



## Agenda Report

21-785

Agenda Date: 11/9/2021

### REPORT TO COUNCIL

#### SUBJECT

Action on Formalization of the Bicycle and Pedestrian Advisory Committee

#### COUNCIL PILLAR

Enhance Community Engagement and Transparency

#### 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. The BPAC's goal is to encourage recreational and commuter bicycling by promoting safe, convenient, well-designed facilities and by evaluating local bicycle-related projects. The purpose, membership, and policies/procedures were established through City Council's past approval of the BPAC's Policy Guidelines, with the most recent version being amended by City Council on March 25, 2014 (Attachment 1).

The Governance and Ethics Committee (Committee) provided direction to staff at the September 14, 2020 meeting to formalize policy guidelines for the BPAC. Although the City Council approved the formation of the BPAC and the BPAC Policy Guidelines, there is no City Code section specifically addressing it. The Committee requested that an ordinance be considered to amend the City Code to clearly set forth the composition of the membership and the scope of the BPAC's jurisdiction. The Committee directed staff to bring back a recommendation on formalizing the BPAC through a draft ordinance that reflected the input of both the BPAC and the Committee.

Over the course of the next six months staff engaged the BPAC on multiple occasions to provide a framework for the proposed ordinance and solicit feedback from members. These engagements took place on October 26, 2020, December 10, 2020, and January 25, 2021. During these meetings the proposed changes to the City Code were refined and the BPAC policy guidelines were updated to align with all other City Boards, Commissions, and Committees. The BPAC also formed a special Subcommittee to review the changes and provide further input and recommendations.

At the March 29, 2021 Governance and Ethics Committee meeting (Attachment 2), staff presented the updated draft City Code amendments, draft policy guideline revisions, and analysis of BPAC's requested changes. The Committee discussed several topics, including:

1. Removing qualified elector requirements for other boards and commissions;
2. Requiring members of BPAC to file Form 700;
3. Whether or not the Chair should be a Councilmember or a BPAC member;
4. Possibly creating a new BPAC Advisory Committee to specifically advise and discuss bicycle and pedestrian topics. The new advisory committee would not be members but would report to the BPAC. This would not require additional staff support;

5. Reducing the number of BPAC members and discussion about having representation in Council Districts; and
6. Whether BPAC should continue to interview applicants to fill vacancies or if Council should interview and select similar to other Boards and Commissions.

### **DISCUSSION**

In researching how to formalize the BPAC per the Committee's direction, staff has determined that several existing BPAC policies and procedures are different than other City Boards, Commissions, and Committees. Some of these differences include the BPAC application and interview process; how members are appointed; and the term of office. In order to formalize the BPAC to make it more consistent with other Boards and Commissions, changes are being proposed to the City Code (to be enacted by ordinance) and the BPAC Policy Guidelines to align with all other Boards, Commissions, and Committees. Table 1 below summarizes the existing and proposed BPAC 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 and Membership	BPAC Policy Guidelines	City Code Chapter 2.120	City Code Chapter 2.120
Membership term and meeting rules	BPAC Policy Guidelines	City Charter	City Charter
Membership appointment	Public Works solicits applications, BPAC interviews applicants and recommends appointments to Council	City Clerk procedures and Council interviews and appoints applicants	City Clerk procedures and Council interviews and appoints applicants

The draft City Code amendments relate to City Code Chapter 2.120 Boards and Commissions and will establish the existence, purpose, and membership of the BPAC. Including the BPAC within the City Code will make it consistent with how other Boards, Commissions, and Committees have been established. The draft revisions to the BPAC Policy Guidelines will modify procedures to follow membership terms and meeting rules established within the City Charter and to follow the City Clerk's procedures to appoint members.

At the March 29, 2021 Governance and Ethics Committee meeting, the Committee did not vote on the draft policy guidelines or draft City Code amendments, but did vote on the following:

- Member Eligibility - BPAC members 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.
- Membership - BPAC to consist of seven members instead of nine and phase in this change so no current member loses their position during the current term.
- Applications and Appointments - Council to consider whether to continue having BPAC interview applicants, vote for applicants, and make recommendations to Council; or whether Council should interview applicants and make selections similar to other Boards and Commissions

- BPAC Chair - Council to consider whether to continue the practice of having a Councilmember Chair, or whether BPAC should elect their own Chair from the seven members.

Additional information on these changes, as well as a staff recommendation for each item, are provided below.

