

Colleen Baker, Mayor
James Clair, Mayor Pro Tempore
Corey Middleton, Councilmember
Drake Davis, Councilmember
Paul McCoy, Councilmember



William Ibershof, City Manager
Juliana Lucchesi, Asst. City Manager
Emily Aldrich, Finance Director
Matthew Bray, Public Works Director
John Elsnab, Human Resources Director
Cyndy Prohaska, City Clerk
Patrick Dirksen, Police Chief
Jerry Lemos, Fire Chief
Julia Homaechevarria, City Attorney

YREKA CITY COUNCIL SPECIAL MEETING AGENDA

August 18, 2026

Open Session: 5:30 PM

Yreka City Council Chamber, 701 Fourth Street, Yreka, CA

Phone 530-841-2386, Facsimile 530-842-4836, email: cityclerk@yrekaca.gov

Regular Meetings of the Yreka City Council are held the 1st and 3rd Tuesday of every month.

This meeting is being livestreamed and can be viewed on Siskiyou Media Council's YouTube Channel
<https://www.youtube.com/channel/UCzx2GSYFCrgE5przvzitXQ>

The full agenda packet can be found on the City's website at www.ci.yreka.ca.us/AgendaCenter. Copies of all staff reports and documents subject to disclosure that relate to any item of business referred to on the agenda are available for public inspection 72 hours before each regularly scheduled meeting, and 24 hours before each special meeting, at the City Clerk's office at City Hall, located at 701 4th St, Yreka, California during normal business hours. Any writing that is subject to disclosure that relates to an agenda item for open session distributed less than 72 hours prior to the meeting will be available for public inspection at the City Clerk's office during normal business hours.

Materials distributed to a majority of councilmembers less than 72 hours before a meeting will be available for public inspection on the City's website at www.ci.yreka.ca.us/AgendaCenter.

Please note the following change to the City's public comment procedures: Unless a Councilmember is participating in the meeting remotely pursuant to Government Code section 54953(f), remote public comment will not be accepted. Public comment may be provided in-person or via email, as set forth below. Members of the public desiring to provide comments as a part of the meeting are encouraged to either submit written comments by 3:00 p.m. to the City Clerk prior to the meeting or to attend the meeting in person." Written comments will be distributed to the Councilmembers but will not be read aloud at the meeting.

1. 5:30 PM CALL TO ORDER SPECIAL SESSION:

2. PUBLIC COMMENT:

Public participation is limited to those items listed on the agenda.

If your comments do not concern an item listed on this Agenda, please address the City Council at the next regular meeting.

The City requests that persons addressing the City Council refrain from making personal, slanderous, profane, or disruptive remarks.

Councilmembers, when recognized by the Mayor, may ask questions of presenter but no action may be taken by the City Council during the public comment section of the meeting. Under the Brown Act, the City Council is prohibited from discussing or taking action on any item not listed on the posted agenda.

- Please speak into the microphone from the podium. The podium electronically adjusts up and down to accommodate speaker.
- Please state your name for the record prior to providing your comments.
- Please address the Council as a whole.
- If you have documents to present, please provide a minimum of seven (7) copies. These become a public record.
- Please limit your remarks to five (5) minutes.
- Since Council is unable to take action on issues not on the agenda, your matter may be referred to staff for follow up or be placed on a future agenda.

Public comment period is **not** intended to be a “Question and Answer” period or conversations with the Council or City staff.

3. **CITY BUSINESS:**

City Manager and City Attorney

a. **Agenda Title:** Consideration of the Comment Letter in Response to the Siskiyou County Civil Grand Jury Report Dated June 4, 2026.

Recommended City Council Action: Approve the Council’s comment letter as required by Penal Code §933, or provide appropriate direction (as presented or as amended), and authorize the Mayor to execute and cause to be transmitted the City’s response to the Siskiyou County Civil Grand Jury.

4. **ADJOURNMENT:**

In compliance with the requirements of the Brown Act, notice of this meeting has been posted in a publicly accessible place, 24 hours in advance of the meeting.

Public Hearings: If you wish to challenge in court any of the matters on an agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing. Any person seeking to challenge a City Council decision made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that action 90 days following the date on which the decision becomes final as provided in Code of Civil Procedure Section 1094.6. Please refer to Code of Civil Procedure 1094.6 to determine how to calculate when a decision becomes “final.”

"CHALLENGING DECISIONS OF CITY ENTITIES The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City of Yreka is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing. If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of Yreka, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies."

