

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: TERESA STRICKER, CITY ATTORNEY
SUBJECT: AMENDMENT TO COUNCIL MANUAL OF PROCEDURES AND
PROTOCOLS REGARDING ABSENCES FROM MEETINGS

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the City Attorney that the Council, by resolution, amend the Council Manual of Procedures and Protocol to modify Rule I.F regarding Councilmember absences from regular council meetings to reflect the requirements of Government Code section 36513(a).

EXECUTIVE SUMMARY AND BACKGROUND

Rule I.F. of the City Council Manual of Procedures and Protocols provides that “[i]f a Councilmember is absent without Council permission from all regular City Council meetings for thirty (30) days consecutively from the last regular meeting he/she attends, his/her office becomes vacant and shall be filled as any other vacancy.”

When that rule was adopted in 1999, the City Council routinely held three regular Council meetings per month. Since 2022, City Council has generally held two regular meetings per month. As a result, there are times that if a Councilmember is absent from a single regular Council meeting, the Councilmember could be in violation of the 30-day rule in Rule I.F (“30-day meeting absence rule”) unless Council permission can be obtained before the 30th day.

Automatic forfeiture of an elected official’s office because of a single meeting absence is an extremely harsh consequence that may frustrate the will of the voters. There is no indication that the City Council intended that result when it adopted the rule.

Additionally, the 30-day meeting absence rule was adopted by resolution and not by ordinance as required by the City Charter when it comes to penalties City Council creates to compel Councilmember attendance at meetings. For that reason, the rule is not enforceable.

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In the absence of an ordinance, the 60-day rule in Government Code section 36513(a), which is otherwise identical to the 30-day meeting absence rule in Rule I.F, governs Santa Rosa City Councilmember meeting absences. The City Attorney recommends that the City Council amend Rule I.F to reflect the 60-day rule in Government Code section 36513(a).

PRIOR CITY COUNCIL REVIEW

On May 25, 1999, by Resolution 23989, Council Adopted the City Council Manual of Procedures, which included the 30-day meeting absence rule as Rule 1.E.

On July 30, 2013, by Resolution 28317, Council adopted the Council Manual of Procedures and Protocols which superseded the previously adopted City Council Manual of Procedures by consolidating that document with the Council Norms and among other things renumbered the 30-day meeting absence rule as Rule I.F.

ANALYSIS

Rule I.F. of the City Council Manual of Procedures and Protocols currently provides:

“Attendance

Councilmembers are expected to attend all meetings of the City Council. If a Councilmember is absent without Council permission from all regular City Council meetings for thirty (30) days consecutively from the last regular meeting he/she attends, his/her office becomes vacant and shall be filled as any other vacancy.”

When that rule was originally adopted in 1999, the City Council routinely held three regular Council meetings per month. Since approximately June 2022, however, the City Council has generally held only two regular meetings per month, the number of regular Council meetings required by City Charter section 6.

As a result, there are now times throughout the year that a Councilmember could be absent from only a single regular City Council meeting and violate the 30-day meeting absence rule unless Council permission is obtained. In those instances, if the Councilmember’s absence is not planned sufficiently in advance – such as, for example, if a Councilmember is ill or has a family emergency the day of the meeting – under the rule, the Councilmember’s office would become vacant unless the City Council held a properly noticed special meeting and excused the absence prior to the 30th day.

Automatic forfeiture of an elected official’s office because of a single meeting absence is an extremely harsh consequence that may frustrate the will of the voters. There is no indication that the City Council intended that result when it adopted the 30-day meeting absence rule in 1999.

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Additionally, the City Council adopted the 30-day absence rule by resolution and not by ordinance as required by the City Charter section 7 when it comes to penalties Council creates to compel Councilmember attendance at meetings. The difference between Council adopting penalties by ordinance and by resolution is a substantial one. Unlike the resolution adopting Rule I.F, an ordinance is a more formal process requiring two affirmative votes of the City Council over the course of two separate regular meetings, and an ordinance is subject to the right of referendum. Because this important Charter-required process for adopting the 30-day meeting absence rule was not followed, the rule is not enforceable.

Instead, in the absence of an ordinance, under City Charter section 51 the general laws of the state governing city councilmember absences apply. Government Code section 36513(a) contains a 60-day absence rule that is otherwise identical to the 30-day rule currently set forth in Rule I.F. That 60-day meeting absence rule currently governs Santa Rosa City Councilmember absences from meetings.

Accordingly, the City Attorney recommends that the City Council, by resolution, amend Rule I.F to read as follows to incorporate the 60-day meeting absence rule set forth in Government Code section 36513(a):

“Attendance

Councilmembers are expected to attend all meetings of the City Council. As set forth in Government Code section 36513(a) or successor statute, which applies to the City of Santa Rosa under City Charter section 51, if a Councilmember is absent without Council permission from all regular City Council meetings for sixty (60) days consecutively from the last regular meeting that Councilmember attends, the Councilmember’s office becomes vacant and shall be filled as any other vacancy.”

Should the Council wish to adopt a different rule to regulate City Councilmember absences from Council meetings, the City Attorney recommends that the Council (1) move forward at this time to amend Rule I.F to reflect the 60-day meeting absence rule that currently governs Councilmember absences, and (2) direct the City Attorney to return at a future Council meeting with an ordinance and further amendment to Rule I.F to establish any new meeting absence rule Council would like to consider.

FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

This action is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) and 15378 in that there is no

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possibility that the implementation of this action may have significant effects on the environment, and no environmental review is required.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – City Council Manual of Procedures and Protocols
- Resolution / Exhibit A – City Council Manual of Procedures and Protocols (revised)

PRESENTER

Teresa Stricker, City Attorney