



CITY COUNCIL SUBCOMMITTEE

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CITY COUNCIL SUBCOMMITTEE REPORT

Meeting: July 16, 2019

Subject

Study session regarding improving communications with and effectiveness of advisory commissions and committees.

Recommended Action

Conduct study session regarding improving communications with and effectiveness of advisory commissions and committees, receive public input on subcommittee recommendations, and provide direction to staff.

Public Engagement: Improving Council Communications with Advisory Commissions and Committees

City Council requested this item in an effort to improve communications with its advisory commissions and committees.

Prior Efforts

In the summer of 2018, a request from a prior Councilmember to consider eliminating multiple City commissions was met with support by two other Councilmembers. This led to a subsequent meeting where, following public input, this request was voted down. As an alternative, Council asked staff to bring forth a future agenda item seeking input from its advisory commissions and committees with regard to how to improve communications. Input was verbally sought by staff; no written feedback was sought or obtained from the advisory commissions and committees. Accordingly, the current City Council decided to re-visit the process in an effort to provide recommendations reflective of the purpose of the request.

Current Process

With the direct support and work of then Interim City Manager Timm Borden, the subcommittee was able to obtain direct written feedback from members of its advisory commissions and committees (Attachment A). The subcommittee evaluated this feedback

and makes its recommendations to Council accordingly. The scope of these recommendations includes aspects of meetings and procedures which affect the qualitative nature of communications between Council and its advisory commissions and committees, and the recommendations, as such, in their totality, have been contemplated and designed to improve the overall process of our communications and engagement with the public from a structural and functional perspective.

Recommendations

- Public input. Obtain public input in the present study session for all items recommended by the subcommittee as part of the effort to improve communications between City Council and its advisory commissions.
- General Engagement with the Community, Councilmembers and Advisory Commissioners and Committee Members. The subcommittee recommends that:
 - Councilmembers make best efforts to attend at least one meeting per year of each of Council's advisory commissions and committees;
 - The City provide notice to advisory commissions and committees of various community events both directly related and unrelated to the scope of the respective commission. Council and advisory commissions and committees should be included in the list of formal outreach channels from the City for any event;
 - Each commissioner or committee member strive to attend at least two community meetings between regularly-scheduled meetings of the respective advisory commission or committee and report such activity, recorded by the staff liaison in the meeting minutes, during regularly-scheduled meetings;
 - For the monthly meeting with the Mayor, each representative of an advisory commission or committee provide a written summary of the commission's or committee's activities since the prior monthly meeting with the Mayor. Alternatively, staff can provide summary minutes for the Mayor's meetings. These written summaries should be circulated to Council and advisory commissions and committees in an effort to provide updated information on activities;
 - The City provide information to each advisory commission and committee with respect to the mechanisms of outreach from the City and how to access these mechanisms. For example, advisory commissions and committees should be able to add items to the calendar that the City places online to notify the public of future events; and
 - In addition, the subcommittee suggests that the web page of each advisory commission and committee include a section with a brief description of the

top three items the group is currently working on in order to provide the public with a reference as to the advisory commission's or committee's current activities.

- Scope and Frequency of Commission Meetings. Public oversight of City business is the governing mechanism and overarching principle for commission meetings. As a general matter, for example, advisory commission and committee meetings should not be cancelled without the written approval of the commission or committee Chair. The past practice among certain of Council's advisory commissions and committees of staff cancelling meetings without consulting with the commission or committee Chair is one that needs to be discontinued. Staff should consult with and obtain the consent of the chair of the Council's advisory commissions and committees prior to cancelling meetings. Some commissions appear to meet more frequently than the original direction by the Council. For example, the Sustainability Commission has been meeting every month, instead of every 3 months. The subcommittee recommends that Council review the frequency and the scope of commission meetings once a year. This way the Council could provide further direction in the event some commissions cancel many regular meetings due to lack of business. With regard to the scope of work of an advisory commission or committee, guidance should be sought from the Cupertino Municipal Code to the extent that the scope is described there. Should an advisory commission or committee seek to expand or revise the scope of its responsibility beyond the Municipal Code or the approved City Work Program, it should submit the request prior to Council's annual review of the work of its advisory commissions and committees. *Commissioner Handbook*, p. 23. The subcommittee recommends that each advisory commission or committee provide an annual review of all of the topics the advisory commission or committee has worked on in the prior calendar year by January 15. The subcommittee further recommends that each advisory commission or committee be encouraged to provide feedback to the City Council with regard to areas of recommended changes or improvements to their respective public-meeting process, including with respect to interactions with and efficacy of the staff liaison.
- Communications with the Staff Liaison. The fundamental roles of advisory commissions and committees are to receive public feedback and advise the City Council. As such, staff should seek the input and feedback of commissions and committees on items rather than only providing information. The subcommittee recommends Council support for a policy-based statement that the staff liaison for an advisory commission or committee supports the commission or committee in its fulfillment of the scope of its responsibilities, including advising Council, as

