

CITY COUNCIL MEETING AGENDA OF DECEMBER 6, 2011

PUBLIC HEARING/GENERAL BUSINESS

ITEM # 5

This item is on the December 6 agenda for the purpose of Council discussion and possible action on recommendations from the Council Subcommittee on Board and Commission Bylaws.

Attachments

Subcommittee report: Consideration of Change to Frequency of Sustainability Commission Meetings, Change of Location of Library Board Meetings, and Adoption of Commission Liaison Policy

Subcommittee Meeting: November 28, 2011

Subject: Consideration of Change to Frequency of Sustainability Commission Meetings, Change of Location of Library Board Meetings, and Adoption of Commission Liaison Policy

REPORT IN BRIEF

Three issues have been brought before Council for consideration. The first involves the frequency of meetings of the Sustainability Commission, which currently meets every other month. The second involves the location of meetings for the Board of Library Trustees. The third involves drafting policy recommendations in response to Council's approval of the adoption of a liaison policy for boards and commissions.

BACKGROUND

Regarding the Sustainability Commission, commission members have requested that Council consider increasing the frequency of its meetings from once every other month to once a month, to match that of most other boards and commissions.

Regarding the Board of Library Trustees, board members have requested that Council policy be modified to change the location of its meetings from the library program room to the library conference room on the second floor in the library's administrative area.

Regarding the issue of appointing Council liaisons, Council voted to adopt a liaison policy for boards and commissions, and it referred this issue back to the subcommittee to draft specific language for putting the policy into effect.

EXISTING POLICY

Regarding the frequency of Sustainability Commission meetings, Council Policy 7.2.19 2A(X) states:

Sustainability Commission: This seven-member commission acts in an advisory capacity to the City Council to provide expertise on major policy areas related to the environmental sustainability goals of the Climate Action Plan (CAP) and General Plan. Meetings are held bi-monthly beginning in January on the third Monday of each month at 7 p.m. in the West Conference Room at City Hall. If the third Monday is a City observed holiday, the meeting will be held on the third Tuesday of the month at 7 p.m. in the West Conference Room.

Regarding the location of meetings for the Board of Library Trustees, Council Policy 7.2.19 2A(IV) states:

Board of Library Trustees: formed by City Charter Section 1013. This five-member board acts in an advisory capacity to the City Council on library related issues. Meetings are held on the first Monday of each month at 7 p.m. in the Library Program Room. If the first Monday is a City observed holiday, the meeting will be held on the second Monday of the month in the Library Program Room.

Currently, no policies exist regarding Council liaisons to Boards and Commissions.

DISCUSSION

Sustainability Commission Meeting Frequency

Sustainability Commission members have raised two specific concerns about the lack of frequent Commission meetings. The first is that the Commission's workload justifies more frequent meetings. The second is that the infrequency of meetings causes the Commission to miss opportunities to provide input on certain issues within the Commission's purview due to timing concerns. Cases of inconvenient timing have already arisen in the commission's first year of operation, and an increase in meeting frequency will definitely serve to minimize such occurrences. Accordingly, they request increasing the frequency of its meetings from bi-monthly to monthly.

During the subcommittee discussion of this topic, both councilmember and public opinion was unanimous that increasing the meeting frequency to monthly was both desired and necessary in the short-term. Some concern was expressed about whether such frequency will be necessary long-term, but it was agreed that this issue could be revisited by council in the future should the increased frequency become unnecessary.

Board of Library Trustees Meeting Location

Library Board Trustees and staff have requested to relocate the Library Board meetings from Library Program Room A to the second floor Library Conference Room in the library's administrative area. The current location has advantages and disadvantages in terms of amount of meeting space, perceived accessibility by the public, and proximity to public amenities that create meeting distractions.

In its current form, Council policy dictates the meeting place of all boards and commissions.

In the subcommittee meeting, opinion was unanimous that this issue should be addressed through broader changes to Council Policy. It was reported that at least two commissions, the Heritage Preservation Commission and the Housing and Human Services Commission, occasionally must meet in locations other than those proscribed by Council Policy due to conflicts in meeting room availability. While necessary, such changes of location are a technical violation of Council Policy, as the Policy is currently written. The subcommittee concluded that it does not serve the interest of the commissions for Council Policy to either give staff no flexibility or to force staff to violate policy as a matter of practice. It was further noted that requiring commissions to come before both the subcommittee and eventually Council whenever a temporary or permanent change of location is required or desired is unduly burdensome.

