

## CITY COUNCIL OF THE CITY OF NOVATO

## RESOLUTION NO. 2021-027

RESOLUTION RESCINDING, AMENDING AND RESTATING  
RESOLUTION NO. 72-07 TO INCREASE MEMBERSHIP OF  
THE POLICE ADVISORY AND REVIEW BOARD FROM FIVE  
MEMBERS TO UP TO SEVEN MEMBERS

WHEREAS, the City of Novato created the Police Advisory Review Board by ordinance in August 1992, to advise on Police Department policy and appeals to investigate citizen complaints; and

WHEREAS, the City Council of the City of Novato determined that in general, City Boards and Commissions should be established by resolution to provide more flexibility to change aspects of the enabling legislation and administration of the boards; and

WHEREAS, by Resolution No. 43-00, the City Council reestablished and continued the Police Advisory and Review Board; and

WHEREAS, at the September 13, 2005 City Council affirmed that the Committee could meet on an “as needed” basis and adopted Resolution 115-05; and

WHEREAS, at a workshop held on May 14, 2007, the City Council directed staff to prepare and bring back for Council consideration those documents necessary to decrease the number of Board Members from seven to five and on May 22, 2007, the City Council adopted Resolution No. 72-07 rescinding, amending and restating Resolution No. 115-05; and

WHEREAS, at its meeting of April 27, 2021, the City Council expressed desire to increase membership of the board to allow for increased participation, and directed staff to prepare documents necessary to increase the number of Board Members from five to up to seven members.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Novato does hereby resolve that Resolution No. 72-07 is rescinded, amended and restated in its entirety to read as follows:

**Police Advisory and Review Board****1. Created and Defined.**

The Novato Police Advisory and Review Board is created and reestablished. The term “Board” shall refer to the Novato Police Advisory and Review Board.

**2. Purpose and Objectives.**

The General purpose of the Board is to provide for community participation in Police Department policies, procedures and practices. Further, the Board may recommend the

establishment of educational police/community relations programs. The Board may, in certain cases, conduct investigations into citizens complaints.

**3. Number of Members – Appointment Procedure.**

Said Board shall consist of up to seven members who shall be appointed by the City Council. All members but one member shall be residents of the City of Novato. One member may live within the three zip code areas designated for Novato. No officer or employee of the City shall be appointed to the Board. No member of the Board shall receive any compensation for serving on the Board.

**4. Term of Office and Filling of Vacancies.**

A. The term of each member shall be two years. Any vacancy occurring during the term of any member shall be filled for the unexpired term in the same manner in which regular appointments are otherwise made.

**5. Removal from Office.**

Any of the Board members may be removed for any or no reason at any time by majority vote of the City Council. If a member of the Board does not attend three consecutive regular meetings of the Board, unless excused by a majority vote of the Board, his/her membership shall automatically be terminated, and his/her successor shall be appointed by the City Council to serve the remainder of the unexpired term.

**6. Officers.**

The Board shall elect one of its members as chairperson and one as vice-chairperson, who shall each hold office for one year and until their successors are elected. No officer shall be eligible to immediately succeed himself or herself more than once in the same office. Officers shall be elected no later than the second meeting of the Board following its appointment.

**7. Meetings.**

- A. The Board shall establish a regular time and place of meeting. Special meetings of the Board may be called in accordance with State law.
- B. A majority of appointed Board members shall constitute a quorum for the transaction of business.
- C. All meetings shall be open to the public in accordance with the Brown Act, except for statutorily authorized closed sessions.

