



## Agenda Report

18-959

Agenda Date: 11/13/2018

### REPORT TO COUNCIL

#### SUBJECT

Action on a Written Petition submitted by Haoning Richter requesting time during a Council Meeting to make a presentation regarding the Chamber of Commerce, Convention Center, and Convention & Visitors Bureau

#### BACKGROUND

Council Policy and Procedure 30 - *Adding an Item on the Agenda* (Attachment 1) sets forth the procedure for written petitions. Any member of the public may submit a written request raising any issue or item within the subject matter jurisdiction of the Council. Per the policy, the written request will be submitted on the agenda, in the form substantially provided by the requestor, without any staff analysis, including fiscal review, legal review and policy review. If a simple majority of the City Council supports further study of the request, then a full staff analysis shall be prepared within thirty (30) days, unless otherwise directed by the City Council.

#### DISCUSSION

The City Clerk's Office has received a Written Petition for Council consideration from Haoning Richter dated October 29, 2018 (Attachment 2) requesting to allow him to make a presentation regarding Chamber of Commerce, Convention Center, and Convention & Visitors Bureau. The City Council policy is silent on perceived or actual conflicts of interest and it is worth raising two issues that should concern the City Council:

- First, Mr. Richter states in his letter that he is a current applicant for the City Council approved Assistant to the City Manager position created for the purpose of management oversight of the Santa Clara Convention Center. At the time of the submittal of this Written Petition, the current recruitment is open, interviews have not been conducted, and the City Manager has not made an appointment. Granting a Written Petition according to the City Council Policy, e.g., within the next two City Council meetings, would afford Mr. Richter a City Council and public forum for speaking to this matter during the recruitment period, which other candidates would not receive. In addition, Mr. Richter would be presenting in front of executive staff that would interview candidates for the position that he has applied to and the City Manager who would make the appointment. This could easily be perceived as a conflict of interest.
- Second, the City Council has not completed its deliberations on the Convention Center Management Audit, Tourism Improvement District Audit, Convention Center Governance & Business Engagement Workshop, etc. Any discussion or consideration of Mr. Richter's presentation in advance of policy setting by the City Council, during an open recruitment by a candidate applying for the above referenced position, could create the perception of a conflict of interest with respect to the competitive hiring process and may create an unfair advantage to the candidate-whether actual or perceived.

Mr. Richter is free to come during the Public Presentation portion of the City Council Agenda at any time or City Council discussion of this item, as a member of the public. The City Council should give serious consideration to job applicants that desire to use the Written Petition Policy as a means to present before the policy setting body and the appointing authority on a topic, and for an employment position, that s/he will speak to publicly. While it is entirely the prerogative of the City Council, it is important to raise these governance issues. Last, the Tentative Meeting Agenda Calendar (Attachment 3) is provided to identify a potential Council meeting to should the Council decide to schedule any action.

**FISCAL IMPACT**

There is no fiscal impact associated with considering the request to be placed on a future agenda except for staff time.

**ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve commitment to a specific project which may result in potential significant impact on the environment.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any report to council may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

**ALTERNATIVES**

1. Set a future Council meeting date to take action on the Written Petition received.
2. Any other City Council Action, as determined by the City Council.
3. Take no action.

**RECOMMENDATION**

Staff has raised governance issues that would suggest that the Written Petition be delayed or not approved to avoid a perception or actual conflict of interest or advantaging one City job applicant over others during a time of an active recruitment and, for this purpose, the City Manager recommends that the item not be scheduled at this time.

Reviewed by: Nora Pimentel, Assistant City Clerk

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Policy and Procedure 030 - Adding an Item on the Agenda
2. Written Petition dated October 29, 2018 from Haoning Richter
3. Tentative Meeting Agenda Calendar (TMAC)

