

## Legislation Text

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File #: #21-326, Version: 1

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**PREPARED BY:** LYNN TRACY NERLAND

**DATE OF MEETING:** 09/20/21

**SUBJECT:**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AMENDING CHAPTERS 2.04 AND 2.40 OF THE SAN PABLO MUNICIPAL CODE TO ELIMINATE GENDER-SPECIFIC REFERENCES, TO CLARIFY THE APPOINTMENT OF AN ACTING CITY MANAGER, AND TO REFERENCE MANDATORY RETIREMENT ENROLLMENT REQUIREMENTS FOR THE ELECTED CITY CLERK AND CITY TREASURER; AND AMENDING MUNICIPAL CODE SECTION 3.16.110 TO CLARIFY THE PROCESS FOR ENGAGING CONSULTANTS

**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**

It has come to staff's attention that there are some outdated provisions in the Municipal Code that do not reflect current operations or law, including clarifying the appointment of an acting city manager, complying with Social Security/PERS requirements for the city clerk and city treasurer positions, and clarifying the process for engaging consultants. This is not to say that there are no other outdated provisions in the Municipal Code, but these are the ones identified at this time.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. **Clarify Acting City Manager Appointment**

Municipal Code Section 2.04.070 is proposed for amendment to replace the term "city manager pro tempore" with "acting city manager" and to indicate that the City Manager appoints an Acting City Manager when the City Manager is on vacation or leave. If the City Manager position is vacant, then the City Council would appoint an Acting City Manager.

In addition, I took the opportunity to revise other provisions in Chapter 2.04 to make then

gender neutral.

2. Retirement benefits for City Clerk and City Treasurer

Municipal Code section 2.04.030 is amended to reflect that Social Security coverage is mandatory under federal law for all employees (and typically elected officials) unless they are members of a public retirement system like CalPERS or PARS. Therefore, the City does need to enroll the elected city clerk and city treasurer in CalPERS or PARS if they are not already receiving retirement benefits from a public retirement system and to make appropriate minimum contributions.

3. Clarifying the Process for Engagement of Consultants

In 2000, State voters passed Proposition 35, which provided greater flexibility in the engagement of consultants (including architects and engineers) as long as a fair, competitive process is followed. This change allowed a city to consider price, along with competence and qualifications, in evaluating proposals. Competence and qualifications are still given greater weight than price. Municipal Code section 3.16.110 now references the updated State law.

Barring Council objection, the final proposed Ordinance will eliminate the redlines shown on the attached exhibit and the second reading and adoption will be placed on the Consent Calendar at the City Council's next meeting.

**FISCAL IMPACT**

No fiscal impact identified as the proposed Municipal Code revisions reflect the current operations, which are budgeted.