*The City of Yreka does not discriminate on the basis of race, color, national origin, religion, age, gender, sexual orientation, disability, or any other legally protected classes in employment or provision of services. **In compliance with the Americans with Disabilities Act, those requiring accommodations for this meeting should notify the City Clerk 48 hours prior to the meeting at (530) 841-2386 or by notifying the Clerk at cityclerk@yrekaca.gov.***

AFFIDAVIT OF NOTIFICATION AND POSTING

STATE OF CALIFORNIA)
COUNTY OF SISKIYOU) SS
CITY OF YREKA)

I, Cyndy Prohaska, City Clerk for the City of Yreka, hereby declare under penalty of perjury that a copy of the above Agenda of the Regular Meeting of the City Council of the City of Yreka, California, was delivered and/or notice by email not less than 24 hours, before the hour of **5:30PM on August 18, 2026**, to the members of the governing agency, and caused the agenda to be posted on the City's website at www.ci.yreka.ca.us and posted at Yreka City Hall, 701 Fourth St., Yreka, California.

/s/: Cyndy Prohaska



CITY OF YREKA
CITY COUNCIL AGENDA MEMORANDUM

To: Yreka City Council
From: Will Ibershof, City Manager
Prepared by: Will Ibershof, City Manager
Agenda title: Consideration of the Comment Letter in Response to the Siskiyou County Civil Grand Jury Report Dated June 4, 2026
Meeting date: August 18, 2026

Discussion:

The Civil Grand Jury released a report on June 4, 2026, to the City of Yreka titled “Whether a Vacancy Has Occurred – Yreka City Council”. (Attachment 2.) California Penal Code sections 933(c) and 933.05 requires that the City file a comment within 90 days of the report. Any issues directed at the City Manager or other officers must also provide a response comment to the report within 60 days of the report. The City Manager submitted his response on July 23, 2026. The deadline for the City Council comment to be sent to the Presiding Judge is September 4, 2026.

The Report had three findings and three recommendations; Council’s comment must respond to each. As a practical matter, for the Council to provide its comment, it must approve such by motion in open session to submit the comment to the presiding judge of the Superior Court.

The attached draft letter includes responses to all findings and recommendations.

The Council’s comment to a **finding** may either:

- (1) agree with the finding, or
- (2) disagree wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(Cal. Pen. Code § 933.05(a).)

Council’s comment to a **recommendation** may report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action;
- (2) the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation;
- (3) the recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared

for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report; or

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(Cal. Pen. Code § 933.05(b).)

Fiscal Impact:

There is no fiscal impact, the cost of staff time to prepare this report is covered by the operating budget.

Recommendation and Requested Action:

Approve the Council's comment letter as required by Penal Code § 933, or provide appropriate direction (as presented or as amended), and direct the Mayor to execute and cause to be transmitted the City's response to the Siskiyou County Civil Grand Jury.

Attachments:

1. Draft Response Letter
2. Siskiyou County Civil Grand Jury Report: "Whether a Vacancy Has Occurred – Yreka City Council", dated June 4, 2026.



"Attachment 1"

Judge John Lawrence
Presiding Judge
Siskiyou County Superior Court
411 4th Street
Yreka, CA 96097

Dear Judge Lawrence and the Grand Jury,

The Yreka City Council has reviewed the Siskiyou Grand Jury Report dated June 4, 2026. Preliminarily, the City Council notes that California Penal Code Section 933.05 requires a grand jury to “provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge.”

The City never received a copy of the grand jury report or portion of the report relating to the City nor any notice of the report from the grand jury or presiding judge. The City became aware of the grand jury report after its public release.

Further, Section 933 provides that “[f]or 45 days after the end of the term, the foreperson and his or her designee shall, upon reasonable notice, be available to clarify the recommendations of the report.” However, the Grand Jury Report states that the foreperson, Dawnmarie Autry, as well as Lorenzo Love, “were recused from every part of this report.”¹ The City was never notified of a designee or alternate available to clarify the recommendations of the report. Therefore, this Grand Jury Report suffers insufficient process, violating the California Penal Code.

Nonetheless, the City Council responds to the Grand Jury Report’s findings and recommendations as would be required by California Penal Section 933.05 and within 90 days of the date on the grand jury report as would be required by Section 933. The Grand Jury’s findings and recommendations are repeated below in bold with the City Council’s responses thereto following each finding or recommendation.

FINDING 1: “The Yreka City Council is a city body that meets, pursuant to its ordinances and regular practice, twice per month. The 60-day absence threshold of California Government Code § 36513(a) therefore applies. The City of Yreka has no written policy governing the granting of excused absences. This absence of policy contributed materially to the dispute over the status of the Councilmember and to inconsistent treatment of councilmember absences.”

