

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: TERESA STRICKER, CITY ATTORNEY
SUBJECT: CITY COUNCIL VOTING PROCESS FOR CERTAIN APPOINTED
POSITIONS

AGENDA ACTION: STUDY SESSION

RECOMMENDATION

The City Attorney recommends that the Council hold a Study Session to provide Council an opportunity to review the voting processes City Council uses to appoint (1) applicants to vacant Council Member seats, (2) members of boards, commissions and committees appointed by the full Council, and (3) Mayor and Vice Mayor. This item is provided for Council's information and no action will be taken, but the Council may discuss and provide direction to staff. This item has no impact on current fiscal year budget.

EXECUTIVE SUMMARY

This study session will provide the Council an opportunity to provide staff with direction about potential future changes to current Council policies setting forth the voting processes Council uses to appoint (1) individuals to vacant Council seats, (2) members of certain boards, commissions and committees, and (3) Mayor and Vice Mayor.

GOAL

This item is not directly tied to a Council goal but promotes good government by providing Council an opportunity to consider new rules for greater efficiency, transparency and inclusiveness in how Council make appointments from the dais.

PRIOR COUNCIL REVIEW

On September 10, 2024, Council held a Study Session to provide Council an opportunity to review the voting processes City Council uses to appoint individuals to vacant Council Members seats, members of boards, commissions and committees appointed by the full Council, and Mayor and Vice Mayor. No direction was provided by Council at that time.

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On December 17, 2024, the City Attorney and City Clerk presented recommendations to Council during the selection of a new Mayor and Vice Mayor. The presentation included recommended additional procedures if Council ran into a tie that could not be resolved using existing rules.

BACKGROUND

1. Current Process to Fill a Vacancy on the City Council

Section 31 (a) of the Santa Rosa Charter provides that vacancies on the City Council may be filled by either (1) appointment by the Council or (2) the Council calling a special election to allow the voters to fill the vacancy. Section 31 (a) further provides that if the Council fails to fill a Council vacancy within 60 days, Council must call a special election to be held as soon as practicable.

Council Policy 000-23 sets forth the process Council uses to select a new Council Member, following an application and interview process, when a special election will not be called to fill the vacancy. The policy does not specify any particular process for Council to select from among the applicants and instead provides:

If a majority of the Council cannot agree on the appointment of one of the applicants, the Council may adopt such other procedures to fill the vacancy as it deems appropriate, but the process must be completed within the sixty-day time period provided by City Charter Section 31.

2. Current Process for Appointments to City Boards, Commissions and Committees by the full Council

Section XVII of the Manual of Procedures and Protocols provides that all appointments to City boards, commissions, and committees shall be made in accordance with the City Charter and Council Policy 000-06 – Appointments to Boards/Commissions/Committees.

Council Policy 000-06 sets forth the process for appointments by the full Council to boards, commissions and committees. Currently, the boards, commissions and committees to which the full Council appoints members are the Design Review and Preservation Board, the Personnel Board, the Board of Building Regulation Appeals, the Housing Authority, the Santa Rosa Tourism Business Improvement Area Advisory Board, Waterways Advisory Board, and two members of the Bicycle and Pedestrian Advisory Board.

The process set forth in Council Policy 000-006 is as follows:

- a. Appointments may be made from among all applicants by a process of elimination or by motion.
- b. If selection is by process of elimination, each Council Member votes for a number of applicants equal to the number of vacant positions, plus two. If

there are an insufficient number of applicants to vote for a number of applicants equal to the number of vacant positions plus two, the Council may vote for a fewer number as recommended by the City Attorney.

- c. Those applicants receiving 0-1 votes are eliminated.
- d. Subsequent votes are taken with each Council Member voting for one fewer applicant than voted for in the previous round. Only applicants not eliminated may be voted upon.

There is no process specified governing how Council moves forward with a selection where the elimination rules end. One example of where this could happen is in the event of a 3-2-2 vote.

3. Current Process for Appointment of Mayor and Vice Mayor

Under Sections 4 and 15 of the Charter, the Council elects one of its members to serve a two-year term as Mayor following the swearing in of new Council Members. Charter Section 15 also provides that Council annually elect one of its members to serve as Vice Mayor for a one-year term.

Section XII of the City Council Manual of Procedures and Protocols ("Section XII") provides the following process for the election of Mayor and Vice Mayor:

- a. The Presiding Officer calls for nominations from the floor.
- b. Each nomination must receive a second and be accepted by the nominee prior to a vote on the nomination.
- c. If only one Council Member has been nominated, the Presiding Officer declares that individual to be elected unanimous consent.
- d. If two or more Councilmembers have been nominated, election is by process of eliminations as follows:
 - Each Council Member votes by roll call for a number of nominees that equals one fewer than the total number of nominees.
 - Nominees receiving one vote or fewer are eliminated.
 - Subsequent votes are taken by roll call with each Council Member voting for one fewer nominee than voted for in the previous round. Only nominees not eliminated may be voted upon.
- e. Once a single nominee receives a majority vote, the Presiding Officer declares that nominee elected.

As with appointments by the full Council to boards, commissions and committees, there is no process specified about how Council moves forward with selecting a Mayor/Vice mayor in the event of a 3-2-2 vote.

