

MARY JO LANZAFAME
ASSISTANT CITY ATTORNEY

SANNA R. SINGER
DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

Jan I. Goldsmith
CITY ATTORNEY

October 19, 2011

**REPORT TO THE COMMITTEE ON RULES, OPEN GOVERNMENT AND
INTERGOVERNMENTAL RELATIONS**

FOLLOW-UP REPORT: PROPOSED REVISIONS TO COUNCIL POLICY 000-13

INTRODUCTION

At the September 28, 2011, hearing of the Rules, Open Government and Intergovernmental Relations Committee (Rules Committee), this Office presented proposed revisions to Council Policy 000-13, pertaining to Mayor and City Council appointments to boards and commissions. The proposed revisions addressed recommendations set forth in the Independent Budget Analyst's (IBA) report entitled, "Unresolved Issues from the 2007 Charter Review Commission," IBA Report No. 11-24, and incorporated input from a working group of other departments, including the Mayor's Office, the City Clerk, and Council staff.¹

At the September 28 hearing, the Rules Committee recommended that the working group return with further revisions designed to: (1) streamline the current application process for board and commission appointees; and (2) protect the privacy of appointees without compromising the effectiveness of the vetting process. Described below are additional revisions to the policy in accordance with the Rules Committee's recommendations, as well as practical steps that the working group will take to improve the efficiency and effectiveness of the appointment process.

DISCUSSION

Since the version that was presented to the Rules Committee on September 28, the working group has proposed new revisions to the policy, as shown in the attached exhibits. Exhibit A is a redline showing changes since the version that was presented to the Rules Committee on September 28. Exhibit B is a clean version of the proposed changes for forwarding to the full Council. Exhibit C is a strikeout version showing the proposed changes in comparison to the current policy, also for forwarding to the full Council. The key changes made since the September 28 hearing are as follows:

¹ For a complete discussion of the revisions presented at the September 28, 2011 hearing, see the City Attorney's Report to the Rules Committee entitled "Overview of Proposed Revisions to Council Policy 000-13," City Att'y Report 11-34 (Sept. 26, 2011).

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I. REVISIONS TO COUNCIL POLICY 000-13

First, the policy now specifies that Council nominations for Mayoral appointments will include the nominee's name "and a completed application." Requiring the nominee to complete the application prior to submission to the Mayor's office will shorten the time that the Mayor needs to process the application and perform required background checks.

Second, the policy now states that, for unscheduled vacancies, the Council must submit nominations to the Mayor's office "within 10 business days of the date the Clerk posts the notice of the unscheduled vacancy" (emphasis added). Since unscheduled vacancies cannot be planned for in advance, they can be more difficult to fill in the required time period. The expedited process for submission of nominees will allow the Mayor's office to commence with the appointment process sooner. For scheduled vacancies, the current procedure will stay in place, which is that the Council must submit nominations at least 30 days before a term is scheduled to expire.

Third, the policy now includes more specific procedures for vacancies that are open for more than forty-five days. San Diego Charter sections 41 and 43 provide that the City Council may take over the appointment process if the Mayor fails to make an appointment within forty days. Charter section 41, pertaining to commissions, provides that:

The Mayor shall appoint, subject to the confirmation of the Council, members of all commissions established pursuant to this section. Whenever the Mayor does not appoint a member within forty-five (45) days after a vacancy occurs, the Council shall make such appointment.

Similarly, Charter section 43, pertaining to advisory boards, provides that:

Whenever under the provisions of this Charter or ordinance the Mayor is vested with authority to appoint the members of boards or committees and does not take such action within forty-five (45) days after the board or committee has been established or a vacancy occurs, then the Council shall make such appointments.

However, in practice, the appointment process can take much longer than forty-five days due to the conflict analysis and background checks currently in place. The new revisions to the policy recognize this, and permit the Council to consider Mayoral appointments made after the forty-five day period. In the event that a vacancy is open for an extended period of time, and the Council grows concerned, the Council President can provide 10 business days' written notice to the Mayor that the Council intends to take over the appointment process. The 10 business day notice period will give the Mayor's office a final opportunity to make the appointment before the Council takes over the responsibility.

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II. CONFLICTS CHECKS

In addition to the revisions described above, the working group discussed ways to streamline the process for performing conflicts analysis for prospective appointees. Currently, for each board or commission position that requires filing a Statement of Economic Interests, the Mayor's office submits a request to the City Attorney to perform a conflicts analysis. This practice results in hundreds of requests, and depending on the City Attorney's workload, each conflicts analysis can take several days to complete. There is no legal requirement that the City Attorney's office perform an in-depth conflicts analysis for each nominee, and in most cases, the City Attorney does not have enough factual information to provide significant analysis.

