



Human Welfare and Community Action Commission

ACTION CALENDAR  
 May 16, 2017  
*(Continued from May 2,  
 2017)*

To: Honorable Mayor and Members of the City Council

From: Human Welfare and Community Action Commission

Submitted by: Edwina Perez-Santiago, Chairperson, Human Welfare and Community Action Commission

Subject: Amend BMC Sections 3.78.030, 040, and 050 Related to Commission Procedures

#### RECOMMENDATION

Adopt a Resolution requesting that the City Manager examine the addition of language to the Berkeley Municipal Code that clarifies aspects of the management of City of Berkeley commissions and the removal and appointment of commissioners.

#### FISCAL IMPACTS OF RECOMMENDATION

There are minimal costs associated with the actions recommended beyond amending the policy as appears in city publications.

#### CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley has a unique system of commissions that acts on a consultative basis with City Council on a variety of topics. Like most organizations, commissions need to constantly look at ways to improve their process. The current code regarding the operations of the city commissions is unclear in several areas and this resolution attempts to find solutions to these needs.

#### BACKGROUND

On 9/16/2015 the HWCAC held a public meeting with a resolution on Divestment from Israel as one of the agenda items. Shortly before the start of that meeting, the commissioner who had brought the resolution forward was informed that she was being removed by her appointing councilperson. This dismissal removed the commissioner from the debate that night and from any potential vote on the resolution.

In addition to the dismissal, several members of the council appointed new commissioners to the HWCAC just before a vote on the resolution. One of these last minute appointments was for only one meeting, which happened to be the one on 10/21/2015 where the divestment resolution was being voted on. Two other last minute appointments provided votes against the resolution. Other appointees didn't even show

up for the meetings, and were eventually removed from the HWCAC. Whether these appointments were made to purposely manipulate the vote is a separate discussion, but they gave that impression to many commissioners and members of the public. We firmly believe that whatever your feelings are in regards to a topic, in this case Divestment from Israel, the rights of commissioners and the public to engage in open debate and to a fair vote on the topic should not be compromised. These actions by City Council highlight how the current code is vague on dealing with some aspects of commissioner dismissals and appointments and how that lack of clarity may be used to exert influence on commissioners and manipulate open debate. This resolution recommends several changes to the code regarding commissions in an effort to clarify these points and protect the role of the commissioner and improve the performance of these valuable groups.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts or opportunities associated the action suggested in this report.

RATIONALE FOR RECOMMENDATION

As a member of the commission system the Human Welfare and Community Action Commission has a vested interest in the improved operations of the commission system. In addition, we believe that clarifying certain parts of the process will help the commission system to better serve the community by providing the opportunity for people to tackle difficult subjects.

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Wingyin Wong, Commission Secretary, HHCS, (510)981-5428

Attachments:

1: Resolution

RESOLUTION NO. ##,###N.S.

Commission Improvement Process

WHEREAS, the Human Welfare and Community Action Commission is organization with the city's commission program and has a vested interest in the approved function of the commissions.

WHEREAS, here is potential for the commission appointment process to be used in ways that it may not have been intended.

WHEREAS, the set of rules regarding the removal of commissioners by their appointing city council member is not clearly defined.

WHEREAS, we believe the system could be improved with closer contact between commissioners and their appointing city councilpersons.

NOW THEREFORE BE IT RESOLVED by the City Council of the city of Berkeley that the City Manager examine the feasibility making changes to the existing city code to improve the operations of the commission process.

BE IT FURTHER RESOLVED that BMC 3.78.030 Vacancy and Removal Section A Sentence 2 be amended with the following or similar language. "Vacancies on the board shall result when a member notifies the City Clerk of his/her resignation, or when an elected member moves and establishes residence outside of his/her election district, or when a commissioner's appointment is revoked by the appointing city council member in writing with a minimum of 30 days' notice." This will ensure that any terminations of appointment are done with advanced notice and will ensure against the conflicts of interest that may arise from last minute removals of commissioners.

BE IT FURTHER RESOLVED that BMC 3.78.030 Vacancy and Removal Section B Sentence 1 be amended with the following or similar language.."..finish the unexpired term of the appointment. This vacancy appointment may not vote on commission items till the 2nd meeting following their appointment." This will ensure against the conflicts of interest that may arise from that last minute appointments made to affect the outcomes of votes.

BE IT FURTHER RESOLVED that BMC 3.78.040 Temporary Vacancies Sentence 3 shall be amended with the following language.."..remaining representatives of the poor, as long as that appointment is approved by a minimum of 3 representatives of the poor, if three representatives of the poor are not available then the temporary appointment may be voted on by a quorum of commissioners and may be approved by a majority of the quorum." This change ensures that any temporary vacancies on the Human Welfare and community Action Commission are approved by a minimum number of members of the commission, currently there is no defined number of voting members required.

BE IT FURTHER RESOLVED that BMC 3.78.050 officers, meeting, and procedures be amended with the following or similar language “E. City Council members will meet with the commissioner appointees in person, or via a phone call or online meeting every 6 months starting on the day of their appointment.” This will help ensure better communication between council members and their appointees.

BE IT FURTHER RESOLVED by the city council of the city of Berkeley that the city manager and city attorney examine and changes necessary to apply the appropriate changes to the code in regards to all of the city’s commissions.