



Agenda Report

18-667

Agenda Date: 5/15/2018

REPORT TO COUNCIL

SUBJECT

Consideration of Actions in Response to City Council Member's Conduct

BACKGROUND

The Mayor has placed an item on the agenda for the Council to consider possible action in response to a fellow council member's conduct. This memorandum provides legal advice and contains the available options and recommendations on how to proceed.

DISCUSSION

We are providing the following responses to the Mayor's request (attached). These are listed below:

Authority to Censure

Attached is a draft Censure Policy, which the Council may consider adopting. The City Council has authority to censure one of its own members. Censure is "an official reprimand or condemnation" or "an authoritative expression of disapproval or blame" usually made by a legislative, administrative, or other body in response to specified conduct by one of its own member. (Black's Law Dictionary (10th ed. 2014). This authority is based on case law, and Robert's Rules of Order. The City Council, under Santa Clara City Code section 2.10.020, is subject to Roberts' Rules and the power to censure a fellow council member is inherent to any legislative body subject to Roberts' Rules. (Roberts' Rules of Order, 11th ed., p. 643).

The attached policy provides procedures for the Council to take action against Councilmembers for improper conduct. Informal admonition does not require formal notice or a hearing. Formal censure of a councilmember would require notice and a hearing.

If Council decides to take action by censure, it is recommended that Council adopt the attached policy and request the notice be provided to the accused. Censure should be done by resolution to set forth the reasons why Council is taking such action. The councilmember should have the opportunity to be present and to respond.

The basis for a censure must be a violation of law or a City policy. The City Council has adopted the Code of Ethics and Values and the Council of Trust Principles, a copy of which is attached to this memorandum.

Request for Resignation

The City Council may include a request for a Councilmember to resign in a resolution of censure, but would not be able to require the Councilmember's removal from office.

Removal from Office

The City of Santa Clara's Charter does not have a provision that allows for a Councilmember's removal from office. However, Section 702 of the Charter provides "absence from 5 consecutive regular meetings, unless excused from resolution of the City Council, shall operate to vacate the seat of any member of the City Council so absent".

Other Actions

The Mayor and Council may make assignments to Council Committees as they see fit. The Council may not prohibit a Councilmember from performing the duties of their office; however, in a censure resolution they may prohibit a Councilmember from representing the Council as a whole.

ENVIRONMENTAL REVIEW

This is an information report only and no action is being taken by the City Council and no environmental review under the California Environmental Quality Act ("CEQA") is required.

FISCAL IMPACT

Not Applicable

COORDINATION

This report has been coordinated with the City Attorney's Office, the City Manager's Office, and the City Clerk's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

There is no staff recommendation for this issue.

Approved by: Brian Doyle, City Attorney

Approved by: Deanna Santana, City Manager

Approved by: Jennifer Yamaguma, Acting City Clerk

ATTACHMENTS

1. Code of Ethics and Values
2. Council of Trust Principles, Norms, Standards, and Best Practices
3. Admonition and Censure Policy
4. Email request from Mayor Gillmor to add an item to the agenda