

CC 01-17-2023

Oral
Communications

Written
Communications

From: [Daniel Honegger](#)
To: [City Council](#); [City Clerk](#); [Cupertino City Manager's Office](#)
Subject: 1/17/2023 City Council meeting communication - Convert Blackberry Farm Golf Course to natural habitat
Date: Tuesday, January 17, 2023 12:22:28 PM

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

To Mayor Hung Wei and Councilmembers:

As a long time resident and employee all around the south bay, I feel that it is in the best interests of our local community and the environment as a whole to favor the return of the golf course to a natural, drought tolerant habitat.

Already, today, the number and variety of people served by local natural trails and an education center would surpass the usage of a restored golf course. Enjoyment of nature and natural spaces has a minimal cost of entry and broad, long-lasting appeal across all ages, backgrounds, and interests. The hours and conditions (seasons, weather) of use is also greater for trails compared to a golf course. Extending beyond people, who could say no to the increased space for native flora and fauna to flourish?

Looking to the future, returning the space to nature makes even more sense. We're confronting unprecedented species loss and climate change at all levels. What message are we sending to ourselves and to those to come if we don't take this opportunity to act proactively and locally to mitigate issues we face with drought and native habitat loss? I can't foresee which way the appeal of golfing as a leisure activity will trend, but the appeal of nature to everyone of us is durable, and nature makes our environments more hardy and durable in return.

Thank you,
Daniel Honegger

From: [Robert Hall](#)
To: [City Council](#); [City Clerk](#)
Subject: 1/17/2023 Public Comments for the record
Date: Tuesday, January 17, 2023 10:23:50 AM
Attachments: [Blackberry Golf Course Comment 1_17_23.pdf](#)

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

Dear Mayor and City Council members:

I'm writing to ask you to support converting Blackberry Farm Golf Course into a benefit for the broader public, and importantly, wildlife.

You may have read the recent *San Francisco Chronicle* article titled, [The Bay Area's natural habitats have vanished. We're a microcosm of a global die-off](#). Or, perhaps you watched the January 1st *60 Minutes* segment called, [Earth's wildlife running out of places to live](#).

The message is dire. Human activity is driving plant and animal species to extinction at a rate not seen since the dinosaurs vanished 65 million years ago. While golf courses have been closing due to a generational decline in participation, the situation isn't as urgent. In fact, there's an astounding [41 golf courses](#) in Santa Clara County alone.

Fortunately there's hope, because the solutions are local and leaders like you can help repair our damaged relationship with nature. Rewilding the golf course with native plants, can immediately cut down on water-waste, eliminate the need for chemical herbicides, reinvigorate Stevens Creek and create a connected wildlife corridor with other parks in the area such as McClellan Ranch where birds, fish, frogs, bees and butterflies can thrive.

Native plant corridors are recommended as a best practice by the San Francisco Estuary Institute report, *Making Nature's City: A Science-based Framework for Building Urban Biodiversity*, which summarizes the key indicators supporting urban biodiversity. The report is available for free on SFEI's website in English and Spanish.

SFEI's key urban biodiversity success indicators include

- Native Vegetation
 - Green corridors
 - Patch size
 - Special Resources - Water/Aquifers/Reservoirs, Large Trees
 - Management - Vegetation, Soil, Invasive plant removal, Infrastructure
- <https://www.sfei.org/news/building-cities-better-support-biodiversity>
<https://www.sfei.org/projects/making-natures-city>

Cupertino can do the right thing and say goodbye to the biodiversity deserts of greens and fairways and join the movement to restore nature to create a park for everyone with a variety of demographics . While the time for action is now, nature is resilient, notes the *San Francisco Chronicle* article above, and if given an opportunity it can bounce back.

Bob Hall
1946 Grove St. Apt. 6
San Francisco, CA

From: [Kirsten Squarcia](#)
To: [Gary Latshaw](#); [Cupertino City Manager's Office](#); [Andre Duurvoort](#); [Gilee Corral](#)
Cc: [City Clerk](#)
Subject: RE: Request to Review the November 15th Decision on the City Hall Study
Date: Friday, January 13, 2023 1:54:53 PM
Attachments: [Sierra Club Loma Prieta Chapter letter to City of Cupertino 1.17.23.pdf](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Good afternoon Gary (Council Bcc'd), your email has been received and, per your separate request, will be included with the written comments for Oral Communications for the January 17 City Council meeting. Regards, Kirsten

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 4:30 p.m. on Tuesday, January 17 to the Council at 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.



Kirsten Squarcia

City Clerk
City Manager's Office
KirstenS@cupertino.org
[\(408\) 777-3225](tel:(408)777-3225)



From: Gary Latshaw <glatshaw@gmail.com>
Sent: Friday, January 13, 2023 12:13 PM
To: City Council <CityCouncil@cupertino.org>; Cupertino City Manager's Office <citymanager@cupertino.org>; Andre Duurvoort <AndreD@cupertino.org>; Gilee Corral <GileeC@cupertino.org>; Kirsten Squarcia <KirstenS@cupertino.org>
Subject: Request to Review the November 15th Decision on the City Hall Study

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you

recognize the sender and know the content is safe.

Dear City Council Members, Mayor Hung Wei, City Manager Pamela Wu-City, Sustainability Manager Andre Duuvort, and Climate & Utility Analyst Gilee Corral

I am writing as a resident of Cupertino and an active member of the Sierra Club. Below is the text of the Sierra Club's critique of the decision to restore the City Hall as opposed to the replacement.

The letter describes the shortcomings of the decision process, which I feel are grounds to re-examine the issue. As a resident, I would like the city to follow the path of Sunnyvale and have a new city hall with the most advanced forms of energy acquisition and management. Sunnyvale's residents can point to a very forward-looking and modern building. Simply restoring ours to comply with seismic standards will not achieve that.

Here is the letter:

The Sierra Club Loma Prieta Chapter requests that the City of Cupertino re-examine its decision on November 15, 2022 to restore the City Hall to conform to current seismic standards, and not replace the City Hall.

In coming to this decision, neither the council discussions or the staff report even mentioned the climate goals the City has set for itself or provided a life-cycle cost-benefit analysis of the proposed restored building versus new construction. The materials used in construction have a climate impact. While reuse of an existing building may be inherently a sustainable approach, the City should also consider life-cycle emissions. Of course, some portions of the existing facility, such as the basement, might be repurposed for a new building. The LEED standards developed by USGBC provide valuable information to achieve a green building.

The City's recent commitments are identified and should be reflected in the City Hall decision:

- The City's website states: the goal to achieve carbon-neutrality in City owned facilities and operation no later than 2030.
- The City's Climate Action Plan 2.0^[1] specifically identifies the need to achieve the

City's target of carbon neutrality by 2040.

- Furthermore, on September 18, 2018^[2] the City declared a climate emergency in Resolution No.18-094 stating: emergency declaration to halt greenhouse gas emissions at the local level. Councilmember Darcy Paul, at the time stated: "I am really glad that we are declaring a climate emergency...this is extremely critically important for not just our community but for the planet and it is something that I'm very glad to bring forward to the community."

Whether the City decides to achieve its climate objectives by restoration of the current City Hall or construction of a new City Hall, is not the business of the Sierra Club. However, the Club would like to identify some important factors that have apparently not been considered and need attention before a final decision should be made:

- A new City Hall could be designed to take advantage of sunlight heating and natural shading and ventilation for cooling as the new Sunnyvale City Hall does.
- A life-cycle cost benefit analysis will reveal whether having a net-zero building, which could operate independent of external electricity and minimize water consumption, will cost less to operate over the life of the building.
- It is likely that over the next couple of decades, natural gas will not be available in Santa Clara Valley. Thus, buildings that depend on it will need to be retrofitted to be heated by electricity.

Thank you for your consideration of our letter,

Gladwyn D'Souza
Conservation Committee Chair
Sierra Club Loma Prieta Chapter
Gary Latshaw,
(glatshaw@gmail.com)

Guadalupe Regional Group Chair
Sierra Club Loma Prieta Chapter

Cc:

James Eggers
Executive Director
Sierra Club Loma Prieta Chapter

[1] City of Cupertino Climate Action Plan 2.0 – August 16, 2022, page 12

[2] City of Cupertino Climate Action Plan – 2018 Progress Report, page 1

--

Fight for Renewable Energies! Save the global ecology; create jobs; eliminate dependence on foreign oil; reduce military requirements

Gary Latshaw, Ph.D.
408-499-3006



SAN MATEO, SANTA CLARA & SAN BENITO COUNTIES

January 17, 2023

Via email to: Cupertino City Council (citymanager@cupertino.org), Mayor Hung Wei, Pamela Wu-City Manager (citymanager@cupertino.org), Andre Duurvort-Sustainability Manager(AndreD@cupertino.org), Gilee Corral-Climate and Climate & Utilities Analyst (GileeC@cupertino.org)

Cc: Kirsten Squarcia, City Clerk (kirstens@cupertino.org)

Subject: Review of City Hall Decision November 15, 2022

The Sierra Club Loma Prieta Chapter requests that the City of Cupertino re-examine its decision on November 15, 2022 to restore the City Hall to conform to current seismic standards, and not replace the City Hall.

In coming to this decision, neither the council discussions or the staff report even mentioned the climate goals the City has set for itself or provided a life-cycle cost-benefit analysis of the proposed restored building versus new construction. The materials used in construction have a climate impact. While reuse of an existing building may be inherently a sustainable approach, the City should also consider life-cycle emissions. Of course, some portions of the existing facility, such as the basement, might be repurposed for a new building. The LEED standards developed by USGBC provide valuable information to achieve a green building.

The City's recent commitments are identified and should be reflected in the City Hall decision:

- The City's website states: the goal to achieve carbon-neutrality in City owned facilities and operation no later than 2030.
- The City's Climate Action Plan 2.0¹ specifically identifies the need to achieve the City's target of carbon neutrality by 2040.
- Furthermore, on September 18, 2018² the City declared a climate emergency in Resolution No.18-094 stating: emergency declaration to halt greenhouse gas emissions at the local level. Councilmember Darcy Paul, at the time stated: "I am really glad that we are declaring a climate emergency...this is extremely critically important for not just our community but for the planet and it is something that I'm very glad to bring forward to the community."

¹ City of Cupertino Climate Action Plan 2.0 – August 16, 2022, page 12

² City of Cupertino Climate Action Plan – 2018 Progress Report, page 1

Whether the City decides to achieve its climate objectives by restoration of the current City Hall or construction of a new City Hall, is not the business of the Sierra Club. However, the Club would like to identify some important factors that have apparently not been considered and need attention before a final decision should be made:

- A new City Hall could be designed to take advantage of sunlight heating and natural shading and ventilation for cooling as the new Sunnyvale City Hall does.
- A life-cycle cost benefit analysis will reveal whether having a net-zero building, which could operate independent of external electricity and minimize water consumption, will cost less to operate over the life of the building.
- It is likely that over the next couple of decades, natural gas will not be available in Santa Clara Valley. Thus, buildings that depend on it will need to be retrofitted to be heated by electricity.

Thank you for your consideration of our letter,



Gladwyn D'Souza
Conservation Committee Chair
Sierra Club Loma Prieta Chapter



Gary Latshaw,
(glatshaw@gmail.com)
Guadalupe Regional Group Chair
Sierra Club Loma Prieta Chapter

Cc:
James Eggers
Executive Director
Sierra Club Loma Prieta Chapter

From: [C. F](#)
To: [Kirsten Squarcia](#)
Cc: [City Clerk](#)
Subject: Re: Are electrical **anything** legal on the walkway in the park?
Date: Thursday, January 12, 2023 5:05:24 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)

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

Kirsten,

Same issue in Creekside Park - different vehicle this time - high speed (toy) electrical vehicle with a kid behind the wheel on the sidewalk that is FAST and SILENT enough to threaten the safety of pedestrians.

This happens today (01/12/23) around 4:30pm at Creekside Park.

Can you please put this issue with the associated video clip into the next Council meeting (oral communication?) so at least they know about this, then we can wait until someone really get hit.

Maybe I can drive a Tesla next time for a joy ride in the playground as well - it is electrical and with 4 wheels, just bigger...

Video for this can be found here:

 [ToyEVInCreekside.MOV](#)

Thanks.

--

Charles Fu

From: Kirsten Squarcia <KirstenS@cupertino.org>
Sent: Thursday, September 29, 2022 10:51 AM
To: C. F <cfu000@hotmail.com>
Cc: City Clerk <CityClerk@cupertino.org>
Subject: RE: Are electrical **anything** legal on the walkway in the park?

Good morning Charles, thank you for your e-mail. This is a matter for the Sheriff. I have forwarded

your communication to City Code Enforcement Officer Jeff Trybus who will be coordinating with the Sheriff's Office to have a patrol check performed during the reported times. Feel free to contact me if you have any questions.

Regards, Kirsten



Kirsten Squarcia

City Clerk
City Manager's Office
KirstenS@cupertino.org
(408) 777-3225



From: C. F <cfu000@hotmail.com>

Sent: Wednesday, September 28, 2022 7:12 PM

To: City Clerk <CityClerk@cupertino.org>

Subject: Are electrical **anything** legal on the walkway in the park?

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

Hi,

Do not know who/where to send this to, please forward it to the party that is responsible for this.

I was walking my dog in Creekside Park just now, around 6:30pm 09/28/2022, and there were about 10+ - probably high schoolers - people riding one-wheeled

board (like this one https://www.amazon.com/Fender-OneWheel-Compatible-Fittings-OneWheel/dp/B09TVX1F47/ref=sr_1_3?crd=3VT7PN3958QST&keywords=onewheel+skateboard+electric&qid=1664416282&qu=eyJxc2MiOilzLjgwlwiwXNhIjoiMi43NSIsInFzcCI6IjAuMDAifQ%3D%3D&sprefix=onewheel+skate%2Caps%2C170&sr=8-3)

from **behind me at high (enough) speed**, and a bunch of them are zig-zagging on/off the walkway as well - and they could cause

severe injuries should they collide with someone walking along the path - while there are kids in soccer classes right next to the walkway as well.

Also sometimes there are (elementary?) kids riding this kind of boards (like this one

https://www.amazon.com/NOVA-Hoverboard-Balancing-Headlights-Lithium-Ion/dp/B09GVMD5FM/ref=sr_1_9?crd=3VT7PN3958QST&keywords=onewheel+skateboard+electric&qid=1664416560&qu=eyJxc2MiOilzLjgwlwiwXNhIjoiMi43NSIsInFzcCI6IjAuMDAifQ%3D%3D&sprefix=onewheel+skate%2Caps%2C170&sr=8-3)

[c2MiOilzLjgwliwicXNhIjoiMi43NSIsInFzcCl6IjAuMDAifQ%3D%3D&sprefix=onewheel+skate%2Caps%2C170&sr=8-9](https://www.youtube.com/watch?v=c2MiOilzLjgwliwicXNhIjoiMi43NSIsInFzcCl6IjAuMDAifQ%3D%3D&sprefix=onewheel+skate%2Caps%2C170&sr=8-9)) in the park as well, as they are learning/newbie, they do not have much control on where it will go, and are hazards for people/animal walking close/around them

Just wondering what is the regulation for this situation? and if they are illegal, how do the City enforce it?

Attached is the video I captured (tail end, they pass so fast I barely have time to take the video) on what I am talking about.

If the attachment does not go through due to size, it can be found in the link below as well:

 [ESkatesInCreekside.MOV](#)

Thanks for your help.

--

Charles Fu

From: [Connie Cunningham](#)
To: [City Clerk](#); [City Council](#)
Subject: Fwd: 23-1-17 City Council Oral Communications, Biodiversity
Date: Tuesday, January 17, 2023 7:22:36 PM
Attachments: [23-1-17 Oral Communications, Biodiversity.docx](#)

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

> Hi Kirsten,
> Please add to written communications.
> Connie
>
>

23-1-17 Oral Communications, Biodiversity

Good evening, Mayor Wei, Vice-Mayor Mohan, and Councilmembers:

My name is Connie Cunningham. Resident 34 years

2023 is our opportunity to turn the corner on biodiversity in Cupertino. Biodiversity is critical to human life. We can change how we landscape our property, and we can add property dedicated to nature.

At the last three City Council meetings, I spoke about Plunging Biodiversity worldwide, explaining that it is critical for humans to better understand what it is, how it must be turned around, and prioritize actions in favor of biodiversity.

While talking to someone, I discovered that we each come to understanding biodiversity from different places.

How did I come to the understanding? First, I fell in love with bird watching in Yosemite when I first saw a Western Tanager. Bright red head, yellow body and

black wings! That year I bought binoculars and watched birds in earnest.

That led to speaking to City Council on behalf of birds, with the wonderful conclusion that Cupertino approved our Bird-safe and Dark Skies Ordinance! From my research for that effort, my awareness of the need for biodiversity grew.

I have spoken at Sustainability Commission meetings to urge adding biodiversity and the planting of trees to Climate Action Plan 2.0. This approved plan specifically includes trees and other plants for carbon sequestration. Without the assistance of trees and plants, it is may not be possible for California to meet its carbon goals. Gov Newsom has signed an executive order known as 30 X 30, that pledges California to conserve 30% of the state's land and waters by 2030—only 7 years from today.

I have been talking to a local resident who would like to change his yard but wonders how to get started. He knows that growing native plants requires new knowledge about plants, watering techniques and soil preparation.

Good news! There are native plant landscapers to help. To jump start all of our imaginations, there is an in-person, Growing Natives Garden Tour, on April 1, 2023, for Cupertino and other nearby cities. It is sponsored by the California Native Plant Society, Santa Clara Valley chapter, in association with UCCE Master Gardeners of Santa Clara County.

I invite each one of you to take this tour with me. Of course, if you prefer to attend on your own, you may register at the website below.

<https://gngt.org/GNGT/HomeRO.php>

In conclusion: What can City Council do to increase biodiversity?

1. Learn more about native plants! Understand biodiversity's impact on humans.
2. Ask how each project supports biodiversity when it comes to Council.
3. Approve restoring nature to 16 acres of land, Option B, at Blackberry Golf Course this year.

From: [Rose Grymes](#)
To: [City Clerk](#); [City Council](#)
Cc: [Connie Cunningham](#)
Subject: Oral Communications Jan 17, 2023
Date: Tuesday, January 17, 2023 7:18:36 PM

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

Please add my remarks to the written record.

