

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Deborah S. Traffenstedt, Deputy City Manager *DST*

DATE: November 13, 2014 (CC Regular Meeting of 11/19/14)

SUBJECT: Consider Ordinance Imposing Restrictions on City Employment of Specified Current and Former City Officials and Amending Chapters 2.04, 2.08, 2.12, 2.16, 2.20, 2.32, 2.36, 2.38, and 2.70 of Title 2, Administration and Personnel, of the Moorpark Municipal Code

BACKGROUND AND DISCUSSION

Government Code Section 87406.3 prohibits local elected officials and city managers from becoming paid agents, attorneys, or otherwise representing for compensation third parties before the local government agency for which they were formerly affiliated for a period of one year after leaving that office or employment. Subsection 87406.3(c), generally states that a local government agency is not precluded from adopting a more restrictive ordinance or policy that restricts the appearance of a former local official before that local government agency.

The City Council has previously taken action to adopt Municipal Code Section 2.04.070.B, restricting a member of the city council from membership on any city commission, and Section 2.12.020, prohibiting a member of the city council from being eligible for appointment as city manager until one year has elapsed after such councilmember has ceased to be a member of the city council. The language in Section 2.12.020 has been a continuing part of the model City Manager ordinance promoted by the League of California Cities. The City Council has also adopted qualifications language in the Municipal Code restricting Commissioners and Library Board members from receiving any contractor compensation from the City or otherwise having any interest in any City contract while a seated member. Additionally, the City Council adopted Policy 2.18, prohibiting City employment of family members of a current member of the city council or appointed commission or board.

The current ethics focused City Municipal Code and City Council policy restrictions, as summarized above, demonstrate the Council's long standing practice of transparency, anti-nepotism and avoidance of appearance of favoritism or conflicts of interest or

undue influence. To further the avoidance of a conflict of interest or appearance of undue influence, staff is recommending additional Municipal Code language for the City Council, Commissions (Parks and Recreation, Planning, and Arts), and the Library Board. The attached draft ordinance includes proposed new Municipal Code sections to add employment and compensation restrictions for the City Council, the Commissions, and the Library Board. The suggested employment and compensation restrictions language does not restrict election to the City Council and does not restrict a former member of the City Council or a former Commissioner or Library Board member from being appointed on an interim basis as a councilmember. The suggested language does not restrict volunteer work.

In addition to the employment and compensation restrictions previously discussed, the attached draft ordinance includes various other edits to Title 2, Administration and Personnel, for the purpose of updating, correcting, and improving language consistency, as summarized below:

- New Sections 2.04.075, 2.32.120, 2.36.120, 2.38.120, and 2.70.110 are proposed to add employment and compensation restrictions for City Council, Parks and Recreation Commission, Planning Commission, Arts Commission, and Library Board.
- New Section 2.04.045 is proposed to be added to Chapter 2.04, City Council, to add reference to the terms of office for elected Mayor and Councilmember. Measure D was adopted by the voters in November 1988 and established the two-year term for the elected Mayor; however, Measure D was not previously incorporated into the City's Municipal Code.
- Chapter 2.08, Municipal Elections, is proposed to be replaced in entirety with new revised language, because the language in the current chapter is out of date, including incorrect references to State Elections Code and Government Code.
- Section 2.12.020, Eligibility, of Chapter 2.12, City Manager, is proposed to be deleted, because it is replaced by new Section 2.03.075, Employment and compensation restrictions, of Chapter 2.04, City Council. Additionally, language in Section 2.12.110, Agreements with council, of Chapter 2.12, City Manager, is proposed to be amended to require four affirmative votes of the City Council to approve a new or amended employment agreement for the City Manager within sixty (60) days prior to and following a regular or special election for which a member of the City Council is to be elected.
- Editorial corrections are included for Sections 2.16.010 and 2.20.030 to correct out-of-date Government Code references, and to Chapter 2.38, Arts

Commission, to achieve more consistency with municipal code language for other established commissions.

The ordinance currently as written would go into effect 30 days after adoption, and there is language included in Section 13 of the ordinance to have the employment and compensation restrictions apply to any new appointee to the Parks and Recreation Commission, Planning Commission, Arts Commission and Library Board after the effective date of the ordinance. Since all Commissions will be reappointed on or after the first meeting in January 2015, and the Library Board appointments typically occur in June for a term beginning in July, all new appointments will follow the effective date of the ordinance, and those persons accepting new appointments to the Commissions and the Library Board will be aware of the restrictions before accepting appointment. The employment and compensation restrictions language will not apply to a current appointee, unless they are reappointed after the effective date of the ordinance. The language as written will apply to a current member of the City Council upon the effective date of the ordinance.

If the City Council wants the new employment and compensation restrictions to go into effect for current Library Board members with staggered 3-year terms, additional language would have to be added to the draft ordinance. Additionally, if the City Council wanted to consider not having the employment and compensation restrictions language in effect for the new Commission appointments tentatively scheduled to occur on or after the first regular City Council meeting in January 2015, additional language would have to be added to the draft ordinance.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

Introduce Ordinance No. ____ for first reading, waive full reading, and place this ordinance on the agenda for the December 3, 2014 regular meeting, for the purposes of providing second reading and adoption of the ordinance.

