

CC 11-18-2024

Item No. 1

City Manager Pamela Wu
Evaluation

Written Communications

From: [Tracy Kosolcharoen](#)
To: [City Clerk](#); [City Council](#)
Subject: Feedback for 11/18 Performance Eval
Date: Monday, November 18, 2024 12:37:08 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Clerk,

Please include the below as written communications for items on agenda for the upcoming city council meeting on Nov 18, 2024.

Dear Cupertino City Council Members,

With full understanding that the job of a City Manager is not easy, here is some specific and actionable feedback from the past year.

To level set, here are some of the core responsibilities of a Cupertino City Manager, as stipulated in a 2021 job listing from 2021: optimizing the City's long-term fiscal position, helping to coordinate and lead discussions in a highly engaged community, high standards of integrity and quality, and ensure complete and accurate communication with the public.

I believe in constructive feedback, and that all of us have room to improve. As such, here are specific examples of situations and high level suggestions for solutions.

Need for Communication Improvement: At a meeting with Scofield residents, the City Manager told residents it was essentially between them and the developer to figure out how to move forward on the highly contested Scofield development. To this, several residents responded, "so you're just going to leave us?" Afterwards, many residents I talked to mentioned that they felt the city just didn't care.

Constructive feedback/suggestions: Please help create standard processes for the City to partner with residents and developers when necessary. Residents want a way to resolve situations productively, but most of us are not experts in muni code and/or city planning and cannot do so ourselves. Please also help devise a better way to notify residents about changes to developments, that is complete and does not rely upon 1-2 block leaders or points of dissemination.

Opportunity to Increase Integrity/Transparency: During the recent City Council elections, city staff removed Kitty Moore and Ray Wang signs from Bollinger Road. This is in direct violation of the muni code which stipulates that candidates will always be notified beforehand about potential sign removals. We appreciate the City Manager's apology regarding the sign removals. However, a key question remains unanswered -- how did the mistaken decision happen? The issue I now raise is less about the signs, but more about the larger underlying issue of how decisions are being made and approved across the City.

Constructive feedback/suggestions: Please help increase visibility and accountability around decisions -- many companies use workflow ticketing systems successfully -- that will help

build public trust and increase transparency around how decisions are made.

Complete and Accurate Information: Recently, many topics that should be City Council discussions have turned into memos. For example, the future of our City Hall, a very important topic impacting many residents, turned into a memo with significant cost disparities from prior public discussions, with no explanation regarding the differences. The short term gain of a shorter city council meeting is coming at the expense of the public that will be impacted by decisions that they have no visibility into.

Constructive feedback/suggestions: Please restore important agenda items to Council meetings and do not relegate them to eternal TBD lists or memos.

Many thanks,
Tracy

From: [Ying Dillaha](#)
To: [Kitty Moore](#); [Liang Chao](#); [Sheila Mohan](#); [J.R. Fruen](#); [Hung Wei](#); [City Clerk](#)
Subject: Feedback on City Manager Pamela Wu Performance
Date: Sunday, November 17, 2024 11:00:25 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Clerk,

Please include the below as written communications for items on agenda for the upcoming city council meeting on Nov 18, 2024.

Dear Mayor Mohan and Cupertino City Council Members,

I am writing to express my deep dissatisfaction with the performance of the City Manager Pamela Wu in 2024.

From the Cupertino city code I understand that the City Manager is entrusted by the City Council with ensuring the effective and efficient operation of the City. Acting under the collective direction of the City Council, the City Manager is tasked with implementing the City's adopted goals and objectives. Additionally, the City Manager's Office plays a critical role in fostering community-building initiatives to promote citizen engagement in local government.

However, in recent years, many of the City Manager's actions have not only fallen short of these expectations but have actively worked against them. Her actions have undermined the efficient operation of the City, obstructed the implementation of adopted goals, and suppressed citizen involvement.

I cite the following evidence to support these claims. Much of this evidence comes from the events surrounding the upzoning of Evulich Ct when the Linda Vista neighborhood organized a petition to the City. During this process, we encountered significant barriers, many of which were directly the results of the City Manager's actions.

1. In 2024, when the plot of land on Evulich Court was designated as a Housing Element target for upzoning, the City failed to adequately notify the affected residents as required under California law. Many citizens, including myself, were not notified by the city, were completely unaware of this significant zoning change until it was already finalized.

Of the few citizens who were fortunate enough to be subscribed to the City's E-Notification system and those who frequent the city web sites, when learned about the upzoning proposal through an online survey, only 18% expressed support for the change, an stunning low level of support which should have caused the City to redouble its effort for more public engagement before going ahead.

Despite this clear lack of public awareness and significant community opposition, the City proceeded with the upzoning, Evulich Ct, an R1-zoned single-family plot was rezoned to an R3 designation. This change, combined with additional density bonuses allowed under SB330, permits the construction of more than 80 housing units on the site.

The City's actions clearly violated multiple provisions of California Government Code §§ 65090, 65091, 65092, and 65854, which mandate public notification and hearings for zoning changes. This failure to adhere to well-established laws and procedures suggests that it was not merely an

accidental oversight but a deliberate attempt to withhold information from the public, enabling those in power to advance their own objectives under a veil of secrecy.

This blatant disregard demonstrates not only the City Manager's lack of respect for Cupertino residents but also a troubling indifference to the state laws designed to protect citizens and ensure transparency in governance.

2. After news of the upzoning broke, concerned citizens rallied to voice their grievances. In September 2024, Randy Ong delivered a petition, signed by 745 residents of the Linda Vista and Monta Vista neighborhoods, to the City Manager and Mayor Mohan. The petition challenged the improper upzoning of the area and was addressed to the entire City Council.

However, after being handed over, the petition effectively vanished, as both the City Manager and the Mayor deliberately suppressed its existence for over two weeks. This obstruction prevented the petition from reaching its intended recipients on the City Council, undermining the citizens' efforts to seek accountability.

It was only through the persistent efforts of Council Members Moore and Liang Chao that the petition was uncovered and finally presented to its intended audience. This blatant disregard for transparency and accountability demonstrated that the City Manager placed herself above the citizens and even the City Council. Such actions represent a clear violation of city code and a grave abuse of public trust, undermining the democratic process.

3. In the time between when we submitted the petition and when it was eventually rediscovered, many of us reached out to the city via email, seeking engagement on this matter. However, we were confronted with the reality that there are complex rules governing when and how written communications must be submitted in order to be included in official records. It was far from being as simple as emailing cityclerk@cupertino.org. It also seemed that the guidelines for submitting emails to be considered part of the written communications continued to change, with little explanation for why. As a result, an increasing number of emails from citizens were deemed ineligible to be included in the written records, preventing them from being preserved as a record of public concerns.

This shift in policy did not seem to be sanctioned by city council resolutions; rather, the city clerk's department simply began applying these new restrictions. Cupertino has made this process unnecessarily complicated and frequently changing, hindering transparency and citizen involvement. This reflects yet another attempt to suppress the democratic process, directly contradicting the responsibilities the City Manager is meant to uphold.

4. After uncovering our petition and finally having it officially recorded in the Written Communications, we reached the point where we had to stand before the city and request formal acknowledgment of this issue. Since the up-zoning had never undergone a public hearing, we asked for it to be added as an agenda item at an upcoming city council meeting for public discussion. Despite numerous emails and multiple residents speaking at city council meetings, no agenda item was ever allowed.

