

Legislation Details (With Text)

File #: #17-0424 **Version:** 1 **Name:**

Type: ORDINANCES **Status:** Second Reading

File created: 9/27/2017 **In control:** City Council

On agenda: 10/16/2017 **Final action:** 10/17/2017

Title: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AMENDING SECTION 1.16.020 OF THE SAN PABLO MUNICIPAL CODE REGARDING POSTING OF NOTICES; AMENDING SECTIONS 2.04.030 AND 2.04.050 REGARDING CITY MANAGER REQUIREMENTS; REPEALING CHAPTER 2.64, "DESIGN REVIEW COMMITTEE;" AND AMENDING SECTIONS 3.04.040 AND 3.04.060 REGARDING THE TERM OF THE BUDGET

Sponsors:

Indexes:

Code sections:

Attachments: 1. 2017-10-05 Municipal Code cleanup ordinance, 2. Municipal Code Ordinance Clean-up.pdf

Date	Ver.	Action By	Action	Result
10/17/2017	1	City Council	waived first reading and introduced	Pass

PREPARED BY: LYNN TRACY NERLAND

DATE OF MEETING: 10/16/17

SUBJECT:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AMENDING SECTION 1.16.020 OF THE SAN PABLO MUNICIPAL CODE REGARDING POSTING OF NOTICES; AMENDING SECTIONS 2.04.030 AND 2.04.050 REGARDING CITY MANAGER REQUIREMENTS; REPEALING CHAPTER 2.64, "DESIGN REVIEW COMMITTEE;" AND AMENDING SECTIONS 3.04.040 AND 3.04.060 REGARDING THE TERM OF THE BUDGET

CITY MANAGER RECOMMENDATION

Waive first reading; introduce Ordinance

COMPLIANCE STATEMENTS

Updating the Municipal Code to amend or repeal governance provisions was not identified in the Council's Workplan. However, the Municipal Code is the compilation of the City's ordinances and should be updated to reflect current practices and laws as much as possible.

CEQA Compliance Statement

The proposed Municipal Code amendments regarding City governance issuance are not a project under the California Environmental Quality Act (CEQA) as it is not an activity that may cause a direct or reasonably foreseeable indirect physical environment change pursuant to Public Resources Code section 21080(a) and 14 California Code of Regulations section 15002(d). If deemed a project, it would be exempt as having no possible significant effect on the environment pursuant to 14 California Code of Regulations section 15061.

BACKGROUND

In the course of City operations, it has come to staff's attention that there are some outdated governance provisions in the Municipal Code that do not reflect current operations or law and should be amended or repealed. Similar to the State's annual clean-up legislation, staff recommends that these outdated provisions be amended or repealed. This is not to say that there are no other outdated provisions in the Municipal Code, but these are the ones identified at this time. The proposed ordinance addresses the following subjects:

1. Municipal Code Section 1.16.020, "Designation of places where notices to be posted." This section is proposed to be amended to reflect the current addresses for City Hall and the San Pablo Branch Library for the posting of official notices.
2. Municipal Code section 2.04.030, "Residence requirements." This section is proposed to be amended to reflect that the City Manager is not required to be a San Pablo resident. Although there has not been a direct case on this question, the prevailing belief is that such residency requirements for city employees are unconstitutional under California Constitution Article XI, section 10(b). Furthermore, the City has not been complying with this restriction and the city manager position should not be declared vacant; thus, this requirement should be deleted from the Municipal Code.
3. Municipal Code section 2.04.050, "Eligibility requirements-City employees." This section prohibits any city employee, officer (presumably elected officials) or member of a City board or commission from being appointed as city manager until one year after that person has ceased being a city employee, officer or member of a City Board or Commission.

The underlying goal of this section was presumably to ensure that a person with the appropriate qualifications and temperament is appointed as city manager. Limiting a current council member from being appointed as city manager or even a board or commission member is understandable to avoid undue political pressures in choosing a city manager. However, it is unclear why the City Council should be prohibited from appointing a current City employee as city manager. While some cities will hire an "outside" city manager, many cities promote an existing department head or assistant city manager to the city manager position.

It does not appear to be in the City's best interest to limit its ability to promote one of its current employees to be the city manager should there be a vacancy in that position. Therefore, it is recommended that this Municipal Code section be amended to delete the prohibition on current City employees being appointed to the position of city manager.

4. Municipal Code Chapter 2.64, "Design Review Committee." This chapter in the Municipal Code created an internal design review committee consisting of the public works director, police chief, zoning administrator, city manager and community development director to review building and landscape plans. No such committee has been operating or making recommendations to the City Council. The Planning Commission considers major design review applications. The development services department has protocols for obtaining input on pending projects from other departments as needed, including informal meetings. However, no such formal staff Design Review Committee exists and it is recommended that this Chapter be deleted from the Municipal Code.

5. Municipal Code Sections 3.04.040 and 3.04.060, “Budget.” Chapter 3.04 of the Municipal Code refers to a biennial budget. The City’s current budget is a quadrennial budget spanning four fiscal years. To avoid the need for future revisions to the Municipal Code, the more general term of “budget” is included in the proposed ordinance with the provision that the City normally prepares a multi-year budget, unless the City Council determines by resolution to adopt an annual budget (e.g. in the event of a calamity requiring significant budget revisions).

The attached ordinance highlights the proposed changes in strike-out (deletions) and italics (additions) type. Introduction and First Reading of the proposed Ordinance is with the understanding that these editing marks will be removed for the second reading of the Ordinance and that the second reading of the Ordinance will be placed on the consent calendar unless staff is directed otherwise by the City Council.

FISCAL IMPACT

No fiscal impact identified.