



## Agenda Report

21-64

Agenda Date: 3/29/2021

### REPORT TO GOVERNANCE AND ETHICS COMMITTEE

#### SUBJECT

Review Formalization of the Bicycle and Pedestrian Advisory Committee

#### BACKGROUND

The Bicycle and Pedestrian Advisory Committee (BPAC) is an advisory body to the City Council on matters relative to modifying or expanding the City's recreational and commuter bikeway system. Its goal is to encourage recreational and commuter bicycling by promoting safe, convenient, well-designed facilities and by evaluating local bicycle-related projects. The BPAC's purpose, membership, and policies/procedures are established through City Council's past approval of the BPAC's Policy Guidelines (Attachment 1), with the most recent version being amended by City Council on March 25, 2014.

At the September 14, 2020 Governance and Ethics Committee (Committee) meeting, the Committee provided direction to staff regarding policy guidelines for the BPAC under Item 2 ("Discussion and Consideration of Approving a New Boards, Commission and Committee"). Although the City Council approved the formation of the BPAC and the BPAC Policy Guidelines, there is no City Code section addressing the BPAC. The Committee discussed an option that an ordinance be considered to clearly set forth the composition of the membership of the BPAC and the scope of the BPAC's jurisdiction. The Committee directed staff to bring back a recommendation on formalizing the BPAC through an ordinance, that reflects the input of both the Committee and the BPAC, to the December 7, 2020 Committee meeting.

To formalize the BPAC through amendments to the City Code, staff prepared a report for the BPAC's consideration that included the proposed changes to the City Code (to later be enacted by ordinance) and updated the BPAC Policy Guidelines to align with all other boards, commissions, and committees. At the October 26, 2020 BPAC meeting, staff presented the report, draft City Code amendments and draft policy guidelines revisions. The BPAC members provided numerous comments as individuals, declined to vote to approve or modify staff's recommendations, and formed a special BPAC Subcommittee to review the changes. Staff reviewed and incorporated changes to reflect comments shared by multiple BPAC members from the October 26, 2020 BPAC meeting. This included the BPAC's purpose to oversee encouragement programs as well as the maintenance of the bicycle and pedestrian transportation systems.

At the December 7, 2020 Governance and Ethics Committee meeting (Attachment 2), staff provided an update to the Committee on formalizing the BPAC and recommended deferral of the item based on the upcoming BPAC subcommittee review of the proposed changes to the City Code and BPAC Policy Guidelines. The Committee accepted staff's recommendation for deferral and directed staff to return to the Committee in March 2021 for further updates.

At the December 10, 2020 BPAC meeting, BPAC Subcommittee members provided individual reports to staff and the full BPAC. The BPAC Subcommittee stated they did not come to a full agreement on all their proposed changes or comments.

## **DISCUSSION**

In researching how to formalize the BPAC per the Committee's direction, staff has determined that several existing policies and procedures utilized by the BPAC are different than other boards, commissions, and committees. Some of these differences included the BPAC application/interview process, how members were appointed, and the term of office. In order to formalize the BPAC and make it more consistent with other Boards and Commissions changes are being proposed to the City Code (to later be enacted by ordinance) and the BPAC Policy Guidelines to align with all other boards, commissions, and committees. Below is a summary table (Table 1) for the existing and proposed procedures.

Table 1. Existing and Proposed BPAC Procedures

<b><i>Item</i></b>	<b><i>Existing BPAC Reference</i></b>	<b><i>Proposed BPAC Reference</i></b>	<b><i>Other Boards Commissions, Committees</i></b>
Purpose	BPAC Policy Guidelines	City Code Chapter 2.120	City Code Chapter 2.120
Membership and meeting rules	BPAC Policy Guidelines	BPAC Policy Guidelines referencing City Charter Article X	City Charter Article X
Membership appointment	Public Works solicits applications and BPAC reviews applications, conducts interviews and makes recommendations for Council approval	BPAC Policy Guidelines referencing City Clerk procedures and Council interviews applicants	City Clerk procedures and Council interviews applicants

At the January 25, 2021 BPAC meeting (Attachment 3), staff presented updated draft City Code amendments and draft policy guidelines revisions based on past discussions for final BPAC consideration.

The draft City Code amendments are related to City Code Chapter 2.120 and will establish the existence and purpose of the BPAC. Including the BPAC within the City Code will provide consistency with how other Boards, Commissions, and Committees have been established.

The draft revisions to the BPAC's Policy Guidelines will change procedures to follow rules established within City Charter Article X ("Appointive Boards and Commissions"), except for electing its own Chair, and to follow the City Clerk's procedures to appoint members.

The BPAC voted in support of the recommended draft City Code amendments and draft policy

guidelines revisions with four requested changes.

