

ORDINANCE NO. 3370

ORDINANCE OF THE CITY OF CHULA VISTA ADDING CHULA VISTA MUNICIPAL CODE CHAPTER 2.53, APPOINTMENT PROCESS TO FILL VACANCIES ON THE CITY COUNCIL AND SPECIFIED COMMISSIONS, AND AMENDING SECTIONS 2.25.050 AND 2.43.050 ACCORDINGLY

WHEREAS, Chula Vista Charter section 303(C) provides circumstances under which an appointment may be made to fill a vacant seat on the City Council; and

WHEREAS, on June 16, 2015, the Council adopted an Interim Appointment Process for members of the Growth Management Oversight Commission, Parks & Recreation Commission, Planning Commission, and the two seats on the Civil Service Commission appointed directly by the City Council (“Interim Appointment Process”); and

WHEREAS, it is in the best interests of the City to implement the Interim Appointment Process as the appointment process to be used when filling a vacancy on the aforementioned Commissions and when filling a vacancy on the City Council by appointment pursuant to Charter section 303(C).

NOW, THEREFORE, the City Council of the City of Chula Vista does ordain as follows:

SECTION I

Chapter 2.53 is hereby added to the Chula Vista Municipal Code to read as follows:

**Chapter 2.53
APPOINTMENT PROCESS TO FILL VACANCIES ON THE CITY COUNCIL AND
SPECIFIED COMMISSIONS**

Sections:

- 2.53.010 Purpose and intent.**
- 2.53.020 Applicability**
- 2.53.030 Definitions**
- 2.53.040 City Council Vacancy Appointments**
- 2.53.050 Specified City Commission Vacancy Appointments**
- 2.53.060 California Public Records Act and Ralph M. Brown Act Compliance**

2.53.010 Purpose and intent.

The purpose of this Chapter is to set forth a fair and open appointment process to be used by the City Council to fill Vacancies (defined below) on Specified City Commissions (defined below) and to fill Vacancies on the City Council where such appointment is authorized by the Charter.

2.53.020 Applicability

This Chapter applies to appointments to fill (a) any Vacancy (defined below) on the City Council when the City Council has elected to fill such Vacancy by appointment as permitted under Charter Section 303(C); and (b) any Vacancy on Specified City Commissions (defined below). The appointment processes for seats on other City Commissions, where either nominations for Vacancies are to be made by the Mayor, or where alternative appointment processes apply, are set forth elsewhere in this Code, in the Chapters and code provisions specifically applicable thereto.

2.53.030 Definitions.

A. "Application Period" means the timeframe during which applications are accepted for a particular Vacancy (defined below). The Application Period for City Council Vacancies is defined in section 2.53.040(C) below. The Application Period for Specified City Commission Vacancies is defined in section 2.53.050(B) below. Once established, the Application Period will be posted on the City's website.

B. "Interview" means the process at a public meeting by which applicants are given an opportunity to present themselves to the City Council, and the City Council questions and evaluates the applicants. Should an applicant be unable to attend the scheduled Interview, the Council may elect to consider a letter of interest or interview by other means, such as telephone or video conference, in lieu of an in-person meeting.

C. "Qualified Application" means an application received within the Application Period with all of the required components. The application form shall be available through the City Clerk's office and will specify the required components for an application to be deemed a Qualified Application.

D. "Specified City Commissions" means those City Commissions specified in CVMC Section 2.25.050(E) as follows: Growth Management Oversight Commission, Planning Commission, Parks and Recreation Commission, and the two seats on the Civil Service Commission whose members are appointed by the City Council directly.

E. "Vacancy" (or "Vacancies"). For Specified City Commission seats, "Vacancy" is defined in accordance with Chapter 2.25.020(J). For City Council seats, "Vacancy" is defined in accordance with Charter Section 303(A).

2.53.040 City Council Vacancy Appointments.

A. The process for filling a Vacancy by appointment to the City Council is intended to be consistent with and implementing of Chula Vista Charter Section 303(C). To the extent there is any conflict between the Charter and this Chapter 2.53, the terms of the Charter shall govern.

