

SUBJECT: Consider an Ordinance amending Brentwood Municipal Code Chapter 2.46 (Park and Recreation Commission) and provide staff with direction on potential additional ordinance amendments

DEPARTMENT: Parks and Recreation

STAFF: Bruce Mulder, Director of Parks and Recreation

TITLE/RECOMMENDATION

Staff recommends that the City Council introduce and waive the first reading of an Ordinance amending Brentwood Municipal Code Chapter 2.46 (Park and Recreation Commission) and provide staff with direction on potential additional ordinance amendments.

The proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) - Common Sense Exemption - in that the proposed ordinance would only establish and clarify administrative processes and would not facilitate new construction or other groundbreaking activities. There is no potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment.

FISCAL IMPACT

There is no fiscal impact associated with this action.

BACKGROUND

On July 29, 1999, the Brentwood Recreation and Parks District, a then-independent special district, merged into the City of Brentwood and became the City's Park and Recreation Commission. Brentwood Municipal Code Chapter 2.46 (Park and Recreation Commission) was adopted that same year to regulate this new commission. Staff understands that Chapter 2.46 was partly based on the review of the regulations of other cities' commissions in place at the time. As currently written, however, a number of the Commission's current powers and duties are framed in the manner more appropriate to an independent governing body, not one that is



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subsidiary to a City Council. Because of this, some of those provisions are either not legally permissible, as they are functions that belong to other City officials or employees, or are simply not reflective of the Commission's role as an advisory body to the City Council.

In late 2020, staff brought forward an ordinance for City Council consideration that made more uniform the governing rules for the City's various commissions - Planning, Park and Recreation, Arts, and Youth. In addition, it added new Municipal Code chapters for the City's Building Board of Appeals and Poet Laureate. At the time, the revisions to make each of the commissions' procedural requirements consistent included those related to the establishment of the commission, appointment of members, removal from office, officers, and meeting rules and procedures. Other revisions were proposed that were more specific to each commission.

Following discussion, the City Council at the time requested additional revisions to the Municipal Code's Park and Recreation Commission provisions. At a later meeting, the Council voted to table the ordinance until a new City Council was seated and could consider it.

Subsequent to the 2020 meetings, the then-City Council asked staff to revise further the other commissions' ordinances as they pertained to, among other things, the appointment and removal of members. This work was subsequently undertaken.

On September 26, 2023, Council Member Pierson requested, by way of a future agenda item request, a review of the Brentwood Municipal Code sections that are no longer enforceable, specifically including Brentwood Municipal Code (BMC) section 2.46.020, regarding the powers and duties of the Park and Recreation Commission.

On October 10, 2023, the City Council authorized staff to undertake a review of the Park and Recreation Commission ordinance for revisions to those powers and duties that are unenforceable. Staff has prepared an amendment to BMC section 2.46.020, that removes those sections that are not enforceable. (Attachment 2.)

In addition, in order to provide the City Council with the opportunity to provide direction on additional changes that the Council may wish to make to the ordinance to be consistent with other commissions, this item has been agendaized to allow for that broader discussion and, if applicable, Council direction. Whether the City Council wishes to provide any direction on further changes at this time is entirely at the discretion of the Council.

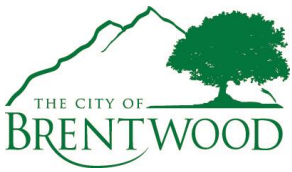


ANALYSIS

Legally required changes. Staff has prepared an amendment to BMC section 2.46.020, that removes or modifies those sections that are not enforceable. (Attachment 2.) The sections that are suggested to be removed or modified are:

Table 1: Modification to BMC § 2.46.020

Existing BMC § 2.46.020 provisions	Suggested change	Notes
E: "The park and recreation commission may seek funds from private, county, state and federal sources for park and recreation programs and facilities. The commission is also authorized to receive funds, devises, bequests, endowments, or other donations of money and property for parks and recreation on behalf of the city."	"The park and recreation commission may seek funds from private, county, state and federal sources for park and recreation programs and facilities. The commission is also authorized to receive funds, devises, bequests, endowments, or other donations of money and property for parks and recreation on behalf of the city. "	City commissions are not in a position to receive monetary or real property donations on behalf of the City. Such decisions belong to the City Manager and City Council and some such decisions require the participation of other commissions, such as the Planning Commission, which by law must consider new real property acquisitions.
I: "The park and recreation commission shall advise the city manager in recruiting and appointing the director of park and recreation and shall, by making a report to the city manager, be a part of the yearly evaluation of the director."	Delete this language in its entirety.	Under the City Manager form of government followed by most general law cities, including Brentwood, the City Manager is responsible for the recruitment, appointment, and evaluation of city department heads.
K: "The park and recreation commission shall establish rates, charges, and deposits for the use of any and all recreation and park facilities."	Delete this language in its entirety.	The City Council establishes the rates, charges, and deposits for City facilities as part of the yearly Cost Allocation Plan . This power does not rest with the Commission.