Accordingly, the subcommittee drafted more general language indicating staff guidelines for choosing the locations of board and commission meetings, to take the place of the explicit location mandates that currently exist. As drafted, the language gives staff latitude in selecting locations when conflicts arise, something that does not exist in the current policy. However, one side effect of the proposed policy change is that it effectively denies the Library Board's request and instead encourages staff to relocate Library Board meetings in City Hall, either in Council Chambers or the West Conference

Room. Nevertheless, the revised language does give staff the ability to choose any appropriate location if those locations are not available.

Council Liaison Policy

At its September 13, 2011 meeting, Council approved creating a Council liaison policy for boards and commission, returning the issue to the subcommittee for specific language. Some of the potential issues that Council identified include:

- The specific role and responsibilities of a liaison.
- The length of time a councilmember serves as a liaison to a given board or commission.
- The process for dealing with problems that may arise when a liaison oversteps boundaries.

The subcommittee had extensive discussion surrounding these and other issues, and the subcommittee drafted language included in Appendix A as a framework for a liaison policy.

The subcommittee made an initial determination that the Planning Commission, the Personnel Board, and the Board of Building Code Appeals should be excluded from the council liaison process. These bodies have quasi-judicial authority, and “final authority” powers granted to them by the City Charter, and a council presence in those meetings may be interpreted as a violation of the City Charter. Should any of the remaining commissions have occasional quasi-judicial or Charter-mandated authority, it is recommended that liaisons excuse themselves when commissions adjudicate such issues.

The subcommittee discussed the term length for liaisons, starting with staff’s recommendation of 4-6 month terms. The subcommittee was unanimous in its opinion that terms should be longer than 4 months, due to the existing demands on councilmembers’ schedule. However, it was split between 6 and 12 month terms. 6-month terms provide speedier council exposure to all commissions (allowing a councilmember to serve every commission in the first 4-year term) and minimize the opportunity for councilmembers to get too comfortable with a commission and too familiar with its members. 12-month terms provide greater continuity, less confusion, and fewer scheduling issues for councilmembers. A majority of the subcommittee found staff’s arguments for shorter terms to be persuasive, and it settled on recommending 6-month terms, to be determined as part of the annual intergovernmental relations assignment process, with assignments for both 6-month terms to be spelled out as part of the IGR process in January.

The subcommittee discussed the method of liaison assignment, including automatic rotation and selection by councilmember choice. Concern was expressed that a councilmember’s lesser interest in a particular commission may result in less commitment to serve as a liaison. This favors allowing councilmembers to select their assignments according to preference. However, if exposure to commissions is one goal of the liaison program, requiring councilmembers to rotate through all commissions without choice better serves that goal. The subcommittee ultimately agreed unanimously with staff’s recommendation and recommends an automatic rotation system based on seat numbers and alphabetical ordering of commissions. For the first six-month term, it is

recommended that the councilmember occupying Seat 1 be assigned to the first alphabetical commission (the Arts Commission), Seat 2 be assigned to the second alphabetical commission, and so on. For the second six-month term, it is recommended that the Seat 1 councilmember be assigned to the second alphabetical commission, etc. As there are seven councilmembers, and as the excluded commissions result in seven remaining commissions, there is currently no need for a councilmember to serve as liaison to more than one commission.

The subcommittee discussed whether it was best to classify a liaison as equivalent in status to a commission's staff liaison, or equivalent in status to a member of the public, for the purposes of meeting etiquette. By treating a council liaison as a member of the public, liaisons are marginalized and necessarily restricted to speaking only during periods of public comment, this limiting the potential for inappropriate insertion into policy discussions, but also limiting the ability to raise parliamentary concerns. By treating a liaison as the equivalent of staff, liaisons have greater latitude to unilaterally raise points of order, while also creating greater latitude to speak at other times. This issue was resolved in favor of status equivalent to staff, but with policy wording spelling out the ways in which liaisons may become involved in commission discussions.

