



# CITY OF CUPERTINO

## AGENDA

### CITY COUNCIL

10350 Torre Avenue, Council Chamber and via Teleconference

Wednesday, January 25, 2023

4:00 PM

Televised Special Meeting

### IN-PERSON AND TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION

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

- 1) Attend in person at Cupertino Community Hall, 10350 Torre Avenue.
- 2) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.
- 3) The meeting will also be streamed live on and online at [www.Cupertino.org/youtube](http://www.Cupertino.org/youtube) and [www.Cupertino.org/webcast](http://www.Cupertino.org/webcast)

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

- 1) Appear in person at Cupertino Community Hall. Members of the audience who address the City Council must come to the lectern/microphone, and are requested to complete a Speaker Card and identify themselves. Completion of Speaker Cards and identifying yourself is voluntary and not required to attend the meeting or provide comments.
- 2) E-mail comments by 2:30 p.m. on Wednesday, January 25 to the Council at [citycouncil@cupertino.org](mailto:citycouncil@cupertino.org). These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.

Members of the public may provide oral public comments during the meeting as follows:

Oral public comments will be accepted during the meeting. Comments may be made during "oral communications" for matters not on the agenda, and during the public comment period for each agenda item.

### Teleconferencing Instructions

To address the City Council, click on the link below to register in advance and access the meeting:

**Online**

Register in advance for this webinar:

[https://cityofcupertino.zoom.us/webinar/register/WN\\_oJQS4mbKRj2cr3Gcwg3tXw](https://cityofcupertino.zoom.us/webinar/register/WN_oJQS4mbKRj2cr3Gcwg3tXw)

**Phone**

Dial: 669-900-6833 and enter Webinar ID: 948 7684 5510 (Type \*9 to raise hand to speak, \*6 to unmute yourself). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

Meeting ID: 948 7684 5510

SIP: 94876845510@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.
  2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter "Cupertino Resident" or similar designation.
  3. When the Mayor calls for the item on which you wish to speak, click on "raise hand," or, if you are calling in, press \*9. Speakers will be notified shortly before they are called to speak.
  4. When called, please limit your remarks to the time allotted and the specific agenda topic.
  5. Members of the public that wish to share a document must email [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org)
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prior to speaking.

## NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO CITY COUNCIL

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Wednesday, January 25, 2023, commencing at 4:00 p.m. in Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California 95014 and via teleconference. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

### SPECIAL MEETING

#### ROLL CALL

#### STUDY SESSION

- Subject: Consider adopting Cupertino City Council Procedures Manual, including a new Ceremonial Correspondence Policy (Continued from January 17, 2023)

Recommended Action: Provide input regarding Council procedures and approve Resolution No. 23-021 adopting Cupertino City Council Procedures Manual, including a new Ceremonial Correspondence Policy

Presenter: Christopher Jensen, City Attorney

[Staff Report](#)

[A - Draft Resolution](#)

[B - Draft Cupertino City Council Procedures Manual \(Annotated Redline\)](#)

[C - Draft Cupertino City Council Procedures Manual \(Clean Version\)](#)
- Subject: Study Session to consider modifying Municipal Code Title 2 regarding compositions and responsibilities of existing Commissions and Committees (Continued from January 17, 2023)

Recommended Action: Direct staff to proceed with ordinance amendment to consolidate existing Commissions and Committees

Presenter: Pamela Wu, City Manager

[Staff Report from January 17, 2023](#)

[Supplemental Staff Report](#)

[A – Staff Report from February 15, 2022 City Council Meeting](#)

#### ADJOURNMENT

*Lobbyist Registration and Reporting Requirements: Individuals who influence or attempt to influence legislative or administrative action may be required by the City of Cupertino's lobbying ordinance (Cupertino Municipal Code Chapter 2.100) to register and report lobbying activity. Persons whose communications regarding any legislative or administrative are solely limited to appearing at or submitting testimony for any public meeting held by the City are not required to register as lobbyists. For more information about the lobbying ordinance, please contact the City Clerk's Office at 10300*

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*Torre Avenue, Cupertino, CA 94107; telephone (408) 777-3223; email [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org); and website: [www.cupertino.org/lobbyist](http://www.cupertino.org/lobbyist).*

*The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.*

*Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/cityclerk> for a reconsideration petition form.*

*In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.*

*Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, Cupertino, California 95014, during normal business hours; and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.*

**IMPORTANT NOTICE:** *Please be advised that pursuant to Cupertino Municipal Code section 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agenda item. These written communications are accessible to the public through the City's website and kept in packet archives. Do not include any personal or private information in written communications to the City that you do not wish to make public, as written communications are considered public records and will be made publicly available on the City website.*



# CITY OF CUPERTINO

## Agenda Item

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**23-11972**

**Agenda Date: 1/25/2023**  
**Agenda #: 1.**

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Subject: Consider adopting Cupertino City Council Procedures Manual, including a new Ceremonial Correspondence Policy (Continued from January 17, 2023)

Provide input regarding Council procedures and approve Resolution No. 23-021 adopting Cupertino City Council Procedures Manual, including a new Ceremonial Correspondence Policy

Presenter: Christopher Jensen, City Attorney



## CITY ATTORNEY'S OFFICE

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3403 • FAX: (408) 777-3366  
CUPERTINO.ORG

## CITY COUNCIL STAFF REPORT

Meeting: January 25, 2023

### **Subject**

Consider adopting Cupertino City Council Procedures Manual, including a new Ceremonial Correspondence Policy

### **Recommended Action**

Provide input regarding Council procedures and consider approving Resolution No. 23-021, adopting Cupertino City Council Procedures Manual, including a new Ceremonial Correspondence Policy

### **Discussion**

On January 17, 2023, the City Council considered a draft Cupertino City Council Procedures Manual prepared by staff, along with Councilmember and public input regarding the draft Manual. Council directed staff to collect and compile changes recommended by the Council and return for a study session for further deliberation.

Following the submission of Council comments, staff considered Council and public comments and incorporated certain comments into a revised draft of the Procedures Manual. (See Attachment B (redline) and Attachment C (clean version).) Additional edits proposed by Councilmembers, lightly edited for usage and clarity, are also included for Council's consideration as "comments" in Attachment B.

Staff recommends that Council review the edits proposed by staff and the additional revisions proposed by Councilmembers and provide direction on revisions to the Procedures Manual prior to final adoption. Per Council direction, it is anticipated that final adoption will be deferred until the February 7 Council meeting.

### **Sustainability Impact**

No sustainability impact.

### **Fiscal Impact**

No fiscal impact.

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Prepared by: Christopher D. Jensen, City Attorney  
Approved for Submission by: Pamela Wu, City Manager

Attachments:

- A - Draft Resolution
- B - Draft Cupertino City Council Procedures Manual (Annotated Redline)
- C - Draft Cupertino City Council Procedures Manual (Clean Version)

RESOLUTION NO. 23-\_\_\_\_\_

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL ADOPTING  
CUPERTINO CITY COUNCIL PROCEDURES MANUAL**

WHEREAS, the Cupertino City Council has identified a need to adopt policies and procedures governing the conduct of Council meetings and other Council activities; and

WHEREAS, on January 25, 2023, the City Council considered proposed policies and procedures at a duly noticed regular meeting of the City Council.

NOW, THEREFORE, BE IT RESOLVED that:

1. The City Council hereby adopts the Cupertino City Council Procedures Manual attached hereto as Exhibit A.
2. Resolution No. 19-062 and any other procedures, policies, or rules that are inconsistent with the Council Procedures adopted herein are hereby repealed and rescinded.

PASSED AND ADOPTED at a special meeting of the City Council of the City of Cupertino this 25<sup>th</sup> day of January, 2023, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED:  _____ Hung Wei, Mayor City of Cupertino	  _____ Date
ATTEST:	




Resolution No. \_\_\_\_\_

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<hr/> Kirsten Squarcia, City Clerk	<hr/> Date
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 <p style="text-align: center;"><b>City of Cupertino City Council Procedures Manual</b></p>	<p><b>Attachments:</b></p> <p>Ex. A – Ceremonial Correspondence Policy</p> <p>Ex. B – Elected Officials' Compensation Program</p> <p>Ex. C – Council Technology Policy</p> <p>Ex. D. – Resolution No. 07-103</p> <p>Ex. E – Municipal Code Chapter 2.17</p>
<p><b>Effective Date:</b> <b>DRAFT</b></p>	<p><b>Responsible Departments:</b> City Manager's Office</p>
<p><b>Related Policies &amp; Notes:</b> See Exhibits A–E.</p>	

## 1. Introduction

- 1.1 Purpose.** The purpose of this Manual is to promote communication, understanding, fairness, and trust among the members of the City Council, City staff, and members of the public concerning their roles, responsibilities, and expectations for management of the business of the City of Cupertino.

**Comments:**

**Councilmember Moore:** Revise Section 1.1 to delete “and members of the public.”

- 1.2 Values.** Courtesy and respect for individual points of view should be practiced at all times. All Councilmembers shall respect each other’s right to disagree. All Councilmembers shall act with decorum and courtesy.

- 1.3 Brown Act.** All actions of the City Council and City commissions, committees, and subcommittees shall comply with the Ralph M. Brown Act.

**Comments:**

**Councilmember Chao:** Add a new Section 1.2 that reads as follows: “**Principle.** The City Council maintains control as the governing body. This manual ensures free and fair access to the flow of any information relative to the operation of the City and free and fair access to public meetings.”

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### **2. Selection of the Mayor and Vice Mayor**

- 2.1 Selection of Mayor and Vice Mayor.** The Mayor and Vice Mayor shall be selected annually at a special meeting on the second Thursday of December. The Mayor and Vice Mayor shall not serve consecutive terms; provided, however, this provision shall not prevent the Vice Mayor from succeeding to the office of Mayor.

**Comments:**

Councilmember Moore: Revise Section 2.1 to delete: "The Mayor and Vice Mayor shall not serve consecutive terms; provided, however, this provision shall not prevent the Vice Mayor from succeeding to the office of Mayor."

- 2.2 Removal of Mayor and Vice Mayor.** The Mayor or Vice Mayor may be removed from office, for cause, by a 4/5ths affirmative vote of the members. The Mayor or Vice Mayor must be advised of the proposed cause for removal at least 72 hours before any action is taken. If the Mayor is removed from office, the Vice Mayor shall become Mayor. If either officer is removed from office, the Vice Mayor shall be appointed from among the remaining three Councilmembers.

**Comments:**

**Mayor Wei:** Revise Section 2.3. to delete "for cause" and change "a 4/5ths affirmative vote of the members" to "a majority affirmative vote of the members."

**Councilmember Chao:** Revise Section 2.3 to add: "Removal for cause shall mean removal of a Councilmember because of such member's (a) willful and continued failure substantially to perform their duties, (b) conviction for, or guilty plea to, a felony or a crime involving moral turpitude, or (c) abuse of illegal drugs or other controlled substances or habitual intoxication. The removal should precede with a formal warning, which states with proven evidence of the member's failure to perform their duties and proposed corrective measures."

### **3. Councilmember Committees and Subcommittees**

- 3.1 Appointment.** The Mayor shall appoint Councilmembers to standing and ad hoc committees and subcommittees established by the City Council, subject to ratification by the Council at its next regular meeting. It will be the

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responsibility of the committees and subcommittees to inform and submit recommendations to the Council.

### Comments:

**Councilmember Chao:** Replace Section 3.1 with the following: “It will be the responsibility of the committees and subcommittees to inform and submit recommendations to the Council. The purpose and scope of each standing or ad hoc committee should be stated when it is formed and re-stated when councilmembers are appointed to the committee at a regular meeting.

- The City Manager shall prepare a report to Council about the anticipated time commitment required for staff to assist the Ad Hoc Committee.
- Information: The scope, membership, time of creation and estimated number of meetings for each Ad Hoc Committee shall be posted to the City Council website.
- Termination: A majority of the Council may vote to terminate any Ad Hoc Committee following a written report by the committee.
- Ad Hoc Committees do not constitute legislative bodies and are not subject to the requirements of the Brown Act. Standing committees that have a continuing or indefinite jurisdiction are subject to the Brown Act.”

**Councilmember Moore:** Revise Section 3.1 as follows: “The Mayor shall appoint Councilmembers to standing committees and all Councilmembers may nominate any Councilmember to ad hoc committees and subcommittees established by the City Council, with consideration of Councilmember preference, equitable distribution, seniority, experience, and benefit to the committee, subject to ratification by the Council at its next regular meeting. It will be the responsibility of the committees and subcommittees to inform and submit recommendations to the Council.”