Good evening city council members, and Happy 2023. Thank you most sincerely for your energies devoted to our city. I agree with the previous two speakers on Lehigh, and support Supervisor Simitian's efforts, but that's not my subject tonight.

Rather, I'm here to again voice my agreement with the popularly supported—in fact, majority supported—Blackberry Farm plan option that transitions from its current golf course operation to a natural habitat with non-intrusive public enjoyment of trails, vistas, and open spaces. While the majority of Cupertino residents polled by city staff share my view, no doubt for a variety of reasons, such a cross-section is not always available to speak directly to the Council during meetings. They're out there, but not always able to be in here, even virtually. While there are many reasons for selecting the natural habitat option presented by city staff to the Council, today I will focus on the impacts to Cupertino quality of life caused by undue disturbance to the habitat we share, the habitat all around us.

A recent scholarly article in the journal *American Scientist* describes how wildlife, from insects to birds to small mammals and larger predators, adjusts to living alongside human developments. Characteristically, birds and animals seek to avoid people; not only their immediate presence but also their distant sounds and their artificial lights. We generally DO acknowledge that insects, birds, and animals contribute to our quality of life. And they, like us, are adjusting to changing climate and water scarcity—water scarcity being a repeated way of life in California despite recent storms. Beside these challenges, human construction and development activities are altering the roaming behaviors and activity levels of insects, birds and animals. Changes can force them further into conflict with human neighbors. The solutions we must strive to prioritize are those which lead to the greatest good. Providing isolated **corridors** for wildlife to pass is an inadequate response. Too often these are wrongly sited, and the wildlife they are designed to support fail to read the memo or observe the change.

In the case of Blackberry Farm, the greatest good for this wonderful open space environment is allowing nature to re-create and restore a habitat as unobtrusive as possible to the wildlife it contains, so as to maximize the benefit of this land and minimize or eliminate the driving of wildlife under stress into nearby neighborhoods.

I will quickly add the enormously significant issue of watershed and water resources. Water requirements for golf course operations are expensive—expensive because we pay money and expensive because we lose this resource for other applications. In contrast, restoring the natural habitat increases watershed availability, improves ground water recharge, and reduces

water pollutants from fertilizer application and pest control. Thank you for your consideration.

From: [John Kehoe](#)
To: [City Clerk](#); [City Council](#)
Subject: City Council Oral Communications, Blackberry Farm Golf Course Option B
Date: Wednesday, January 18, 2023 8:17:07 AM
Attachments: [Blackberry Farm Golf Course - Option B 2023.02.17.docx](#)

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

Hello Mayor Wei and Councilmembers,

Please add these comments to the Written Record at the City of Cupertino. I have also attached the Word document of this message below.

Thank you very much,
John Kehoe

2023.02.17, Oral Communications, Blackberry Farm Golf Course Option B

Thank you, Mayor Wei and Council members, for this opportunity. My name is John Kehoe and with this brief address I hope to inform the city regarding your decisions on the future of the Blackberry Farm Golf Course. **Please choose Option B: Conversion to Natural Habitat!**

Enhancing our natural areas is essential for preserving our natural wildlife and maintaining biodiversity. The basic recipe of planting locally native plants according to best practices gives our critters the best chance of long-term success. Proper landscaping and protection are the keys. Without essential plants we lose our wildlife. But with an expanded natural area adjacent to the Stevens Creek, we could increase the habitat to support and even boost the populations of our threatened monarch butterflies and bumble bees, to name just a few. Research shows that time is running out; let's proceed as soon as possible. To assess our current status on biodiversity, we can refer to online data from the Xerces Society, iNaturalist or published research articles. I have included some citations at the end of this document.

Without taking assertive measures to protect and preserve our natural areas, we might bear witness to the demise and even extinction of our **western monarch butterflies** (*Danaus plexippus*), (Schultz et al., 2017). The International Union for Conservation of Nature added our native monarch butterfly to its red list of endangered species, (Wikipedia, 2022).

Additionally, four of California's **bumble bee** species (Genus *Bombus*) have been recently added to the candidate list of endangered species, per the California Department of Fish and Wildlife (CDFW, 2022). Further, a recent survey of all bumble bees in the state have shown

that, overall, population abundance is in decline (Fisher et al., 2022).

By converting the golf course to a natural area, this Council could put Cupertino on the map of local biodiversity hotspots. We have the local talent and resources to expand habitat for pollinators including bees and butterflies. We can propagate and plant native plants including the necessary monarch butterfly host plants, milkweeds (*Asclepias* spp.), at no cost to the city. This has been an ongoing activity at numerous areas in the County. In doing this, we could see a new era where students of all ages flock to Cupertino for volunteer opportunities and research while all park visitors enjoy the beauty of our natural world.

Thank you, again, for your time and attention

John Kehoe

References and citations:

Blackberry Farm Golf Course Feasibility Study: <https://engagecupertino.org/bbfgolfcourse>

Schultz, Brown, L. M., Pelton, E., & Crone, E. E. (2017). Citizen science monitoring demonstrates dramatic declines of monarch butterflies in western North America. *Biological Conservation*, 214, 343–346. <https://doi.org/10.1016/j.biocon.2017.08.019>

Fisher, K., Watrous, K. M., Williams, N. M., Richardson, L. L., & Woodard, S. H. (2022). A contemporary survey of bumble bee diversity across the state of California. *Ecology and Evolution*, 12, e8505. <https://doi.org/10.1002/ece3.8505>

California Department of Fish and Wildlife. “Updates to the legal status of bumble bees in California,” October 19, 2022
<https://wildlife.ca.gov/Data/CNDDB/News/updates-to-the-legal-status-of-bumble-bees-in-california>
Accessed January 15, 2023

Wikipedia. “Monarch butterfly - Conservation Status”
https://en.wikipedia.org/wiki/Monarch_butterfly#Conservation_status
Accessed January 16, 2023

From: [Kirsten Squarcia](#)
To: [C. F](#)
Cc: [City Clerk](#)
Subject: RE: Are electrical ****anything**** legal on the walkway in the park?
Date: Tuesday, January 17, 2023 8:30:18 AM
Attachments: [image019.png](#)
[image020.png](#)
[image021.png](#)
[image022.png](#)
[image023.png](#)
[image024.png](#)
[image025.png](#)
[image026.png](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)

Good morning Charles (Council Bcc'd), your email has been received and will be included with the written comments for Oral Communications for the January 17 City Council meeting. Regards,
Kirsten

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 4:30 p.m. on Tuesday, January 17 to the Council at 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.



Kirsten Squarcia

City Clerk
City Manager's Office
KirstenS@cupertino.org
[\(408\) 777-3225](tel:(408)777-3225)



From: C. F <cfu000@hotmail.com>
Sent: Thursday, January 12, 2023 5:05 PM
To: Kirsten Squarcia <KirstenS@cupertino.org>

Cc: City Clerk <CityClerk@cupertino.org>

Subject: Re: Are electrical **anything** legal on the walkway in the park?

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

Kirsten,

Same issue in Creekside Park - different vehicle this time - high speed (toy) electrical vehicle with a kid behind the wheel on the sidewalk that is FAST and SILENT enough to threaten the safety of pedestrians.

This happens today (01/12/23) around 4:30pm at Creekside Park.

Can you please put this issue with the associated video clip into the next Council meeting (oral communication?) so at least they know about this, then we can wait until someone really get hit.

Maybe I can drive a Tesla next time for a joy ride in the playground as well - it is electrical and with 4 wheels, just bigger...

Video for this can be found here:

 [ToyEVInCreekside.MOV](#)

Thanks.

--

Charles Fu

From: Kirsten Squarcia <KirstenS@cupertino.org>

Sent: Thursday, September 29, 2022 10:51 AM

To: C. F <cfu000@hotmail.com>

Cc: City Clerk <CityClerk@cupertino.org>

Subject: RE: Are electrical **anything** legal on the walkway in the park?

Good morning Charles, thank you for your e-mail. This is a matter for the Sheriff. I have forwarded your communication to City Code Enforcement Officer Jeff Trybus who will be coordinating with the Sheriff's Office to have a patrol check performed during the reported times. Feel free to contact me if you have any questions.

Regards, Kirsten



Kirsten Squarcia

City Clerk
City Manager's Office
KirstenS@cupertino.org
(408) 777-3225



From: C. F <cfu000@hotmail.com>

Sent: Wednesday, September 28, 2022 7:12 PM

To: City Clerk <CityClerk@cupertino.org>

Subject: Are electrical **anything** legal on the walkway in the park?

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

Hi,

Do not know who/where to send this to, please forward it to the party that is responsible for this.

I was walking my dog in Creekside Park just now, around 6:30pm 09/28/2022, and there were about 10+ - probably high schoolers - people riding one-wheeled

board (like this one https://www.amazon.com/Fender-OneWheel-Compatible-Fittings-OneWheel/dp/B09TVX1F47/ref=sr_1_3?crid=3VT7PN3958QST&keywords=onewheel+skateboard+electric&qid=1664416282&qu=eyJxc2MiOiZLjgwliwicXNhIjo1Mi43NSIsInFzcCI6IjAuMDAifQ%3D%3D&sprefix=onewheel+skate%2Caps%2C170&sr=8-3)

from **behind me at high (enough) speed**, and a bunch of them are zig-zagging on/off the walkway as well - and they could cause

severe injuries should they collide with someone walking along the path - while there are kids in soccer classes right next to the walkway as well.

Also sometimes there are (elementary?) kids riding this kind of boards (like this one

https://www.amazon.com/NOVA-Hoverboard-Balancing-Headlights-Lithium-Ion/dp/B09GVMD5FM/ref=sr_1_9?crid=3VT7PN3958QST&keywords=onewheel+skateboard+electric&qid=1664416560&qu=eyJxc2MiOiZLjgwliwicXNhIjo1Mi43NSIsInFzcCI6IjAuMDAifQ%3D%3D&sprefix=onewheel+skate%2Caps%2C170&sr=8-9) in the park as well, as they are learning/newbie, they do not have much

control on where it will go, and are hazards for people/animal walking close/around them

Just wondering what is the regulation for this situation? and if they are illegal, how do the City enforce it?

Attached is the video I captured (tail end, they pass so fast I barely have time to take the video) on what I am talking about.

If the attachment does not go through due to size, it can be found in the link below as well:

 [ESkatesInCreekside.MOV](#)

Thanks for your help.

--

Charles Fu

From: [Don Halsey](#)
To: [City Clerk](#)
Subject: Presentation to CCC on 1/17/23 about Blackberry Farm Golf and Nat Hab
Date: Tuesday, January 17, 2023 9:36:43 PM
Attachments: [Natural Habitat – Let's Have More of It r06.pdf](#)

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

Here are the presentation slides I used tonight.

Thanks for your assistance.

Don Halsey
650 996 3021

Natural Habitat & Blackberry Farm Golf Course

Presentation to Cupertino City Council
1/17/2023

Don Halsey

Nextdoor: Friends of Blackberry Farm Golf in Cupertino

Comments to CCC in prior meetings:

- “Our free and open spaces are disappearing.”
- “It is imperative that we preserve existing natural spaces, and go one step further.”
- “Create natural spaces where we can.”

So many ways to do this

Comments to CCC today by a prior speaker:

- Blackberry Farm Golf Course hosts wildlife, primarily birds

Alternatives were presented in the July 2022 Survey

photos from MIG consultant study – February 2022

Alt A: Golf

OR

Alt B: Natural Habitat



Alt. B: Natural Habitat

Comment to CCC: “It is imperative that we preserve existing natural spaces ...”



Natural
Habitat as
illustrated
by MIG
Consultants



Actual
Natural
Habitat
restoration
underway.
This site is
“Monitored”



A stroll through the “monitored restoration”

Lifeless planting



^ Dead existing bush



← Disintegrating tarpaulin



More
lifeless
plantings



and there
are 22 more
lifeless
plantings of
~120 total



← Like Charlie
Brown's
Christmas
tree!



**It is imperative that we preserve existing
natural spaces ...**

**Start with fixing up the restorations we already
have.**

Leave the golf course alone.

Recent Comments to CCC:

- “Our free and open spaces are disappearing.”
- “It is imperative that we preserve existing natural spaces, and go one step further.”
- “Create natural spaces where we can.”

Here are some other alternatives

Natural Habitat depicted by
MIG consultants



Today – Blesch house, a vacant
city owned residence next to
Stocklmeier farm

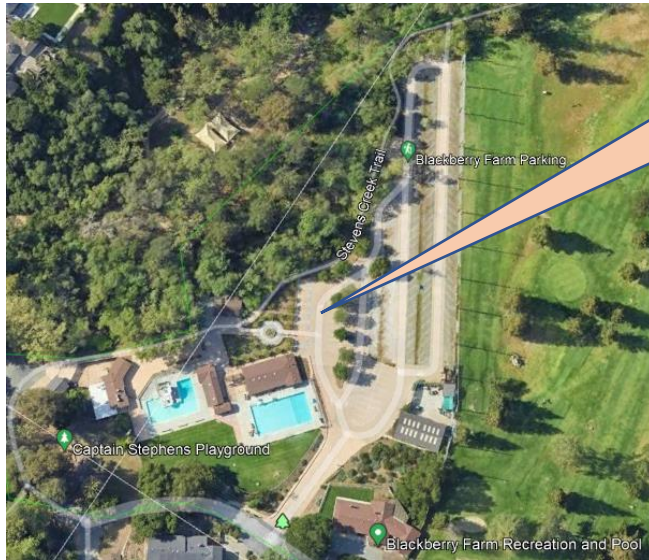


A stroll around Stocklmeier Farm



Is this a 'natural space'? Are the survey respondents enjoying this?

Still other options to increase Natural Habitat



Pool and picnic areas at Blackberry Farm Park – paved over. MIG proposes INCREASING parking area!

Or – convert Linda Vista Park to NH



Create natural spaces where we can.

**Start with converting the Stocklmeir Ranch into
Natural Habitat.
Leave the golf course alone.**

Revised “Natural Habitat” concept

- 1) Fix up the habitat restoration already in progress
- 2) Make new habitat out of Stocklmeir Farm

Let's re-think the Alternatives

In July: Golf [A] OR Natural Habitat [B]

Blackberry Farm Golf Course Use Analysis Comparative Costs - 25 Year Outlook				
			Option A	Option B
Item #	Item		Repair Golf Course	Natural Habitat

Let's make it a win-win situation!



Today: Golf [A] AND Natural Habitat [B]

From: [Peggy Griffin](#)
To: [Kirsten Squarcia](#)
Cc: [City Clerk](#)
Subject: 2023-01-17 CC Mtg Item 13 Peggys Slide-Treasurers Report Oct 2022
Date: Tuesday, January 17, 2023 8:18:38 PM
Attachments: [Agenda Item 13 - Peggys Slide Treasurers Report Oct 2022.pdf](#)

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

Dear City Clerk Kirsten,

I would like to speak on Agenda Item 13. Attached is the slide I would appreciate if you could display when I speak.

Thank you!

Sincerely,
Peggy Griffin



ADMINISTRATIVE SERVICES DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3220 • FAX: (408) 777-3109
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: January 17, 2023

Subject

Consider the Monthly Treasurer's Report for October 2022

Recommended Action

Receive the report.

Discussion

Background

California Government Code Section 41004 states:

Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances.

The city treasurer shall file a copy with the legislative body.

WHERE does the public find this information MONTHLY?

The City's Municipal Code Section 2.24.030 Monthly Reports states:

The Treasurer shall make monthly reports which conform to the requirements of Government Code Section 41004. Said reports shall be delivered to the City Council, the City Manager and made available for review by such other persons who may so request.

Lastly, the City's Municipal Code Section 2.88.100 Duties-Powers-Responsibilities lists one of the powers and functions of the Audit Committee is "to review the monthly Treasurer's report."

IF this was previously approved by Council, when did Council change their decision to stop doing this?

Per the referenced code provisions, a Treasurer's Report (report and accounting of all receipts, disbursements, and fund balances) shall be submitted to the Audit Committee and City Council every month. Staff have previously included accounts payable reports with the treasurers reports following recommendation by a subcommittee and approval by council. These reports are not required under government code section 41004. Treasurers Reports were emailed to City Council and Audit Committee members to comply with the reporting requirement of 41004. Audit Committee will review the accounts payable reports for November and December at their January meeting.

WHEN will the AUDIT COMMITTEE review these Treasurer Reports?

CC 01-17-2023

Study Session #1

Council Procedures
Manual – Supplemental
Staff Report

Desk Item



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 17, 2023

Subject

Consider adopting Cupertino City Council Procedures Manual

Supplemental Report

Following the publication of the agenda, the City Council and City staff received comments from the public and Councilmembers suggesting revisions to the draft City Council Procedures Manual. The comments received are summarized below for Council's consideration. This summary is provided for the convenience of Council only and includes comments received before 10:00 a.m. on January 17. Other comments not clearly suggesting revisions to the Procedures Manual are not reflected below, but will be included in correspondence made available to Council and the public pursuant to the Brown Act.

Suggested Revisions to Draft Procedures Manual

- Revise **Section 2.1 (Selection of Mayor and Vice Mayor)** to allow the Mayor and Vice Mayor to serve consecutive terms.
- Revise **Section 4.4 (Appointment)** 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."
- Alternatively, revise **Section 4.4 (Appointment)** to clarify that former Councilmembers currently serving on a commission or committee may continue to serve.
- Revise **Section 4.6 (Undue Influence on Commissioners)** to allow Councilmembers to participate in deliberations of City commissions.
- Revise **Section 5.7 (Council Training)** as follows: ". . . 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.”

- Revise **Section 6.6 (Councilmember Access to Information)** to delete the last sentence addressing Councilmember use of the Public Records Act.
- Delete **Section 8.2 (Seating of Councilmembers)** in its entirety.
- Revise **Section 8.5.2 (Removing Items from Consent Calendar)** to continue to allow members of the public to pull items from the consent calendar.
- Revise **Section 8.5.2 (Removing Items from Consent Calendar)** to allow Councilmembers to remove items from the consent calendar without providing notice before the Council meeting begins.
- Revise **Section 8.6 (Public Comment)** to remove the 10 minute-limit on total time for public comment by a single member of the public.
- Revise **Section 8.9.3 (Council Questions and Deliberations)** as follows:
“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~~ shall limit their time to 5 minutes. **The Mayor may allow additional time for questions where appropriate.**”
- Revise **Section 8.10 (Meeting Length)** 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.
- Clarify **Section 8.12 (City Council Recess Period)** to note that a special meeting may be called during recess.

