



STAFF REPORT

MEETING DATE: October 25, 2023

PRESENTERS: Hilda Cantu Montoy, City Attorney
Marci Reyes, City Clerk
Jesus R. Orozco, Community Development Director
Theresa Johnson, Community Services Director

SUBJECT: Second Reading and Adoption of Ordinance Relating to City of Kerman Boards and Commissions (HCM)

RECOMMENDATIONS: Council by motion waive second reading and adopt ordinance adding Chapter 2.26 to Title 2 of the Kerman Municipal Code relating to City Boards and Commissions, repealing Chapters 2.28 and 2.32, and Adding New Chapters 2.28, 2.32, and 2.34 related to Planning Commission; Parks, Recreation, and Community Services Commission; and Sales Tax Oversight Committee.

EXECUTIVE SUMMARY:

The proposed ordinance updates the process for establishment of boards and commissions in the City of Kerman that conforms with state law changes over time and to current circumstances. The proposed ordinance establishes Chapter 2.26 in the Municipal Code for City Boards and Commissions which includes a generic process for the appointments, terms, qualifications, eligibility, Brown Act requirements, and vacancies on boards and commissions. This will ensure that staff and members of the public alike have the information needed. This chapter applies to current and future boards and commissions. Chapter 2.26 does allow for changes thereto in ordinances creating boards and commissions. The proposed ordinance also updates Chapter 2.28 and 2.32 relating to the Planning Commission and Parks, Recreation, and Community Services Commission, and adds a new Chapter 2.34 relating to the Sales Tax Oversight Committee.

DISCUSSION:

At the October 11, meeting, staff presented to the Council the proposed ordinance changes from the September 27, meeting for review and approval. The proposed changes included, eliminating term limits, residency requirements extended to the sphere of influence, each board and commission shall have five members, along with other items pertaining to meetings and organization, powers and duties, and staffing and administration. Council waived the first reading and introduced the ordinance.

A proposed ordinance was presented to Council on September 27. Council held a lengthy discussion and referred the ordinance to staff for some changes. Those changes are discussed

below. The proposed ordinance was prepared collectively by the City Clerk who is responsible for maintaining the roster for boards and commissions, the Directors who sit with the Planning Commission and Parks, Recreation, and Community Services, and the City Attorney. The purpose is to update procedures with current circumstances and to comply with two state laws. First, Government Code Section 40605 requires that in cities with elected mayors, the Mayor makes appointments to boards and commissions and the City Council approves the appointments. Second Government Code Section 54972 provides for the Local Appointment List for all boards and commissions. The City Clerk is responsible for maintaining the list.

The process for appointment under proposed Chapter 2.26 will be similar in that the City Clerk will advertise for positions. Thereafter, the Mayor alone or with another Councilmember may interview the applicants. The Mayor then makes the appointments subject to Council approval. The Council considers the appointments and determines whether to approve or reject the Mayor's appointments. If the Council rejects the appointment(s), the Mayor may make another appointment(s) subject to the Council's approval. The California Attorney General has described this as follows: "the Legislature intended to create a system of checks and balances by placing the appointment authority in the hands of the elected mayor, while giving the city council the right to reject mayoral appointments." (81 Ops. Cal. Atty. Gen. 75)

The proposed ordinance clarifies issues that have come up from time to time and has been updated from the last meeting. The following is a summary with items asterisked reflecting changes based on Council direction on September 27:

- Chapter 2.26 clarifies that its provisions apply unless a specific chapter (ordinance) provides otherwise.*
- Chapter 2.26 deletes the one year lapse after serving two terms which in effect eliminates term limits.*
- All appointees would be required to be at least 18 years old.
- The Council was concerned with the requirement that all appointees must be a City resident at the time their application is submitted and during their incumbency. The proposed ordinance provides that appointees must be a City resident or a resident in the City's sphere of influence. *
- Each board and commission shall have five members.
- Employees of City shall not be eligible to serve as board members.
- A person may not serve on more than one board or commission at a time. However, if advertising for a position results in no applications, a person may be eligible to serve on two different boards or commissions at the same time.
- Terms shall be for three years.
- Current board or commission members will continue to serve until their current term expires.

- Members of the City Council who serve as a liaison to a city board or commission are not voting members, shall not try to influence boards or commission, and should provide periodic reports to the Council.
- There was significant discussion regarding absences. Based on that a new section 2.26.050 adds an attendance policy which defines excused and unexcused absences.*
- A majority of the Council may remove a member of a board or commission.
- Clarifies that all meetings are subject to the Brown Act.
- Section 2.34.020 addresses the appointment process for the Sales Oversight Committee which is similar to the current process. This is based on Council direction from the September 27, meeting to retain a process for district appointments to the Sales Tax Oversight Committee. New Section 2.34.020 reflects that process. But, please note that it is not a direct appointment by each Councilmember. To comply with Government Code Section 40605, each Councilmember may nominate someone from the district and the Mayor will consider that nomination for appointment followed by Council approval.*
- Section 2.34.030 has been amended to address the discrepancy with terms on the Parks, Recreation, and Community Services Commission thereby allowing for one 1-year term and three 3-year terms for the initial term.*

In sum, the chapters establishing the Planning Commission; Parks, Recreation, and Community Services Commission and Sales Tax Oversight Committee address their establishment, meetings and organization, powers and duties, and staffing and administration. Revisions to said chapters take into account issues with lack of quorum due to the seven- and nine-member requirement of the Commissions. Staff continue to stress the importance of a City residency requirement for board and commission members as (i) it is a standard requirement in most cities and (ii) ensures decision makers have knowledge, appreciation, and a basic understanding of public issues and concerns related to the City. But, staff understands that Council may determine otherwise.

ENVIRONMENTAL REVIEW:

A preliminary environmental assessment has been performed for this project pursuant to the California Environmental and Quality Act (CEQA). There are findings to determine with certainty that, pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this project may have a significant, adverse, impact on the environment. This is because this project involves purely procedural policies with no impacts on the environment. Therefore, this project is not subject to CEQA.

FISCAL IMPACT:

The streamlining of the procedures will create savings in advertising for positions and staff time.

ATTACHMENTS:

A. Ordinance