The working group suggests that instead of the City Attorney's office performing a routine conflicts analysis for each nominee, the Mayor's office will request advice only when it has a specific concern or question regarding a particular candidate. This will reduce the volume of requests, and also make each conflict analysis more meaningful since it will be based on a particular factual circumstance. Eliminating routine City Attorney conflicts analysis will help condense the overall time needed to process appointments.

III. APPLICATION AND BACKGROUND CHECKS

Finally, the working group reviewed the nominee application and background check process to assess whether it could be more efficient and less invasive. Since the nominee application is somewhat lengthy and based on the state model, it will take some time to determine which portions are important to retain and which can be eliminated. The working group will continue to review and revise the application.

In addition to the application, each nominee undergoes an extensive criminal background check, which is currently performed by the San Diego Police Department (Police Department). Depending on the nature of the position sought, some background checks also include credit inquiries. The Police Department has indicated that the background checks are similar to those performed for unclassified employees. The working group will continue to work with the Police Department to determine whether the extensive background checks can be narrowed, without compromising the City's interest in appointing upstanding board and commission members.

CONCLUSION

In response to recommendations made by the Rules Committee at its September 28 hearing, a working group comprised of the City Attorney, IBA, Mayor's office, City Clerk, and Council staff, has proposed additional revisions to Council Policy 000-13. The revisions will help streamline the process for board and commission appointments. In addition, the working

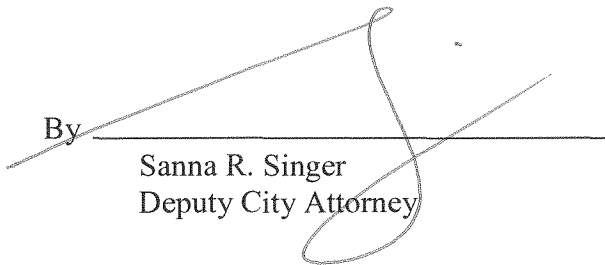
October 19, 2011

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group will continue to work on practical ways to make the process more efficient, such as eliminating extensive conflicts checks for each nominee and simplifying the application and background check process. This Office stands ready to assist with any legal issues.

Respectfully submitted,

By



Sanna R. Singer
Deputy City Attorney

SRS:amt
Attachments
RC-2011-40

EXHIBIT A

[NOTE: SHOWS CHANGES SINCE VERSION PRESENTED TO RULES COMMITTEE ON 9/28]

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: PROCEDURE FOR MAYOR AND COUNCIL APPOINTMENTS
POLICY NO.: 000-13
EFFECTIVE DATE: _____, 2011

PURPOSE:

It is the intent of the City Council to establish a uniform procedure for the appointment and confirmation of members of commissions, boards, committees, authorities, and districts pursuant to the provisions of this policy. This policy will apply unless it conflicts with the City Charter, ordinance, corporate bylaws, or other controlling legal authority.

POLICY:

Non-Discrimination and Geographical Diversity: Charter section 42 provides that the membership of City commissions, boards, and committees should be diverse and reflect the entire community. The appointing authority should consider persons whose particular strengths, backgrounds, experience, perspective and talents might contribute significantly to efficient and representative policy development and administration in local government.

Appointments to commissions, boards, committees, authorities, and districts, shall be made without discrimination on account of race, color, creed, sex, age, national origin or ancestry, religion, pregnancy, physical or mental disability, veteran status, marital status, medical condition, gender identity, sexual orientation, unless such factor is a legal requirement and necessary to fulfill the purpose of such board, commission, committee, authority, or district. To help achieve geographical diversity, the appointing authority may consider the community and council district where each appointee resides.

Non-Residents of the City: It is the intent of the Council that appointees be residents of the City of San Diego. However, when a person with unique qualifications is available to serve who is a resident of San Diego County, but not the City of San Diego, then the Council may make a conscious exception to this policy. When nominating a person who is not a City resident, the nominator shall provide information to the appointing authority regarding the nominee's unique qualifications to serve.

Term of Service: The Charter and other laws governing commissions, boards, committees, authorities, and districts provide limitations on the number of terms or years a member may serve. Unless otherwise provided, the maximum length of service of appointees shall be limited to two full consecutive terms or eight consecutive years in office, whichever is longer; with one term or four years, whichever is longer, intervening before they become eligible for

reappointment. If for any reason, a member serves a partial term in excess of one-half of a full term, that partial term will be considered a full term for the purpose of any term limitations. Appointees whose terms of service have expired shall continue to serve until their successor is duly appointed and qualified, even if the total time served extends beyond the maximum permissible length of service.

