



## Agenda Report

20-786

Agenda Date: 9/14/2020

### REPORT TO GOVERNANCE AND ETHICS COMMITTEE

#### **SUBJECT**

Review of Newly Added Planning Commission Policies and Procedures, and Direction Regarding Management of Agenda-Related Requests from Boards and Commissions

#### **BACKGROUND**

Section 2.120.020(a) of the Santa Clara City Code establishes the ability of Boards and Commissions to establish rules and regulations governing the election of their officers (e.g., Chair and Vice-Chair), the holding of meetings, and the conduct of business.

Section 2.120.020(f) requires Boards and Commissions to adhere to the policies promulgated by the City Council. Section 2.120.040 permits Boards and Commissions to utilize the services of City staff to carry out their business, subject to the administrative control of the City Manager.

The Planning Commission has Policies and Procedures which have been adopted by the Planning Commission to provide rules of conduct at Planning Commission meetings. The Planning Commission's Policies and Procedures appear to have been created on October 8, 1997, and modified over the years through Planning Commission vote. It does not appear that there was any process established for review or approval of the Commission's Policies and Procedures by either City Council or City Manager.

At the July 15, 2020 Planning Commission meeting, the Commission took action to edit its existing Policies and Procedures and add a new Policy and Procedure 2.12. Attachment #1 shows track changes where the edits were made. There was lengthy discussion on these edits, but ultimately, most of the edits were unanimously adopted by the Planning Commission, including the new Policy and Procedure 2.12. The new Policy and Procedure 2.12 sets procedures for the Planning Commission to add items to future Planning Commission agendas. As adopted, the Planning Commission Chair can make a verbal request to staff at the meeting to add future agenda items and other Planning Commissioners may send written requests to staff to add future agenda items.

This new Commission Policy 2.12 has brought to light the possible conflicts arising from the differing sections of the City Code referenced above; it is therefore recommended that the Governance and Ethics Committee review the new Commission Policy and provide direction with regard to possible revisions, as described further below.

#### **DISCUSSION**

Adoption of the new Planning Commission Policy and Procedure 2.12 requires review by the Governance and Ethics Committee to verify alignment with existing City Code requirements and City Council priorities. This new policy has implications for the City's very limited resources, and in particular the Community Development Department, regarding work program, staffing levels, and

capacity of staff to complete other City priorities as it may likely require commitment of staff time and organizational resources not previously assessed through the City Council priority setting process. Since July 15, 2020, staff has received requests from Planning Commissioners to add five items to future Planning Commission meeting agendas. At present, there is no Council Policy or Commission Policy that provides a process for the City Manager to perform the administrative review of such requests, particularly as it concerns allocation of a finite amount of staff resources. Staff work to address these requested new agenda items is on hold pending the direction from the Governance and Ethics Committee on how to proceed with such requests. Moreover, the recently enacted policy change does not place any clear parameters on the scope of possible new Planning Commission agenda items.

#### Alignment with City Council Priorities

At the start of each calendar year, the City Council participates in a City Council Priority Study Session, which provides the City Council an opportunity as a governing body to discuss City priorities, discuss any new goals and work program initiatives and to provide a policy framework within which the City will make future budget and resource decisions. The new Planning Commission Policy and Procedure 2.12 would potentially allow the Planning Commission to initiate new staff workplan items throughout the year, without City Council policy direction on these potential topics or City Manager input on whether limited staff resources should be expended on these items. While the Planning Commission is envisioned to play a significant role in shaping the City's land use decision making, their jurisdiction as defined in the City Code has been largely limited to the review of land use applications for which the Zoning Code requires a Planning Commission hearing and to provide input on the development of land use policies through zoning code updates, preparation of Specific Plans or other land use policy updates initiated by the City Council. If the Planning Commission adds new discussion items or policy initiatives that are outside of a Council-defined scope, those topics will need to be adequately researched by staff and have a report prepared before bringing them to the Planning Commission for discussion. It should also be noted that under the Commission's new policy, it is far easier for an individual member to add an agenda item to a Planning Commission meeting agenda than it is for a Councilmember to add an item to the City Council meeting agenda. This arrangement presents challenges for managing workload and appropriately responding to City Council priorities with the resources established by Council.