- those responsibilities have been directed by the City Council. The staff liaison should on a regular basis provide topical updates and activity reports to the advisory commission or committee, for example, with respect to grant-funding opportunities, outreach meetings, and construction updates relevant to the scope of the advisory commission or committee's work. The subcommittee recommends that the staff liaison makes it clear to the members of the advisory commission or committee that meetings between the staff liaison and individual members of the advisory commission or committee are available. Subject to adherence to requirements related to communications, the staff liaison should assist with the distribution of relevant and useful information between Council, commissioners, and committee members.
- Agenda-Setting Process. The subcommittee recommends that prior to each scheduled meeting of an advisory commission or committee, the Chair and the staff liaison should meet to set the agenda, in person, by phone, or by email. The other commissioners or committee members should be informed of the date of the agenda setting meeting in case a member of the advisory commission or committee would like to propose an agenda item to the staff liaison. With regard to other logistics related to the setting of agendas, the subcommittee makes the following recommendations for the purpose of ensuring openness and clarity in our process:
 - The last item of each meeting should be "Staff and Commission Activities: Reports and Future Agenda Setting" with a draft of future agenda items, ordered by tentative meeting dates.
 - If any single commissioner proposes an agenda item, either before the meeting to the staff liaison or at the meeting, the commission shall discuss whether to schedule the item during the Future Agenda Setting item.
 - The Chair of an advisory commission or committee is able to add an agenda item to the meeting agenda.
 - Any two commissioners can add an agenda item for the future agenda item list. The Chair or staff liaison should respond by the following regularly-scheduled meeting with a schedule for adding the item to the future agenda item list. This recommendation would ensure an avenue for non-Chair members to add an item to a future agenda. Currently, any commissioner may request that the Chair place an item on a future agenda, but this does not necessarily obligate the Chair to do so. *Commissioner Handbook*. p. 13.

- The staff liaison can add an agenda item only with the written consent of the Chair to add the item. Required permit processing hearings may be added by the staff liaison, in consultation with the Chair.
- Once an item is added or scheduled to the future agenda item list, the item cannot be removed until it is discussed for removal at a regularly-scheduled meeting during the item for “Staff and Commission Activities: Reports and Future Agenda Setting”. Any rescheduling of future agenda items shall be discussed and approved during the item for “Staff and Commission Activities: Reports and Future Agenda Setting” unless events prior to the next meeting require postponement of an item, in which case such a postponement may be made by the staff liaison, in consultation with the Chair.
- Training and Development for Civic Duties. The subcommittee recommends that all advisory commissioners and committee members receive an orientation which includes the governmental structure of Cupertino in an organizational chart, a description of the scope of work for the advisory commission or committee, a detailed description of the work flow over the course of a year, background regarding the Brown Act, and background regarding conflicts of interest and ethics under AB 1234 and FPPC requirements. For any advisory committee or commission such as the Planning Commission with decisional authority, its members should receive an orientation on requirements governing quasi-judicial approval processes, defined as proceedings, applications or other particular matters involving a specific party or parties. These situations occur when, for example, a commission is deciding whether to grant or revoke a use permit or otherwise affect an individual’s right or entitlement, and is contrasted with the commission acting in a legislative capacity where it is deciding whether to enact or advise on an ordinance or regulation with broad applicability. For quasi-judicial decisions, members should disclose to their advisory commission or committee the content of any meetings with residents, resident groups, developers or prospective contractors or any persons outside of the public meeting process concerning issues before the commission. As provided in the Commissioner Handbook, page 19, members are encouraged to disclose the content of meetings outside of the public meeting on legislative items as well. *Commissioner Handbook*, p. 19. Staff liaisons should inform their respective advisory commission or committee of relevant workshops and meetings, with this information being available as well to members of the other advisory commissions or committees, in the event that any of their members would like to broaden their knowledge base