PROCEDURES:

A. Notice of Vacancy

In accordance with California Government Code section 54970 through 54974, the City Clerk shall: (1) maintain a list of all appointive terms that will expire during the next calendar year; and (2) post a notice of any unscheduled vacancy. To the extent practicable, the City Clerk will make this information available on the City's website and regularly inform the Mayor and Councilmembers of unscheduled vacancies and upcoming expired terms.

B. Mayoral Appointment with Council Confirmation

Nomination and Appointment: Unless otherwise specified by Charter, ordinance, or other controlling authority, Councilmembers may submit to the Mayor one nominee for each vacancy. The nomination should include the nominee's resume and completed application. ~~qualifications for appointment.~~ Similar to unclassified employees, nominees will be required to undergo a background check and, if relevant to the position being sought, a financial inquiry. Nominations to fill an expired term must be submitted to the Mayor no later than 30 days before the expired term ends. Nominations to fill an unscheduled vacancy must be submitted to the Mayor within 10 business~~30~~ days of the date the Clerk posts the notice of the unscheduled vacancy. After the relevant time period has passed, and upon receipt of the Mayor's memorandum, the Council President ~~shall will~~ place the matter of the appointment ~~on to be heard at the next available~~ regularly scheduled Council meeting ~~at which the matter can be placed on the docket.~~ In accordance San Diego Charter section 43(c), if the Mayor fails to select an appointee within forty-five (45) days after a board or committee is established, or a vacancy occurs, the Council shall make such appointments.

Confirmation: The Council shall confirm or deny the Mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the Mayor may recommend another appointee within forty-five days ~~as soon as possible thereafter~~, and the Council President ~~may will~~ place the matter of appointment on the next available regularly scheduled Council meeting docket.

Charter Requirements: Nothing in this Council Policy is intended to contravene the provisions of Charter sections 41 or 43(c), which permit the City Council to make appointments if the Mayor fails to select an appointee within forty-five days after a board or committee is established, or a vacancy occurs. However, the Council acknowledges that the application and background check process for candidates can require additional time, and therefore may consider Mayoral

appointments received after the 45-day period. The Council President will provide 10 business days' written notice to the Mayor if the Council intends to assume the appointment process per Charter sections 41 or 43(c). If the Council assumes the appointment process, it will follow the procedures set forth in Section C of this Council Policy, below.

C. City Council Appointment

Nomination: Unless otherwise specified by Charter, ordinance, or other controlling authority, the Council President shall notify each Councilmember by memorandum of the opportunity to submit nominations for appointment. Each Councilmember may submit one nominee for each vacancy, together with information in support of such nominee, to the Council President within the time specified in the memorandum. After the relevant time period has passed, the Council President ~~will~~ may place the matter of the appointment ~~on to be heard at the next available regularly scheduled Council meeting at which the matter can be heard~~ placed on the docket.

Appointment: If there are more nominees than vacancies on the same commission, board, committee, authority or district, an election will be held to fill all vacancies at one time as described below. The following procedure shall be used to fill single or multiple vacancies:

1. The Council President calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his or her candidacy for appointment. The maximum presentation length is three minutes per candidate.
2. The Council President calls on each member of the Council to ask brief questions of any of the candidates concerning either the presentation or matters contained in their application filed with the City.
3. If the number of nominees equals the number of vacancies, the nominees may be elected by general consent or acclamation to fill the position.
4. If the number of nominees is greater than the number of vacancies, an election to fill all the vacancies shall be held at one time as follows:
 - a. The City Clerk provides ballots to each Councilmember, who shall vote for the candidate(s) he or she feels to be most qualified and return the ballot(s) to the City Clerk. The City Clerk shall announce the votes for each candidate. Each Councilmember has one vote per vacancy.
 - b. The candidate(s) receiving the highest number of votes (minimum of five) shall be appointed to the vacancy(ies).
 - c. If there is one vacancy and no candidate receives a minimum of five votes, the

Council may limit the slate of finalists to the two candidates who received the highest number of votes. The finalist receiving the highest number votes (minimum of five) from the Council shall be appointed to the vacancy.

d. In a multiple vacancy situation, if no candidate receives a minimum of five votes, balloting may continue until there are sufficient candidates receiving a majority of votes to fill the vacancies. In a tie situation among the candidates who received the highest votes, a run-off shall be held between those candidates.

5. If all nominees are denied, the Council President shall reopen the opportunity to all Councilmembers to submit another nominee, and the Council President shall place these nominees for consideration on a regularly scheduled Council meeting docket.