**3.2 Instructions and Expectations.** The Council shall make certain that all Council committees and subcommittees are properly instructed in their assigned scope of work and responsibilities. The committee’s or subcommittee’s jurisdiction shall be defined in writing and approved by a majority of the City Council. All Council committees and subcommittees having a continuing or indefinite jurisdiction shall be subject to the Brown Act.

**3.3 Reporting.** Council committee and subcommittee members are to keep the Council informed of the work and progress of their committee or subcommittee. These reports or minutes shall be made in writing whenever a recommendation is made to the Council.

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### Comments:

**Councilmember Moore:** Revise Section 3.3 as follows: "Council committee and subcommittee members are to keep the Council informed of the work and progress of their committee or subcommittee. These reports or minutes shall be made in writing ~~whenever a recommendation is made to the Council.~~"

## 4 Other City Commissions and Committees

**4.1 Responsibility.** The Council will make appointments to City's commissions and committees. Qualifications to serve on commissions and committees shall be set forth in the Municipal Code or by a resolution or motion of the Council that is not inconsistent with the Municipal Code. Appointment of Councilmembers to City committees shall be governed by the procedures in Section 3.

**4.2 Attendance at Council Meetings.** At least one commission member must attend City Council meetings when the commission has an item of interest on the Council agenda, so as to be available to answer Council questions.

### Comments:

**Mayor Wei:** Revise Section 4.2 to add: " . . . Staff shall provide the commission with advance notice for the commission to select a member to attend the City Council meeting."

**Councilmember Moore:** Revise Section 4.2 as follows: "At least one commission member, preferably the Chair or Vice Chair, must attend City Council meetings when the commission has an item of interest on the Council agenda, so as to be available to answer Council questions."

**4.3 Performance Expectations.** The Council shall make certain that all commissions and committees are properly instructed on their responsibilities and performance expectations. This will include the issuance of a Council-approved Commission and Committee Handbook and a mandatory annual training session for all Commission and Committee members.

**4.4 Appointment.** Commission and Committee applicants will be interviewed by the Council before being voted on by the Council in a noticed public meeting. Applicants are considered by motion and appointed by a majority vote of Council. Two members of an immediate family or persons residing in the same household shall not be allowed to serve simultaneously on the same

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commission or committee. Immediate family members residing in the same household as a Councilmember are not eligible for appointment to any commission or committee. Former Councilmembers are not eligible for appointment to any commission or committee within four years of having served on the City Council.

### Comments:

**Multiple Councilmembers:** Revise Section 4.4 as follows: “. . . Former Councilmembers are not eligible ~~for appointment to~~ service on any commission or committee within four years of having served on the City Council.”

**Councilmember Chao:** Delete the last sentence of Section 4.4 (“Former Councilmembers are not eligible for appointment to any commission or committee within four years of having served on the City Council.”). Add: “City staff should report communications from former Councilmembers and former commissioners on issues related to City business through phone calls or in-person communications.”

**Councilmember Moore:** Revise Section 4.4 as follows: “. . . ~~Former Councilmembers are not eligible for appointment to any commission or committee within four years of having served on the City Council.~~ Commissioners and committee members shall not be employees of the City or companies which the City contracts with, or employees of subcontracted companies.”

- 4.5 **Removal.** The City Clerk shall remove commission ~~or committee~~ members for failure to comply with attendance policies adopted in the ~~Commission and Committee Handbook~~ Commissioner’s Handbook. Council retains full discretion to review commission and committee member performance and may take disciplinary action as needed, including removal from the commission or committee.

### Comments:

**Staff Recommendation:** Revise Section 4.5 to strike references to committees in the first sentence.

**Councilmember Chao:** Revise Section 4.5 as follows: “The City Clerk shall ~~remove~~ inform the Council to consider removal of commission or committee members for failure to comply with attendance policies adopted in the Commission and Committee Handbook . . . .”

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- 4.6 Undue Influence on Commissioners.** Councilmembers should not attempt to influence or publicly criticize commission recommendations or to influence or lobby individual commission members on any item under their consideration. It is important for commissions to be able to make objective recommendations to the City Council on items before them. Councilmembers that attempt to influence commission positions on an item may prejudice or hinder their role in reviewing the commission's recommendation as a member of the City Council. Individual Councilmembers ~~and commissioners~~ shall have the right to attend meetings of commissions and other Cupertino governmental bodies but shall refrain from speaking or becoming involved in deliberations.

### Comments:

**Staff Recommendation:** Delete "and commissioners" from the last sentence of Section 4.6.

**Councilmember Moore:** Delete "Individual Councilmembers and commissioners shall have the right to attend meetings of commissions and other Cupertino governmental bodies but shall refrain from speaking or becoming involved in deliberations."

**Councilmember Chao:** Add two new paragraphs in Section 4 that read as follows:

"On every item within the jurisdiction of a commission, the staff liaison shall work with the commission chair to schedule the item to receive inputs and seek recommendations from the commission, as time permits. The staff report at the Council meeting shall include commission inputs and recommendations. Rationale should be given when commission inputs are not available for an item within their jurisdiction."

"**Respect the Role of Council Members as Policy Makers for the City.** Staff is expected to provide its best professional recommendations on issues. Staff should not try to determine Council support for particular positions or recommendations in order to craft recommendations. The Council must be able to depend upon the staff to make independent recommendations. Staff should provide information about alternatives to staff recommendations as appropriate, as well as pros and cons for staff recommendations and alternatives."

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### 5. Administrative Matters

- 5.1 Attendance.** City Councilmembers acknowledge that attendance at lawful meetings of the City Council is part of their official duty. Councilmembers shall make a good faith effort to attend all such meetings. Council members shall notify the Mayor or the City Clerk if they will be absent from a meeting.

#### Comments:

**Councilmember Moore:** Revise Section 5.1 to add the following: "Council attendance will be noted in the agenda of the next regular meeting and thereafter for that calendar year, if three or more meetings are missed."

- 5.2 Correspondence.** Proposed correspondence from the Mayor or other Councilmembers on City stationery should generally be reviewed by the Council in draft form prior to release. On occasion, there are urgent requests from the League of California Cities for correspondence concerning legislation directly affecting municipalities. If the Mayor and the City Manager agree that the League's position corresponds with that of the Council, the Mayor may send a letter without first obtaining Council approval. City letterhead will be made available for routine correspondence (e.g., thank you notes). Official correspondence (including email) from Councilmembers should be respectful and professional.

#### Comments:

**Councilmember Moore:** Revise Section 5.2 to add the following: "Official correspondence from any member of Council shall be provided to all members of Council."

- 5.3 Regional Bodies.** The Mayor shall appoint Councilmembers to represent the City of Cupertino on regional bodies subject to ratification by the Council at its next regular meeting. The Mayor should endeavor to provide all Councilmembers a fair opportunity to represent the City. The positions taken by the appointed representatives should be in alignment with the positions that Council has taken on issues that directly impact the City of Cupertino. If an issue arises that is specific to Cupertino and Council has not taken a position, the issue should be discussed by Council prior to taking a formal position at a regional board meeting to assure that it is in alignment with Council's position. Council representatives to such various boards shall keep the Council informed of ongoing business through brief oral or written reports to the Council.



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Councilmembers shall make a good faith effort to attend all regional meetings that require a quorum of the appointed members to convene a meeting. Attendance should not be less than 75% of all scheduled meetings. If a Councilmember is unable to attend, they should notify their alternate as far in advance of the meeting as possible so as to allow the alternate to attend.

### Comments:

**Councilmember Moore:** Revise Section 5.3 as follows: "Council representatives to such various boards shall keep the Council informed of ongoing business through brief oral ~~or~~ and written reports to the Council"; and add the following: "The Council representative shall provide a written report to Council consistent with Section 3.3."

- 5.4 Responses to Public.** It will be the responsibility of the City Manager to ensure a response is provided to public correspondence for informational requests addressed to the Council. Staff shall respond to all requests for services as appropriate, and the City Manager shall keep Council informed of the City response.
- 5.5 Ceremonial Correspondence.** Proclamations, certificates of appreciation or recognition, and letters of recognition or support are discretionary public announcements directing attention to a local resident, organization, or event. The Mayor may issue ceremonial proclamations, certificates, and letters as set forth in the City of Cupertino Ceremonial Correspondence Policy (Exhibit A).
- 5.6 Reimbursement.** City Councilmembers may be reimbursed for expenses for travel to and lodging at conferences or meetings related to their role as a Councilmember as stated in the Elected Officials' Compensation Program, as may be amended from time to time (Exhibit B). Any additional expenses that fall outside the scope of this policy may be reimbursed only if approved by the City Council, at a public meeting before the expenses are incurred. Any request for reimbursement of expenses shall be accompanied by an expense form and receipts to document the expenditure. These documents are public records subject to disclosure under the California Public Records Act. Councilmembers shall be eligible to receive City-issued hardware and software for the conduct of official business pursuant to the Council Technology Policy (Exhibit C).
- 5.7 Council Training.** Any member of the City Council and City commissions or advisory committees formed by the City Council shall receive ethics and anti-harassment training required by state law. New members must receive the

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training within their first year of service. Members shall attend training sessions that are offered locally in the immediate vicinity of Santa Clara County or by completing online a state-approved public service ethics education program, or at any conference attended. The City Clerk shall keep ethics training records for five years.

### Comments:

**Staff Recommendation:** Any member of the City Council and City commissions or advisory committees formed by the City Council shall receive ethics and anti-harassment training required by state law. New members must receive the training within their first year of service and shall comply with ongoing training requirements imposed by state law. Members shall attend training sessions that are offered locally in the immediate vicinity of Santa Clara County ~~or~~, by completing online a state-approved public service ethics education program, or through a state-approved training which may be provided at a conference attended by the member. The City Clerk shall keep ethics training records for five years.

**Councilmember Fruen:** Revise Section 5.7 to delete requirement that state-approved ethics education must be online.

- 5.8 Mayor's Initiative Budget.** The Mayor may use the Mayor's initiative budget established as part of the City Manager's discretionary fund for projects that the Mayor deems appropriate during the Mayor's term of office, subject to the requirements of Resolution No. 07-103 (Exhibit D). The amount of the Mayor's initiative budget is determined by the City Council.

## 6. Relationship with City Staff

- 6.1 Incorporation of Municipal Code by Reference.** Cupertino Municipal Code Chapter 2.17 (Exhibit E) governs the City Council's relationship with the City Manager and their staff under the Council-Manager form of government. To the extent that the provisions of Chapter 2.17 are not set below, they are incorporated by reference into this Manual.
- 6.2 Council/Manager Form of Government.** Under the Council/Manager form of government, the City Council sets policy direction as the direct representatives of the community with the City Manager providing the professional expertise to manage the organization and carry out the Council's direction. The City Manager is responsible for carrying out the Council's policy direction through

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the day-to-day management of City functions, including the oversight of City operating departments. Neither individual Councilmembers nor the Council as a whole shall interfere with the City Manager's performance of the administrative duties conferred upon them in Cupertino Municipal Code section 2.28.040.

- 6.3 Council-Manager Relations.** The City Council and its members shall deal with the administrative services of the City only through the City Manager, except for the purpose of inquiry, and neither the City Council nor any Councilmember shall give orders to any subordinates of the City Manager. The City Manager shall take instructions from the City Council only when given at a duly held meeting of the City Council, and no individual Councilmember shall give any instructions to the City Manager.
- 6.4 Individual Councilmember Influence on Staff Decisions Prohibited.** Individual Councilmembers shall not attempt to influence staff decisions, recommendations, workloads, and schedules, and department priorities without prior knowledge and approval of the City Council. If a Councilmember wishes to influence the actions, decisions, recommendations, workloads, work schedules and priorities of staff, that member must prevail upon the City Council to do so as a matter of Council policy.
- 6.5 Decorum.** All Councilmembers and City staff shall treat each other with dignity, courtesy, and respect. In exercising the City Council's policymaking authority, Councilmembers must often critique, modify, or reject a staff recommendation. While thorough vetting and criticism of staff policy recommendations or decisions is a necessary component of Council's policymaking role, criticism should focus on the policy recommendations and decisions and should avoid personal attacks. Councilmembers shall refrain from publicly criticizing the general abilities, character, or motivations of any staff member and should share any such concerns privately with the City Manager or City Attorney.
- 6.6 Councilmember Access to Information.** City Council members have free access to the flow of any information related to the operation of the City. The City Manager shall ensure that such information is communicated by staff in full and with candor to the Council. City staff will make every effort to respond in a timely and professional manner to all requests made by individual council members for information or assistance, provided that, in the judgment of the City Manager, the request is not of a magnitude either in terms of workload or policy, which would require that it more appropriately

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be assigned to staff through the collective direction of the City Council, based on the guidelines set forth in Cupertino Municipal Code section 2.17.043. No Councilmember shall circumvent the City Manager's direction regarding a request for information by seeking information through a Public Records Act request.