Suggested Additions to Council Procedures Manual

1. **Agenda Preparation.** Release the agenda earlier to provide more time for Council and the public to review.
2. **Study Sessions.** Define a “study session” and prohibit Council from taking action on a study session item.

Sample language (City of Palo Alto): 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.

(City of Berkeley): The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

- 3. Ad Hoc Subcommittees.** Include language regarding ad hoc subcommittees requiring (1) estimated staff resources required; (2) membership and purpose of the subcommittee; and (3) a process for termination of the subcommittee.

Sample language (City of Palo Alto): Council Ad Hoc Committees and the Committee as a Whole shall be subject to the following procedural rules:

- 1. Definition of Ad Hoc Committee**

An Ad Hoc Committee is an advisory committee composed solely of less than a quorum of members of the Council. The work of an Ad Hoc Committee is limited to a single finite purpose. By contrast, a Standing Committee has continuing subject matter jurisdiction extending for a lengthy time period and/or a meeting schedule fixed by charter, ordinance, resolution, or formal action of the Council.

- 2. Definition of Committee as a Whole**

A Committee as a Whole is a committee composed of the entire City Council. The work of the Committee as a Whole is limited to a single finite purpose.

3. Brown Act
Ad Hoc Committees do not constitute legislative bodies and are not subject to the requirements of the Brown Act. The Committee as a Whole is subject to the Brown Act.
4. Appointment
The Mayor or the City Council may appoint three or fewer members of the Council to serve on an Ad Hoc Committee. In contrast, only the Council and not the Mayor alone can create a Standing Committee. The Mayor will publicly announce any Ad Hoc Committee created by him or her, its membership and stated purpose and post this information on the City Council website. The City Manager shall prepare a report to Council about the anticipated time commitment required for staff to assist the Ad Hoc Committee.
5. Duration
Ad Hoc Committees are created for a finite period of time. If an Ad Hoc Committee does not complete its task by the end of the calendar year, it shall not continue unless reappointed by the new Mayor in the following year.
6. Members
Ad Hoc Committees shall consist of less than a quorum of Council members only and shall not include any other persons such as members of other legislative bodies.
7. Reporting
Ad Hoc Committees shall report their recommendations to the Council no less than once per quarter in writing or orally. Any Council Member may during the COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS request that an updated Ad Hoc Committee report be placed on the next meeting's agenda.
8. Termination of Ad Hoc Committee by Majority of Council
A majority of the Council may vote to terminate any Ad Hoc Committee following placement of the issue on an agenda.
9. Conclusion
A public announcement shall be made any time the Ad Hoc Committee has concluded its work and/or upon dissolution.
4. **Council-Staff Relations.** Include language emphasizing Council's policymaking authority, staff's independence, and the need to present alternatives to Council as appropriate.

Sample language (City of Palo Alto): 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.

- 5. Sharing of Information.** Include requirements to ensure that staff responses to Council questions regarding agenda items are shared with other Councilmembers and members of the public.

Sample language (City of Palo Alto):

- A. Council Members should direct any questions on staff reports to the City Manager or designee. Questions on reports from the City Auditor, City Attorney, or City Clerk should be directed to the appropriate Council Appointed Officer. Council Members should not direct any questions on agenda items to other members of the City Manager's Staff or the Staff of the other Council Appointed Officers.*
- B. Council Members should submit questions on agenda items no later than 5:00 p.m. on the Wednesday prior to the Council meeting at which the item will be discussed. Staff will make best reasonable efforts to post written responses to timely-submitted questions by Thursday 5:00 p.m. Any questions received after 5:00 p.m. on the Wednesday before the meeting may be responded to via e-mail, or alternatively, will be responded to at the Council meeting.*
- C. Staff will not engage in "dialogues" with individual Council Members regarding questions, i.e. follow-up questions to initial questions will be responded to at the Council Meeting.*
- D. Staff will give highest priority to responding prior to the Council meeting via e-mail only on items on the Consent Calendar. Questions which address the policy aspects of the item on the Council agenda will not be responded to prior to the meeting, although Staff welcomes such questions in advance of the meeting in order to prepare for the Council and public discussion. Technical and clarifying questions on non-Consent Calendar items will be responded to as time permits.*
- E. If the Staff will be responding to a Council Members Consent Calendar question at the meeting rather responding to the question via e-mail, Staff will inform the Council Member as early as possible after receipt of the question(s).*
- F. Questions and all Staff-prepared responses will be forwarded to all Council Members 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 Council Member posing the questions in the "subject" field of the e-mail response. G. Written copies of all Council Member 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.*

6. **Public Comment.** Adopt a system of pre-registration for public comment and “virtual speaker cards” similar to the system used by the CUSD Board.

Prepared by:

Christopher D. Jensen, City Attorney

Approved for Submission by:

Pamela Wu, City Manager

CC 01-17-2023

Item No. 1- Study Session

Consider adopting
Cupertino City Council
Procedures Manual

Written Communications

From: [louise saadati](#)
To: [City Clerk](#); [City Council](#)
Subject: City Council Meeting Special Session January 17. 2023
Date: Tuesday, January 17, 2023 4:32:24 PM

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

I have read through the changes proposed by the City Staff to amend our Cupertino City Council and Commission procedures and I encourage you to approve the resolution at the upcoming City Council meeting.

My main additional concern is that the manual should include language stating that Councilmembers, Commissioners, Committee Members, etc as representatives of our city not be permitted to post anything on social media including NextDoor, Instagram, Facebook, etc that is unprofessional, untrue, misinformation, implied use of their power in city council to retaliate against residents who have stated differing opinions, stifle civil resident opinions or public discussion.

Examples : "I will see you in Council" in midst of discussion of disagreement in opinion, false or misleading statement.

Thank you for your service for the residents (instead of personal power),

Louise Saadati

Sent from my iPhone

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: additional comment: City Council Agenda January 17, 2022 Study Session #1 - City Council Manual
Date: Tuesday, January 17, 2023 4:07:25 PM

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

Hi City Council,
additional comment: City Council Agenda January 17, 2022 Study Session #1 -
City Council Manual . . .

I don't see where I read it, but I would like to add that the Parks and Rec
commission should recommend (with staff input) which fees are waived for
festivals and room use.

This is consistent with the Parks and Rec making community grant
recommendations.

The final decision should be referred to the City Council.

What I had read said that staff would make a recommendation directly to the
City Council.

Let's let the commissions and committees do what we've put them in place to
do.

Thanks,
Rhoda Fry

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: City Council Agenda January 17, 2022 Study Session #1 - City Council Manual
Date: Tuesday, January 17, 2023 4:01:00 PM

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

Dear City Council,

I first started going to City Council meetings in 1987, when the City had proposed an unlawful unconstitutional tax.

Fortunately, I was able to prevent it from being adopted and prevent the City from being subject to legal action.

I thought those days were over and I am so very disappointed to see the proposal and the evident disdain that the staff has toward the public that it serves.

It would be helpful if the document explained the motivation for the items that have been proposed and how it is different from the past.

2.1 It should be up to the City Council as to whether it wishes to have Mayors/Vice Mayors serve consecutive terms.

3. Councilmember Committees and Subcommittees - reports or minutes shall always be made in writing – regardless of whether a recommendation is made to council. It is important to have an administrative record.

4.4. This suggestion should be removed: “Former Councilmembers are not eligible for appointment to any commission or committee within four years of having served on the City Council.” If our elected officials believe that a former City Councilmember is the best suited to serve on a committee or commission, then they should be appointed to that committee. It is up to our City Council to determine who is best suited to be on a committee or commission, not City staff.

8.5 I get it. It isn't nice for city staff to have to prepare to speak to an item on consent calendar. However, a member of the public or a city council member should be able to put an item on the regular calendar for consideration for the next meeting. It should not by default stay on consent if there is good reason to remove it.

8.6 Staff is proposing that the public speak to no more than 3 items in an agenda. This is not acceptable. The public must be allowed to speak on each agenda item.

Thanks Much,
Rhoda Fry

--- this is part 1 --- I wanted to make sure to get this in by 4pm today!!!

From: [Connie Cunningham](#)
To: [City Clerk](#); [City Council](#); [Christopher Jensen](#)
Subject: Fwd: 23-1- 17 City Council Study Session Agenda Item 1, Council Procedures
Date: Tuesday, January 17, 2023 3:29:06 PM

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

Sending again to correct that subject line!
Connie

Begin forwarded message:

From: Connie Cunningham <CunninghamConnieL@gmail.com>
Subject: 23-27 City Council Study Session Agenda Item 1
Date: January 17, 2023 at 3:23:32 PM PST
To: City Clerk Cupertino <cityclerk@cupertino.org>,
"citycouncil@cupertino.org" <citycouncil@cupertino.org>,
christopherj@cupertino.org

Dear Mayor Wei, Vice-Mayor Mohan, and Councilmembers, City Manager and City Attorney,

First, congratulations to Matt Morley as the new Assistant City Manager! I think that he will be excellent in that role.

Secondly, I enthusiastically support the reform package of changes to the City Council Procedures. I have attended many Council meetings over the years. As I read the reforms I could actually feel how these changes will:

- 1) reduce staff work load that will allow more work to move forward on resident services
- 2) increase the amount of time accessible to residents to speak to Council.
- 3) reduce the length of meetings. Two (2) am is simply not a time when residents can attend nor is it a good time for making decisions by exhausted Councilmembers
- 4) clear rules make life easier for everyone—especially residents, since they less frequently interact with Council
- 5) take more of the politics out of day-to-day governance of the City. Good for residents who want Council to get things done.

I urge you to approve Resolution No. 23-021, adopting the Cupertino City Council Procedures Manual presented by Christopher Jensen, City Attorney!

Thank you for this time to comment.
Connie Cunningham

Housing Commission (self only)

(Some edits, nice to have, but OK to do later:

Suggest extending time for Oral Communications to 6-9 minutes

Questions;

8.6 Are members of the public required to be residents of Cupertino for purposes of 10 minute combined time?

8.9 Define Ex Parte Contacts

9. Closed sessions: Is the public comment on the agenda items or Oral Communications? Or Both?

Para 10. Censure action –is this a defined term?

Also 2/3 vote is 3.35 votes. This is a little vague. Better perhaps is 3/5. Or just say a majority?))

From: [Connie Cunningham](#)
To: [City Clerk](#); [City Council](#); [Christopher Jensen](#)
Subject: 23-27 City Council Study Session Agenda Item 1
Date: Tuesday, January 17, 2023 3:24:01 PM

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

Dear Mayor Wei, Vice-Mayor Mohan, and Councilmembers, City Manager and City Attorney,

First, congratulations to Matt Morley as the new Assistant City Manager! I think that he will be excellent in that role.

Secondly, I enthusiastically support the reform package of changes to the City Council Procedures. I have attended many Council meetings over the years. As I read the reforms I could actually feel how these changes will:

- 1) reduce staff work load that will allow more work to move forward on resident services
- 2) increase the amount of time accessible to residents to speak to Council.
- 3) reduce the length of meetings. Two (2) am is simply not a time when residents can attend nor is it a good time for making decisions by exhausted Councilmembers
- 4) clear rules make life easier for everyone—especially residents, since they less frequently interact with Council
- 5) take more of the politics out of day-to-day governance of the City. Good for residents who want Council to get things done.

I urge you to approve Resolution No. 23-021, adopting the Cupertino City Council Procedures Manual presented by Christopher Jensen, City Attorney!

Thank you for this time to comment.
Connie Cunningham
Housing Commission (self only)

(Some edits, nice to have, but OK to do later:

Suggest extending time for Oral Communications to 6-9 minutes

Questions;

8.6 Are members of the public required to be residents of Cupertino for purposes of 10 minute combined time?

8.9 Define Ex Parte Contacts

9. Closed sessions: Is the public comment on the agenda items or Oral Communications? Or Both?

Para 10. Censure action –is this a defined term?

Also 2/3 vote is 3.35 votes. This is a little vague. Better perhaps is 3/5. Or just say a majority?))

From: brkezzat@aol.com
To: [City Council](#); [Cupertino City Manager's Office](#); [City Attorney's Office](#)
Subject: Seriously? Have you lost your minds?
Date: Tuesday, January 17, 2023 3:15:28 PM

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

Dear Council Members,

I read with disbelief the proposed changes to the city council procedures and came away scratching my head believing that you must have no real notion of how democracy works. Who wrote this procedure manual, Lewis Carroll? The fundamental right of any citizen is the right to speak in a public arena voicing their views. Council members have the right to records requests-constitutional right. The public has the right to information. The only thing that this nonsense will result in is enmity, distrust, lawsuits and ridicule.

Knock yourselves out.

Regards,

Brooke Ezzat

From: [Santosh Rao](#)
To: [City Council](#); [Cupertino City Manager's Office](#)
Subject: Written comments on 01/17 council meeting agenda #1.
Date: Tuesday, January 17, 2023 3:12:12 PM

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

Hello Mayor Wei and city council,

I am writing to you about agenda item 1 about Cupertino city council procedures. I note that some of the items proposed are a fairly radical overreach into the role of elected officials by un-elected city staff and administration.

Specifically I write to you to request that the below items be struck out of this and the doc be re-written with these omitted.

1. Section 2.1. "The mayor and vice-mayor shall not serve consecutive terms".

2. Section 2.2.

Removal of mayor and vice-mayor from office. This should be removed. Removal is by the electorate via democratic processes not by ad hoc staff defines processes.

3. Section 4.1.

Qualifications shall be set forth in municipal code. Note that commissioners are city residents. Qualifications are often learnt on the job. Requiring qualifications as defined in municipal code denies residents the right to participate in their city democratic processes of serving on commissions.

4. Section 4.4.

Former council members are not allowed to serve on commissions for upto 4 years. I request this be removed. Council members are experienced and have learnt the duties. They should be allowed to serve should they so choose.

5. Section 4.5.

City clerk shall remove commission or committee members. Kindly remove this clause. It is not the job of city staff to removing serving residents of the city from appointed positions.

6. Section 4.6. Kindly remove this. There is no basis for this as there is no similar restriction on outside interests placing undue influence on city staff or council members. Commissioners should be able to exercise independent judgement while listening to input from anyone and everyone in the city.

7. Section 6.6. Kindly remove this attempt to prohibit council members from using PRA. Any and all residents of the city including council members are free to use PRA.

8. "Oral communications shall be limited to 30 minutes". Please remove this clause. The residents have a right to speak upto 3 minutes per agenda item.

9. Section 8.5.2.

Please remove this. It should be possible to remove an item from consent calendar at any time during council meeting.

Thank you for taking resident input and kindly removing the above sections from the proposed draft.

I further request a revised draft be shared well in advance through social media with residents and widely communicated to allow public review of the proposed changes as these affect the residents interaction with the city.

Thanks,
Santosh Rao

From: [Govind Tatachari](#)
To: [Cupertino City Manager's Office](#); [City Attorney's Office](#); [City Clerk](#)
Cc: [City Council](#)
Subject: Jan 17, 2023 Council Agenda-Item-1 : Consider adopting Cupertino City Council Procedures Manual
Date: Tuesday, January 17, 2023 2:29:14 PM

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

Dear City Management Team (City Manager Mrs. Wu, City Attorney Mr. Jensen and City Clerk Ms Squarcia), Hon Mayor Hung Wei, Vice Mayor Sheila Mohan, Council Members Liang Chao, J R Fruen, and Kitty Moore

References: Staff report (including Exhibit E), Draft of the Manual and Draft Resolution No. 23-021

With utmost respect to the City Management Team and the City Council,

It is very important to point out that

- a) Members of the public mainly focus on their family and livelihood and more so during these uncertain times. Even the voter turnout has been relatively low for many reasons.
- b) Members of the public have several reasons to FEAR participating in City related governing rules, meetings and matters. There are very strong reasons to refrain from and NOT provide inputs on City governance especially when it looks like a tussle between the elected council and the City management.
- c) It is unclear why the two page Exhibit E has ballooned into a 14-page "City Council Procedures" Manual.

Due to time limitation to communicate before 3 pm today, here are my comments on Specific sections of the Draft of "City Council Procedures" Manual up to section 7.2. As time permits, I hope to send another communication with comments on the rest of the sections.

(Comment and Request) 1.1 Purpose

Reference Exhibit E - 2.17.0200 (Intent and Purpose)

Members of the public are entitled, protected and governed by the US Constitution and prevailing Federal, State and Municipal laws. It is unclear why the phrase "Members of the public" has been included since the "City Council procedures" are designed and implemented and have always been enforced.

As per constitution and prevailing laws, members of the public are entitled to and expect "communication, understanding, fairness and trust" be promoted by those who govern.

(Request for change) please remove the phrase "members of the public"

(Comment) 1.2 Values

Those who govern must show respect to the members of the public during the conduct of the City business including oral communications and public comment period.

(Few years ago, an ex-Mayor called a member of the public "Liar" from the Dais. Such behavior from those who govern is uncalled for and unwarranted).

(Request for inclusion) 1.4 California Public Records Act

Reference: <https://www.sos.ca.gov/archives/laws>

The public's right to access public records is paramount and part of the governing law. Every council member is entitled to the same rights as "the members of the public" whom they serve.

(Request for change) 2.2 Removal of Mayor and Vice-Mayor

Unless in case of a criminal or highly egregious behavior or conduct, the Mayor and Vice-Mayor should be given one warning and advised of the proposed cause before considering removal.

(Requests for change) 4.3 Performance Expectations

Request1: Request mandatory training to include ethics and anti-harassment, Brown Act, California Public Records Act, and Rosenberg's Rules of Order.

Request2: Two different dates for mandatory training (if a commissioner is unable to attend training on one of the dates).

(Request for change) 6.5 Decorum

Please include "the City management and Staff, the elected Council members, Vice-Mayor and Mayor must treat all members of the public with dignity, courtesy, and respect."

(Comment and Change Request) 6.6 Councilmember Access to information

Exhibit E - 2.17.0400 (Staff)

Also see (Request for inclusion) 1.4 California Public Records Act

Why? It is unclear how 2.17.043 is deficient. It has served the needs of California Public Records Act and has not been challenged.

(Change Request) Please retain 2.17.043 ASIS. Please remove 6.6 Councilmember Access to information.

(Comment and Request for Change) 7.1 Future Agenda Items

* There is already a RULE on how to request and get an item to be added to a future agenda for Council action. This has been in practice for many years.^[1]^[2]^[3] (Remove) Any item may be removed for the future agenda list by a majority of the City council.

