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Title: CONSIDER ADOPTION OF POLICY CLARIFYING RULES FOR UNCONTESTED APPOINTMENT AND REMOVAL OF MEMBERS OF COMMISSIONS, COMMITTEES AND BOARDS (CITY COUNCIL)

Sponsors:

Indexes:

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Attachments: 1. Proposed Council Policy 13.1.pdf

Date	Ver.	Action By	Action	Result
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Report to Mayor and City Council

Tuesday, May 03, 2022

Consent

SUBJECT:

CONSIDER ADOPTION OF POLICY CLARIFYING RULES FOR UNCONTESTED APPOINTMENT AND REMOVAL OF MEMBERS OF COMMISSIONS, COMMITTEES AND BOARDS (CITY COUNCIL)

I. SUMMARY

The proposed policy would establish the following rules to clarify the City Charter provisions for greater consistency pertaining to authority of City Councilmembers to make uncontested appointments and removals of members of City boards, committees and commissions:

Clarifying Rule A. Where a City Councilmember, including the Mayor (“Councilmember”), uses an Uncontested Appointment (as defined below) to appoint a member to a City board, committee or commission (“City Board”), the Councilmember may thereafter, at any time prior to expiration of the term to which said Board member was appointed by said Councilmember, remove said Board member from the City Board in an uncontested manner (i.e., without a majority or other vote of the Council required), with or without cause (an “Uncontested Removal”).

Clarifying Rule B. When a Councilmember ceases serving on the Council and is replaced

prior to the expiration of his or her term, the City Board members that the replaced Councilmember appointed to their then-current terms via Uncontested Appointments shall be automatically removed from their respective City Boards immediately upon the replacing Councilmember taking office, and the replacing Councilmember shall have the right to make Uncontested Appointments to fill said City Board vacancies.

II. RECOMMENDATION

ADOPT COUNCIL POLICY & PROCEDURE NO. 13.1.1, CLARIFYING RULES FOR UNCONTESTED APPOINTMENT AND REMOVAL OF MEMBERS OF COMMISSIONS, COMMITTEES AND BOARDS (Exhibit No. 1).

III. ALTERNATIVES

TAKE another action the City Council deems appropriate, subject to the requirements of applicable law.

IV. BACKGROUND

Charter Provisions

Charter Section 602(A) (Appointments; Terms) provides that each Councilmember may appoint one member to a position on each City Board (an “Uncontested Appointment”), and the remaining membership positions, including alternates, shall be appointed by the Mayor and approved by a majority of the City Council.

Section 605 (Removal; Vacancies) of the Charter provides that any member of a City Board shall serve at the pleasure of the City Council and may be removed at any time upon recommendation/nomination for removal by Mayor and a vote of a majority of the membership of the City Council.

Section 605 further provides that any vacancies in a City Board shall be filled by the Mayor and City Council in the same manner as specified in the Charter for the original appointment of the removed member.

Discussion of Proposed Policy

The aforementioned Charter provisions make it clear that when a City Board member who was appointed via an Uncontested Appointment vacates his or her seat for any reason, the vacancy may be filled via another Uncontested Appointment made by the same Councilmember who had appointed that City Board member.

However, the Charter does not specify that City Board members who are appointed via

Uncontested Appointments may also be removed via Uncontested Removals by the same Councilmember who appointed them, as would be expected in light of the Charter provisions authorizing initial Uncontested Appointments and Uncontested Appointments to fill vacancies.

To rectify this, the proposed policy would establish clarifying rule A (above), which would authorize Councilmembers to remove, via an Uncontested Removal, the City Board members whom they appointed via an Uncontested Appointment. The proposed policy provides that the Council believes this rule: (i) was inadvertently omitted from the Charter, (ii) is consistent with the intent of the aforementioned provisions of the Charter, and (iii) is necessary to clarify and harmonize the aforementioned provisions.

Additionally, the Charter does not expressly address Uncontested Appointments where a Councilmember ceases serving on the Council and is replaced prior to the expiration of his or her term. In this rare situation, to protect the right of the replacing Councilmember to make an Uncontested Appointment to each City Board without having to wait until a vacancy occurs on any City Boards that are then full, the proposed policy would establish clarifying rule B (above), which provides for automatic removal of the Uncontested Appointees of the replaced Councilmember from their respective City Boards, effective immediately upon the replacing Councilmember taking office, and authorizes the replacing Councilmember to make Uncontested Appointments to fill the vacancies created by those automatic removals.

The proposed policy would also clarify that all Uncontested Appointments and Uncontested Removals must be effectuated by the relevant Council member during a City Council meeting under consideration of an appropriately-described agenda item, notwithstanding that no vote of the Council is required to effectuate Uncontested Appointments or Uncontested Removals.

V. FISCAL IMPACT

None.

VI. EXHIBITS

Proposed City Council Policy 13.1.1 (pgs. 4 - 6)

Prepared by: City Attorney's Office