



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

CONSENT
October 16, 2012

Honorable Members of the
Law and Legislation Committee

Title: Title 2 Revisions to Consolidate Construction Code Appeals Boards

Location/Council District: Citywide

Recommendation: This report recommends that the Law and Legislation Committee 1) review and recommend approval of the proposed ordinance amending Section 2.16.100, Section 2.40.030 and Chapter 2.48 of the City Code concerning Construction Code Board of Appeals and deleting Chapter 2.49 and 2.50 and 2) forward the proposed ordinance to the City Council for consideration.

Contact: Ryan DeVore, Chief Building Official (916) 808-8860

Presenters: Ryan DeVore, Chief Building Official (916) 808-8860

Department: Community Development

Division: Building

Organization No: 21001211

Description/Analysis

Issue: In April 2010, Management Partners Inc. recommended the City Council evaluate the City's advisory board system. The City Council delegated the broad task of evaluating the City's boards and commissions and providing recommendations regarding potential elimination and consolidation of these boards and commissions. One of these recommendations was the consolidation of the Building and Fire Code, Electrical Code, and Mechanical and Plumbing Code advisory and appeals boards into a single board.

The proposed ordinance would delete Chapters 2.49 and 2.50 of the City Code and eliminate the Building and Fire Code, Electrical Code, and Mechanical and Plumbing Code advisory and appeals boards. These three boards would be replaced by a single Construction Code Board of Appeals. The proposed ordinance provides all the structural changes to the City Code including, but not limited to, the length of terms, staggered at the initiation and identifying the qualifications for each member.

Policy Considerations: On July 18, 2006, the City Council adopted three ordinances to create the Building and Fire Code Advisory and Appeals Board (Ord. No. 2006-

041), the Mechanical and Plumbing Code Advisory and Appeals Board (Ord. No. 2006-042), and Electrical Code Advisory and Appeals Board (Ord. No. 2006-043). In April 2010, Management Partners Inc. recommended the City Council evaluate the City's advisory board system. The City Council delegated the broad task of evaluating the City's boards and commissions and providing recommendations regarding potential elimination and consolidation of these boards and commissions. One of these recommendations was the consolidation of the Building and Fire Code, Electrical Code, and Mechanical and Plumbing Code advisory and appeals boards into a single board.

Committee/Commission Action: None.

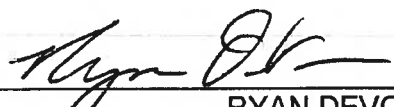
Environmental Considerations: Because this report concerns general policy and procedure making, CEQA, does not apply per section 15378 (b)(3), which states that continuing administrative or maintenance activities, which are not conducted in conjunction with a project subject to CEQA review, are not considered to be "projects" and are therefore exempt.

Sustainability Considerations: None

Rationale for Recommendation: The proposed ordinance to consolidate these appeals board is consistent with the recommendation of Management Partners, Inc. to eliminate and consolidate boards and commissions.

Financial Considerations: A consolidation of the appeals boards may result in savings of staff time and resources. The appeal fee to this board will be \$250.00. An appeal to council will be an additional \$550.00.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by: 
RYAN DEVORE
Chief Building Official

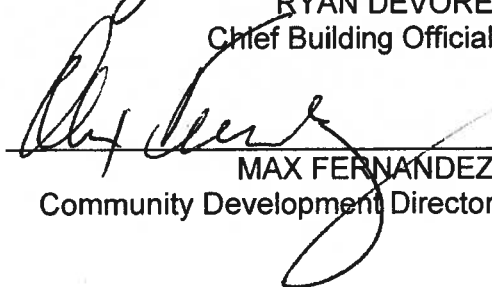
Approved by: 
MAX FERNANDEZ
Community Development Director

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Attachment 1

BACKGROUND

On July 18, 2006, the City Council adopted three ordinances to create the Building and Fire Code Advisory and Appeals Board (Ord. No. 2006-041), the Mechanical and Plumbing Code Advisory and Appeals Board (Ord. No. 2006-042), and Electrical Code Advisory and Appeals Board (Ord. No. 2006-043). These boards have met infrequently. Additionally, challenges to a decision made by the Chief Building Official tend to span more than one building discipline, resulting in the need to be heard by multiple boards for a single appeal.