D. Post-Appointment Procedures

It is the intent of the Council that appointees promptly take the oath of office, be formally advised of any filing requirements pursuant to the conflict of interest code adopted by the agency to which they have been appointed; be provided with required reporting forms and information; and receive continuing written notification of procedures that must be followed during their term of office, as follows:

Responsibility

Action

Mayor or Council
President (Staff)

1. Inform appointee of requirement to take oath of office at City Clerk's office.
2. Inform appointee of requirement to file statement of economic interests reporting forms if disclosure is required for the position.

City Clerk (Deputy)

3. Prepare oath card for appointee.
4. Compile sets of forms and information for appointees whose positions require the filing of statements of economic interests, notify members of applicable filing deadlines, and provide information on how to obtain the required reporting forms.

Appointee

5. Prior to assuming the duties of office, appear at City Clerk's Office, take the oath of office, and sign the oath card. All members who are reappointed to a board, commission, or other advisory body must retake the oath of office and sign a new oath card.
6. If the position is listed in the agency's conflict of interest code as one which requires the disclosure of economic interests, obtain

information on the reporting forms from the Clerk. Complete and file the statement of economic interests forms in accordance with the applicable conflict of interest code and disclosure instructions.

7. Complete ethics training course as required by Council Policy 000-04, "Code of Ethics and Ethics Training."

City Clerk (Deputy) 78. Compile and maintain a list of active memberships including status of oaths administered and economic interests disclosure filings.

~~8. Notify members of assuming office filing deadlines for statements of economic interests and provide information on how to obtain the required reporting forms.~~

9. Receive and file statements of economic interests forms filed by members and appointees.

10. Follow up on filings and send written notice to delinquent filers advising of requirement to comply with the conflict of interest code.

11. Advise Ethics Commission of appointees' or members' failure to file following the sending of written notification.

HISTORY:

Adopted by Resolution R-205453 04/27/1972
Amended by Resolution R-207141 01/02/1973
Amended by Resolution R-215960 05/12/1976
Amended by Resolution R-217454 01/05/1977
Amended by Resolution R-217592 01/26/1977
Amended by Resolution R-217893 03/15/1977
Amended by Resolution R-221971 10/06/1978
Amended by Resolution R-250473 10/23/1979
Amended by Resolution R-258342 04/25/1983
Amended by Resolution R-261492 09/10/1984
Amended by Resolution R-261821 10/29/1984
Amended by Resolution R-262084 12/03/1984
Amended by Resolution R-xxxxxx 00/00/2011

EXHIBIT B

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: PROCEDURE FOR MAYOR AND COUNCIL APPOINTMENTS
POLICY NO.: 000-13
EFFECTIVE DATE: _____, 2011

PURPOSE:

It is the intent of the City Council to establish a uniform procedure for the appointment and confirmation of members of commissions, boards, committees, authorities, and districts pursuant to the provisions of this policy. This policy will apply unless it conflicts with the City Charter, ordinance, corporate bylaws, or other controlling legal authority.

POLICY:

Non-Discrimination and Geographical Diversity: Charter section 42 provides that the membership of City commissions, boards, and committees should be diverse and reflect the entire community. The appointing authority should consider persons whose particular strengths, backgrounds, experience, perspective and talents might contribute significantly to efficient and representative policy development and administration in local government.

Appointments to commissions, boards, committees, authorities, and districts, shall be made without discrimination on account of race, color, creed, sex, age, national origin or ancestry, religion, pregnancy, physical or mental disability, veteran status, marital status, medical condition, gender identity, sexual orientation, unless such factor is a legal requirement and necessary to fulfill the purpose of such board, commission, committee, authority, or district. To help achieve geographical diversity, the appointing authority may consider the community and council district where each appointee resides.

Non-Residents of the City: It is the intent of the Council that appointees be residents of the City of San Diego. However, when a person with unique qualifications is available to serve who is a resident of San Diego County, but not the City of San Diego, then the Council may make a conscious exception to this policy. When nominating a person who is not a City resident, the nominator shall provide information to the appointing authority regarding the nominee's unique qualifications to serve.

Term of Service: The Charter and other laws governing commissions, boards, committees, authorities, and districts provide limitations on the number of terms or years a member may serve. Unless otherwise provided, the maximum length of service of appointees shall be limited to two full consecutive terms or eight consecutive years in office, whichever is longer; with one term or four years, whichever is longer, intervening before they become eligible for reappointment. If for any reason, a member serves a partial term in excess of one-half of a full term, that partial term will be considered a full term for the purpose of any term limitations. Appointees whose terms of service have expired shall continue to serve until their successor is

duly appointed and qualified, even if the total time served extends beyond the maximum permissible length of service.

