



Rent Stabilization Board

DATE: November 17, 2014

TO: Honorable Members of the Rent Stabilization Board

FROM: Members of the Budget and Personnel Committee

SUBJECT: Recommended Revisions to the Rent Board's Compensation Policies

Recommendation: That the Board adopt two revisions to the Rent Board Compensation Policies by approving Resolution 14-16.

Background: At the July meeting, the Board discussed a variety of possible changes to the existing Rent Board Compensation Policies, but ultimately took no action and referred the matter to the Budget and Personnel Committee. After extensive discussion, the Committee voted unanimously (4-0) to keep the compensation policies in place as they are currently, but to clarify how Board members receive formal notice of meetings, and when a Board member needs to respond that he/she will not be able to attend to avoid being penalized monetarily. The Committee is recommending that staff use email, and only email, to notify Board members of official business, including formal notification of meeting times. The Board member will then have three days from the date of the email to let the appropriate person know that he/she will not be able to attend, and thereby avoid losing pay. Board members will still be able to request the Board to not penalize them for missing meetings due to illness, emergency or some extraordinary life circumstances. These changes should make it clearer for Board members and will make it easier for staff to administer the policy. The following two substantive revisions need to be made to the current resolution governing Board compensation policies:

1. **Existing Language:** Absences for which no penalty will be assessed are those that occur when the Commissioner informs the Board or Committee, at the time the regular, special, or committee meeting is being scheduled, that he or she will be unable to attend, or, if the Commissioner was absent when the meeting was scheduled, informs the Board Chair, or Committee chair within three days after the meeting was scheduled, that he or she will be unable to attend.

Proposed Revised Language: Absences for which no penalty will be assessed are those that occur when the Commissioner informs the Board or Committee, at the time the regular, special, or committee meeting is being scheduled, that he or she will be unable to attend. Once the meeting has been scheduled, the staff will send formal notification of the time and date to commissioners via email. If the Commissioner was absent when the

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meeting was scheduled or informs the Board chair, Committee chair or an appropriate staff member within three days of formal notification that he or she will be unable to attend, no penalty will be assessed.

2. **New Language:** Communications on all official Board business from staff to Commissioners, including formal notification of meetings, shall be by email. Commissioners will provide staff with one preferred email address which they agree to check on a regular basis.

Contact Person(s) and Phone Number:

Lisa Stephens, Rent Board Chair, 981-7368

Jay Kelekian, Executive Director, 981-4949

RESOLUTION 14-16

REVISING BOARD RESOLUTION 11-20 CONCERNING COMMISSIONERS' STIPENDS TO ACCOUNT FOR MISSED MEETINGS, CLARIFY RULES AND POLICIES REGARDING MEETING SCHEDULES AND COMMISSIONERS' STIPEND AND OTHER COMPENSATION AND ESTABLISHING THAT EMAIL SHALL BE THE FORM OF COMMUNICATION FROM STAFF TO COMMISSIONERS FOR ALL OFFICIAL BOARD BUSINESS

BE IT RESOLVED by the Rent Stabilization Board of the City of Berkeley as follows:

- 1. WHEREAS, the Berkeley Rent Ordinance (Berkeley Municipal Code (BMC) Chapter 13.76) provides that the Berkeley Rent Stabilization Board "shall be a working board" and that the Commissioners shall receive "compensation and benefits in an amount set by the board in order to compensate commissioners for their time and work performed as required by" Article XVII of the Charter of the City of Berkeley (BMC sec. 13.76.060.K); and,**
- 2. WHEREAS, according to Government Code section 54954, the Brown Act, a legislative body must provide the time and place for holding regular meetings; and**
- 3. WHEREAS, the rules and policies regarding Rent Board meetings, compensation, and benefits are presently contained in several Rent Board resolutions and motions spanning more than 25 years; and**
- 4. WHEREAS, the Rent Board presently desires to revise its rules regarding deductions from their stipend for missing meetings and, on October 17, 2011, approved a procedure for publicizing records of Commissioners' attendance at regular, special, and committee meetings; and**
- 5. WHEREAS, the Rent Board is committed to remaining accountable to the public and especially the citizens of the City of Berkeley; wishes to provide incentives to Commissioners for active participation in the work of the Rent Board; but does not intend to change any of the benefits to which Commissioners are presently entitled; and**
- 6. WHEREAS, the work of the Board may be impeded by frequent absences from Board and Committee meetings; and**
- 7. WHEREAS, it will serve the interests of the Rent Board and the public to gather all rules and policies regarding meeting schedules, meeting attendance, stipends, deductions from stipends, and benefits into a single document; and**
- 8. WHEREAS, at its September 25, 1985 meeting, the Board approved a motion to establish a \$500 monthly stipend as appropriate compensation for Commissioners, which compensation has not been raised since, and to deduct from a Commissioner's stipend \$50 for each regular meeting missed per month; and**
- 9. WHEREAS, by Resolution 92-14, the Board amended the September 25, 1985 motion to further refine when a stipend deduction was appropriately made; and**

