapter.

B. No member of the commission shall receive any compensation from the City or otherwise have any interest in any City contract. For purposes of this section, an

interest in a City contract shall be measured as though the arts commission were the approving body for such contract, utilizing then relevant provisions of the California conflict of interest laws and regulations. The foregoing exclusions shall not apply to any stipend received by the commissioner for service on the commission, or any reimbursement for necessary expenses, to the extent such reimbursement is permitted by City policies. ~~hold any other remunerative office or position with the city.~~"

SECTION 7. Section 2.04.070 of the Moorpark Municipal Code is here by amended in its entirety to read as follows:

"2.04.070 Appointments to boards and commissions.

A. Unless otherwise specifically provided in this code or by state law, all city board and commission appointments, except for ex officio members where applicable, shall be made by the city council.

B. No member of the city council shall be eligible for membership on any city commission."

SECTION 8. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 9. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 10. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Moorpark Star a weekly newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

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PASSED AND ADOPTED this _____ day of July, 2009.

Janice S. Parvin, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk