

DATE: Wednesday, May 27, 2020

TO: Toni Taber, City Clerk; Rossalyn Hughey, Director, Planning Division

FROM: Peter Allen, Planning Commissioner

RE: Planning Commission Composition Ordinance Amendment (Item 6.a)

Greetings,

I am writing to express a number of concerns with the characterization of my comments in your memorandum of May 15 attached to Item 6.a on the Planning Commission agenda for May 27. As we already have two significant development projects to consider this evening, I would like to offer clarifications and corrections in writing out of respect for the time of fellow commissioners, city staff, and the general public. Furthermore, I request that my full comments be included in your final report to the City Council prior to their consideration of the proposed amendments.

Before I dive in, I will acknowledge that I talk very fast, and it may be difficult to capture all of the thoughts that escape my lips. For that, I truly apologize to any staff tasked with transcribing notes from the February 26 Planning Commission study session on this matter. I would like to offer my heartfelt thanks to all rank-and-file city staff who are working under extremely challenging conditions during the public health crisis.

BACKGROUND & CORRECTIONS

Your memo of May 15 includes this note on Page 2 summarizing my comments on the proposed amendments to Planning Commission composition:

Commissioner Allen indicated support for the Council recommendation. He inquired about timing for the municipal code changes that were mentioned in item 1 of the memorandum and shared that the municipal code update should be applied after the Charter amendment takes effect.

To clarify, during the February 26 study session, I indicated support for the intent of the Council's recommendation, which is to improve the diversity of perspectives on the Planning Commission. I also indicated that I do not expect the amendments to have their intended impact. (See below)

Furthermore, I noted that the recommendations in the April 2019 City Council memorandum were likely to become law regardless of Planning Commission feedback due to the personalities and political leanings of the Mayor and four councilmembers who signed the memo — one vote

shy of a majority, with representation from both sides of the current political divide. I also noted that the proposed Charter amendment would be very likely to pass in a public vote, regardless of the election cycle, as there would be no significant opposition and a council majority in support. (I apologize if my cynicism did not come across in the recording.)

I did not “share” that the Municipal Code update should be applied after the Charter amendment takes effect. I recommended that all updates to the composition of the Planning Commission be applied on the same timeline, with adequate phasing built in to account for the challenges of transitioning to a new appointment process. Additionally, I suggested that the prior restructuring of non-Charter commissions in 2012-13 could be used as a template for this process.

CLARIFICATIONS & ADDITIONAL COMMENTS

Recruitment

During the study session, I echoed the sentiments of Chair Ballard and others who lamented a “weak” pipeline for Planning Commission recruitment. The diversity of perspectives in any organization correlates directly to the diversity of the applicant pool. Nothing in the proposed amendments will ensure a pool of qualified and diverse Planning Commission applicants from throughout the city, and no plan for achieving that goal is described in your memo or the attachments. With all respect, if certain councilmembers would like to see their districts better represented on city boards and commissions, I challenge them to nurture a deeper sense of civic engagement among their constituents. This is, in fact, a key component of the job description for any elected official. Additionally, it should be more than obvious by now that the City Clerk’s Office cannot be expected to run a competent public outreach campaign.

Term Limits

I do not believe term limits will have any impact on commission composition. Vacancies are already a regular course of our business, as we learned again this month with the sudden and poorly communicated resignation of a fellow commissioner. As I stated at the study session, I can’t imagine why anyone would want to serve in this role for more than eight years, and I can’t recall anyone in recent memory doing so. The meetings are long, the power is limited, and the agenda packets are dense.

In my opinion, there are two types of people who apply for and get appointed to the Planning Commission: Those who are planning to run for City Council within the next two to six years and want to learn more about land use policy, build their resumes, and have a platform to impress community and business leaders who influence local elections; and those who are passionate about land use and public service and see the commission as an ideal nexus of these worlds. While I could have been accused of taking the first approach the first two times I applied — and was not appointed — I can honestly say that I fall into the latter category. I actually care about this work. I take it seriously, and I can’t take anyone seriously who doesn’t. But even I can’t see myself serving more than one more term. After all, I’m no masochist. (By the way, non-Charter commissions already have term limits, so this isn’t an outlandish idea, just unnecessary.)

Lobbyist Provision & Revolving Door Policy

I am not surprised that the lobbyist provision and expanded revolving door policy didn't make the cut for this round of amendments. After all, politicians made the original recommendations, politicians will need to approve them, and politicians have lobbyist friends. As I am neither a lobbyist nor a land use consultant, I have no concerns about these provisions. (It's worth noting that Section 12.10.040 of the Municipal Code already prohibits former commissioners from representing third parties before the commission for two years after our terms end.)

Majority Vote Exemption

As you might expect, the politicians would have a "Get Out Of Jail Free" card if they approve Item (d) of staff's recommendation — what I refer to as the "Any Given Tuesday" exemption. Apparently, city councilmembers don't even trust themselves to do the right thing. I reject the very premise of this recommendation.

Politicization of the Planning Commission

As stated above, politicians make policy recommendations. Politicians decide who to interview for seats on the Planning Commission. Politicians decide who to appoint. And politicians set the policies which planning commissioners are charged with using to make our recommendations to the very same politicians, which they are under no obligation to accept and often reject. The notion of taking politics out of the Planning Commission is as patently ridiculous as taking money out of our elections or taking marshmallows out of S'mores. We may as well tear down the whole Ziggurat and rebuild from scratch — and maybe we should while we have the opportunity during this evolving crisis. But that decision is above my pay grade.

Thank you for your time, patience, and attention. I look forward to robust conversations about future amendments to the composition of the Planning Commission.

Respectfully,

Peter Allen
Planning Commissioner, City of San José
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