In April 2010, Management Partners Inc. recommended the City Council evaluate the City's advisory board system. The City Council delegated the broad task of evaluating the City's boards and commissions and providing recommendations regarding potential elimination and consolidation of these boards and commissions. One of these recommendations was the consolidation of the Building and Fire Code, Electrical Code, and Mechanical and Plumbing Code advisory and appeals boards into a single board. This consolidation will result in improved efficiency and streamlined processes for challenged decisions. It will also result in some budget savings. The key provisions of the proposed ordinance include but are not limited to:

- Eliminates the Building and Fire, Mechanical and Plumbing, and Electrical Code Advisory and Appeals Boards;
- Establishes a Construction Board of Appeals;
- Board shall hear appeals of decisions, orders, or determinations regarding State and City building, mechanical, plumbing, electrical, and fire codes;
- Board shall consist of five members appointed by the Mayor with approval of the City Council and representing appropriate building, mechanical, plumbing, and fire professions;
- Term of office shall be three years with initial appointments being staggered;
- Board staff support shall be provided by the Chief Building Official; and
- Board meetings shall be held yearly and as needed.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 2.16.100 AND 2.40.030 OF; REPEALING CHAPTERS 2.48, 2.49 AND 2.50 OF; AND ADDING CHAPTER 2.48 TO THE SACRAMENTO CITY CODE, RELATING TO THE CONSTRUCTION CODE BOARD OF APPEALS; AND REPEALING CHAPTER 2.52 OF THE SACRAMENTO CITY CODE, RELATING TO THE JOINT CITY/COUNTY DISABILITIES APPEAL BOARD

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 2.16.100 of the Sacramento City Code is amended to read as follows:

2.16.100 Applicability

The provisions of Sections 2.16.110 through 2.16.150 of this article shall apply to members of the city council and members of the following boards, commissions, and bodies:

Administration, investment and fiscal management board of the Sacramento city retirement system

Board of plumbing examiners

~~Building and fire code advisory and appeals board~~

Civil service board

Construction code board of appeals

Design director

~~Electrical code advisory and appeals board~~

Housing code advisory and appeals board

~~Mechanical and plumbing code advisory and appeals board~~

Old Sacramento variance appeals board

Planning and design commission

Planning director

Preservation commission

Preservation director

Retirement hearing commission

Sacramento city public facilities financing corporation

Sacramento city financing authority

Utilities rate advisory commission

Zoning administrator

SECTION 2.

Section 2.40.030 of the Sacramento City Code is amended to read as follows:

2.40.030 Applicability

The provisions of this article shall apply to persons recommended to the mayor by the personnel and public employees committee as appointees for positions on the city council and the following boards and commissions:

Administration, investment and fiscal management board of the city retirement system

Board of plumbing examiners

~~Building and fire code advisory and appeals board~~

Civil service board

Construction code board of appeals

~~Electrical code advisory and appeals board~~

Housing code advisory and appeals board

~~Mechanical and plumbing code advisory and appeals board~~

Old Sacramento variance appeals board

Parks and recreation commission (two seats)

Planning and design commission (four seats)

Preservation commission

Retirement hearing commission

Sacramento city public facilities financing corporation

Utilities rate advisory commission

SECTION 3.

Chapter 2.48 of the Sacramento City Code is repealed.

SECTION 4.

Chapter 2.48 is added to Title 2 of the Sacramento City Code to read as follows:

Chapter 2.48 Construction Code Board of Appeals

2.48.010 Board established

There is established a construction code board of appeals.

2.48.020 Functions

The functions of the board are as follows:

The board shall hear appeals of decisions, orders or determinations of the chief building official relating to application and interpretation of the Sacramento City Building Code, any building standards published in the California Building Standards Code or any other applicable rule or regulation adopted by the California Department of Housing and Community Development including decisions, orders or determinations that concern the use of any material, alternate design or method of construction not specifically prescribed by the California Building Standards Code.

