



DATE: March 6, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Eric Danly, City Attorney
Brian Oh, Community Development Director

SUBJECT: Resolution Rescinding Resolutions No. 2021-014 and No. 2023-017 N.C.S. Appointing Members to the General Plan Advisory Committee to Allow Members to Volunteer to Continue Serving and Permit Continued Virtual GPAC Meetings Following Rescission of the COVID-19 State of Emergency which Will End the More Permissive AB 361 Teleconference Rules and Finding that this Action is not a “Project” Pursuant to CEQA Guidelines Section 15378(b)(5)

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution rescinding Resolutions No. 2021-014 N.C.S. and No. 2023-017 N.C.S. and make a finding that this action is not a “project” pursuant to CEQA Guidelines Section 15378(b)(5).

BACKGROUND

The General Plan Advisory Committee (GPAC) is a committee appointed by, and advisory to, the Petaluma City Council to broadly represent the community and provide input regarding the General Plan update process. The GPAC was established by the City Council on January 25, 2021, with Resolution 2021-014, which appointed 21 community members to serve on the GPAC through the General Plan development process. Since January 25, 2021, five GPAC members have resigned because they had moved outside City limits or were elected to the City Council. Accordingly, on February 6, 2023, City Council adopted Resolution No. 2023-017 which appointed five new members to the GPAC.

The GPAC offers diverse perspectives and provides feedback to staff and the consultant team on the development of the City’s new General Plan. While the GPAC is not a decision-making body, staff utilize the committee’s input to inform the General Plan development process and preparation of draft documents for review by other advisory bodies such as the Planning Commission and ultimately for review by the City Council. The GPAC meets monthly on the third Thursday of each month at 6:30 p.m. The General Plan update process, including environmental review, is currently anticipated to conclude in early 2024. The GPAC has no enabling legislation governing its structure or operations.

The Ralph M. Brown Act (Brown Act) has long allowed for meetings via teleconferencing subject to certain requirements, including that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. (Government Code Section 54953(b)(3)). In response to the COVID-19 pandemic, Governor Newsom signed Assembly Bill 361 (AB 361), which provides relaxed procedures for teleconference meetings without requiring public access to the locations from which legislative body members are participating by teleconference. AB 361 teleconferencing procedures apply when a state of emergency exists as declared by the Governor and the local legislative body makes certain factual findings regarding the state of emergency, including that meeting in-person would present imminent risks to the health or safety of attendees. AB 361 requires local legislative bodies to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to AB 361, and to make those findings every 30 days thereafter, in order to continue to use the relaxed teleconferencing procedures.

Governor Newsom has rescinded the COVID-19 emergency order effective February 28, 2023, which means all City committees, commissions, and board members (CCBs) can no longer rely on the relaxed teleconferencing rules of AB 361 after that date. Accordingly, to comply with the Brown Act, members of CCBs that are subject to the Brown Act, including GPAC members, are required to either meet in person or allow the public to participate at their teleconference location pursuant to Government Code Section 54953(b)(3).

Staff have been concerned that if the GPAC is no longer able to utilize the relaxed AB 361 teleconferencing rules, that some members may no longer be able to participate. Staff surveyed GPAC members following the February 16, 2023 GPAC Meeting on their desire and ability to participate in in-person meetings. 20 of the 21 members responded. 60% of GPAC respondents prefer to continue meeting virtually, while 40% would like to meet in person. When asked whether or not it was possible for members to meet in person, six of the respondents (30%) said they would not be able to meet in person. Members who are not able to transition to in-person meetings state that this is due to a variety of considerations including required travel, need to care for family members or children, health concerns, or scheduling constraints. Several GPAC members stated that they feel that virtual or hybrid meetings allow for more equitable access. Other members believe that in-person meetings may yield stronger group cohesion or discussion. GPAC members also pointed out the difficulty of fitting the GPAC into the Council Chambers.

It is a practical concern that since the GPAC is a 21-member body, there is no City facility that is currently configured for holding a recorded meeting of a body subject to the Brown Act with so many members. For example, the City Council chambers is not configured for so many legislative body members, and the Petaluma Community Center does not have the equipment necessary for hosting a recorded meeting in accordance with the Brown Act. Rescinding the resolutions appointing GPAC members will not preclude GPAC's ability to meet in-person, if it finds it may be necessary for field and site visits, or other targeted activities.

