



AGENDA: B.
ITEM: 7/20/06

Memorandum

TO: MEMBERS OF THE
SUNSHINE REFORM TASK
FORCE

FROM: LEE PRICE, MMC
CITY CLERK

SUBJECT: POLICY FOR ABSENCES

DATE: July 13, 2006

At the July 6, 2006 Task Force meeting there was discussion about developing a policy for dealing with absences by members of the Task Force. I mentioned that the City already has guidelines codified in the Municipal Code applicable to City boards and commission and suggested that the Task Force may wish to review them before adopting a policy of your own.

Attached please find an excerpt from the San José Municipal Code, Title 12.

Excerpt from the San José Municipal Code, Title 2: Administration

2.08.050 Seat deemed vacant when.

A. The seat of a member of any board or commission shall become vacant upon the happening of any of the following events:

1. The death of the member;
2. Insanity of the member, when determined by a final judgment or final order of a court of competent jurisdiction;
3. Resignation of the member;
4. The member is no longer eligible, under any of the applicable provisions of this part to hold the office;
5. Removal of the member from office;
6. Absence of the member from the state for more than sixty (60) days, unless either upon business of the city or with consent of the council. In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limit for absence from the state shall be extended by the council;
7. The member ceases to discharge the duties of the office for a period of three consecutive months, except when prevented by sickness or when absent from the state with permission required by this section;
8. The member is convicted of a felony or of any offense involving a violation of his or her official duties;
9. The refusal or neglect of the member to file an official oath or bond, if it is required by law, within the time prescribed by law;
10. The decision of a court of competent jurisdiction declaring void the member's election or appointment;
11. The making of an order vacating the member's office or declaring the office vacant when the member fails to furnish an additional or supplemental bond if it is required by law;
12. The commitment of the member to a hospital or sanitarium, by a court of competent jurisdiction, but in that event the office shall not be deemed vacant until the order of commitment has become final.

B. In the event a vacancy should occur in the office of any member prior to the expiration of a term, the council, or the mayor if authorized by the council, shall appoint a successor for the unexpired portion of the member's term.

(Ord. 25209.)

2.08.060 Absence from meetings - Reappointment.

A. A member of any board or commission, other than the planning commission, the salary setting commission and the civil service commission, shall be deemed to have automatically resigned from office if:

1. The board or commission has four or fewer regular meetings in any calendar year, and the member has unexcused absences from any two consecutive regular meetings of the board or commission; or

2. The board or commission has more than four regular meetings in any calendar year, and the member has unexcused absences from either:

a. Any three consecutive regular meetings of the board, or commission; or

b. More than twenty percent of the total number of regular meetings in any calendar year or if the member was appointed to fill a vacancy, more than twenty percent of the total number of remaining regular meetings in that calendar year.

B. For purposes of this section, the following shall not be considered an unexcused absence:

1. An absence due to an illness of the member, or illness or death of a member's spouse, parent, child, brother or sister; or

2. An absence because a member is away on authorized board or commission business; or

3. For any member who is a city councilmember or a city employee, an absence due to the member performing required city business; or

4. An absence from a meeting of the board of administration for the federated city employees retirement system or of the board of administration for the police and fire department retirement plan which the board of administration has found to be for good cause.

C. Within a reasonable period, but not exceeding ten days after a member has been deemed to have resigned pursuant to this section, the secretary of the board or commission shall notify the city clerk of the vacancy and the city clerk shall thereupon notify the member that the member is deemed to have resigned pursuant to this section. The city clerk shall simultaneously notify the city council that the vacancy exists as a result of the automatic resignation.

D. Except as provided in subsection A. above, the provisions of this section shall apply to all voting members of boards and commissions established or otherwise regulated under this Chapter 2.08.

E. As used in this section, "regular meetings" means regularly scheduled meetings of the board or commission and shall not include special meetings. For purposes of this section, adjourned regular meetings or continued regular meetings shall be considered special meetings.

F. For purposes of this section, a member shall be deemed absent from a meeting if the member fails to be in attendance at a regular meeting for at least one-half of the duration of the regular meeting.

G. A member whose seat has become vacant by virtue of the above provisions may be reappointed to his or her former office for the balance of the member's unexpired term if the council finds there was good excuse for the member's absence from meetings or finds that the reappointment will be in the best interests of the city.

H. In the event of a reappointment, the previous unexcused absences of the reappointed member shall not be considered in determining any future resignation of the member under this section.

(Ord. 25209.)

