



**DATE:** May 4, 2021

**TO:** Mayor and Council

**FROM:** City Manager

**SUBJECT:** City Council Retreat Follow Up: Further Discussion Regarding Council Referrals and Other Sections of the City Council Handbook

### **RECOMMENDATION**

That the Council discusses and provides final direction to staff on changes to the City Council Handbook (Attachment II).

### **SUMMARY**

The Council Member Handbook was initially adopted in July 1983 and provides procedural rules for how the Council will operate. The Council typically reviews the handbook after a Municipal Election or as needed and adopts changes to processes and procedures as necessary. The Council held a retreat on March 30, 2021 and discussed numerous proposed changes to the handbook. One of the major topics of discussion was the Council Referral Memorandum. Councilmembers provided a wide range of feedback. As a follow up to that discussion, staff has prepared this report that provides information on Council referral processes in other cities as well as the results of an informal survey of Council on this topic. Following the discussion and Council direction this evening, staff will return with an action for Council to adopt any revisions to the handbook.

This agenda item was originally scheduled for the April 20, 2021 Council meeting and was continued to a future meeting date. This report has been updated to include an updated Attachment VII and a new Attachment VIII that provides suggested edits from Councilmember Lamnin to the Council Referral section of the Handbook for the Council's consideration.

### **BACKGROUND**

The Council Member Handbook (Handbook) provides procedural rules for how the City Council will operate as a body. The Handbook was adopted in July 1983 and since then, has gone through various revisions over the years as needed. The last revision was completed in 2019.

At the March 30, 2021 Council Governance Retreat, the Council reviewed the Handbook and discussed various modifications. The notes and a preliminary redline version of the Council Handbook from that retreat are included as Attachments III and IV to this report. Staff will be incorporating changes recommended to the Handbook during the retreat based on these notes as well as other changes that may not yet be reflected in the redline version attached. If the Council has any further comments on these changes, these should also be raised this evening.

A lengthy discussion of the Council referral process ensued at the retreat and Council asked staff to return with further information about procedures from other cities. The Council referral process was last modified in March 2019<sup>1</sup> and this process remained in place until the start of the pandemic in March 2020. The outline of the current referral process can be found on pages 26-28 of the Council Handbook. In March 2020, the Mayor temporarily suspended Council referrals to allow staff time to focus on the priorities related to pandemic response and the added workload this has brought. Also, since the adoption of the 2019 revisions to the referral process, the Council has adopted the City's Strategic Roadmap<sup>2</sup> and there should be some discussion of the prioritization of staff efforts when Council referrals are brought forward in light of the projects in the Roadmap.

## **DISCUSSION**

In 2019, a total of eighteen (18) municipalities in California were surveyed regarding their current process for Council Members to refer items to the Council for consideration and ultimately to staff for further research and work. Attachment V provides detailed responses from each city. Clarification of this process is crucial to ensure an appropriate balance of staff workloads and existing Council priorities and to ensure compliance with the City Charter Section 705, which describes the roles of the City Council and City Manager as they relate to the administrative service of the City:

...Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately. The City Manager shall take his orders and instructions from the City Council only when it is sitting in a lawfully held meeting<sup>3</sup>.

Of the eighteen (18) municipalities surveyed:

- a) Eight (8) have a process similar to Hayward's former process that allows members of the Council to verbally raise and then consider items not on the agenda during a section of the Council agenda for Council comments. Items raised by individual Council

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<sup>1</sup> [CITY OF HAYWARD - Meeting of City Council on 3/19/2019 at 7:00 PM \(legistar.com\)](#)

<sup>2</sup> Strategic Roadmap: [Hayward Strategic Roadmap | City of Hayward - Official website \(hayward-ca.gov\)](#)

<sup>3</sup> [https://library.municode.com/ca/hayward/codes/charter?nodeId=CIHACH\\_ARTVIICIMA\\_S705NTEADSE](https://library.municode.com/ca/hayward/codes/charter?nodeId=CIHACH_ARTVIICIMA_S705NTEADSE)

