



**DATE:** June 23, 2020

**TO:** Mayor and City Council

**FROM:** City Manager  
City Attorney  
City Clerk

**SUBJECT:** Hayward City Charter Amendment: Consider Proposed City Charter Amendment to Eliminate Qualified Elector/Citizenship Requirement for Service on Boards, Commissions, Committees, Task Forces, and Advisory Bodies

## **RECOMMENDATION**

That the City Council considers a proposed City Charter amendment, to be submitted to the voters at the November 3, 2020 General Municipal Election, eliminating the current qualified elector/citizenship requirement for service on boards, commissions, committees, task forces, and advisory bodies. The Council may also consider submitting an amendment eliminating gender specific pronouns within the Charter language.

## **SUMMARY**

The three Council-appointed officers, City Clerk, City Manager, and City Attorney, take the unusual step of asking the Council to consider submitting an amendment to the City Charter – Section 900<sup>1</sup> to voters at the November 3, 2020, General Municipal Election. The proposed amendment would eliminate the requirement for U.S. citizenship as a criterion for service on the Council’s appointed boards, commissions, committees, task forces and similar advisory bodies. This requirement has been part of the City Charter for over 60 years.

## **BACKGROUND AND DISCUSSION**

The Hayward City Charter was substantially revised and adopted in 1956. Section 900 of the Charter contains the following language:

- SECTION 900. - IN GENERAL.

There shall be the boards and commissions enumerated in this Article which shall have the powers and duties stated herein. The number of members to comprise any board or commission shall be determined by ordinance or resolution of the Council. No member of any board or

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<sup>1</sup> Hayward City Charter – Section 900

[https://library.municode.com/ca/hayward/codes/charter?nodeId=CIHACH\\_S900INGE](https://library.municode.com/ca/hayward/codes/charter?nodeId=CIHACH_S900INGE)

commission shall be a member of any other board or commission or hold any paid office or employment, in the City Government. In order to be eligible for any appointment to any board or commission, a person shall be a qualified elector of the City.

In addition, the Council may create by ordinance or resolution such boards or commissions as in its judgment are required and may grant to them such powers and duties as are consistent with the provisions of this Charter.

(AMENDED: STATS. 1959 CH. 82)

In lay terms, a ‘qualified elector’ means the applicant for appointment must be a Hayward resident, registered voter, and U.S. citizen. Hayward residents who are not U.S. citizens cannot register to vote and therefore do not qualify for appointment to any of the Council’s boards, commissions, task forces, or advisory bodies such as the Planning Commission, Library Services Commission, Community Services Commission, Personnel Commission, and the Keep Hayward Clean and Green Task Force. The restrictive requirement for eligibility has been the subject of discussion over the last few years but asking the voters to change the Charter is seen as inadvisable for many reasons. There is recognition, however, that U.S. citizenship inhibits the Council’s ability to recruit among Hayward’s larger and more diverse community. Hayward residents who are not U.S. citizens are not necessarily less committed to serving the interests of the community than Hayward residents who are U.S. citizens and registered voters. During the past few annual Board and Commission recruitment processes, the City Clerk has disqualified applicants as a result of this requirement. During this current year’s recruitment, at least one applicant so far has been disqualified.

Given the compelling community conversations about steps the City can take to equitably serve – and protect – all of its residents, this is an opportune moment to include the issue of U.S. citizenship to the conversation. With the November 3, 2020 General Municipal Election deadlines in early August, the Council could sponsor a focused Charter amendment that presents this question to Hayward voters. The restrictive language above (shown in yellow text) could be replaced with the following language:

‘An applicant for any appointment to any board or commission shall be a resident of the City but need not be a qualified elector.’

If the less restrictive language were adopted by the voters, the Council could then adopt a resolution establishing criteria for service on advisory bodies. For example, the Council could require Planning Commission applicants to be residents for a certain number of years and demonstrate experience, knowledge, or commitment to land use, development, and housing issues.

The Council-appointed officers also suggest consideration of an additional Charter<sup>2</sup> amendment that eliminates gender-specific pronouns and replaces the pronouns with non-

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<sup>2</sup> City Charter  
<https://library.municode.com/ca/hayward/codes/charter>

gender specific titles. For example, 'Councilmen' or 'Councilman' (Sections 500, 602) would be changed to 'Council members' or 'Council Member.' 'He' (Sections 604, 700) would be changed to 'the Mayor' or 'the City Manager,' and so on.

Hayward has been recognized as one of the most diverse communities in the United States. Both of these changes better reflect current cultural values within the Hayward community as well as support the City's Commitment to an Inclusive, Equitable, and Compassionate (CIECC) document, supported and accepted by the City Council.

The deadline for submitting a Council-sponsored measure is August 7, 2020, but the Council's July 21 meeting is the last regularly-scheduled meeting before the summer recess. If Council provides direction to staff this evening, a narrowly-focused measure could be developed and presented for action prior to July 21, 2020. This recommendation is presented by the three Council-appointed officers as a neutral suggestion that offers potential high-value return with minimal cost.

As a further consideration, the Council could also delay its annual interview and selection process for filling vacancies on advisory bodies, currently scheduled for July 28, 2020. The Council could wait until after the November 3 results on the Charter amendment. January 2021 could be an option for conducting this process. If the amendment is adopted, the recruitment process could be expanded to allow applicants who are not U.S. citizens to apply for possible appointment. Applications received up to June 30, 2020 would be consider for possible appointment. The City has received 70 applications as of Friday, June 19, 2020. Delaying the annual appointment process is a statement in recognition of the diversity of Hayward's residents. Any commissioners eligible for reappointment or otherwise termed out in September 2020, could be asked to continue serving until their successors are appointed and seated.

## **STRATEGIC ROADMAP**

This agenda item is a routine operational item and does not relate to the six priorities outlined in the Council's Strategic Roadmap.

## **FISCAL IMPACT**

A General Municipal Election will be held November 3, 2020, funds for which will be included in the City Clerk's FY21 budget. There will be four Council seats on the ballot. If the Council decides to sponsor the Charter amendment, there will most likely be an additional negligible cost. If the actual cost exceeds the City's budgeted cost (estimated based on past actuals), staff may return to Council for an additional allocation.

## **PUBLIC CONTACT**

This report is included in the published agenda. If the recommendation is approved, additional action would be required by the Council. Subsequent reports would be included in posted agendas and staff would also disseminate information via The Stack and social media channels.

## **NEXT STEPS**

If the recommendation is approved, staff will return with a report and resolution to submit the questions to the voters at the November 3, 2020 election.

*Prepared and Recommended by:* Kelly McAdoo, City Manager;  
Michael Lawson, City Attorney; and  
Miriam Lens, City Clerk