Because the issue was excluded from the agenda, the City Manager and City Council remained silent on it for several meetings—a convenience afforded by the Brown Act. At that point, a troubling reality became clear: those who control the agenda decide what is important to the people of Cupertino, not the actual citizens who elected the City Council who hired the City Manager.

During multiple council meetings, we witnessed the frustration of Council Members Liang Chao

and Kitty Moore as they attempted to raise the issue. However, Mayor Mohan and Council Member Fruen voted against it, and Pamela Wu made no effort to support the residents. In this situation, if she had the best interests of the citizens in mind at all, she could advocate for an agenda item. It is difficult to believe that an issue of such significance to hundreds of families in Cupertino could be denied even a basic discussion. This made the earlier lack of public notification and suppression of the petition seem far from accidental.

After efforts to suppress the petition and exclude it from the Written Communications, the City Manager and Mayor used their remaining influence to prevent a public hearing. This action goes directly against the principles outlined in the city charter and undermines the democratic process, adding further insults to the earlier injury.

Rezoning, conducting public hearings, and accepting public input are standard practices in any city's operations, governed by both city codes and state law. So why, then, in our city, have these routine processes been made so difficult, and seemingly calculated to suppress public engagement. The evidence above shows that the City Manager bears significant responsibility for these dysfunctions that have eroded trust between the city and its residents.

Thank you for your time and attention to this matter. We hope that the City Manager will endeavor to improve in the coming year to carry out the duties entrusted to her by the City and the Citizens.

Sincerely,
Ying Sosic
Cupertino resident

From: [charles kong](#)
To: [Kitty Moore](#); [Liang Chao](#); [Sheila Mohan](#); [J.R. Fruen](#); [Hung Wei](#); [City Clerk](#)
Subject: Feedback on City Manager Pamela Wu
Date: Sunday, November 17, 2024 8:47:43 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino City Council Members,

I am writing to express my concerns about Pamela Wu's performance as Cupertino's City Manager, particularly in light of recent events. As a resident, I feel it is essential to address these issues to ensure that our city's leadership upholds the highest standards of accountability, transparency, and fiscal responsibility.

- 1. Lack of Transparency and Trustworthiness:** Residents are significantly disappointed with the handling of their petition signatures, which did not appear to have been properly visible or acknowledged. This raises questions about trust and transparency in the city's decision-making processes.
- 2. Collaboration Challenges:** The tensions observed between the City Manager and City Council members, primarily when clarification questions were raised, are concerning. Effective collaboration is critical for the smooth functioning of our city, and such discord undermines confidence in the city's leadership.
- 3. Missed Opportunities in Fund Management:** It is disheartening to learn that approximately \$70 million of city funds were not placed in an interest-bearing account, particularly during historically high interest rates. This oversight represents a missed opportunity to maximize returns for the benefit of our community.

I believe addressing these concerns is essential to restoring trust and improving the efficiency of our city's governance. I encourage further evaluation of these issues and welcome steps to rectify them.

Thank you for considering this feedback. Please feel free to reach out if you need any more clarification.

Best regards,
Charles
Cupertino resident

From: [TSY Chuang](#)
To: [Liang Chao](#); [Kitty Moore](#); [Sheila Mohan](#); [J.R. Fruen](#); [Hung Wei](#); [City Clerk](#)
Subject: Feedback on City Manager
Date: Sunday, November 17, 2024 5:45:01 PM

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Dear Cupertino City Council Members,

I am writing to share my concerns regarding Pamela Wu's performance as Cupertino's City Manager, particularly in light of recent events. As a resident, I feel it is important to address these issues to ensure that our city's leadership upholds the highest standards of accountability, transparency, and fiscal responsibility.

1. Lack of Transparency and Trustworthiness: There is significant disappointment over the handling of residents' petition signatures, which did not appear to have been given proper visibility or acknowledgment. This raises questions about trust and transparency in the city's decision-making processes.

2. Collaboration Challenges: The tensions observed between the City Manager and City Council members, especially when clarification questions were raised, are concerning. Effective collaboration is critical for the smooth functioning of our city, and such discord undermines confidence in the city's leadership.

3. Missed Opportunities in Fund Management: It is disheartening to learn that approximately \$65 million of city funds (tax collected from Apple) were not placed in an interest-bearing account, particularly during a period of historically high interest rates. This oversight represents a missed opportunity to maximize returns for the benefit of our community when the city is projecting a fiscal deficit.

I believe addressing these concerns is essential to restoring trust and improving the efficiency of our city's governance. I encourage further evaluation of these issues and welcome steps to rectify them moving forward.

Please include my written communication here to the agenda for the upcoming city council meeting on Nov 18, 2024. Thank you!

Best regards,
Tania



Reply

Reply all

Forward

From: [TSY Chuang](#)
To: [Liang Chao](#); [Kitty Moore](#); [Sheila Mohan](#); [J.R. Fruen](#); [Hung Wei](#); [City Clerk](#)
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Best regards,
Tania



Reply

Reply all

Forward

From: [Helena Cohen](#)
Subject: Feedback on City Manager Pamela Wu
Date: Sunday, November 17, 2024 3:55:15 PM

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Dear City Council Members and Staff,

I am writing to share my concerns regarding Pamela Wu's performance as Cupertino's City Manager, particularly in light of recent events. As a resident, I feel it is important to address these issues to ensure that our city's leadership upholds the highest standards of accountability, transparency, and fiscal responsibility.

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Thank you for considering this feedback. Please feel free to reach out if further clarification is needed.

Best regards,
Helena Cohen
Cupertino resident

From: [Helena Cohen](#)
Subject: Feedback on City Manager Pamela Wu
Date: Sunday, November 17, 2024 3:00:25 PM

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Dear City Clerk,

Please include the below as written communications for items on agenda for the upcoming city council meeting on Nov 18, 2024.

Mayor Sheila Mohan
Council Members
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

Dear Mayor Mohan and Cupertino City Council Members,

I am writing to express my deep dissatisfaction with the performance of the City Manager Pamela Wu in 2024.

From the Cupertino city code I understand that the City Manager is entrusted by the City Council with ensuring the effective and efficient operation of the City. Acting under the collective direction of the City Council, the City Manager is tasked with implementing the City's adopted goals and objectives. Additionally, the City Manager's Office plays a critical role in fostering community-building initiatives to promote citizen engagement in local government.

However, in recent years, many of the City Manager's actions have not only fallen short of these expectations but have actively worked against them. Her actions have undermined the efficient operation of the City, obstructed the implementation of adopted goals, and suppressed citizen involvement.

I cite the following evidence to support these claims. Much of this evidence comes from the events surrounding the upzoning of Evulich Ct when the Linda Vista neighborhood organized a petition to the City. During this process, we encountered significant barriers, many of which were directly the results of the City Manager's actions.

1. In 2024, when the plot of land on Evulich Court was designated as a Housing Element target for upzoning, the City failed to adequately notify the affected residents as required under California law. Many citizens, including myself, were not notified by the city, were completely unaware of this significant zoning change until it was already finalized. Of the few citizens who were fortunate enough to be subscribed to the City's E-Notification system and those who frequent the city web sites, when learned about the upzoning proposal through an online survey, only 18% expressed support for the change, an stunning low level of support which should have caused the City to redouble its effort for more public engagement

before going ahead.

