



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Attorney

Prepared by: Lisa Goldfien, Assistant City Attorney **City Manager Approval:** _____

TOPIC: AGENCY REPORT OF PUBLIC OFFICIALS 2020

**SUBJECT: ADOPTION OF AGENCY REPORT OF PUBLIC OFFICIAL APPOINTMENTS
(FPPC FORM 806)**

RECOMMENDATION:

Adopt Form 806, Agency Report of Public Official Appointments, and direct staff to publish it to the City website.

BACKGROUND:

In 2011, the Fair Political Practices Commission (FPPC) initiated enforcement actions in some cities against certain City Councilmembers who had participated in City Council decisions to appoint themselves to paid positions on the boards of external entities (e.g., a Joint Powers Authority governing board), where the compensation they received as a result of their appointment equaled or exceeded \$250 (now \$500) within a 12-month period. Under then-existing FPPC Regulation 18702.5, these decisions resulted in a material financial effect on the personal finances of the appointees and the councilmembers should not have participated in the votes.

To avoid this type of inadvertent violation of conflict of interest rules in the future, a number of cities petitioned the FPPC to amend Regulation 18702.5 to provide a mechanism that would provide disclosure of such interests to the public while still allowing councilmembers to participate in the vote on appointments.

In March 2012, the FPPC amended the regulation to state that councilmembers may participate in a decision to appoint themselves to a position on a public agency board, commission or JPA that will result in additional compensation to them, subject to conditions stated in the regulation. One of these conditions is that the City Council must first have adopted and posted on the city's website a form, now designated as Form 806 (Attachment 1).

ANALYSIS:

Under the current regulation, City Council adoption and posting of a proper Form 806 will avoid possible conflicts of interest for City Councilmembers when they participate in appointing themselves to board positions for which a stipend is paid that will equal or exceed \$500 within any 12-month period. If the form is properly approved and published, all City Councilmembers can participate in the appointment, even those who are being appointed and will receive the stipend.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

Form 806 identifies each position the City Council appoints for which compensation is paid, the salary or stipend for each position, and the name of each official who has been appointed as the agency's representative, or alternate. Because the purpose of the new regulation is to address the issue of councilmembers voting to give themselves additional compensation, Form 806 is intended to include only those appointments to boards and commissions that are made by the City Council itself.

There is only one board appointment the San Rafael City Council makes for which a stipend is paid that will equal or exceed \$500 within any 12-month period. The appointees to the San Rafael Sanitation District Board each receive a stipend of \$100 per meeting attended, for meetings scheduled 12 times per year. Staff has prepared the attached Form 806 showing the City Council appointees and alternate.

Form 806 must be posted on the City's website and would have to be amended and reposted if there is any change in the compensation or number of meetings, or if a new appointment is made to the San Rafael Sanitation District Board, or to any other board or commission position for which qualifying compensation is to be paid. When a new appointment is made that would require Form 806 to be amended, members of the City Council notify the City Clerk's Office of the change, and the City Clerk's office amends and reposts the Form 806 on the City's website.

Staff is completing the City Council Appointments list for 2021 and will bring the final draft to the City Council for review on Monday, December 21, 2020. The appointments to the San Rafael Sanitation District Board will need to be changed due to the reorganization of the San Rafael City Council.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

RECOMMENDED ACTION:

Adopt Form 806, Agency Report of Public Official Appointments, and direct staff to publish it to the City's website.

ATTACHMENTS:

1. Form 806

Agency Report of: Public Official Appointments

A Public Document

1. Agency Name			California Form 806 For Official Use Only
Division, Department, or Region <i>(If Applicable)</i>			Date Posted: <i>(Month, Day, Year)</i>
Designated Agency Contact <i>(Name, Title)</i>			
Area Code/Phone Number	E-mail	Page _____ of _____	

2. Appointments

Agency Boards and Commissions	Name of Appointed Person	Appt Date and Length of Term	Per Meeting/Annual Salary/Stipend
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>

3. Verification

I have read and understand FPPC Regulation 18702.5. I have verified that the appointment and information identified above is true to the best of my information and belief.

Signature of Agency Head or Designee Print Name Title (Month, Day, Year)

Comment: _____

Background

This form is used to report additional compensation that officials receive when appointing themselves to positions on committees, boards, or commissions of another public agency or to a committee or position of the agency of which the public official is a member.

This form is required pursuant to FPPC Regulation 18702.5. Each agency must post on its website a single Form 806 which lists all the paid appointed positions to which an official will vote to appoint themselves. When there is a change in compensation or a new appointment, the Form 806 is updated to reflect the change. The form must be updated promptly as changes occur.

Instructions

This form must be posted prior to a vote (or consent item) to appoint a governing board member if the appointee will participate in the decision and the appointment results in additional compensation to the appointee.

FPPC Regulation 18702.5 provides that as long as the public is informed prior to a vote, an official may vote to hold another position even when the vote results in additional compensation.

Part 1. Agency Identification

Identify the agency name and information on who should be contacted for information.

Part 2. Appointments

Identify the name of the other agency, board or commission. List the name of the official, and an alternate, if any.

List the appointment date and the length of term the agency official will serve. Disclose the stipend provided per meeting and the estimated annual payment. The annual salary is an estimate as it will likely vary depending upon the number of meetings. It is not necessary to revise the estimate at the end of the calendar year.

Part 3. Verification

The agency head or his/her designee must sign the verification.

Frequently Asked Questions (FAQs)

1. When does an agency need to complete the Form 806?
A Form 806 is required when an agency's board members vote to appoint a board member to serve on another governmental agency or position of the agency of which the official is a member and will receive additional compensation.
2. The city council votes to serve as the city's housing authority, a separate entity. Will the Form 806 be required?
If the council members receive additional compensation for serving on the housing authority, the Form 806 is required.

3. Are appointments made by a governing board to appoint one of its members to serve as an officer of that board for additional pay (e.g., mayor) required to be disclosed on Form 806?

No. FPPC Regulation 18702.5(b)(6) exempts from this requirement decisions to fill a position on the body of which the official is a member (such as a councilmember being appointed as mayor) despite an increase in compensation.

4. In determining the income, must the agency include mileage reimbursements, travel payments, health benefits, and other compensation?

No. FPPC Regulation 18702.5 requires only the amount of the stipend or salary to be reported.

5. Which agency must post the Form 806?

The agency that is voting to appoint a public official must post the Form 806 on its website. The agency that the official will serve as a member is not required to post the Form 806. The form is not sent to the FPPC.

6. When must the Form 806 be updated?

The Form 806 should be amended promptly upon any of the following circumstances: (1) the number of scheduled meetings is changed, (2) there is a change in the compensation paid to the members, (3) there is a change in membership on the board or commission, or (4) there is a new appointment to a new agency.

7. If officials choose to recuse themselves from the decision and leave the room when a vote is taken to make an appointment, must the Form 806 be completed?

No. The Form 806 is only required to identify those officials that will vote on an appointment in which the official will also receive additional compensation.

Privacy Information Notice

Information requested by the FPPC is used to administer and enforce the Political Reform Act. Failure to provide information may be a violation subject to penalties. All reports are public records available for inspection and reproduction. Direct questions to FPPC's General Counsel, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811.

**Agency Report of:
Public Official Appointments
Continuation Sheet**

1. Agency Name

Date Posted: _____
(Month, Day, Year)

2. Appointments

Agency Boards and Commissions	Name of Appointed Person	Appt Date and Length of Term	Per Meeting/Annual Salary/Stipend
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i> Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i> ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____ ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>