(Comment and Request for removal) 7.2 Preparation of Agenda

Why? The Council is elected by the public and must retain all powers accorded to them. There is no need to curtail, diminish or remove any powers accorded to them.

(Request for removal) Please retain 2.17.031 ASIS. Please remove 7.2 Preparation of Agenda

Thank you for your kind and thoughtful consideration.

Sincerely,
Govind Tatachari
Cupertino Resident

PS: I seek your indulgence and pardon if any part of this communication seems inappropriate.

From: [Caryl Gorska](#)
To: [Kirsten Squarcia](#); [Hung Wei](#)
Cc: [Sheila Mohan](#); [J.R. Fruen](#); [Kitty Moore](#); [Liang Chao](#)
Subject: Please do not vote on items during Study Session
Date: Tuesday, January 17, 2023 1:57:31 PM
Attachments: [Please do not vote on items during Study Session.msg](#)

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

From: [Caryl Gorska](#)
To: [Kirsten Squarcia](#); [Hung Wei](#)
Cc: [Sheila Mohan](#); [J.R. Fruen](#); [Kitty Moore](#); [Liang Chao](#)
Subject: Please do not vote on items during Study Session
Date: Tuesday, January 17, 2023 1:57:29 PM

Ms. Squarcia, please enter this letter into the record for tonight's Study Session.

Dear Mayor Wei and Councilmembers,

The materials for tonight's Study Session indicate that the Council plans to vote on them.

Item 1: Adopting Procedures Manual

I would like to ask, I beg of you, not to vote on adopting the council procedures manual during this session. Something this important should be discussed in at least at one general session before taking a vote. Neither Council nor the public has had the chance to read the entire document with any sort of comprehension.

Voting on an action in a study session is unprecedented, or if not, should be — because it breaks our democratic procedural norms. Study Sessions are, as it say right in the name, for *study*, not action. And being unprecedented or nearly so, your constituents will not be expecting a vote. Please don't ram this through in this session just because you can and you don't want to hear any dissent. That is the stuff of tyrants, not democrats.

Item 2: Cutting Commissions

For the reasons I just stated, it cannot be well-intentioned to vote in this study session to eliminate entire commissions without a chance for a more public discussion in a regular council session.

This action, if you take it, not only summarily (summarily: meaning without customary formalities) cuts public participation and input, but is just a mean thing to do so suddenly to commissioners who have volunteered substantial time in the service of their neighbors and our City.

I appeal to your self-interest: Voting on these two items hastily, outside of a general session, are bound to affect the public's regard for your judgment and motivations. I don't believe it's a good way to start for our new council.

~ ~ ~

By the way, I don't think the Staff Report made a very convincing case that our number of commissions is out of the ordinary, or somehow wrong. I feel sorry for Sunnyvale with a population of 150,00 and only 11 commissions. And if we went by

Los Gatos' math, with a population of 31,000 and 9 commissions, we should have 18!

If it's a matter of staff resources stretched thin, then that should be the argument — what's wrong with the truth?

Regards,

Caryl Gorska
10103 Senate Way

From: [Peggy Griffin](#)
To: [City Council](#)
Cc: [City Clerk](#)
Subject: 2023-01-07 CC Meeting Agenda Item1 - Definitions of agenda section content is missing
Date: Tuesday, January 17, 2023 12:23:42 PM

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

Reference: Att B – Draft City Council Procedures Manual
Page 9, Section 8.4 Order of Business

Dear City Council,

This Section 8.4 of the Draft City Council Procedures Manual listed above lists the agenda sections but does not define what goes in each. Specifically:

1. What goes under Consent Calendar?
 - a. Currently, in today's 1-17-2023 agenda items 6-26 (20 items out of 28) are under Consent!
 - b. 20 items is a lot of information that the public will not have the ability to pull, have discussed in public, comment on in any kind of detail if at all, etc.
 - c. BUT your meetings will end at 11pm. In fact, you can probably go home by 9 AND if it's not pulled you don't have to read it. Just rubber stamp it. Gradually, since it's not discussed/pulled/read, less and less information can be provided.
2. What goes under Action Calendar?
3. Where are first and second readings?
4. Where is the continuation of Oral Communication?

Democracy takes time and effort from both the Public and those they elected.

Sincerely,
Peggy Griffin

From: Tessa Parish
To: City Attorney's Office; Cupertino City Manager's Office; City Clerk
Subject: City of Cupertino City Council Procedure Manual
Date: Tuesday, January 17, 2023 11:47:35 AM

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

Mr. Jensen & City Manager Wu,

I am writing to you about the draft version of the proposed Procedure Manual. Purposely addressing you as the originators of the proposal according to the opening letter.

1. I am deeply concerned about the power to have an ELECTED Official voted out of office. It is my understanding that any elected official cannot be removed with a vote. These were elected by the people. What if you get 4 members of opposing views and they decide to remove a good council member.

The Constitution provides that "[t]he President, Vice President, and "all civil Officers" of the United States" are subject to removal from office upon impeachment and conviction.¹ However, neither the text nor early historical sources precisely delineate *who qualifies* as a "civil officer."

ref. https://constitution.congress.gov/browse/essay/artIII-S4-2/ALDE_00000689/#:~:text=Article%20II%2C%20Section%204%3A,other%20high%20Crimes%20and%20Misdemeanors.

Though this is mainly for the House and Senate, it does state "all civil officers"

2. In addition, the manual does not specify reasons for removal nor proper procedure. Nor attempt to correct the wrong. It seems to be without cause. I would like to see a list of violations that warrant removal and a list of actions to try to address them before the 72 hours of removal. Any Justice action (as this seems to be) should have proper notice, otherwise it violates the rights of the person to be given proper notice and breaks Public Confidence in the Rule of Law. "Rule of law is a principle under which all persons, institutions, and entities are accountable to laws that are: Publicly promulgated. Equally enforced. Independently adjudicated.

I believe there MUST be very clear violations, warnings and gradient discipline leading to removal of an elected official.

3. The restriction on public comments is also contrary to the intention of the government to be "for the people" if the people are not allowed to speak beyond a certain time. NO other Council has had such restrictions. They limit the time under special circumstances.

I urge you to remove the ability to "Vote" any public officer from officer, commissioner.

4. Likewise, I urge you to specify cause for removal commissioners and committee members. There is no job stability in a government removal without specific, written and known cause.

5. The letter states this is similar to other cities' procedures. Which cities? did they verify their actions against the Constitution and proper City Governance.

Thank you for your consideration in the matter. Sorry for the short notice but on a holidays weekend, I had not read this til last night.

Tessa Parish
Resident of Cupertino

From: [Liana Crabtree](#)
To: [Hung Wei](#); [Sheila Mohan](#); [Liang Chao](#); [J.R. Fruen](#); [Kitty Moore](#)
Cc: [City Clerk](#); [Cupertino City Manager's Office](#); [City Attorney's Office](#)
Subject: Written Communication, 1/17/2023 Special Meeting of the City Council, Agenda Item 1, Consider adopting Cupertino City Council Procedures Manual
Date: Tuesday, January 17, 2023 7:33:48 AM

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

Honorable Mayor Wei, Vice Mayor Mohan, Council Members Chao, Fruen, and Moore:

Please include this letter as written communication for Agenda Item 1 “Consider adopting Cupertino City Council Procedures Manual” for the 1/17/2023 Special Meeting of the City Council.

The document “Council Procedures Manual” includes some unfortunate provisions that should be rejected by Council. Regrettable provisions include those intending to control people through the silence of dissent, the restriction of access to public information, and the transfer of authority from Council to city administrators.

Silencing Dissent, examples

4.6 “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.” Unduly limits the Freedom of Speech of elected and appointed individuals who remain members of the public when not sitting on the dais. Consider that other jurisdictions exert no limitations on participation in Cupertino government. For example, council members from other cities can and do speak at Cupertino council meetings; commission members from other cities can speak at Cupertino council and commission meetings. Under Policy 4.6, it seems Cupertino would abide public comment from non-resident elected and appointed individuals, but deny public comment rights to its own residents.

7.1 “Any item may be removed for the future agenda items list by a majority vote of the City Council.” As stated, a minority of Council Members may add an agenda item to a future meeting agenda, but then a majority of Council Members may choose to remove the agenda item before it appears on an actual agenda. What would the process to a remove future agenda item look like? How would the public be noticed that a future agenda item was to be removed before the item were to appear on a meeting agenda?

8.1 “Oral communications shall be limited to 30 minutes.” An individual speaker has no control over how many others may also have items to present during oral communications.

8.5.2 “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.” A Council Member could learn information during a Council meeting that would give them cause to pull an item from consent. Provision 8.5.2 prevents Council Members from acting on information learned during a Council meeting.

8.6 “No member of the public may be allocated more than a combined total of 10 minutes to speak during a Council meeting.” The public has no control over how many agenda items the Mayor and City Manager choose to include on a meeting agenda. If the meeting agenda includes oral communications and two agenda items, then 10 minutes of public comment per person is sufficient. But for longer agendas, people may have more items that may compel comment. Who benefits when people are prevented from speaking publicly by arbitrary rules?

Restricting Access to Public Information, example

6.6 “No Councilmember shall circumvent the City Manager’s direction regarding a request for information by seeking information through a Public Records Act request.” It seems this policy proposal is explicitly unlawful according to CA Gov Code 7921.305.: “(a) Notwithstanding the definition of “member of the public” in Section 7920.515, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.”

Transfer of Power from Council to City Administrators, examples

2.1 “The Mayor and Vice Mayor shall not serve consecutive terms”. Weakens the authority of the mayor and vice mayor relative to the city manager, who serves at will, possibly for years, and can only be removed through a majority vote by Council.

2.2 “The Mayor or Vice Mayor may be removed from office, for cause, by a 4/5ths affirmative vote of the members.” Who determines which mayoral actions are sufficient “for cause” justification for removal from office?

The title “Council Procedures Manual” is unassuming relative to the chilling content of the document itself. Few scanning the meeting agenda would expect to see a proposal to transfer significant power from the people, including Council, to city administrators in an agenda item entitled “Consider adopting Cupertino City Council Procedures Manual”.

Council Members, your terms will end. Are you prepared to have these provisions of the 2023 Cupertino Council Procedures stand as your legacy for the City and the people you represent?

Sincerely,

Liana Crabtree
Cupertino resident

From: [Peggy Griffin](#)
To: [City Council](#)
Cc: [City Clerk](#)
Subject: 2023-01-17 City Council Agenda Item1 - City Council Procedure Manual
Date: Tuesday, January 17, 2023 2:29:52 AM
Attachments: [2023-01-17 CC Study Item1-Council Procedure Manual PG Comments.pdf](#)

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

Dear City Council and Staff,

I've spent way too much time looking at Agenda Item 1 – City Council Procedure Manual but attacking Constitutional rights hits home.

This agenda item is misleading because this “City Council Procedure Manual” impacts the public tremendously and its ability to comment during City Council meetings and obtain information! The description of the agenda item gives NO CLUE this will happen – that the public will lose all these rights! I've attached my detailed notes but some of the very important issues are below.

Impacts to the PUBLIC directly are:

1. Oral Communications will only be allowed for 30 minutes. It's not clear that the leftover people will be allowed to speak at all.
2. Public limited to a TOTAL MAX of 10 minutes to speak during a meeting. If you use 3 minutes on an agenda item then it means you can only speak on 2 more plus 1 minute for say maybe Oral Communications.
3. Public can no longer combine their minutes except if there are 5 or more people then you can have 10 minutes. If you have 2, 3 or 4 people – tough. You all will have to use your individual time.
4. Public can no longer pull a Consent Item and there is a lot placed under Consent these days! It's unclear when you would be allowed to speak on a Consent item. It appears you might have “some time” but you'll have to speak to all the consent items you're interested in, all at once, but no additional information or discussion will happen. They will just pass them all.
5. Staff Reports will no longer have “Background” or “Discussion” sections to provide an overview/context and history.
6. Generic agenda formats will no longer have “FIRST READING...”, “SECOND READING...” sections

Impacts to what an individual Council Member can do:

1. There's the ability to remove a Mayor or Vice Mayor without giving them 1 official warning. Seems very threatening.
2. It prevents a City Council Member from doing a Public Records Request.
3. Council Members no longer can pull a Consent Item during the meeting. It must be done in advance of the meeting.
4. Any 2 Council Members can put an item on the agenda but then both the majority council or

the City Manager can come back and remove the item from ever appearing on the agenda!
So, allowing 2 members to attempt to put an item on the agenda is a moot point.

5. Provides more power to the City Manager to not provide information requested by a Council Member.

Eliminating rights, reducing transparency and censoring both the public and Council Members is not the legacy you want for your term in office! Please correct these issues. Remember, one day you'll be "the Public"! Attached are my section-by-section details.

Sincerely,
Peggy Griffin

Page 1, Section 2.2 – Removal of Mayor and Vice Mayor

REQUEST: ADD The Mayor and Vice Mayor should be given one warning before considering removal.

- 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,

1

DRAFT

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.

Page 3, Section 5.2 Correspondence

REQUEST: Add that if a letter is sent without prior approval, the item should be on the next City Council Agenda to be reviewed and agreement confirmed.

- 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

3

DRAFT

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.

Page 5, Section 5.7 Council Training

REQUEST: In addition to ethics and anti-harassment training, add Brown Act, California Public Records Act, and Rosenberg's Rules of Order trainings.

Page 6, Section 6.7 Councilmember Access to Information

DELETE last sentence. It's illegal. It violates the California Public Records Act and the California Constitution under Article 1 Section 3 (7).

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.

REPLACE 6.6 above with what is currently in the Municipal Code section 2.17.034. The text below in 2.17.034 is clearer. The Section 6.6 text has a lot of exceptions to why Councilmembers should not be provided information. The decision as to workload is defined in Muni Code 2.17.043 and is very clear. Don't mess with it.

2.17.034 Information.

Individual Council members as well as the City Council as a whole, have complete freedom of access to any information requested of staff (except information which is otherwise protected by law from disclosure) and will receive the full cooperation and candor of City staff in being provided with any requested information. Information sought by an individual council member may, at the discretion of the City Manager, be automatically provided to the City Council as a whole. In exercising this discretion, the City Manager will consider whether the information is significant or new or otherwise not available to the Council or is of interest to the Council.

(Ord. 2009, 2007)

Page 7, Section 7.1 Future Agenda Items

DELETE last sentence. It prohibits the minority opinions/issues from being heard in public EVER!

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.

Page 7, Section 7.2 Preparation of Agenda

QUESTION: This seems to contradict the Council's authority to decide what is on the agenda. How does a Council get an "unpopular topic" onto the agenda? See Muni Code 2.17.031 Council Power below

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.

2.17.031 Council Power.

The City Council retains the full 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 Council members, nor to committees composed of council members consisting of less than a quorum of the City Council.

(Ord. 2009, 2007)

Page 7, Section 7.3 Agenda Item Descriptions

REQUEST: The agenda item should state whether the Council will take action, provide feedback-only or it's informational-only.

Page 7, Section 7.4 Staff Reports

CRITICAL REQUEST: Add back in these 2 sections in a staff report

- Background
- Discussion

It provides the history and the context in which a decision must be made. It helps both the public and Council/Commission members.

Page 8, Section 7.6 Supplemental Materials

CRITICAL REQUEST: What about the public's need for these supplemental reports? Waiting until "Written Communication" at 5pm just before the Council meeting is not acceptable. The public needs time to review the new material, too!

Page 9, Section 8.4 Order of Business (List of agenda items)

IMPORTANT: There are key items missing from this generic agenda.

- SECOND READING OF ORDINANCES
- FIRST READINGS OF ORDINANCES
- CONTINUATION OF ORAL COMMUNICATIONS (at end of meeting)

Putting major headings for these make it easy for the public to scan down and find "new laws" you are passing or considering. Burying them under "Action Calendar" or whatever is not clear.

Page 9, Section 8.5 Consent Calendar

CRITICAL: BOTH the Public and Councilmembers should be allowed to remove items from the Consent Calendar during the meeting! Also, both the Public and Councilmembers do not have control over what gets placed under the Consent Calendar. Limiting who and when can pull an item is a way to hide information from the public and squash open discussions.

IMPORTANT: Define exactly what is allowed to be placed under the Consent Calendar. Items of interest to the public should not be placed under Consent.

Page 9, Section 8.5.1 Adding Item to Consent Calendar

DELETE the last sentence. It refers to deleting consent items, not adding them!

Page 9-10, Section 8.5.2 Removing Item from Consent Calendar

CRITICAL: Modify this to allow ANY member of the Public and ANY Councilmember the right to remove an item from the Consent Calendar!

Page 10, Section 8.6 Public Comment

CRITICAL: Allow any number of people up to a max of 5 to combine their time up to 10 minutes. Just reduce their time to 2 minutes each if they are combining time. Example: 2 people get 4 minutes, 3 people get 6 minutes, etc.

DO NOT limit the total time a person can speak during a meeting! On packed agendas, it is the equivalent of censorship!

Major issues with these changes proposed:

- Must have 5 or more people to combine speaking time! Censorship!
- 2 or 3 people can't combine their times.
- The public is limited to a max of 10 minutes TOTAL in a meeting. Censorship and a logistic problem! Who is going to total everybody's running minute counts especially during a controversial meeting?
- The Brown Act allows the public to comment on every agenda item. Limiting total time prohibits people from having the time to express their points. Censorship!

Page 9, Section 8.9.1 Ex Parte Contacts

QUESTION: What kind of topics does disclosure of Ex Parte Contacts cover? I don't understand the term "quasi-adjudicative".

Page 43 Exhibit E, Chapter 2.17 City Council/City Staff Relationships

REQUEST: Modify to state that information sought by an individual council member related to an agenda item SHALL also be provided to the City Council as a whole. This allows all Councilmembers to have the same information.

2.17.034 Information.

Individual Council members as well as the City Council as a whole, have complete freedom of access to any information requested of staff (except information which is otherwise protected by law from disclosure) and will receive the full cooperation and candor of City staff in being provided with any requested information. Information sought by an individual council member may, at the discretion of the City Manager, be automatically provided to the City Council as a whole. In exercising this discretion, the City Manager will consider whether the information is significant or new or otherwise not available to the Council or is of interest to the Council.

