

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 07/26/10		Item Number: A-6	
AGENDA ITEM: 1) Discussion of the Roles of City Commissions under the New City Charter; 2) Introduction of an Ordinance Repealing and Replacing Chapter 3.03 of the Culver City Municipal Code (CCMC) Relating to City Commissions and Agencies; 3) Adoption of a Resolution Amending City Council Adopted Policy 2007-01 Entitled “City Commissions,” and Repealing Resolution No. 2007-R029; 4) Provide Direction Regarding the Proposal to Designate the Public Works Director as the Person Responsible for Street and Parkway Trees Including the Removal of Trees with an Appeal to the PRCS Commission; 5) Introduction of an Ordinance Amending Section 7.01.230.B.2 of the CCMC Clarifying those Individuals Eligible to Receive Parking Decals Which Exempt their Vehicles from Parking or Standing Provisions; and 6) Adoption of a Resolution Amending City Council Policy Statement Number 3003 Entitled “Issuance of City Parking Decals” and Rescinding Resolution No. 95-R005.			
Contact Person/Dept.: Martin R. Cole, Asst. City Manager		Phone Number: (310) 253-6000	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Public Notification: City Commissioners (07/22/10); Meetings and Agendas – City Council (07/22/10)			
Department Approval: Martin R. Cole (07/21/10)		City Attorney Approval: Carol Schwab (by H. Baker) (07/21/10)	
Chief Financial Officer Approval: Jeff Muir (07/21/10)		City Manager Approval: P. Lamont Ewell (07/22/10)	
<u>RECOMMENDATION:</u> Staff recommends the City Council: 1. Discuss the roles of the various City Commissions; and, 2. Introduce an Ordinance repealing and replacing Chapter 3.03 of the Culver City Municipal Code (CCMC) relating to City Commissions and Agencies; and, 3. Adopt a Resolution amending City Council Adopted Policy 2007-01 entitled “City Commissions,” and repealing Resolution No. 2007-R029; and, 4. Direct staff related to the proposal to designating the Public Works Director as the person responsible for street and parkway trees with an appeal to the PRCS Commission; and,			

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5. Introduce an Ordinance amending Section 7.01.230.B.2 of the CCMC clarifying those individuals eligible to receive parking decals which exempt their vehicles from parking or standing provisions; and,
6. Adopt a Resolution amending City Council Policy Statement Number 3003 entitled "Issuance of City Parking Decals" and rescinding Resolution No. 95-R005.

BACKGROUND:

Since its incorporation in 1917, the City of Culver City has grown in both size and population. As the City has "evolved," over the past 90 years, the City Council has (either by the former City Charter's requirement or under its own prerogative) determined to create four Commissions to provide advice to the City Council on the general topics of (1) Civil Service, (2) Cultural Affairs, (3) Parks and Recreation, and (4) Planning. In addition to providing advice to the City Council, under the former Charter and existing provisions of the Culver City Municipal Code (CCMC), several of the Commissions currently perform duties which may result in final decisions.

On April 11, 2006, the voters of Culver City approved a new City Charter (New Charter). The New Charter became effective on July 1, 2006 (Attachment 1). Among several significant changes implemented as part of the New Charter, the following provision related to the City's Commissions was adopted:

SECTION 1100. IN GENERAL.

The City Council may, by ordinance, establish and abolish such commissions and boards as it may determine, from time to time, to be necessary for the effective and efficient governance of the City, to encourage citizen participation in local government and maintain positive human relations in the community.

Given this provision in the New Charter, the City Council has an opportunity to review the City's Commissions as it considers the existing regulations in the CCMC, as well as current City Council Policies and Resolutions. In addition, at a facilitated meeting held in February, 2007 which included several of the City's Commissioners, the City Council discussed the operations of the City's Commissions and considered several insightful comments from City Commissioners.

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This item was originally presented to the City Council in April of 2008 as part of the implementation of the City Charter approved by the voters on April 11, 2006 (which New Charter became effective on July 1, 2006).