PROCEDURES:

A. Notice of Vacancy

In accordance with California Government Code section 54970 through 54974, the City Clerk shall: (1) maintain a list of all appointive terms that will expire during the next calendar year; and (2) post a notice of any unscheduled vacancy. To the extent practicable, the City Clerk will make this information available on the City's website and regularly inform the Mayor and Councilmembers of unscheduled vacancies and upcoming expired terms.

B. Mayoral Appointment with Council Confirmation

Nomination and Appointment: Unless otherwise specified by Charter, ordinance, or other controlling authority, Councilmembers may submit to the Mayor one nominee for each vacancy. The nomination should include the nominee's resume and completed application. Similar to unclassified employees, nominees will be required to undergo a background check and, if relevant to the position being sought, a financial inquiry. Nominations to fill an expired term must be submitted to the Mayor no later than 30 days before the expired term ends. Nominations to fill an unscheduled vacancy must be submitted to the Mayor within 10 business days of the date the Clerk posts the notice of the unscheduled vacancy. After the relevant time period has passed, and upon receipt of the Mayor's memorandum, the Council President will place the matter of the appointment on the next available regularly scheduled Council meeting docket.

Confirmation: The Council shall confirm or deny the Mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the Mayor may recommend another appointee within forty-five days thereafter, and the Council President will place the matter of appointment on the next available regularly scheduled Council meeting docket.

Charter Requirements: Nothing in this Council Policy is intended to contravene the provisions of Charter sections 41 or 43(c), which permit the City Council to make appointments if the Mayor fails to select an appointee within forty-five days after a board or committee is established, or a vacancy occurs. However, the Council acknowledges that the application and background check process for candidates can require additional time, and therefore may consider Mayoral appointments received after the 45-day period. The Council President will provide 10 business days' written notice to the Mayor if the Council intends to assume the appointment process per Charter sections 41 or 43(c). If the Council assumes the appointment process, it will follow the procedures set forth in Section C of this Council Policy, below.

C. City Council Appointment

Nomination: Unless otherwise specified by Charter, ordinance, or other controlling authority, the Council President shall notify each Councilmember by memorandum of the opportunity to submit nominations for appointment. Each Councilmember may submit one nominee for each vacancy, together with information in support of such nominee, to the Council President within the time specified in the memorandum. After the relevant time period has passed, the Council President will place the matter of the appointment on the next available regularly scheduled Council meeting docket.

Appointment: If there are more nominees than vacancies on the same commission, board, committee, authority or district, an election will be held to fill all vacancies at one time as described below. The following procedure shall be used to fill single or multiple vacancies:

1. The Council President calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his or her candidacy for appointment. The maximum presentation length is three minutes per candidate.
2. The Council President calls on each member of the Council to ask brief questions of any of the candidates concerning either the presentation or matters contained in their application filed with the City.
3. If the number of nominees equals the number of vacancies, the nominees may be elected by general consent or acclamation to fill the position.
4. If the number of nominees is greater than the number of vacancies, an election to fill all the vacancies shall be held at one time as follows:
 - a. The City Clerk provides ballots to each Councilmember, who shall vote for the candidate(s) he or she feels to be most qualified and return the ballot(s) to the City Clerk. The City Clerk shall announce the votes for each candidate. Each Councilmember has one vote per vacancy.
 - b. The candidate(s) receiving the highest number of votes (minimum of five) shall be appointed to the vacancy(ies).
 - c. If there is one vacancy and no candidate receives a minimum of five votes, the Council may limit the slate of finalists to the two candidates who received the highest number of votes. The finalist receiving the highest number votes (minimum of five) from the Council shall be appointed to the vacancy.
 - d. In a multiple vacancy situation, if no candidate receives a minimum of five votes, balloting may continue until there are sufficient candidates receiving a majority of votes to fill the vacancies. In a tie situation among the candidates who received the highest votes, a run-off shall be held between those candidates.

5. If all nominees are denied, the Council President shall reopen the opportunity to all Councilmembers to submit another nominee, and the Council President shall place these nominees for consideration on a regularly scheduled Council meeting docket.