¹ See Siskiyou County Civil Grand Jury Report “Whether a Vacancy Has Occurred – Yreka City Council” at p. 1.

Response 1: *(The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.)*

The City Council disagrees that California Government Code § 36513(a) is applicable. This was well discussed at the March 18 and April 1, 2025 regular City Council meetings when Council analyzed the matter and took action to address the issue at that time. The public provided input on the matter at that time and the issue was discussed over several meetings with the City Council voting 3-1 to excuse the absence.

The City Council acknowledges the Yreka City Municipal Code § 1.24.010 establishes a time and place of regular meetings of the City Council. However, the regular practice of the City Council is that there are occasions when the City Council will cancel a meeting for various reasons, such as lack of quorum or no city business to address. For the timeframe in question, the City Council in fact cancelled the November 5, 2024 meeting due to the General Election occurring on that evening, as has been the Council practice in prior years. Therefore, for the month at issue, the council only met “monthly” as a result. Accordingly, the 70-day rule in Government Code § 36513(b) was applicable. The City Council disagrees that the application of a 60-day absence threshold would be applicable for a month where the “council meets monthly or less frequently than monthly”. There is no statement or definition in Government Code § 36513 or its legislative history identifying that the determination of meeting “monthly” is based on an adopted regular meeting schedule setting the frequency of meetings. The two concepts are simply independent: a council can have a regular meeting schedule, and then also not hold those meetings for a variety of reasons. To interpret this otherwise and adopt the interpretation by the Civil Grand Jury begs council members to engage in farcical gamesmanship, particularly against members in the minority on a council.

The City Council acknowledges that a best practice would be to adopt a written policy approved by the City Council regarding excused absences. However, City Council lacks knowledge and information sufficient to reach any conclusion whether this absence of policy contributed materially to the dispute over the status of the Councilmember or to any inconsistent treatment of councilmembers’ absences. In addressing the issue in close proximity to the absence, the City Council identified the absence as excused. In the end, the City Council addressed this issue over 16 months ago at its meeting on April 1, 2025 by voting 3-1 that the absence in question was excused due to a medical situation by Mr. Davis.

Finding 2: “The Councilmember in Question last attended a regular City Council meeting on October 1, 2024. He was absent without prior formal permission recorded in the minutes, from the October 15, 2024 and November 19, 2024 regular meetings. He returned to a regular meeting on December 3, 2024 — a span of 62 consecutive days. At no time before or during the relevant absence period did the City Council vote

to or record in the minutes any grant of an excused absence for the Councilmember in Question from the October 15, 2024 or the November 19, 2024 regular meetings.”

Response 2: *(The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.)*

The City Council does not dispute that the Councilmember in question attended the October 1, 2024 meeting.

The City Council does not dispute that the Councilmember in questions did not attend the November 19, 2024 regular meeting.

The City Council agrees that the Councilmember attended the regular meeting on December 3, 2024.

However, Council disputes that characterization of the events that the Councilmember missed all meetings within the 62-day period, or that the non-attendance on November 19 was unexcused. The Councilmember did attend to his Council duties within the time frame by attending the council meeting on October 15, 2024, but left early because of sickness. Further, the City Council cancelled their November 5, 2024 meeting creating non-typical regular meeting pattern and breaking the consecutive chain of council meetings.

The City Council acknowledges that the meeting minutes from the October 15, 2024 and November 19, 2024 meetings do not record a grant of excused absence for any of the Councilmembers during that meeting. However, nothing in the rules of procedure, or any other city policy or code establishes when a council member must request or assert that their absence was due to illness, or what the standards are for evaluating or who evaluates whether an absence is excused. When in fact the Council did take up this issue over the meetings in March and April, 2025, the council did ultimately address this issue more than 16 months ago, voting 3-1 (Ayes: Middleton, Clair, Baker; No: McCoy) that the absence in question was excused due to a medical situation by Mr. Davis. To revisit that issue now by the Council is outside of Council policies and rules governing finality.²

Finding 3: “The conditions of California Government Code § 36513(a) having been met, the seat on the Yreka City Council became vacant by operation of law no later than December 3, 2024. The cancellation of the November 5, 2024 regular meeting does not alter Yreka’s established twice-monthly meeting frequency for purposes of code 36513 and does not trigger the 70-day threshold of code 36153(b). The April 1, 2025

² See Yreka Municipal Code § 1.24.150 (“Except as provided in this code, or other rules adopted by the city council, or applicable provisions of state law, the procedures of the council shall be governed by the latest revised edition of Rosenberg’s Rules of Order.”); *Rosenberg’s Rules of Order* at p. 6., available online at <https://www.cacities.org/UploadedFiles/LeagueInternet/77/77d4ee2b-c0bc-4ec2-881b-42ccdbbe73c9.pdf>.