DISCUSSION

The participation of dedicated GPAC members and members of the public has been an extremely valuable resource in support of preparation of draft General Plan documents, including studies and policy documents, that will be presented for advisory body review and for the City Council's ultimate determination regarding adoption. To preserve the City's ability to continue benefiting from the helpful and important input of the GPAC members and the members of the public participating in the GPAC conversations with maximum continuity of participation once relaxed teleconferenced meetings are no longer permitted, and to permit GPAC members to continue to meet remotely, staff recommends that the City Council rescind resolutions no. 2021-14 and 2023-17 by which the City Council appointed the current GPAC members..

Under the Brown Act, creation of a body "by charter, ordinance, resolution, or formal action" results in the creation of a "legislative body" subject to the Brown Act and its teleconferencing rules, unless an exception applies. (Government Code Section 54952). The GPAC was created by "formal action" on January 25, 2021, with Resolution No. 2021-014 which appointed members to serve on the GPAC. As currently constituted, no exceptions apply to the GPAC and it is a body subject to the Brown Act.

Rescission of Resolution No. 2021-014 and Resolution No. 2023-017, which appointed five members to fill the five vacant seats on GPAC, would mean that the GPAC will no longer be a "legislative body" under the Brown Act. In that case, the 21 appointments by formal Council action would no longer be in effect. The GPAC members that are willing and able could volunteer to continue serving as they have, and the City need not comply with the Brown Act's teleconferencing rules and could allow GPAC volunteers to continue to meet remotely via Zoom as they have been.

Please note that staff are not recommending any changes to the current practices for supporting GPAC meetings. If the Council approves of the staff recommendation, staff recommend that all the current practices regarding GPAC meetings continue, including: publicly noticing GPAC meetings, permitting members of the public to participate in the meetings virtually, staff assisting with facilitation of the meetings and presentations by consultants and others, and discussion among GPAC members and other meeting participants, etc. Converting the GPAC to an informal volunteer group does not preclude the City from continuing to hold GPAC meetings in most respects as if the Brown Act applied to maximize the transparency of and public participation in the GPAC conversations.

PUBLIC OUTREACH

This item was noticed in compliance with the Brown Act.

COUNCIL GOAL ALIGNMENT

This agenda item is directly related City Council Goals and Priorities. The General Plan will allow the City to further all of the goals in the Goals and Priorities document by enabling the community and decision makers to think about how to accomplish the goals in the most impactful and efficient way possible over the long term, then establishing the framework to facilitate appropriate actions.

Workplan item 192 reads, “Begin planning for update of the City’s General Plan 2025.” The GPAC will be a significant element of the General Plan community engagement. Objective 3 reads, “Maximize all opportunities to be transparent, effectively inform, and meaningfully engage our community through innovation, accessibility, and excellent customer service.” Workplan item 29 reads, “Establish a centralized, citywide community engagement and communications program that emphasizes two-way, ongoing communications and robust community engagement.”

CLIMATE ACTION/SUSTAINABILITY EFFORTS

A comprehensive update to the City’s General Plan is a key climate action and sustainability project. Workplan item 204 in the Petaluma Goals and Priorities document reads, “Integrate climate action, environmental justice and public health improvements throughout the General Plan document and include elements and/or extensive discussion (including community and expert discussion) and metrics for Environmental Justice, Climate and Healthy Communities so that all planning and land use related CEF [Climate Emergency Framework] goals and objectives are fully developed and embodied in the General Plan. As part of the General Plan process develop and adopt a Climate Action Plan that contains the actions the City shall take and ask the community to undertake over the life of the General Plan towards meeting the CEF goals. Ensure equitable new development by revising building and development codes, and other relevant City policies to apply climate-action equity priorities fairly across the board concurrently or in advance of the General Plan update process.”

ENVIRONMENTAL REVIEW

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378(b)(5), in that rescinding resolutions appointing General Plan Advisory Committee members does not meet CEQA's definition of a “project,” because the action does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because the action constitutes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment and is exempt pursuant to Section 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an emergency.

FINANCIAL IMPACTS

Adoption of the proposed resolution would have no direct financial costs. Adoption of the proposed resolution can help avoid costs that may otherwise be necessary to accommodate in-person, recorded meetings of a large body comprised of more than 20 members.

ALTERNATIVES

If the proposed resolution is not adopted the members appointed to the GPAC will be required to meet in person or to satisfy the Brown Act teleconferencing regulations to participate remotely.

ATTACHMENTS

1. Resolution