



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT**

MEETING DATE: 08/27/2024

ITEM NO: 3

DATE: August 16, 2024
TO: Council Policy Committee
FROM: Katy Nomura, Assistant Town Manager
SUBJECT: Discuss and Recommend Modifications to Town Council Policy 2-11
"Commission Appointments, Residency and Attendance Requirements, and
Establishing a Quorum" Related to Attendance

RECOMMENDATION:

Discuss and recommend 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.

The most recent amendment related to attendance occurred on September 20, 2022. At that time the Town Council approved an amendment to add language allowing excused absences up to 12 weeks due to the birth of a child as consistent with the Family Medical Leave Act and the California Family Rights Act.

Recently questions have been raised about the attendance requirements for both the youth and adult commissions. The current attendance requirement does not provide equity in terms of the percentage of meetings that may be missed nor does it provide any leniency for illness.

The current provisions states:

Any member of an appointive Town Advisory Body who is absent from the number

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Town Clerk

Reviewed by: Assistant Town Manager and Town Attorney

BACKGROUND (continued):

of regular meetings listed below appropriate to his or her Advisory Body shall, as a result, surrender his or her office on the Advisory Body and the office shall be considered vacant.

- a. For an Advisory Body which holds six (6) or more regular meetings per a consecutive twelve (12) month period: three (3) regular meetings.
- b. For an Advisory Body which holds five (5) or fewer regular meetings per a consecutive twelve (12) month period: two (2) regular meetings.
- c. For an Advisory Body which holds sixteen (16) or more regular meetings per a consecutive twelve (12) month period: eight (8) regular meetings.

*Consecutive twelve (12) month period is defined as any consecutive twelve-month period beginning with the first absence. A regular meeting shall not be cancelled and replaced with a special meeting in order to alleviate an absence by an advisory body member.

DISCUSSION:

General Commission Attendance

The current policy raises concerns regarding equity in attendance requirements. Under the current policy, a member of a body that holds 16 meetings would not be removed until they have missed eight meetings, equating to a 50% threshold. In comparison, a member of a body that holds 12 meetings would face removal after missing three meetings (25% threshold), and a member of a body that holds five meetings would face removal after missing two meetings (40% threshold).

The current policy also does not provide for flexibility regarding illness. While members of a Commission can participate in meetings remotely, it should be noted that if a commissioner falls ill within 72 hours of a scheduled meeting, they are unable to participate remotely due to restrictions set forth in State Law under the Brown Act. Consequently, this has resulted in some members attending meetings despite being ill in order to avoid being absent from the meeting and removed from the commission. Staff has prepared the following option to help address these concerns.

Using Excused and Unexcused Absence

A member of any board, commission, or committee, shall be deemed to have automatically resigned from office if:

DISCUSSION (continued):

The board, commission, or committee member has unexcused absences from either:

1. Any three consecutive regular meetings of the board, commission, or committee; or
2. More than twenty-five percent (rounded to the nearest whole number) 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.

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

1. The absent member must have informed the chair and the staff liaison to the board or 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 extenuating circumstances prevent advance notice.); and
2. The following shall be considered an excused absence:
 - a. An absence due to illness of the member; or
 - b. An absence due to medical emergency of the member or the member's spouse, domestic partner, parent, child, sibling or dependent; or
 - c. An absence due to the member's need to provide direct caregiving related to the illness of the member's spouse, domestic partner, parent, child, sibling or dependent; or
 - d. An absence due to death of a member's spouse, domestic partner, parent, child, sibling or dependent; or
 - e. An absence because a member is away on authorized board or commission business; or
 - f. An absence due to required military service; or
 - g. An absence related to Federal and State Family Leave.

Other Considerations:

The policy further specifies that "Any member not in attendance at a regular meeting of said Advisory Body for at least 70% of the meeting shall be considered absent." Consequently, under this provision, if a commission meeting extends to three hours and a commissioner can only participate for two hours, the commissioner would be marked absent. To address this issue, the committee may want to consider implementing a maximum two-hour meeting time limit for Commissions with the exception of the Planning Commission. This change would help clarify the expected time commitment from commissioners and promote attendance for the full meeting.

DISCUSSION (continued):

Additionally, the Committee could also consider aligning the Commissioners' schedules with the Town Council schedule to allow for a summer recess in July, which may help with attendance.

Establishing a summer recess for all Commissions would provide the opportunity for Commissioners to take a summer vacation without impacting attendance. Several commissions are currently observing a summer recess, and this addition to the policy would help promote consistency in meeting schedules.

Questions for the Committee

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. Do you want to implement time limits on the duration of Commission meetings?
5. Do you want to implement a July summer recess for all Commissions?

Youth Commissioner Liaison Attendance

The policy also specifies that "If a Youth Commissioner liaison misses three meetings of a liaison Commission during a consecutive twelve (12) month period*, the Youth Commission shall appoint a different Youth Commissioner as liaison." Questions have been raised regarding Youth Commissioner liaison attendance at the adult commission meetings. The Youth Commission terms vary from one to two years, with their terms expiring in June, which does not align with the terms of the adult commissions. The Youth Commission appointments to the adult commission typically take place in September. The discrepancy in terms and the timing of the appointments may lead to increased absences and make it difficult to appoint a different Youth Commissioner in a timely manner. Currently, the Youth Commission liaisons are voting members of the commission, and their seats are included in the quorum of the body.

Questions for the Committee

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 Commission?
2. Should expectations and requirements regarding Youth Commission participation at the adult Commissions be adjusted?

DISCUSSION (continued):

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?

CONCLUSION:

Staff looks forward to the Committee's discussion and direction. Based on the direction, staff will return to the Policy Committee with a proposed draft of the updated Policy for its consideration and potential recommendation to Town Council.

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. Current Commission Appointment Policy 2-11