B. In the event of a City Council Vacancy, the City Clerk will work with City Staff to notify the public of the Vacancy in accordance with then applicable "best practices." At a minimum, notice of the Vacancy will be posted on the City's website and at the City Clerk's Office.

C. The Application Period shall commence on a date established by the City Clerk no later than five (5) calendar days after the Vacancy is declared by the City Council in accordance with Charter section 303(A) and end on the day falling fourteen (14) calendar days after the commencement date. An individual desiring to fill a Vacancy must submit a Qualified Application during the Application Period. The City Clerk will collect and provide all Qualified Applications received within the Application Period to the Mayor and each Councilmember no later than 72 hours prior to the meeting scheduled for nominations or Interviews. Such applications will be made available to the public at the same time. Applications received after the established Application Period shall not be accepted. The Mayor and each Councilmember shall independently review all forwarded Qualified Applications for the Vacancy.

D. Should four or fewer Qualified Applications be received by the City Clerk within the Application Period, following the close of the Application Period, the appointment process shall be as follows:

1. At an open meeting of the City Council, the Mayor and City Council shall collectively set a date and time to hold an Interview of all applicants who have submitted a Qualified Application during the specified Application Period.
2. At the meeting set for Interviews, any member of the public shall be afforded the opportunity to speak to the item prior to commencement of the Interview process.
3. The Mayor and City Council will then conduct the Interviews.
4. Public comment will be solicited and allowed again after the Interviews.
5. Following the Interviews and any public comment, the Mayor and City Council shall publicly deliberate and select one individual for each available position. The affirmative votes of at least three Councilmembers are required for appointment.

E. Should five or more Qualified Applications be received by the City Clerk within the Application Period, following the close of the Application Period, the appointment process shall be as follows:

1. The City Clerk shall place an item on the agenda of an open City Council meeting, indicating that nominations by the City Councilmembers for Interviews to fill the Vacancy will take place. The Vacancy and the names of applicants who have submitted a Qualified Application during the Application Period will be listed.
2. At the meeting for nominations, any member of the public, including any individual submitting a Qualified Application, shall be afforded the opportunity to speak to the nomination item.
3. Following the public comment period, the Mayor and each Councilmember will complete a form indicating one or more applicants each wishes to nominate for an

Interview and provide the form to the City Clerk. The forms submitted to the City Clerk shall be public record and retained on file in the Office of the City Clerk.

4. The City Clerk shall then publicly announce each applicant receiving two or more nominations and indicate that each Councilmember's nomination form is available for public review.

5. The Mayor and City Council shall then collectively set a date and time to hold an open meeting of the City Council for the purpose of interviewing each applicant who received two or more nominations.

6. At the meeting set for Interviews, any member of the public shall be afforded the opportunity to speak to the Interview item prior to the commencement of the Interview process.

7. The Mayor and City Council will then conduct the Interviews.

8. Public comment will be solicited and allowed again after the Interviews.

9. Following the Interviews and any public comment, the Mayor and City Council shall publicly deliberate and select one individual for each available position. The affirmative votes of at least three Councilmembers are required for appointment.

2.53.050 Specified City Commission Vacancy Appointments

The appointment process for filling Vacancies on Specified City Commissions shall be consistent with the process for City Council appointments provided in Section 2.53.040 above, with the following exceptions:

A. In the event of a Vacancy, the City Clerk will follow current organizational best practices to notify the public of the Vacancy. Vacancies shall be noticed and filled in accordance with the requirements of Government Code sections 54970 *et seq.* (Maddy Act). The City Clerk will maintain applications received for prospective membership on Specified City Commissions for a minimum of two years.

B. For Vacancies that are noticed on the "Local Appointments List" as defined and in accordance with Government Code 54972, the Application Period shall commence on the day two years prior to the date of Vacancy and end thirty (30) days before the date of Vacancy. In the event of an unscheduled Vacancy, the Application Period shall commence on the day two years prior to the date of the notice of Vacancy, in accordance with Government Code section 54974, and end twenty-one (21) days after such notice. In the event that fewer than three Qualified Applications are received during the Application Period, the Application Period may be extended by the City Clerk for an additional fourteen (14) days. Applications received after the established Application Period shall not be accepted. In the event that an applicant submits more than one Qualified Application for a Vacancy during the Application Period, the last Qualified Application for the Vacancy received by the City Clerk shall be deemed the applicant's Qualified Application.