with respect to the meetings and educational opportunities of other advisory commissions and committees.

- Statement of Ethical Obligations and Recommended Conduct. With regard to the prior Code of Ethics brought forth by staff without consultation to the public or Council, this subcommittee believes that adherence to legal requirements and ethical conduct is paramount in service to the public. From the feedback from our advisory commissions and committees, the prevailing sentiment is that there are no aversions to a statement reflecting our already significant ethical obligations as reflected under laws such as the Brown Act, and also reflecting the belief that as public servants, we should lead by example with regard to how we conduct our interactions with others. *Commissioner Handbook*, pp. 18, 26-28. As such, the subcommittee recommends that a succinct Statement of Ethical Obligations and Recommended Conduct be provided to the public through the City website, and in hard copy on an annual basis to the Council, to our advisory commissions and committees, and to City staff to indicate our common understanding that we work together in service to the City with democratic representation and public oversight, under principles of integrity, and with standards of basic courtesy meant to foster healthy discussion. It is the recommendation of the subcommittee that, based upon the foregoing input from our advisory commissions and committees, and following this study session and input from the public and City Council, that the City Manager's office working in concert with the City Attorney's office draft this Statement, and that the City Council review the Statement at a future Council meeting.
- Meeting Protocols and Meeting Minutes. The subcommittee makes the following recommendations for Council to set policies with regard to the logistics and record-keeping of minutes in an effort to improve communications:
 - The Chair of the advisory commission or committee runs the meeting and decides the policies and procedures for interaction with the public observing principles of equal treatment and availability of opportunity to speak. For agenda items, at the Chair's discretion, the public can interact with the members of the advisory commission or committee beyond the public-comment time limit in order to facilitate better communication of the topic at hand. With respect to the qualitative nature of such interactions, the purpose is to understand the various public perspectives. *Commissioner Handbook*, pp. 16, 18, 19.
 - Agenda packets should be comprehensive and include as much supporting materials as available for transparency, including staff presentation materials as part of the materials published together with the notice of the

meeting agenda. All meeting materials should be paginated in sequential order from the beginning of the agenda to the end of the agenda. This is integral to the basic function of communication within the context of any given meeting and in any reference to such materials. The subcommittee recommends that the paginated area include, in addition to the overall page number: 1) an identification of the meeting; and 2) the date of the meeting. This will help members of the public, the Council, and advisory commissions and committees communicate better with each other and the public with regard to background materials provided through the mechanism of public notice as pertain to agenda items. In the rare instances where supplemental documents are provided after the agenda has been posted, staff will ensure the documents are clearly labeled with headers indicating the meeting and item number.

- Any presentation and other materials not posted in the agenda packet should be posted online after the meeting. These materials should also be paginated with a clear indication that they were not included in the materials released as part of the publicly-noticed agenda.
- Discussion items and action items should be clearly and distinctly identified as such.
- Advisory commissions and committees should strive to keep summary minutes as opposed to action minutes. Currently, minutes are required of all commissions, but the type of minutes is not specified. *Commissioner Handbook*. p. 13. Most advisory commission and committee business comprises discussions that is advisory in nature. Summary minutes should include summaries of each comment from a member of the public. An increasingly feasible alternative or tool in this effort with the current state of improving technology is the use of automatic transcription. If automatic transcription is made available to supplement official minutes, action minutes may be sufficient.
- If transcriptions of the meetings are not available, meetings of the advisory commissions and committees should be video recorded. Where higher-quality video-recording is not available, simpler video recording is preferable to audio recording.
- When providing recommendations to the Council, in addition to the specific vote, staff should provide summaries of the positions of an advisory commission or committee in both the majority views and minority views. The Council requires the scope of the diversity of viewpoints represented.