2.48.030 Board membership

The board shall consist of five members appointed by the mayor with the approval of the city council.

A. At least one member shall be a California licensed general building contractor who was a general contractor on more than one construction project in the city during the two years immediately preceding appointment;

B. At least one member shall be a California licensed architect who has practiced in California for at least three years immediately preceding appointment;

C. The remaining three members of the board may consist of any combination of the following: California licensed general building contractors as specified in subsection A

above; California licensed architects as specified in subsection B above; or any of the following:

1. A California registered structural engineer who has practiced in California for at least three years immediately preceding appointment;
2. A California registered fire protection engineer who has practiced in California for at least three years immediately preceding appointment;
3. A California registered mechanical engineer who has practiced in California for at least three years immediately preceding appointment;
4. A California licensed plumbing contractor who has practiced in California for at least three years immediately preceding appointment;
5. A California licensed mechanical contractor who has practiced in California for at least three years immediately preceding appointment;
6. A California registered electrical engineer who has practiced in California for at least three years immediately preceding appointment;
7. A California licensed electrical contractor who has practiced in California for at least three years immediately preceding appointment.

2.48.040 Term of office

Except as provided in this section for the length of terms of the initial appointees, the term of office for each member of the construction code board of appeals shall be three years. If a member's successor is not appointed upon the expiration of the member's term, the member's term shall continue until the successor is appointed. The successor's term shall be the remaining balance of the new term.

Terms shall be staggered. The initial term of the California licensed general building contractor as specified in Section 2.48.030(A) and California licensed architect as specified in Section 2.48.030(B) shall expire on December 31, 2015. The initial term of the other member shall include two members whose term shall expire on December 31, 2014 and one member whose term shall expire on December 31, 2013 as determined by the City clerk based on the drawing of lots.

If a vacancy occurs during the term of any member, the mayor shall appoint, with the concurrence of the council, a successor to serve during the remainder of the unexpired term for the vacant position.

2.48.050 Conflicts of interest and financial disclosure statements.

The provisions of Article III of Chapter 2.16 of this code governing conflicts of interest of board and commission members shall apply to members of the board. In addition, all

appointees to the board shall be required to file statements disclosing financial interests pursuant to a conflict of interest code adopted for the board.

2.48.060 Chairperson and organization of the board.

The board shall elect a board chairperson and a vice-chairperson for a term of one year. During any absence of the chairperson from a meeting of the board, the vice-chairperson shall be the acting chairperson until the chairperson returns. When there is a vacancy in the office of chairperson or vice chairperson, the board shall fill that office from among its members. Staff support to the board shall be provided by one or more city employees designated by the chief building official.

2.48.070 Board meetings.

The board shall hold at least one regular meeting in a calendar year. The meetings shall be noticed and held in accordance with the provisions of the Ralph M. Brown Act (Government Code section 54950 et seq). The board shall have the authority to notice and hold special meetings in the manner specified by the Ralph M. Brown Act.

2.48.080 Rules and regulations.

Subject to the provisions of the City of Sacramento Council Rules of Procedure, the board shall adopt such rules and regulations as it shall deem necessary for the conduct of its business.

2.48.090 Quorum-Voting

The quorum required for the board to conduct business shall be three members one of which shall be a California licensed building contractor and one of which shall be a California licensed architect. The affirmative vote of a majority of the members present and eligible to vote shall be necessary to approve any item.

2.48.100 Compensation.

Pursuant to City Charter Section 29, the compensation commission shall establish the compensation members of the board receive for attending board meetings.

2.48.110 General requirements.

Unless specifically provided otherwise in this chapter, the general requirements set forth in Chapter 2.40 of this code, governing the appointment of board and commission members, attendance at board and commission meetings, voting, term limits, and removal shall apply to the board. A member is subject to removal for good cause, neglect of duty or misconduct as provided in City Charter Section 232.

SECTION 5.

Chapter 2.49 of the Sacramento City Code is repealed.

SECTION 6.

Chapter 2.50 of the Sacramento City Code is repealed.

SECTION 7.

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4. A California licensed plumbing contractor who has practiced in California for at least three years immediately preceding appointment;
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