Despite this clear lack of public awareness and significant community opposition, the City proceeded with the upzoning, Evulich Ct, an R1-zoned single-family plot was rezoned to an R3 designation. This change, combined with additional density bonuses allowed under SB330, permits the construction of more than 80 housing units on the site.

The City's actions clearly violated multiple provisions of California Government Code §§ 65090, 65091, 65092, and 65854, which mandate public notification and hearings for zoning changes. This failure to adhere to well-established laws and procedures suggests that it was not merely an accidental oversight but a deliberate attempt to withhold information from the public, enabling those in power to advance their own objectives under a veil of secrecy.

This blatant disregard demonstrates not only the City Manager's lack of respect for Cupertino residents but also a troubling indifference to the state laws designed to protect citizens and ensure transparency in governance. I understand that Ms. Wu lives in Sunnyvale and perhaps doesn't care about the city she's supposed to be serving.

After news of the upzoning broke, concerned citizens rallied to voice their grievances. In September 2024, Randy Ong delivered a petition, signed by 745 residents of the Linda Vista and Monta Vista neighborhoods, to the City Manager and Mayor Mohan. The petition challenged the improper upzoning of the area and was addressed to the entire City Council. However, after being handed over, the petition effectively vanished, as both the City Manager and the Mayor deliberately suppressed its existence for over two weeks. This obstruction prevented the petition from reaching its intended recipients on the City Council, undermining the citizens' efforts to seek accountability.

It was only through the persistent efforts of Council Members Moore and Liang Chao that the petition was uncovered and finally presented to its intended audience. This blatant disregard for transparency and accountability demonstrated that the City Manager placed herself above the citizens and even the City Council. Such actions represent a clear violation of city code and a grave abuse of public trust, undermining the democratic process.

3. In the time between when we submitted the petition and when it was eventually rediscovered, many of us reached out to the city via email, seeking engagement on this matter. However, we were confronted with the reality that there are complex rules governing when and how written communications must be submitted in order to be included in official records. It was far from being as simple as emailing cityclerk@cupertino.org. It also seemed that the guidelines for submitting emails to be considered part of the written communications continued to change, with little explanation for why. As a result, an increasing number of emails from citizens were deemed ineligible to be included in the written records, preventing them from being preserved as a record of public concerns.

This shift in policy did not seem to be sanctioned by city council resolutions; rather, the city clerk's department simply began applying these new restrictions. Cupertino has made this process unnecessarily complicated and frequently changing, hindering transparency and citizen involvement. This reflects yet another attempt to suppress the democratic process, directly contradicting the responsibilities the City Manager is meant to uphold.

4. After uncovering our petition and finally having it officially recorded in the Written Communications, we reached the point where we had to stand before the city and request formal acknowledgment of this issue. Since the upzoning had never undergone a public

hearing, we asked for it to be added as an agenda item at an upcoming city council meeting for public discussion. Despite numerous emails and multiple residents speaking at city council meetings, no agenda item was ever allowed.

Because the issue was excluded from the agenda, the City Manager and City Council remained silent on it for several meetings—a convenience afforded by the Brown Act. At that point, a troubling reality became clear: those who control the agenda decide what is important to the people of Cupertino, not the actual citizens who elected the City Council who hired the City Manager.

During multiple council meetings, we witnessed the frustration of Council Members Liang Chao and Kitty Moore as they attempted to raise the issue. However, Mayor Mohan and Council Member Fruen voted against it, and Pamela Wu made no effort to support the residents. In this situation, if she had the best interests of the citizens in mind at all, she could advocate for an agenda item. It is difficult to believe that an issue of such significance to hundreds of families in Cupertino could be denied even a basic discussion. This made the earlier lack of public notification and suppression of the petition seem far from accidental.

After efforts to suppress the petition and exclude it from the Written Communications, the City Manager and Mayor used their remaining influence to prevent a public hearing. This action goes directly against the principles outlined in the city charter and undermines the democratic process, adding further insults to the earlier injury.

Rezoning, conducting public hearings, and accepting public input are standard practices in any city's operations, governed by both city codes and state law. So why, then, in our city, have these routine processes been made so difficult, and seemingly calculated to suppress public engagement. The evidence above shows that the City Manager bears significant responsibility for these dysfunctions that have eroded trust between the city and its residents.

Thank you for your time and attention to this matter. We hope that the City Manager will endeavor to improve in the coming year to carry out the duties entrusted to her by the City and the Citizens.

Sincerely,
Helena Cohen
Cupertino resident.

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: City Council 11/18/2024 Agenda item #1 City Manager
Date: Monday, November 18, 2024 1:53:07 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

Regarding the City Manager performance evaluation, in my opinion, Ms. Wu continues to show growing pains in her role as City Manager and continues to disappoint. And the City has gone through the expense of getting her training that does not have appeared to resulted in a performance improvement. Most recently, she was yelling at residents during a mayor meeting. I happened to be standing next to her and covered my ears with my hands. This is unacceptable. And it is frustrating that she attends the mayor meetings and speaks over the mayor. She appears to have forgotten that she works for the City Council and not vice versa.

Additionally, Ms. Wu has accused me in an email to other City staff that I had been rude or some such in a zoom meeting. I was invited by another resident to a zoom meeting with City Staff. The resident was quite rude and I was unable to say anything because my microphone was not working yet. At some point, Ms. Wu left the zoom because she did not like the behavior of the resident and sent a hostile message to the resident, myself, and staff. I did not play a part in the resident's behavior and was accused of it and shamed in front of multiple staff members. This is wrong.

And I heard from another resident that Ms. Wu had stated that I was responsible for delays at Vallco when I have not been closely involved with issues there and would certainly not wield that type of power. Furthermore, she has engaged in more gossip with others in stating that I was running for City Council. It is inappropriate that Ms. Wu be involved in politics.

When she started on council, she acted as though she was in service to the council when Darcy Paul was mayor. This changed under the mayorship of Hung Wei and Sheila Mohan. I also observed her attacking other councilmembers from the dais. This is inappropriate.

And she overstepped by intimidating council members into voting for a brightly lit public storage sign that faces residences. I have written about this before. It is wholly unacceptable.

There is more and you can refer to previous commentary.

I would have hoped that Ms. Wu would have grown into her role and am saddened to see that she has regressed.

Sincerely,
Rhoda Fry, 40+ year resident of Cupertino

From: [Lisa Warren](#)
To: [City Clerk](#); [City Council](#)
Cc: [City Council](#)
Subject: Written Communication for November 18, 2024 Closed Session items 1 and 2 Employee Performance Evaluations CM and CA
Date: Monday, November 18, 2024 2:57:40 PM
Attachments: [JR Fruen Letter to CC May 11, 2018 - City Attorney's Duty - city's Mission Statement.pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor Mohan, Vice Mayor Fruen and Councilmembers Chao, Moore and Wei.

I have written and/or spoken about City Manager and City Attorney 'performance' in, I believe, the last three closed meetings on the subject. I had hoped for improvement, but it seems that things are getting worse, or at least more well known. I have recently spoken to several community members who have shared bad, to horrible, experiences as they tried to engage with Sr. Staff. This is not a good trend at all.

I continue to see erosion in transparency from City Manager Wu, and I have made statements to that effect in public meetings. Some of this 'behavior' is supported by the current council majority, which is also a significant disappointment.