- Draft Minutes should be posted online as soon as they are available, within one month of a meeting in order to ensure the timely availability of a description of the scope of meetings. Certain advisory commissions and committees that meet on a quarterly basis, for example, will not be available to meet to approve the minutes until three months following their prior meeting.
- Currently, commissions may adopt their own parliamentary procedure with Council approval. In the absence of any parliamentary procedure, Robert's may be followed. No commissions have formally adopted their own parliamentary procedure. For Council meetings, according to Ordinance No. 006 (Attachment C), Council may also adopt specific rules and procedures, but in the absence of any such procedures, the Council is governed by "Robert's Rules of Order—Revised" 75th Anniversary Edition as published in 1951. This ordinance went into effect in 1955. At the November 20, 2018 Council meeting, Council voted to adopt Rosenberg's Rules of Order for commissions, committees, and Council, however, the implementation of this was placed on hold to allow for additional feedback and a report by the subcommittee. In summary, Rosenberg's Rules of Order is a simplified version of Robert's Rules of Order. It takes a subset of the most commonly used rules of procedure to help people to better understand how meetings are run in the smaller government bodies. A table comparing Rosenberg's Rules of Order, Robert's Rules of Order, and current practices for City Council meetings can be found in Attachment B.
- Regular updates. Advisory commissions and committees should provide periodic written updates to Council regarding the status of their activities. The subcommittee recommends that the frequency of these updates be determined by the respective advisory commissions and committees but be no less frequent than every three months. Similarly, the subcommittee recommends that the length of these updates be determined by each advisory commission and committee with an encouragement to strive to be both comprehensive and succinct.
- Agendas and Work Programs. Generally, work programs should govern agendas. This applies both to Council agendas and the agendas of its advisory commissions and committees. However, past experience has indicated the obvious need for flexibility with regard to adding items to agendas. The subcommittee recommends that two members of an advisory commission or committee be required to add an item to agendas, with the understanding that for the purpose of effective planning, our advisory commissions and committees should strive as

a general matter to work together on annual work programs and aim over the course of the year to address those items. The timing of when agenda items added by commission members are considered should be determined by the Chair of the advisory commission or committee with the designated staff liaison providing assistance as needed or advice as requested. *Commissioner Handbook*, p. 13. The subcommittee also recommends that Council, for its part, consider how its annual work program items can be improved by interacting with its advisory commissions and committees, perhaps with an extra column on the draft and final work program spreadsheets entitled “Advisory Commission(s)/Committee(s)” which could then identify the possible synergies. Furthermore, the subcommittee recommends that Council reach out to its advisory commissions and committees prior to the first draft of the Council work program, to ask for recommendations of items to add. Since a commission could then look to the Council work program to see which of its recommended items were included, this process may further support the end goal of having work programs reflect the goals and policies of the City Council. *Commissioner Handbook*, p. 13. If, for instance, the first draft of the Council work program is presented in February as it was this year, then advisory commissions and committees should be asked by no later than January to provide recommendations as to what items they would like to see Council consider adding to its work program for the upcoming fiscal year. The subcommittee also recommends that the current-year and prior-year work programs of Council and its advisory commissions and committees be posted on the City’s website. For active current-year work programs, the subcommittee recommends that staff provide quarterly updates as to the status of each item and addend the work programs accordingly. The subcommittee further recommends that advisory commissions and committees have the discretion to add items requiring minimal amounts of budgetary and staffing-based resources. For additional items beyond those identified in an annual work program that would require significant amounts of budgetary and staffing-based resources, such items should be considered for inclusion in the subsequent year’s work plan, but if such an item requires earlier consideration, the subcommittee recommends that Council approval be required.

Attachments:

- A – Advisory Commission and Committee Feedback Summary
- B – Robert’s and Rosenberg’s Rules of Order Comparison Table
- C – Ordinance No. 006 on Council Procedural Rules
- D – 2019 Commissioner Handbook