



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Toni J. Taber, CMC  
City Clerk

**SUBJECT:** APPEALS HEARING BOARD  
INTERVIEWS

**DATE:** January 3, 2020

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## **RECOMMENDATION**

- (a) Interview applicant(s) for up to three (3) appointment to the Appeals Hearing Board;
- (b) Appoint one (1) applicant to the Public Member Seat on the Appeals Hearing Board for a term ending December 31, 2022;
- (c) Appoint one (1) applicant to the Public Member Seat on the Appeals Hearing Board for a term ending December 31, 2023;
- (d) Appoint one (1) applicant to the Public Member Seat on the Appeals Hearing Board for a term ending December 31, 2023; and
- (e) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration within 90 days.

## **OUTCOME**

Appointment to the three vacant seats on the Appeals Hearing Board will allow the commission to continue conducting business.

## **BACKGROUND**

The Appeals Hearing Board (Board), consisting of seven (7) members appointed by the City Council and one (1) member must be an attorney-at-law licensed to practice in the State of California is established by San Jose Municipal Code Section 2.08.600.

Under San Jose Municipal Code Section 2.08.620, the Appeals Hearing Board has the following functions, powers, and duties:

- A. Hear all administrative hearings and appeals authorized by the is Code or by ordinance.
- B. Conduct all administrative abatement action hearings authorized by this Code or by ordinance.
- C. Perform the functions and duties within the jurisdiction of the code enforcement appeals commission and traffic appeals commission as set forth in other titles of this Code.
- D. Perform such other programs or functions related to administrative hearings and appeals that the city council or the city manager may, from time to time, authorize or request.
- E. Hear and determine, consistent with city policies, appeals from orders of the city traffic engineer pelaining to citizen requests for stop control devices.

- F. Issue decisions, consistent with city policies, to the city traffic engineer on the subject of installing stop signs at street intersections.

There are four (4) immediate vacancies on the Appeals Hearing Board: one attorney-at-law seat for which no applications have been received; and three public member appointments for which five applications were received, and of which three of those applicants are moving forward to the interview process.

### **ANALYSIS**

As required by Council Policy 0-4, the appointment process for the Appeals Hearing Board includes the City Council holding a public interview of the applicants. The applicants have been invited to be interviewed by the City Council on January 14, 2020. Successful applicants must receive six (6) or more votes to be appointed to the Board. If any seat remains unfilled, it is recommended that the recruitment be referred to the City Clerk to ensure additional applications for consideration by Council in 90 days. After the interview, the Council may make three (3) appointments to the Board with various end dates.

One applicant included in the Conflict of Interest memo, but not included in the application packet is Rajwant Bains. Rajwant Bains has already served three consecutive terms and therefore is ineligible for reappointment at this time. Another applicant, Nicholas Cochran has also subsequently been appointed to the Measure T Oversight Committee, and is no longer eligible for Appeals Hearing Board.

The applicant interview order was determined by using the California Secretary of State's Randomized Alphabet Drawing for the March 3, 2020 Primary Election Ballot. Applicants will be sequestered in another location so that they may not view or hear the interviews of other applicants until they are called to appear. The interview order is:

1. David Hook
2. Timothy Kenny
3. Jorge Antonio Garcia

### **EVALUATION AND FOLLOW-UP**

A duty of the Office of the City Clerk is to minimize vacancies on the Boards and Commissions. The Attorney-at-Law position remains vacant after the resignation of Thomas Skinner. The Office of the City Clerk and City Council Offices are still recruiting for additional vacancies.

### **PUBLIC OUTREACH**

The Office of the City Clerk began an annual recruitment program in 2019, and posted flyers throughout City Hall, distributed flyers to City Departments and sent electronic copies of the

flyer to all council districts requesting it to be included in newsletters. The flyer was also posted on Facebook and Twitter and the City Clerk's main page.

The memorandum has been posted on the City Clerk's website as part of the January 14, 2020 City Council Meeting Agenda.

### **COORDINATION**

This memorandum has been coordinated with the Office of the City Attorney.

### **CEQA**

Not a Project, File No. PP17-010, City Administrative Activities, resulting in no changes to the physical environment.



TONI J. TABER, CMC  
City Clerk

For questions, please contact Toni Taber, City Clerk, at (408) 535-1260.