D. Post-Appointment Procedures

It is the intent of the Council that appointees promptly take the oath of office, be formally advised of any filing requirements pursuant to the conflict of interest code adopted by the agency to which they have been appointed; be provided with required reporting forms and information; and receive continuing written notification of procedures that must be followed during their term of office, as follows:

<u>Responsibility</u>	<u>Action</u>
Mayor or Council President (Staff)	<ol style="list-style-type: none">1. Inform appointee of requirement to take oath of office at City Clerk's office.2. Inform appointee of requirement to file statement of economic interests reporting forms if disclosure is required for the position.
City Clerk (Deputy)	<ol style="list-style-type: none">3. Prepare oath card for appointee.4. Compile sets of forms and information for appointees whose positions require the filing of statements of economic interests, notify members of applicable filing deadlines, and provide information on how to obtain the required reporting forms.
Appointee	<ol style="list-style-type: none">5. Prior to assuming the duties of office, appear at City Clerk's Office, take the oath of office, and sign the oath card. All members who are reappointed to a board, commission, or other advisory body must retake the oath of office and sign a new oath card.6. If the position is listed in the agency's conflict of interest code as one which requires the disclosure of economic interests, obtain information on the reporting forms from the Clerk. Complete and file the statement of economic interests forms in accordance with the applicable conflict of interest code and disclosure instructions.7. Complete ethics training course as required by Council Policy 000-04, "Code of Ethics and Ethics Training."
City Clerk (Deputy)	<ol style="list-style-type: none">8. Compile and maintain a list of active memberships including status of oaths administered and economic interests disclosure filings.

9. Receive and file statements of economic interests forms filed by members and appointees.
10. Follow up on filings and send written notice to delinquent filers advising of requirement to comply with the conflict of interest code.
11. Advise Ethics Commission of appointees' or members' failure to file following the sending of written notification.

HISTORY:

Adopted by Resolution R-205453 04/27/1972
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Amended by Resolution R-261821 10/29/1984
Amended by Resolution R-262084 12/03/1984
Amended by Resolution R-xxxxxx 00/00/2011

EXHIBIT C

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: PROCEDURE FOR MAYOR AND COUNCIL APPOINTMENTS
POLICY NO.: 000-13
EFFECTIVE DATE: ~~December 3, 1984~~ _____, 2011

PURPOSE:

It is the intention of the City Council to establish a uniform procedure for the appointment and confirmation of members of commissions, boards, committees, ~~A~~authorities, and districts ~~and councils~~ pursuant to the provisions of this policy ~~and California Government Code sections 54970 through 54974. This policy will apply unless it conflicts with the City Charter, ordinance, corporate bylaws, or other controlling legal authority.~~

POLICY:

~~When a vacancy occurs or is expected to occur on a commission or advisory body to which the mayor has the power of appointment, the mayor shall notify each member of the Council by memorandum of such vacancy or expected vacancy and request nominees for the Mayor's consideration in making an appointment to fill the vacancy. Each Council member may, but is not required to, submit the name of one nominee, with attendant supporting information, to the Mayor within thirty days after receiving the notification of the vacancy.~~

~~Notification shall be deemed effective upon receipt of the mayor's memorandum, as indicated by the Council office time and date stamp. At the close of the thirty day response period, the mayor shall then cause to be placed on the next regularly scheduled Council meeting docket the matter of the appointee the Mayor has selected to fill the vacant position. The appointee shall, if a majority of Council members agree, appear before the Council. The Council shall confirm or deny the mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the Mayor shall cause to be placed on the next regularly scheduled Council meeting docket the matter of the Mayor's appointment to fill the vacant position.~~

~~When a vacancy occurs or is expected to occur on a commission or advisory body to which the City Council has the power of appointment, the City Clerk shall notify each member of the Council by memorandum of such vacancy or expected vacancy and request Council members to submit to the Mayor no later than thirty days after said notification the name of one nominee to fill the vacancy, together with any information in support of such nominee. Notification shall be deemed effective upon receipt of the City clerk's memorandum, as indicated by the Council office time and date stamp. The Council shall comply with the charge contained in Charter Section 42 to "take into consideration sex, race, and geographical area so that the membership of~~

such commissions, boards, committees or panels shall reflect the entire community.” The Mayor shall notify the City Council by memorandum of the nominees to fill the vacancy. No earlier than one week after the issuance of his memorandum, the Mayor shall cause to be placed on the next available Adoption Agenda of a regularly scheduled Council meeting the matter of discussion by the Council of the nominees. The Council shall consider all such nominees and select a nominee to fill the vacancy.

It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be residents of the City of San Diego. However, when a person with unique qualifications is available to serve, and who is resident of San Diego County, but not the City of San Diego, then the Mayor and City Council may make a conscious exception.

When nominating a person who is not a City resident, the Mayor or Councilmember shall notify all other Councilmembers of their nomination and provide a statement of his or her unique qualification. The notification shall be by memorandum and delivered within the nomination period.

The charter of The City of San Diego and some, but not all, other laws creating commissions, boards, committees, authorities, districts and councils provide limitations on the number of terms or years a member can serve. It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be governed by the maximum length of service provisions of the Charter so that appointees shall be limited to two (2) full consecutive terms or eight (8) consecutive years in office, whichever is longer; with one term or four (4) years, whichever is longer, intervening before they become eligible for reappointment.