Members require the consensus of the majority of the Council before directing staff to provide information, perform studies, or add items to an upcoming Council or Committee agenda;

- b) One (1) municipality allows individual Council Members to refer items to staff, provided there is a consensus of the majority of the Council. If the item is referred to staff, the item is placed on a future Council meeting;
- c) Six (6) municipalities have a process by which Council Members wishing to bring forward a topic for Council consideration are required to write a brief memo/report that is added to the agenda. There are a variety of guidelines for these memos that vary by city and include requirements as to how many Councilmembers must co-sign a referral before it is placed on the agenda, length of the memo, topics to include in the memo, and other requirements. The Council does not take action on the night that a Council memo/report is introduced unless the title and recommendation satisfy the Brown Act and there are no resource or staff implications;
- d) One (1) municipality has a process by which agenda items and requests are submitted to the Rules and Legislative Committee, consisting of four Council Members, City Attorney, City Administrator, and City Clerk's designee, for review and referral to staff, City Council, or subject-matter committee;
- e) One (1) municipality has a process by which agenda items, including those submitted by any Council Member, are subject to review by an Agenda Committee consisting of the Mayor and two members of the Council, where the Agenda Committee has the authority to place items on the agenda according to a process in place; and
- f) One (1) municipality has a process by which individual Council Members contact the City Manager's office directly with any requests.

The review of the eighteen (18) municipalities' sections on agenda titles varied and include titles such as: "Items Referred by Council"; "Council Member Comments"; "Council Referrals"; "Matters Initiated by Council Members"; "Future Agenda Item Requests from Council Members"; "Council Requests to Schedule Agenda Items"; "Procedures for Bringing Matters Before City Council"; "Agenda Items Originated by Councilmembers"; "Matters Initiated by Council"; "Items Referred by Council"; "Council Referrals"; "Council Matters"; "Matters of Council Interest/Clarification"; and "Council and Mayor Statements."

Following the March 30 Council retreat, staff conducted an informal survey of Council on the topic of referrals. The full survey is included as Attachment VI. The results of the survey are included as Attachment VII and are broken into two parts: graphs that show responses to questions 2, 4, 6, 8, and 10 and then a table that shows the text responses to questions 3, 5, 7, 9, 11, and 12. The survey responses generally indicated majority consensus around the following:

- There should be a brief written memo included with the agenda that is formally voted on and the vote should be recorded in the meeting minutes. There was discussion in some responses about the importance of referring the subject matter to the appropriate Council Committee for further vetting.
- Five Councilmembers indicated that two to three Councilmembers should be required to co-sign a memo before it is added to the agenda (depending on Brown

Act requirements). In the survey of other cities, it appears that Palo Alto has a process similar to this. Further research on this topic could be conducted, if necessary.

- There should be an analysis of impacts of the referral on the projects within the Strategic Roadmap as well as any staffing or fiscal impacts.

However the Council ultimately chooses to modify the referral process, staff recommends that there is time allocated in the process for a staff analysis of the proposed referral and any impacts the referral might have on projects and timelines in the Council's adopted Strategic Roadmap as well as a fiscal impact analysis.

### **ECONOMIC AND FISCAL IMPACT**

There is no anticipated economic or fiscal impact with the discussion of this report. Future referrals may have fiscal and economic impacts and this should be included and evaluated as part of the process.

### **STRATEGIC ROADMAP**

The agenda item is a routine operational item and does not specifically relate to a project in the Council's Strategic Roadmap. However, any modifications to the referral process should include an analysis of the referral and any impacts to the timelines of projects within the Roadmap.

### **NEXT STEPS**

Following direction from Council this evening, staff will draft proposed changes to the referral process and other edits to the Council Handbook and return to Council with an action to adopt the revised Handbook.

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

Approved by:



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Kelly McAdoo, City Manager