Council vote to retroactively excuse the October 15, 2024 absence was of uncertain legal effect and does not clearly cure a vacancy that had already occurred by operation of law.”

Response 3: *(The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.)*

The City Council disagrees with this finding.

First, the Civil Grand Jury Report ignored that the process for remedying a violation under Government Code § 36513 is an action under *quo warranto*, and that this is the sole method of removing a person from office. (Code Civ. Pro. § 803 *et seq.*) Neither the Council nor any member of the public challenged the actions of the validity of the claim to office through a timely *quo warranto* action.

California Government Code § 36513(a) does not apply. As addressed in Response 1, due to the cancellation of a meeting on November 5, 2024, the City Council did not meet twice-monthly. When a city council meets monthly or less, the § 36513(b) threshold of 70-days applies.

Determination of a council’s meeting frequency must consider whether a regular meeting has been cancelled, as was done for the November 5, 2024 meeting, and as is the regular practice of the City Council to cancel a meeting upon occasions when there is a lack of quorum or lack business to address.

The language of Government Code § 36513 and the legislative history for Government Code § 36513 are both void of any suggestion that the municipal code stating the dates of regular meetings creates the obligation to meet and thereby establishes the threshold under Government Code § 36513(a). Moreover, that language in Government Code § 36513(b), “if a city council meeting monthly or less frequently than monthly” rightly contemplates that there are times where a council does, or will, not meet at least once a month, even despite there being some regular scheduled meeting protocol or code.

The actual occurrence of held regular meetings dictates the determination of city council meeting frequency, not a schedule that may or may not be met. The common sense interpretation of Government Code § 36513 is to look to the facts of how many regular meeting were held in the month at issue to determine whether the 60-day or 70-day threshold is applicable in that situation. For the month at issue (November 2024), only one regular meeting was held, November 19, 2024. Thus, the 70-day threshold under § 36513(b) applies. 70-days after the October 1, 2024 regular meeting is December 10, 2024. A regular meeting was held December 3, 2024 in which the councilmember at issue was present. Therefore, no councilmember was absent for 70-days consecutively. Accordingly, no vacancy occurred under the 70-day threshold.

Even if the 60-day threshold were to be applied, at the April 1, 2025 regular meeting, the City Council, composed of all its now-current members, voted on and identified the October 15, 2024 absence as excused. The motion to grant an excused absence passed 3-1 (Ayes: Middleton, Claire, Baker; No: McCoy). The councilmember at issue did not participate on the item. The City Council voted on the motion with the intent that the retroactive excused absence resolved any question of a vacancy.

Case law does not exist to refute this treatment of § 36513 or the Council's ability to consider councilmember absences. There are very few cases on this matter and while many cities have policies regarding absences, many do not. Therefore, even if the 60-day threshold were to be applied, the intent of Council to excuse the October 15, 2024 absence prevails and no vacancy occurred. Moreover, the process for removal of a council member is by *quo warranto*, which neither the Council nor any member of the public pursued at the time.

Recommendation 1: “The City Council should formally declare that a vacancy occurred in the council seat held by the Councilmember pursuant to California Government Code § 36513(a), effective no later than December 3, 2024, and should fill that vacancy in accordance with Government Code § 36512.”

Response 1: *(The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.)*

The City Council disagrees. The Grand Jury Report provides no support for how the Council even *could* make such declaration or what effect that would have. Given that the sole process for a council or a member of the public to pursue removal from office is in *quo warranto*, the Report's declaration of vacancy would have no merit. (Code Civ. Pro. § 803 *et seq.*)

Moreover, the City Council already voted at the April 1, 2025 regular meeting on this issue and determined that regardless of whether applying a 60-day or 70-day threshold under Government Code § 36513, there was no absence during that period and a vacancy did not occur because of the excused absence that has already been granted. Therefore, even if the Council could declare a vacancy outside of a *quo warranto* action, no declaration of vacancy is warranted under the already-decided action by the City Council to excuse the absence that is claimed to be at issue.

Recommendation 2: “The City Council should adopt a written absence policy – by ordinance, resolution, or formal rules of procedure – that defines: (a) the procedure by which a councilmember may request an excused absence; (b) the grounds upon which such a request may be granted; (c) the timing requirement (specifically, whether requests may only be made prospectively); and (d) the requirement that any grant of permission be recorded in the official minutes.”

