

SUBJECT: Consider whether to change the Planning Commission's alternate representative for the Downtown Specific Plan Update Task Force based on recent advice from the Fair Political Practices Commission

BACKGROUND

At its July 19, 2016 meeting, the City Council authorized an update to the Downtown Specific Plan and the creation of a ten member Task Force to guide that process.¹ Thereafter, in August 2016, the City Attorney's Office, at the request of City officials, began correspondence with the Fair Political Practices Commission (FPPC) staff counsel regarding Task Force membership and potential financial conflicts of interest under the State's Political Reform Act.

At its September 14, 2016 meeting, the Planning Commission appointed two members (Nancy Allen and Herb Ritter) and one alternate (Justin Brown) to serve on the Task Force. The Task Force membership was subsequently ratified by the City Council at its October 4, 2016 meeting.

Based on informal email correspondence with the FPPC on August 16, 2016, November 8, 2016, December 2, 2016, and December 28, 2016, it was determined that financial conflicts of interest required that replacement appointees to the Task Force be selected for one of the representatives for the Planning Commission (Nancy Allen) and one representative from the Economic Vitality Committee (Olivia Sanwong). Subsequently, at its December 14, 2016, meeting, the Planning Commission appointed Commissioners Brown and Ritter to the Task Force, and appointed Commissioner David Nagler as an alternate. The Economic Vitality Committee appointed Sylvia Tian as its alternate representative. These replacement representatives were ratified by the City Council on January 17, 2017.

On May 22, 2017, staff counsel from the FPPC responded to an April 12, 2017 request by Commissioner Allen and City Attorney Dan Sodergren requesting further evaluation of Commissioner Allen's potential conflict of interest.² The FPPC opined that Commissioner Allen may participate in and vote on decisions relating to the Downtown Specific Plan update despite having an interest in her jewelry making business and receiving income for the sale of her jewelry from Studio Seven Arts at 400 Main Street.

The FPPC has also provided formal written advice that Councilmember Karla Brown may participate in decisions involving the Downtown Specific Plan, and separate written formal

¹ The Task Force has ten (10) representatives comprising: (A) two Council Members and one alternate; (B) two Planning Commissioners and one alternate; (C) two Pleasanton Downtown Association members and one alternate; (D) one Economic Vitality Committee member and one alternate; and (E) three at-large members.

² This request for formal advice was spurred, in part, from formal advice received by Councilmember Brown where the FPPC staff counsel stated that she may participate in decisions involving the Downtown even though she receives income from Berkshire Hathaway Home Services, which has an office in the Downtown.

advice that Park & Recreation Commissioner Bryan Bowers may attend and speak at meetings of the Planning Commission, Downtown Specific Plan Task Force and City Council regarding the Downtown (but not participate if matters involving the Downtown Specific Plan come before his own Park & Recreation Commission).

More recently, a request for formal written advice was sent on June 2, 2017 to the FPPC by the City Attorney's office on behalf of Commissioner Jack Balch asking if he may participate in decisions involving the DTSP.

DISCUSSION

A Planning Commissioner requested that staff agendaize re-appointment of an alternate member to the Downtown Specific Plan Task Force given the FPPC's recent formal advice regarding Commissioner Allen's ability to participate in the planning process.

Even if Task Force representatives are not changed, Commissioner Allen will still be able to provide her input, recommendations, and vote as Downtown Specific Plan issues come before the Planning Commission.

The Downtown Specific Plan Update Task Force began meeting on January 24, 2017 and has also met on March 28, 2017, April 25, 2017, and May 23, 2017. Its next meeting is scheduled for June 27, 2017.

STAFF RECOMMENDATION

Staff recommends that the Commission consider whether it would like to change its alternate representative to the Downtown Specific Plan Update Task Force, subject to City Council ratification. If so, the Planning Commission should recommend a new alternate representative.

*Questions: Dan Sodergren, City Attorney, (925) 931-5024 for questions about conflicts of interest
Shweta Bonn, Senior Planner, (925) 931-5611 for questions about the Downtown Specific Plan Update Taskforce*