

RESPONSE TO COUNCIL QUESTIONS RE: 11/9/21 AGENDA

Agenda Item 4E

Council Question:

I understand this item is to extend the contract for the Zoning Code Update. I imagine there are big updates due to SB9 and SB10. **When can Council members give input to scope of the Zoning Code Update?**

Staff Response:

The Zoning Code update is tentatively scheduled for a City Council study session at the January 25, 2022 Council meeting and for City Council adoption in May 2022. A draft of the updated Code will be made available for public review by the end of this month.

Agenda Item 4H

Council Question:

Should there be a scope of work and a schedule of deliverables/KPIs for \$330K rather than a simple MOU. Also, it should not be limited to Chamber members. Comment about having an ombudsman tools for small businesses on new laws affecting them like Xander gives the Planning Commission an update annually on new State housing laws; it seems that there should be an annual report for small businesses on new laws affecting them – Perhaps Townsend?

Staff Response:

The proposed Memorandum of Understanding (MOU) with the Chamber provides for an understanding that the City and Chamber will work collaboratively to use the settlement funds to support and outreach to Santa Clara small businesses. The MOU is intended to focus on use of funds for programs/efforts and allows for additional flexibility depending on the needs of the small businesses as well as a level of outreach needed to small businesses to gather input regarding proposed business tax. These settlement funds are under the direction and control of the City. KPIs or deliverables for the Chamber to evaluate the City's use of funds are not necessary.

Agenda Item 4I

Council Question:

It seems that the DEI Taskforce interviewed people on the eligibility list for membership and submitted one name to Council. This process is different than what we did for Parks and Rec and the HLC; Council interviewed people on the eligibility list. **Is the process different because the DEI is a TF rather than a commission?**

Staff Response:

At the September 29, 2020 Council meeting, the Council took action to grant authority to the DEI Task Force to interview and recommend new members to the City Council for formal appointment. The distinction is not based on Task Force vs. Commission. Staff would need to do more research to provide a summary of the various processes referenced in the question and to explain the legislative record of how each practice came to exist.

Council Question:

Is this the process for Downtown TF and the potential Homeless TF?

Staff Response:

The process for appointing members to the Downtown TF is similar: new members are recommended by the DCTF and appointed by Council.

Regarding the potential Homeless Task Force, the purpose of tomorrow night's item is for the Council to have a policy discussion regarding the formation of a Homeless Task Force and discussion of what the membership may be. As noted in the Report to Council, the Staff Report provides suggestions (Destination Home, Bill Wilson Center, Abode Services, HomeFirst, Santa Clara County Office of Supportive Housing, and Community and Neighborhood Representatives) but staff is ultimately looking for Council direction about membership.

Agenda item 6B:

Council Question:

Do other homeless task forces in Milpitas and Fremont required members to submit form 700s and are they subject to the Brown Act? This seems like simply an advisory body that would provide recommendations to Council which would make decisions. What about Mountain View which seems to have really been proactive in tackling this problem? I would like to know how many members served on the task forces in those Cities and how they were selected. Were a TF to be established, what is the earliest that we could expect something like garbage bins or porta-potties to be distributed, given budget and approval turnaround times through Council meetings? Would this require 5 votes since this expense is outside of the existing budget. If so, where should the funds come from? Since an ad-hoc TF must be of limited duration and the homelessness issue is perpetual, I imagine this TF would roll into a more permanent Housing Commission. How then would we allow outside agency members?

Staff Response:

The above matters are policy discussions that the Council needs to advise staff on how to proceed, as the only issue is whether to have one or not and how to eliminate duplicative work since the Council had already directed a Housing Commission. Regarding the other questions above, staff can research the form 700 related questions and other jurisdictions' approaches and provide a response later. Staff will be prepared to answer other questions related to this item at the Council meeting.

Agenda item 6C:

Council Question:

Given that the BPAC is only advisory, why do its members have to comply with Brown Act and Form 700? Is it because a member might work for or have an investment in a paving company?

Staff Response:

The Conflict-of-Interest Code adopted last February (Res. No. 21-8939) does not list the BPAC among the bodies/commissions that are required to file a Form 700. Staff is unsure if/why the City may have required BPAC members to do so in the past. The Council does have the prerogative to amend the Conflict-of-Interest Code and require BPAC members to file Form 700 because BPAC members would likely be considered "public officials" who "participate in making or in any way...influence" a governmental decision" as those terms are defined under the Political Reform Act. (There is some nuance to the analysis, but the general idea is that simply labeling a body as "advisory" does not exempt it from the Political Reform Act if that body makes substantive recommendations over an extended period that are regularly approved by the Council, which appears to be the case with the BPAC).

As for the BPAC's status as a Brown Act body, that requirement is a straightforward application of the statutory definition of "legislative body" under Government Code 54952(b). (*"A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision making or advisory, created*

by charter, ordinance, resolution, or formal action of a legislative body.

Agenda item 6D:

Council Question:

For BPAC wasn't the desire to say that members would either live or work in Santa Clara?

Staff Response:

Under the existing Council Policy Guidelines, the BPAC members can either live or work in the City. Staff is not recommending changing this if/when an Introduction of an ordinance is brought back to Council to formalize the BPAC in the City Code.

Item 6C on the agenda covers this and if approved staff will eventually return to Council with an Introduction of an Ordinance that will add the BPAC to the City Code. There are two action items and one direction item related to Boards and Commissions on tomorrow's agenda:

1. Member Qualifications Ordinance – non-charter commissions will have a residency requirement rather than being a “qualified elector”. This does not include BPAC as an ordinance will be brought back at a later date to add BPAC and any applicable qualifications.
2. Housing Commission Ordinance - direct staff to create an ad hoc commission and adopt an ordinance formally establishing the housing commission.
3. Direction on BPAC Ordinance – recommendation that commission members live/work in Santa Clara. An ordinance amendment would be brought back if this is the direction that Council wants to go with the BPAC membership qualification.