

**Council Meeting: May 12, 2009**

**SUBJECT: Consider Revisions to Council Policy Governing Attendance Policies for Board and Commission Members (Section 6B of Council Policy 7.2.19) (Study Issue)**

**REPORT IN BRIEF**

This report provides Council with proposed revisions to its policy governing the meeting attendance requirements of board and commission members. The report reviews options which are stricter, as well as options that are more lenient, as compared to existing policy. Staff recommends the proposed revisions depicted by Attachment F.

**BACKGROUND**

For many years, board and commission members, as well as staff liaisons to City boards and commissions, have been frustrated with aspects of the Council's policy governing the attendance of board and commission members at meetings. In January 2009, Council ranked Study Issue OCM-01 *Consider Revisions to Council Policy Governing Attendance Policies for Board and Commission* (Attachment A) as a high priority for calendar year 2009. This report responds to that Council direction.

**EXISTING POLICY**

See Attachment B, Existing City Policy Governing Board/Commission Attendance.

**DISCUSSION****Importance of Board and Commission Member Attendance**

Over the years, feedback regarding the importance of board and commission member attendance at meetings has ranged from one end of a continuum to the other:

Some have suggested that since board and commission members are volunteers, there should be no formal expectations governing their attendance at meetings. Proponents of this line of thinking have argued that boards and commissions are, after all, advisory in nature only, and that the lack of a quorum or ability to do business on any particular night is relatively unimportant in the bigger scheme of things—if the board or commission can not give input to the Council on a particular matter, it's unfortunate, but it

does not preclude the general public from weighing in on the matter via public hearings, nor does it prevent the Council from making an informed decision.

Others have suggested that boards and commissions are critical components of local government's decision-making process, and that members should therefore be expected to attend all related meetings. Not doing so places an unfair burden on fellow board and commission members to ensure a quorum, and reduces the variety of perspectives represented at any particular meeting. Attendance at most, if not all, meetings, they have argued, should be considered a minimum requirement of an effective board or commission member.

### Concerns with Existing Policy

Specific concerns with the City's existing policy have included the following:

- The expectation that each member of a board or commission attend all regularly scheduled meetings (some feel the expectation is too high).
- Lack of clarity surrounding what constitutes a "regular meeting."
- The reasonableness of using the same attendance criteria whether a board or commission meets once a year or twice a month.
- Lack of clarity surrounding the definition of an "excused" or "unexcused" absence, including who determines whether specific absences are excused or unexcused, when they decide that, and how.
- Whether or not written "reminders" from the Mayor regarding board and commission attendance requirements have the desired effect, or are counter-productive.

Notably, there has been little to no concern expressed with the Charter requirement that three consecutive unexcused absences from regularly scheduled meetings result in a board or commission member's seat being declared vacant.

Staff has considered these concerns, reviewed comparable policies of surrounding communities (Attachment C), and solicited feedback from existing board and commission members regarding this policy (Attachment D).

### What Do Other Cities Do?

One need only go next door to find communities with board and commission attendance policies that are more strict than Sunnyvale's. Cupertino, like Sunnyvale, automatically dismisses from its boards and commissions any member who misses three consecutive meetings (Attachment C). However, Cupertino's policy is more strict in 3 ways: first, Cupertino does not distinguish between "excused" and "unexcused" absences. *Any* absence from a meeting is

considered unexcused unless an exception is granted upon appeal to the City Council. Second, in Cupertino, absence from more than 25% of meetings also results in automatic dismissal. In Sunnyvale, this scenario results in just the possibility of a friendly reminder from the Mayor regarding the importance of attendance. Lastly, absences in Cupertino count toward this 25% watermark regardless of whether the missed meeting was “regularly scheduled” or “special”, whereas in Sunnyvale, absence from a “special” meeting does not count against a board or commission member.

On the other hand, Sunnyvale also has neighbors whose policies are more lenient. Mountain View, for example, also subscribes to the “miss-3-consecutive-regularly-scheduled-meetings-and-you’re-out” rule, but it stops there (no additional 75% attendance requirement—see Attachment C).