### Comments:

**Mayor Wei:** Revise Section 6.6 as follows: ". . . No Councilmember shall circumvent the City Manager's direction regarding a request for information by seeking information through a Public Records Act request except with the approval of the Council with a majority affirmative vote of the members."

**Councilmember Moore:** Revise Section 6.6 to delete the sentence: "No Councilmember shall circumvent the City Manager's direction regarding a request for information by seeking information through a Public Records Act request."

- 6.7 Authority of City Council.** Nothing in this Manual shall limit the City Council's power 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 Councilmembers, nor to committees composed of Councilmembers consisting of less than a quorum of the City Council.

## 7. Agendas and Staff Reports

- 7.1 Future Agenda Items.** The City Manager, the City Attorney, the Mayor, or any two Councilmembers may request that an item be added to a future agenda for Council action. The City Manager shall provide a quarterly report to Council regarding the status of future agenda items, which may include a request to remove items from the list of future agenda items. Any item may be removed for the future agenda items list by a majority vote of the City Council.

### Comments:

**Mayor Wei:** Revise section 7.1 as follows: "The City Manager shall provide a quarterly report to Council regarding the status of future agenda items, which may include a request to remove items that are outdated or obsolete, from the list of future agenda items. ~~Any item.~~ Outdated or obsolete items may be removed for the future agenda items list by a majority vote of the City Council.

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The City Manager may ask Council to reaffirm that items remain on the future agenda items list with the support of two council members."

**Councilmember Moore:** Revise Section 7.1 to delete the sentence: "Any item may be removed for the future agenda items list by a majority vote of the City Council."

- 7.2 Preparation of Agenda.** The City Clerk shall prepare the agenda in consultation with the City Manager, the Mayor, and the City Attorney. Absent exigent circumstances, an item will be scheduled for Council action no sooner than 14 days after receipt of a request to add the item to the future agenda items list. Any item requiring preparation of a staff report requires City Manager approval or, in case of a report prepared by City Attorney's Office staff, City Attorney approval, before being added to an agenda. The Mayor, in consultation with the City Manager and the City Clerk, shall determine the order of items on the agenda.
- 7.3 Agenda Item Descriptions.** Each agenda item shall include a brief general description of the matter to be discussed (approximately 20 words in length), including any action that may be taken under the California Environmental Quality Act, and should generally include the recommendation of the City Manager.
- 7.4 Staff Reports.** Staff reports should include the following sections:
1. Subject
  2. Recommended Action
  2. Reasons for Recommendation
  3. Sustainability Impact
  4. Fiscal Impact
  5. California Environmental Quality Act
- 7.5 Agenda Publication.** Agenda packets for a regular meeting should be published and delivered to Councilmembers no later than the ~~Thursday~~ Wednesday prior to a Tuesday Council meeting. Councilmembers are encouraged to contact staff in advance for answers to questions regarding an agenda packet. Written communications addressed to Council shall be forwarded to Council and made available to members of the public, consistent with the requirements of the Brown Act.

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### Comments:

**Staff Recommendation:** Revise Section 7.5 to require the publication of agenda packets no later than the Wednesday prior to a regular Council meeting.

- 7.6 Supplemental Materials.** Supplemental reports received by the City Clerk after the agenda is published but before 12:00 p.m. on the Monday prior to the City Council meeting shall be published and delivered to Councilmembers at 5:00 p.m. on Monday. Supplemental reports received by the City Clerk after 12:00 p.m. on Monday but before 4:00 p.m. on the day of the meeting shall be published and delivered to Councilmembers prior to the Council meeting.

### Comments:

**Councilmember Chao:** Add a new paragraph that reads as follows: "Questions and all staff-prepared responses will be forwarded to all Councilmembers as well as put up on the special web page created for public review of Council agenda questions and staff responses. Staff will include the name of the Councilmember posing the questions in the 'subject' field of the e-mail response. Written copies of all Councilmember agenda questions and staff responses will be at Council places at the meeting; additionally copies will be made available in the Council Chambers for members of the public."

## 8. Meeting Procedures

- 8.1 Meeting Schedule.** The City Council conducts its regular meetings on the first and third Tuesdays of the month, except when Council is in recess. At the second regular meeting in January, the City Council will approve the schedule of meetings for the calendar year, which in addition to the regular meeting schedule may include the cancellation of regular meetings and the addition of special meetings and study sessions. This practice does not, however, preclude the Mayor or a majority of the members of the City Council from calling additional meetings pursuant to the Brown Act.

- ~~**8.2 Seating of Councilmembers.** For meetings held in Council Chambers at Community Hall, the Mayor shall be seated at the center of the dais and the Vice Mayor shall be seated immediately to the Mayor's left. The remaining Councilmembers shall be seated in order of seniority as follows: (1) the seat immediately to the right of the Mayor; (2) the last seat on left side of the dais; (3) the last seat on the right side of the dais. Seniority shall be based on the number of consecutive years of service on the City Council. If two members~~

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~~have equal seniority based on service, the member with the higher vote count in their most recent election is considered to have higher seniority.~~

**Comments:**

**Staff Recommendation:** Delete Section 8.2.

**8.3 Rules of Order.** City Council meetings shall be governed by Rosenberg's Rules of Order. Unless otherwise required by state law or City ordinance, decisions of the Council shall be made by a majority of members present and voting. The Mayor may impose additional reasonable procedural rules not inconsistent with Rosenberg's Rules of Order and the provisions of this Manual, unless objected to by a majority of Councilmembers present.

**8.4 Order of Business.** The order of agenda items for regular Council meetings is as follows:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Closed Session Report
5. Ceremonial Items
6. Oral Communications (public comment on non-agenda matters)
7. Consent Calendar
8. Public Hearings
9. Action Calendar
10. Council Reports and Comments
11. City Manager Report
12. Oral Communications (continued)
- ~~12~~13 Informational Items
- ~~13~~14 Adjournment

Oral communications shall be limited to 30 minutes. Additional speakers wishing to comment on non-agenda items may be given time to speak at the end of the agenda, after the City Manager's report. In the absence of an objection made by a majority of Councilmembers present and voting, the Mayor may modify the order of business to facilitate the fair and efficient conduct of Council meetings.



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### Comments:

**Staff Recommendation:** Revise Section 8.4 to include any oral communications that continue beyond the allotted 30 minutes in the Order of Business.

## 8.5 Consent Calendar.

**8.5.1 Adding Item to Consent Calendar.** The Mayor, the City Manager, the City Attorney, or the City Clerk may recommend that items appearing on the agenda be placed on the consent calendar for action by the City Council. In addition, any item may be placed on the consent calendar by a majority vote of the City Council. All items placed on the consent calendar shall appear together on the agenda with the recommendation as to the action to be taken by the City Council with respect to such item. Upon the motion of any member of the City Council, all items placed upon the consent calendar may be acted upon together, and each shall be deemed to have received the action recommended. Items may be removed from the consent calendar only by a member of the City Council.

### Comments:

**Mayor Wei:** Revise Section 8.5.1 as follows: “. . . Items may be removed from the consent calendar ~~only~~ by a member of the City Council. Items may be removed from the consent calendar by a member of the public with the approval of the Council with a majority affirmative vote of the members. The member of the public requesting removal must state the reason for the request.”

**Councilmember Moore:** Revise Section 8.5.1 to delete: “Items may be removed from the consent calendar only by a member of the City Council.”

**8.5.2 Removing Item from Consent Calendar.** Any member of the City Council who would like to remove an item from the consent calendar shall notify the City Manager and the City Clerk prior to the meeting. Although members of the City Council are encouraged to ask questions and share concerns about the agenda item with staff before the meeting, they are not required to do so. Items removed from the consent calendar shall be placed at the end of the agenda for consideration.



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### Comments:

**Councilmember Moore:** Delete Section 8.5.2.

**Councilmember Fruen:** Revise Section 8.5.2 to allow Councilmembers to remove at most one item from the consent calendar without providing notice before the Council meeting begins.

- 8.6 Public Comment.** An opportunity for public comment shall be provided for the consent calendar, each other agenda item under consideration, and, during regular meetings, on any matter that is within the subject matter jurisdiction of the City Council. The Mayor may consolidate public comment for related agenda items, subject to overruling by a majority vote of the Council. Non-agenda matters (including Council and staff reports and informational items) may be addressed by the public during oral communications. Members of the public wishing to speak regarding an item shall submit a request to comment to the Clerk ("blue card") or, where applicable, raise their hand in Zoom within five minutes of the time the Mayor opens public comment. Each individual speaker will ordinarily have up to three minutes to address the Council. If a speaker representing five or more members of the public in attendance and wishing to comment on the item but electing not to speak, the speaker may have up to 10 minutes to address the Council. Consolidation of time among speakers is not otherwise allowed. No member of the public may be allocated more than a combined total of 10 minutes to speak during a Council meeting. If a large number of speakers wish to address Council on an item, the Mayor may reduce the time allotted to each speaker consistent with the Brown Act. Twice the speaking time will be provided to any member of the public who uses a translator.

### Comments:

**Mayor Wei:** Revise Section 8.6 as follows: ". . . Members of the public wishing to speak regarding an item shall submit a request to comment to the Clerk ("blue card") or, where applicable, raise their hand in Zoom within ~~five~~ nine minutes of the time the Mayor opens public comment . Each individual speaker will ordinarily have up to three minutes to address the Council. If a speaker is representing themselves and one other member of the public in attendance wishing to comment on the item but electing not to speak, the speaker may have up to five minutes to address the Council. If a speaker representing themselves and two other members of the public in attendance, the speaker may have up to seven minutes to address the Council. If a speaker is representing

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themselves and three other members of the public in attendance, the speaker may have 9 minutes to address the Council. If a speaker representing five or more members of the public in attendance and wishing to comment on the item but electing not to speak, the speaker may have up to 10 minutes to address the Council. Consolidation of time among speakers is not otherwise allowed. ~~No member of the public may be allocated more than a combined total of 10 minutes to speak during a Council meeting.~~ If a large number of speakers wish to address Council on an item, the Mayor may reduce the time allotted to each speaker consistent with the Brown Act. Twice the speaking time will be provided to any member of the public who uses a translator. All public comments must be relevant to the issue before the City Council. Arguments for or against a measure should be stated as concisely as possible."

**Councilmember Moore:** Revise Section 8.6 to delete: "No member of the public may be allocated more than a combined total of 10 minutes to speak during a Council meeting."

**Councilmember Fruen:** Revise Section 8.6 to remove the 10-minute limit on total time for public comment by a single member of the public and to increase the length of time members of the public have to raise their hand or submit a blue card to speak to 9 minutes.

- 8.7 Communications with Members of the Public.** The City Council may ask questions of speakers providing public comment but should avoid an extended discussion with members of the public during meetings. Additionally, when a member of the public provides comments regarding a matter that is not on the agenda, Councilmembers may (1) refer the speaker to staff; (2) refer the speaker to appropriate reference material; (3) request that staff report back at a future meeting; or (4) request that staff place the item on a future agenda. Councilmembers should not otherwise respond to or comment on an item of business that is not on the agenda. City staff should generally avoid responding to comments or questions from members of the public during Council meetings, although the City Manager or City Attorney may offer to arrange a time to discuss the subject matter of public comments with members of the public subsequent to the Council meeting.

## **8.8 Conduct of Meetings**

- 8.8.1 Councilmembers.** Members of the City Council value and recognize the importance of the trust invested in them by the public to accomplish the business of the City. Councilmembers shall accord courtesy to each other,

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to City employees, and to members of the public appearing before the City Council.

- 8.8.2 City Employees.** City staff shall observe the same rules of decorum applicable to the City Council. City staff shall act at all times in a businesslike and professional manner towards Councilmembers and members of the public.
- 8.8.3 Members of the Public.** Members of the public attending City Council meetings are encouraged to treat Councilmembers, City staff, and other members of the public with the same courtesy that Councilmembers and City staff must accord to them. Any members of the public who engages in conduct that disrupts a City Council meeting shall be removed from the meeting. Nothing in this Manual or any rules of conduct that may be adopted by the City Council shall be construed to prohibit public criticism of the policies, procedures, programs, or services of the City, or of the acts or omissions of the City Council, City advisory bodies, or City staff.

## 8.9 Discussion and Deliberation

- 8.9.1 Ex Parte Contacts.** Councilmembers shall disclose any ex parte contacts prior to deliberation on a quasi-adjudicative matter.

