

All Commissions Joint  
Meeting

#1 Commissioner's  
Training

City Clerk Presentation

# Commissioner's Training

All City Commissions

March 30, 2023



**CUPERTINO**



# Training Purpose

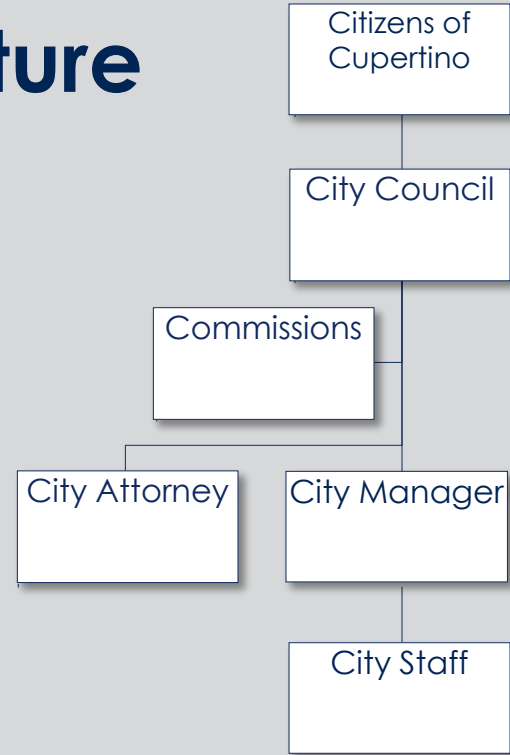
- Provided annually by City Clerk's Office
- Required for Commissioners, Staff Liaisons and Admins
- Review Roles and Responsibilities
- Updates in changes in laws or policies
- The Brown Act (Public Meetings)
- Conflict of Interest (Political Reform Act)
- Commissioner's Handbook



# City Clerk's Office

- Administers Oath of Office and conducts orientations
- Ensures compliance for required filings
- Coordinates trainings
- Manages recruitments for commissions
- Monitors attendance and eligibility
- Oversees commission agenda publications

# City Organization Reporting Structure





# Council-Manager Structure of Government

City Council	sets policy and vision, approve budget
City Manager	implements policy, directs day-to-day operations and staff, proposes a budget
City Staff	develop policy alternatives/make professional recommendations and implement Council direction

# Commission Liaisons & Staff

## Arts & Culture

Liaison: Gian Martire  
Admin: Cyrah Caburian

## Audit

Liaison: Thomas Leung  
Admin: Janet Liang

## Bike Ped

Liaison: David Stillman  
Admin: Kim Lunt

## Planning

Liaison: Piu Ghosh  
Admin: Cyrah Caburian

## Library

Liaison: Molly James  
Admin: Jessica Javier

## Housing

Liaison: Kerri Heusler  
Admin: Cyrah Caburian

## Parks & Rec

Liaison: Rachelle Sander  
Admin: Jessica Javier

## Public Safety

Liaison: Tom Chin  
Admin: Melissa Robertson

## TICC

Liaison: Bill Mitchell  
Admin: Marilyn Pavlov

## Sustainability

Liaison: Andre Duurvoort  
Admin: Melissa Robertson

## Teen

Liaison: Sonya Lee  
Admin: Jessica Javier

# Commission Liaison Role

- Technical advisors
- Are politically neutral
- Attend commission meetings
- Prepare agendas in consultation with Chair
- Prepare agenda reports
- Report Commission recommendations to Council
- Communicate Commission Work Program goals for Council consideration
- Prepare minutes
- Ensure notices follow State law and City policies





# Commission Role

- Advisory bodies to City Council
- Weigh public input on the issues
- Provide recommendations to Council
- Act as a body
- Require a majority voting on matters
- Individual Commission member comments are not direction
- Scope of work is found in City Code Chapter 2

# Commission Purpose

Audit Committee	Reviews various City reports and recommends filing with City Council, receives updates on Fraud, Waste and Abuse program, and recommends a budget format.
Bicycle Pedestrian Commission	Advises Council on transportation matters within Cupertino including bicycle and pedestrian traffic, parking, education, and recreation.
Arts and Culture Commission	Fosters, encourages, and assists in the realization, preservation, and advancement of arts and culture for the benefit of the citizens of Cupertino.
Housing Commission	Assists in recommending housing policies and strategies, monitoring affordable housing projects, and identifying 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.

# Commission Purpose

Planning Commission	Advises Council on land use matters including the City's General Plan, implements the General Plan through the administration of specific plans, zoning and subdivisions, and establishes a standing subcommittee for design review.
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 and programmatic 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	Advises Council on all matters relating to telecommunications in Cupertino and provides support for community access television.



# City Work Program

- Commissions support City Work Program items
- Goals are reviewed annually
- Approved by the City Council
- Commissions also work on ongoing projects specific to their commission that align with Council goals
- FY 2023-25 City Work Program will be considered by Council on April 4

# Commissioner Responsibilities

- Read the Commissioner's Handbook
- Prepare for and participate in commission meetings
  - Read materials and send clarifying questions to staff in advance
- Attend at least 75% of regular meetings annually
- Represent the community
- File Form 700 annually
- Complete ethics training every two years
- Attend annual commission training



# Rosenberg's Rules of Order

- Follow Rosenberg's Rules during meetings
- In place to run efficient meetings and accomplish City business
- Allows for orderly deliberation of items
- Should arrive at a majority decision
- Meetings are run by the Chair
- Be respectful (sometimes differing opinions)

# Ethics Training

- Required for Public Officials and City staff per State law (AB 1234)
- Educates officials on ethical standards
- Applies moral principles and values in decision-making
- Reduces the likelihood of missteps
- Due every two years
- Minimum of 2 hours of training