At that time, a number of Commissioners voiced concerns to both the sitting Council Members and the Council Members-Elect. Amongst the concerns voiced, the Commissioners felt they had not been given sufficient time to review and provide input on the recommendations made by the City Council Subcommittee on the Roles of Commissions (Council Subcommittee). The City Council determined to not hear this item in order to provide an opportunity for Commissioners to provide feedback on the various recommendations contained in the staff report.

Since April of 2008, the Council Subcommittee, along with the City Manager, Assistant City Manager, City Attorney, Assistant City Attorney, Department Heads and other key staff, met a number of times with subcommittees formed by each Commission. During these meetings, the Council Subcommittee and staff listened intently to the concerns voiced by the Commission Subcommittees. The Commission Subcommittees then returned (often on more than one occasion) to their respective commissions to provide an update and receive additional feedback from the full Commissions). At one meeting of the Council Subcommittee, the professional consultant to the Charter Review Committee shared his views on the roles of Commissions directly with the Council Subcommittee, including the distinction between an advisory commission and a managing commission. His conclusion was that commissions in a City Council-City Manager form of government advise the City Council (and sometimes the City Manager) on policy issues with administration authority vested in the City Manager.

This issue is perhaps one of the most vetted in recent City history. During the last 28 months, the City Council has appointed five different members to sit on the Council Subcommittee (Initially, Council Members Rose and Gross; then Council Members Weissman and Silbiger, and now Council Members Weissman and O'Leary). Most recently, in the early part of 2010, former City Manager Mark Scott met with the Civil Service Commission and the Parks, Recreation, and Community Services Commission to share his and the Council Subcommittee's views on the roles of Commissions.

While the concerns voiced by the Commissioners related to interaction between Commissions and staff were addressed, the key issue of the overall role of Commissions in a City Council-City Manager form of government remains unresolved, which has lead to increased levels of frustration amongst the

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Commission, staff, and the Council Subcommittee. Further, the lack of clear definition of roles and responsibilities has reduced efficiency (whereas one of the major advantages to the new form of government was an increase in efficiency).

The City Charter requires the City Council, the Commissions, the chief administrator of the City (the City Manager) and staff to perform different roles when compared to the CAO form of government. These changes are significant.

After over two years of receipt of comment and consideration of this issue by the Council Subcommittee, it is important and legally required for the City Council to fully implement the City Council-City Manager form of government in accordance with the City Charter.

DISCUSSION:

One of the important general concepts espoused by the Charter Review Committee in recommending the New Charter to the City Council was to streamline the management of the City under the policy direction of the City Council and the operational management of a City Manager. As part of that streamlining, the New Charter provided the specific opportunity embodied in Section 1100 for the City Council to review the structure under which the City's Commissions are created, members appointed, and business transacted. The following paragraphs outline the general issues embodied in the proposed Ordinances and Resolutions:

General Operational Items Applicable to all Commissions

The former Charter and existing CCMC provided for differing provisions relating to the creation and general role, membership, appointment/removal process, parking decals, official City Identification, and allowance for attending meetings. The following items are proposed to apply to all Commissions:

(1) Creation and General Role

The New Charter provides that the City Council may create Commissions by Ordinance. Therefore, attached for the City Council's consideration is an Ordinance which clarifies and updates the structure, membership, and duties of each of the City's four Commissions. Included in the proposed ordinance are provisions which standardize, where appropriate, various procedures which the Council Subcommittee and staff believe should be standardized amongst all Commissions

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for the effective and efficient governance of the City in accordance with the New Charter.

The Council Subcommittee also recommends that training for Commissioners be subject to the prior approval of the Department Head or the City Manager. The attached revised City Council Adopted Policy 2007-01 has an appropriate amendment.