#### Member Eligibility

Both the BPAC and the Committee requested that the draft City Code amendment state that members shall be at least 18 years of age and live or work in the City. Therefore, unlike other Boards and Commissions, BPAC members would not have to be a qualified elector of the City. This requirement is in alignment with the Metropolitan Transportation Commission (MTC) Resolution requiring the City to create a BPAC and is similar to the current practice of the BPAC; however, the BPAC did recommend adding a new requirement that members be at least 18 years of age.

Upon review, 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 BPAC. Therefore, staff supports incorporating this request into the draft City Code amendment.

#### BPAC Membership

The Committee discussed options for reducing the number of BPAC members to either seven or five. Ultimately, the Committee voted to recommend reducing BPAC membership from nine members to seven. The Committee also recommended “grandfathering” in existing members until the expiration of current terms.

Upon reviewing the number of BPAC members in neighboring cities of similar size, staff confirmed the following: the cities of Milpitas and Mountain View have five members and the city of Sunnyvale has seven members. Based on this information staff supports incorporating this request to limit BPAC members to seven in the draft City Code amendment.

#### Applications and Appointments

The BPAC requested that they continue to review membership applications, interview applicants, vote for applicants, and make recommendations for appointments to Council. The Governance and Ethics Committee members discussed the appointment process but had no preference on whether the City Council or BPAC should interview applicants.

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 for member appointments. The intent of revising the BPAC Policy Guidelines is for BPAC to align more with other City 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 potential 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. Staff reviewed neighboring cities of similar size and the process for selecting members in Mountain View, Milpitas, and Sunnyvale involves the mayor and/or councilmembers interviewing and approving BPAC members.

Upon review, the establishment and purpose of BPAC is similar to other Boards, Commissions, and Committees. Staff recommends draft revisions to the BPAC Policy Guidelines that Council interview and select BPAC applicants to follow the City Clerk's procedures and rules for appointments to align with other Boards, Commissions, or Committees.

#### **BPAC Chair**

The BPAC requested to elect its own Chair, similar to how the Chair of the Planning Commission is appointed. Currently a Councilmember serves as Chair of the BPAC and this has proved helpful to frequently clarify the role of the BPAC to members, and to run meetings in an efficient, orderly manner. This has been very valuable in keeping meetings focused, managing the agenda, informing members of Council Policy, and reminding the BPAC members of their roles.

Since the current members of the BPAC were not interviewed by Council, staff does not support making this change now and feels that it is essential to have a Councilmember in the role of BPAC Chair to run meetings in an efficient and orderly manner. However, if Council approves the recommendation that Council should interview and select BPAC applicants, then staff recommends reconsidering BPAC's request to select its own Chair in July 2025. At that time, all the members of the BPAC will be comprised of those who were interviewed and selected by Council.

#### **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 Council 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) <<mailto:clerk@santaclaraca.gov>>.

#### **ALTERNATIVES**

1. Modify BPAC membership eligibility and require that applicants must be at least 18 years of age and live or work in the City.
2. Modify BPAC membership eligibility and require that applicants must be qualified electors of the City (at least 18 years of age and a citizen who lives in the City).
3. Reduce the number of BPAC members from the current maximum of nine members to seven members and phase in this change so no current member loses their position during the current term.
4. Do not modify the maximum number of BPAC members.
5. Modify how BPAC members are interviewed and appointed similar to other Boards and Commissions by having Council interview applicants and make selections.

6. Do not modify how BPAC members are interviewed and appointed and continue to have BPAC interview applicants, vote for applicants, and make recommendations to Council.
7. Continue to require that a Councilmember chair the BPAC.
8. Remove the requirement that a Councilmember chair the BPAC and allow the BPAC to select its own chair in July 2025 once all members of the BPAC are comprised of those who were interviewed by Council.
9. Direct staff to bring an ordinance and revised BPAC Policy Guidelines formalizing the BPAC for Council consideration.

### **RECOMMENDATION**

Alternatives 1, 3, 5, 7 and 9:

1. Modify BPAC membership eligibility to require that applicants must be at least 18 years of age and live or work in the City;
3. Reduce the number of BPAC members from the current maximum of nine members to seven members and phase in this change so no current member loses their position during the current term;
5. Modify how BPAC members are interviewed and appointed similar to other Boards and Commissions by having Council interview applicants and make selections;
7. Continue to require that a Councilmember chair the BPAC; and
9. Direct staff to bring an ordinance and revised BPAC Policy Guidelines formalizing the BPAC for Council consideration.

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 March 29, 2021 meeting, Report 21-64
3. Draft Ordinance
4. Revised Draft BPAC Policy Guidelines (clean)
5. Revised Draft BPAC Policy Guidelines (with redlines)