

June 18, 2018

Cupertino City Council
Cupertino, CA 95014

Dear Councilmembers,

The Library Commission acted at its June meeting to communicate to you its present understanding of, and position with respect to, the proposed City Council 2018 Work Plan item regarding the elimination of this commission.

We were not informed of the proposal prior to its appearance in the draft Work Plan and never have been consulted about the intended benefit to the community. Nonetheless, we have taken the proposal seriously. Following our regular procedures for developing advisory input to the City Council, we have:

- entertained public comment and testimony,
- collected input from influential community groups,
- sought information on budget and other metrics impacts from city staff,
- and extensively discussed potential outcomes in publicly attended commission meetings.

Some parameters are unresolved—such as whether the Library Commission will be combined solely with the Parks and Recreation Commission or if both the aforementioned commissions will be further combined with the Public Safety Commission. The latter outcome is the subject of one budgetary planning exercise presented to us by city staff.

Public and community comment is unanimously and vigorously opposed to the City Council's suggestion. We are unable to address any budgetary benefits. The fundamental assumptions articulated in the single estimate of budget impacts prepared for your review, as no doubt you have noted, are essentially flawed by assumptions untethered to the priorities, annual work plan goals, and operational considerations of the two or three commissions impacted.

The Library Commission reflects the library service needs of the Cupertino community to the Cupertino Library staff and the Santa Clara County Library District (SCCLD) leadership. Further, commissioners directly work in support of the library and its capabilities, in partnership with Cupertino Library staff, SCCLD management, and community-based organizations (Cupertino Library Foundation, Friends of the Cupertino Library). The Library Commission also liaises with comparable library-focused appointed and volunteer organizations throughout the Bay Area.

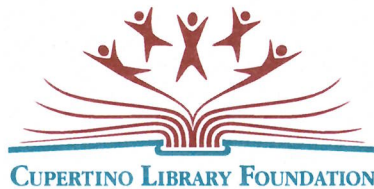
SCCLD is nationally recognized as a leading, forward-looking, and award-winning library system. The Cupertino Library, as we are well aware, benefits from the visionary leadership of SCCLD management and the opportunity to collaborate with and learn from other community libraries in the SCCLD. It also maintains unique service aspects specifically designed to serve the Cupertino community. Data show ever increasing usage and materials circulation and the library staff work towards near-saturation patron registration. The recent extension of opening hours to 72 hours/week is the highest availability across the SCCLD, and a matter of public note and celebration.

While the Library Commission has not yet proposed an expansion of its membership to better serve the community's input, we are at least reminded of the adage, "If it ain't broke, don't fix it." By extension, we might advertise and advocate the extraordinary success of the Cupertino Library-community (and non-profit support organizations)-Library Commission-City Council nexus and share credit for this long-standing and long-nurtured success.

The commissioners are deeply interested in knowing the origins of the Work Plan proposal for commission consolidation. We are open to understanding the underlying drivers, rationale and potential benefits, budgetary and staff impacts, and—importantly—to study and discuss these matters with our sister commissions which, surely, have parallel concerns. The absence of input from the public and impacted commissions would represent a lack of due diligence and breaches of procedural regularity and responsibility.

Our collective years of experience giving service to the City Council and our community compel us to advise against unconsidered actions to achieve outcomes not transparently communicated to all affected parties—most notably your electorate. Such decisions carry risks. Conscientious evaluation of outcomes is an essential advisory function provided by Cupertino's system of commissions. We urge you to use the system you've established, not circumvent it.

Sincerely
Library Commissioners
City of Cupertino, CA 95014



www.cupertinolibraryfoundation.org
10800 Torre Avenue Cupertino CA 95014

Board of Directors

Board President, Jerry Liu
Vice President, Art Cohen
Treasurer, Janet Trankle
Secretary, Kiran Varshneya-Rohra
Henry Sang
Diana Matley
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Eno Schmidt
Steve Ting
Gilbert Wong

Community Librarian

Clare Varesio

July 25, 2018

Dear Mayor Paul and members of the Cupertino City Council,

Please accept this letter on behalf of the Board of the Cupertino Library Foundation (CLF) regarding the commission consolidation study currently scheduled for the July 31, 2018 city council meeting.

The Cupertino Library Foundation is 501(c)(3) non-profit organization chartered to provide continuing financial support to our Cupertino Public Library. Founded in 1994, CLF continues to provide financial and creative support for multi-generational, multi-lingual educational and cultural programs in collaboration with the Cupertino Library. Since its creation, the CLF has raised over \$3 million to benefit the Cupertino Library and the Cupertino community.