(2) Policy Creation

Under the New Charter (see Section 300), the authority to provide policy direction vests solely in the City Council. Additionally, Section 700 provides the City Manager with the authority to “direct and supervise the administration of all City Departments.” To implement this structure, the proposed Ordinance includes provisions clearly defining the specific role of Commissions to act in an advisory capacity to the City Council (or in the case of the Civil Service Commission – to the City Manager) which is the sole body charged with providing policy direction to the City Manager. Further, as provided for in Section 701, “Neither the City Council, nor any Council Member shall...interfere in any way with the performance of the duties of any City employee...” By extension, this “Non-Interference Clause” applies to appointees of the City Council, including City Commissions.

(3) Membership

Under the New Charter (see Section 602), candidates for the office of City Council are required to be: (1) residents of the City and (2) qualified electors (registered voters) for the 30 days immediately preceding the filing of nomination papers and during their term of office. It is proposed these requirements related to residency and voter registration be replicated for membership of all four Commissions (currently such a requirement is only applicable to the Civil Service and Planning Commission). Further, any person who holds a paid position with the City (a City employee) shall not be eligible for appointment to a City Commission (the CCMC currently expressly prohibits City employees from serving on two of the Commissions – it is proposed to apply this standard to all Commissions). Finally, it shall be expressly stated that one person may only serve on one Commission at any time (this does not include committees, boards, or ad-hoc bodies created by the City Council – excepting where there is an incompatibility of offices).

(4) Appointment/Removal and Disciplinary Process

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As the elected, policy-making body, the City Council is the highest authority in Culver City. As such and in accordance with the New Charter, the City Council is empowered to establish and abolish Commissions. As creations of the City Council, Commissions are subject to the general oversight of the City Council and Commissions and their members must comply with policies and other actions adopted by the City Council. Furthermore, as representatives of the City Council, Commissions and their members are held to a very high standard of conduct. Therefore, it is proposed that the City Council may appoint and remove Commissioners with a majority vote, with or without cause. Commissioners serve at the pleasure of the City Council and may be appointed or removed under that standard.

As a result of comments provided by Commissioners to the City Manager in 2008 when the City Council Policy was presented to each Commission, staff is also providing examples of misconduct which would subject a Commissioner to disciplinary proceedings. Also, should it become necessary to discipline Commissioners, the amended City Council Adopted Policy 2007-01 provides for various means of discipline available to the City Council.

(5) Terms

The CCMC currently provides for a term of four years with a limit of two consecutive terms (and the ability to re-apply for additional terms with an absence of two years between terms).

The Subcommittee recommends the City Council adopt terms for the Commissions that meet the following criteria:

- (a) The City Council shall endeavor to consider appointments to Commissions in May or early June and Commission terms shall begin on July 1 of odd numbered years (except where an unexpected vacancy occurs)
- (b) Commission terms shall be staggered in a fashion similar to that of the City Council (as a hypothetical example, three seats shall hold terms from July 1 2011 to June 30 of 2014 and two seats shall hold terms from July 1 2012 to June 30, 2015).
- (c) Commissions with memberships of more than five persons shall be staggered in a similar fashion as determined by the City Council at the time creation of such a Commission is considered by the City Council.

Under these proposed criteria, 2011 will be the first "transition year" with some or all of the Commissioners appointed in 2011 subject to a term of less than four years

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(most likely a three year term). After the “transition year,” the standard term for all Commissioners would return to four years.

The Council Subcommittee members also recommend that term limits similar to those applicable to the City Council be imposed on Commissions (e.g. up to two full four year terms and then a two year “sit out” period).

(6) Attendance at and Frequency of Meetings

City Council Policy 3304 states in pertinent part:

“All members of the Civil Service Commission, Planning Commission and Human Services and Park Commission (Parks and Recreation Commission), and any other Commission hereafter created or established, and members of the Landlord-Tenant Mediation Board shall be entitled to a monthly allowance of fifty dollars (\$50.00); provided, however, no such allowance shall be paid unless the members attend at least one scheduled meeting per month.”

The Council Subcommittee and Staff recommend the City Council include a provision in the CCMC giving the City Council authority to establish, by resolution, an allowance for members of Commissions, Boards, and Committees and that such allowance be paid to members of Commissions without regard to the number of meetings held each month. Should the City Council introduce the proposed ordinances this evening, staff will prepare an appropriate resolution for the City Council’s consideration which would implement this new procedure and repeal City Council Policy 3304.

