



TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT

MEETING DATE: 09/24/2024

ITEM NO: 2

DATE: September 17, 2024
TO: Council Policy Committee
FROM: Katy Nomura, Interim Town Manager
SUBJECT: Discuss and Make a Recommendation to the Town Council to Approve the Modifications to Town Council Policy 2-11 "Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum" Related to Attendance

RECOMMENDATION:

Discuss and make a recommendation to the Town Council to approve the modifications to Town Council Policy 2-11 "Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum" related to attendance.

BACKGROUND:

The Town Council Commission Appointment Policy sets forth procedures for consistent recruitment, appointment, residency, and attendance requirements for all Town Boards, Commissions, and Committees (hereafter Commissions). There have been several revisions to this Policy in the past years to ensure consistency.

At the August 27, meeting the Committee discussed Commissioner attendance and responded the following questions:

1. Does the Committee wish to amend the policy to implement excused and unexcused absences?
2. If so, should there be a limit on the number of excused absences?
3. Is the unexcused absence rate of 25 percent of the total number of regular meetings an acceptable limit?
4. Does the Committee wish to implement time limits on the duration of Commission meetings?
5. Does the Committee wish to implement a July summer recess for all Commissions?

PREPARED BY: Wendy Wood
Town Clerk

Reviewed by: Interim Town Manager and Town Attorney

The Committee directed staff to revise the policy to incorporate excused and unexcused absences, a July summer recess for all Commissions, and a two-hour time limit for all commission meetings, with the exception of the Planning Commission and Historic Preservation Committee. The Committee also asked staff to provide a recommendation for a limit on the number of excused and unexcused absences.

The Committee was also asked the following questions in regard to Youth Commissioner's participation in the adult commissions:

1. Should Youth Commissioners serve as voting members on an adult commission, which counts toward the Commission quorum, or should Youth Commissioners serve as non-voting members who do not make up the quorum of the adult commission?
2. Should expectations and requirements regarding Youth Commission participation at the adult commissions be adjusted?
3. Should Youth Commission requirements regarding attendance at the adult commissions be adjusted to account for the fact that Youth Commission is not in session during the summer?

The Committee discussed concerns and requested input from the Youth Commission.

DISCUSSION:

Based on the direction from the Committee, staff has prepared a redline Policy (Attachment 1). The main changes to the policy include adding a summer recess for all commissions in July, adding a two-hour time limit for the length of a regular Commission meeting with certain exceptions, and modifying the absence requirements to incorporate excused and unexcused absences. The proposed limits on excused and unexcused absences and the guidelines for defining an excused absence are listed as follows:

A Commissioner, shall be deemed to have automatically surrendered their office if they have either:

- a. Three consecutive unexcused absences from the regular meetings of the Commission; or
- b. Unexcused absences totaling more than twenty percent* of the total number of scheduled regular meetings in any calendar year;* or
- c. Absences, whether excused or unexcused, totaling more than thirty-five* of the total number of scheduled regular meetings in that calendar year.**

Excused absences shall be limited to those which meet both of the following requirements:

- a. The absent Commissioner must have informed the chair and the staff liaison to the Commission, of their intended absence prior to the scheduled meeting.
(Failure to inform the chair and the staff liaison prior to the meeting shall result

in an unexcused absence, unless an unusual circumstance prevents advance notice.); and

- b. The following shall be considered an excused absence:
 - i. An absence due to illness of the Commissioner; or
 - ii. An absence due to medical emergency of the Commissioner or the Commissioner's immediate family (spouse, domestic partner, parent, child, sibling, or dependent); or
 - iii. An absence due to the Commissioner's need to provide direct caregiving related to the illness of the Commissioner's immediate family (spouse, domestic partner, parent, child, sibling, or dependent); or
 - iv. An absence due to death of a Commissioner's immediate family (spouse, domestic partner, parent, child, sibling, or dependent); or
 - v. An absence because a Commissioner is away on authorized commission business; or
 - vi. An absence due to required military service; or
 - vii. An absence related to Federal and State Family Leave.

* Percentages will be rounded to the nearest whole number using standard rounding rules (less than .5 will round down and .5 or more will round up) and if the Commissioner was appointed to fill a vacancy, more than twenty percent of the total number of remaining scheduled regular meetings in that calendar year.

** A calendar year is defined as January 1 through December 31. Any absence that causes the cancellation of a meeting due to lack of a quorum shall be counted as an absence for the Commissioner.

Other minor clean-up changes in the policy language are proposed throughout the document.

The Committee had tabled the discussion to address concerns with the Youth Commission's attendance in Adult Commissions until they received input from the Youth Commission. However, staff has recently received advice from the Fair Political Practices Commission (FPPC) that if the Youth Commissioners participate in making decisions at Adult Commissions, they are required to file the Statement of Economic Interests (Form 700) regardless of their age. The FPPC defines participating in a decision as "providing information, an opinion, or a recommendation for the purpose of affecting the decision." The Youth Commissioners appointed to Adult Commissions will be required to file a Form 700 if no changes are made to how the Youth Commissioners participate in Adult Commissions.

Requiring a Youth Commissioner to file a Form 700 could cause some challenges, such as concerns from parents about disclosing information, requiring minors to accurately understand and file with risks of fines for late or inaccurate filings, and potential complications during a college application process if the student is applying for financial aid. These issues could be avoided by changing the role of the Youth Commissioner on an Adult Commission from a voting

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member to a non-voting liaison that attends Adult Commission meetings to learn as a member of the public, provides public comment from the youth perspective, and reports back to the Youth Commission.

The Youth Commission review their enabling resolution at their October meeting to make recommended changes to their responsibilities. Staff will prepare a report for Council to consider changing the role of the Youth Commissioner on an Adult Commission to a non-voting liaison.

CONCLUSION:

Staff looks forward to the Committee's discussion and direction. If the Committee recommends updating the Policy, staff will incorporate any necessary modifications prior to bringing the proposed draft to the full Town Council for consideration and approval.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office and the Town Attorney.

FISCAL IMPACT:

This item has no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Redline Commission Appointment Policy 2-11