#### Employer Considerations

The City, as the employer, is governed by a civil service process and various labor agreements (Memorandum of Agreement or "MOA"). These legal processes and contracts define the City's working relationship with employees and provide for various rules regarding work schedules and workplace. The City must comply with these requirements and schedule workload and work hours accordingly. Below is a discussion expressing concern about how the City manages our limited resources going forward and, in particular, in light of reduced capacity arising from COVID-19 and increased development workload, in general.

Adding items to Planning Commission agendas requires at a minimum that Planning Division staff research topics for adequate discussion and would require additional time at meetings to allow for discussion on the topics. There are a minimum of twelve Planning Commission meetings annually with additional meetings scheduled for time critical projects. For instance, this calendar year, two special meetings were called to review Related Santa Clara's first two Development Area Plan phases. In addition, a special meeting was called to provide a training session to the Planning Commission on the costs of development.

Planning Commission meetings typically run four hours but are often longer as the meetings can begin earlier with study sessions or end later as the Commission receives substantial community input on significant and controversial land use issues that come before them. As Planning Commission meetings with regular business last four hours or more, additional meetings dates would likely need to be added to address any new agenda requests.

In addition to the Planning Manager, Development Review Officer, and Assistant City Attorney, Planning Division staff in Bargaining Units 5, 7, & 8 participate to oversee the meeting administration as well as lead technical planning work on current planning projects or long-range planning activity. Staff in Units 5, 7, & 8 must be provided overtime pay as well as meal benefit for work activities past 6:00 p.m. Given the City's fiscal situation created by the COVID-19 pandemic, the Finance Department has provided direction to use overtime sparingly and in very limited circumstances. As such, staff in Units 5, 7, & 8 typically flex the time they spend attending Planning Commission evening meetings throughout the work week to avoid incurring overtime. This can impact other business activity. In particular, it can reduce capacity to provide public information services to residents, businesses, and developers investigating properties for improvement or redevelopment. Also, attendance at Planning Commission meetings diverts staff time away from advancing projects on file to complete the City's development review process.

Like other departments, Community Development has several vacancies which are being held vacant to help mitigate the City's current fiscal condition. Adding workload that is not within Commission's ordinance-defined scope will further strain the Division's ability to meet performance expectations.

### Solutions

The City Council could consider requiring Council approved workplans for boards and commissions to ensure that items before these bodies are aligned to City Council Policy Priorities or develop a process for boards and commissions to submit policy priorities to the City Council Policy Priority Goal Setting Session. These types of solutions offer policy alignment, ensure Council's awareness of the City's full workload and manage our limited resources.

Considering that all Boards and Commissions, including the Planning Commission, should have a uniform process to provide input on City priorities, but setting priorities should ultimately be the prerogative of the City Council, the City could establish an annual opportunity at the end of the calendar year for boards and commissions to discuss new potential work program initiatives so that those requests could be presented to the City Council during its Priority Setting Study Session.

Should the City Council find policy alignment with specific requests, staff would be able to analyze staff time needed to undertake adding those new agenda topics, present that information to the City Council, and receive further direction from City Council to proceed with the new agenda requests.

Alternatively, the new agenda item requests from Boards and Commissions could be forwarded to the City Council periodically throughout the year for feedback on individual requests. A drawback to this approach is that City Council feedback would not be made in the context of weighing all potential new agenda items requested in that calendar year or in the context of all other city workplan activities.

Staff requests direction from the Committee as to the preferred approach for managing agenda

related requests from the Planning Commission. In addition, the Committee may want to consider providing direction on agenda management for other Boards and Commissions through an annual workplan review process.

Based on direction, staff can return to the Committee with a draft Council Policy that is consistent with the Committee's direction. The draft Council Policy, adopted by the City Council, could then be applicable to all Boards and Commissions, and would be included in the Boards and Commissions Handbook.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

### **FISCAL IMPACT**

There is no cost to prepare this item other than administrative time to assess and create the report; however, adding Planning Commission topics to future agendas will increase the need for additional staff resources to attend Planning Commission meetings and/or provide adequate research of requested new agenda topics.

### **COORDINATION**

This report was coordinated with the City Attorney's Office.

### **PUBLIC CONTACT**

Public contact was made by posting the Governance and Ethics Committee 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).

### **RECOMMENDATION**

Provide direction to staff on the Committee's desired approach to managing agenda related requests from Boards and Commissions.

Reviewed by: Reena Brilliot, Planning Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Planning Commission Policies and Procedures as Amended July 15, 2020
2. Santa Clara City Code §§ 2.120.020-2.120.040