With respect to the frequency of Commission meetings, the Council Subcommittee recommends the Commissions meet on an as needed basis. Additionally, the Council Subcommittee and Staff also recommend the Commissions not meet if staff determines there are insufficient items agendized to justify a meeting. These issues are addressed in the proposed Ordinance and the amended City Council Adopted Policy 2007-01. For the sake of clarity, the City Manager shall be empowered to make the final determination if a Commission shall meet based upon input from the appropriate Department Head. This change will increase efficiency and conserve staff and financial resources.

(7) Compliance with City Council Policy

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The amended City Council Adopted Policy 2007-01 includes a provision that Commissioners are required to comply with applicable law and duly adopted City Council policies.

(8) Mandatory Orientation for New Commission Appointees

To ensure newly appointed Commissioners are best prepared for their important advisory roles, staff recommends Commission appointees be required to attend an orientation within 90 days of their appointment. The consequence of not attending this orientation would be forfeiture of the appointment. Applications for Commission positions will be modified to include this requirement so applicants will be aware of this in advance of applying for and potentially being appointed to a Commission seat. An amendment to City Council Adopted Policy 2007-01 is proposed consistent with this recommendation (see Attachment 4). This requirement would become effective with the Commissioners appointed in 2011.

(9) Legal Opinions of the City Attorney

Section 901 of the New Charter provides:

“The City Attorney, or his or her designee, shall serve as the chief legal adviser to the City Council, City Manager, and all City departments in all matters pertaining to the business of the City.”

The Subcommittee recommends the City Council clarify that Commissions and individual Commissioners, as advisors to the City Council, are required to adhere to the legal opinions and advice of the City Attorney with regard to procedural matters and give deference to such opinions with regard to interpretations of law. City Council Adopted Policy 2007-01 is proposed to be amended to include these requirements (see Attachment 4).

(10) Issuance of Parking Decals

City Council Policy 3003, adopted in 1995, established a policy regarding the issuance of parking decals to certain people who operate their private vehicles while engaged in official City business. The parking decals exempt enforcement of parking regulations of the CCMC while on City business in Culver City. The Council Subcommittee recommends the decals be issued to the City Council, City Manager, City Attorney, Assistant City Manager, Department Heads and other position as authorized by the City Manager. The proposed policy will no longer authorize routine issuance of parking decals to the City Clerk, City Treasurer, Automobile

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Club, School Board Members and School Board Administrative Staff, Members of Commissions/Boards, L.A. Airport Advisory Committee and the Chamber of Commerce (as currently authorized by City Council Policy 3003).

Staff recommends the City Council adopt a Resolution amending City Council Policy 3003 (Attachment 5) and introduce a proposed Ordinance amending CCMC Section 7.01.230.B.(2) (Attachment 6) to be consistent with the Subcommittee's recommendations.

(11) Official City Identification

The Subcommittee recommends the City Council amend City Council Adopted Policy 2007-01 to reiterate and emphasize that official City identification (including badges, ID Cards, business cards, etc.) shall be used for official identification purposes only. Further, and consistent with the spirit of the Attorney General's Opinion, the Council Subcommittee recommends the City Council consider replacing the current official identification (generally a badge) with a nametag like pin for the City Council, the Commissioners, and all non-sworn staff. Further, inappropriate use of Official Identification items shall be classified as Major Misconduct with significant consequences.

(12) City Council Jurisdiction

The proposed Ordinance clarifies specifically that, unless prohibited by the City Charter or other applicable Federal or State law, the City Council has direct jurisdiction over all matters which may be considered by Commissions. While remaining respectful of the important advisory role of the Commissions, the City Council or the City Manager may determine to bring items directly to the City Council for consideration.

Commission-Specific Items

While certain items can be applied to all Commissions, there are some topic-specific items which should be handled on a Commission-specific basis.