Response 2: *(The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.)*

Agreed.

Prior to this report, the City Council had commenced work on policies and procedures that would address this issue. Interim City Manager John Elsnab commenced drafting such policies and began working with the City Council on revisions to its Code of Conduct. Within the Code of Conduct draft there is a section related to absences. City staff will continue to review the drafted absence policy and prepare a written absence policy that includes procedure and timing requirements for requesting an excused absence, the grounds for excused absences, and a requirement that excused absences be included as part of the recorded meeting minutes, as appropriate, by February 1, 2027.

Recommendation 3: “If the Council declines to declare the vacancy, the Council should retain independent outside counsel — not currently employed by the City — to opine on (a) whether a vacancy occurred under § 36513(a), and (b) the validity of retroactive excused absences under California law and should make that opinion publicly available.”

Response 3: *(The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.)*

The City Council declines to declare a vacancy and will not be employing outside counsel for an opinion on these matters. City Council, working with a limited budget, prioritizes the City’s needs. Retaining outside counsel—not currently employed by the City—would financially burden the city with an unwarranted expense. Neither the City Attorney at the time of the excused absences, nor the current City Attorney, have a conflict of interest in this matter that requires City Council to seek outside counsel.

The City Attorney at the time discussed in open session that the process for removal of office was a *quo warranto* action. All meeting materials provided to the City Council are publicly available as part of the meeting agendas available at <https://www.ci.yreka.ca.us/AgendaCenter/City-Council-4> . And all regular City Council meetings, including the legal advice provided at those meetings related to this issue, are available to the public at https://youtube.com/playlist?list=PLs8X_m6sUCESjZfB-PdvjP3LY09_6fDzr&si=ZB4zxosuArNJIJRi.

Conclusion

The City Council of Yreka takes their roles and responsibilities seriously. The City respectfully recognizes the important role of the Civil Grand Jury in promoting

transparency, accountability, and public confidence in local government. Although the City was never provided a copy of the Grand Jury Report and has significant concerns regarding aspects of the Report, including its characterization of certain matters and the process by which the Report was developed, the City has approached its response in good faith and with due regard for its obligations under Penal Code sections 933 and 933.05. Accordingly, and notwithstanding those concerns, the City has carefully considered and responded to each finding and recommendation presented in the Report. The City appreciates the opportunity to address the matters raised and remains committed to constructive engagement and compliance with applicable law.

Sincerely,

CITY OF YREKA

Collen Baker
Mayor

CC: Siskiyou County Grand Jury

ATTACHMENT 2

SISKIYOU COUNTY CIVIL GRAND JURY

Civil Grand Jury Term: 2026

WHETHER A VACANCY HAS OCCURRED ON THE YREKA CITY COUNCIL

Date Submitted: 6/4/2026

Dawnmarie Autry and Lorenzo Love were recused from every part of this report.

SUMMARY

The Siskiyou County Civil Grand Jury investigated whether a vacancy occurred when a Councilmember in Question's absence from all regular Yreka City Council meetings for 62 consecutive days between October 15 and December 3, 2024. The Grand Jury finds that Yreka is a city whose council ordinarily meets twice per month; that the 60-day vacancy threshold of § 36513(a) therefore applies; that the Councilmember in Question was absent without prior permission from all regular council meetings during that 62-day period; and that, by operation of law, his office became vacant.

The Civil Grand Jury also finds that the Council failed to follow a consistent, documented process for granting excused absences, and that the Council's subsequent April 1, 2025 retroactive excuse of the Councilmember in Question's October 15, 2024 absence — while legally uncertain — reflects the absence of any written absence policy, creating conditions for recurring governance disputes.

Two members of the Civil Grand Jury were recused in every way from this inquiry, investigation and report writing.

BACKGROUND

The Yreka City Council and Its Regular Meeting Schedule

The City of Yreka is a general law city incorporated under California law. The Yreka City Council is a five-member body that, pursuant to the City's municipal code and consistent practice, holds regularly scheduled meetings twice per calendar month — typically on the first and third Tuesday of each month. This schedule is reflected on the face of every published Yreka City Council agenda.

California Government Code § 36513

California Government Code § 36513 provides, in relevant part:

"(a) If a city councilmember is absent without permission from all regular city council meetings for 60 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy.(b) Notwithstanding subdivision (a), if a city council meets monthly or less frequently than monthly and a city councilmember is absent without permission from all regular city council meetings for 70 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy."