# Cupertino Ethics Policy

- Adopted by City Council (January 2020)
- Sets conduct of members
- Supports fair decision-making
- Preserves atmosphere of respect and civility
- Compliance with the law
- Conflict of Interest



# Reminders

- Attendance at regular meetings
  - More than 25% or 3 consecutive meetings missed\*
  - Clerk's Office will send a warning letter
  - Resets annually
- Form 700 filing due on April 3
  - Clerk's Office has sent instructions on how to file electronically

*\*Dependent on Commission meeting frequency*



# Questions?

City Clerk's Office:

Email: [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org)

Telephone: 408-777-3223

# All Commissions Joint Meeting

## #1 Commissioner's Training

### City Attorney Presentation

# Brown Act Basics

March 30, 2023



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# The Brown Act

- *“All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting . . . except as otherwise provided in this chapter.” (Gov. Code, § 54953(a))*
- Legislative bodies must:
  - Conduct business and make decisions only in open public meetings
  - Publish and follow meeting agendas
  - Provide an opportunity for public participation before making decisions.

# What Is a “Meeting”?

- “...[A]ny congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains” (Gov. Code, § 54952.2(a))
- Meetings include:
  - Regular meetings
  - Special meetings
  - Emergency and adjourned meetings

# What Is Not a “Meeting”?

- Individual contacts
- Staff briefings (less than a quorum)
- Social and ceremonial gatherings
- Conferences/seminars
- Open, publicized community meetings (not City meetings)
- Meetings of other legislative bodies

# Serial Meetings

- Brown Act prohibits a series of communications of any kind (directly or through intermediaries)
- Wagon wheel or daisy chain



# Social Media

- Public official may communicate on social media platforms to:
  - Answer questions
  - Communicate with the public
- Members may not use social media to discuss official business among themselves
  - No responses to other Councilmembers
  - No likes
  - No 😞

(Gov. Code, § 54953(b)(3))

# Agendas

- Legislative body may only discuss agendized topics
- Agenda includes “brief general description” of item to be discussed (Gov. Code, § 54952.2(a)(1))
- Must be posted 72 hours before regular meeting and 24 hours before special meeting
- **Limited** discussion of non-agendized matters:
  - Brief reports/announcements
  - Asking a question for clarification
  - Referring item to staff
  - Briefly respond to public comments

# Public Participation

- Opportunity for public comment on:
  - Any item within the subject matter jurisdiction of the legislative body (oral communications – regular meetings only)
  - Specific items of business before or during the Council's consideration
- Public right to review non-privileged documents distributed to a majority of the legislative body
- Comments may be anonymous

# Enforcement

- Demand for cure or correction
- Possible consequences of violation:
  - Void Council action
  - Injunction against future violations
  - Attorneys' fees award
- Criminal prosecution where violation is intentional

# Remote Participation

- Emergency authorization for fully remote meetings ended on February 28
- Quorum must be present in person for all meetings of Brown Act bodies
- **Limited** options for remote participation
  - “Classic” Brown Act teleconferencing exception
  - Just cause/emergency exceptions (AB 2449)
- ***Rules are complicated*** – ask your staff liaison and/or the CAO!

# Conclusion

- Resource: Open & Public V  
[https://www.calcities.org/docs/default-source/city-attorneys/open-public-v-revised-2016.pdf?sfvrsn=995414c9\\_3](https://www.calcities.org/docs/default-source/city-attorneys/open-public-v-revised-2016.pdf?sfvrsn=995414c9_3)
- City Attorney's Office is here to help comply with the Brown Act – call/email/text us!

Email: [chrisj@cupertino.org](mailto:chrisj@cupertino.org)

Cell: 408.630.0674



**Questions?**

# Conflicts of Interest

March 30, 2023



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# Agenda

- Conflicts in making contracts (Gov. Code § 1090)
- Political Reform Act
- Campaign Contributions (SB 1439)
- Gifts
- Common law conflicts of interest

# Gov. Code § 1090 – Contracts

- *A public officer or employee may not make contracts in which they are financially interested.*
- “Making” a contract includes final approval, involvement in preliminary discussion, planning, negotiation, and solicitation of bids.
- Legislative body is barred from making the contract, unless an exception applies.

# Political Reform Act

- *Public officials may not make or influence government decisions in which they know or should know they have a financial interest.*
- Financial interest must be “material” (as defined in FPPC regulations)
- Effect on official must be distinguishable for effect on the “public generally”
- If a conflict exists, recusal is required.

# Recusal Procedures

- Publicly identify nature of the financial interest
- Refrain from participating in meeting
- Disqualified officer may speak during public comment if the conflict arises from a personal economic interest.

# Campaign Contributions (SB 1439)

- Applies to decisions relating to licenses, permits, or entitlements
- Officer may not receive/solicit campaign contributions from parties/financially interested persons < \$250 –
  - While proceeding is pending
  - 12 months before a decision is made
  - 12 months after a decision is made
- Recusal required if requirements not met

# Gifts

- Officials prohibited from receiving:
  - Gifts valued at \$10 or more from a lobbyist registered under state law
  - Gifts valued at \$520 or more from any single source in previous 12-month period
- Gifts from a single source totaling \$50 or more in a calendar year must be reported on Form 700
- Numerous exceptions (e.g., gifts from family, home hospitality, gifts in a dating relationship)

# Common Law Conflicts

- Public officials cannot use their positions for personal gain.
- Avoidance of prejudice/due process requirements for quasi-adjudicatory decisions:
  - Decision should be based on evidence in the record
  - Officials should not be committed to an outcome before a hearing

# Conclusion

- Conflict of interest analysis is multi-layered and complex.
- When in doubt, **consult the City Attorney's Office.**





**Questions?**