(1) Cultural Affairs Commission

The proposed Ordinance amends the CCMC to clarify general terms of the Cultural Affairs Commission with the other Commissions in accordance with the New Charter. Other than compliance with the general requirements as recommended by

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the Council Subcommittee, the Council Subcommittee did not recommend any additional specific amendments to the role of the Cultural Affairs Commission.

(2) Planning Commission:

Standard Conditions of Approval: The Planning Division is currently working on a set of “official” Standard Conditions of Approval to be utilized by the Planning Commission when considering various discretionary entitlement applications. The Council Subcommittee recommends that, upon recommendation by the Planning Commission, these Standard Conditions of Approval be reviewed and approved by the City Council. The Planning Commission or staff, through the Planning Commission, may, from time to time, recommend amendments to the Standard Conditions of Approval for consideration by the City Council. Amendments to the Standard Conditions of Approval would only become effective upon approval by the City Council. It is recommended that this process be included among the Planning Commissions duties as set forth in the CCMC (see Attachment 3).

(3) Parks, Recreation, and Community Services (PRCS) Commission:

1. **Jurisdiction over Trees:** Under the current CCMC, the PRCS Commission has been provided jurisdiction over street and parkway trees. Management of the City’s “municipal forest” has become a more complex process, often requiring the expertise of a landscape architect. To remove existing potential for duplication of jurisdiction, it is proposed the Parks, Recreation, and Community Services Commission retain advisory jurisdiction over the general topic of trees in the City’s parks. However, management of the City’s municipal forest should be the responsibility of the Public Works Department (for street and parkway trees), and day-to-day management of the trees located in the City’s parks should be the responsibility of the Parks, Recreation and Community Services Department.

Private person requests for removal street or parkway trees authorized by CCMC Section 9.10.040 is proposed to become an administrative action, requiring a permit issued by the Public Works Department (subject to appeal to the PRCS Commission).

The City Council is requested to provide direction to staff to clarify that the Public Works Director is responsible for the management of the City’s street and parkway trees.

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2. ***Jurisdiction over Music and Entertainment:*** The current CCMC provides the Parks, Recreation, and Community Services Commission with the mission to provide the City Council with advice on music and entertainment. It is proposed to amend this mission to be consistent with the Commission's broader role with respect to music and entertainment conducted in parks.

(4) Civil Service Commission:

Responsibility for Personnel Administration: The New Charter makes significant changes to the day-to-day operations of the City's government. Section 300 of the New Charter provides:

“The municipal government established by this Charter shall be the “Council-Manager” form of government, under which the City Council sets policy and the City Manager administers the government.”

Under this and other sections of the New Charter, the roles and responsibilities of the City Council, the City's Commissions, and the City Manager have changed. Section 700 of the New Charter provides in pertinent part:

“The City Council shall appoint the City Manager who shall be the chief executive officer of the City, responsible to the City Council for the management of all City affairs placed in the City Manager's charge by or under this Charter...The City Manager...shall...***direct and supervise the administration*** of all City departments except as otherwise provided by the Charter...***(emphasis added)***”

Section 806(B) of the former Charter provided the Civil Service Commission with the responsibility to:

1. “Act in an advisory capacity to the City Council on ***personnel administration (emphasis added)***; and
2. After a public hearing thereon, recommend to the City Council adoption of amendments or repeal of the civil services rules and regulations;
3. Make any investigation which it may consider desirable concerning the ***administration of personnel*** in the municipal service and report its findings to the City Council.” (emphasis added)

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4. Provide a procedure for handling the appeals of any employee in the classified service who is suspended, demoted or removed from his employment. Such procedure shall provide for the employee to have the option of a hearing before the Commission, or before a special hearing officer or board composed of person(s) qualified to hear and make findings and recommendations on such matters. No hearing officer or member of such board shall be a resident, employee or officer of the City.”

