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CITY COUNCIL STAFF REPORT

Meeting: May 20, 2025

Subject

Study Session regarding possible reactivation of and appropriate scope for the Environmental Review Committee ("ERC") and the Legislative Review Committee ("LRC"), and possibly amending the scope of the Audit Committee

Recommended Actions

1. Environmental Review Committee: Direct the Planning Commission to consider re-enacting the ERC and establishing its appropriate scope of review for recommendation to the City Council.
2. Legislative Review Committee: Direct the current limited scope and limited duration Ad Hoc Legislative Review Subcommittee to consider reenacting the standing Legislative Review Committee and establishing an appropriate scope of review for recommendation to the City Council.
3. Audit Committee: Direct the Audit Committee to consider amending its scope of review for recommendation to the City Council

Background

The City currently has twelve commissions and committees, eleven of which are currently codified in Title 2 of the Cupertino Municipal Code. The Economic Development Committee should be added to the codified Municipal Code at Chapter 2.96 soon as the City Council moved to reenact this Committee on March 18, 2025. The primary role of a commission is to advise the City Council in the formation of important policy issues by weighing public input and examining issues to prepare a considered recommendation on items within their scope to the City Council. The primary role of a committee is to advise the City Council on specific issues, programs, or projects related to the city's governance and operations.

Environmental Review Committee

Cupertino originally codified the ERC in August 1990. On January 25, 2023, the City Council held a special meeting to conduct a study session to consider modifying the responsibilities of various existing City commissions and committees. At that meeting Council directed staff to amend the Municipal Code to dissolve the ERC. On February 21, 2023, the City Council voted to enact Ordinance No. 23.2247, repealing Chapter 2.84 (ERC), and assigning its responsibilities, in part to the Planning Commission and in part the City Council, as appropriate.

Previously, the ERC's primary function had been to review public projects in accordance with the California Environmental Quality Act to determine whether a project would have a significant effect on the environment requiring an Environmental Impact Report after considering a preliminary analysis, known as the Initial Study. In the past, the ERC included members who also served on the City Council and the Planning Commission, both bodies that would likely vote to approve or deny projects that would eventually come before the ERC. Depending on the scope of a recreated ERC, such a structure should be avoided.

Legislative Review Committee

On February 5, 2018, the City Council adopted Resolution No. 18-010, establishing a Legislative Advocacy Policy, which delegated authority to formulate the City's positions on proposed legislation that align with the City's legislative platform to the previously established Legislative Advocacy Committee (also sometimes referred to as the Legislative Action Committee), which later became known as the Legislative Review Committee.

On January 25, 2023, the City Council passed Resolution No. 23-026, dissolving the LRC, thereby assuming the sole authority to establish the City's positions on pending legislation. In so moving the City Council found, at that time, that the delegation of authority under the Legislative Advocacy Policy to the LRC was inconsistent with Municipal Code section 2.17.031, which provides that City Council authority to "accept, reject, amend, or otherwise guide and direct staff actions, decisions, recommendations, workloads and schedules, department priorities, and the conduct of city business through the office of the City Manager. This power cannot be delegated to individual Council members, nor to committees composed of council members consisting of less than a quorum of the City Council."

Resolution No. 23-026 also established an updated Legislative Advocacy Policy requiring full Council consideration of City positions on proposed legislation, including the limited exception allowing the City Manager to act in limited circumstances where a Council-adopted policy or other clear Council direction provided by vote of the Council supports a position on the pending legislation.

Audit Committee

On January 23, 2023, the Audit Committee unanimously recommended that the City Council amend certain financial reporting requirements, including a requirement codified in the Municipal Code at Chapter 2.88. On March 7, 2023, the City Council enacted Ordinance No. 23.2247, amending Chapter 2.88.100, modifying the powers and functions of the Audit Committee as it pertains to reviewing investment reports, now requiring such review on a quarterly rather than monthly basis. The Audit Committee's other current duties and responsibilities are enumerated in Chapter 2.88.100 as well, including: reviewing the annual audit report and management letter; recommending appointment of auditors; reviewing the Quarterly Treasurer's investment report; recommending a budget format; reviewing City investment policies and internal controls of such policies; recommending appointment of internal auditors; reviewing internal audit reports; and reviewing quarterly Fraud, Waste, and Abuse Program reports.

Reasons for Recommendations

The ERC and LRC were dissolved in 2023. The current Council is interested in understanding whether the City would be served by reestablishing one or both of those bodies, and if so, what would be an appropriate scope of review and oversight be.

Similarly, the Council is interested in the current Audit Committee's perspective on whether they could better serve the City with an updated scope of review and oversight, and if so, what updates would the Audit Committee suggest to the City Council.

Recommendations

1. Direct the Planning Commission to consider whether the Environment Review Committee should be reestablished, and if so, make a recommendation to the City Council as to its structure and scope.
2. Direct the Legislative Review Ad Hoc Subcommittee to consider the reestablishment of a standing Legislative Review Committee and the scope and authority of such committee and make a recommendation to the City Council.
3. Direct the Audit Committee to consider its appropriate scope of review and make a recommendation to the City Council.

Sustainability Impact

No sustainability impact.

Fiscal Impact

If the City Council chooses to add commissions or committees, additional staffing resources will be required and should be analyzed at that time.

City Work Program (CWP) Item/Description

None.

Council Goal:

Public Engagement and Transparency

California Environmental Quality Act

No California Environmental Quality Act impact.

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Approved for Submission by: Tina Kapoor, Acting City Manager

Attachments:

None