**8. Powers and Duties.**

The powers and duties of the Board shall be as follows:

- A. To act as a liaison between the community, the Novato Police Department, and the City Council.
- B. To hold hearings and conduct investigations on citizens' complaints concerning specific programs, policies and procedures of the Police Department and to make recommendations concerning these to the Chief of Police.
- C. To make recommendations to the Police Chief regarding programs to encourage preservation of life and property, such as neighborhood watch.
- D. To make recommendations to the Police Chief regarding policies, programs and/or projects that improve delivery of police services to the Novato community.
- E. In making its recommendations to the Police Chief, the Board shall not attempt to direct the method of implementation of any resulting changes to Police Department programs, policies, or procedures.
- F. (1) The Board shall not be entitled to receive, review, copy or investigate citizens' complaints against individual police personnel except as expressly authorized by this resolution.
  - a. If a citizen submits a complaint against individual police personnel directly to a member of the Board or the Board as a whole, the Board member or the Board, as the case may be, shall forward that complaint to the Police Department. The Board may not take any other action, including holding hearings or conducting investigations, with respect to said complaint unless and until the City Manager authorizes such pursuant to the procedures set forth below.
  - b. Monthly, the Police Department shall provide to the Board a summary of the citizen complaints filed against individual police personnel during the immediately preceding 30 days. Said summary shall include: (i) the number of such complaints; (ii) a brief description of the nature of each complaint; (iii) the number of police personnel complained of in each complaint; and (iv) the Department's disposition of each complaint.
  - c. The Board and each member of the Board shall be entitled to review and act upon only those citizen complaints against individual police personnel which the Board is authorized by the City Manager to investigate.
- (2) The Board may initiate an investigation of citizens' complaints against individual police personnel, provided that the Board obtains the authorization of the City Manager. The City Manager may authorize an investigation of individual police personnel, provided:

- a. A Police Department Internal Affairs investigation has already been completed; and
  - b. The complainant requests an investigation by the Board within thirty days after he or she is notified of the disposition of the Internal Affairs investigation; and
  - c. The City Manager determines that further investigation by the Board would serve the interests of fairness and due process. The City Manager shall provide timely written notice to the complainant of the decision whether to authorize a Board review and the date of any scheduled public meeting before the Board concerning the investigation. In the event that the City Manager determines that further investigation of a citizen's complaint by the Board would not serve the interests described above, the City Manager shall, in writing or in person, so advise the City Council and the Police Advisory and Review Board and in said advisement shall include (i) the name of the complainant, (ii) the nature of the complaint and (iii) the reasons why further investigation was not authorized. Said advisement shall be confidential.
- (3) The Board's investigation shall comply with all Federal, State, and local laws and any binding labor contracts or agreements and shall preserve the privacy of City employees, the confidentiality of their personnel files, the confidentiality of Police Department files, and the confidentiality of other confidential information to the maximum extent permitted by law, including, but not limited to the closing of meetings or portions thereof consistent with applicable provisions of the Brown Act.
  - (4) If, in the furtherance of its investigation, the Board deems it necessary to issue subpoenas for the production of documents or the testimony of uncooperative witnesses, the Board may request the City Council through the City Manager to obtain such documents or testimony through the exercise of its subpoena power.
  - (5) The Board shall suspend any pending investigation if the complainant initiates litigation or files a claim against the City related to the complaint.
  - (6) The Board, at the conclusion of its investigation, shall make a report to the City Manager summarizing its investigation, and making recommendations, if deemed appropriate. The report shall be confidential, except that, subsection (F)(3) above notwithstanding, any recommendations of the Board concerning discipline will be available to the public upon request. The City Manager shall provide timely written notice of the Board's recommendation, and any action taken thereon, to the complainant. Any action taken in response to said recommendations which involves the discipline of or other action respecting specific police personnel shall be taken, in the first instance, by the appropriate officers of

the Police Department and in accordance with applicable MOU's and State and Federal laws.