It is the intention of this policy to take cognizance of and comply with the provisions of section 54972 through 54974 of the California Government Code.

Non-Discrimination and Geographical Diversity: Charter section 42 provides that the membership of City commissions, boards, and committees should be diverse and reflect the entire community. The appointing authority should consider persons whose particular strengths, backgrounds, experience, perspective and talents might contribute significantly to efficient and representative policy development and administration in local government.

Appointments to commissions, boards, committees, authorities, and districts, shall be made without discrimination on account of race, color, creed, sex, age, national origin or ancestry, religion, pregnancy, physical or mental disability, veteran status, marital status, medical condition, gender identity, sexual orientation, unless such factor is a legal requirement and necessary to fulfill the purpose of such board, commission, committee, authority, or district. To help achieve geographical diversity, the appointing authority may consider the community and council district where each appointee resides.

Non-Residents of the City: It is the intent of the Council that appointees be residents of the City of San Diego. However, when a person with unique qualifications is available to serve who is a resident of San Diego County, but not the City of San Diego, then the Council may make a conscious exception to this policy. When nominating a person who is not a City resident, the nominator shall provide information to the appointing authority regarding the nominee's unique qualifications to serve.

Term of Service: The Charter and other laws governing commissions, boards, committees, authorities, and districts provide limitations on the number of terms or years a member may serve. Unless otherwise provided, the maximum length of service of appointees shall be limited to two full consecutive terms or eight consecutive years in office, whichever is longer; with one term or four years, whichever is longer, intervening before they become eligible for reappointment. If for any reason, a member serves a partial term in excess of one-half of a full term, that partial term will be considered a full term for the purpose of any term limitations. Appointees whose terms of service have expired shall continue to serve until their successor is duly appointed and qualified, even if the total time served extends beyond the maximum permissible length of service.

Selection Procedure

PROCEDURES:

A. Notice of Vacancy

In accordance with California Government Code section 54970 through 54974, the City Clerk shall: (1) maintain a list of all appointive terms that will expire during the next calendar year; and (2) post a notice of any unscheduled vacancy. To the extent practicable, the City Clerk will make this information available on the City's website and regularly inform the Mayor and Councilmembers of unscheduled vacancies and upcoming expired terms.

B. Mayoral Appointment with Council Confirmation

Nomination and Appointment: Unless otherwise specified by Charter, ordinance, or other controlling authority, Councilmembers may submit to the Mayor one nominee for each vacancy. The nomination should include the nominee's résumé and completed application. Similar to unclassified employees, nominees will be required to undergo a background check and, if relevant to the position being sought, a financial inquiry. Nominations to fill an expired term must be submitted to the Mayor no later than 30 days before the expired term ends. Nominations to fill an unscheduled vacancy must be submitted to the Mayor within 10 business days of the date the Clerk posts the notice of the unscheduled vacancy. After the relevant time period has passed, and upon receipt of the Mayor's memorandum, the Council President will place the matter of the appointment on the next available regularly scheduled Council meeting docket.

Confirmation: The Council shall confirm or deny the Mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the Mayor may recommend another appointee within forty-five days thereafter, and the Council President will place the matter of appointment on the next available regularly scheduled Council meeting docket.

Charter Requirements: Nothing in this Council Policy is intended to contravene the provisions of Charter sections 41 or 43(c), which permit the City Council to make appointments if the Mayor fails to select an appointee within forty-five days after a board or committee is established, or a vacancy occurs. However, the Council acknowledges that the application and background check process for candidates can require additional time, and therefore may consider Mayoral appointments received after the 45-day period. The Council President will provide 10 business days' written notice to the Mayor if the Council intends to assume the appointment process per Charter sections 41 or 43(c). If the Council assumes the appointment process, it will follow the procedures set forth in Section C of this Council Policy, below.

C. City Council Appointment

Nomination: Unless otherwise specified by Charter, ordinance, or other controlling authority, the Council President shall notify each Councilmember by memorandum of the opportunity to submit nominations for appointment. Each Councilmember may submit one nominee for each vacancy, together with information in support of such nominee, to the Council President within the time specified in the memorandum. After the relevant time period has passed, the Council President will place the matter of the appointment on the next available regularly scheduled Council meeting docket.