The provisions of the New Charter and the responsibilities provided to the Civil Service Commission by the former Charter and current CCMC and Civil Service Rules are in conflict. Since the New Charter’s provisions are now in force and prevail, the Council Subcommittee recommends certain amendments to the powers and responsibilities of the Civil Service Commission. The attached ordinance addresses the following issues:

- (1) Establishes the Civil Service Commission as an appeal hearing body whose decisions are advisory to the City Manager. The decision of the City Manager shall be final and binding; and,
- (2) Stays the obligation of the Civil Service Commission to perform any other duties conferred upon the Civil Service Commission by the CCMC, Civil Service Rules or other City policy or regulation pending a revision to the Civil Service Rules and other City policies.

Consistent with the above, should the City Council provide direction to proceed with this idea, over the next few months, staff will be bringing to the City Council (and through the Civil Service Commission, where applicable) revisions to the Civil Service Rules and City Policies/regulations. Prior to any change in the employee appeal procedure (as proposed in Item 1 above), the City will bargain with the employee labor groups.

It should be noted that the historical functioning of the Civil Service Commission may have been appropriate in a Chief Administrative Officer form of government. However, under the City Council-City Manager form of government and also given the privacy rights conferred on employees (especially with regard to personnel matters), the role of the Civil Service Commission needs to change to reflect both the new form of government in Culver City and these privacy concerns.

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(4) Board of Zoning Adjustments:

The Chapter of the CCMC related to the Commissions also includes provisions related to the Board of Zoning Adjustments (Board). While the Subcommittee did not consider the Board in its discussions, Staff is recommending certain procedural clarifications to the CCMC related to the appeal procedure to ensure consistency with the Zoning Code.

Miscellaneous Revisions

Several other typographical, grammatical, formatting and other non-substantive changes have been made to ensure clarity and consistency.

Future Applicability to the City's Boards and Committees

The Subcommittee recommends that once the City Council has provided its policy direction with respect to these recommended changes, staff be provided direction to prepare a similar report that would apply these policy directives to the City's Committees and Boards. If so directed by the City Council, it is expected this report would return to the City Council on or before September 13, 2010.

FISCAL ANALYSIS:

Similar to the fiscal analysis presented to the City Council when the Council considered (and ultimately adopted) City Council Policy 2007-01 related to the City's Commissions, adoption of these recommendations is expected to streamline the operations of the Commissions, thereby resulting in either a direct operational savings or a savings of staff time which can be redirected to other activities. However, the actual amount of savings is difficult to estimate at this time.

In addition to the direct/indirect fiscal impacts, adoption of these recommendations is expected to allow the City to provide information to the City Council, Commissioners, Staff, and the general public more quickly and in a more consistent and user-friendly format. Further, adoption of these recommendations will eliminate potential conflicts between current operations and provisions of the New Charter (which provisions prevail) and any associated duplication of efforts, thereby saving staff and financial resources.

ATTACHMENTS:

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- (1) The City Charter of 2006 (New Charter)
- (2) Proposed Ordinance regarding Chapter 3.03 relating to Commissions and Agencies
- (3) Proposed Resolution amending City Council Adopted Policy 2007-01
- (4) Proposed Resolution amending City Council Policy Statement Number 3003 relating to the issuance of parking decals
- (5) Proposed Ordinance amending Section 7.01.230.B.2

MOTION:

That the City Council:

- (1) Discuss the recommendations of the Council Subcommittee relating to the roles of Commissions; and,
- (2) Introduce an Ordinance repealing and replacing Chapter 3.03 of the Culver City Municipal Code (CCMC) relating to City Commissions and Agencies; and,
- (3) Adopt a Resolution amending City Council Adopted Policy 2007-01 entitled "City Commissions," and repealing Resolution No. 2007-R029; and,
- (4) Provide direction to staff related to the proposal to designate the Public Works Director as the person responsible for street and parkway trees with an appeal to the PRCS Commission; and,
- (5) Introduce an Ordinance amending Section 7.01.230.B.2 of the CCMC clarifying those individuals eligible to receive parking decals which exempt their vehicles from parking or standing provisions; and,
- (6) Adopt a Resolution amending City Council Policy Statement Number 3003 entitled "Issuance of City Parking Decals" and rescinding Resolution No. 95-R005.