ANALYSIS

Staff has set forth recommended options below that could be adopted to replace the current rules for how Council makes appointments from the dais for vacant Council Member seats, members of boards, commissions or committees appoint by the full council, or selection of Mayor/Vice Mayor. For greatest transparency, and to make the appointment processes more straightforward for Council and the public, the City Attorney recommends that Council choose the same process for each of the three types of appointment processes described above.

If Council wants to delineate a new selection process for the three situations in which Council makes appointments from the dais, the City Attorney recommends that the Council consider the adopting following process:

1. The Presiding Officer calls for nominations and seconds.
2. If there is only one nominee with a second, the Presiding Officer declares the nominee to be selected by unanimous consent.
3. If there are only two nominees with seconds, Council Members vote, by ballot, for one of the two nominees. If Council get stuck due to tied or lost motions -- motions for which there is no majority voting for or against – the City Attorney suggests that Council use random selection.
4. The City Attorney recommends that Council consider one of the following section process options in the event there are three or more nominees with seconds:

i. Ranked-Choice Voting.

Ranked-choice voting (RCV) is used by some jurisdictions in elections by the voters of city council members or an at large mayor. Staff is unaware of any city that uses ranked-choice RCV for appointments made by a city council from the dais.

In a RCV process each Council Member would rank their applicant preferences from first to last choice to fill a vacant Council seat. If one applicant does not have a majority vote as the first choice applicant, applicants with the lowest votes are eliminated and the second choices of the Councilmembers voting for the eliminated applicants are applied to the tallies of the remaining applicants until one applicant achieves a majority vote as the retallied first choice. The attachment illustrates how the RCV process works.

RCV does not, however, resolve how to move forward in every situation (for example, if there is a 3-2-2 or 3-1-1-1-1 vote). Should the Council wish to use RCV to make appointments, the City Attorney recommends that Council adopt one of the following processes if there is a tied vote that cannot be resolved with RCV:

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- a. Conduct a run-off vote, by ballot, to eliminate one of the applicants tied with the lowest votes, and then continue to use the RCV process to redistribute the votes of the eliminated nominee to the remaining nominees.

OR

- b. Select the appointment from among the remaining nominees by random selection. That process would mirror the random selection process set forth in Charter for selecting a Council Member when there is a tied vote that occurs after the electorate vote for Council Member candidates at an election.

To the extent the Council selects using a run-off vote to break a tie Council could still get stuck without a method to move forward with RCV or another run-off vote. For example, if there are only six council members present – such as where there is a vacancy on Council or an absence – there could be a 3-3 tied vote that may not be resolved by RCV or run-off. In that situation, the City Attorney recommends that Council adopt a rule that the Council make the appointment by random selection.

Should Council decide to use RCV, staff suggests that the City's IT department assist by developing a systematic way to facilitate a real-time, ranked-choice voting process that provides transparency for the public and Council.

ii. Process of Elimination

Alternatively, Council may wish to consider making all appointments from the dais by a process of elimination where there are three or more nominees. Elimination would require successive rounds of Council Members voting, with one applicant eliminated each time until a winner is selected.

Like with RCV process, the elimination process above does not resolve how to move forward with a final selection in every situation. If Council decides to make appointments by a process of elimination, the City Attorney suggests that Council adopt a rule setting forth one of the following ways to break a tie where the elimination process does not provide a path to move forward:

- a) Conduct a run-off vote, by ballot, to eliminate one of the nominees tied with the lowest votes, and then proceed with the elimination process with the remaining nominees.

OR

- b) Select from among the remaining nominees by random selection.

To the extent the Council selects using a run-off vote to break a tie, like with RCV, Council could still get stuck without a method to move forward using elimination or another run-off vote. For example, if there are only six council members present – such

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as where there is a vacancy on Council or an absence – there could be for example a 3-3 tied vote that may not be resolved by RCV or run-off. In that situation, like with RCV, the City Attorney recommends that Council adopt a rule that the Council make the appointment by random selection.

iii. By Motion

Finally, Council may wish to consider making appointments by motion with votes cast by ballot, with motions taken one at a time, nominee-by-nominee. Under this process, unless the Council provides otherwise, under Rosenberg's Rules of Order, motions would be voted on in the reverse order in which they were made.

Like with RCV and Elimination, there may be times that appointing by motion may leave the Council stuck. For example, with six councilmember present, we could have a series of lost motions – which are motions for which there is no majority for or against the motion such as a 3-3 or 3-2 vote. In that case, the City Attorney recommends that Council adopt a rule that requires the Council to adopt the elimination processes outlined above to select from among the nominees not rejected by a majority. A potential downside of appointment by motion is that the order in which motions are taken may impact the outcome of the selection process. For that reason, selection by motion may be viewed as giving the Mayor -- who as the Presiding Officer determines the order in which Council Members are recognized when making motions – too much influence over the selection process.

FISCAL IMPACT

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

ENVIRONMENTAL IMPACT

Pursuant to CEQA Guidelines Section 15378, the recommended action is not a "project" subject to the California Environmental Quality Act (CEQA) because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. In the alternative, the recommended action is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the recommended action may have a significant effect on the environment.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

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ATTACHMENTS

- Attachment 1 – Manual of Procedures and Protocols
- Attachment 2 – Council Policy 000-06 – Appointments to Boards/Commissions/Committees
- Attachment 3 – Council Policy 000-23 – Council Vacancies, Procedure for Filing
- Attachment 4 – Ranked-Choice Voting explanation

PRESENTERS

Teresa Stricker, City Attorney
Dina Manis, City Clerk