



COUNCIL AGENDA: 08/11/2020  
ITEM: 3.7  
FILE NO: 20-898

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

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

**SUBJECT:** SEE BELOW

**DATE:** August 11, 2020

**SUBJECT: Temporary Modification to Arts Commission & Extension of Terms of Termed-Out Commissioners.**

**Recommendations:**

As recommended by the Rules and Open Government Committee on August 5, 2020:

(a) Approve an ordinance amending Section 2.08.820 of Chapter 2.08 of Title 2 of the San Jose Municipal Code to add an additional four temporary members to the Arts Commission with terms from August 11, 2020 to December 31, 2020, to be effective August 11, 2020 to December 31, 2020, and waiving the regular nomination process for these four temporary seats. On 11:59 PM December 31, 2020 these four temporary seats will terminate and those appointed to these temporary seats will conclude their service to the Arts Commission. The commission will revert back to its previous 11-member configuration as of midnight on January 1, 2021;

(b) Pursuant to Section 2.08.150.F.2 of the San Jose Municipal Code, to maintain commissioners with relevant experience or background, approve the following temporary appointments to the Arts Commission for a term from August 11, 2020 to December 31, 2020:

- (1) Albert Le;
- (2) Ron Muriera;
- (3) Ramona Snyder; and
- (4) Roma Dawson.

CEQA: Not a Project, File No. PP17-010, City Organization and Administrative Activities resulting in no changes to the physical environment. (Khamis and Davis)

[Rules Committee referral 8/5/2020 - Item G.6]



# Memorandum

**TO:** RULES & OPEN GOVERNMENT COMMITTEE

**FROM:** Councilmember Johnny Khamis  
Councilmember Dev Davis

**SUBJECT:** TEMPORARY MODIFICATION TO ARTS COMMISSION & EXTENSION OF TERMS OF TERMED-OUT COMMISSIONERS

**DATE:** July 30, 2020

**APPROVED:**

**DATE**

07/30/2020

## **RECOMMENDATIONS:**

Direct Staff to return to City Council on August 11, 2020, with a Sunshine Waiver\*, for Council Action:

1. A temporary modification to Council Policy 0-4: Consolidated Policy Governing Boards and Commissions to expand the voting membership of the Arts Commission by four temporary seats to be effective July 1 – Dec 31, 2020. On 11:59 PM December 31, 2020 these four temporary seats will terminate and those appointed to these temporary seats will conclude their service to the Arts Commission. The commission will revert back to its previous 11-member configuration as of midnight on January 1, 2021.
2. Re-Appointment of the four commissioners whose terms expired on June 30th to the four temporary seats, in continuation of their previous service, as follows: Albert Le, Ron Muriera, Ramona Snyder, and Roma Dawson.

\*NOTE: Because further discussion was not placed on the Agenda for August 4th, as requested by the Council on June 30, the request for the shortened agenda timeline and Sunshine Waiver is driven by the urgency of the fact that the Arts Commission is scheduled to convene on the third Monday of the month, which, in August, will be August 17. If the item were to wait, the commissioners in question would be denied participation in yet another commission meeting.

## **BACKGROUND:**

Council Policy 0-4: Consolidated Policy Governing Boards and Commissions can be modified by the City Council as they see fit in order to accommodate changing circumstances, such as

## **RULES COMMITTEE**

**Agenda: 08/05/2020**

### **TEMPORARY MODIFICATION TO ARTS COMMISSION & EXTENSION OF TERMS OF TERMED-OUT COMMISSIONERS**

when many Council Appointed Boards and Commissions were modified to 11 members in the interest of Equity, or in extraordinary circumstances, such as in the midst of a crisis like the global COVID-19 pandemic of which we are in the midst. The Council is empowered to make such changes for Commissions that are not defined in the City Charter by the Charter's Article X, Section 1002 - "All boards, commissions and committees created by the Council shall be subject to such direction and supervision, if any, as the Council may specify, and the members thereof shall be appointed by the Council, or by the Mayor if such is authorized by the Council, for such terms as the Council may deem advisable."

On June 17, 2020, Mayor Liccardo brought forth a memo to the Rules Committee that stated "Due to the COVID-19 pandemic and resulting shelter in place order, many of the City's voluntary boards and commissions have not been able to meet for the past three or four months to discuss and provide input into policies. With the exception of the planning commission, which has shifted to virtual meetings, the Council should discuss extending the terms of those commissioners who would otherwise term out on June 30, 2020. Staff should be prepared to provide input on a possible length of extension based on vacancies, applications, and any other relevant factors." We agreed then with the sentiments expressed and continue to do so.

Further, the Rules Agenda for June 17, 2020 included the following for potential referral to Council for action:

"Extend certain volunteer Board and Commissioner terms by six months from June 30, 2020, as follows:

a. Arts Commission:

1. District 5 Seat: Albert Le, for term ending December 31, 2020.
2. District 3 Seat: Juan Carlos Araujo, for term ending December 31, 2020.
3. District 7 Seat: Ron Muriera, for term ending December 31, 2020.
4. District 9 Seat: Ramona Snyder, for term ending December 31, 2020.
5. Citywide Seat: Roma Dawson, for term ending December 31, 2020.
6. District 1 Seat: Smita Garg, for term ending December 31, 2020."

The Rules Committee then sent this, and other extension requests, to the Council for action on June 30, 2020. It was our understanding that these term extensions would appear on the agenda for discussion and action. In the intervening period, however, an item was added to the Consent Calendar - item 2.21 to appoint new Arts Commissioners to begin their service on July 1, 2020. The discussion item for term extensions for the existing Commissioners was relegated to item 2.22, and then moved to a discussion as item 3.6 - but the extension for the Arts Commissioners that was originally a part of 2.22 had now been dropped from the agenda by staff. The way the items were placed on the agenda, the order in which they occurred, and the changes that were made thwarted the intent of the Rules Committee to have the Council discuss an extension of terms for the four termed-out Arts Commissioners who were ineligible for reappointment.

The process and changes in Staff memos from what was discussed at Rules to what made it to the June 30, 2020 Council Agenda created confusion for the Council and the public which became obvious during the Council discussion. In response to the confusion, the Council directed that the concerns around the Arts Commission be sorted out by staff and brought back to Council on August 4, 2020 for discussion and action. Instead, an Information Memo was issued

**RULES COMMITTEE**

**Agenda: 08/05/2020**

**TEMPORARY MODIFICATION TO ARTS COMMISSION & EXTENSION OF TERMS OF TERMED-OUT COMMISSIONERS**

that did not address our concern that some of our Arts Commissioners were shortchanged of their service to the City.

It was clear from the Council discussion on June 30, 2020 that, given the appointments that had taken place with item 2.21, there was still Council intent to allow the termed-out Arts Commissioners to continue to serve until the end of the calendar year – creating an overlap between the new and outgoing commissioners in the interest of continuity and out of fairness to those commissioners whose service was affected by the COVID-19 Shelter-in-Place. Evidence of this intent included the amendment to Councilmember Esparza’s motion offered by Councilmember Khamis to create this overlap – an amendment that Councilmember Esparza accepted, but which was then determined by the acting City Attorney to be out of order due to the fact that the discussion of Arts Commissions extensions had been dropped from Item 2.22/3.6. The purpose of this memo is to implement this temporary, Council-supported overlap in terms.

We encourage our colleagues to support this action and place it on the August 11, 2020 Agenda for discussion and action.