- (7) Reports and recommendations issued by the Board shall have no *res judicata* effect upon the City and shall not be admissible in evidence for any purpose in any subsequent administrative or court proceeding.
  - (8) No member of the Board shall divulge confidential information, including identities of witnesses and contents of confidential testimony and documents, either during his/her term of office or thereafter. Prior to taking office, each member of the Board shall take an oath to comply with this requirement of confidentiality. Violation of this subdivision unless this is in an ordinance, it cannot be a crime or punished as such and shall be grounds for removal from office by the City Council.
- G. To provide annual summary reports to the City Council on the first regular City Council meeting after July 1 of each year concerning all the activities of the Board during the preceding twelve-month period, including the number, status and kind of all complaints submitted to or investigated by the Board.
- H. Subject to review and approval of the City Council, to adopt rules and regulations and develop such procedures for its own activities and investigations as may be necessary and to publish and file same with the City Clerk, and to do such other things not forbidden by law which are consistent with a broad interpretation of this resolution and its general purposes. The rules, regulations, and procedures shall be printed in English and Spanish and shall be attached to the Police Department's citizen complaint form. Among other matters, the rules, regulations, and procedures shall provide for:
- (1) scheduling of regular Board meetings and notice by publication thereof; and
  - (2) timetables for carrying out the Board's investigatory duties pursuant to Section 8(F).
- I. All actions of the Board shall be conducted so as to be mindful of the public's concern for a well-run and effective Police Department, for a prompt and effective review of any alleged improper action thereby, and in as cost-effective manner as possible.
- J. Conduct business according to its Policy Manual and rules adopted by the City Council.

## 9. Staffing

- A. All departments of the City, through the offices of the City Manager, shall furnish necessary existing information, data and records, and provide technical assistance and advice as required, within reason, as an aid to the Board in the performance of its designated duties. Privileged and non-relevant confidential information, if

included in documents requested by the Board, need not be furnished. The determination of privilege confidentiality and relevance shall be made by the Police Chief in consultation with the City Manager.

- B. The City Manager shall provide or cause to be provided adequate staff and clerical help, and shall maintain files and records for the Board.
- C. The staff person or the City Manager's designee who has been given the principal responsibility to provide assistance to the Board shall be physically present at all Board meetings, including any closed sessions which the Board convenes, provided, however, that said staff person(s) may be excused by the Board from closed sessions of the Board held solely and duly noticed for the purpose of discussing the employment, appointment, evaluation of performance, discipline and/or dismissal of and/or charges or complaints brought against said staff person or designee, in which case the City Manager shall designate some other City employee to be physically present during such closed sessions of the Board; and, provided further, that the Board may excuse any City employee who imposed or recommended the imposition of any discipline on the police personnel about whom the Board convened the closed session.

**10. Requirement of Cooperation by the Novato Police Department and all other City Employees and Offices with the Board.**

The Novato Police Department and all other City of Novato employees and officials shall, except as expressly prohibited by law and to the extent authorized by the City Manager, respond promptly to any and all reasonable requests for information, for participation in evidentiary hearings, and for access to data and records for the purpose of enabling the Board to carry out its responsibilities under this resolution. The failure by any official or employee of the Novato Police Department or by any other City of Novato employee or official to comply with such requests for information, participation, or access shall be deemed an act of misconduct. Any confidential information, including any documents pertaining to Internal Affairs complaints or investigations obtained by the Board from the Novato Police Department, shall remain confidential and shall not be disclosed to the public.

11. Notwithstanding anything stated to the contrary hereinabove, to the extent that there presently exists or exists in the future any conflict between the provisions of this Resolution and the City Council and Redevelopment Agency Policy Manual, the provisions of the latter shall control.

**12. Severability.**

If any provision, clause, sentence or paragraph of this resolution or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are declared to be severable.


**13. Effective Date**

This resolution shall take effect on May 11, 2021.

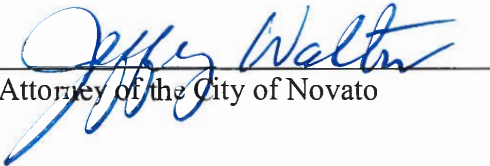
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I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the City Council of the City of Novato, Marin County, California, at a meeting thereof, held on the 11th day of May, 2021, by the following vote, to wit:

AYES: Councilmembers Athas, Lucan, Peele, Wernick, Eklund  
NOES: Councilmembers  
ABSTAIN: Councilmembers  
ABSENT: Councilmembers

  
\_\_\_\_\_  
City Clerk of the City of Novato

Approved as to form:

  
\_\_\_\_\_  
City Attorney of the City of Novato