The Cupertino Public Library, a part of the Santa Clara County Library District (SCCLD), is a beloved institution in a community which places a high value on education. In FY 2017-2018, It hosted over 835,000 visitors with almost 2.4 million items circulated. On both an absolute and a per-capita basis, it is the most popular library in the Santa Clara County library district.

The Board of the Cupertino Library Foundation strongly opposes the proposed commission consolidation due to the following reasons:

1. The proposed cost savings from the commission consolidation is miniscule compared to the benefits that a properly resourced and directed commission brings to the Cupertino community.
2. The elimination of this commission and its passionate volunteers defeats one of the key goals of increasing civic engagement with the city.
3. Library commissioners not only advise SCCLD but also influence and take actions to fulfill our residents' needs and requests. An example is the recently announced "extended library hours", which was the top ranked request from a user survey. The Library Commission took this request to the heart and actively drove the request with SCCLD to achieve what we have now. Patrons are simply thrilled with this change and enjoying those extra hours. The Cupertino Public Library is the most used public facility in the city, and residents will not be well-served by the elimination of a dedicated Library Commission focused on library issues.



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While we appreciate the recognition of the key role that CLF plays in supporting our library during the March 6, 2018 city council meeting, we are not a forum where community members can speak freely to air grievances or make service requests. One of the Commission's most important responsibilities is the public venue it provides for community members to share concerns they have regarding any aspect of library services. We would like to see the Library Commission work more intimately with CLF, Friends of the Cupertino Library, and with our neighbor Library groups to form a more holistic ensemble to grow and extend the education, culture, and discourse in Cupertino. We also encourage a revitalized Library Commission to seek more direct community involvement with its activities.

If the City Council is dissatisfied with the current Library Commission structure or work plan, we respectfully recommend that, instead of a hurried decision to eliminate the Commission, we work in conjunction with other organizations and the community to clarify the unsatisfactory issues and redefine the charter for the Library Commission. There are complex and nuanced library issues looming in the near future which will require in-depth analysis. One issue is the expiring lease agreement for the library building, and another is the planned addition of a program room to the only library in the district which does not have a dedicated program room. CLF is willing to assist in this exploratory and mission definition process to help bring more service to the Cupertino community. Other cities in the Santa Clara County Library District have library commissions to serve their residents; our residents deserve no less.

Sincerely yours,

Jerry Liu
Board President
Cupertino Library Foundation
jliu@cupertinolibraryfoundation.org

From: [Jacqueline Guzman](#)
To: [Grace Schmidt](#)
Subject: Fwd: Transparency in public agency
Date: Wednesday, July 25, 2018 7:12:15 AM

For the public record

Sent from my iPhone

Begin forwarded message:

From: Liang-Fang Chao <lfchao@gmail.com>
Date: July 25, 2018 at 1:14:00 AM PDT
To: Jacqueline Guzman <jacquelineg@cupertino.org>
Subject: Fwd: Transparency in public agency
Reply-To: <lfchao@gmail.com>

Please put this in the written comment for the July 31 special meeting.

Thanks.

----- Forwarded message -----

From: **Liang-Fang Chao** <lfchao@gmail.com>
Date: Wed, Jul 25, 2018 at 1:06 AM
Subject: Transparency in public agency
To: ntambe@cupertino.org, mbiyani@cupertino.org, cstanek@cupertino.org,
hdavis@cupertino.org, jwilson@cupertino.org, parks@cupertino.org

Dear Parks and Rec Commissioners,

The Brown Act is the open meeting law to ensure transparency and sufficient notification for the public. It may be an inconvenience at times, but it is important to ensure that the decisions of a public agency are deliberated and made in the open. Public trust is important.

I looked up the Brown Act and sent the information to Jacqui. I thought you might be interested to know.

According to Gov't Code § 54952, Parks and Rec Commission is a "legislative body", subject to the Brown Act, because it is created by a formal action of the City Council.

If the Library "committee" is created by the Parks and Rec Commission, it would be a "standing committee", which "have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body".

Thus, the Library committee is a legislative body, subject to the Brown Act.

Just changing the name from "commission" to "committee" would not allow

someone to circumvent the Brown Act.
It makes sense, doesn't it?

This seeming innocent issue of merging of commissions has been made controversial and emotional because of the very tight timeline the three City Council members, Sinks, Savita and Chang, put us under. In case you didn't know, three City Council members called for a special meeting specifically about the merging of commissions after mid June. For some unknown reason, the three City Council members MUST discuss this issue before the end of July. They cannot wait until the next regularly scheduled city council meeting. This forced the Library Commission to call a special meeting to study this in July, after they've cancelled their July meetings. As a result, only three Library Commissioners were able to attend.