The subcommittee spent much time debating issues of authority, discipline, and potential for abuse of power. It identified several potential scenarios for concern, including but not limited to:

- Councilmembers influencing policy recommendations, even inadvertently when raising issues of parliamentary procedure.
- Councilmembers coming into conflict with a board or commission's chair.
- A first-term board or commission chair becoming too concerned with reappointment to properly exert authority and keep a councilmember from exceeding the limits of the liaison role.
- A liaison attempting to provide parliamentary guidance with insufficient knowledge or experience to do so properly.
- Councilmembers using the proposed "liaison alternate" Council Policy provision to circumvent the rotating assignments and trade assignments based on individual interest in subject matters.

In addition to the policy changes being recommended in Appendix A, the subcommittee has two specific recommendations for consideration. First, anecdotal evidence suggests that current staff liaisons to boards and commissions may not have sufficient parliamentary procedure knowledge in all cases, and additional training may be necessary. It serves the commissions best if staff liaisons are properly equipped to act as parliamentarian. Second, adoption of a liaison program will necessarily require additional chair training, to give chairs the tools and confidence necessary to maintain their authority over council liaisons and their commissions.

FISCAL IMPACT

Staff believes the added expense of monthly meetings of the Sustainability Commission can be absorbed by flexing staff's time.

Changing the location of Board and Commission meetings may have minor impacts on city revenue if those changes alter the rental availability of city meeting space.

Appointment of Council liaisons to Boards and Commissions will result in a slight increase in staffing requirements. Staff must coordinate the appointment of the liaisons. Further, it is likely that the presence of Councilmembers at commission meetings will increase the duration of those meetings, which increases the demands of the commissions' staff liaisons. Maintaining the Council liaison assignments will necessarily require more IGR-related staff time. Finally, the Council liaisons must be included in the distribution list for Commission meeting agendas, which requires staff time to coordinate distribution, in addition to any actual increase in distribution costs.

PUBLIC CONTACT

Public contact was made by posting the Subcommittee 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.

Additionally, this report was distributed to all Boardmembers and Commissioners prior to the subcommittee meeting.

RECOMMENDATION

Alternative 1: Adopt the Council Policy language 7.2.19S, drafted by the subcommittee and attached in Appendix A, establishing a policy for council liaisons to boards and commissions, with assignments made by automatic rotation for six-month terms.

Alternative 2: Modify Council Policy 7.2.19A(X) as indicated in Appendix A to change the frequency of Sustainability Commission from bi-monthly to monthly.

Alternative 3: Modify Council Policy 7.2.19A as indicated in Appendix A to establish staff guidelines for the location of board and commission meeting locations.

Alternative 4: Adopt the Council Policy changes indicated in Appendix A with modifications to language or direction.

Alternative 5: Take no further action.

The subcommittee recommends Alternatives 1, 2, and 3 on a 3-0 vote.

Staff supports the subcommittee's recommendations without qualifications.

Proposed Language Changes to Council Policy

Policy 7.2.19 Boards and Commissions

2. BOARD AND COMMISSION BYLAWS

A. The City maintains ten Council-appointed boards and commissions.

As a matter of policy, it serves the public interest to have the greatest possible public access to board and commission meetings. As such, meeting locations for boards and commissions shall be selected by staff according to the following guidelines:

- Meeting rooms should be of a size adequate to allow for public participation.
- Commissions should meet in a location permitting recurring usage of that location to the greatest extent possible.
- Boards and commissions should preferably meet in either Council Chambers or the West Conference Room at City Hall.

(I) Arts Commission: This five-member commission acts in an advisory capacity to the City Council in matters pertaining to the arts and the development and promotion of arts programs and activities. Meetings are held on the third Wednesday of each month at 7 p.m. ~~in the Council Chambers at City Hall.~~

(II) Bicycle and Pedestrian Advisory Commission: This seven-member commission acts in an advisory capacity to the City Council on bicycle and pedestrian issues. Meetings are held on the third Thursday of each month at 6:30 p.m. ~~in the West Conference Room at City Hall.~~

(III) Board of Building Code Appeals: formed by Municipal Code Ordinance 1315. This five-member board has final decision-making authority in all appeals related to building construction, including interpretation of building codes. Meetings are held only as necessary, on the third Wednesday of the month at 6 p.m. ~~in the West Conference Room at City Hall.~~