I personally chose not to communicate directly with emails to CM Wu because the 'answers' were not helpful. I did try again after several months of opting not to, and again I felt that it was not a good use of time. No real answers and, I felt, dismissive replies. I wish that it were not so.

I am forwarding a previous email (from over a year ago) that touches on my own concerns, as well as other members of the public. I have read some emails, and heard multiple residents discuss and report poor judgement on behalf of city attorney Jensen. Things do not appear to have improved related to the way that Mr. Jensen communicates with residents, and seem to be getting worse. Something needs to be done, and the public should be made aware of efforts to take this seriously.

There is an increasing amount of money being spent on 'consultants' such as David Sykes and the contracts indicate that 'coaching' is for multiple staff members.

Have any of these consultants been made aware of the discontent of city residents ? If not, why not ?

While I understand that these two positions are not 'easy'. That should in no way create a culture that allows for 'misuse of power' or unacceptable

treatment related to people who the positions are meant to serve.

----- Forwarded Message -----

From: Lisa Warren <la-warren@att.net>

To: cityclerk@cupertino.org <cityclerk@cupertino.org>; City Council <citycouncil@cupertino.org>

Sent: Monday, October 30, 2023 at 04:39:50 PM PDT

Subject: Written Communication for Oct 30, 2023 Closed Session item #1

To: City Council

Re: Item #1 of Oct 30, 2023 Closed Session Performance Evaluation City Attorney

I have attached a letter submitted by JR Fruen, Resident, to city council members on May 11, 2018.

The subject of the message was the performance of a previous city attorney

I have would like to draw attention to the initial comments quoted below in bold.

The letter was submitted under the Public Employee Performance Evaluation: City Attorney, (Randolph Hom)

I do hope that Mr. Fruen, and others, see why this is relevant.

I have concerns related to the way that CA Jensen's actions have altered in the last several months and don't believe they have not supported the city's mission statement. I hope that Mr. Jensen can get back on the right path for our residents, who any city attorney is expected to serve.

" The heart of an attorney's duty of loyalty is his protection and furtherance of this client's interests. For any client, those interests range beyond shielding against legal exposure. In the case of this city, they include community cohesion and vitality as memorialized in the city's mission statement '*to provide exceptional service, encourage all members of the community to support one another, and support the values of education, innovation and collaboration*'. "

There is a later comment that suggests an additional concern :

"I can not recall encountering the city attorney at public events."

--- Lisa Warren

Mr. Mayor and members of the city council:

Like many other Cupertino residents, it dismays me to appear before you today given the topic at hand.

The heart of an attorney's duty of loyalty is his protection and furtherance of his client's interests. For any client, those interests range beyond shielding against legal exposure. In the case of this city, they include community cohesion and vitality as memorialized in the city's mission statement: "to provide exceptional service, encourage all members of the community to support one another, and support the values of education, innovation and collaboration."

From the Cupertino Historical Society to the Friends of Stevens Creek Trail, various non-profit groups with longstanding roots in this community report increased difficulty in complying with the impositions of new requirements that appear solely calibrated to forestall any liability on the part of the city, without apparent regard to the value these institutions return to Cupertino and its residents. This excessively cautious approach undervalues a host of city interests that extend far beyond legal risk. This matter lies within the remit of the city attorney's office.

Similarly, it has come to my attention that the longtime owner of Vardy's received a cross-complaint for contribution from the city in June 2017, without any apparent forewarning. While this filing likely safeguarded the monetary interests of the city, a more collaborative approach in the best traditions of an attorney's duty to opposing parties and our city's mission statement could have achieved a less acrimonious result. Regardless of whether this action occurred in response to proper consultation with the city council, the advice given matters and our locally-owned businesses deserve to know that they have a partner in the city, not a knee-jerk adversary.

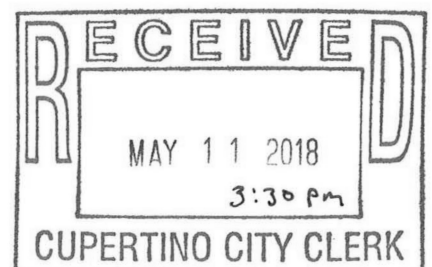
By contrast, I am struck at the lack of response from the city attorney during moments of conflict that damage public trust and could lead to exposure. The August 15, 2017 gateway vote on three separate projects immediately comes to mind. The council struggled at length to determine just the proper procedure for voting. This left the council and staff appearing hapless in a moment of heavy public scrutiny. Sufficient advance vetting of the voting procedure or intervention from the city attorney at that moment could have solved the problem.

Indeed, this disengagement appears to be commonplace--I cannot recall the last time the city attorney resolved an ongoing conflict on the city council dais, nor can I recall encountering the city attorney at public events.

I am not here to impugn the technical competence of the city attorney; but I feel that Cupertino deserves the best, not a city attorney who is absent in body from civic life, and absent in word from council meetings.

I wish this council much wisdom in its deliberations today. Thank you.

J.R. Fruen
Cupertino Resident



From: [S.B](#)
To: [Kitty Moore](#); [Liang Chao](#); [Sheila Mohan](#); [J.R. Fruen](#); [Hung Wei](#); [City Clerk](#)
Subject: Feedback on City Manager Pamela Wu
Date: Monday, November 18, 2024 3:42:38 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino City Council Members and City Clerk,

Please include this in the city written communications!

I had the opportunity to work with the City Manager in my role as a commissioner in 2023. Since then, I have observed a troubling shift in her approach to her responsibilities and interactions with residents. It appears either the Council has redefined her role, or she has chosen to disregard residents' concerns. Below are several key issues I've identified, along with suggestions for improvement:

1. Lack of Transparency

The Scofield and Linda Vista cases highlight a lack of transparency. In the Scofield case, residents were directed to work directly with the developer, with no involvement from the city. In Linda Vista, 745 signatures were collected but ignored until Council members Chao and Moore intervened. The City Manager should establish clear communication channels and a structured process to engage residents and developers, ensuring timely responses to community concerns.

2. Lack of Fiscal Responsibility

In 2023, the City Manager traveled to Taiwan with Councilmember Wei, and this year, she is on a similar trip to India with Mayor Mohan. No public report has been provided on the Taiwan trip, including costs and benefits. Meanwhile, city services like the July 4th fireworks have been cut due to budget constraints. The City Manager should provide detailed reports on such trips and the council must scrutinize travel expenses, especially during times of fiscal austerity.

3. Lack of Respect for Democracy

Changes to resident communication processes have become increasingly complex, now requiring explicit requests for attaching memos to written communications for public access. Furthermore, important issues like the future of City Hall and the removal of bike lanes on De Anza are often relegated to memos instead of being discussed in open Council meetings. The City Manager should ensure that all major topics are openly discussed in meetings, with clear opportunities for public input, restoring transparency and inclusivity in decision-making.

4. Lack of Respect for Elected Council Members

Council members Chao and Moore are often unable to express their views due to time

constraints or because the issue was discussed in private meetings. This leaves the public unaware of important discussions. Additionally, at events like the Mayor's Chai, the City Manager has sometimes taken on a speaking role intended for the Mayor, which can confuse residents about who is speaking on behalf of the city. Council members should be given the opportunity to share their views during meetings, and the City Manager should respect the role of the Mayor, ensuring that residents hear directly from elected officials.