### Comments:

**Staff Recommendation:** Replace Section 8.9.1 with the following:

**“Ex Parte Communications.** Councilmembers shall disclose any ex parte communications prior to deliberation on a quasi-judicial matter. A quasi-judicial matter is typically a hearing in which the City Council hears evidence and makes findings of fact to reach a conclusion based on the applicable law. An ex parte communication occurs when a Councilmember hearing a quasi-judicial matter communicates directly or indirectly with any person or party in connection with a matter before the Council, without notice and the opportunity for all parties to participate.”

- 8.9.2 Relevance.** All discussion must be relevant to the issue before the City Council. A Councilmember is given the floor only for the purpose of discussing the pending matter; discussion which departs from the item agendized for discussion is out of order. Councilmembers should avoid repetition and shall not discuss matters that are not on the agenda.

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Arguments for or against a measure should be stated as concisely as possible.

- 8.9.3 Council Questions and Deliberations.** Councilmembers may obtain the floor by seeking recognition from the Mayor. Following presentations to Council on an agenda item, Councilmembers shall each be given 5 minutes to ask questions of any presenter. The Mayor may allow additional time for questions where appropriate. Following public comment, the Mayor may request that a motion be made and seconded. After the motion has been stated to the Council and seconded, any member of the Council has a right to discuss the motion after obtaining the floor. A member who has been recognized should limit their time to 5 minutes.

### Comments:

**Mayor Wei:** Revise Section 8.9.3 to add the following: “. . . The Mayor may allow additional time for deliberation where appropriate.”

**Councilmember Fruen:** Replace Section 8.9.3 with the following:  
“Councilmembers may obtain the floor by seeking recognition from the Mayor. Following presentations to Council on an agenda item, Councilmembers shall each be given five minutes to ask questions of any presenter. The Mayor may allow additional time for questions where appropriate. Following public comment, the Mayor may request that a motion be made and seconded. After the motion has been stated to the Council and seconded, any member of the Council has a right to discuss the motion after obtaining the floor. A member who has been recognized shall limit their time to five minutes. The Mayor may allow additional time for questions where appropriate. This rule shall displace any conflicting rule in the City’s adopted rules of procedure.”

- 8.9.4 Opportunity for Equal Participation.** It is the policy of the Council to encourage the full, fair participation of all members of the Council in discussions and deliberations. The Mayor may impose reasonable limits on the time any Councilmember is permitted to speak to advance this policy. In addition, all Councilmembers wishing to be recognized should be given an opportunity to speak before any member is allowed to speak a second time.

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**8.9.5 Civility.** While it is appropriate to vigorously debate a motion, its nature, or its consequences, Councilmembers shall avoid attacks on the motives, character, or personality of other Councilmembers, City staff, and members of the public. The Mayor shall rule out of order any Councilmember who engages in such attacks.

**8.9.6 Role of the Mayor.** The Mayor has the responsibility for controlling and expediting the discussion of an agenda item. It is the duty of the Mayor to keep the subject clearly before the Councilmembers, to rule out irrelevant discussion, and to ensure civil discussion among Councilmembers.

**8.10 Meeting Length.** Meetings of the City Council shall adjourn by 11:00 p.m. unless the time of adjournment is extended by a vote of a majority of the City Council. Discussion of an agenda item shall not begin after 10:30 p.m. Any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be discussed or approved and shall specify the order these items shall be considered. If a meeting continues past 11:00 p.m., it shall end at 11:30 p.m. All meetings shall be adjourned at 11:30 p.m. unless by a 2/3 vote the City Council suspends this rule and votes affirmatively to extend the meeting past 11:30 p.m. Following the adjournment of the meeting, any remaining items on the agenda shall be continued to the next regular meeting of the City Council.

**Comments:**

**Councilmember Fruen:** Revise Section 8.10 to require only a majority of members present and voting to extend Council meetings past 11:30 p.m., instead of a 2/3 vote of the Council.

**Councilmember Moore:** Revise Section 8.10 as follows: "Meetings of the City Council shall adjourn by ~~11:00 p.m.~~ 12:00 p.m. unless the time of adjournment is extended by a vote of a majority of the City Council. Discussion of an agenda item shall not begin after ~~10:30 p.m.~~ 11:30 p.m. Any motion to extend the meeting beyond ~~11:00 p.m.~~ 12:00 p.m. shall include a list of specific agenda items to be discussed or approved and shall specify the order these items shall be considered. If a meeting continues past ~~11:00 p.m.~~ 12:00 p.m., it shall end at ~~11:30 p.m.~~ 12:30 p.m. All meetings shall be adjourned at ~~11:30 p.m.~~ 12:30 p.m. unless by a 2/3 vote the City Council suspends this rule and votes affirmatively to extend the meeting past ~~11:30 p.m.~~ 12:30 p.m. Following the adjournment of the meeting, any remaining items on the agenda shall be continued to the next regular meeting of the City Council."

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**8.11 Public Hearing Procedures.** The order of proceeding where there is a public hearing item (non-appeal items) before the City Council shall be as follows:

1. Open Public Hearing
2. Staff Report ( $\leq 10$  minutes)
3. Applicant's presentation (where applicable) ( $\leq 8$  minutes)
4. Questions from the Council
5. Public comment
6. Applicant's response to public comment (where applicable) (2 minutes)
7. Close Public Hearing
8. City Council discussion and vote

Where the public hearing involves an appeal of a decision to the City Council, the order of proceeding shall be as follows:

1. Open Public Hearing
2. Staff Report ( $\leq 10$  minutes)
3. Appellant's statement ( $\leq 8$  minutes)
4. Applicant's statement (where applicable) ( $\leq 8$  minutes)
5. Questions from the Council
6. Public comment
7. Applicant's response to public comment (where applicable) (2 minutes)
8. Appellant's response to public comment (2 minutes)
9. Close Public Hearing
10. City Council discussion and vote

**Comment:**

**Councilmember Moore:** Revise Section 8.11 to indicate that time limits are recommendations rather than strict requirements (e.g., "preferably  $\leq 8$  minutes").

**8.12 City Council Recess Period.** The City Council recess period shall begin the first Tuesday in August and end the Tuesday following Labor Day. During any recess period, the City Manager is authorized to take such ministerial actions for matters of operational urgency, including such emergency actions as are necessary for the immediate preservation of the public peace, health, or safety, as would normally be taken by the City Council during the period of recess, except for those duties specifically reserved to the Council by law. This authority extends throughout the period of recess established by the City Council and includes the authority to execute agreements and make expenditures necessary for the exigent operational matters. The City Manager shall make a full and complete report to the City Council at its first regularly

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scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required to ratify the actions of the City Manager. Nothing in this Section prevents the City Council from calling a special meeting during the recess period.

### Comments:

**Staff Recommendation:** Revise Section 8.12 to clarify that a special meeting may be called during the recess period.

**Councilmember Chao:** Add a new paragraph to Section 8 that reads as follows: **"Study Sessions.** Study Sessions are meetings during which the Council receives information about City business in an informal setting. The informal study session setting is intended to encourage in-depth discussion and detailed questioning and brainstorming by Council on issues of significant interest including City policy matters, zoning applications, and major public works projects. The Council may discuss the material freely without following formal rules of parliamentary procedure. Staff may be directed to bring matters back for future Council consideration as no action can be taken at a study session. The Decorum rules still apply to the behavior of the Council and public."

## 9. Closed Sessions


A closed session may be held at any regular or special meeting for any purpose authorized by the Brown Act. The City Attorney will schedule closed session meetings in consultation with the Mayor and the City Manager. Public comment shall be received in open session prior to a closed session. To ensure strict compliance with the Brown Act, the City Attorney or the City Attorney's designee shall report out in public session any reportable action taken during closed session and any other information from closed session authorized to be disclosed based on a majority vote of the City Council.

## 10. Enforcement of Rules; Suspension of Rules

The City Council may enforce repeated or serious violations of the rules set forth in this Manual through a censure action placed on a Council agenda. Nothing in this Manual shall be cited to invalidate a properly noticed and acted upon action of the City Council. Any rule set forth in this Manual may be suspended by a 2/3 vote of the Council.



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 <p style="text-align: center;"><b>City of Cupertino City Council Procedures Manual</b></p>	<p><b>Attachments:</b></p> <p>Ex. A – Ceremonial Correspondence Policy</p> <p>Ex. B – Elected Officials' Compensation Program</p> <p>Ex. C – Council Technology Policy</p> <p>Ex. D. – Resolution No. 07-103</p> <p>Ex. E – Municipal Code Chapter 2.17</p>
<p><b>Effective Date:</b> <b>DRAFT</b></p>	<p><b>Responsible Departments:</b> City Manager's Office</p>
<p><b>Related Policies &amp; Notes:</b> See Exhibits A–E.</p>	

## 1. Introduction

- 1.1 **Purpose.** The purpose of this Manual is to promote communication, understanding, fairness, and trust among the members of the City Council, City staff, and members of the public concerning their roles, responsibilities, and expectations for management of the business of the City of Cupertino.
- 1.2 **Values.** Courtesy and respect for individual points of view should be practiced at all times. All Councilmembers shall respect each other's right to disagree. All Councilmembers shall act with decorum and courtesy.
- 1.3 **Brown Act.** All actions of the City Council and City commissions, committees, and subcommittees shall comply with the Ralph M. Brown Act.

## 2. Selection of the Mayor and Vice Mayor

- 2.1 **Selection of Mayor and Vice Mayor.** The Mayor and Vice Mayor shall be selected annually at a special meeting on the second Thursday of December. The Mayor and Vice Mayor shall not serve consecutive terms; provided, however, this provision shall not prevent the Vice Mayor from succeeding to the office of Mayor.
- 2.2 **Removal of Mayor and Vice Mayor.** The Mayor or Vice Mayor may be removed from office, for cause, by a 4/5ths affirmative vote of the members. The Mayor or Vice Mayor must be advised of the proposed cause for removal at least 72 hours before any action is taken. If the Mayor is removed from office,



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the Vice Mayor shall become Mayor. If either officer is removed from office, the Vice Mayor shall be appointed from among the remaining three Councilmembers.

### **3. Councilmember Committees and Subcommittees**

- 3.1 Appointment.** The Mayor shall appoint Councilmembers to standing and ad hoc committees and subcommittees established by the City Council, subject to ratification by the Council at its next regular meeting. It will be the responsibility of the committees and subcommittees to inform and submit recommendations to the Council.
- 3.2 Instructions and Expectations.** The Council shall make certain that all Council committees and subcommittees are properly instructed in their assigned scope of work and responsibilities. The committee's or subcommittee's jurisdiction shall be defined in writing and approved by a majority of the City Council. All Council committees and subcommittees having a continuing or indefinite jurisdiction shall be subject to the Brown Act.
- 3.3 Reporting.** Council committee and subcommittee members are to keep the Council informed of the work and progress of their committee or subcommittee. These reports or minutes shall be made in writing whenever a recommendation is made to the Council.

### **4 Other City Commissions and Committees**

- 4.1 Responsibility.** The Council will make appointments to City's commissions and committees. Qualifications to serve on commissions and committees shall be set forth in the Municipal Code or by a resolution or motion of the Council that is not inconsistent with the Municipal Code. Appointment of Councilmembers to City committees shall be governed by the procedures in Section 3.
- 4.2 Attendance at Council Meetings.** At least one commission member must attend City Council meetings when the commission has an item of interest on the Council agenda, so as to be available to answer Council questions.
- 4.3 Performance Expectations.** The Council shall make certain that all commissions and committees are properly instructed on their responsibilities and performance expectations. This will include the issuance of a Council-approved Commission and Committee Handbook and a mandatory annual training session for all Commission and Committee members.

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- 4.4 Appointment.** Commission and Committee applicants will be interviewed by the Council before being voted on by the Council in a noticed public meeting. Applicants are considered by motion and appointed by a majority vote of Council. Two members of an immediate family or persons residing in the same household shall not be allowed to serve simultaneously on the same commission or committee. Immediate family members residing in the same household as a Councilmember are not eligible for appointment to any commission or committee. Former Councilmembers are not eligible for appointment to any commission or committee within four years of having served on the City Council.
- 4.5 Removal.** The City Clerk shall remove commission members for failure to comply with attendance policies adopted in the Commissioner's Handbook. Council retains full discretion to review commission and committee member performance and may take disciplinary action as needed, including removal from the commission or committee.
- 4.6 Undue Influence on Commissioners.** Councilmembers should not attempt to influence or publicly criticize commission recommendations or to influence or lobby individual commission members on any item under their consideration. It is important for commissions to be able to make objective recommendations to the City Council on items before them. Councilmembers that attempt to influence commission positions on an item may prejudice or hinder their role in reviewing the commission's recommendation as a member of the City Council. Individual Councilmembers shall have the right to attend meetings of commissions and other Cupertino governmental bodies but shall refrain from speaking or becoming involved in deliberations.