(Ord. 2009, 2007)

From: [Peggy Griffin](#)
To: [Christopher Jensen](#); [Pamela Wu](#)
Cc: [City Clerk](#); [City Council](#); [City Attorney's Office](#)
Subject: 2023-01-17 City Council STUDY SESSION Re-notice Agenda Item 1 - Misleading the public!
Date: Monday, January 16, 2023 12:44:18 PM

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

Dear City Attorney Jensen, City Manager Wu and Mayor Wei,

I have regularly attended City Council meetings and commission meetings for over 10 years (probably 20) and I find the 1-17-2023 City Council Study Session Agenda for Item 1 extremely misleading and should be re-noticed to clarify what is actually being done for the following reasons:

REASON 1 - Item #1 is listed under STUDY SESSION, not a regular meeting. Study Sessions have been items where a topic or proposed action is presented by the staff then discussed and input provided by the Council and the Public with the understanding that NO OFFICIAL ACTION will be taken by Council. The Council gives direction and the item comes back later as a regular meeting agenda item. There is not voting.

YET, this agenda item says the Council's action is to APPROVE the Resolution! Many people skip attending a Study Session due to work, time commitments, etc. knowing that ACTION WILL NOT BE TAKEN during these sessions.

Below is the wording of this agenda item – It's misleading! Agenda items need to be clear so the public is noticed properly.

Subject

Consider adopting Cupertino City Council Procedures Manual

Recommended Action

Provide input regarding Council procedures and approve Resolution No. 23-____, adopting Cupertino City Council Procedures Manual

REASON 2 – Attachment A – Draft Resolution states that this has been "...duly noticed regular meeting..."

This is really confusing. The agenda item text says the Council will approve...adopting. It is not clear what the action is from the City Council! J

- Is it to vote to pass it?
- Is it to review the proposed draft resolution and provide input?

Whatever it is, it's NOT CLEAR!

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 17, 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 regular meeting of the City Council of the City of Cupertino this 17th day of January, 2023, by the following vote:

REASON 3 – There is a contradiction in the material and the agenda item.

The agenda item says the Council will “approve”...”adopting”. In the Regular Meeting agenda items “approve” is used meaning a vote to do it!

SUMMARY: The Council and Staff are trying to make rules clear. Please start by making the noticing of this agenda item clear to the public. Clear noticing of Council actions is required by the Brown Act. PLEASE clarify what exactly is being done during this Study Session Agenda Item

Thank you,
Peggy Griffin

From: [J Shearin](#)
To: [City Clerk](#); [City Council](#)
Cc: [Cupertino City Manager's Office](#)
Subject: Study Session Item 1, City Council meeting January 17: Council and Commission Procedures
Date: Monday, January 16, 2023 11:10:59 AM

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

Dear Honorable City Council Members, Mayor Wei, with a copy to City Manager Wu:

I have read through the changes proposed by the City Staff to amend our Cupertino City Council and Commission procedures and I encourage you to approve the resolution at the upcoming City Council meeting.

There are three areas in which I have minor concerns, and I encourage you to address them.

(1) Section 4.2 **Attendance at Council Meetings** states, *“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.”*

I support this section, but I ask that the appropriate Staff Liaison notifies—via email—the entire Commission when an item of interest is placed on the City Council agenda. This will facilitate the commissions meeting this requirement.

(2) Section 4.5 **Removal** states, *“The City Clerk shall remove commission or committee members for failure to comply with attendance policies adopted in the Commission and Committee 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.”*

This is indeed an important consideration, but I find the word “performance” of a commission or committee member to be vague. It seems better to state this performance evaluation would be based on the requirements found in the Commissioner’s Handbook and our Ethics Code as the preceding attendance statement does.

(3) Section 8.6 **Public Comment** states in part, *“...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...”*

Five minutes seems too short, especially for those residents that are new to the process of speaking at City Council, are a bit reticent, or perhaps have stepped away for a moment. Nine minutes—the time for the first three speakers—would be a reasonable amount of time to end requests yet still discourage “rebuttal” speaker cards.

I would also recommend that if no speaker cards are submitted at the beginning of public comment, then the public comment period should be closed at that point and should not be left open for a designated portion of time. Section 8.6 as currently written does not make that clear. (The Mayor could have the option of opening up public comment again later during the item.)

As I stated above, I am greatly in support of these changes to the procedures. The changes will help to make sure that:

- City Council meetings are run in an efficient and responsible manner, respecting the time of all participants;
- Those with the power to make decisions do not have undue influence on independent commissions or staff;
- Everyone gets a chance to be heard, and a single person won’t dominate a discussion at City Council meetings; and

Everyone, regardless of position, whether staff, council member, commissioner, or resident, is afforded proper respect for their opinion, time, and work.

I appreciate your consideration of these issues I have raised and my input. Thank you for all your work on behalf of the residents of Cupertino. It is truly appreciated.

Sincerely,

Jennifer Shearin
Cupertino resident

From: [Jenny Griffin](#)
To: [City Council](#); [City of Cupertino Planning Commission](#); [City Clerk](#)
Cc: grenna5000@yahoo.com
Subject: Fwd: Consent Calendar Items
Date: Monday, January 16, 2023 8:53:19 AM

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

FYI.

Thank you.

----- Original Message -----

Subject: Re: Consent Calendar Items
From: Jenny Griffin <grenna5000@yahoo.com>
Sent: Monday, January 16, 2023, 8:45 AM
To: hwei@cupertino.org
CC: Christopher Jensen <christopherj@cupertino.org>, pamelaw@cupertino.org, Debra Nascimento <debran@cupertino.org>

Thank you very much for your response. After looking at the information about the proposed City Council handbook which is being introduced in the Study Session, I am not sure what was in it originally

And what was added. There probably needs to be a version that shows the difference between the

Old text and the new text. Anything that was added or changed should probably be indicated With cross outs and over writing so that one can see the differences between the different versions

If text.

Thank you very much.

Sincerely,

Jennifer Griffin

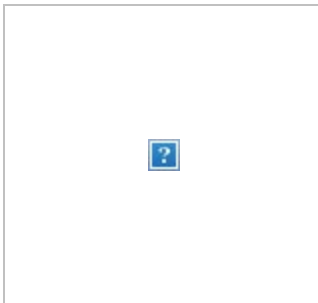
On January 16, 2023, at 8:03 AM, Hung Wei <hwei@cupertino.org> wrote:

Dear Jennifer ,

Thanks for your input. I'm connecting you with City Attorney Chris Jensen to respond to you on your concerns.

Best regards,
Hung

Get [Outlook for iOS](#)



Hung Wei

Mayor
City Council
HWei@cupertino.org
(408) 777-3139



From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Monday, January 16, 2023 1:47:39 AM
To: City Council <CityCouncil@cupertino.org>; City of Cupertino Planning Commission <PlanningCommission@cupertino.org>; City Clerk <CityClerk@cupertino.org>
Cc: Jennifer Griffin <grenna5000@yahoo.com>
Subject: Consent Calendar Items

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

Dear City Council:

I am concerned that changes are being made so that the public cannot request that items on the Consent Calendar of City Council Meetings be pulled for public discussion.

This ability to ask that items on the Consent Calendar be able to be discussed by the public has been a hallmark of the Cupertino public process since 2000 or before.

Any attempt to take away that right could be construed as trying to eliminate the ability of the public from participating in their city government process.

I am concerned that too many changes are being made in the City Council meetings in 2023.

Sincerely,

Jennifer Griffin

From: [Jennifer Griffin](#)
To: [City Council](#); [City of Cupertino Planning Commission](#); [City Clerk](#)
Cc: [Jennifer Griffin](#)
Subject: Consent Calendar Items
Date: Monday, January 16, 2023 1:47:49 AM

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

Dear City Council:

I am concerned that changes are being made so that the public cannot request that items on the Consent Calendar of City Council Meetings be pulled for public discussion.

This ability to ask that items on the Consent Calendar be able to be discussed by the public has been a hallmark of the Cupertino public process since 2000 or before.

Any attempt to take away that right could be construed as trying to eliminate the ability of the public from participating in their city government process.

I am concerned that too many changes are being made in the City Council meetings in 2023.

Sincerely,

Jennifer Griffin

From: [Cathy Helgersen](#)
To: [City Clerk](#)
Subject: Draft City of Cupertino Special Meeting Procedures Manual Draft
Date: Friday, January 13, 2023 10:46:24 AM
Attachments: [City of Cupertino Special Meeting Procedures Manual Draft Comments.docx](#)

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

Hello,

I have attached my comments regarding the Draft on the City of Cupertino's Special Meeting Procedures Manual please see that the Council members and Staff receive my comments.

Please review them and let me know if the comments will be put up on the City of Cupertino's web- site for the public to view.

It would be nice to know if any of the suggestions made by me or the public have been used to and added to the Manual.

Thanks,
Cathy Helgersen
408-253-0490

To: City of Cupertino – City Council Members and Staff

From: Cathy Helgersen – CAP – Citizens Against Pollution

Regarding: Special Meeting – Session 1. Resolution No. 23- Adopting Cupertino City Council Procedures Manual Previous Res. No. 19-062 – Staff Developed Draft – Public's Comment to Attachment B

This is a list of comments that I have written in order to make my thought clear on the ongoing discussions pertaining to the business conducted between the Cupertino Mayor, Staff Members and the Cupertino City Council as follows per Draft of 44 pages: They are important!

Cathy Helgersen – Comments

1. Intro. 1.1 ok, 1.2 ok, 1.3 Brown Act – Question how does Council decide if the Council meetings and other meetings are conducted in house in person do they go by the CDC recommendations? Covid has been a problem but I understand now that meetings will be conducted both in house and on the web. The public may attend and comment on the agenda.
2. Section of the Mayor and Vice Mayor
 - 2.1 Suggestion why not conduct a special vote where the public can publicly elect a Cupertino Mayor and the term will be for 2 years? Mayor may also conduct and vote on issues on the City Council. The Vice Mayor's seat can be a revolving seat selected annually by the Mayor and the Council members the term could be a 6 month or 1 year term.
Justification: There have been problems in the past with regards to the appointment of City Mayors and the revolving door to this honor. Not everyone is really qualified or has the knowledge of how a mayor actually runs a city this has caused difficulty with the staff and the council members. I think that a separate election could also mean that the candidates must have or show some experience or capability in actually doing the job correctly and confidentially. Some cities have separate City Council Mayor elections.
 - 2.2 Removal of Mayor or Vice Mayor what is just cause such as? This should be stated in the Draft and should be justified and upon what grounds? This removal can lead to lawsuits against the city and could cost the city a great deal of money in the long run. It should be done with a formal legal document which has been written and reviewed by legal council and the City Council. There also needs to be items of a serious nature that would arrive.
3. Appointment – Council members overseeing the appointment of members.
 - 3.1 What constitutes the appointment of hoc committees and subcommittees qualifications?
 - 3.2 Instruction and expectations. What is the committee's or subcommittee's jurisdiction?
Note: Question how long do the persons on the committee's or subcommittee's serve? Is this an indefinite time period? Setting a time period maybe a good idea.
 - 3.3 Reporting – Question will this report information be available to the public?

4. Other City Commissions and Committees

4.1 Responsibility – Question what qualification, back round checks conducted, do they live in Cupertino, are they a citizen of the United States of America, what is their ethical and high moral standing and history regarding their work ethics, and are they also working? How does the City Council decide who is qualified?

4.2 Attendance – I think that it would be good to have a commission member at every City Council meeting even if there is not an item that concerns the commission or committees.

4.3 Performance Expectations – OK

4.4 OK

4.5 Removal – The City Clerk it states shall be allowed to remove commission or committee members. The Question – is there be any legal problem with this removal? I think that a report should be conducted by a review board of conduct and a legal document should be written by the City of Cupertino lawyer who shall serve the papers. I am not in favor of the City Clerk being allowed to conduct this serious removal. Something like this could affect a person's reputation in the city and even harm their relationship with a company and employer. The worry of a lawsuit that could come from all of this by the party affected and even the City Clerk could be held accountable for an justified act of removal.

4.6 Undue Influence on Commissioners – Question – I have always been one person who believes in an Open Forum of communication at meetings keeping Individual Councilmembers, Commissioners and Committee members from speaking or becoming involved in deliberations is not productive. There needs to be a cooperative meeting of the minds.

5. Administrative Matters

5.1 Attendance – OK

5.2 No, I think that correspondences should be reviewed by council no matter what. If there is an urgent issue then call a special council meeting and the public should be informed and included. Leaving things up to the matter of decisions with the City Manager could really cause some serious problems that could even lead to a lawsuit.

5.3 Regional Bodies – OK

5.4 Public Responses to the Public – this seems limited Public Correspondences – Comments, Informational requests addressed to City Council should not be the sole responsibility of the City Manager the public should be allowed to connect with Council and also receive a reply. There have been many times the public writes an e-mail or letter to the City and Council and this information never reaches the Council or the other Departments and no one answers them. The public needs should be addressed and their concerns should be considered and responded to. Things need to change please consider my concerns on this matter.

5.5 Ceremonial Correspondence – The City Council should first address all of the forms and should be allowed to comment and give suggestions and decide. Note: this 5.5 does not address this process coming before Council why not?

5.6 Reimbursement – This seems open to all kinds of expenses there needs to be a limit per expense listed here. Does this cover out of the country expenses? The expense of

international travel should be a separate issue for expense and this should be brought up before the Council for approval.

5.7 Council Training – OK

5.8 Mayor's Initiative Budget – This could get into some deep concerns how is the money spent and who oversees the spending? The city had some serious losses due to fraud in the past the criminal offence of a city employee who robbed the City/Public of \$800,000.00 dollars it seems that that person was punished but the money was never recovered. I want to add here who was serving on the Council at the time and who was the City Manager question is how could this have happened? Civil Grand Jury has been involved in the matter of Staff and City Council issues related to ethics and how business is conducted but they have not investigated the crime that was committed where the city employee actually set up a process to steal this money my question has to be why is that? I hope and see in the future that this could never happen again. I am still worried about giving the City Manager too much power and there needs to be a measure of real accountability for spending in any form at the city. I would also like to note here that the Going Out for Bid on contracts should also be reviewed by the City Council to make sure that the appropriate bid process is carried out. There could be a great deal of partiality toward some contractors and vendors so the contract should be reviewed by all.

6. Relationship – with city staff this seems to be a problem in our city and it is time to clarify things should the City Manager hold so much power? This does not seem clear to me that this person who is hired by the Council to do job related to overseeing of the city staff has such a great deal of power. There has been a great turn over with the of City Manager's position which leads the public to believe things are difficult between the position of City Manager and the City Council members. Each wants the power to make decisions and so the question is how can they all get along so that business and the public's interests can be implemented fairly and correctly? I would like to suggest that maybe a mediator is hired and appointed to help with the conflicts and the disturbance. This mediator is an impartial third- party neutral person, who assists in resolving conflicts through the use of specialized communication and negotiations techniques. Mediators may mediate disputes in a variety of domains, such as commercial, legal, diplomatic, workplace, community and family matters. This third - party mediator could help to reach an agreement that is benefits both the City Council, City Manager, Staff members and the public. This covers 6.1, 6.2, 6.3, 6.4 and 6.5.

6.6. Councilmember Access to Information – This part of paragraph which states – No Council Member shall circumvent the City Manager's direction regarding a request for information by seeking information through a Public Records Act request. Question: Why would a City Council Member need to make a public records request if the information they need or require is needed for them to full-fill their commitment to the public. With regards to a special situation, it should be readily available to the council without hesitation or reluctance willingly and also without delay or difficulty. Note: There seems to be a powerplay here who is justified? I would like to think that all requests made by the City Council for records should hold priority over any routine work endeavor that staff maybe involved in. If a member of council put a priority on a record with city staff or the City Manager in order to use this information prior to a City Council

meeting or investigation it should take the highest priority. Staff should be required to stop general work processes and commit to supplying council with files requested. This is especially true and should be evident that this information may be necessary for the City Council to work and it is of an urgent need.

6.7 Authority of City Council – There seems to be a contradiction between 6.6 and 6.7. My concern is with 6.7 which says there is no limit to City Councils 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 City Manager. I do believe that this is a problem because it gives the question to arise who holds the most power? Giving the council complete power on the one hand and then taking it away on the other hand by saying the council has to go through the City Manager this has not and does not work. Conflict is evident and there sure needs to be a Mediator to resolve the problems that are sure to come up. I would suggest that the City Council member depending on the urgency of the matter in question be allowed to connect with the Mediator in writing and that the matter be allowed to be reviewed immediately. The City Manager, City Council Members or Member and the Mediator will have a meeting to resolve the situation. Records shall also be kept by the City about the complaint and the resolution of the situation. This may also be an issue that could come up at a City Council meeting depending on the situation.

7. Agendas and Staff Reports – Question how does a citizen of Cupertino get an item on the agenda this is not mentioned? 7.1 Future of Agenda Items. 7. 2 through 7.6 OK

8. Meeting Procedures – 8.1 through 8.3 OK 8.4 Order of Business-

(Note: I believe an error was made on Oral Communication – I could be mistaken but I think you mean 3 minutes not 30 minutes additional but 10 minutes would be nice. Allowing speakers on a agenda items maybe given time to speak at the end of the agenda I do not think that is to be beneficial especially when the clock is ticking over 11:00 PM. Oral Communication in the past has always been at the beginning of the meeting only now things seem to have changed.) 8.5 Consent Calendar – 8.51 through 8.6 OK – 8.7 Question – Can a member of the public ask to met with the City Manager and a Council member or two on a matter of importance in a city office?

8.8 Conduct of Meetings – 8.8.1 OK, 8.8.2, 8.8.3 – Question why are the publics concerns at many times ever addressed?

8.9 Discussion and Deliberation – 8.9.1 Ex Parte Contacts OK – 8.92 Relevance OK – 8.93 Council Questions and Deliberation – Comment – I am not so sure that 5 minutes per council member is enough should there really be a set limit? In the past I do not recall a time limit, but the mayor can move things along due to time issues. That seems ok if fair.

8.94 Opportunity for Equal Participation OK,

8.95 Civility OK

8.10 Meeting Length – I am really upset with the meetings being conducted at to 10:30 or 11:00 PM. There are many times when the meetings go on even after 11:00 PM. The public leaves they have gone home to bed. If there are items that are evident that they will take longer amounts of time then the agenda should be split into two days. I do think that this will serve the public's interest. Many seniors, teenagers who need to attend school the next day and people who need to get to work the next day can not stay for the late- night meetings. I have even witnessed at a City Council meeting that lasted way into the night who fell asleep. I consider this also a health and safety issue driving home while being sleepy could cause a car accident and people could be hurt or killed. Think about it!