Attachment: Draft Ordinance

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, IMPOSING RESTRICTIONS ON CITY EMPLOYMENT OF SPECIFIED CURRENT AND FORMER CITY OFFICIALS, AND AMENDING CHAPTER 2.04, CITY COUNCIL; CHAPTER 2.08, MUNICIPAL ELECTIONS; CHAPTER 2.12, CITY MANAGER; CHAPTER 2.16, CITY CLERK; CHAPTER 2.20, CITY TREASURER; CHAPTER 2.32, PARKS AND RECREATION COMMISSION; CHAPTER 2.36, PLANNING COMMISSION; CHAPTER 2.38, MOORPARK ARTS COMMISSION; AND CHAPTER 2.70, MOORPARK CITY LIBRARY, OF TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE MOORPARK MUNICIPAL CODE

WHEREAS, consistent with the intent of Government Code Section 87406.3, which prohibits local elected officials and city managers from becoming paid agents, attorneys, or otherwise representing for compensation third parties before the local government agency for which they were formerly affiliated for a period of one year after leaving that office or employment; and

WHEREAS, consistent with subsection 87406.3(c), which generally states that a local government agency is not precluded from adopting a more restrictive ordinance or policy that restricts the appearance of a former local official before that local government agency, the City Council has determined to add employment and compensation restrictions for City Council, Parks and Recreation Commission, Planning Commission, Arts Commission, and Library Board, by adopting an ordinance adding new Sections 2.04.075, 2.32.120, 2.36.120, 2.38.120, and 2.70.110; and

WHEREAS, the City Council has determined that it is appropriate to amend Chapter 2.04, City Council, to add reference to the terms of office for Mayor and Councilmember pursuant to Measure D, adopted by the voters in November 1988, and to amend Chapter 2.08, Municipal Elections, because the language in this chapter is out of date, and the references to state Elections Code and Government Code sections are incorrect; and

WHEREAS, the City Council has determined that it is appropriate to delete Section 2.12.020, Eligibility, of Chapter 2.12, City Manager, because it is replaced by new Section 2.03.075, Employment and compensation restrictions, of Chapter 2.04, City Council, and to amend language in Section 2.12.110, Agreements with council, of Chapter 2.12, City Manager, to require four affirmative votes of the City Council to approve a new or amended employment agreement for the City Manager within sixty (60) days prior to and following a regular or special election for which a member of the City Council is to be elected; and

WHEREAS, editorial corrections are required to Sections 2.16.010 and 2.20.030 to correct Government Code references, and to Chapter 2.38, Arts Commission, to

achieve more consistency with municipal code language for other established commissions; and

WHEREAS, at the regular meeting of November 19, 2014, the City Council introduced for first reading an ordinance adding new Sections 2.04.045, 2.04.075, 2.32.120, 2.36.120, 2.38.120, and 2.70.110; amending and replacing Chapter 2.08; deleting Section 2.12.020; amending Sections 2.12.110, 2.16.010, 2.20.030 and Chapter 2.38; and following second reading of the ordinance at the regular meeting of December __, 2014, the Council reached its decision to adopt the ordinance.

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

SECTION 1. That Moorpark Municipal Code Section 2.04.045 is added to Chapter 2.04, City Council, to read as follows:

“2.04.045 Term of office of elected mayor and councilmember.

Pursuant to Measure D, approved by the voters on November 8, 1988, the electors of the city shall elect a mayor and four councilmembers, and the mayoral term of office shall be two years and the councilmember term of office shall be four years.”

SECTION 2. That Moorpark Municipal Code Section 2.04.075 is added to Chapter 2.04, City Council, to read as follows:

“2.04.075 Employment and compensation restrictions.

No member of the council shall be eligible for employment by the City or to perform contractual work for the City, during his or her term of elected office as a member of the city council and for one year after leaving that elected office, with the exception of the compensation received for the elected office of mayor or as an elected or appointed councilmember.”

SECTION 3. That Moorpark Municipal Code Chapter 2.08, Municipal Elections, is replaced in its entirety as follows:

“2.08.010 Procedure for holding elections.

All City municipal elections shall be held in accordance with the election laws of the State of California, as the same now exists or hereafter may be amended, for the holding of municipal elections.”

SECTION 4. That Moorpark Municipal Code Section 2.12.020, Eligibility, of Chapter 2.12, City Manager, is hereby deleted in its entirety, because it has been replaced by new Section 2.04.075, Employment and compensation restrictions, of Chapter 2.04, City Council.

SECTION 5. That Moorpark Municipal Code Section 2.12.110 of Chapter 2.12, City Manager, is revised to read as follows:

“2.12.110 Agreements with city council.