**5. Administrative Matters**

- 5.1 Attendance.** City Councilmembers acknowledge that attendance at lawful meetings of the City Council is part of their official duty. Councilmembers shall make a good faith effort to attend all such meetings. Council members shall notify the Mayor or the City Clerk if they will be absent from a meeting.
- 5.2 Correspondence.** Proposed correspondence from the Mayor or other Councilmembers on City stationery should generally be reviewed by the Council in draft form prior to release. On occasion, there are urgent requests from the League of California Cities for correspondence concerning legislation directly affecting municipalities. If the Mayor and the City Manager agree that the League's position corresponds with that of the Council, the Mayor may

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send a letter without first obtaining Council approval. City letterhead will be made available for routine correspondence (*e.g.*, thank you notes). Official correspondence (including email) from Councilmembers should be respectful and professional.

- 5.3 Regional Bodies.** The Mayor shall appoint Councilmembers to represent the City of Cupertino on regional bodies subject to ratification by the Council at its next regular meeting. The Mayor should endeavor to provide all Councilmembers a fair opportunity to represent the City. The positions taken by the appointed representatives should be in alignment with the positions that Council has taken on issues that directly impact the City of Cupertino. If an issue arises that is specific to Cupertino and Council has not taken a position, the issue should be discussed by Council prior to taking a formal position at a regional board meeting to assure that it is in alignment with Council's position. Council representatives to such various boards shall keep the Council informed of ongoing business through brief oral or written reports to the Council. Councilmembers shall make a good faith effort to attend all regional meetings that require a quorum of the appointed members to convene a meeting. Attendance should not be less than 75% of all scheduled meetings. If a Councilmember is unable to attend, they should notify their alternate as far in advance of the meeting as possible so as to allow the alternate to attend.
- 5.4 Responses to Public.** It will be the responsibility of the City Manager to ensure a response is provided to public correspondence for informational requests addressed to the Council. Staff shall respond to all requests for services as appropriate, and the City Manager shall keep Council informed of the City response.
- 5.5 Ceremonial Correspondence.** Proclamations, certificates of appreciation or recognition, and letters of recognition or support are discretionary public announcements directing attention to a local resident, organization, or event. The Mayor may issue ceremonial proclamations, certificates, and letters as set forth in the City of Cupertino Ceremonial Correspondence Policy (Exhibit A).
- 5.6 Reimbursement.** City Councilmembers may be reimbursed for expenses for travel to and lodging at conferences or meetings related to their role as a Councilmember as stated in the Elected Officials' Compensation Program, as may be amended from time to time (Exhibit B). Any additional expenses that fall outside the scope of this policy may be reimbursed only if approved by the City Council, at a public meeting before the expenses are incurred. Any request for reimbursement of expenses shall be accompanied by an expense form and

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receipts to document the expenditure. These documents are public records subject to disclosure under the California Public Records Act. Councilmembers shall be eligible to receive City-issued hardware and software for the conduct of official business pursuant to the Council Technology Policy (Exhibit C).

- 5.7 Council Training.** Any member of the City Council and City commissions or advisory committees formed by the City Council shall receive ethics and anti-harassment training required by state law. New members must receive the training within their first year of service. Members shall attend training sessions that are offered locally in the immediate vicinity of Santa Clara County or by completing online a state-approved public service ethics education program, or at any conference attended. The City Clerk shall keep ethics training records for five years.
- 5.8 Mayor's Initiative Budget.** The Mayor may use the Mayor's initiative budget established as part of the City Manager's discretionary fund for projects that the Mayor deems appropriate during the Mayor's term of office, subject to the requirements of Resolution No. 07-103 (Exhibit D). The amount of the Mayor's initiative budget is determined by the City Council.

## 6. Relationship with City Staff

- 6.1 Incorporation of Municipal Code by Reference.** Cupertino Municipal Code Chapter 2.17 (Exhibit E) governs the City Council's relationship with the City Manager and their staff under the Council-Manager form of government. To the extent that the provisions of Chapter 2.17 are not set below, they are incorporated by reference into this Manual.
- 6.2 Council/Manager Form of Government.** Under the Council/Manager form of government, the City Council sets policy direction as the direct representatives of the community with the City Manager providing the professional expertise to manage the organization and carry out the Council's direction. The City Manager is responsible for carrying out the Council's policy direction through the day-to-day management of City functions, including the oversight of City operating departments. Neither individual Councilmembers nor the Council as a whole shall interfere with the City Manager's performance of the administrative duties conferred upon them in Cupertino Municipal Code section 2.28.040.
- 6.3 Council-Manager Relations.** The City Council and its members shall deal with the administrative services of the City only through the City Manager,

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except for the purpose of inquiry, and neither the City Council nor any Councilmember shall give orders to any subordinates of the City Manager. The City Manager shall take instructions from the City Council only when given at a duly held meeting of the City Council, and no individual Councilmember shall give any instructions to the City Manager.

**6.4 Individual Councilmember Influence on Staff Decisions Prohibited.**

Individual Councilmembers shall not attempt to influence staff decisions, recommendations, workloads, and schedules, and department priorities without prior knowledge and approval of the City Council. If a Councilmember wishes to influence the actions, decisions, recommendations, workloads, work schedules and priorities of staff, that member must prevail upon the City Council to do so as a matter of Council policy.

**6.5 Decorum.** All Councilmembers and City staff shall treat each other with dignity, courtesy, and respect. In exercising the City Council's policymaking authority, Councilmembers must often critique, modify, or reject a staff recommendation. While thorough vetting and criticism of staff policy recommendations or decisions is a necessary component of Council's policymaking role, criticism should focus on the policy recommendations and decisions and should avoid personal attacks. Councilmembers shall refrain from publicly criticizing the general abilities, character, or motivations of any staff member and should share any such concerns privately with the City Manager or City Attorney.

**6.6 Councilmember Access to Information.** City Council members have free access to the flow of any information related to the operation of the City. The City Manager shall ensure that such information is communicated by staff in full and with candor to the Council. City staff will make every effort to respond in a timely and professional manner to all requests made by individual council members for information or assistance, provided that, in the judgment of the City Manager, the request is not of a magnitude either in terms of workload or policy, which would require that it more appropriately be assigned to staff through the collective direction of the City Council, based on the guidelines set forth in Cupertino Municipal Code section 2.17.043. No Councilmember shall circumvent the City Manager's direction regarding a request for information by seeking information through a Public Records Act request.

**6.7 Authority of City Council.** Nothing in this Manual shall limit the City Council's power to accept, reject, amend, or otherwise guide and direct staff

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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 Councilmembers, nor to committees composed of Councilmembers consisting of less than a quorum of the City Council.

## **7. Agendas and Staff Reports**

**7.1 Future Agenda Items.** The City Manager, the City Attorney, the Mayor, or any two Councilmembers may request that an item be added to a future agenda for Council action. The City Manager shall provide a quarterly report to Council regarding the status of future agenda items, which may include a request to remove items from the list of future agenda items. Any item may be removed for the future agenda items list by a majority vote of the City Council.

**7.2 Preparation of Agenda.** The City Clerk shall prepare the agenda in consultation with the City Manager, the Mayor, and the City Attorney. Absent exigent circumstances, an item will be scheduled for Council action no sooner than 14 days after receipt of a request to add the item to the future agenda items list. Any item requiring preparation of a staff report requires City Manager approval or, in case of a report prepared by City Attorney's Office staff, City Attorney approval, before being added to an agenda. The Mayor, in consultation with the City Manager and the City Clerk, shall determine the order of items on the agenda.

**7.3 Agenda Item Descriptions.** Each agenda item shall include a brief general description of the matter to be discussed (approximately 20 words in length), including any action that may be taken under the California Environmental Quality Act, and should generally include the recommendation of the City Manager.

**7.4 Staff Reports.** Staff reports should include the following sections:

1. Subject
2. Recommended Action
2. Reasons for Recommendation
3. Sustainability Impact
4. Fiscal Impact
5. California Environmental Quality Act

**7.5 Agenda Publication.** Agenda packets for a regular meeting should be published and delivered to Councilmembers no later than the Wednesday prior



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to a Tuesday Council meeting. Councilmembers are encouraged to contact staff in advance for answers to questions regarding an agenda packet. Written communications addressed to Council shall be forwarded to Council and made available to members of the public, consistent with the requirements of the Brown Act.

- 7.6 Supplemental Materials.** Supplemental reports received by the City Clerk after the agenda is published but before 12:00 p.m. on the Monday prior to the City Council meeting shall be published and delivered to Councilmembers at 5:00 p.m. on Monday. Supplemental reports received by the City Clerk after 12:00 p.m. on Monday but before 4:00 p.m. on the day of the meeting shall be published and delivered to Councilmembers prior to the Council meeting.

## 8. Meeting Procedures

- 8.1 Meeting Schedule.** The City Council conducts its regular meetings on the first and third Tuesdays of the month, except when Council is in recess. At the second regular meeting in January, the City Council will approve the schedule of meetings for the calendar year, which in addition to the regular meeting schedule may include the cancellation of regular meetings and the addition of special meetings and study sessions. This practice does not, however, preclude the Mayor or a majority of the members of the City Council from calling additional meetings pursuant to the Brown Act.
- 8.2 Rules of Order.** City Council meetings shall be governed by Rosenberg's Rules of Order. Unless otherwise required by state law or City ordinance, decisions of the Council shall be made by a majority of members present and voting. The Mayor may impose additional reasonable procedural rules not inconsistent with Rosenberg's Rules of Order and the provisions of this Manual, unless objected to by a majority of Councilmembers present.
- 8.3 Order of Business.** The order of agenda items for regular Council meetings is as follows:
1. Call to Order
  2. Pledge of Allegiance
  3. Roll Call
  4. Closed Session Report
  5. Ceremonial Items
  6. Oral Communications (public comment on non-agenda matters)
  7. Consent Calendar
  8. Public Hearings

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9. Action Calendar
10. Council Reports and Comments
11. City Manager Report
12. Oral Communications (continued)
13. Informational Items
14. Adjournment

Oral communications shall be limited to 30 minutes. Additional speakers wishing to comment on non-agenda items may be given time to speak at the end of the agenda, after the City Manager's report. In the absence of an objection made by a majority of Councilmembers present and voting, the Mayor may modify the order of business to facilitate the fair and efficient conduct of Council meetings.

#### **8.4 Consent Calendar.**

**8.4.1 Adding Item to Consent Calendar.** The Mayor, the City Manager, the City Attorney, or the City Clerk may recommend that items appearing on the agenda be placed on the consent calendar for action by the City Council. In addition, any item may be placed on the consent calendar by a majority vote of the City Council. All items placed on the consent calendar shall appear together on the agenda with the recommendation as to the action to be taken by the City Council with respect to such item. Upon the motion of any member of the City Council, all items placed upon the consent calendar may be acted upon together, and each shall be deemed to have received the action recommended. Items may be removed from the consent calendar only by a member of the City Council.

**8.4.2 Removing Item from Consent Calendar.** Any member of the City Council who would like to remove an item from the consent calendar shall notify the City Manager and the City Clerk prior to the meeting. Although members of the City Council are encouraged to ask questions and share concerns about the agenda item with staff before the meeting, they are not required to do so. Items removed from the consent calendar shall be placed at the end of the agenda for consideration.

**8.5 Public Comment.** An opportunity for public comment shall be provided for the consent calendar, each other agenda item under consideration, and, during regular meetings, on any matter that is within the subject matter jurisdiction of the City Council. The Mayor may consolidate public comment for related



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agenda items, subject to overruling by a majority vote of the Council. Non-agenda matters (including Council and staff reports and informational items) may be addressed by the public during oral communications. Members of the public wishing to speak regarding an item shall submit a request to comment to the Clerk ("blue card") or, where applicable, raise their hand in Zoom within five minutes of the time the Mayor opens public comment. Each individual speaker will ordinarily have up to three minutes to address the Council. If a speaker representing five or more members of the public in attendance and wishing to comment on the item but electing not to speak, the speaker may have up to 10 minutes to address the Council. Consolidation of time among speakers is not otherwise allowed. No member of the public may be allocated more than a combined total of 10 minutes to speak during a Council meeting. If a large number of speakers wish to address Council on an item, the Mayor may reduce the time allotted to each speaker consistent with the Brown Act. Twice the speaking time will be provided to any member of the public who uses a translator.