1. Member Eligibility - BPAC members to be at least 18 years of age, live or work in the City, and do not have to be a qualified elector of the City.
2. Applications and Appointments - the BPAC to review membership applications, interview applicants, vote for applicants, and make recommendations to Council
3. BPAC Chair - the BPAC to elect their own Chair instead of the Chair being a Councilmember
4. Meetings - the BPAC to have a minimum of 8 meetings, 12 preferred, each year

These four requests were discussed at the meeting and below is more information on the request as well as a staff recommendation for each item.

1. Member Eligibility - Staff reviewed the BPAC's request not to change member eligibility requirements which include living or working in the City and not having to be a qualified elector of the City. This is the current practice of the BPAC and has been in use since the committee's creation in 1991. It is also in alignment with the Metropolitan Transportation Commission (MTC), which requires the creation of a BPAC, and stipulates members may live or work in the City. However, the BPAC did recommend adding a new requirement that members be at least 18 years of age. Staff supports the change requested by the BPAC since members do not need to be qualified electors. Allowing members who live or work in the City may capture more input from those who directly utilize City bicycle and pedestrian facilities which provides additional perspectives and valuable input to the committee. Therefore, staff updated the draft City Code amendment and recommends incorporating this request.
2. Applications and Appointments - Staff reviewed the BPAC's request for the committee to review membership applications, interview applicants, vote for applicants, and make recommendations to Council. As shown in Table 1, the BPAC is the only City board, commission, or committee that does not follow the City Clerk's procedures and rules. The intent of revising the BPAC Policy Guidelines is for BPAC to align more with all other boards, commissions, and committees. In addition, this nuance proved to be a point of controversy amongst the group when the BPAC recently interviewed and voted for new members and conflict of interest issues were raised. Making the BPAC process consistent with the other boards and commissions will help to alleviate these types of issues in the future. Based on this information staff did not support the request and it is not included in the proposed revisions.
3. BPAC Chair - Staff reviewed the BPAC's request to elect its own Chair. Currently a Councilmember serves as Chair, helps clarify the role of the BPAC, and runs meetings in an orderly manner. This has proved to be very valuable in trying to keep meetings focused, manage the agenda, inform members of Council Policy, and remind the BPAC members of their roles. Since the current members of the BPAC interviewed themselves, staff feels that it is essential to have a Councilmember in the role of the BPAC Chair. However, if changes are implemented and the BPAC members are eventually composed of members interviewed and appointed by Council, this request could be reconsidered. Staff would only recommend reconsidering this request once all the members of the BPAC are comprised of members who were appointed by Council.

4. Meetings - Staff reviewed the BPAC's request to increase the number of meetings each year from five to a minimum of eight. This request has been made previously, but budget and staffing levels were unable to support the request. Typical meetings average a duration of five hours and require additional upfront work to set agendas, prepare reports, respond to comments and requests, and prepare minutes. Currently, the Public Works Traffic Division has staffing levels sufficient to support the five (5) meetings stated in the policy guidelines. Recently, 22% of the staffing budget was reduced to reach targeted budget savings and it is challenging for staff to support the five planned meetings. Additional meetings will result in a workload that will far exceed the capacity of available resources and would have a significant impact on workload resulting in delays to other duties, such as traffic inquiries/complaints, construction permits, land development applications, analysis, reports and capital projects. Based on this staff is unable to support the request.

Based on this information staff has updated the proposed changes to the City Code and BPAC Policy Guidelines and is recommending the Committee to recommend them for Council approval. See Attachment 4 (clean version with changes) and Attachment 5 (shown in track changes) for the recommended draft City Code amendments. See Attachment 6 (clean version with changes) and Attachment 7 (shown in track changes) for the recommended draft revisions to the BPAC Policy Guidelines.

#### **ENVIRONMENTAL REVIEW**

There is no environmental impact anticipated with this report.

#### **FISCAL IMPACT**

There is no fiscal impact anticipated with this recommendation.

#### **COORDINATION**

This report was coordinated with the City Manager's Office, City Attorney's Office, and City Clerk'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) or at the public information desk at any City of Santa Clara public library.

#### **RECOMMENDATION**

1. Recommend that the City Council enact an ordinance to amend the City Code as shown in Attachment 4 to define the purpose of the Bicycle and Pedestrian Advisory Committee; and
2. Recommend that the City Council approve revisions to the Bicycle and Pedestrian Advisory Committee Policy Guidelines as shown in Attachment 6.

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Existing BPAC Policy Guidelines, 2014
2. Governance and Ethics Committee December 7, 2020 meeting, Report 20-991 Regarding BPAC
3. BPAC January 21, 2021 meeting, Report 21-1332 Regarding Governance
4. Proposed City Code Amendments (clean)
5. Proposed City Code Amendments (track changes)
6. Proposed BPAC Policy Guidelines Revisions (clean)
7. Proposed BPAC Policy Guidelines Revisions (track changes)