In addition, the City Council nor the staff have given any sufficient rationale on why there is a need to even consider this issue. As Judy Wilson pointed out tonight, there doesn't seem to be a problem to solve; how can we discuss the solution. And Judy said she even spoke to Rod Sinks, the Council member who brought this up in the first place. It appears that many hours of staff time and commissioner time are wasted on a witch hunt to solve a non-existent problem.

One commissioner wondered why people seem to be so negative about this issue. As you can see, the negativity we are experiencing is due to a lack transparency in the process. What exactly is the true motivation for such exercise? Why the other Commissions with even less activities are not reviewed? Why is there such an urgency all of a sudden? Before the city proceed any further with this issue, these questions should be answered truthfully. I hope that the solution for this issue will not be one with even less transparency.

One commissioner mentioned that the Library commission meetings are not recorded, so it's hard to find out what's discussed. Is that a sufficient reason to absorb Library Commission? The same argument applies to almost every other Commission, except Planning Commission. Should we then merge them all? Of course not.

In fact, the city can install a stationary camera in one of the conference rooms and record the commission meetings held there. There is technology for simple video recording or audio recording if needed.

Thank you for your service on the Parks and Rec Commissions. I hope that we all learn from this experience and come to a sensible solution that value transparency and community engagement.

Regards,

Liang Chao
Cupertino Resident

----- Forwarded message -----

From: **Liang-Fang Chao** <lfchao@gmail.com>

Date: Wed, Jul 25, 2018 at 12:26 AM
Subject: Re: Committees versus Commissions
To: Jacqueline Guzman <JacquelineG@cupertino.org>

Some information on whether a "committee" is subject to the Brown Act.
<https://firstamendmentcoalition.org/2009/06/aa-advisory-committees-and-the-brown-act/>

Gov't Code § 54952. As used in this chapter, "legislative body" means:
(a) The governing body of a local agency or any other local body created by state or federal statute.
(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body.
However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

According to Gov't Code § 54952, Parks and Rec Commission is a "legislative body", subject to the Brown Act, because it is created by a formal action of the City Council.

If the Library "committee" is created by the Parks and Rec Commission, it would be a "standing committee", which "have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body".

Thus, the Library committee is a legislative body, subject to the Brown Act.

Just changing the name from "commission" to "committee" would not allow someone to circumvent the Brown Act.
It makes sense, doesn't it?

Liang

On Tue, Jul 24, 2018 at 8:51 PM, Liang-Fang Chao <lfchao@gmail.com> wrote:
Jacqu,

First, I hope to thank you for graciously guiding everyone through the issue of merging commissions, which has been made controversial and emotional because of the very tight timeline the three City Council members put us under. And the vague or non-existence rationale for even considering the merging of commissions. The City Council member who proposed the idea appears to have created a problem to solve when there is none, as Judy Wilson pointed out tonight at Parks and Rec Commission meeting tonight. The negativity we are experiencing is due to a lack transparency in the process and I hope that the solution will not be one with even less transparency.

The option of making Library Commission a committee was brought up tonight as a way to be "flexible", but such flexibility comes at a cost of transparency and public participation, which the Brown Act is meant to protect. The speed limit is restrictive, but it is necessary to ensure safety. So, we must look at whether turning Library Commission into a non-Brown-Act committee is even legal.

There are two types of committees, the standing committee and the ad hoc committee, that a City Council can create. The standing committee meets regularly and has an ongoing responsibility of a certain focus. The ad hoc committee is created for one specific task. Once the task is done, the committee is dissolved. **A standing committee created by a Brown Act body is subject to the Brown Act too.** Otherwise, one can easily create standing committee to meet in closed session on any item to circumvent the Brown Act. An ad hoc committee is not subject to the Brown Act, but its task has to be decided and specified in the open meeting of the City Council. This ensures that important decisions are determined in the open with sufficient public notification and participation.

I remember the City Council faced a similar issue this year regarding the Legislative Action committee, right? Just changing the name from "Commission" to "Committee" would not change whether the entity is subject to the Brown Act or not.

The same rule applies to the Parks and Rec Commission, which is a Brown Act body. If a Library committee, which meets regularly reports to the Parks and Rec committee, the Library committee is subject to the Brown Act as a Library Commission.

Is it more efficient to create two levels of Brown Act committees? Why?

So, please make sure that the staff or the Parks and Rec commission does not recommend an option that violates the Brown Act.

Sincerely,

Liang

Total Control Panel

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To: [Remove](#) this sender from my allow list
jacquelineg@cupertino.org
From: lfchao@gmail.com

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