5. Questioning Integrity and Accountability

During the recent City Council election, city staff removed campaign signs for candidates Kitty Moore and Ray Wang without prior notice, violating the municipal code. While the City Manager issued an apology, the underlying question remains: how did this happen? This incident highlights the need for more transparent and accountable decision-making. The City should implement a clearer process for approvals, including public visibility and tracking (e.g., a workflow ticketing system), to increase transparency and rebuild public trust.

I believe in constructive feedback and would like to see the city manager committed to working toward a more transparent, accountable, and resident-focused city government.

Sincerely,

Sashi Begur

CC 11-18-2024

Item No. 2

City Attorney Chris Jensen
Evaluation

Written Communications

From: [Peggy Griffin](#)
To: [Sheila Mohan](#); [J.R. Fruen](#); [Hung Wei](#); [Liang Chao](#); [Kitty Moore](#)
Cc: [City Clerk](#)
Subject: RE: 2024-11-18 City Council Meeting-CLOSED SESSION ITEM2-City Attorney Eval-Brown Act Violations
Date: Friday, November 15, 2024 5:25:35 PM
Attachments: [image001.png](#)
[Memo from CA Jensen Re Brown Act Teleconference Rules.pdf](#)
[2023-02-22 SCC Overview of Brown Act-P20 Teleconference.pdf](#)
[2024-06-24 EMAIL sent to CA Jensen re 3 Brown Act Issues.pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Adding City Clerk. I forgot to copy them.
Also, adding a 3rd attachment which is a copy of the email I sent CA Jensen and Asst. CA Woo.

From: Peggy Griffin <griffin@compuserve.com>
Sent: Friday, November 15, 2024 4:56 PM
To: 'Sheila Mohan' <SMohan@cupertino.gov>; jrfruen@cupertino.gov; 'Hung Wei' <HWei@cupertino.org>; 'Liang Chao' <LChao@cupertino.gov>; 'Kitty Moore' <kmoore@cupertino.org>
Subject: 2024-11-18 City Council Meeting-CLOSED SESSION ITEM2-City Attorney Eval-Brown Act Violations

PLEASE INCLUDE THIS EMAIL AND ALL ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE MEETING AGENDA ITEM.

Dear City Council,

ISSUE: City Attorney Jensen continually allows Brown Act violations regarding remote teleconferencing by commissioners and members of the City Council even though he is aware of the rules.

NOTE: On March 22, 2023 – City Attorney Jensen sent a memo to City Manager Wu and City Clerk Kirsten Squarcia describing the requirements for teleconferencing under the Brown Act so he is aware of the rules.

For these 3 remote teleconferencing uses:

- March 28, 2024 – Bike/Ped Commissioner John Zhao attends remotely from Shanghai, China.
- April 17, 2024 – Bike/Ped Commissioner John Zhao attends remotely from Shanghai, China
- June 11, 2024 – Planning Commissioner Tejesh Mistry attends remotely from Holtsville, NY

the Brown Act issues were:

1. Agendas did not state that the public can attend the teleconferencing locations.
2. The teleconference locations in the agendas were not detailed enough for the public to find the location to be able to attend.
3. Their agendas did not list the date and time at the separate locations. They were in different time zones and Example 2 and Example 3 were on different days due to time zones.
4. The City of Cupertino was not publishing the agenda at their teleconferencing locations.

For this remote teleconferencing use:

- September 18, 2023 – City Councilmember Mohan participates in the City Council meeting remotely.

The Brown Act issues were:

On Tuesday, September 19, 2023, at the Cupertino City Council's regular meeting, Vice Mayor Shiela Mohan participated remotely pursuant to California Government Code Section 54953(f)(2). Under Govt. Code 54953(f)(2), "A member of the legislative body shall only participate in the meeting remotely...if all of the following requirements are met:". There are three requirements:

- A. Circumstances under which the member of the legislative body needs to participate remotely.
- B. The member shall publicly disclose at the meeting before any action is taken, whether **any other** individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals."
- C. The member shall participate through both audio and visual technology.

City Clerk Kirsten Squarcia announced at the beginning of the City Council meeting (Video time 00:35), Vice Mayor Mohan was going to "participate remotely under an exemption allowed under the Brown Act."

At no time during the 4-hour (4:01:29) meeting did Vice Mayor Mohan "publicly disclose at the meeting" whether any other individuals 18 years of age or older were present. This was a violation of CA Govt Code Section 54953(f)(2)(B).

During roll call, Vice Mayor Mohan was not visible when she said "Here." For the remainder of the council meeting, the only time the public saw Vice Mayor Mohan on the video was when she spoke. There were long periods during the meeting in which she was not visible at all. A member of the public walking in during these periods would assume that she was not present. The only time Vice Mayor Mohan was visible was when she spoke and not even seen during roll call. This is a violation of CA Govt Code Section 54953(f)(2)(C) which states "The member shall participate through both audio and visual technology." Without full time video of Vice Mayor Mohan, the public had no confirmation that she was participating (listening, observing, etc.).

As described above, the two Brown Act violations occurred when a member of the legislative body participated remotely in the Cupertino City Council meeting on September 19, 2023:

- 1. Vice Mayor Mohan did not publicly disclose during the meeting before any action was taken whether other individuals 18 years of age or older were present in the room with her and their relationship with her. This violated **CA Govt Code Section 54953(f)(2)(B)**.
- 2. Vice Mayor Mohan did not participate through both audio and visual technology throughout the meeting. This violated **CA Govt Code Section 54953(f)(2)(C)**.

For continual remote teleconferencing used by Councilmember Hung Wei the issues are:

- 1. Has she exceeded the 3 consecutive months or 20% of the regular meetings in a calendar year?
 - a. She has not attended a meeting in person since mid-July 2024!
 - b. Many of the City Council meetings are "special" meetings because the dates and times have changed. Has she exceeded the 20% of REGULAR meetings?
- 2. The requirement that it be "accessible to the public" does not mean the public of Taipei! It means the public of Cupertino.

NOTE: This slide was from the October 16-18, 2024 2024 League of California Cities Conference and Exposition. It was sent to me by someone outside the City of Cupertino.

AB 2449 Additional Requirement

- Publicly disclose whether any other individuals 18 years of age or older are present in the remote location with the member, and the general nature of the member's relationship with the person
- Participate through both audio and visual technology
- Remote participation cannot be for more than three consecutive months or 20 percent of the regular meetings within a calendar year
- Cannot be more than 2 meetings if the legislative body meets fewer than 10 times per calendar year



I can see one mistake but over and over is a bit much when it is obvious that City Attorney Jensen is and was aware of the rules.

Sincerely,
Peggy Griffin



OFFICE OF THE CITY ATTORNEY

10300 TORRE AVENUE • CUPERTINO, CA 95014
TELEPHONE: (408) 777-3403 • FAX: (408) 777-3401

TO: Pamela Wu, City Manager
Kirsten Squarcia, City Clerk

FROM: Chris Jensen, City Attorney

DATE: March 22, 2023

SUBJECT: Brown Act Changes and Remote Meeting Requirements

The City Council, commissioners, and other members of City legislative bodies subject to the Brown Act have been informed that authorization for remote meetings under AB 361 expired on February 28, 2023, when the Governor's declared State of Emergency expired. Members of legislative bodies must now attend meetings in person or comply with the narrow exceptions authorized under state law. The Brown Act does not limit remote participation by members of the public or City staff. Exceptions that allow for remote participation by legislative body members are outlined below.