8.11 Public Hearing Procedures – OK

8.12 City Council Recess Period – I am concerned about the City Manager's authority here especially with the last sentence partially which states that the City Council may make such finding as may be required to ratify the action of the City Manager. The City Manager has violated their role in the processes in some way so the City Council can ratify the action. The City Manager's position has been a great problem and the role of City Manager has caused great conflict. Risking any such problems with the City Manager operating at a full capacity during the City Council's Recess is wrong. I think that even with a City Council Recess that it should be called upon by the City Manager to ask for an emergency session/meeting. What would constitute an emergency meeting needs to be reviewed and decided upon. I worry about too much power in the hands of the City Manager.

9. Closed Session, 10. Enforcement of Rules, Suspension of Rules, Exhibit A, Exhibit B (1-18), Exhibit C, Exhibit D and Exhibit E All OK

From: [Marieann Shovlin](#)
To: [City Council](#); [City Clerk](#)
Subject: City Council Process Improvements
Date: Tuesday, January 17, 2023 5:01:12 PM

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

Dear City Council Members and City Staff,

I wholeheartedly support giving more time to Cupertino residents to speak to the Council during their meetings.

The City can benefit from being able to get rational feedback from their residents.

It is important, however, to provide time to hear from all residents in some way - and to share that communication with all other residents, staff and Councilmembers.

Please consider ways (public forums, and other events) to accomplish this.

Thank you,

Marieann Shovlin

From: [Dan Marshall](#)
To: [City Clerk](#)
Subject: Comment on Cupertino City Council Procedures procedures discussed 1-17-2023
Date: Tuesday, January 17, 2023 5:51:39 PM

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

I am delighted that the council is establishing a set of rules and procedures for their deliberations.

I would suggest adding an accepted process for working toward resolution when there is disagreement between members of the Council.

In particular I suggest that each side of the disagreement can ask the other side to state their understanding of the other side's perception and any facts or experiences driving that perception.

For example if Bill and Betty disagree whether 1 million dollars or 10 million should be spent on a park. Bill thinks 1, Betty thinks 10. This clause would give Bill the right to ask Betty to explain her understanding of why Bill only wants to spend 1 million. And it would also give Betty the right to ask Bill to explain his understanding of Betty's perspective.

Dan Marshall 

408-859-6628

[See a brief video about a promising approach to addressing climate change.](#)

CC 01-17-2023

Item No. 2

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

Written
Communications

From: [Peggy Griffin](#)
To: [Pamela Wu](#); [Christopher Jensen](#)
Cc: [City Clerk](#); [City Council](#)
Subject: 2023-01-17 City Council Agenda Item #2 is misleading and should be renoticed
Date: Monday, January 16, 2023 2:24:19 PM

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

Dear City Manager Wu and City Attorney Jensen,

The 1-27-2023 City Council Agenda Item #2 (below) is misleading and should be re-noticed. It does not mention the possible elimination of committees and sub-committees. People reading this would think that you're just changing what they do but they'd have NO CLUE that you are planning to delete long standing commissions and committees!

2. 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
Presenter: Pamela Wu, City Manager
Staff Report
[A – Staff Report from February 15, 2022 City Council Meeting](#)

California Office of the Attorney General's Brown Act text

LINK: <https://oag.ca.gov/system/files/media/the-brown-act.pdf>

Below is an example of inadequate notice when a school board described an agenda item as "continuation school site change" when in reality it was closing schools. I see the description of "compositions and responsibilities" equally misleading when in reality it is a discussion of eliminating commissions and sub-committees.

Meetings of advisory bodies and standing committees for which 72-hour notice is provided, pursuant to section 54954.2, are considered regular meetings. (§ 54954(a).)

A. Agenda Requirement

At least 72 hours prior to a regular meeting, the body must post an agenda containing a brief general description of each item to be discussed or transacted at the meeting, including items to be discussed in closed session. (§ 54954.2(a).) The Act makes it clear that discussion items must be placed on the agenda, as well as items which may be the subject of action by the body.

The purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body. In *Carlson v. Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, the court interpreted the agenda requirements

16

set forth in section 966 of the Education Code. That section required “. . . [a] list of items that will constitute the agenda for all regular meetings shall be posted. . . .” (*Carlson v. Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, 199.) In interpreting this section, the court stated:

“In the instant case, the school board’s agenda contained as one item the language ‘Continuation school site change.’ This was entirely inadequate notice to a citizenry which may have been concerned over a school closure.

“On this point alone, we think the trial court was correct because the agenda item, though not deceitful, was entirely misleading and inadequate to show the whole scope of the board’s intended plans. It would have taken relatively little effort to add to the agenda that this ‘school site change’ also included the discontinuance of elementary education at Canyon View and the transfer of those students to Ponderosa School.” (*Carlson v. Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, 200, original emphasis; see also 67 Ops.Cal.Atty.Gen. 84, 87 (1984).)

REQUEST: Please re-notice this agenda item with a clear description stating it is to consider eliminating several commissions and committees, preferably listing them.

Clear messaging improves trust.

Sincerely,
Peggy Griffin

From: [Connie Cunningham](#)
To: [City Council](#); [City Clerk](#); [Christopher Jensen](#)
Subject: 23-1-17 CC Agenda Item 2, Study Session on Commissions/Committees
Date: Tuesday, January 17, 2023 3:37:34 PM

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

Dear Mayor Wei, Vice-Mayor Mohan, and Councilmembers, City Manager and City Attorney,

I enthusiastically support this reform package of changes to the City Commissions and Committees.

- 1) reduce staff work load that will allow more work to move forward on resident services
- 2) clear rules make life easier for everyone—especially residents, since they less frequently interact with Council, Commissions or Committees
- 3) take more of the politics out of day-to-day governance of the City. Good for residents who want Council to get things done.

I urge you to direct staff to proceed with the ordinance amendment to consolidate existing Commission and Committees as presented by Pamela Wu, City Manager. (Municipal Code Title 2)

Thank you for this time to comment.

Connie Cunningham
Housing Commissioner (self only)

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: City Council Agenda January 17, 2022 STUDY SESSION #2 compositions and responsibilities of existing Commissions and Committees
Date: Tuesday, January 17, 2023 3:40:51 PM

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

Dear City Council,

Regarding, City Council Agenda January 17, 2022 STUDY SESSION #2 compositions and responsibilities of existing Commissions and Committees

Please retain the Design Review Committee and Environmental Review Committee and Economic Development Committee and Legislative Review Committee

1. Please retain the Design Review Committee and Environmental Review Committee

These committees already do not meet very often and it would be much easier to keep them on standby than to have to re-form them if necessary. The City of Los Altos actually has a Design Review Commission – it isn't even a committee. Don't we want to make Cupertino a better place to live? The types of people who serve on Design Review are going to be somewhat different from the types of people who serve on the Planning Commission. Someone who serves on Design Review has a narrower focus and specific expertise. The same is true for the Environmental Review Committee. Many of these meetings are already being cancelled – but let's keep them penciled-in in case they're needed. Again, specific interest/expertise is required for this work. You might have an architect serve on design review and an environmental specialist serve on the environmental review committee. Members on one would not likely serve on the other. Moreover, having a meeting of people with a specific focus on a specific topic will yield superior results and advice to the planning commission.

2. "Council discontinue all previously formed subcommittees and delegate the areas of concerns to the City Manager to review and research." This is troubling. It should be up to the City Council to determine whether a

subcommittee is needed.

3. The staff is recommending getting rid of Design Review, Economic Development, Environmental Review, and Legislative Review. This is not okay. We have members of the public who can serve on these and can assist the City in providing superior solutions. Please note that the Chamber of Commerce is not a substitute for Economic Development. The Chamber serves its members, many of whom have businesses outside of our City. When people contact the Chamber, the Chamber will provide recommendations to members of their organizations – not non-member businesses within our City. Having seen the presentations on the Economic Development Committee, I thought it was going to be an amazing asset for our community. Similarly, we need a forum under which staff and the community can review the effects of new legislation on our community. Please explain how the City spent 40 hours on the Design Review Committee in 2022? It never met in 2022.

Sincerely,
Rhoda Fry

From: [Connie Cunningham](#)
To: [City Council](#); [City Clerk](#); [Christopher Jensen](#)
Subject: 23-1-17 CC Agenda Item 2, Study Session on Commissions/Committees
Date: Tuesday, January 17, 2023 4:19:20 PM

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

Dear Mayor Wei, Vice-Mayor Mohan, and Councilmembers, City Manager and City Attorney,

I enthusiastically support this reform package of changes to the City Commissions and Committees.

- 1) reduce staff work load that will allow more work to move forward on resident services
- 2) clear rules make life easier for everyone—especially residents, since they less frequently interact with Council, Commissions or Committees
- 3) take more of the politics out of day-to-day governance of the City. Good for residents who want Council to get things done.

I urge you to direct staff to proceed with the ordinance amendment to consolidate existing Commission and Committees as presented by Pamela Wu, City Manager. (Municipal Code Title 2)

Thank you for this time to comment.

Connie Cunningham
Housing Commissioner (self only)

From: [Peggy Griffin](#)
To: [Pamela Wu](#); [Liang Chao](#); [Christopher Jensen](#)
Cc: [City Clerk](#)
Subject: RE: 2023-01-17 City Council Agenda Item #2 is misleading and should be renoticed
Date: Tuesday, January 17, 2023 4:52:16 PM

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

Dear City Manager Wu,

Thank you for your response.

My concern is also the content of the material in these 2 items. They are plans to discuss and vote on 2 items that are of concern to many people yet they are being discussed and decided during a Study Session. Members of the public think it's a time for discussion and Council direction, not voting and deciding the issue entirely!

Many people are working, picking up kids, fixing dinner and when having limited time, choose to watch and attend the regular meeting rather than a study meeting. They may even plan to speak during Oral Communications, sharing time with someone, but the rules may change between the Study Session and the Regular Meeting! It's not clear when these take effect. It appeared to be immediately.

Again, thanks for your time.

Sincerely,
Peggy Griffin

From: Pamela Wu <PamelaW@cupertino.org>
Sent: Tuesday, January 17, 2023 11:03 AM
To: Liang Chao <LiangChao@cupertino.org>; Peggy Griffin <griffin@compuserve.com>; Christopher Jensen <ChristopherJ@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>
Subject: RE: 2023-01-17 City Council Agenda Item #2 is misleading and should be renoticed

Peggy and Councilmember Chao, thank you for your email and your concerns. The agenda description for Item 1&2 tonight provides sufficient information for the public and City Council to take the necessary action. Your concerns are duly noted.

Pamela

Pamela Wu
City Manager
City Manager's Office



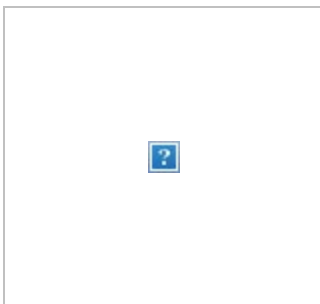
PamelaW@cupertino.org
(408)777-1322



From: Liang Chao <LiangChao@cupertino.org>
Sent: Monday, January 16, 2023 4:19 PM
To: Peggy Griffin <griffin@compuserve.com>; Pamela Wu <PamelaW@cupertino.org>; Christopher Jensen <ChristopherJ@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>
Subject: Re: 2023-01-17 City Council Agenda Item #2 is misleading and should be renoticed

Thanks, Peggy.

That's a very good example from a Brown Act guide from California Attorney General's Office.



Liang Chao
Vice Mayor
City Council
LiangChao@cupertino.org
408-777-3192



From: Peggy Griffin <griffin@compuserve.com>
Sent: Monday, January 16, 2023 2:24 PM
To: Pamela Wu <PamelaW@cupertino.org>; Christopher Jensen <ChristopherJ@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>; City Council <CityCouncil@cupertino.org>
Subject: 2023-01-17 City Council Agenda Item #2 is misleading and should be renoticed

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

Dear City Manager Wu and City Attorney Jensen,

The 1-27-2023 City Council Agenda Item #2 (below) is misleading and should be re-noticed. It does not mention the possible elimination of committees and sub-committees. People reading this would think that you're just changing what they do but they'd have NO CLUE that you are planning to delete long standing commissions and committees!

2. 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
Presenter: Pamela Wu, City Manager
Staff Report
A – Staff Report from February 15, 2022 City Council Meeting

California Office of the Attorney General's Brown Act text

LINK: <https://oag.ca.gov/system/files/media/the-brown-act.pdf>

Below is an example of inadequate notice when a school board described an agenda item as "continuation school site change" when in reality it was closing schools. I see the description of "compositions and responsibilities" equally misleading when in reality it is a discussion of eliminating commissions and sub-committees.

Page 30-31 of 114

Meetings of advisory bodies and standing committees for which 72-hour notice is provided, pursuant to section 54954.2, are considered regular meetings. (§ 54954(a).)

A. Agenda Requirement

At least 72 hours prior to a regular meeting, the body must post an agenda containing a brief general description of each item to be discussed or transacted at the meeting, including items to be discussed in closed session. (§ 54954.2(a).) The Act makes it clear that discussion items must be placed on the agenda, as well as items which may be the subject of action by the body.

The purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body. In *Carlson v. Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, the court interpreted the agenda requirements

set forth in section 966 of the Education Code. That section required “. . . [a] list of items that will constitute the agenda for all regular meetings shall be posted. . . .” (*Carlson v. Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, 199.) In interpreting this section, the court stated:

“In the instant case, the school board’s agenda contained as one item the language ‘Continuation school site change.’ This was entirely inadequate notice to a citizenry which may have been concerned over a school closure.

“On this point alone, we think the trial court was correct because the agenda item, though not deceitful, was entirely misleading and inadequate to show the whole scope of the board’s intended plans. It would have taken relatively little effort to add to the agenda that this ‘school site change’ also included the discontinuance of elementary education at Canyon View and the transfer of those students to Ponderosa School.” (*Carlson v. Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, 200, original emphasis; see also 67 Ops.Cal.Atty.Gen. 84, 87 (1984).)

REQUEST: Please re-notice this agenda item with a clear description stating it is to consider eliminating several commissions and committees, preferably listing them.

Clear messaging improves trust.

Sincerely,
Peggy Griffin

CC 01-17-2023

#8

December 20, 2022

Minutes -

Amended 12-20-2022 Draft

Minutes page 6

Desk Item

Ian Greensides supported the draft assignments.

John Geis supported the draft assignments and discussion on the unappointed assignments.

Jean Bedord supported the draft assignments.

Monica Mallon supported the draft assignments.

Darcy Paul supported changes to the draft assignments.

Housing Commissioner Tessa Parish (representing self) supported changes to the draft assignments.

Mayor Wei closed the public comment period.

Fruen moved and Mohan seconded to approve the 2023 Councilmember Committee Assignments.

Chao moved and Moore seconded a substitute motion:

Wei	Mohan	Fruen	Chao	Moore
CitiesAsscBOD CitiesAsscSelect CitiesAsscLeg WVMayors Rt85 StvCrk Corridor	CleanEnergy Audit SisterCity CEP	VTAPAC ABAG SCCHCD Audit School SisterCity Water	LibraryJPA Water Disaster School CEP	SVRIA Water SisterCity Audit VTAPAC
CleanEnergy(A)	ABAG(A) CitiesAsscBOD(A) CitiesAsscSelect(A) LibraryJPA(A) WVMayors(A)	CitiesAsscLeg(A) Liaison(A) Rt85(A) StvCrk Corridor(A)	Commission(A) SCCHCD(A) SVRIA(A)	VTAPAC(A) Disaster(A)

Chao's substitute motion failed with Chao and Moore voting ~~no~~ yes.

Fruen's motion to approve the 2023 Councilmember Committee Assignments (as presented) carried with Chao and Moore voting no.

SECOND READING OF ORDINANCES – None

CC 01-17-2023

#9

Amended Staff
Report_AB361 Continued
Remote Meetings Jan 17 -
Feb 16

Desk Item



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: January 17, 2023

Subject

Consider adopting a resolution authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period January 17, 2023 through February 16, 2023 pursuant to the Brown Act, as amended by AB 361

Recommended Action

Consider adopting a resolution authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period January 17, 2023 through February 16, 2023 pursuant to the Brown Act, as amended by AB 361

Background

On March 2, 2020, Governor Newsom declared a state of emergency due to the public health threat posed by COVID-19. On March 4, 2020, Governor Newsom issued Executive Order No-29-20, which suspended certain elements of the Brown Act and specifically allowed legislative bodies to hold meetings entirely electronically with no physical meeting. In accordance with the Executive Order, the City held its first teleconference meeting on March 24, 2020, to help stop the spread of COVID-19. On June 11, 2021, Governor Newsom issued Executive Order No-08-21, which stated that the provisions in Executive Order No-29-20, suspending certain elements of the Brown Act, would continue to apply through September 30, 2021. On October 17, 2022, Governor Newsom announced that the COVID-19 State of Emergency will end on February 28, 2023.

On September 15, 2021, Governor Newsom signed AB 361 into law, which allows state and local agencies to continue using teleconferencing during certain state-declared emergencies under modified Brown Act requirements. AB 361 became effective immediately after signing due to its emergency clause and is set to sunset on January 1, 2024. Under AB 361, teleconference meetings may be held during a state of emergency if (1) state or local officials have imposed or recommended measures to promote social distancing, or (2) a legislative body determines by a majority vote that meeting in person would present imminent risks to the health or safety of attendees. (Gov. Code, § 54953(e)(1).)

To continue teleconference meetings beyond a 30-day period, AB 361 requires the Council to make a determination that either (i) "[t]he state of emergency continues to directly impact the ability of the members to meet safely in person, or (ii) "State or local officials continue to impose or recommend measures to promote social distancing." (Gov. Code, § 54953(e)(3)(B).) That determination must be reviewed each 30 days thereafter to continue teleconference meetings. (*Ibid.*)

Discussion

AB 361 allows the City Council and other City legislative bodies to continue meeting exclusively via teleconference so long as a state emergency declaration remains in place and the statute's conditions for permitting remote meetings are met. To continue meeting remotely, the City Council must find that state or local officials have imposed or recommend measures to support social distancing, or that the state of emergency continues to directly impact the ability of the members to meet safely in person.

