



CITY OF SAN MATEO

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Agenda Report

Agenda Number: 7

Section Name: {{section.name}}

Account Number: 10-1711

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TO: City Council

FROM: Drew Corbett, City Manager

PREPARED BY: City Attorney's Office

MEETING DATE: May 01, 2023

SUBJECT:

District Attorney Report on Allegations of Brown Act Violations and Vote Trading; Code of Conduct for the City Council and City Boards and Commissions

RECOMMENDATION:

As appropriate, discuss findings of the San Mateo County District Attorney regarding its investigation into allegations of Brown Act violations and vote trading, and provide direction to staff on appropriate action to be taken, if any, such as the adoption of a code of conduct for members of the City Council and City boards and commissions.

BACKGROUND:

On April 5, 2023, the San Mateo County District Attorney (DA or District Attorney) wrote to the City Attorney in response to a request for a DA investigation into allegations of Brown Act violations and vote trading. That letter is included as Attachment 1. At the next City Council meeting on April 17, 2023, three members of the Council asked for this response to be placed on the next Council meeting agenda, along with a discussion of what, if any, appropriate action should be taken by the City Council. The possibility of enacting a code of conduct for members of the City Council as well as City boards and commissions was also mentioned.

DISCUSSION:

The City Council has no power to remove one of its members from the office of Councilmember. Members of the Council are elected officials and as such are answerable to the voters at the end of their term if they are eligible for and seek re-election. Alternatively, they are subject to the recall process under state law. City Charter Section 2.07 provides that a councilmember shall forfeit their office only under limited circumstances, such as being convicted of certain crimes or lacking the qualifications to hold office.

City Council Guidelines

The City Council has adopted Guidelines, although they do not include penalties due to lack of compliance such as censure. Rather, the Guidelines are intended to describe the way in which the Council conducts its business, and to that end Chapter 1 states:

The purpose of these guidelines is to set a standard of professionalism for the conduct of the City Council's business. San Mateo has a long and proud tradition of open government and civil, intelligent public discourse. These guidelines are intended to enhance public participation and Council debate so that the best possible decisions can be made for San Mateo.

Guidelines Ch. 1, p. 3. The Guidelines do set forth behavioral rules under Chapter 6 ("Council Member Conduct"). Section 1 of this chapter calls on Council members to, for example:

- put constituents first at all times;
- treat each other, staff, and members of the public with dignity, courtesy, and respect;
- be attentive to others, limiting interruptions and distractions;
- encourage diverse viewpoints in debate while being mindful not to prolong discourse or block consensus;
- agree to respectfully disagree;
- keep comments clear, concise, and on-topic;
- start and end meetings on time, work from the agenda; and
- present problems in a way that promotes discussion and resolution.

The Guidelines are included as Attachment 2.

Board and Commission Rules and Procedures

The Boards and Commissions Rules and Procedures (“Rules and Procedures”) contain similar guidance as the Guidelines related to the conduct of its members (see Chapter 5 – “Commissioner Conduct”). Unlike the Guidelines however, failure to comply with the Rules and Procedures may be cause for removal from the appointed position, as stated in Chapter 1. The Rules and Procedures are included as Attachment 3. Note that under Section 6.08 of the City Charter, members of Boards and Commissions serve at the pleasure of the Council and may be removed by the vote of a majority plus one.

BUDGET IMPACT:

There is no budget impact from this administrative action.

ENVIRONMENTAL DETERMINATION:

This review of Council Guidelines is not a project subject to CEQA, because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. (CEQA Guidelines Section 15378(b)(5).)

NOTICE PROVIDED

All meeting noticing requirements were met.

ATTACHMENTS

Att 1 – District Attorney letter

Att 2 – City Council Guidelines

Att 3 – Board and Commission Rules and Procedures

STAFF CONTACT

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