The statute is self-executing: upon the occurrence of the qualifying absence period without permission, the office becomes vacant by operation of law without any further council action. The council's role is to recognize and fill the resulting vacancy pursuant to Government Code § 36512.

Councilmember in Question's Attendance Record: October–December 2024

The following dates are relevant to this investigation:

- October 1, 2024: Councilmember in Question attended the regular Yreka City Council meeting — the last regular meeting he attended before his absence.
- October 15, 2024: Regular Yreka City Council meeting held. The Councilmember in Question was absent. No prior excused absence was formally granted or entered in the minutes.
- October 23, 2024: A special meeting of the Yreka City Council was held. The Councilmember in Question attended this special meeting. Special meetings are not "regular city council meetings" within the meaning of § 36513.
- November 5, 2024: The scheduled regular Yreka City Council meeting was canceled.
- November 19, 2024: Regular Yreka City Council meeting held. The Councilmember in Question was absent without formal excuse.
- December 3, 2024: Regular Yreka City Council meeting. The Councilmember in Question attended — ending the consecutive absence period.

The interval between October 1, 2024 (last regular meeting attended) and December 3, 2024 (next regular meeting attended) spans 62 consecutive days. During that interval, the Councilmember in Question missed all regular meetings (October 15 and November 19) without having obtained prior, formally recorded permission from the Yreka City Council.

The 60-Day vs. 70-Day Threshold Dispute

Following inquiry by a different Councilmember, the question of whether the seat had become vacant was placed on the March 18, 2025 Yreka City Council agenda as Item 11e, with the recommended action that "the City of Yreka comply with California Government Code § 36513 and that the Seat on the Yreka City Council has been Vacated by Non-Compliance with California Government Code § 36513."

At that meeting, the different Councilmember argued that Yreka's twice-monthly meeting schedule triggers the 60-day rule under § 36513(a), making the 62-day absence sufficient to vacate the seat. The Councilmember in Question and City Attorney argued that the cancellation of the November 5 regular meeting transformed the Council into a de facto "monthly" body during the relevant period, thereby invoking the 70-day threshold under §

36513(b). The City Attorney acknowledged that the Council lacked a formal written absence policy and deferred to the Council on the ultimate determination.

No vote on the vacancy question was taken at the March 18 meeting. On a motion by a Councilmember (passed 3-1, with one Councilmember dissenting), the item was continued to the April 1, 2025 regular meeting.

The April 1, 2025 Council Action

At the April 1, 2025 regular meeting, the Council voted 3-1 — to formally and retroactively excuse the Councilmember in Question's October 15, 2024 absence due to illness. The stated purpose was to bring the unexcused absence within 60 days, thereby avoiding the vacancy trigger under § 36513(a).

A different Councilmember continued to object, calling for an independent legal opinion from an attorney other than the City Attorney, stating: "We need an attorney that's going to not change their mind, that's not going to say one thing to one council-member, and another thing to another council-member." the Mayor remarked: "I hope moving forward we have learned from this."

Following the April 1 vote, the Council took no further action to declare a vacancy, and the Councilmember in Question has continued to serve.

METHODOLOGY

The Civil Grand Jury reviewed the following materials in the course of this investigation:

- California Government Code §§ 36512, 36513 (current text)
- Yreka City Council regular meeting agendas and published minutes for the period September 2024 through April 2025
- The March 18, 2025 Yreka City Council meeting agenda packet (117 pages, including staff report at page 106)
- The minutes of the March 18, 2025 and April 1, 2025 Yreka City Council meetings
- The League of California Cities publication, "City Council Qualifications, Vacancies, Incompatible Offices and Related Issues"
- The Siskiyou County Civil Grand Jury Procedure Manual
- Published news reporting regarding the Council's handling of Item 11e

The Civil Grand Jury interviewed **several** witnesses, including City officials and members of the public. Names and titles of interviewees are not disclosed to protect confidentiality. The Civil Grand Jury did not conduct its own independent investigation of the medical condition or personal circumstances during the relevant absence period of the Councilmember in Question.

DISCUSSION

Issue 1: Which Threshold Applies — 60 or 70 Days?

The plain text of § 36513 controls, and it applies the 60-day rule to Yreka.

Section 36513(b) raises the threshold to 70 days only "if a city council meets monthly or less frequently than monthly." The relevant question is the nature of the council's established meeting schedule, not the frequency of meetings actually held during any particular period.

Yreka's city ordinances establish a twice-monthly regular meeting schedule, and this schedule appears on the face of every City Council agenda. The cancellation of a single regular meeting — the November 5, 2024 meeting — does not alter the council's established meeting frequency or transform it into a body that "meets monthly." A canceled meeting is an interruption of the schedule, not a change to it.