On December 20, 2022, Council adopted Resolution No. 22-151 affirming findings related to AB 361 and authorizing the City Manager and legislative bodies of the City of Cupertino to meet exclusively by teleconference in accordance with Government Code section 54953(e)(3) and other applicable provisions of the Brown Act through January 19, 2023 (Attachment B). Council may make either or both of the permitted findings to extend the time to allow teleconference meetings to continue. ~~The Santa Clara County Health Officer continues to recommend that public bodies meet remotely to the extent possible, specifically including use of newly enacted AB 361 to maintain remote meetings under the Ralph M. Brown Act and similar laws (Attachment C).~~ The California Department of Industrial Relations Revised Emergency Temporary Standards, effective May 6, 2022, continue to require or recommend social distancing in the workplace in certain circumstances. It is therefore recommended that Council adopt the Draft Resolution authorizing continued teleconference meetings for the City of Cupertino's legislative bodies in order to protect the health and safety of all attendees and participants, particularly those who are unvaccinated (Attachment A).

Sustainability Impact

Conducting meetings remotely has reduced paper consumption by providing electronic access to meeting materials instead of printed materials.

Fiscal Impact

No fiscal impact.

Prepared by: Kirsten Squarcia, City Clerk

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Draft Resolution

B – Adopted Resolution No. 22-151

~~C—Health Officer Recommendation Regarding Public Governmental Meetings~~

CC 01-17-2023

#9

Amended Attachment A -
Draft Resolution__AB361
Continued Remote
Meetings Jan 17 - Feb 16

Desk Item

RESOLUTION NO. 23-__

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
AUTHORIZING CONTINUED REMOTE TELECONFERENCE MEETINGS OF THE
LEGISLATIVE BODIES OF THE CITY OF CUPERTINO FOR THE PERIOD
JANUARY 17, 2023 THROUGH FEBRUARY 16, 2023 PURSUANT TO BROWN ACT
PROVISIONS**

WHEREAS, the City of Cupertino is committed to preserving and nurturing public access and participation in meetings of the City Council, commissions, and committees; and

WHEREAS, all meetings of the City of Cupertino's legislative bodies are open and public, as required by the Ralph M. Brown Act (Government Code sections 54950–54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition for holding meetings exclusively by teleconference is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, Government Code section 54953(e) further requires that in order to authorize meetings exclusively by teleconference, a legislative body must determine that state or local officials have imposed or recommended measures to promote social distancing, or that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on October 5, 2021, November 2, 2021, November 30, 2021, December 21, 2021, January 18, 2022, February 15, 2022, March 15, 2022, April 5, 2022, May 3, 2022, May 19, 2022, June 7, 2022, July 7, 2022, July 19, 2022, August 16, 2022, September 6, 2022, October 4, 2022, November 1, 2022, November 15, 2022, December 5, 2022, and December 20, 2022 the Cupertino City Council made the findings required under Government Code section 54953(e) and resolved that the legislative bodies of the City of Cupertino shall

conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that such legislative bodies should comply with the requirements to provide the public with access to the meetings as prescribed in section 54953(e)(2); and

WHEREAS, Government Code section 54593(e)(3) provides that to continue to holding meetings of legislative bodies exclusively by teleconference, the legislative body must reconsider the circumstances of the state of emergency every 30 days, and find that either (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (ii) State or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, the City Council has reconsidered the circumstances of the state of emergency that now exists, specifically defined in the County of Santa Clara proclamation of a local emergency beginning February 3, 2020, the City of Cupertino proclamation of a local emergency on March 11, 2020, the Governor of the State of California proclamation of a state of emergency beginning on March 4, 2020, and the national emergency declaration in Proclamation 9994 of March 13, 2020, beginning March 1, 2020, concerning the COVID-19 pandemic; and

WHEREAS, ~~the County of Santa Clara Health Officer's Recommendation Regarding Continued Remote Public Meetings of Governmental Entities dated September 21, 2021 and~~ the California Department of Industrial Relations Revised Emergency Temporary Standards, effective May 6, 2022, continue to require or recommend social distancing in the workplace in certain circumstances; and

WHEREAS, ~~the Health Officer's Recommendations,~~ the Revised Emergency Temporary Standards, and evidence documenting the transmission of COVID-19 in indoor spaces establishes that the state of emergency continues to directly impact the ability of the members to meet safely in person; and

WHEREAS, based on the above findings, the Cupertino City Council hereby determines that the legislative bodies of the City of Cupertino shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in section 54953(e)(2); and

WHEREAS, the City has and will continue to provide access for the public to legislative meetings and procedures through video teleconference technologies.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cupertino, as follows:

1. Remote Teleconference Meetings. The City Manager and legislative bodies of the City of Cupertino are hereby authorized and directed to meet exclusively by teleconference and to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.
2. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective through February 16, 2023, or such time as the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the City Council of the City of Cupertino may continue to teleconference without compliance with Government Code section 54953(b)(3).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 17th 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: _____ Kirsten Squarcia, City Clerk	 _____ Date

CC 01-17-2023

Item No. 9

Consider resolution for
Continued remote
teleconference
through February 16,
2023

Written Communications

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: City Council Agenda January 17, 2022 #9 remote-only teleconferences
Date: Tuesday, January 17, 2023 2:56:01 PM

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

Dear City Council,

Can you please explain, City Council Agenda January 17, 2022 #9 remote-only teleconferences

There was a big swearing-in ceremony

Then there was a remote-only meeting (if I recall correctly)

Now there is a hybrid meeting

The County has just started meeting again in a hybrid capacity

And now the City is going to remote-only

All of this is a big dizzying!

Can you please explain?

Thanks Much,

Rhoda Fry

CC 01-17-2023

Item No. 19

Consider approval of
response to the 2022
Civil Grand Jury County
Report

Written Communications

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: City Council Agenda January 17, 2022 #19 civil grand jury response
Date: Tuesday, January 17, 2023 3:00:51 PM

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

Dear City Council,

Regarding the City Council Agenda January 17, 2022 #19 civil grand jury response.

I would like the public, City Council, and City staff to know that if not for councilmember Kitty Moore, the City of Cupertino would not have been one of the few compliant cities in Santa Clara County.

She has done a great service to the community.

The City needs to further plug the holes that allowed an \$800K embezzlement between 2000 and 2014 and look for other possible thefts from us City taxpayers.

Thanks Much,
Rhoda Fry

CC 01-17-2023

Item No. 20

Status update on the
6th Cycle Housing
Element update

Written Communications

From: Neil Park-McClintick <neil@cupertinoforall.org>
Sent: Friday, January 13, 2023 1:22 AM
To: Housing <Housing@cupertino.org>; clerkrecorder@rec.sccgov.org
Subject: Housing Element Comments for Upcoming Agenda

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

Hello Cupertino Housing and City Clerk,

I am writing to request the comments made at the 12/20 oral communications be included in the following housing element comments for the following agenda item. In particular, there was a detailed presentation that had specific recommendations for the council, with several orators speaking in agreement.

<https://cupertino.legistar.com/LegislationDetail.aspx?ID=5992325&GUID=396C660B-8AAF-47B1-A25E-D8EA4AB95282&Options=&Search=>

Thank you so much and happy new year,

Neil Park-McClintick

--

Neil Park-McClintick
President/Chair, Cupertino for All
408-660-6869

From: [Connie Cunningham](#)
To: [City Council](#); [City Clerk](#); [Christopher Jensen](#)
Subject: 23-1-17 CC Agenda Item 20, Housing Element
Date: Tuesday, January 17, 2023 4:27:29 PM

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

Dear Mayor Wei, Vice-Mayor Mohan, and Councilmembers, City Manager and City Attorney,

I support an ambitious housing element.

Therefore, I am advocating for the following with regard to the housing element draft (either before or after submission): (1) making sure AB 2011 and other housing bills are a focus of the housing element draft, as they have the potential to make it dramatically easier for Cupertino to meet its housing targets; (2) making sure we include and submit all comments related to the housing element focused on specific changes needed to make it an ambitious housing element;

CFA submitted a letter on 12/20/22. I would like to focus on these to be included:

1.

Programs and Policies: Urge staff and consultants to focus on new policies and programs modeled after other cities' housing elements—with a framework of the 3 Ps in mind: production of homes, preservation of existing homes, and protection of renters. Cities like Emeryville and Mountain View have robust policies for all three of these planks. Cupertino's current draft introduces few new policies, instead relying almost entirely on our existing ones, which have obviously failed to meet our housing needs. Additionally, the draft unnecessarily restricts proposed policies, such as only limiting parking requirements for SROs and studios, instead of applying a reduction in parking to all new homes.

Items d and e are particularly in need because new housing often impacts existing low-income housing. We have hundreds of BMR units at risk because we do not have policies such as d and e.

a.

Sample 1: Adaptive Re-use. The City will examine opportunities to allow for the adaptive reuse/conversion or replacement of vacant or underperforming commercial spaces and parking structures to

residential units. The City will analyze the feasibility of an Adaptive Reuse Ordinance that would target the conversion of select types existing structures and of spaces that may include ground-floor retail in an existing mixed-use structure, part or all of an office building or parking structure

b.

Sample 2: Live/Work Units. Assess existing Live/Work regulations to see if any modification needs to be made to encourage development of Live/Work units in an effort to diversify the City's housing types. Encourage the development or conversion of affordable live/workspace units, and ensure owners of existing Live/Work units are aware of the Homebuyer Assistance Program available for their unit when marketing their unit for resale, in an effort to expand affordable homeownership options.

c.

Sample 3: Family Friendly Housing. Promote housing designs and unit mix to attract multigenerational households by encouraging developers to include housing features and more bedrooms (including four-bedroom units), as well as other on-site amenities, such as usable outdoor open space for multigenerational use, and multipurpose rooms that can be used for after-school homework clubs, computer, art, or other resident activities.

d.

Sample 4: The creation of a **tenant relocation assistance ordinance**. r more rental units have been displaced because of renovations, redevelopment, and similar activities. The City's ordinance is intended to help lower income households with moving costs, deposits, and securing replacement housing.

e.

Sample 5: **Rental Preservation Program**. The City will provide low interest rate loans to existing rental property owners to improve the habitable condition(s) of their rental units occupied by very low, low and moderate-income tenants. Performance Metric(s) # of rental units renovated; # of special need units assisted; Amount of Funds Expended

there are many more ideas in that letter that I urge you to include if you have the time, or to mention to HCD that we are going to include them.

Connie Cunningham

Housing Commission (self only)

From: [Ayushi Samaddar](#)
Subject: Council reforms and Housing Element 2023
Date: Tuesday, January 17, 2023 5:01:32 PM

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

Dear Cupertino City Council,

Regarding Cupertino council procedures, I support the council reforms because they (1) promote having clear rules, (2) make it easier for people to give public comment and participate in the process, (3) expand access to government by removing any meetings between 10 PM to 8 AM, (4) reduce the politicization of basic governance. I would however also like to see even longer windows to raise your hand for public comment and also more flexibility for giving comments, like what Santa Clara County does.

I also support the reduction of committees as they needlessly use staff time, resulting in favoring process over outcomes for our residents. We should focus on the quality of our institutions, not the quantity.

In addition, I support an ambitious housing element. Therefore, I am advocating for the following with regard to the housing element draft (either before or after submission): (1) making sure AB 2011 and other housing bills are a focus of the housing element draft, as they have the potential to make it dramatically easier for Cupertino to meet its housing targets; (2) making sure we include and submit all comments related to the housing element focused on specific changes needed to make it an ambitious housing element; (3) [everything in this letter which names specific changes needed from 12/20 that CFA submitted.](#)

Thanks,
Ayushi

From: [Housing](#)
To: [City Clerk](#)
Cc: [Kerri Heusler](#)
Subject: FW: Item 20 Suggestions for Changing Housing Element Update
Date: Wednesday, January 18, 2023 8:46:32 AM
Attachments: [Chair Letter to City Council \(1\).pdf](#)

Forwarding written comms rec'd from the Housing Inbox:



From: Neil Park-McClintick <neil@cupertinoforall.org>
Sent: Tuesday, January 17, 2023 5:47 PM
To: Housing <Housing@cupertino.org>; clerkrecorder@rec.sccgov.org; Cupertino City Manager's Office <citymanager@cupertino.org>; City Council <CityCouncil@cupertino.org>
Subject: Item 20 Suggestions for Changing Housing Element Update

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

Dear Cupertino City Council,

I would like to resubmit the following comments regarding much-needed changes to the housing element. While I recognize the need to submit a draft, HCD will no doubt respond that we need to dramatically redo portions of our HE update. As such, please see the attached letter from Cupertino for All, which is aimed to help the City, Council, and staff earn a compliant element over the span of this year. This letter was submitted at the end of last year. **The only additional ask would be to have council direct staff to come up with (A) an analysis**

of the effects of AB 2011 on Cupertino and its housing element (which are understood to be quite impactful), (B) direct staff to come back with a list of specific policies for protection, preservation, and production from other cities' housing elements--in particular, cities that received the green light during their very first submission (Emeryville and Alameda should be a focus.



To:

City Clerk Kirsten Squarcia
Councilmember JR Fruen
Mayor Hung Wei
Councilmember Liang Chao
Councilmember Kitty Moore
City Manager Pamela Wu
Councilmember Sheila Mohan

Comprehensive redo of housing element draft needed

From the beginning of the housing element update process, community members have repeatedly demanded an **ambitious, honest, and conforming process** from the City of Cupertino. This means a resulting product that realistically outlines a path forward for not only building 4,000+ homes, but also transforming the affordable housing landscape for families across all incomes and backgrounds. However, this outcome is only achievable if the leadership of Cupertino truly believes that the HE update is a unique opportunity of a lifetime, rather than a burdensome task. The recently released housing element draft unfortunately seems to indicate the latter rather than the former. **If we wish to preserve any hope of dictating our own future as a community, Council and staff must conduct a comprehensive redrafting process, with the following changes:**

- 1.
- 2.
3. **Site Inventory:**
4. Reduce reliance on pipeline projects, expand the number of planned units in the “heart of
5. the city,” and avoid planning homes that are unlikely to be built. Nearly $\frac{2}{3}$ of the planned inventory is pipeline projects, with roughly 80% of those projects being Vallco and the Hamptons. The Hamptons in particular is unlikely to actually be built out as
6. 600 units, given no recent developer interest and recent renovations from Irvine Company. Meanwhile, less than 5% of the inventory is composed of the heart of the city, the main portion of Cupertino, where most development should be slated.
- 7.
- 8.
- 9.

10. **Programs and Policies:**

11. Urge staff and consultants to focus on new policies and programs modeled
12. after other cities' housing elements—with a framework of the 3 Ps in mind: production of homes, preservation of existing homes, and protection of renters. Cities like Emeryville and Mountain View have robust policies for all three of these planks. Cupertino's
13. current draft introduces few new policies, instead relying almost entirely on our existing ones, which have obviously failed to meet our housing needs. Additionally, the draft unnecessarily restricts proposed policies, such as only limiting parking requirements
14. for SROs and studios, instead of applying a reduction in parking to all new homes.
15.
 - a.
 - b.
 - c. Sample 1: Adaptive Re-use. The City will examine opportunities to allow for the adaptive reuse/conversion
 - d. or replacement of vacant or underperforming commercial spaces and parking structures to residential units. The City will analyze the feasibility of an Adaptive Reuse Ordinance that would target the conversion of select types existing structures and of spaces
 - e. that may include ground-floor retail in an existing mixed-use structure, part or all of an office building or parking structure
 - f.
 - g.
 - h.
 - i. Sample 2: Live/Work Units. Assess existing Live/Work regulations to see if any modification needs
 - j. to be made to encourage development of Live/Work units in an effort to diversify the City's housing types. Encourage the development or conversion of affordable live/workspace units, and ensure owners of existing Live/Work units are aware of the Homebuyer
 - k. Assistance Program available for their unit when marketing their unit for resale, in an effort to expand affordable homeownership options.
 - l.
 - m.
 - n.
 - o. Sample 3: Family Friendly Housing. Promote housing designs and unit mix to attract multigenerational
 - p. households by encouraging developers to include housing features and more bedrooms (including four-bedroom units), as well as other on-site amenities, such as usable outdoor open space for multigenerational use, and multipurpose rooms that can be used for
 - q. after-school homework clubs, computer, art, or other resident activities.
 - r.

- s.
- t.
- u. Sample 4: The creation of a tenant relocation assistance ordinance. r
more rental units have been
- v. displaced because of renovations, redevelopment, and similar activities.
The City's ordinance is intended to help lower income households with
moving costs, deposits, and securing replacement housing.
- w.
- x.
- y.
- z. Sample 5: Rental Preservation Program. The City will provide low interest
rate loans to existing
- aa. rental property owners to improve the habitable condition(s) of their rental
units occupied by very low, low and moderate-income tenants.
Performance Metric(s) # of rental units renovated; # of special need units
assisted; Amount of Funds Expended
- ab.
- ac.
- ad.
- ae. Sample 6: Resident Engagement. The City will evaluate its current
committees and commission membership
- af. to determine if the membership is reflective of the socio-economic and
racial mix of Cupertino or if there are any missing voices. If it is
determined, there are missing voices, the City will enhance its outreach
efforts to encourage residents from all socio-economic
- ag. groups and racial backgrounds to serve on committees and commissions
when position become available. The City will investigate the restructuring
of the Housing Committee to ensure that the committee has at least one
member that resides in a BMR unit, at least
- ah. one member that is a tenant, and at least one member that is a
homeowner.
- ai.
- aj.
- ak.
- al. Sample 7: Prohousing Designation. The City will seek a Prohousing
Designation from the California
- am. Housing and Community Development for enacting favorable zoning and
land use policies, policies to accelerate the production of housing,
reduction of construction and development policies, and providing financial
subsidies. The Prohousing designation will
- an. provide incentives, in the form of additional points or preferences in the
scoring of competitive applications for housing and infrastructure.
- ao.