Appointment: If there are more nominees than vacancies on the same commission, board, committee, authority or district, an election will be held to fill all vacancies at one time as described below. The following procedure shall be used to fill single or multiple vacancies:

1. The Mayor-Council President calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his or her candidacy for appointment. The (maximum presentation length is three (3) minutes presentation each per candidate.
2. The Mayor-Council President calls on each member of the Council to ask brief questions of any of the candidates concerning either the presentation or matters contained in their application filed with the City.
3. If the number of nominees equals the number of vacancies, the nominees may be elected by general consent or acclamation to fill the position.
4. If the number of nominees is greater than the number of vacancies, an election to fill all the vacancies shall be held at one time as follows:

- a. ~~The City Clerk provides ballots to the Council and each Council member votes~~ Councilmember, who shall vote for the candidates(s) he/ or she feels to be most qualified for each vacancy and returns the ballots(s) to the City Clerk. The City Clerk shall announce the votes for each candidate. Each ~~Council member~~ Councilmember has one vote per vacancy.
 - b. The candidate(s) receiving the highest number of votes (minimum of five) shall be appointed to the vacancy(ies).
 - c. If there is one vacancy and no candidate receives a minimum of five (5) votes, the Council may limit the slate to ~~the two highest vote getters as finalists. of finalists to~~ the two candidates who received the highest number of votes. The finalist receiving a ~~majority the highest number votes (minimum of five) from the Council~~ shall be appointed to the vacancy.
 - d. In a multiple vacancy situation, if no candidates receives a minimum of five votes, balloting ~~would~~ may continue until there ~~we~~are sufficient candidates receiving a majority of votes to fill the vacancies. In a tie situation among the ~~top vote getters~~ these candidates would who received the highest votes, a run-off for the vacancies. ~~If an insufficient number of candidates receive a majority of votes to fill all vacancies, a run~~ off shall be held between those candidates.
5. If all nominees are denied, the Council President shall reopen the opportunity to all Councilmembers to submit another nominee, and the Council President shall place these nominees for consideration on a regularly scheduled Council meeting docket.

RESPONSIBILITY:

D. Post-Appointment Procedures

It is the intent of the City Council that appointees promptly take the oath of office, ~~are~~ be formally advised of any filing requirements pursuant to the conflict of interest code adopted by the agency to which they have been appointed, ~~are;~~ be provided with required reporting forms and information; and receive continuing written notification and follow up will be clearly provided by documented of procedures; namely, that must be followed during their term of office, as follows:

Responsibility

Action

Mayor (staff)

- 1. ~~Inform appointee of requirement to take oath of office at City Clerk's office.~~

EXHIBIT C

- ~~2. Inform appointee of requirement to file statement of economic interests reporting forms if disclosure is required for the position.~~
- City Clerk (Deputy) ~~3. Prepare oath card for appointee. If position requires filing of statement of economic interest, attach a notice to oath card that appointee shall be provided with forms and instructions and must sign an acknowledgment for receipt of materials.~~
- ~~4. Compile sets of forms and information for appointees whose positions require the filing of statements of economic interests.~~
- Appointee ~~5. Appear at City Clerk's office, take the oath of office and sign the oath card.~~
- ~~6. If the position requires economic interests disclosure, obtain the necessary reporting forms from the Clerk, together with instructional information regarding the reporting and sign acknowledgment receipt for the forms.~~
- ~~7. If required by the agency's conflict of interest code, complete and file the statement of economic interests in accordance with the code instructions.~~
- City Clerk (Deputy) ~~8. Compile and maintain a list of active memberships including status of oaths administered and economic interests disclosure filings, if required. Provide copies of the list to the Mayor; City Attorney and Board/Commission chairpersons.~~
- ~~9. Notify members of annual filing deadlines for statements of economic interests and provide required reporting forms.~~
- ~~10. Receive and file statement of economic interest forms filed by members and appointees.~~
- ~~11. Follow up on filings and send written notice to delinquent filers advising of requirement to comply with code. (A copy of each notice to be sent to the City Attorney.)~~
- ~~12. Advise City Attorney of appointees' or members' failure to file following the sending of written notification.~~

10. Follow-up on filings and send written notice to delinquent filers advising of requirement to comply with the conflict of interest code.
11. Advise Ethics Commission of appointees' or members' failure to file following the sending of written notification.

HISTORY:

Adopted by Resolution R-205453 04/27/1972
Amended by Resolution R-207141 01/02/1973
Amended by Resolution R-215960 05/12/1976
Amended by Resolution R-217454 01/05/1977
Amended by Resolution R-217592 01/26/1977
Amended by Resolution R-217893 03/15/1977
Amended by Resolution R-221971 10/06/1978
Amended by Resolution R-250473 10/23/1979
Amended by Resolution R-258342 04/25/1983
Amended by Resolution R-261492 09/10/1984
Amended by Resolution R-261821 10/29/1984
Amended by Resolution R-262084 12/03/1984
Amended by Resolution R-xxxxxx 00/00/2011