C. Within ten (10) business days of the close of the Application Period, the City Clerk will provide the Mayor and each Councilmember with all Qualified Applications received within the Application Period. Such applications will be made available to the public at the same time.

2.53.060 California Public Records Act and Ralph M. Brown Act Compliance

Interviews and meetings that occur in accordance with this Chapter 2.53 shall comply with Government Code sections 54950-54963 (Ralph M. Brown Act). Should written material be submitted, such material shall be made available for public inspection, in accordance with Government Code sections 6250-6276.48 (California Public Records Act) and with the Ralph M. Brown Act.

SECTION II

Chapter 2, Sections 2.25.050(C) and 2.25.050(E) of the Chula Vista Municipal Code regarding general rules for appointment to Commissions are hereby amended to read as follows:

2.25.050 Membership – Applications – Interview, nomination and appointment process.

C. When a vacancy occurs on a board or commission, the City Clerk shall forward applications received for the vacant position to the Mayor, who shall review the forwarded applications, select applicants to be interviewed, interview selected applicants, and make nominations for appointment, subject to the City Council's approval, for all boards and commissions except for the Board of Ethics, Civil Service Commission, Growth Management Oversight Commission, Mobilehome Rent Review Commission, Planning Commission, and Parks and Recreation Commission.

E. Vacancies on the Growth Management Oversight Commission, Planning Commission, Parks and Recreation Commission, and the two seats on the Civil Service Commission whose members are appointed by the City Council directly shall be appointed in accordance with CVMC 2.53.

[Note: [2.25.050 Subsections A, B, D, and F through H remain unchanged]]

SECTION III

Chapter 2, Section 2.43.050 of the Chula Vista Municipal Code regarding the appointment process for the Civil Service Commission is hereby amended to read as follows:

2.43.050 Membership

In accordance with City Charter Section 609, the Civil Service Commission shall consist of five members appointed by the City Council from the registered voters of the City. Two members shall be appointed by the City Council from a list of four persons to be nominated by election of the employees in the Classified Service: two members shall be appointed by the City Council

directly, in accordance with CVMC 2.53; the fifth member shall be appointed by the City Council from a list of three persons nominated by the four thus appointed. The successor of any member of the Commission shall be nominated and appointed in the same manner as such member was nominated and appointed.

SECTION IV Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

SECTION V Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

SECTION VI Effective Date

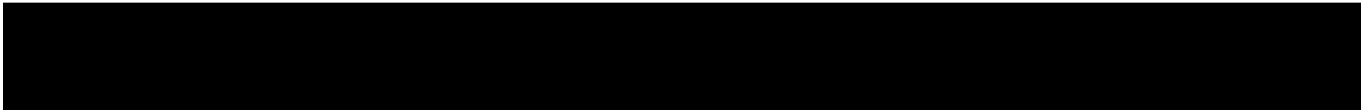
This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

SECTION VII Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

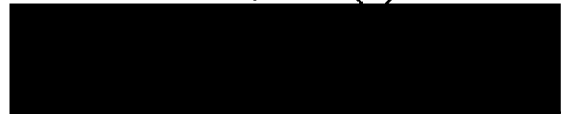
Presented by

Approved as to form by



Glen R. Googins
City Attorney

Glen R. Googins
City Attorney



Donna R. Norris
City Clerk

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 26th day of July 2016, by the following vote:

AYES: Councilmembers: Bensoussan, McCann, and Miesen

NAYS: Councilmembers: None

ABSENT: Councilmembers: Aguilar and Salas

[Redacted Signature]

Mary Salas, Mayor

ATTEST:

[Redacted Signature]

Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3370 had its first reading at a regular meeting held on the 12th day of July 2016 and its second reading and adoption at a regular meeting of said City Council held on the 26th day of July 2016; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

Aug 4, 2016
Dated

[Redacted Signature]

Donna R. Norris, CMC, City Clerk