### Council Options

Council has wide latitude regarding possible revisions to this policy, with the caveat that certain aspects would require a Charter amendment. Given the large number of variations possible, staff notes below three general directions for Council’s consideration:

1. Council could opt to leave the existing policy alone. While it has created concern, it has been improved over recent years (e.g., clarification of what constitutes an “excused” absence) and it is manageable.

2. Council could make the attendance policy more lenient. Options under this heading include:

- Eliminate all attendance requirements (would require a Charter amendment).
- Increase the allowable number of consecutive unexcused absences from regularly scheduled meetings (would require a Charter amendment).
- Limit attendance requirements to the one Charter-imposed criterion regarding 3 consecutive unexcused absences from regularly scheduled meetings (i.e., the Mountain View model).
- Increase the allowable number of unexcused absences from regular meetings (currently 25%) in any twelve month period.
- Be more liberal in the definition of “excused” absences.
- Allow a greater number of personal leave (excused) absences for those board and commission members who regularly meet more often than monthly.

3. Council could make the attendance policy more stringent. For example:

- Reduce the allowable number of consecutive absences from regularly scheduled meetings (would require a Charter amendment).
- Declare vacant any seat whose member is absent (unexcused) from more than 25% of regularly scheduled meetings in any twelve month period. (Currently, the member simply receives a friendly reminder of the importance of good attendance.)
- Reduce the allowable number of unexcused absences from regular meetings in any twelve month period.

#### 4. Attendance Reports

Current policy requires staff to prepare for the City Council a quarterly attendance report of all the City's boards and commissions showing the attendance of each member during the past 12 months. The frequency with which staff provides that report, coupled with the frequency with which new members are added to the list, can impact its effectiveness, as noted by one commissioner who suggests that staff time might be better utilized providing these reports on a semi-annual basis (See Attachment E).

#### **FISCAL IMPACT**

There is no fiscal impact associated with this report.

#### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

Given that no board or commission is charged with advising the City Council regarding the framework of the City's board and commission program, this study issue was not included on any board or commission's agenda for formal action. However, members of all boards and commissions were invited to provide input to staff on this subject (Attachment D), and copies of this report were distributed to all boards and commissions as "Information Only". While no official action was requested of any board or commission, all board and commission members were notified of their right to appear before the City Council to voice their individual perspectives on this subject.

#### **ALTERNATIVES**

1. Take no action (make no changes to existing Council policy).
2. Make the attendance policy more lenient:
  - a. Eliminate all attendance requirements (would require a charter amendment)

- b. Increase the allowable number of consecutive absences from regularly scheduled meetings (would require a Charter amendment)
  - c. Limit attendance requirements to the one Charter-imposed criterion regarding 3 consecutive unexcused absences from regularly scheduled meetings (i.e., the Mountain View model)
  - d. Increase the percentage of regular meetings allowed to be missed in any twelve month period
  - e. Be more liberal in the definition of “excused” absences
3. Make the attendance policy more stringent:
- a. Reduce the allowable number of consecutive absences from regularly scheduled meetings (would require a Charter amendment)
  - b. Declare vacant any seat whose member misses more than 25% of the regularly scheduled meetings in any twelve month period (currently, the member simply receives a friendly reminder of the importance of good attendance)
  - c. Reduce the percentage of regular meetings allowed to be missed in any twelve month period
4. Adopt revisions to Council Policy 7.2.19 as depicted by Attachment F (incorporates 3b. above)
5. Other action as determined by City Council

### **RECOMMENDATION**

Staff recommends Alternative 4: Adopt revisions to Council Policy 7.2.19 as depicted by Attachment F.

This option makes the board/commission attendance policy more stringent by declaring a member’s seat vacant upon unexcused absence from more than 25% of regularly scheduled meetings over a twelve month period. It also makes the policy more lenient, however, by allowing a greater number of personal leave (excused) absences for those board and commission members who regularly meet more often than monthly.