- 8.6 Communications with Members of the Public.** The City Council may ask questions of speakers providing public comment but should avoid an extended discussion with members of the public during meetings. Additionally, when a member of the public provides comments regarding a matter that is not on the agenda, Councilmembers may (1) refer the speaker to staff; (2) refer the speaker to appropriate reference material; (3) request that staff report back at a future meeting; or (4) request that staff place the item on a future agenda. Councilmembers should not otherwise respond to or comment on an item of business that is not on the agenda. City staff should generally avoid responding to comments or questions from members of the public during Council meetings, although the City Manager or City Attorney may offer to arrange a time to discuss the subject matter of public comments with members of the public subsequent to the Council meeting.

### **8.7 Conduct of Meetings**

- 8.7.1 Councilmembers.** Members of the City Council value and recognize the importance of the trust invested in them by the public to accomplish the business of the City. Councilmembers shall accord courtesy to each other, to City employees, and to members of the public appearing before the City Council.
- 8.7.2 City Employees.** City staff shall observe the same rules of decorum applicable to the City Council. City staff shall act at all times in a

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businesslike and professional manner towards Councilmembers and members of the public.

- 8.7.3 Members of the Public.** Members of the public attending City Council meetings are encouraged to treat Councilmembers, City staff, and other members of the public with the same courtesy that Councilmembers and City staff must accord to them. Any members of the public who engages in conduct that disrupts a City Council meeting shall be removed from the meeting. Nothing in this Manual or any rules of conduct that may be adopted by the City Council shall be construed to prohibit public criticism of the policies, procedures, programs, or services of the City, or of the acts or omissions of the City Council, City advisory bodies, or City staff.

**8.8 Discussion and Deliberation**

- 8.8.1 Ex Parte Contacts.** Councilmembers shall disclose any ex parte contacts prior to deliberation on a quasi-adjudicative matter.
- 8.8.2 Relevance.** All discussion must be relevant to the issue before the City Council. A Councilmember is given the floor only for the purpose of discussing the pending matter; discussion which departs from the item agendized for discussion is out of order. Councilmembers should avoid repetition and shall not discuss matters that are not on the agenda. Arguments for or against a measure should be stated as concisely as possible.
- 8.8.3 Council Questions and Deliberations.** Councilmembers may obtain the floor by seeking recognition from the Mayor. Following presentations to Council on an agenda item, Councilmembers shall each be given 5 minutes to ask questions of any presenter. The Mayor may allow additional time for questions where appropriate. Following public comment, the Mayor may request that a motion be made and seconded. After the motion has been stated to the Council and seconded, any member of the Council has a right to discuss the motion after obtaining the floor. A member who has been recognized should limit their time to 5 minutes.
- 8.8.4 Opportunity for Equal Participation.** It is the policy of the Council to encourage the full, fair participation of all members of the Council in discussions and deliberations. The Mayor may impose reasonable limits on the time any Councilmember is permitted to speak to advance this

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policy. In addition, all Councilmembers wishing to be recognized should be given an opportunity to speak before any member is allowed to speak a second time.

**8.8.5 Civility.** While it is appropriate to vigorously debate a motion, its nature, or its consequences, Councilmembers shall avoid attacks on the motives, character, or personality of other Councilmembers, City staff, and members of the public. The Mayor shall rule out of order any Councilmember who engages in such attacks.

**8.8.6 Role of the Mayor.** The Mayor has the responsibility for controlling and expediting the discussion of an agenda item. It is the duty of the Mayor to keep the subject clearly before the Councilmembers, to rule out irrelevant discussion, and to ensure civil discussion among Councilmembers.

**8.9 Meeting Length.** Meetings of the City Council shall adjourn by 11:00 p.m. unless the time of adjournment is extended by a vote of a majority of the City Council. Discussion of an agenda item shall not begin after 10:30 p.m. Any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be discussed or approved and shall specify the order these items shall be considered. If a meeting continues past 11:00 p.m., it shall end at 11:30 p.m. All meetings shall be adjourned at 11:30 p.m. unless by a 2/3 vote the City Council suspends this rule and votes affirmatively to extend the meeting past 11:30 p.m. Following the adjournment of the meeting, any remaining items on the agenda shall be continued to the next regular meeting of the City Council.

**8.10 Public Hearing Procedures.** The order of proceeding where there is a public hearing item (non-appeal items) before the City Council shall be as follows:

1. Open Public Hearing
2. Staff Report ( $\leq 10$  minutes)
3. Applicant's presentation (where applicable) ( $\leq 8$  minutes)
4. Questions from the Council
5. Public comment
6. Applicant's response to public comment (where applicable) (2 minutes)
7. Close Public Hearing
8. City Council discussion and vote

Where the public hearing involves an appeal of a decision to the City Council, the order of proceeding shall be as follows:

1. Open Public Hearing

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2. Staff Report (≤ 10 minutes)
3. Appellant's statement (≤ 8 minutes)
4. Applicant's statement (where applicable) (≤ 8 minutes)
5. Questions from the Council
6. Public comment
7. Applicant's response to public comment (where applicable) (2 minutes)
8. Appellant's response to public comment (2 minutes)
9. Close Public Hearing
10. City Council discussion and vote

**8.11 City Council Recess Period.** The City Council recess period shall begin the first Tuesday in August and end the Tuesday following Labor Day. During any recess period, the City Manager is authorized to take such ministerial actions for matters of operational urgency, including such emergency actions as are necessary for the immediate preservation of the public peace, health, or safety, as would normally be taken by the City Council during the period of recess, except for those duties specifically reserved to the Council by law. This authority extends throughout the period of recess established by the City Council and includes the authority to execute agreements and make expenditures necessary for the exigent operational matters. The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required to ratify the actions of the City Manager. Nothing in this Section prevents the City Council from calling a special meeting during the recess period.

## **9. Closed Sessions**

A closed session may be held at any regular or special meeting for any purpose authorized by the Brown Act. The City Attorney will schedule closed session meetings in consultation with the Mayor and the City Manager. Public comment shall be received in open session prior to a closed session. To ensure strict compliance with the Brown Act, the City Attorney or the City Attorney's designee shall report out in public session any reportable action taken during closed session and any other information from closed session authorized to be disclosed based on a majority vote of the City Council.

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### **10. Enforcement of Rules; Suspension of Rules**

The City Council may enforce repeated or serious violations of the rules set forth in this Manual through a censure action placed on a Council agenda. Nothing in this Manual shall be cited to invalidate a properly noticed and acted upon action of the City Council. Any rule set forth in this Manual may be suspended by a 2/3 vote of the Council.



# CITY OF CUPERTINO

## Agenda Item

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**23-11973**

**Agenda Date: 1/25/2023**  
**Agenda #: 2.**

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Subject: Study Session to consider modifying Municipal Code Title 2 regarding compositions and responsibilities of existing Commissions and Committees (Continued from January 17, 2023)

Direct staff to proceed with ordinance amendment to consolidate existing Commissions and Committees  
Presenter: Pamela Wu, City Manager



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## CITY COUNCIL STAFF REPORT

Meeting: January 17, 2023

### **Subject**

Study Session to consider modifying Municipal Code Title 2 regarding compositions and responsibilities of existing Commissions and Committees

### **Recommended Action**

Direct staff to proceed with ordinance amendment to consolidate existing Commissions and Committees

### **Discussion**

The City currently has ten Commissions and five Committees as stipulated in Title 2 of the Cupertino Municipal Code. In addition, the Administrative Hearing Committee, Fiscal Strategic Committee, and Legislative Review Committee are non-codified standing committees. Altogether there are 17 Commissions and Committees in total, along with Council subcommittees that were formed to focus on areas of concern. Each of the Commissions, Committees, and subcommittees is supported by a staff liaison to serve these bodies. With the current staffing challenge and the unusually high number of commissions / committees / subcommittees that the City supports, staff recommends the City Council consolidate the Commissions and Committees into the following:

- Arts and Culture Commission
- Bicycle Pedestrian Commission
- Housing Commission
- Library Commission
- Parks & Recreation Commission
- Planning Commission (including functions that were previously designated for *Design Review Committee* and *Environmental Review Committee*)
- Public Safety Commission
- Sustainability Commission
- Teen Commission
- TICC (Technology, Information & Communication Commission)
- Administrative Hearing Committee
- Audit Committee
- Disaster Council

Further, staff recommends Council discontinue all previously formed subcommittees and delegate the areas of concerns to the City Manager to review and research. When the analysis is completed, staff will bring back a recommendation for Council to consider before proceeding on the final direction.

Based on the aforementioned recommendation, the City will have a total of 13 Commissions and Committees.

### **Background**

#### *Commissions*

There are ten City Commissions tasked with advising the City Council in the formation of policy. With the partial exception of the Planning Commission, all other Commissions function in an advisory role to the City Council. The following table provides a summary of the Commissions' responsibilities, their duties as codified in the code, and their staff liaisons.

<b>Commission</b>	<b>Primary Responsibilities</b>	<b>Staff Liaison</b>	<b>Applicable CMC Section</b>
Arts and Culture Commission	Advises Council and encourages the realization, preservation, and advancement of fine arts for the benefit of the citizens of Cupertino.	Parks and Recreation Department	CMC 2.80
Bicycle Pedestrian Commission	Advises Council on transportation matters within Cupertino including bicycle and pedestrian traffic, parking, education, and recreation.	Public Works Department	CMC 2.92.080
Housing Commission	Advises Council on housing policies and strategies, affordable housing projects, and sources of funding for affordable housing.	Community and Development Department	CMC 2.86.100
Library Commission	Advises Council regarding library service in the community and serves as liaison between the City and the Santa Clara County Library JPA.	Parks and Recreation Department	CMC 2.68.070



Parks & Recreation Commission	Advises Council on parks and recreation related activities, including park site acquisition and development, community activities, and recreation policies.	Parks and Recreation Department	CMC 2.68.070
Planning Commission	Advises Council on land use matters such as specific and general plans, zonings, and subdivisions. Reviews other matters as specified by City ordinances or Title VII of the Government Code of California.	Community and Development Department	CMC 2.32.070
Public Safety Commission	Advises Council on areas relating to public safety, traffic, police, fire and other areas where public safety may be of concern.	City Manager's Office – Emergency Service Division	CMC 2.60.070
Sustainability Commission	Advises Council on major policy areas related to the environmental goals in Cupertino's Climate Action Plan and General Plan's Environmental Resources/Sustainability Element.	City Manager's Office – Sustainability Division	CMC 2.94.080
Teen Commission	Advises Council and staff on issues and projects important to youth in the Cupertino community.	Parks and Recreation Department	CMC 2.95.080
Technology, Information, & Communications Commission (TICC)	Advises Council on all matters relating to telecommunications in Cupertino and provides support for community access television.	Information and Technology Department	CMC 2.74.060

#### *Committees*

In addition to Commissions, the City has seven standing Committees. These Committees are subject to the Brown Act. Generally, one or two Councilmembers are assigned as members, and the Committees may include members from the public or staff. With the exception of the Administrative Hearing Committee (which conducts administrative hearings), the purpose of the Committees is to review specific topics affecting the City

and to make recommendations to the City Council. Most of the Committees' responsibilities and duties are described in Title 2 of the Municipal Code, but not all of the Committee duties are codified. The following table summarizes the Committees' responsibilities and their priority areas along with staff liaison and their duties as described in the Municipal Code.

<b>Committee</b>	<b>Primary Responsibilities</b>	<b>Staff Liaison</b>	<b>Applicable CMC Section</b>
Administrative Hearing Committee	Reviews applicable projects as outlined by municipal code.	Community Development Department	Varies
Audit Committee	Reviews external and internal audit reports, monthly treasurer's report, and city investment policies. Recommends appointment of external and internal auditors and recommends a budget format.	Administrative Services Department	CMC 2.88
Design Review Committee	A subcommittee of the Planning Commission that reviews aspects of site and architectural design.	Community Development Department	CMC 2.90.090
Disaster Council	Supports the City's emergency management and preparedness responsibilities.	City Manager's Office – Emergency Service	CMC 2.40.025
Economic Development Committee	Enhances and promotes a strong local economy to provide municipal services that businesses and residents desire and need to maintain the community's quality of life.	City Manager's Office – Economic Development Division	CMC 2.96.010
Environmental Review Committee	Evaluates the environmental analysis of a proposed project to determine whether the project may or may not have a significant effect on the environment	Community Development Department	CMC 2.84.080

Housing Element Community Engagement Plan (CEP) Committee	Advise on the Housing Element outreach process with Housing and Planning Commission Chairs; Provide input on Community Engagement required to prepare the Housing Element	Community Development Department	N/A
Legislative Review Committee	Makes recommendations on legislative advocacy issues and authorizes position letters for legislation that aligns with the City's Council-approved Legislative Platform.	City Manager's Office	N/A

Since some of the Committees share similar duties and responsibilities with existing Commissions, staff recommends Council retain the Administrative Hearing Committee, the Audit Committee, and the Disaster Council.