1. Brown Act "Classic" Teleconference Rules

The Brown Act continues to allow members of local legislative bodies to participate remotely in public meetings consistent with its teleconference requirements. Government Code section 54953 authorizes members to participate at remote locations during teleconferenced meetings so long as the legislative body: (1) posts meeting agendas at all teleconference locations; (2) identifies all teleconference locations in the notice and agenda; and (3) makes each teleconference location accessible to the public. A quorum of the legislative body must be present in person.

2. AB 2449 – New Limited Remote Participation Exception

AB 2449 allows an individual member, under specific limited circumstances, to participate in a Brown Act meeting remotely without identifying their remote

teleconference location and without making their remote teleconference location accessible to the public.

In order for an individual member to participate remotely under AB 2449, at least a quorum of the legislative body must be participating from a singular physical location that is clearly identified on the agenda and open to the public. The remotely participating member must use a two-way audiovisual platform (*e.g.*, Zoom), and the public must be provided with either a similar two-way audiovisual platform or a phone-in option coupled with a live webcasting of the meeting.

An individual member may not participate in meetings remotely under AB 2449 for more than three consecutive months or 20% of the legislative body's regular meetings within a calendar year. If the legislative body regularly meets fewer than 10 times a year, an individual member may not participate remotely using the AB 2449 exception for more than two meetings.

In order to use the AB 2449 remote participation exemption, an individual member of a legislative body must notify the full membership of the body that either "just cause" or "emergency circumstances" exist for their remote participation.

Just Cause

"Just cause" is defined as any one of the following:

- Childcare or caregiving of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a member to participate remotely.
- A contagious illness that prevents a member from attending in person.
- A need related to a physical or mental disability.
- Travel while on business of the legislative body or another state or local agency.

In order to participate remotely for "just cause," an individual member must notify the legislative body at the earliest possible opportunity—up to the start of a meeting—of their need to participate remotely and provide a general description of the circumstances related to one of the four items above. A member may only use the "just cause" provision up to two meetings per calendar year.

Emergency Circumstances

An “emergency circumstance” is defined as a physical or family medical emergency that prevents a member of a legislative body from attending in person.

In order to participate remotely under “emergency circumstances,” the individual member must request that the full legislative body allow them to participate in the meeting remotely because of emergency circumstances, and the legislative body must take action to approve the request at the public meeting. An individual member making a request to participate remotely due to “emergency circumstances” must provide a general description of the circumstances giving rise to the need to appear remotely. This description does not have to be more than 20 words and should not include any personal medical information. The legislative body then votes, as the first order of business at the relevant meeting, to approve or deny the member’s request to participate remotely due to “emergency circumstances.”

Additional Requirements

The following **general requirements apply when meeting under the AB 2449 just cause or emergency circumstances** provisions:

- **Members participating remotely must do so through audio and visual technology.**
- The legislative body must provide a way for the public to remotely hear, **visually observe**, and remotely address **the legislative body throughout the meeting in question.**
- The agenda must identify and include an opportunity for the public to attend and directly address the legislative body both remotely and in person at the meeting.
- If there is a disruption to the meeting broadcast or in the ability to take call-in or internet-based public comment, no further action can be taken on agenda items until the issue is resolved.
- The legislative body must implement a procedure for receiving and resolving requests for reasonable accommodations for individuals with disabilities and must give notice of these procedures.
- **Members participating remotely must publicly disclose at the meeting whether any other individuals 18 years of age or older are present in the room of the**

member's remote location and state the general relationship between the individual and the member.

General, Longstanding Requirements for Teleconferencing by Legislative Body Members

1. Remote locations are connected to the main meeting location by telephone, video, or both;
2. Quorum of the members participate from locations within jurisdiction;
3. Full address of each teleconference location is identified in the notice and agenda of the meeting;
4. Agendas are posted at all teleconference locations within required timelines;
5. Each teleconference location is accessible to the public and has technology to enable the public to participate from that location; and
6. All votes are taken by roll call.

Peggy Griffin

From: Griffin <griffin@compuserve.com>
Sent: Monday, June 24, 2024 6:24 AM
To: Christopher Jensen; City Attorney's Office
Subject: Fwd: 2024-06-12 Planning Commission Meeting - Mistry participating remotely via Brown Act

FYI...
Peggy

Begin forwarded message:

From: Peggy Griffin <griffin@compuserve.com>
Date: June 13, 2024 at 10:40:04 AM PDT
To: MichaelW@cupertino.gov
Subject: 2024-06-12 Planning Commission Meeting - Mistry participating remotely via Brown Act

Hi Assistant City Attorney Woo,

Thank you for taking the time to stop on your way out to explain to me the Brown Act condition that Planning Commissioner Mistry was using to participate in the meeting remotely. I really appreciate you doing that

Yesterday, I did go back and re-read that section of the Brown Act (Govt. code section 54953(b)(2). Note that (3) also applies.) After reading this section of the code, I strongly feel there were several Brown Act violations.

I have some significant concerns I hope you can explain:

1. The teleconference location posted in the Planning Commission agenda was so general it was not clear where the "meeting" was being held.
 1. Using Google Maps, it brings up the Sonoma Grill Restaurant that was closed when the Planning Commission meeting started. This means the public had NO ACCESS to the building.
 2. Using Apple Maps, it shows 2 possible buildings, the Sonoma Grill Restaurant and the Holiday Inn Long Island. If it was the hotel, where in the hotel that was publicly accessible?
 3. It appears from the video that Commissioner Mistry was participating from a room that was not publicly accessible, probably his hotel room. Since the agenda didn't say who was participating remotely, the public would not have had a clue whose room to locate!
2. If the intended location was the Holiday Inn Long Island Hotel, then the exact location in this large hotel would need to have been specified.
 1. It appears it was a private room.
 2. No public access.
 3. Public did not know which commissioner was there to even ask for the room!
3. According to Govt. code section 54953(b)(3), the agenda was to be posted at the location.
 1. Q: Where is there proof this was done, especially when the building was closed or it was a hotel room nobody knew about?
4. The time posted in the agenda says 6:45 pm which is implied to be PDT but it does not state that nor does it state the time of the publicly accessible east coast location was 9:45 EDT.

As our society becomes more and more global, I understand the need to use this provision occasionally BUT when it is used, I want it done correctly and the law not abused. I appreciate any clarification you can provide

Thank you again for your help.