Staff believes the proposed policy benefits from the following additional revisions as well:

- a. Additional clarification regarding the distinction between regularly scheduled meetings and special meetings for the purpose of monitoring board/commission member attendance records
- b. Memorializing a board or commission’s option to determine by general consent whether a member’s absences shall be excused or unexcused
- c. Clarifying that while attendance shall be taken at “special” meetings, absences at such meetings shall not be recorded as “excused” or “unexcused”

- d. Reporting attendance results to Council on a semi-annual as opposed to quarterly basis
- e. Allowing the City Clerk to declare seats vacant when limits of unexcused absences are reached (i.e., absence from 3 consecutive regularly scheduled meetings, or absence from more than 25% of regularly scheduled meetings over any twelve consecutive month period). This model, also used by Cupertino, acknowledges the objective nature of the criteria used to determine when a seat should be declared vacant, yet leaves open the possibility of an appeal to Council unless the criterion is Charter-based.

Despite these changes, Cupertino's policy would remain more stringent than Sunnyvale's, and Mountain View's would remain more lenient. Sunnyvale's policy would join these two cities, however, in becoming less ambiguous and easier to interpret.

The proposed policy allows board and commission members to miss "special" meetings without any automatic consequence (under the assumption they can not plan their availability as well in advance as they can "regularly scheduled" meetings), but places increased importance on attendance at "regularly scheduled" meetings by declaring vacant the seat of any board or commission member who misses more than 25% over a twelve consecutive month period.

Prepared by: Robert Walker, Assistant City Manager

Approved by:

Gary M. Luebbers  
City Manager

### **Attachments**

- A. Study Issue OCM-01 *Consider Revisions to Council Policy Governing Attendance Policies for Board and Commission*
- B. Existing Council Policy Governing Board/Commission Attendance
- C. Board/Commission Attendance Policies from Other Cities
- D. Memo to Board and Commission Members to Solicit Input
- E. Input from Board and Commission Members
- F. Proposed Council Policy Governing Board/Commission Attendance to be Included in Council Policy 7.2.19

## **Attachment A**

Proposed 2009 Council Study Issue

**OCM-01 Consider Revisions to Council Policy Governing Attendance Policies for Board and Commission Members**

**Lead Department** Office of the City Manager  
**Element or Sub-element** Element 7. Planning and Management, Sub-element 7.2 Community  
**New or Previous** Previous  
**Status** Pending      **History** 1 year ago    Deferred      2 years ago    None

**1. What are the key elements of the issue? What precipitated it?**

This issue would review current attendance requirements for boards and commissions as specified in Council policy. It was precipitated by ongoing concerns expressed by board and commission members and staff liaisons assigned to boards and commissions regarding current Council Policy and its implementation. Some feel the 75% attendance requirement is too lenient, others feel it is too strict. These sentiments are exacerbated by a lack of clarity surrounding the definition of "regular meeting," ongoing concerns regarding what constitutes an "excused" or "unexcused" absence, and how (and by whom) that determination is made.

This policy would explore the pros and cons of existing Council policy, as well as alternative options.

**2. How does this relate to the General Plan or existing City Policy?**

Directly related to existing Council Policy 7.2.19 *Boards and Commissions*, which includes board and commission meeting attendance, and the required quarterly board and commission attendance reports that identify those board and commission members who have not met the attendance requirements as stated in Council Policy 7.2.19. A copy of Council Policy 7.2.19 is attached.

**3. Origin of issue**

**Council Member(s)**  
**General Plan**  
**City Staff**                      X  
**Public**  
**Board or Commission** none

**4. Multiple Year Project? No      Planned Completion Year**

**5. Expected participation involved in the study issue process?**

**Does Council need to approve a work plan?** No

**Does this issue require review by a Board/Commission?** No

**If so, which?**

none

**Is a Council Study Session anticipated?** No

**What is the public participation process?**

Report to Council will be distributed to all Board and Commission members as information only requiring no formal action. Public contact will also include posting the Council agenda on the City's official notice bulletin board, posting of agenda and report on City's web page, publication of the Council agenda in the San Jose Mercury News and availability of the report at the Library and the Office of the City Clerk.