- 16.
- 17.
18. **Needs Analysis:**
19. The needs analysis is woefully inadequate for the unique housing context
20. of Cupertino, with no references to the extreme unmet housing needs of our
daytime residents—instead choosing to focus on those who already can afford to
live here. In particular, we see tremendous housing struggles among De Anza
college students, adjunct
21. faculty, teachers, low-wage workers, non-profit workers, young adults, and
seniors. For example, Cupertino severely lacks in apartments and smaller units
that would be ideal for a young professional or community college student.
Additionally, with regard to
22. AFFH, our draft does not provide a realistic assessment of segregation in our
region; we know that Cupertino has one of the lowest Latino/Latinx populations
of surrounding cities—of just 3-4% compared to San Jose’s 30%. As such, one
of our intended outcomes
23. should be to bridge this gap and greatly increase housing opportunities for
Latino, Black, and Southeast Asian communities of color.
- 24.
- 25.
- 26.
27. **Constraints Analysis:**
28. Several constraints appear to be missing, including but not limited to (1)
29. local control and neighborhood opposition, (2) underutilized land such as dying
strip malls, (3) relatively low surface area for development, (4) state law
evasion/loopholes, (5) permit processing times Additionally, several other state
laws are missing that
30. are in need of compliance like AB 2097 and AB 2011.
- 31.
- 32.
- 33.
34. **Community Outreach:**
35. While Cupertino has done some community outreach with regard to the housing
36. element, it does not seem to have actually translated into actual policies or
programs. The purpose of community outreach is to hear from traditionally
underserved communities, so new ideas emerge for how to meet these specific
housing needs. Instead, there
37. are dozens of pages of outreach, with no actual effect on the resulting sites,
programs, or policies. Additionally, much of the feedback critical of Cupertino’s
approach to the inventory appears to be missing. The City must also be honest
about its failures
38. in approaching community outreach, such as the last City Council dismantling
the stakeholder engagement group, or the anti-housing bias within the housing
survey.
- 39.
- 40.
- 41.

42. **Transit-Oriented Development & mixed use:**

43. Cupertino's housing element draft does not seem to contain a vision for
44. the built-environment, as it isolates the thousands of planned homes from a
much needed coinciding growth of bicycle and pedestrian infrastructure,
reduced car use, and vibrant, mixed-use spaces. Instead, it makes few
references to transit-oriented development
45. and even unnecessarily restricts mixed-use. We should be planning our housing
future around the reduction of car reliance and the promotion of our Climate
Action Plan 2.0.

46.

47.

48.

49. **Timeline:**

50. Cupertino is last in the entire county and will no doubt lose local control
51. under the builder's remedy. Council should direct its staff and consultant team
to focus entirely on more-or-less redoing the housing element draft as quickly as
possible. The community would like to see an actual timeline and plan of action
for achieving
52. an ambitious housing element in a short period of time.

53.

54.

55.

56. **Rezoning of Vallco:**

57. The Rise (formerly Vallco) is the most important project for the City to
58. meet its RHNA. It includes more than half of the City's total RHNA and 136% of
its low income units. One impediment is that the current GP and zoning do not
allow for a feasible project. While the SB 35 approval is currently in effect, if it
were to lapse,
59. the current GP/zoning designations are too restrictive and no project would
occur. To be consistent with other housing element inventory sites, the City
should
60. amend the General Plan and zoning to be consistent with The Rise project.
Strategy
61. HE-1.3 that would make a residential-only project available "by right" is
insufficient. The HE assumes that half of the units will be affordable, but that is
only feasible if there are other supporting uses to help pay for the high cost of
affordable housing,
62. such as office space.

63.

64.

65.

66. **Improving fee reduction language:**

67. The HE makes clear that the City's impact fees are both very high and an outlier
in the region. This
68. can inhibit the proliferation of new housing and deter affordable projects. One of
the HE strategies calls for a reduction in fees, but does not establish a clear
path forward for which fees would be reduced or which steps would be taken.

Additionally, fee

69. waivers beyond parkland fees should be readily permissible in cases of affordable housing projects. As a whole, the fee regime should be thoughtfully restructured and reevaluated to strike a balance between fulfilling important city functions, while not impeding
70. new housing development.
- 71.

Members across the community look forward to working with this new council and City Manager's office to produce an ambitious housing element update that matches the innovation and ambition of our great town.

Sincerely,
Neil Park-McClintick



Chair, Cupertino for All

To:

City Clerk Kirsten Squarcia
Councilmember JR Fruen
Mayor Hung Wei
Councilmember Liang Chao
Councilmember Kitty Moore
City Manager Pamela Wu
Councilmember Sheila Mohan



Comprehensive redo of housing element draft needed

From the beginning of the housing element update process, community members have repeatedly demanded an **ambitious, honest, and conforming process** from the City of Cupertino. This means a resulting product that realistically outlines a path forward for not only building 4,000+ homes, but also transforming the affordable housing landscape for families across all incomes and backgrounds. However, this outcome is only achievable if the leadership of Cupertino truly believes that the HE update is a unique opportunity of a lifetime, rather than a burdensome task. The recently released housing element draft unfortunately seems to indicate the latter rather than the former. **If we wish to preserve any hope of dictating our own future as a community, Council and staff must conduct a comprehensive redrafting process, with the following changes:**

1. **Site Inventory:** Reduce reliance on pipeline projects, expand the number of planned units in the “heart of the city,” and avoid planning homes that are unlikely to be built. Nearly $\frac{2}{3}$ of the planned inventory is pipeline projects, with roughly 80% of those projects being Vallco and the Hamptons. The Hamptons in particular is unlikely to actually be built out as 600 units, given no recent developer interest and recent renovations from Irvine Company. Meanwhile, less than 5% of the inventory is composed of the heart of the city, the main portion of Cupertino, where most development should be slated.
2. **Programs and Policies:** Urge staff and consultants to focus on new policies and programs modeled after other cities’ housing elements—with a framework of the 3 Ps in mind: production of homes, preservation of existing homes, and protection of renters. Cities like Emeryville and Mountain View have robust policies for all three of these planks. Cupertino’s current draft introduces few new policies, instead relying almost entirely on our existing ones, which have obviously failed to meet our housing needs. Additionally, the draft unnecessarily restricts proposed policies, such as only limiting parking requirements for SROs and studios, instead of applying a reduction in parking to all new homes.
 - a. Sample 1: Adaptive Re-use. The City will examine opportunities to allow for the adaptive reuse/conversion or replacement of vacant or underperforming commercial spaces and parking structures to residential units. The City will analyze the feasibility of an Adaptive Reuse Ordinance that would target the

conversion of select types existing structures and of spaces that may include ground-floor retail in an existing mixed-use structure, part or all of an office building or parking structure

- b. Sample 2: Live/Work Units. Assess existing Live/Work regulations to see if any modification needs to be made to encourage development of Live/Work units in an effort to diversify the City's housing types. Encourage the development or conversion of affordable live/workspace units, and ensure owners of existing Live/Work units are aware of the Homebuyer Assistance Program available for their unit when marketing their unit for resale, in an effort to expand affordable homeownership options.
- c. Sample 3: Family Friendly Housing. Promote housing designs and unit mix to attract multigenerational households by encouraging developers to include housing features and more bedrooms (including four-bedroom units), as well as other on-site amenities, such as usable outdoor open space for multigenerational use, and multipurpose rooms that can be used for after-school homework clubs, computer, art, or other resident activities.
- d. Sample 4: The creation of a tenant relocation assistance ordinance. r more rental units have been displaced because of renovations, redevelopment, and similar activities. The City's ordinance is intended to help lower income households with moving costs, deposits, and securing replacement housing.
- e. Sample 5: Rental Preservation Program. The City will provide low interest rate loans to existing rental property owners to improve the habitable condition(s) of their rental units occupied by very low, low and moderate-income tenants. Performance Metric(s) # of rental units renovated; # of special need units assisted; Amount of Funds Expended
- f. Sample 6: Resident Engagement. The City will evaluate its current committees and commission membership to determine if the membership is reflective of the socio-economic and racial mix of Cupertino or if there are any missing voices. If it is determined, there are missing voices, the City will enhance its outreach efforts to encourage residents from all socio-economic groups and racial backgrounds to serve on committees and commissions when position become available. The City will investigate the restructuring of the Housing Committee to ensure that the committee has at least one member that resides in a BMR unit, at least one member that is a tenant, and at least one member that is a homeowner.
- g. Sample 7: Prohousing Designation. The City will seek a Prohousing Designation from the California Housing and Community Development for enacting favorable zoning and land use policies, policies to accelerate the production of housing, reduction of construction and development policies, and providing financial subsidies. The Prohousing designation will provide incentives, in the form of additional points or preferences in the scoring of competitive applications for housing and infrastructure.

3. **Needs Analysis:** The needs analysis is woefully inadequate for the unique housing context of Cupertino, with no references to the extreme unmet housing needs of our daytime residents—instead choosing to focus on those who already can afford to live here. In particular, we see tremendous housing struggles among De Anza college students, adjunct faculty, teachers, low-wage workers, non-profit workers, young adults, and seniors. For example, Cupertino severely lacks in apartments and smaller units that would be ideal for a young professional or community college student. Additionally, with regard to AFFH, our draft does not provide a realistic assessment of segregation in our region; we know that Cupertino has one of the lowest Latino/Latinx populations of surrounding cities—of just 3-4% compared to San Jose’s 30%. As such, one of our intended outcomes should be to bridge this gap and greatly increase housing opportunities for Latino, Black, and Southeast Asian communities of color.
4. **Constraints Analysis:** Several constraints appear to be missing, including but not limited to (1) local control and neighborhood opposition, (2) underutilized land such as dying strip malls, (3) relatively low surface area for development, (4) state law evasion/loopholes, (5) permit processing times. Additionally, several other state laws are missing that are in need of compliance like AB 2097 and AB 2011.
5. **Community Outreach:** While Cupertino has done some community outreach with regard to the housing element, it does not seem to have actually translated into actual policies or programs. The purpose of community outreach is to hear from traditionally underserved communities, so new ideas emerge for how to meet these specific housing needs. Instead, there are dozens of pages of outreach, with no actual effect on the resulting sites, programs, or policies. Additionally, much of the feedback critical of Cupertino’s approach to the inventory appears to be missing. The City must also be honest about its failures in approaching community outreach, such as the last City Council dismantling the stakeholder engagement group, or the anti-housing bias within the housing survey.
6. **Transit-Oriented Development & mixed use:** Cupertino’s housing element draft does not seem to contain a vision for the built-environment, as it isolates the thousands of planned homes from a much needed coinciding growth of bicycle and pedestrian infrastructure, reduced car use, and vibrant, mixed-use spaces. Instead, it makes few references to transit-oriented development and even unnecessarily restricts mixed-use. We should be planning our housing future around the reduction of car reliance and the promotion of our Climate Action Plan 2.0.
7. **Timeline:** Cupertino is last in the entire county and will no doubt lose local control under the builder’s remedy. Council should direct its staff and consultant team to focus entirely on more-or-less redoing the housing element draft as quickly as possible. The community would like to see an actual timeline and plan of action for achieving an ambitious housing element in a short period of time.
8. **Rezoning of Valco:** The Rise (formerly Valco) is the most important project for the City to meet its RHNA. It includes more than half of the City’s total RHNA and 136% of its low income units. One impediment is that the current GP and zoning do not allow for a

feasible project. While the SB 35 approval is currently in effect, if it were to lapse, the current GP/zoning designations are too restrictive and no project would occur. To be consistent with other housing element inventory sites, the City should amend the General Plan and zoning to be consistent with The Rise project. Strategy HE-1.3 that would make a residential-only project available “by right” is insufficient. The HE assumes that half of the units will be affordable, but that is only feasible if there are other supporting uses to help pay for the high cost of affordable housing, such as office space.

9. **Improving fee reduction language:** The HE makes clear that the City’s impact fees are both very high and an outlier in the region. This can inhibit the proliferation of new housing and deter affordable projects. One of the HE strategies calls for a reduction in fees, but does not establish a clear path forward for which fees would be reduced or which steps would be taken. Additionally, fee waivers beyond parkland fees should be readily permissible in cases of affordable housing projects. As a whole, the fee regime should be thoughtfully restructured and reevaluated to strike a balance between fulfilling important city functions, while not impeding new housing development.

Members across the community look forward to working with this new council and City Manager’s office to produce an ambitious housing element update that matches the innovation and ambition of our great town.

Sincerely,
Neil Park-McClintick

A handwritten signature in blue ink, appearing to read 'Neil Park-McClintick', with a long horizontal flourish extending to the right.

Chair, Cupertino for All

CC 01-17-2023

Item No. 23

Consider authorizing
the Director of Public
Works to reject all bids
received for Blackberry
Farm Pools
Improvements

Written Communications

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: RE: City Council Agenda January 17, 2022 #23 Blackberry Farm Pool Improvements
Date: Tuesday, January 17, 2023 3:07:05 PM

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

Dear City Council,

Regarding City Council Agenda January 17, 2022 #23 Blackberry Farm Pool Improvements

Yes, it makes sense to bifurcate the scope of work for this project.

Given the amount of investment considered, the public needs to fully understand the cost of running this operation.

Given its proximity to the creek and wildlife area on the edge of Cupertino, perhaps a pool complex at Memorial Park would be more appropriate.

A similar justification was made for re-thinking the golf course when the cost of irrigation improvements appeared to be quite high.

Furthermore, the blackberry farm pool and picnic business was previously in an enterprise fund – this allowed there to be some transparency as to the profits and losses for this business that is being run by the City.

I recall that the senior center had also been in an enterprise fund.

I recommend that all businesses that are being run by the City be put in enterprise funds to allow for further transparency.

Thanks Much,
Rhoda Fry

To: City of Cupertino – City Council Members and Staff

From: Cathy Helgersen – 408-253-0490 - cathyhelger@gmail.com

List of City Council Members – Hung Wei (Mayor), Sheila Mohan (Vice Mayor), Liang Fang Cao, J.R. Fruen, Kitty Moore

List of Staff Members – Jo Anne Johnson, Project Manager, Susan Michael Capital Improvement Program, Manager, Matt Morley, Director of Public Works, Pamela Wu, City Manager

Regarding: City Council Meeting Dated: 1/17/2023,

Item# 23 Blackberry Farm Pool Improvements Project.

The project has been rejected because the bids exceed the available budget which was received at \$469,000.00 dollars on December 2019. The authorized new amount of \$750,000.00 for the Fiscal year 2021-2022. The bids are over the new amount. It is stated that \$691,000.00 is available.

The staff has recommended that the project work be issued separately and the rebidding would be a significant cost savings.

Cathy Helgersen - Comment: Question what is the cost savings if the project is split in two? Where is the Justification on this in writing? The bid limit amount provided by the engineers estimate initially was \$587,525.54 dollars – The new amount is \$750,000.00. Question: How did the City Staff come up with this amount? What did the initial project request proposal require by the city this should be provided to the public and to the City Council?

Information – The first bids are as follows: 1) Western Water Features - \$890,031.61, 2) Tricon Aquatic Solutions at \$1,048,956.69. These bids are over the authorized new budget amount of \$750,000.00 or \$691,000.00 not sure what is really going on with the staff this needs to be reviewed.

Cathy Helgersen – Comment: Question why is the city not going out for bid again on the whole project with these two companies and maybe three others? How was the original Public Works Project estimate decided upon again a Justification in writing should have been provided to the public and City Council. Is there some way to come up with the additional funds to do the project in one project instead of two?

Cathy Helgersen – Comment and suggestion – The pool is a mess and it is old and I have observed during the off season the green algae and I complained about this and no one bothered to get back to me about it. I feel that it is time to build a new pool and to also put in a retractable enclosure so that the pool can be closed in the winter so it can be used by the public. This would also keep the pool clean in the winter which would save cleaning and cleaning products needed to maintain the pool. The pool has only been open in the summer months and is limited on hours and days that it is open. The pool will need to be heated in the winter but this pool is a great benefit for the children and the public.

The public's children and parents should be able to use this pool and it would allow a cleaner and more useful pool. I also want to see that no one pays a fee to use the pool which is a problem with many parents. The city is really not making that much money from charging people to use the pool.

I researched the Pool & Spa Enclosures on the web and they are really beautiful and I am sure there are other companies that also can build a pool that has a sliding overhead enclosure that goes over the pool and the spa if there was also to be a spa. The city could use financing of some kind to pay for it and why not ask Apple Computer for money to help with the expense.

Replastering the pool and reconditioning it is really a waste of money a new pool is needed and I would like to see a beautiful pool with a sliding overhead enclosure. Let's not waste the money on a patch job which seems to expensive and really does not show the public that the city is really thinking of them and the children that will learn to swim and to enjoy this pool.

The City of Cupertino has many projects and has used money for many projects that have been allowed but I have to say this project would really serve the people and the children in our community.

I would ask that the City Council look into this matter seriously and make the most of the city funds and also help to ensure that this new pool will serve the community for decades.

Please review my comments and suggestions I feel that the city needs to use the public's tax money appropriately. I would like to hear from the city about this please contact me.

Thanks,

Retractable pool, spa and patio enclosures

1 message

alex@sunrooms-enclosures.com <alex@sunrooms-enclosures.com>

Sat, Jan 14, 2023 at 7:35 AM

To: cathyhelger@gmail.com

Hi Cathy,

Swim All Year!! I can help you.

Thank you for your continued interest in our retractable pool, spa and patio (sunroom) enclosures that are exported around the world to over 40 countries.

Our diversity of models and product uniqueness are characterized by excellent quality, reliability, design innovation and ease of use.

You can view our **pool enclosure** models at: <https://www.sunrooms-enclosures.com/pool-enclosures-gallery/>You can view our **Standard enclosure** models at: <https://www.sunrooms-enclosures.com/pool-enclosures/standard-pool-swim-spa-enclosures/>You can view our **Patio enclosure** models at: <https://www.sunrooms-enclosures.com/patio-enclosures-gallery/>You can view our **Spa enclosure** models at: <https://www.sunrooms-enclosures.com/hot-tub-enclosures-gallery/>

In order to quote, I would need to know the model and size (width & length) enclosure you are looking for.

Are you looking for a pool, spa or patio enclosure?

Please email dimensions and photos.

Regards,

Alex Stankus

CEO

609-642-1030

www.sunrooms-enclosures.com

From: ContactPRO <ic.263507.au@ialukov.cz>
Sent: Saturday, January 14, 2023 10:22 AM
To: alex@sunrooms-enclosures.com
Subject: ContactPRO - Contact form USA

Dear user,

this is automatic reminder from ContactPRO applicaton - Contact gatherer A condition for sending this e-mail was fullfiled for contact below.

Contact form USA ID: 126043

Contact form USA

#: [126043](#)

ADM: Stonkus Alexander

Created: 2023-01-14 16:13:12

Status: New lead

Callcentrum:

Last status change: 2023-01-14 16:13:12

First Name: cathyhelger@gmail.com

Middle Name:

Surname: cathyhelger@gmail.com

Phone: 408-253-0490

E-mail: cathyhelger@gmail.com

Customer message: Do you have an office in San Jose, Ca.