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CITY COUNCIL STAFF REPORT

Meeting: March 5, 2024

Subject

Revisions to City commission and committee administration, procedure, and governance, including an ordinance to regularize commissioner appointments and revise commissioner qualifications; and resolutions adopting revisions to advisory bodies appointment process and Commissioners' Handbook.

Recommended Action

1. Conduct the first reading of Ordinance No. 24-2256 "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO TO REGULARIZE CITY COMMISSION AND COMMITTEE TERMS AND REVISE COMMISSIONER QUALIFICATIONS."
2. Adopt Resolution No. 24-022 to repeal and replace Resolution No. 16-137, regarding City advisory bodies.
3. Adopt Resolution No. 24-023 revising the Commissioners' Handbook.

Reasons for Recommendation

The City Council identified the Commission Governance Reform Package as a priority item and added it to the FY 2023-2024 City Work Program. This item's objective is to 1) revise the Commissioners Handbook, 2) review potential Municipal Code violations by City commissioners, 3) realign and regularize commissioner terms of office, and 4) establish or revise commissioner qualifications.

An investigation of potential commissioner violations of the Municipal Code was completed by Linda Daube, esq. in May 2023. This item addresses the remaining components of the Work Program item, directed at updating commission and committee administration, procedure, and governance.

Council is asked to consider adopting an ordinance to regularize the time of appointment of City Commissions, a resolution revising updating the governing

rules for appointments to City advisory bodies, and a second resolution adopting a revised Commissioners' Handbook. In developing the proposed ordinance and policy updates, staff considered both prior Council direction, via the City Work Program, and other considerations such as recommendations from the City's internal auditor. Specifically, the internal auditor recommended integrating commission- and committee-related policies with citywide policies (e.g., the 2023 Ethics Code). Policy revisions are also intended to ensure consistency with administrative practices.

The proposed ordinance and policy revisions are summarized below.

Ordinance No. 24-2256 (Commissioner Terms)

Currently, vacancies at many commissions/committees occur at irregular times. Staff recommends that Council adopt an uncodified ordinance to ensure that vacancies occur at regular intervals (2-3 vacancies per commission biannually, beginning in 2025). The proposed ordinance would shorten or extend the terms of a limited number of commissioners/committee members to regularize the appointment process. The proposed ordinance would also remove business representative requirements from the Housing and Sustainability Commission in order to improve the recruitment process and increase accessibility for interested, eligible community members. Proposed revisions to the Ordinance are included in Attachment A and can be viewed in redline in Attachment B.

Advisory Bodies Appointments Resolution

Staff proposes amending the City's Advisory Bodies Appointment Resolution (Resolution No. 16-137) to revise the policy that reflects the use of technology in the application process for advisory bodies. These revisions are also meant to reflect legal, staff, and community input on noticing procedures for vacancies.

Staff recommendations include:

1. Extending current removal procedures to address poor attendance and allow for the automatic removal of commissioners or committee members who fail to complete legally required training or conflict of interest reporting. This recommendation is based in part on the findings of July 2023 Enterprise Leadership Assessment prepared by the City's internal auditor, Moss Adams LLP.
2. Establishing criteria for service on each commission or committee. Under the proposed policy, the City Manager or their designee would establish criteria for service based on familiarity with the subject matter of the

respective commission or committee and/or demonstrated ability to conduct the work of the advisory body as well as existing criteria in the Municipal Code. The City Manager or their designee would then present all applicants meeting established criteria to Council for an interview. However, all Councilmembers would retain the ability to review all applications to invite candidates who submitted responsive applications and were not selected for an interview, and Council would retain full discretion to appoint the candidate of its choosing.

3. The City Attorney's Office recommends ending the appointment of alternate commissioners to ensure transparency in noticing requirements. The proposed Advisory Bodies Appointments Resolution is revised accordingly.

Proposed revisions to the Advisory Bodies Appointments Resolution are included in Attachment C and can be viewed in redline in Attachment D.

Commissioners' Handbook Update

Proposed revisions to the Commissioners' Handbook include:

- Clarification of the role of the City Clerk's Office and City Attorney's Office in the administration of commissions and committees
- Updates to the City Work Program process
- Clarification of the applicability of the Commissioners' Handbook to appointed members of City committees (e.g., the Audit Committee), consistent with the recommendations of the July 2023 Enterprise Leadership Assessment.
- Provisions for the dismissal of commissioners who fail to meet legally required training and conflict of interest reporting requirements.

These updates are consistent with the City Council Procedures Manual adopted in February 2023 and the revised Ethics Code adopted by the City Council in November 2023. All changes to the Commissioners' Handbook are included in Attachment D and can be viewed in redline in Attachment E.

Next Steps

If approved by the City Council, Resolution Nos. 24-022 and 24-023 will be effective upon adoption. If Council conducts the first reading of and introduces Ordinance No. 24-2256, the Ordinance will return to Council for a second reading and adoption on March 19.

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

California Environmental Quality Act

Not applicable.

Prepared by: Astrid Robles, Senior Management Analyst

Reviewed by: Tina Kapoor, Deputy City Manager

Matt Morley, Assistant City Manager

Christopher D. Jensen, City Attorney

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Draft Ordinance No. 24-2256 (Clean)

B – Draft Ordinance No. 24-2256 (Redline)

C – Draft Resolution No. 24-022 (Clean)

D – Draft Resolution No. 24-022 (Redline)

E – Draft Resolution No. 24-023

F – Draft Commissioners' Handbook (Redline)