Sincerely,
Peggy Griffin

REFERENCE #1 – Planning Commission 6-11-2024 Agenda

Top of Planning Commission Agenda for the 6-11-2024 Meeting



CITY OF CUPERTINO

AGENDA

PLANNING COMMISSION

10350 Torre Avenue, Council Chamber and via Teleconference
Teleconference Location Pursuant to Government Code section

1730 N Ocean Ave., Holtsville, NY 11742

Tuesday, June 11, 2024

6:45 PM

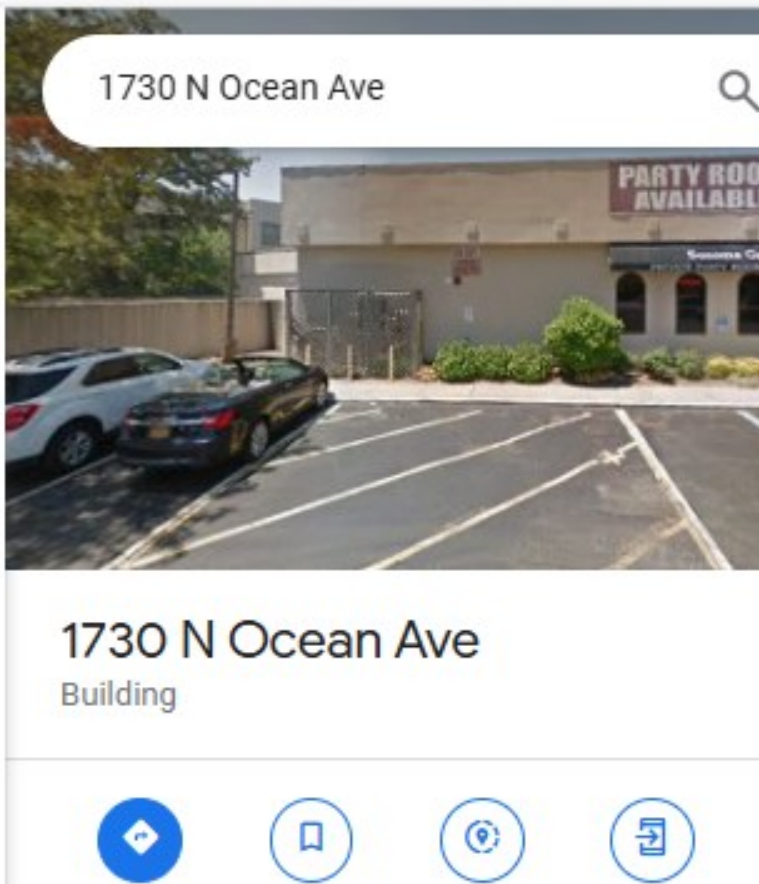
IN-PERSON AND TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION

Members of the public wishing to observe the meeting may do so in the following ways:

REFERENCE #2 – Information on location posted from Google Maps

Google Maps Location: shows only the Sonoma Grill Restaurant!

Sonoma Grill Hours: Tuesday 3-9 PM East Coast time (CLOSED at 6:45PM PDT when PC meeting started)



Apple Maps 2 Location: 1730 N Ocean Ave. Holtsville, NY 11742 is the address of
-Sonoma Grill AND the
-Holiday Inn Long Island.



54953.

(a) All meetings of the legislative body of a local agency shall be open to the public and all persons shall be permitted to attend any meeting of the legislative body of a local agency except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferencing proceeding shall comply with all otherwise applicable requirements of law and all otherwise applicable provisions of law relating to a specific type of meeting.

(2) Teleconferencing, as authorized by this section, may be used for any meeting within the subject matter jurisdiction of the legislative body of a local agency. If the legislative body of a local agency elects to use teleconferencing, the legislative body shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by roll call.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing at the meeting of the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post the agenda as required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting agenda. The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

From: [Peggy Griffin](#)
To: [Sheila Mohan](#); [J.R. Fruen](#); [Hung Wei](#); [Kitty Moore](#); [Liang Chao](#)
Cc: [City Clerk](#)
Subject: 2024-11-18 City Council Meeting-CLOSED SESSION ITEM 2-City Attorney Evaluation
Date: Friday, November 15, 2024 3:45:15 PM
Attachments: [2024-09-13 EMAIL from Jensen-inappropriate response from CA.pdf](#)

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PLEASE INCLUDE THIS EMAIL AND ANY ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE MEETING AGENDA ITEM.

Dear City Council,

I am forwarding an email response I received from City Attorney Jensen on 9-13-2024 in response to my concern that the remote teleconferencing location that was required to be open to the public also be accessible to the disabled. His response was completely inappropriate and needs to be addressed. I am not the only person he has responded to in this way!

Please address his anger management issues, particularly towards women. I have not heard of him responding inappropriately towards men.

Sincerely,
Peggy Griffin

P.S. I have also attached a PDF of his email response highlighting his response.

From: Christopher Jensen <ChristopherJ@cupertino.org>
Sent: Friday, September 13, 2024 10:08 AM
To: Griffin <griffin@compuserve.com>
Cc: Pamela Wu <PamelaW@cupertino.gov>; Sheila Mohan <SMohan@cupertino.gov>; Kirsten Squarcia <KirstenS@cupertino.gov>
Subject: RE: 2024-09-17 City Council Meeting - Issues/questions with teleconferencing

Dear Ms. Griffin:

The City Attorney's Office does not provide legal advice to member of the public or respond to biased, ignorant, and inaccurate commentary. It is of course your right to say whatever you want, but I won't engage with serial liars.

Regards,
Chris



Christopher Jensen

City Attorney
City Attorney's Office
ChristopherJ@cupertino.gov
(408)777-3105



From: Griffin <griffin@compuserve.com>
Sent: Friday, September 13, 2024 10:00 AM
To: Christopher Jensen <ChristopherJ@cupertino.org>; Pamela Wu <PamelaW@cupertino.gov>;
Sheila Mohan <SMohan@cupertino.gov>; Kirsten Squarcia <KirstenS@cupertino.gov>
Subject: Re: 2024-09-17 City Council Meeting - Issues/questions with teleconferencing

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One more question...

Q5: ADA requirements...Is the remote location ADA compliant? Is that a requirement?

Peggy

On Sep 13, 2024, at 9:55 AM, Griffin <griffin@compuserve.com> wrote:

Dear City Attorney Jensen, City Manager Wu, Mayor Mohan and City Clerk Squarcia,

I am glad the city has finally decided to follow the Brown Act regarding teleconferencing pursuant to government code 54953(b)(2) after having violated it 3 times.

QUESTIONS

Q1: What provisions will you have in place to prevent members of the public from talking to or accessing the remote council member during the meeting?

Q2: What provisions will you have in place to allow the public to ask to speak and speak

from the remote location?

Q3: Where will the agenda be posted at the remote location?

Q4: Will there be seating and access to a bathroom for those attending the remote location?

Q5: The resulting video that is posted as “public record” needs to include the remote location video and audio. Is the city’s tech crew prepared to do this?

Sincerely,
Peggy Griffin

Peggy Griffin

From: Christopher Jensen <ChristopherJ@cupertino.org>
Sent: Friday, September 13, 2024 10:08 AM
To: Griffin
Cc: Pamela Wu; Sheila Mohan; Kirsten Squarcia
Subject: RE: 2024-09-17 City Council Meeting - Issues/questions with teleconferencing

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Griffin:

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Regards,
Chris



Christopher Jensen

City Attorney
City Attorney's Office
ChristopherJ@cupertino.gov
(408)777-3105



From: Griffin <griffin@compuserve.com>
Sent: Friday, September 13, 2024 10:00 AM
To: Christopher Jensen <ChristopherJ@cupertino.org>; Pamela Wu <PamelaW@cupertino.gov>; Sheila Mohan <SMohan@cupertino.gov>; Kirsten Squarcia <KirstenS@cupertino.gov>
Subject: Re: 2024-09-17 City Council Meeting - Issues/questions with teleconferencing

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Q5: The resulting video that is posted as “public record” needs to include the remote location video and audio. Is the city’s tech crew prepared to do this?