Current responsibilities of the Design Review Committee and Environmental Review Committee would be assigned to the Planning Commission or to Council as appropriate. Current roles and responsibilities of the Economic Development Committee and Legislative Review Committee would be addressed by the Council as necessary. Since the Housing Element Community Engagement Plan Committee was established on a temporary basis, it is recommended that its duties/concerns are delegated to the Community Development staff.

#### *Council Subcommittees*

From time to time, City Council appoints two councilmembers to form a topic-specific subcommittee to address a particular concern. These subcommittees are not Brown Act bodies because they meet for a limited period of time and do not have ongoing jurisdiction over any subject matter. For instance, during the Housing Element site inventory selection process, Council appointed former Mayor Paul and former Councilmember Willey to outreach to property owners along Bubb Road in deciding if such properties should be included on the site inventory. The Bubb Road subcommittee met several times between September and December 2022 and subsequently concluded its task. Other than the Bubb Road subcommittee, several other subcommittees have met at various times and have concluded their original tasks. The following subcommittee are no longer active and would be discontinued.

- Audit Expansion subcommittee
- Bidding and Contract Process subcommittee
- Bubb Road subcommittee

- City Hall Renovation / Expansion Project subcommittee
- Community Funding Grant Program subcommittee
- Farmer's Market subcommittee
- Fiscal Strategic Plan Committee
- Residential Design Standards subcommittee

In addition, the following subcommittees were approved by City Council with pending councilmember appointments.

- Closed Session Minutes subcommittee
- Legislative Aide selection subcommittee
- Summer Intern application review subcommittee
- Homelessness subcommittee
- Festival fee waiver subcommittee

Staff recommends City Council delegate the specific concerns to the City Manager and have staff recommendations brought back for Council's decision as appropriate. In particular, concerns assigned to the Legislative Aide selection subcommittee and Summer Intern application review subcommittee can be researched by the Administrative Services staff; the Homelessness subcommittee can be further evaluated by the Community Development staff. The Festival fee waiver subcommittee discussion can be delegated to the Parks and Recreation staff. When the analysis is complete, staff will present recommendations for Council to consider.

#### *Commissions and Committees in Other Cities in Santa Clara County*

As included in the February 15, 2022 staff report (Attachment A), a comparison matrix detailing the number of commissions and committees for the other 13 cities in Santa Clara County shows that Cupertino has one of the highest number of commissions and committees, irrespective of population. While cities may use varying terminology, bodies that included members of the public to advise Council were included as commissions for the purposes of this analysis. Long-standing, active bodies that are not categorized as commissions and include members of Council were included as committees in this report.

#### **Commissions and Committees in Other Cities**

City	# of commissions and committees	Population
Mountain View	19	82,272
Cupertino	17	66,762
Milpitas	17	84,196
Los Altos Hills	16	8,300
Los Altos	15	31,190

Palo Alto	14	67,019
Santa Clara	14	128,717
Gilroy	11	58,756
Campbell	11	42,288
Sunnyvale	11	156,503
Los Gatos	9	31,439
Saratoga	9	31,030
Morgan Hill	4	45,742
Monte Sereno	3	3,492

Based on the table above, cities in Santa Clara County on average support 12 commissions and committees, not including any active council subcommittees. Cupertino has an above average number of commissions and committees, especially when considering its population size in comparison to neighboring cities. The following chart shows average estimated staff liaison hours spent to support each Commission and Committee

#### *Dedicated Staff Resources*

Commission	Hours Spent Annually	Committees	Hours Spent Annually
Bicycle Pedestrian	240	Administrative Hearing Committee	30
Fine Arts	200	Audit Committee	230
Housing	220	Disaster Council	30
Library	350	Economic Development	60
Parks and Recreation	750	Environmental Review	80
Planning	1100	Design Review	40
Public Safety	200	Legislative Review	400
Sustainability	220	<b>TOTAL</b>	<b>870</b>
Teen	300		
TICC	120		
<b>TOTAL</b>	<b>3,740</b>		

In addition to staff liaison hours, the City Clerk's Office spends significant time (over 1000 hours) per year on administrative duties for commissions such as orientation, training, and assisting with agendas. The City Attorney's Office also supports certain commission and committee items and staffs the Planning Commission. These estimates do not include staff support for numerous other boards and ad hoc committees that the City maintains. Consolidating the commissions and committees could result in an estimated reduction of 520 staff hours. Total staff time spent on committees would be reduced from 870 to 350 hours.

#### Recommendation

Staff recommends the City Council consolidate the Commissions and Committees into the following, in addition to discontinuing all previously

formed subcommittees:

- Arts and Culture Commission
- Bicycle Pedestrian Commission
- Housing Commission
- Library Commission
- Parks & Recreation Commission
- Planning Commission (including functions that were previously designated for *Design Review Committee* and *Environmental Review Committee*)
- Public Safety Commission
- Sustainability Commission
- Teen Commission
- TICC (Technology, Information, & Communication Commission)
- Administrative Hearing Committee
- Audit Committee
- Disaster Council

**Sustainability Impact**

No sustainability impact.

**Fiscal Impact**

Some minimal savings will be achieved in addition to the staff hour savings noted above.

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Prepared by: Pamela Wu, City Manager

Reviewed by: Chris Jensen, City Attorney

Matt Morley, Assistant City Manager

Approved for Submission by: Pamela Wu, City Manager

Attachments:

Supplemental Staff Report

A – Staff Report from February 15, 2022 City Council Meeting



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## SUPPLEMENTAL CITY COUNCIL STAFF REPORT

Meeting: January 25, 2023

### Subject

Study Session to consider modifying Municipal Code Title 2 regarding compositions and responsibilities of existing Commissions and Committees

### Recommended Action

Direct staff to proceed with ordinance amendment to consolidate existing Commissions and Committees

### Discussion

This report adds supplemental information to the original report provided for this item at the January 17 Council meeting.

Staff recommends retaining the Sister Cities Committee appointments. These appointed Council members provide representation at various Sister City meetings.

The City currently has four established Sister City relationships: Cupertino, Italy; Toyokawa, Japan; Hsinchu, Taiwan; and Bhubaneswar, India. Each of these four cities has its own nonprofit organization that coordinates and implements all activities related to the Sister City Program and its exchange program. They meet regularly throughout the year to prepare for their annual Sister City student exchange or adult delegation trips. Meetings of the nonprofit organizations have been held online from 2020-2022 with limited travel activity.

Staff and Council participation in Sister City activities follow the Council Policy adopted on November 20, 2018. Information on this policy can be found at the following link: <https://cupertino.legistar.com/LegislationDetail.aspx?ID=3755414&GUID=F514306F-325B-4B8B-9CFC-7BE9C2E612E7&Options=&Search=>

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Prepared by: Matt Morley, Assistant City Manager

Reviewed by: Chris Jensen, City Attorney

Approved for Submission by: Pamela Wu, City Manager

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**CITY COUNCIL STAFF REPORT**

Meeting: February 15, 2022

**Subject**

Commissions and Committees Workshop

**Recommended Action**

Conduct Commissions and Committees Workshop and provide direction to staff

**Background**

As part of the FY 2019-2020 City Work Program, the City Council requested that staff explore the possibility of creating additional commissions or committees to address Cupertino's needs. The City Council specified the City's need to address traffic and transportation as well as economic development. As part of the FY 2021-2022 City Work Program, the City Council requested that staff also consider the City's need to further support the senior community.

In addition, as part of the FY 20-21 the City Council requested a review of the scope of the Environmental Review Committee. The FY 21-22 City Work Program also includes the development of ordinances codifying the Fiscal Strategy and Economic Development Committees as well as a name change for the Fine Arts Commission.

This item was brought to the City Council in December 2021 where the City Council directed staff to bring this item back for a study session in February.

**Commissions and Committees in Cupertino**

The City Council has created a total of ten commissions plus the Design Review Committee, which is a standing subcommittee of the Planning Commission. The primary role of commissions is to advise the City Council in the formation of policy by weighing public input and examining issues to render a recommendation to the City Council. The following table summarizes the City's commissions and Design Review Committee with brief descriptions of their community priority areas.



Commission	Summary Description
Bicycle Pedestrian Commission	Advises Council on transportation matters within Cupertino including bicycle and pedestrian traffic, parking, education, and recreation.
Fine Arts Commission	Advises Council and encourages the realization, preservation, and advancement of fine arts for the benefit of the citizens of Cupertino.
Housing Commission	Advises Council on housing policies and strategies, affordable housing projects, and sources of funding for affordable housing.
Library Commission	Advises Council regarding library service in the community and serves as liaison between the City and the Santa Clara County Library JPA.
Parks & Recreation Commission	Advises Council on parks and recreation related activities, including park site acquisition and development, community activities, and recreation policies.
Planning Commission	Advises Council on land use matters such as specific and general plans, zonings, and subdivisions. Reviews other matters as specified by City ordinances or Title VII of the Government Code of California.
- Design Review Committee	A subcommittee of the Planning Commission that reviews aspects of site and architectural design.
Public Safety Commission	Advises Council on areas relating to public safety, traffic, police, fire and other areas where public safety may be of concern.
Sustainability Commission	Advises Council on major policy areas related to the environmental goals in Cupertino's Climate Action Plan and General Plan's Environmental Resources/Sustainability Element.
Teen Commission	Advises Council and staff on issues and projects important to youth in the Cupertino community.

Technology, Information, & Communications Commission (TICC)	Advises Council on all matters relating to telecommunications in Cupertino and provides support for community access television.
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Currently, the City has six standing committees. These committees are subject to the Brown Act and are subcommittees of the City Council where one or two councilmembers are assigned as members, along with members from the public or staff. The purpose of committees is generally to review specific topics affecting the City and to take action as delegated by the City Council. However, the Municipal Code prohibits the City Council from delegating the City Council's oversight of City operations through the City Manager to any individual councilmember or committee. The following table summarizes the City's committees with brief descriptions of their priority areas.

Committee	Summary Description
Audit Committee	Reviews external and internal audit reports, monthly treasurer's report, and city investment policies. Recommends appointment of external and internal auditors and recommends a budget format.
Disaster Council	Supports the City's emergency management and preparedness responsibilities.
Economic Development Committee	Enhances and promotes a strong local economy to provide municipal services that businesses and residents desire and need to maintain the community's quality of life.
Environmental Review Committee	Evaluates the initial study of a proposed project to determine whether the project may or may not have a significant effect on the environment.
Fiscal Strategic Plan Committee	Confers, strategizes, and plans for current as well as future activities that have a fiscal impact on the City.
Legislative Review Committee	Makes recommendations on legislative advocacy issues and authorizes position letters for legislation that aligns with the City's Council-approved Legislative Platform.

The scopes of these commissions and committees can be viewed in Attachment C, except for the Economic Development and Fiscal Strategic committees as the ordinance codifying those committees will be developed following this City Council discussion.

### Discussion

In addition to reviewing Cupertino's current commissions and committees, the commissions and committees in 13 other cities in Santa Clara County were also reviewed (Attachments A and B). While cities may use varying terminology, bodies that included members of the public to advise Council were included as commissions for the purposes of this analysis. Long-standing, active bodies that are not categorized as commissions and include members of Council were included as committees in this report.

The following table shows that only Mountain View has more commissions and committees than Cupertino. The table also includes each cities' full-time employee count, excluding police and fire departments, and its overall population for comparison.

Commissions and Committees in Other Cities

City	# of commissions and committees	Population	FTE*
Mountain View	19	82,272	253
Cupertino	17	66,762	198
Milpitas	17	84,196	230
Los Altos Hills	16	8,300	26
Los Altos	15	31,190	95
Palo Alto	14	67,019	711
Santa Clara	14	128,717	530
Gilroy	11	58,756	138
Campbell	11	42,288	104
Sunnyvale	11	156,503	735
Los Gatos	9	31,439	90
Saratoga	9	31,030	57
Morgan Hill	4	45,742	123
Monte Sereno	3	3,492	7

\* Excluding Fire and Police Departments

On average, cities have 12 commissions and committees. Cupertino has a large number of commissions and committees, especially when considering its population size in comparison to neighboring cities. For a breakdown of the topics of each commission and committee, see Attachments A and B respectively.

### Commissions in Other Cities

Of the 13 other cities reviewed, the most common commissions were related to planning, parks and recreation, transportation, youth, libraries, and the arts. Ten of the cities surveyed, including Cupertino, have a commission for each of these topics. Aside from Cupertino, only two other cities have a housing commission and public safety related commission. Cupertino and Milpitas are currently the only cities with a technology related commission.