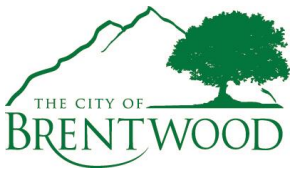


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Existing BMC § 2.46.020 provisions	Suggested change	Notes
L: "The park and recreation commission shall hold public meetings on recreation programming and facility usage and conduct investigations and surveys for the purpose of obtaining facts and data concerning recreation programs and to assure the provision of programs designed to meet the needs and interests of citizens."	The park and recreation commission shall hold public meetings on recreation programming and facility usage and conduct investigations and surveys for the purpose of obtaining facts and data concerning recreation programs and to assure the provision of programs designed to meet the needs and interests of citizens.	Under the City Manager form of government, advisory committees, such as the Park & Recreation Commission, are not empowered with the authority to direct that investigations be undertaken.
N: "The park and recreation commission shall advise the city council on the subject of recreation and facility master planning and development. The commission shall implement and revise, as needed, the comprehensive park, recreation and trail master plan to ensure preservation of open space, development of park facilities and park maintenance operations and standards, and creation of recreation programs."	"The park and recreation commission shall advise the city council on the subject of recreation and facility master planning and development. The commission shall implement and revise, as needed, the comprehensive park, recreation and trail master plan to ensure preservation of open space, development of park facilities and park maintenance operations and standards, and creation of recreation programs."	The City Council adopted the <i>City's Parks, Trails & Recreation Master Plan</i> in February 2019, via approval of Resolution No. 2019-21. The legal doctrine of equal dignities says that an action taken by one of greater authority cannot be revised by one of lesser authority without permission. Thus, a subsidiary body of the City Council cannot revise a document that the Council itself has adopted, without that power being expressly delegated to the subsidiary body.

Additional best practice changes. In addition, the City Council could consider directing staff to prepare additional changes to the remainder of the Park and Recreation Commission ordinance for a variety of reasons, including:

- making the Ordinance's procedural requirements consistent with other commissions (including those related to the establishment of the commission), appointment of members, removal from office, officers, and meeting rules and procedures;
- simplifying the scope of the Commission's powers and duties to ensure transparency and clarity; and



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- realigning the Commission's powers and duties to reflect their function as a subsidiary body to the City Council.

By way of example, Section 2.46.020.J currently provides that "[t]he park and recreation commission shall establish rules and regulations governing the conduct of recreation programs, protection of property, and activities of persons in all parks so that all residents may enjoy them for leisure time activities." This seems to conflict with [BMC Section 7.02.020.A.3](#), which states that "[t]he [Parks and Recreation Department] director shall establish, adopt and amend guidelines, policies, rules and regulations for the use of facilities¹ within the boundaries of the city of Brentwood service area." Staff could address such matters in a more comprehensive review of the ordinance, which has not been substantively updated since its adoption in 1999.

If the Council wishes staff to undertake this additional work, further ordinance revisions can be brought back to the City Council for its consideration at a later date.

CITY COUNCIL STRATEGIC INITIATIVE

Not Applicable.

PREVIOUS ACTION

Previous Action by the City Council is included on Attachment 1.

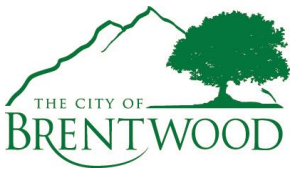
DATE OF NOTICE

Not Applicable.

ENVIRONMENTAL DETERMINATION

The proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), in that the proposed Ordinance would only establish and clarify administrative processes and would not facilitate new construction or other groundbreaking activities. There is no potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment.

¹ Note that 'facilities' expressly includes parks, per [BMC Section 7.01.020](#).



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ALTERNATIVE OPTION(S)

1. Waive first reading of and introduce the Ordinance, as modified in Attachment 2, provide staff with additional direction on further Ordinance changes, and take action on those further changes at a future City Council meeting.
2. Do not waive first reading of and introduce the Ordinance, as modified in Attachment 2, but still provide staff with additional direction on further Ordinance changes, and take action on those further changes at a future City Council meeting.
3. Do not waive first reading of and introduce the Ordinance, as modified in Attachment 2, and direct staff to take no further action on the Ordinance.

ATTACHMENT(S)

1. Previous Action
2. Draft Ordinance modifying Brentwood Municipal Code Chapter 2.46