This interpretation is consistent with the purpose of § 36513, which creates an accountability mechanism for council attendance. Allowing a single meeting cancellation to raise the vacancy threshold from 60 to 70 days would permit an absence to be regularized by the fortuitous or purposeful cancellation of a meeting — an outcome inconsistent with the statute's text and purpose.

The Civil Grand Jury concludes that the 60-day threshold of § 36513(a) applies to the Yreka City Council.

Issue 2: Was the Councilman "Absent Without Permission"?

No prior, formal permission was recorded in the minutes for the October 15 or November 19, 2024 meetings.

Section 36513 uses the phrase "absent without permission" but does not define it. The City of Yreka has no written absence policy. At the time of Councilmember's absences, there was no ordinance, resolution, or established procedure specifying how a councilmember obtains permission, what constitutes acceptable grounds, or when permission must be requested and granted.

The Councilmember in Question has indicated he communicated his situation to fellow councilmembers at the October 23, 2024 special meeting. However, that meeting was a special meeting, not a regular meeting, and no motion, vote, or minute entry excusing his absence from the October 15 or November 19 regular meetings appears in the public record.

The only contemporaneous example of a formally granted excused absence in the record is the permission granted to a different Councilmember in October 2024, which was explicitly voted upon and entered in the minutes. No equivalent action was taken for the Councilmember in Question at the time of his absences.

The Civil Grand Jury concludes that the Councilmember in Question was absent without permission, as that phrase is used in § 36513, from the October 15 and November 19, 2024 regular meetings.

Issue 3: Did a Vacancy Occur by Operation of Law?

Yes. By the plain text of § 36513(a), Davis's office became vacant on or about December 3, 2024.

When the conditions of § 36513(a) are met — consecutive absence without permission for 60 days from the last regular meeting attended — the office "becomes vacant" by operation of

law. The vacancy is self-executing; no council vote is required to create it. The council's role is to recognize the vacancy and fill it under Government Code § 36512.

The conditions of § 36513(a) were met no later than December 3, 2024, when 62 days had elapsed since the October 1, 2024 regular meeting that Councilmember in Question last attended. At that point, the office became vacant by operation of law.

Issue 4: Effect of the April 1, 2025 Retroactive Excuse

The retroactive excuse is of uncertain legal effect and does not clearly cure a vacancy that had already occurred by operation of law.

On April 1, 2025, the City Council voted to retroactively excuse Councilmember in Question October 15, 2024 absence. The Civil Grand Jury notes the following:

- Government Code § 36513 does not expressly authorize retroactive permission, nor does it prohibit it. No published California appellate decision directly addresses whether a retroactive excused absence can prevent or undo a statutory vacancy.
- The League of California Cities notes that whether retroactive permission is effective depends on local policy and council practice and that § 36513's "absent without permission" language is undefined.
- The City of Yreka had no written policy governing the timing or form of permission at the time of the relevant absences.
- If a vacancy had already occurred by operation of law before the April 1, 2025 meeting, action taken at that meeting by a body that may have included an ineligible member could itself be subject to legal challenge.

The Civil Grand Jury makes no determination as to the legal validity of the retroactive excuse as a matter of civil law. The Civil Grand Jury does find that the Council's handling of this matter — improvised, legally uncertain, and contested — reflects a failure of governance that damaged public confidence and the uniform application of state law.

Issue 5: Absence of a Written Absence Policy

The absence of a formal absence policy contributed to this dispute and creates ongoing governance risk.

The City Attorney acknowledged at the March 18, 2025 meeting that Yreka has no written policy governing how council absences are excused. The practical result was that identical conduct — being absent from regular meetings — was handled inconsistently: One Councilmember's absence in October 2024 was formally excused by vote and minute entry; the other member's absences were not. This inconsistency is a governance deficiency that a written policy would directly address.

FINDINGS

The Civil Grand Jury finds as follows:

Finding 1: The Yreka City Council is a city body that meets, pursuant to its ordinances and regular practice, twice per month. The 60-day absence threshold of California Government Code § 36513(a) therefore applies. The City of Yreka has no written policy governing the granting of excused absences. This absence of policy contributed materially to the dispute over the status of the Councilmember and to inconsistent treatment of councilmember absences.

Finding 2: The Councilmember in Question last attended a regular City Council meeting on October 1, 2024. He was absent without prior formal permission recorded in the minutes, from the October 15, 2024 and November 19, 2024 regular meetings. He returned to a regular meeting on December 3, 2024 — a span of 62 consecutive days. At no time before or during the relevant absence period did the City Council vote to or record in the minutes any grant of an excused absence for the Councilmember in Question from the October 15, 2024 or the November 19, 2024 regular meetings.