**6. Cost of Study**

**Operating Budget Program covering costs**

728 Council-Appointed Advisory Boards & Commissions

**Project Budget covering costs**

NA

**Budget modification \$ amount needed for study**

NA

**Explain below what the additional funding will be used for**

NA

**7. Potential fiscal impact to implement recommendations in the Study approved by Council**

**Capital expenditure range** None

**Operating expenditure range** None

**New revenues/savings range** None

**Explain impact briefly**

**8. Staff Recommendation**

**Staff Recommendation** For Study

**If 'For Study' or 'Against Study', explain**

This current policy is controversial, and has been a source of frustration for board/commission members, staff and electeds for many years. Staff believe a review of this policy would itself be cathartic, and that the results of such a review could help to alleviate a good deal of ongoing concern.

**9. Estimated consultant hours for completion of the study issue**

0

**Managers**

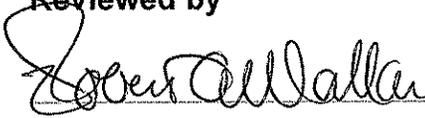
<b>Role</b>	<b>Manager</b>	<b>Hours</b>	
Lead	Borkowski, Gail	Mgr CY1: 10	Mgr CY2: 0
		Staff CY1: 40	Staff CY2: 0

**Total Hours CY1: 50**

**Total Hours CY2: 0**

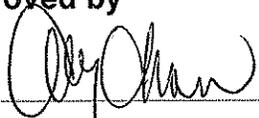
**Note: If staff's recommendation is 'For Study' or 'Against Study', the Director should note the relative importance of this Study to other major projects that the Department is currently working on or that are soon to begin, and the impact on existing services/priorities.**

**Reviewed by**

  
\_\_\_\_\_  
**Department Director**

10-6-08  
**Date**

**Approved by**

  
\_\_\_\_\_  
**City Manager**

10/7/08  
**Date**

**Addendum**

**A. Board / Commission Recommendation**

**Issue Created Too Late for B/C Ranking**

<b>Board or Commission</b>	<b>Rank</b>	<b>Rank</b>
	<b>Rank 1 year ago</b>	<b>Rank 2 years ago</b>
Arts Commission		
Bicycle and Pedestrian Advisory Committee		
Board of Building Code Appeals		
Board of Library Trustees		
Child Care Advisory Board		
Heritage Preservation Commission		
Housing and Human Services Commission		
Parks and Recreation Commission		
Personnel Board		
Planning Commission		

**Board or Commission ranking comments**

NA

**B. Council**

**Council Rank** (no rank yet)

**Work Plan Review Date** (blank)

**Study Session Date** (blank)

**RTC Date** (blank)

**Actual Complete Date** (blank)

**Staff Contact**

**Attachment B**

**Existing Council Policy Governing Board/Commission Attendance**

*Excerpt from City Charter Section 1005:*

If a member of a board or commission absents himself/herself from three regular meetings of such board or commission, consecutively, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of the City, his/her office shall become vacant and shall be so declared by the City Council.

*Excerpt from Council Policy 7.2.19, Boards and Commissions, Section 6: Meetings, Attendance and Quorums, B. Attendance:*

Each member of a City board or commission is expected to attend all regularly scheduled meetings (as identified for each board and commission on the official roster). Attendance of less than 75% (regardless of whether excused or unexcused) of the regularly scheduled meetings OR two consecutive unexcused absences in 12 months may result in a letter from the Mayor requesting improved attendance and reminding the member of the Council policies on absences. If the member has three consecutive unexcused absences from regularly scheduled meetings, the member's seat will be declared vacant by Council action.

Each board or commission will record their respective members' absences as excused or unexcused and shall include that record in the minutes of the meeting at which the member is absent. Excused absences shall be limited to those which meet both of the following requirements:

(I) The absent member must have informed the chair and/or the City staff liaison to the board or commission, of their intended absence prior to the scheduled meeting. (Failure to inform the chair or the staff liaison prior to the meeting will result in an unexcused absence, unless extenuating circumstances prevent advance notice.), *and*

(II) The absence is due to one of the following:

- (a). A death in the family,
- (b). Personal illness,
- (c). Board or commission-related business,
- (d). Personal leave (limited to one per fiscal year) or emergency, or
- (e). Decision by member's supervisor in employment or required military service.