The below table shows that there are only two cities, Los Altos Hills and Milpitas, with more commissions than Cupertino, while Gilroy and Los Altos have the same number as Cupertino.

Commissions in Other Cities

City	# of commissions	Population	FTE*
Los Altos Hills	15	8,300	26
Milpitas	12	84,196	230
Cupertino	11	66,762	198
Gilroy	11	58,756	138
Los Altos	11	31,190	95
Mountain View	10	82,272	253
Palo Alto	9	67,019	711
Santa Clara	9	128,717	530
Sunnyvale	9	156,503	735
Los Gatos	8	31,439	90
Saratoga	7	31,030	57
Campbell	6	42,288	104
Monte Sereno	3	3,492	7
Morgan Hill	3	45,742	123

\* Excluding Fire and Police Departments

The average number of commissions among the cities surveyed was nine. Palo Alto, Sunnyvale, and Santa Clara all have nine commissions despite having the largest populations and full-time employee counts. Los Altos Hills has an unusually large number of commissions and is only able to maintain them by having the commissioners manage their own meetings, agendas, and minutes without staff liaisons. As a result, not all commissions have up-to-date records and minutes. In addition, Los Altos Hills and Los Altos share the Senior and Library Commissions but they are still reflected in both cities' totals.

### Committees in Other Cities

The following table shows that only Mountain View has more committees than Cupertino. In general, committees tend to be specific and unique to the corresponding city, such as for specific community events, local school districts, and railroads. Some of

the most common committees include finance and audit committees, disaster councils, and economic development committees. Cupertino currently has all of the most common committees compared to the other cities reviewed in this report.

### Committees in Other Cities

City	# of Committees	Population	FTE*
Mountain View	9	82,272	253
Cupertino	6	66,762	198
Milpitas	5	84,196	230
Palo Alto	5	67,019	711
Santa Clara	5	128,717	530
Campbell	5	42,288	104
Los Altos	4	31,190	95
Sunnyvale	2	156,503	735
Saratoga	2	31,030	57
Los Gatos	1	31,439	90
Los Altos Hills	1	8,300	26
Morgan Hill	1	45,742	123
Gilroy	0	58,756	138
Monte Sereno	0	3,492	7

\* Excluding Fire and Police Departments

#### Commission Membership Requirements

Currently, commissioners are generally required to be residents of Cupertino. There are some exceptions when the commissioner is a business representative or provides a certain area of expertise. However, for the Planning Commission and TICC, the resident requirement is stated as a requirement that members be qualified electors. A qualified elector is someone who is eligible to vote in Cupertino, meaning they are at least 18 years of age, live in Cupertino, and are a US citizen. The remaining commissions only refer to a residency requirement. Staff needs policy direction from the City Council on whether the qualified elector requirement should be changed to a residency requirement for consistency. Once direction is received, a municipal code amendment will be brought for the City Council's consideration if a change is required.

#### Traffic and Transportation

In 2017 and 2019 respectively, Los Altos and Los Gatos expanded their bicycle and pedestrian related commissions to Complete Streets Commissions to include other traffic and transportation related issues. The purpose of the complete streets commissions is to create multi-modal transportation solutions for all commuters. On June 2, 2020, it was proposed to the City Council that Cupertino's Bicycle Pedestrian Commission be expanded to a Complete Streets Commission. However, the proposal failed, and the Bicycle Pedestrian Commission remained unchanged. No other city surveyed has both a

bicycle pedestrian related commission and a transportation commission. However, Saratoga does have both a traffic safety and a trails related commission. In its current capacity, the Cupertino Bicycle Pedestrian Commission regularly addresses topics that relate to Complete Streets and multiple modes, as the various modes often affect one another and must be considered holistically. Staff needs further direction from the City Council on whether they would like to pursue a Transportation Commission, a Complete Streets Commission, or continue resolving traffic and transportation issues as part of the Bicycle Pedestrian Commission.

#### Housing Commission

In November 2020, Vice Mayor Chao and former Mayor Scharf expressed a desire to expand the scope of the Housing Commission to include social services. This is not recommended because the City does not have a social services component aside from providing Housing and Human Services Grant funding to social services providers. The County of Santa Clara Social Services Agency and the Office of Supportive Housing provides social services to residents of Cupertino. Regional social services providers, such as WestValley Community Services also provide these services to Cupertino.

Currently, the Housing Commission is already responsible for the review and recommendation of all Housing and Human Services Grant funding. This is an essential function of the Commission that enables the City to ensure that social services are being provided to Cupertino residents. The City's Housing and Human Services Grants program provides approximately \$550,000 annually in grant funding directly to eligible social service agencies. Of that \$550,000, the City provided West Valley Community Services with approximately \$330,000 in Housing and Human Services Grant funding in FY 2021-2022. Of the cities surveyed, Sunnyvale is the only city with a Housing and Human Services Commission. Their commission is responsible for reviewing funding to human services agencies similar to what Cupertino's Housing Commission already does. Expanding the scope of the Commission beyond its existing functions, which include advising on the Housing and Human Services Grant funding, would require significant resources and staff time, which is why it is recommended that the Commission's scope is not expanded at this time. Staff needs further direction from the City Council on what they would like to consider for the Housing Commission.

#### Senior Commission/Senior Advisory Council

Of the 13 cities surveyed, six cities have a senior related commission, with Los Altos Hills and Los Altos sharing their Senior Commission. In Los Gatos, the Community Health and Senior Services Commission is more focused on community and human services in general and is not specifically addressing the senior community. The City of Cupertino had a Senior Commission previously; however, in 2009, the commission and the City Council agreed to dissolve it as there were significant overlapping functions with the Senior Advisory Council (SAC). The SAC has four Board Members and 15 committee members, which meet every other month. Currently, the SAC discusses programs at the Senior Center and receives updates on community group activities.

They address any issues or topics involving senior citizens such as Age Friendly Cities. Staff estimates that the Advisory Council requires about 3.5 hours of staff time a month.

Given that the Advisory Council requires minimal staff time with costs incorporated into the Senior Center program, staff has evaluated that the Senior Advisory Council is operating efficiently and does not require a new Senior Commission to be formed.

At the November 20, 2018 City Council meeting, the City Council revisited the idea of reinstating a senior commission and ultimately decided to continue the City's partnership with the SAC with an addition to request the SAC to provide quarterly updates to the Parks and Recreation Commission.

#### Fine Arts Commission

The City currently has a Fine Arts Commission made up of five residents appointed by the City Council. The purpose of the commission is to foster, encourage and assist in the realization, preservation and advancement of fine arts for the benefit of the citizens of Cupertino. The Commission was first codified in 1987 and was originally named the "Fine Arts Commission". The FY 2021-22 City Work Program includes an item to change the name of the Fine Arts Commission, which was recommended by the commissioners. The Commissioners goal is to change the name of the commission in order to broaden the reach of potential interests, explore other arts outside of "Fine Arts," and better align with commission goals. Staff is working on this name change for completion this fiscal year and will be presenting the City Council with the updated ordinance for consideration.

#### Economic Development Committee

The City currently has an Economic Development Committee (EDC) made up of four City staff members, two City Council members, one Planning Commissioner, and four representatives from the business community, including the Cupertino Chamber of Commerce. The primary purpose of this committee is to discuss news about local businesses and to provide staff initial feedback on business-related City initiatives or projects.

The City Council has requested that the EDC be codified as an official committee as part of the FY 2021-22 City Work Program. Out of the 13 other cities surveyed in this report, only Santa Clara and Campbell currently have active economic development focused committees that are subcommittees of Council. Gilroy has an ad hoc Economic Development Committee, which has not been active for many years.

Currently, two cities in Santa Clara County have economic development related commissions, which are made up of members of the public. The City of Milpitas has an Economic Development and Trade Commission and the City of Mountain View has a Downtown Committee, which works to encourage economic development in Downtown Mountain View. The City is conducting research on economic development

committees in other cities to evaluate what would work best for Cupertino. Staff anticipates presenting this research for the City Council's consideration in April 2022.

#### Fiscal Strategic Plan Committee

Currently Cupertino has a Fiscal Strategic Plan Committee that confers, strategizes, and plans for current as well as future activities that have a fiscal impact on the City. This committee meets annually and is made up of two councilmembers and staff. This committee generally reviews the upcoming Fee Schedule and discusses the financial strategy for the City. The City Council has requested that the Fiscal Strategic Plan Committee be codified as part of the FY 2021-22 City Work Program.

Given the additional workload on the City's Audit Committee, namely with the establishment of the internal audit function, staff have researched and recommend the Fiscal Strategic Plan Committee be converted to a Finance Committee that is recommended to be codified to meet monthly and be charged with the following powers, duties, and responsibilities:

- A. Review Monthly Report of Receipts, Disbursements and Fund Balances
- B. Review Quarterly Treasurer's Investment Report
- C. Review Budget Format
- D. To review City investment policies and internal controls of such policies
- E. Review Annual Fee Schedule Update
- F. Review City's Annual Fiscal Forecast Update

Pursuant to the establishment of the Finance Committee, the Audit Committee's powers, duties, and responsibilities are recommended to be amended to transfer "B," "C," and "D" above. Staff plans to prepare the amendments for Audit Committees consideration in the coming months and will then bring the amendments for the City Council's consideration this fiscal year.

#### Environmental Review Committee

Cupertino's Environmental Review Committee (ERC) was codified in August 1990. The ERC's primary function is to review public projects in accordance with the California Environmental Quality Act (CEQA) to determine whether a project may or may not have a significant effect on the environment by evaluating the preliminary analysis, also known as the Initial Study. As part of the FY 2020-21 City Work Program, the City Council requested that a review of the scope of the ERC and research on best practices in other cities. Of the other 14 cities surveyed, none had a commission or committee related to Environmental Review. The majority of cities have staff, sometimes along with an environmental consultant, determine if an Environmental Impact Report (EIR) is needed based on the environmental impact of a proposed project.

This review of the scope of the ERC was presented to the ERC on April 15, 2021. During that discussion there was a concern that there may be perceived conflict of interest issues with a Planning Commissioner and a City councilmember serving on the ERC prior to



projects coming to the Planning Commission or the City Council for review. While the makeup of the ERC does not violate procedural process or fair hearing rights, the Planning Commissioner and Councilmember appointed to the ERC would need to be careful not to say or do anything during the ERC meetings (or during any other times) that would give the impression that they have made up their mind on how they will ultimately vote on the project application.

The ERC ultimately made the following three suggestions:

1. Roll the environmental review aspect of the ERC's duties into the Planning Commission, which would result in either dissolving the ERC or changing the scope.
2. Expand the ERC's scope to act in an advocacy capacity and provide education and engagement opportunities to the community.
3. Considering changing the composition of the ERC to address the potential for perceived conflicts issues.

Staff needs further direction from the City Council on which approach they would like to consider for the ERC.

#### Considerations for Adding Commissions

In Cupertino, each commission is assigned a staff liaison whose role is to provide administrative support and information that will assist commissioners throughout the process of advising the City Council. In addition to staff liaisons, department directors and administrative staff all work in certain capacities to facilitate and engage with commissioners. The following table shows an estimate of the number of hours staff spends on commissions annually, not including policy development and implementation as that would have occurred whether or not there was a commission to advise the City Council. These hours include staff time spent on administrative and staff liaison duties, such as attending meetings, writing minutes, and creating agendas.

Commission	Hours Spent Annually
Bicycle Pedestrian	240
Fine Arts	200
Housing	220
Library	350
Parks and Recreation	750
Planning	1100
-Design Review	40
Public Safety	200
Sustainability	220
Teen	300
TICC	120
<b>TOTAL</b>	<b>3,740</b>

Committees	Hours Spent Annually
Audit	230
Disaster Council	30
Economic Development	60
Environmental Review	80
Fiscal Strategic Planning	15
Legislative Review	400
<b>TOTAL</b>	<b>812</b>

In addition to these hours, the City Clerk's Office also spends over 100 hours per year on administrative duties for commissions such as orientation, training, and assisting with agendas. Hours from the City Attorney's Office are also required for certain commission and committee items, particularly Planning Commission and ERC. This does not include staff support for numerous other boards and ad-hoc committees that the City maintains.

#### Recommendation

It is recommended that the City Council review this report and provide direction as needed.

#### Sustainability Impact

No sustainability impact.

#### Fiscal Impact

If the City Council chooses to add commissions or committees, additional staffing resources maybe required and will be analyzed at that time. It is estimated that an additional commission would require 100-1100 hours and an additional committee would require around 15-400 hours of staff time annually depending on the demands of the commission or committee.

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#### Attachments:

A – Matrix of Commissions in Other Cities

B – Matrix of Committees in Other Cities

C – Scopes of Commissions and Committees