



Report to City Council

TO: Mayor and City Council

FROM: Steven B. Quintanilla, City Attorney
Sean Kelleher, Assistant City Manager

AGENDA DATE: June 18, 2024

TITLE: RESOLUTION SETTING ASIDE RESOLUTIONS 2021-46 AND 2021-47 AND ORDINANCE REPEALING ORDINANCE NO. 981 (REPORT BY: CITY ATTORNEY)

TITLE SUMMARY: A Resolution setting aside Resolutions 2021-46 and 2021-47 and Ordinance repealing Ordinance No. 981 related to the approval of MoVal 2040 General Plan Update and Climate Action Plan and related Zoning Ordinance Amendment and Final Program Environmental Impact Report

Recommendation(s)

That the City Council:

1. Adopt Resolution [next in order] Setting Aside Resolution Nos. 2021-46 and 2021-47 related to the certification of the Final Program EIR (State Clearinghouse No. 20200039022) and approval of the MoVal 2040 General Plan Update and Climate Action Plan: and
2. Introduce and subsequently adopt Ordinance No. [next in order] repealing Ordinance No. 981 related to the Zoning Ordinance Amendment for the MoVal 2040 General Plan Update.

SUMMARY

This action is required by the Writ issued by Hon. Judge Firetag of the Superior Court of Riverside County.

BACKGROUND

On July 11, 2006, the City Council adopted a General Plan and associated zoning (“2006 General Plan”) and certified the related Final Program Environmental Impact Report (“EIR”). The 2006 General Plan and certified EIR were not subject to any litigation challenge.

In 2016, the City Council initiated a process to update the 2006 General Plan. Thereafter, on June 15, 2021, after nearly five years of community engagement through multiple public workshops and public meetings, CEQA review which included the preparation of numerous professional and technical studies, several meetings with various trustee and responsible agencies, etc., the City Council adopted Resolution No. 2021-46 certifying the Final Program EIR (State Clearinghouse No. 2020039022) for the MoVal 2040 General Plan Update and Climate Action Plan, and adopting Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program under the California Environmental Quality Act (“CEQA”). In addition, the City Council, on June 15, 2021, adopted Resolution No. 2021-47 approving the MoVal 2040 General Plan Update (PEN19-0240), the Climate Action Plan, and the Climate Action Plan Appendices, which had the effect of superseding the 2006 General Plan. On June 15, 2021, the City Council also voted to introduce (First Reading) Ordinance No. 981, which the City Council thereafter adopted (Second Reading) on August 3, 2021.

Ordinance No. 981 adopted Municipal Code Zoning Ordinance Amendment (PEN21-0030) which established new zones to implement the newly established MoVal 2040 General Plan land use designations and approved the related Zoning Ordinance and Official Zoning Atlas amendments which also addressed consistency with the MoVal 2040 General Plan Update and the March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan.

On July 15, 2021, the Sierra Club filed a Verified Petition for Writ of Mandate and Complaint for Declaratory Relief in the Riverside County Superior Court (Case No. CVRI2103300) challenging the City’s decision to certify the Final Program EIR and adopt the MoVal 2040 General Plan Update, Climate Action Plan, and Zoning Ordinance Amendment (Resolution Nos. 2021-46 and 2021-47, and Ordinance No. 981). Thereafter, on June 21, 2022, the Attorney General intervened in the case, and on July 11, 2022, the Attorney General filed a Petition for Writ of Mandate-in-Intervention.

On March 5, 2024, after briefing and a hearing, Hon. Judge Chad Firetag of the Superior Court of Riverside County issued a Statement of Decision (“Ruling”) on the Petitions of the Sierra Club and Attorney General, which granted in part and denied in part the Petitions for the reasons stated in the Ruling. Thereafter, on May 6, 2024, the Court entered a Judgment for the reasons stated in the Ruling, and directed that a Peremptory Writ of Mandate (“Writ”) issue ordering the City to set aside Resolution No. 2021-46 (Certifying the EIR, Adopting Findings of Fact, Approving a Statement of Overriding Considerations, and Approving a Mitigation, Monitoring and Reporting Program), Resolution No. 2021-47 (Approving the General Plan Update and Climate Action Plan and Adopting Related Findings), and Ordinance No. 981 (approving Zoning Ordinance Amendment PEN2021-0030 and Adopting Related Findings).

On May 6, 2024, the Court Clerk also issued the Writ commanding, upon receipt, that the City set aside Resolution No. 2021-46, Resolution No. 2021-47, and Ordinance No. 981, within forty-five (45) days of service of the Writ, which was served on the City on May 20, 2024.

CEQA ANALYSIS

Approval of this Resolution No. 2024-XX does not constitute a “project” under the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Code section 21080(a) and State CEQA Guidelines section 15378 as the City has a mandatory duty to comply with the Writ and state law, and since approval of this Resolution does not have the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Moreover, pursuant to State CEQA Guidelines section 15061(b)(3), the approval of this Resolution No. 2024-XX is exempt from CEQA because there is no possibility that it may have a significant effect on the environment.

ALTERNATIVES

1. Approve the recommended actions as presented in this staff. *Staff recommends this alternative since it is required by the Court.*
2. Do not approve the recommended actions as presented in this staff report. *Staff does not recommend this alternative since it could result in additional litigation.*

FISCAL IMPACT

There should not be any immediate fiscal impact associated with this particular item, other than bringing closure to the litigation.

NOTIFICATION

Public notice of this item was provided via posting of this Staff Report, Resolution and Ordinance via posting of the agenda packet on the City’s website at least 72 hours prior to today’s City Council meeting.

PREPARATION OF STAFF REPORT

Prepared By:
Steven B. Quintanilla
City Attorney

Concurred By:
Sean Kelleher
Assistant City Manager

CITY COUNCIL STRATEGIC PRIORITIES

1. Economic Development
2. Public Safety
3. Library
4. Infrastructure
5. Beautification, Community Engagement, and Quality of Life
6. Youth Programs

See the Discussion section above for details of how this action supports the City Council's Strategic Priorities.

Report Approval Details

Document Title:	STAFF REPORT_SETASIDE_GPU.docx
Attachments:	- SET ASIDE RESOLUTION.pdf - SET ASIDE ORDINANCE.pdf
Final Approval Date:	Jun 20, 2024

This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Steve Quintanilla was completed by workflow administrator Patty Rodriguez

Steve Quintanilla

Natalia Lopez

Launa Jimenez

Brian Mohan

Mike Lee

Jane Halstead