Staff shall prepare for the City Council a quarterly attendance report of all the City's boards and commissions showing the attendance of each member during the past 12 months. Attendance issues will be highlighted by the staff.

**Attachment C**

**Board/Commission Attendance Policies from Other Cities**

**City of Cupertino**

*The following is an excerpt from City of Cupertino Resolution No. 07-129:*

**C. UNSCHEDULED VACANCIES AND ATTENDANCE**

3. A member shall be considered removed from an advisory body under the following conditions.
  - A member misses more than three consecutive meetings
  - A member misses more than 25% of the advisory body's meetings in a calendar year
4. It is the responsibility of the advisory body's staff liaison to notify the City Clerk of a member's attendance record to allow sufficient time to send a warning notice if the member has missed three consecutive meetings or 25% of the meetings, and to send a termination notice if the member has missed more three consecutive meetings or more than 25% of the meetings in a calendar year.
5. A member who has been removed from an advisory body for inadequate attendance may request a waiver of this provision by submitting a letter to the City Council setting forth the reason for the absences and confirming future availability.

**City of Mountain View**

*The following is an excerpt from City of Mountain View City Charter Section 905:*

Section 905. Compensation; vacancies.

The members of the boards and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the council. Any vacancies on any board or commission, from whatever cause arising, shall be filled by appointment by the council. Upon a vacancy occurring, leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission is absent from three regular meetings of such board or commission, consecutively, or within a calendar quarter, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector and resident of the city, that office shall become vacant upon the declaration of council. The council may, for good cause, determine that a vacancy has not been created. (As amended by election June 3, 1980; November 3, 1998.)

## **Attachment D**

# CITY OF SUNNYVALE

456 WEST OLIVE AVENUE • SUNNYVALE, CALIFORNIA 94086 • (408) 730-7480

Office of the City Manager

**Date:** March 3, 2009

**To:** Board and Commission Members

**Through:** Gary Luebbers, City Manager 

**From:** Robert Walker, Assistant City Manager 

**CC:** City Council  
City Clerk  
Executive Leadership Team  
Board and Commission Liaisons

**Subject:** 2009 Study Issue OCM-01

On January 23, 2009, Council ranked as a high priority study issue OCM-01: *Consider Revisions to Council Policy Governing Attendance Policies for Board and Commission Members* (Section 6 B. of Council Policy 7.2.19).

This is not a topic germane to the core mission of any board or commission, and therefore it will not appear on any board or commission's agenda for formal action. Each of you is a stakeholder impacted by this Council policy, however, and you are therefore invited to provide public input to this office as it conducts the study.

Comments may be provided in any form, but are best submitted in writing, either via e-mail to [rwalker@ci.sunnyvale.ca.us](mailto:rwalker@ci.sunnyvale.ca.us) or by postal mail to the address listed above.

The final staff Report to Council will be provided to all boards and commissions as "Information Only", and any board or commission member wishing to speak before the Council on this item is encouraged to represent his/her individual perspectives and opinions on the evening that Council takes related action (tentatively scheduled for May 12, 2009).

#### Attachments

- A. Existing Council policy (prior to any proposed revision)
- B. Sunnyvale Charter Section 1005

**Attachment E**

Attachment E

**From:** [REDACTED]  
**To:** <walker@ci.sunnyvale.ca.us>  
**CC:** [REDACTED]  
**Date:** 3/4/2009 1:48 PM  
**Subject:** policy regarding Commission attendance

Robert, I've had one complaint about the policy for some time, which I'd like this round of revisions to consider. As written, the policy is grossly unfair to Planning Commission members, in terms of excused absences for personal leave. As written, each commissioner can miss one meeting per year for personal leave. For a Personnel Board member who has six meetings in a year, that's a fine thing. For a Planning Commissioner who has around twenty meetings in a year, that's insignificant.