Finding 3: The conditions of California Government Code § 36513(a) having been met, the seat on the Yreka City Council became vacant by operation of law no later than December 3, 2024. The cancellation of the November 5, 2024 regular meeting does not alter Yreka’s established twice-monthly meeting frequency for purposes of code 36513 and does not trigger the 70-day threshold of code 36153(b). The April 1, 2025 Council vote to retroactively excuse the October 15, 2024 absence was of uncertain legal effect and does not clearly cure a vacancy that had already occurred by operation of law.

RECOMMENDATIONS

Recommendation 1 (to the Yreka City Council): The City Council should formally declare that a vacancy occurred in the council seat held by the Councilmember pursuant to California Government Code § 36513(a), effective no later than December 3, 2024, and should fill that vacancy in accordance with Government Code § 36512.

Recommendation 2 (to the Yreka City Council): The City Council should adopt a written absence policy — by ordinance, resolution, or formal rules of procedure — that defines: (a) the procedure by which a councilmember may request an excused absence; (b) the grounds upon which such a request may be granted; (c) the timing requirement (specifically, whether requests may only be made prospectively); and (d) the requirement that any grant of permission be recorded in the official minutes.

Recommendation 3 (to the Yreka City Council and City Manager): If the Council declines to declare the vacancy, the Council should retain independent outside counsel — not currently employed by the City — to opine on (a) whether a vacancy occurred under § 36513(a), and (b) the validity of retroactive excused absences under California law, and should make that opinion publicly available.

REQUIRED RESPONSES

Pursuant to California Penal Code §§ 933 and 933.05, the following agencies are required to respond to the findings and recommendations in this report within the time periods specified below. Each response shall indicate whether the agency agrees or disagrees with each finding

and whether each recommendation will be implemented, partially implemented, will not be implemented (with explanation), has already been implemented, or requires further study.

Yreka City Council	Findings 1–3; Recommendations 1–3	90 days from date of report
Yreka City Manager	Finding 1; Recommendation 2	60 days from date of report

APPENDIX A — California Government Code § 36513

(a) If a city councilmember is absent without permission from all regular city council meetings for 60 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy. (b) Notwithstanding subdivision (a), if a city council meets monthly or less frequently than monthly and a city councilmember is absent without permission from all regular city council meetings for 70 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy. (Amended by Stats. 1990, Ch. 1558, Sec. 2.)

Source: <https://law.justia.com/codes/california/code-gov/title-4/division-3/part-1/section-36513/>

APPENDIX B — Timeline of Relevant Events

October 1, 2024	Councilmember in Question attends regular meeting — last attendance before absence period
October 15, 2024	Regular meeting held; Councilmember in Question absent without formal excuse (Day 1 of absence period)
October 23, 2024	Special meeting held; Councilmember attends (not a "regular meeting" under § 36513)
November 5, 2024	Scheduled regular meeting canceled
November 19, 2024	Regular meeting held; Councilmember in Question absent without formal excuse

~December 2, 2024	Day 60 from October 1 — 60-day threshold reached under § 36513(a)
December 3, 2024	Regular meeting; Councilmember in Question attends — 62 days elapsed since last regular attendance
March 18, 2025	City Council agendas Item 11e; debate held; item continued 3-1 to April 1
April 1, 2025	Council votes 3-1 to retroactively excuse Councilmember in Question's October 15 absence

APPENDIX C — Sources

- California Government Code § 36513 (Justia Law):
<https://law.justia.com/codes/california/code-gov/title-4/division-3/part-1/section-36513/>
- Yreka City Council Meeting Minutes, March 18, 2025:
https://www.ci.yreka.ca.us/AgendaCenter/ViewFile/Minutes/_03182025-513
- Siskiyou News, "What's Going On with the Yreka City Council?" (March 20, 2025):
<https://www.siskiyou.news/2025/03/20/whats-going-on-with-the-yreka-city-council/>
- Skip Descant, "[Councilmember in Question] Remains on Yreka City Council" (April 4, 2025): <https://substack.com/home/post/p-160555652>
- League of California Cities, "City Council Qualifications, Vacancies, Incompatible Offices and Related Issues":
<https://www.cacities.org/UploadedFiles/LeagueInternet/01/01562a25-374e-4bd2-b871-148a170ef624.pdf>
- Siskiyou County Civil Grand Jury Procedure Manual (on file with the Court)