10. WHEREAS, the Board held two regular monthly meetings until 2005, and then adopted Resolution 05-27, which changed the regular meeting schedule to one full Board meeting per month with an extra day reserved for special meetings; and,
11. WHEREAS, when the Board reduced the monthly meeting schedule to one per month, it did so specifically to allow Commissioners time to perform work during the regular committee meetings and, in fact, Commissioners do the majority of their work at the regular monthly Board and various committee meetings; and,
12. WHEREAS, in addition to attending Rent Board meetings, Rent Board Commissioners are also expected to perform constituent work and undertake numerous other duties associated with holding a public office; and
13. WHEREAS, prior to the adoption of Resolution 11-20, nothing was deducted from a Commissioner's monthly stipend for absence from any of the Board's various committee meetings; and,
14. WHEREAS, on April 20, 1987, the Rent Board Commissioners adopted Resolution No. 87-102, to place Commissioners on the City's payroll effective May 1, 1987; and
15. WHEREAS, on July 20, 1987, the Rent Board adopted Resolution 87-112 authorizing Commissioners to join the City's medical and dental plans, at their own expense, but at the rates negotiated by the City; and
16. WHEREAS, on June 5, 1989, the Rent Board adopted Resolution 89-6, which authorized the payment of medical and dental benefits for Commissioners from the Rent Stabilization Program budget; and
17. WHEREAS, in November 1994, Council voted to authorize Councilmembers to receive cash-in-lieu payments in lieu of receiving medical benefits; and
18. WHEREAS, some Rent Board Commissioners receive medical or dental insurance coverage under health insurance programs provided by a third party, independent of their position as Commissioners;
19. WHEREAS, on January 13, 1997, the Rent Board's Chief Counsel issued an opinion concluding that the Rent Board authorized payments in lieu of receiving medical benefits for Commissioners in Resolution 89-6; and thereafter, some Commissioners received cash-in-lieu payments without interruption in reliance on said opinion; and
20. WHEREAS, following a City Attorney opinion and a City Auditor determination that Commissioners were not entitled to continue receiving cash-in-lieu payments without first adopting a resolution explicitly authorizing such compensation, the Rent Board authorized cash-in-lieu payments by adopting Resolution 07-18 on November 19, 2007.

21. WHEREAS, in Resolution 07-18, the Board also clarified its intent regarding the maximum level of compensation and benefits to which Board Commissioners are entitled;
22. WHEREAS, Resolution 11-20, the Board repealed Resolutions 92-14, 05-27 and 07-18 and reenacted new rules and procedures;
23. NOW, THEREFORE, BE IT RESOLVED that Resolution 11-20 is hereby revised; and
24. BE IT FURTHER RESOLVED that the Berkeley Rent Stabilization Board establishes its regular meetings are held in the Council Chambers at 2134 Martin Luther King Jr. Way, at 7:00 p.m. on the third Monday of each month, unless the Monday falls on a City of Berkeley holiday or major religious holiday, in which case, the regular meeting is held on the second Monday of the month, or unless the Rent Board selects a different date when it adopts its annual schedule of anticipated regular meetings each December; and
25. BE IT FURTHER RESOLVED that the Rent Board regular meeting calendar be established and voted on annually, to provide Commissioners with ample advance notice of the dates of regular Board meetings with the expectation that they will plan to attend the meetings; and
26. BE IT FURTHER RESOLVED that the Rent Board may, from time to time, cancel or reschedule a regular meeting, usually by announcing the cancellation at a regular meeting; and
27. BE IT FURTHER RESOLVED that the Rent Board may, with proper notice, call special meetings if the need arises to supplement the regular meeting schedule; and
28. BE IT FURTHER RESOLVED that Rent Board Commissioners will continue to receive the following compensation and benefits:
 1. A \$500.00 stipend per month, subject to deductions for meetings missed as set forth below; and
 2. The same benefits as those provided to City of Berkeley Councilmembers and the Mayor, and in accordance with City of Berkeley policy, which benefits presently include:
 - a. Payment of monthly premiums for medical and dental insurance programs offered to City of Berkeley employees or, in accordance with City policy, for eligible Commissioners who elect not to receive the City's medical or dental insurance coverage, a cash payment equal to the amount the City pays its employees who elect to receive cash in lieu of City-paid medical or dental insurance coverage;
 - b. Discounted YMCA membership;
 - c. Transit pass.