(IV) Board of Library Trustees: formed by City Charter Section 1013. This five member board acts in an advisory capacity to the City Council on library related issues. Meetings are held on the first Monday of each month at 7 p.m. ~~in the Library Program Room.~~ If the first Monday is a City observed holiday, the meeting will be held on the second Monday of the month ~~in the Library Program Room.~~

(V) Heritage Preservation Commission: formed by City Charter Section 1015. This seven-member commission acts in an advisory capacity to the City Council and has certain decision-making authority on the restoration, maintenance and operation of heritage resources throughout the City. Meetings are held on the first Wednesday of every other month beginning in January (and on the first Wednesday of alternate months when needed) at 7 p.m. ~~in the West Conference Room at City Hall.~~

(VI) Housing and Human Services Commission: This seven-member commission acts in an advisory capacity to the City Council on programs, policies, and other issues regarding housing and human services. Meetings are held on the fourth Wednesday of each month at 7 p.m. ~~in the West Conference Room at City Hall.~~

- (VII) Parks and Recreation Commission: formed by City Charter Section 1011. This five-member commission acts in an advisory capacity to the City Council in matters and services pertaining to parks, open space, playgrounds, entertainment, other cultural and recreational activities. Meetings are held on the second Wednesday of each month at 7 p.m. ~~in the Council Chambers at City Hall.~~
- (VIII) Personnel Board: formed by City Charter Section 1007. This five-member board acts in an advisory capacity to the City Council and city manager in matters pertaining to personnel administration. Meetings are held only as necessary, on the third Monday of each month at 5 p.m. ~~in the Council Chambers at City Hall.~~
- (IX) Planning Commission: formed by City Charter Section 1009. This seven-member commission acts in an advisory capacity to the City Council and has some decision-making authority on land use and development of the City. Meetings are held on the second and fourth Monday of each month at 8 p.m. ~~in the Council Chambers at City Hall.~~
- (X) Sustainability Commission: This seven-member commission acts in an advisory capacity to the City Council to provide expertise on major policy areas related to the environmental sustainability goals of the Climate Action Plan (CAP) and General Plan. Meetings are held ~~bi-~~monthly beginning in January on the third Monday of each month at 7 p.m. in ~~the West Conference Room at City Hall.~~ If the third Monday is a City observed holiday, the meeting will be held on the third Tuesday of the month at 7 p.m. ~~in the West Conference Room.~~

Q. Council Liaisons to Boards and Commissions

The City Council shall appoint one councilmember to serve as a council liaison to each board and commission, except for the Planning Commission, the Personnel Board, and the Board of Building Code Appeals. Appointments shall change every six months, with the roster established annually as part of the City Council intergovernmental relations appointment process. The method of assignment shall be automatic rotation using seat numbering and alphabetic ordering of commissions. Attendance at board or commission meetings by the council liaison is encouraged but not mandatory. Council liaisons may informally arrange for a council alternate when scheduling conflicts arise.

During a board or commission meeting, the Council liaison shall serve a role similar to that of the staff liaison. The primary responsibility for providing information to boardmembers or commissioners belongs to the staff liaison, but the council liaison may provide additional information at the request of the chair when questions fall beyond the scope of staff's expertise. The council liaison may raise points of order when procedural issues arise.

During board or commission meetings, authority resides with the board or commission chair. Council liaisons shall refrain from:

- Interfering with the smooth operation of board or commission meetings
- Acting in a manner that undermines the chair's authority
- Participating in policy discussions except when providing factual information at the request of the chair
- Speaking on behalf of the full Council without appropriate authority
- Acting as spokesperson for the board or commission.

When questions or concerns arise regarding the conduct of a council liaison, the chair of the board or commission should consult with the Mayor for possible resolution. When the liaison in question is the Mayor, the chair should consult with the Vice Mayor for possible resolution.

QR. Bylaw Revisions

Boards and commissions may craft additional bylaw provisions specific to themselves as long as they do not conflict with Sections A through **PQ** above. Any additional bylaw provisions must be approved by the City Council.

RS. Council Subcommittee

A standing subcommittee of three members of City Council shall review all bylaw revisions. The role of the subcommittee shall be to review the proposed bylaws before consideration for action by the full Council. Subcommittee meetings are subject to Brown Act noticing requirements.