Sincerely,
Peggy Griffin

From: [Lisa Warren](#)
To: [City Clerk](#); [City Council](#)
Cc: [City Council](#)
Subject: Written Communication for November 18, 2024 Closed Session items 1 and 2 Employee Performance Evaluations CM and CA
Date: Monday, November 18, 2024 2:57:40 PM
Attachments: [JR Fruen Letter to CC May 11, 2018 - City Attorney's Duty - city's Mission Statement.pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor Mohan, Vice Mayor Fruen and Councilmembers Chao, Moore and Wei.

I have written and/or spoken about City Manager and City Attorney 'performance' in, I believe, the last three closed meetings on the subject. I had hoped for improvement, but it seems that things are getting worse, or at least more well known. I have recently spoken to several community members who have shared bad, to horrible, experiences as they tried to engage with Sr. Staff. This is not a good trend at all.

I continue to see erosion in transparency from City Manager Wu, and I have made statements to that effect in public meetings. Some of this 'behavior' is supported by the current council majority, which is also a significant disappointment.

I personally chose not to communicate directly with emails to CM Wu because the 'answers' were not helpful. I did try again after several months of opting not to, and again I felt that it was not a good use of time. No real answers and, I felt, dismissive replies. I wish that it were not so.

I am forwarding a previous email (from over a year ago) that touches on my own concerns, as well as other members of the public. I have read some emails, and heard multiple residents discuss and report poor judgement on behalf of city attorney Jensen. Things do not appear to have improved related to the way that Mr. Jensen communicates with residents, and seem to be getting worse. Something needs to be done, and the public should be made aware of efforts to take this seriously.

There is an increasing amount of money being spent on 'consultants' such as David Sykes and the contracts indicate that 'coaching' is for multiple staff members.

Have any of these consultants been made aware of the discontent of city residents ? If not, why not ?

While I understand that these two positions are not 'easy'. That should in no way create a culture that allows for 'misuse of power' or unacceptable

treatment related to people who the positions are meant to serve.

----- Forwarded Message -----

From: Lisa Warren <la-warren@att.net>

To: cityclerk@cupertino.org <cityclerk@cupertino.org>; City Council <citycouncil@cupertino.org>

Sent: Monday, October 30, 2023 at 04:39:50 PM PDT

Subject: Written Communication for Oct 30, 2023 Closed Session item #1

To: City Council

Re: Item #1 of Oct 30, 2023 Closed Session Performance Evaluation City Attorney

I have attached a letter submitted by JR Fruen, Resident, to city council members on May 11, 2018.

The subject of the message was the performance of a previous city attorney

I have would like to draw attention to the initial comments quoted below in bold.

The letter was submitted under the Public Employee Performance Evaluation: City Attorney, (Randolph Hom)

I do hope that Mr. Fruen, and others, see why this is relevant.

I have concerns related to the way that CA Jensen's actions have altered in the last several months and don't believe they have not supported the city's mission statement. I hope that Mr. Jensen can get back on the right path for our residents, who any city attorney is expected to serve.

" The heart of an attorney's duty of loyalty is his protection and furtherance of this client's interests. For any client, those interests range beyond shielding against legal exposure. In the case of this city, they include community cohesion and vitality as memorialized in the city's mission statement '*to provide exceptional service, encourage all members of the community to support one another, and support the values of education, innovation and collaboration*'. "

There is a later comment that suggests an additional concern :

"I can not recall encountering the city attorney at public events."

--- Lisa Warren

Mr. Mayor and members of the city council:

Like many other Cupertino residents, it dismays me to appear before you today given the topic at hand.

The heart of an attorney's duty of loyalty is his protection and furtherance of his client's interests. For any client, those interests range beyond shielding against legal exposure. In the case of this city, they include community cohesion and vitality as memorialized in the city's mission statement: "to provide exceptional service, encourage all members of the community to support one another, and support the values of education, innovation and collaboration."

From the Cupertino Historical Society to the Friends of Stevens Creek Trail, various non-profit groups with longstanding roots in this community report increased difficulty in complying with the impositions of new requirements that appear solely calibrated to forestall any liability on the part of the city, without apparent regard to the value these institutions return to Cupertino and its residents. This excessively cautious approach undervalues a host of city interests that extend far beyond legal risk. This matter lies within the remit of the city attorney's office.

Similarly, it has come to my attention that the longtime owner of Vardy's received a cross-complaint for contribution from the city in June 2017, without any apparent forewarning. While this filing likely safeguarded the monetary interests of the city, a more collaborative approach in the best traditions of an attorney's duty to opposing parties and our city's mission statement could have achieved a less acrimonious result. Regardless of whether this action occurred in response to proper consultation with the city council, the advice given matters and our locally-owned businesses deserve to know that they have a partner in the city, not a knee-jerk adversary.

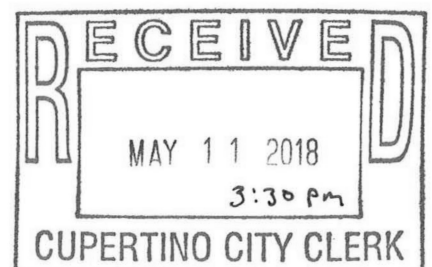
By contrast, I am struck at the lack of response from the city attorney during moments of conflict that damage public trust and could lead to exposure. The August 15, 2017 gateway vote on three separate projects immediately comes to mind. The council struggled at length to determine just the proper procedure for voting. This left the council and staff appearing hapless in a moment of heavy public scrutiny. Sufficient advance vetting of the voting procedure or intervention from the city attorney at that moment could have solved the problem.

Indeed, this disengagement appears to be commonplace--I cannot recall the last time the city attorney resolved an ongoing conflict on the city council dais, nor can I recall encountering the city attorney at public events.

I am not here to impugn the technical competence of the city attorney; but I feel that Cupertino deserves the best, not a city attorney who is absent in body from civic life, and absent in word from council meetings.

I wish this council much wisdom in its deliberations today. Thank you.

J.R. Fruen
Cupertino Resident



From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: City Council 11/18/2024 Agenda item #2 City Attorney
Date: Monday, November 18, 2024 2:23:46 PM

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Dear City Council,

Regarding the City Attorney performance evaluation, in my opinion, Mr. Jensen is a disappointment.

Mr. Jensen has been extraordinarily rude to current and former councilmembers. He also failed to make a substantive correction to the grand jury report that vilified councilmember Moore.

Specifically, the report stated that Moore had asked an employee to see receipts from credit card expenses when in fact she had appropriately followed protocol and asked the City Manager for the information.

That information was willingly provided by the City Manager. But he let the defamatory statements remain and that is wrong.

Mr. Jensen has been rude to city council members and to staff.

I am also disappointed that he has not followed through with the misallocation of BMR funds to pay for the YIMBY lawsuit and potentially other expenses. Additionally, he refused to provide the actual costs of the YIMBY lawsuit which should be public information because it is public funds.

Most recently, Mr. Jensen allowed misogynistic comments toward female council members to go unchecked. Specifically, councilmember Fruen had used the expression “pearl clutching,” to describe the legitimate concerns of fellow councilmembers. He should have done something and been an upstander, but he was not.

He seems like he hates his job and hates certain members of the council and the public. That is not okay.

Please also consider previous emails that I have sent on this topic as they still stand.

Sincerely,
Rhoda Fry, 40+ year resident of Cupertino