29. **BE IT FURTHER RESOLVED** that for purposes of attendance, a Commissioner shall be considered to have attended a meeting if he or she is present for at least one hour of the meeting or 50% of the duration of the meeting, if the meeting lasts less than two hours; and
30. **BE IT FURTHER RESOLVED** that properly-noticed participation via teleconference is considered attendance. For purposes of compensation and reporting, the Board member will be considered "present" even if s/he is unable to actually participate by teleconference due to technical difficulties; and
31. **BE IT FURTHER RESOLVED** that a Commissioner being out of the City of Berkeley while on Board business on the day of the meeting shall for purposes of compensation and reporting, be considered "present"; and
32. **BE IT FURTHER RESOLVED** that absences for which no penalty will be assessed are those that occur when the Commissioner informs the Board or Committee, at the time the regular, special, or committee meeting is being scheduled, that he or she will be unable to attend. Once the meeting has been scheduled, the staff will send formal notification of the time and date to commissioners via email. If the Commissioner was absent when the meeting was scheduled or informs the Board chair, Committee chair or an appropriate staff member within three days of formal notification that he or she will be unable to attend, no penalty will be assessed; and
33. **BE IT FURTHER RESOLVED** that for every regularly-scheduled monthly Rent Board meeting missed in a calendar year, the penalties shall be as follows:
- First meeting missed – Commissioner's stipend shall not be reduced for that month,
 - Second meeting missed – Commissioner's stipend shall not be reduced for that month
 - Third meeting missed – Commissioner's stipend shall be reduced by 20% for that month,
 - Fourth meeting missed and all meetings missed thereafter – Commissioner will not receive a stipend for that month; and,
34. **BE IT FURTHER RESOLVED** that a Commissioner will have his or her stipend reduced by 10% for failure to attend a Special meeting of the full Rent Board unless the Commissioner notified the Board of the necessary absence by the appropriate time (as detailed above); and
35. **BE IT FURTHER RESOLVED** that a Commissioner is expected to serve on a minimum of two of the Rent Board's committees, but if the Commissioner chooses not to serve on at least two committees, he or she will have his or her stipend reduced by 20% per month; and
36. **BE IT FURTHER RESOLVED** that Committees are expected to set meetings at a time agreed upon by all members unless a delay would impede time-sensitive work; and

37. BE IT FURTHER RESOLVED that for every Committee meeting missed in one calendar month, unless the Commissioner notified the Board of the necessary absence by the appropriate time (as detailed above), the Commissioner's stipend shall be reduced as follows:
- First meeting missed – Commissioner's stipend shall be reduced by 10% for that month,
 - Second meeting missed – Commissioner's stipend shall be reduced by a total of 20% for that month,
 - Third meeting missed and all meetings missed thereafter in that month – Commissioner's stipend shall not be reduced further; and,
38. BE IT FURTHER RESOLVED that when a Regular, Special or Committee meeting is canceled for lack of a quorum, those Commissioners in attendance or who notified the Board by the appropriate time (as detailed above) shall not be considered absent for purposes of compensation. Commissioners who failed to attend the meeting and did not notify the Board by the appropriate time shall be considered absent and have the same stipend reductions as above apply; and
39. BE IT FURTHER RESOLVED that in extraordinary circumstances, a Commissioner may have his or her stipend restored, by a majority vote of the Board at a regularly-scheduled monthly meeting; and
40. BE IT FURTHER RESOLVED that the Commissioners direct the Board staff to publish Commissioners' attendance records for all Rent Board meetings (Regular, Special and Committee) from December 2010 to the present as soon as is reasonably possible, and to have those records posted to the Rent Board website; and
41. BE IT FURTHER RESOLVED that each Commissioner's attendance records for all Rent Board meetings (Regular, Special, and Committee) shall thereafter be published quarterly and posted to the website on the following schedule:
- January, February and March attendance records to be published in April,
 - April, May and June attendance records to be published in July,
 - July, August and September attendance records to be published in October, and
 - October, November and December attendance records to be published in January;
42. BE IT FURTHER RESOLVED that each Commissioner's attendance will be published as "Present", "Absent", or "Absent with Compensation" beginning February 16, 2012. Commissioners may add an explanation for publication in the official attendance records regarding their absences; and,

43. BE IT FURTHER RESOLVED that this Resolution shall take effect November 17, 2014, and any meetings missed thereafter shall count against a Commissioner for the purpose of deductions from the stipend; and
44. BE IT FURTHER RESOLVED that communications on all official Board business from staff to Commissioners, including formal notification of meetings, shall be by email. Commissioners will provide staff with one preferred email address which they agree to check on a regular basis; and
45. BE IT FINALLY RESOLVED that nothing in this Resolution shall in any way define whether or not a Commissioner has "ceased to discharge the duties of his or her office" as stated in Government Code Section 1770(g).

Dated: November 17, 2014

Adopted by the Rent Stabilization Board by the following vote:

Yes:
No:
Abstain:
Absent:

Lisa Stephens, Chairperson
Rent Stabilization Board

Attest: _____
Jay Kelekian
Executive Director