Since the Planning Commission holds twice as many meetings as any other commission, its Commissioners should be entitled to twice as many excused absences for personal leave as any other commission. This is particularly important because of the \*tremendous\* workload that the PC has, as compared to any other board or commission. I would encourage any rewrite which establishes a more equitable level for PC members, perhaps establishing the number of personal leaves as a percentage of the meetings, rather than as a fixed number ("personal leave accounting for no more than 10% of regularly-scheduled meetings, allowing for one meeting for those boards or commissions which hold less than ten meetings in a year").

Beyond that, I have no real complaints, although I'm one of those "never misses a meeting" folks who doesn't have much of a life. So to me, the policy allows for too many absences without consequence as is. I'd guess that those commissioners who actually have a life would disagree. But I wouldn't recommend a loosening of the guidelines, beyond what I previously suggested.

[REDACTED]

**[REDACTED] - Comment regarding Board Attendance Policy**

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**From:** [REDACTED]  
**To:** <rwalker@ci.sunnyvale.ca.us>  
**Date:** 3/4/2009 1:55 PM  
**Subject:** Comment regarding Board Attendance Policy

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Mr. Walker,

I believe that reviewing attendance quarterly, combined with a requirement to attend 75% of meetings, is counterproductive. For commissions that meet monthly, one absence in a year is will above 75% attendance, but would result in staff & city time wasted to inform the member that they fell below the 75% mark for the quarter in which they missed the meeting (because missing one of three meetings in a quarter results in a 66% attendance). I'd suggest these reviews be performed semi-annually.

[REDACTED]

## **Attachment F**

**Proposed Attendance Policy to be Included in Council Policy 7.2.19**

Each member of a City board or commission is expected to attend all regularly scheduled meetings\*, and as many special meetings as possible.

When a board or commission member knows in advance that he/she will be absent from a meeting, the member shall give advance notice to the chair and/or staff liaison.

Each board or commission shall determine by general consent or by majority vote their members' absences from regularly scheduled meetings as excused or unexcused\*\* and shall include that record in official meeting minutes. Absences from special meetings shall be recorded but shall not be classified as "excused" or "unexcused".

Unexcused absences from 3 consecutive regularly scheduled meetings, or from more than 25% of all regularly scheduled meetings over any twelve consecutive month period, shall result in that member's seat being declared vacant by the city clerk. Any declaration of vacancy based on unexcused absence from more than 25% of all regularly scheduled meetings over any consecutive 12-month period shall be appealable to the City Council. (Declarations based on absence from 3 consecutive regularly scheduled meetings are Charter-based and are not appealable.)

Board and commission members are responsible for monitoring their own attendance records. Staff shall prepare for the City Council semi-annual reports of all the City's boards and commissions showing the attendance of each member at both regular and special meetings during the past 12 months. The percent of regularly scheduled meetings attended shall only be shown for board and commission members having been in office at least 6 months.

Council shall take into consideration board and commission member attendance records, including tardiness, when evaluating the overall performance of board and commission members.

\* *Regularly scheduled meetings* are defined as those in alignment with the general description provided the public as to the times that board or commission routinely meets. For example, if the Heritage Preservation Commission is advertised as meeting the first Wednesday of every other month, meetings held on these dates only shall be considered "regular meetings". Any other meetings shall be considered special meetings. Regularly scheduled meeting *dates and times* for all boards and commissions shall be posted on the City's Web site and in the Boards and Commissions Handbook.

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

- (I) The absent member must have informed the chair and/or the City staff liaison to the board or commission, of their intended absence prior to the scheduled meeting. (Failure to inform the chair or the staff liaison prior to the meeting shall result in an unexcused absence, unless extenuating circumstances prevent advance notice), *and*
- (II) The absence is due to one of the following:
  - a. A death in the family,
  - b. Personal illness,
  - c. Board or commission-related business,

## Attachment F

- d. Personal leave (limited to one per fiscal year for those boards/commissions meeting monthly or less frequently and to 10% of regularly scheduled meetings for those meeting more frequently)
- e. Emergency, or
- f. Decision by member's supervisor in employment or required military service.