Nothing in this chapter shall be construed as a limitation on the power or authority of the city council to enter into any supplemental agreement with the city manager delineating additional terms and conditions of employment not inconsistent with any provisions of this chapter, except that a new or revised employment agreement with the city manager shall not be entered into within sixty (60) days prior to and sixty (60) days after any regularly scheduled or special election for which a member of the city council is to be elected, unless that agreement is approved by no less than four affirmative votes of the city council.”

SECTION 6. That Moorpark Municipal Code Section 2.16.010 of Chapter 2.16, City Clerk, is revised to read as follows:

“2.16.010 Statutory authority.

The office of the city clerk is established pursuant to Section 356501 of the Government Code of the state.”

SECTION 7. That Moorpark Municipal Code Section 2.20.030 of Chapter 2.20, City Treasurer, is revised to read as follows:

“2.20.030 Powers and duties.

The city treasurer shall perform such duties as are prescribed by Section 410001 through 41007 of the Government Code of the state and by any other provisions of law applicable to deposit and investment and safekeeping of public funds of the city.”

SECTION 8. That Moorpark Municipal Code Section 2.32.120 is hereby added to Chapter 2.32, Parks and Recreation Commission, to read as follows:

“2.32.120 Employment and compensation restrictions.

No member of the parks and recreation commission shall be eligible for employment by the City or to perform contractual work for compensation by the city during his or her appointment term and for a period of one year after leaving that appointed office, with the exception of the compensation received for the elected office of mayor or as an elected or appointed councilmember, after leaving the commission.”

SECTION 9. That Moorpark Municipal Code Section 2.36.120 is hereby added to Chapter 2.36, Planning Commission, to read as follows:

“2.36.120 Employment and compensation restrictions.

No member of the planning commission shall be eligible for employment by the City or to perform contractual work for compensation by the city during his or her appointment term and for a period of one year after leaving that appointed office, with the exception of the compensation received for the elected office of mayor or as an elected or appointed councilmember, after leaving the commission.”

SECTION 10. That Moorpark Municipal Code Chapter 2.38, Moorpark Arts Commission, is amended to revise the chapter title, revise sections 2.38.010, 2.38.070, and 2.38.080, and add new Section 2.38.120 to read as follows (all Chapter 2.38 sections not shown as revised, below, are retained without alteration):

“~~MOORPARK ARTS COMMISSION~~”

“2.38.010 Created.

An ~~Moorpark~~ arts commission for the city is established with membership and duties as provided in this chapter.”

“2.38.070 Organization.

A. At the first (1st) regular meeting ~~in January~~ of each year, the arts commission shall elect its chair from among the appointed members for the term of one (1) year; and, subject to other provisions of law, may create and fill such other offices as it may determine.

B. The commission shall hold regular quarterly meetings as determined by the commission at its first (1st) regular meeting ~~in January~~ of each year, such determination to include the dates, time and place of such meetings.

C. The commission may hold such additional adjourned or special meetings as may be called in accordance with the provisions of the Government Code.

D. If any regular meeting falls on a holiday, it shall be held on the next scheduled business day and all meetings otherwise scheduled or noticed to be held on a regular meeting day falling on a holiday shall be held at the meeting of the next business day without the necessity of any other or further notice.”

“2.38.080 Duties and responsibilities.

The duties and responsibilities of the arts commission are as follows:

A. When requested from time to time by the city council, ~~A~~ act in an advisory capacity to the city council in all matters pertaining to the High Street Arts Center’s programming activities, administration and development of the annual theatrical season, promotion of the arts

center's programs and services to stimulate interest therein, and review of a long-range capital improvement plan.

B. In accordance with Chapter 17.50 of this code, act in an advisory capacity and review the conceptual design and placement of artwork, solicit public comment, and provide a recommendation to the city council on the design and location.

C. Perform such other duties as may be requested from time to time by the city council."

"2.38.120 Employment and compensation restrictions.

No member of the arts commission shall be eligible for employment by the City or to perform contractual work for compensation by the city during his or her appointment term and for a period of one year after leaving that appointed office, with the exception of the compensation received for the elected office of mayor or as an elected or appointed councilmember, after leaving the commission."

SECTION 11. That Moorpark Municipal Code Section 2.70.110 is hereby added to Chapter 2.70, Moorpark City Library, to read as follows:

"2.70.110 Employment and compensation restrictions.

No member of the library board shall be eligible for employment by the City or to perform contractual work for compensation by the city during his or her appointment term and for a period of one year after leaving that appointed office, with the exception of the compensation received for the elected office of mayor or as an elected or appointed councilmember, after leaving the library board."

SECTION 12. 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 13. This ordinance shall become effective thirty (30) days after its passage and adoption. The employment and compensation restrictions in Sections 2.32.120, 2.36.120, 2.38.120, and 2.70.11 will first apply to any new appointee to the Parks and Recreation Commission, Planning Commission, Arts Commission, and Library Board after the effective date of this ordinance.

SECTION 14. 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

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Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

PASSED AND ADOPTED this ____ day of _____, 2014.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk