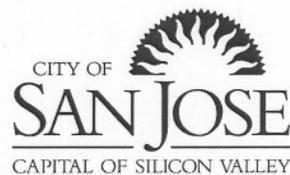


MEMORANDUM



TO: Blue Ribbon Task Force

FROM: Councilmember
Dave Cortese

SUBJECT: Censure Policy Review

DATE: November 10, 2004

APPROVED:

DATE:

11/10/04

I respectfully request the Blue Ribbon Task Force take up the following concerns/comments as they continue their work to revamp the city's censure policy. I feel strongly that the outcome of modifying this policy should be to create a process that is less bureaucratic and less regulatory. The goal of the policy should be to enable the Mayor and City Council to respond based on the merits of the individual case and in an efficient, expeditious and just manner.

1. Councilmember Yeager's memo dated 11/1/04 suggests reprimand as an individual level of punishment. Censure and admonition are both forms of reprimand; therefore to have a distinct punishment called reprimand could be confusing. Perhaps a midlevel form of punishment such as a reprove might be in order.
2. The same memo goes further to suggest that the course of punishment be decided in advance of the investigation. Why presuppose the outcome? That is an injustice to the accused in case his action warrants a lesser form of punishment than what is being proposed. To go a step further, what if the Councilmember requesting the investigation is motivated by exoneration?
3. The memo suggests that "*...the elected official subject to reprimand could either in person or in writing submit their side of the story to Rules...The Council could have a hearing but could also proceed based on the written record...*" Proceeding based on the written record is not efficient. The Council needs the opportunity to hear both sides of the story in the same sitting. Trying to make a decision based on dueling memos is difficult. The opportunity to confront and cross-examine both sides is important and necessary from a legal due process standpoint.
4. The memo seems to generally recommend one complaint process for investigating actions, not three (based on which level of punished should be doled out). This goes back to presupposing the outcome. Let a complaint be initiated, let the process work through and then let the council collectively decide what level of punishment best fits the circumstances.

5. The existing censure policy is restrictive because it requires Council to wait on an investigation while criminal charges are pending. Why is this necessary? Why tie the council's hands? This should be deliberated upon after the investigation and on a case-by-case basis.