



## CITY MANAGER'S OFFICE

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## CITY COUNCIL STAFF REPORT

Meeting: February 21, 2023

### Subject

Consider (1) adopting Resolution No. 23-\_\_\_\_ to repeal and replace Resolution No. 18-010, regarding the Legislative Review Committee; (2) establishment of an Economic Development Working Group by the City Manager; (3) amending the Cupertino Municipal Code to repeal Chapters 2.84 (Environmental Review Committee), 2.90 (Design Review Committee), and 2.96 (Economic Development Committee); to adopt Chapter 17.02 (California Environmental Quality Act), regarding local environmental review procedures; and to amend Chapters 2.32, 2.88, 9.20, 19.08, 19.12, 19.28, 19.104, and 19.124, regarding the duties of the Planning Commission, Audit Committee, and Local Assessment Committee; and (4) finding the above actions exempt from the California Environmental Quality Act

### Recommended Action

1. Adopt Resolution No. 23-\_\_\_\_, to repeal and replace Resolution No. 18-010, regarding the Legislative Review Committee.
2. Conduct the first reading of Ordinance No. 23-\_\_\_\_, repealing Municipal Code Chapters 2.84, 2.90, and 2.96, adopting Municipal Code Chapter 17.02, and amending Municipal Code Chapters 2.32, 2.88, 9.20, 19.08, 19.12, 19.28, 19.104, and 19.124.
3. Find the actions exempt from the California Environmental Quality Act.

### Reasons for Recommendation

#### ***Background***

On January 25, 2023, the City Council held a study session to consider modifying the responsibilities of existing Commissions and Committees. Following discussion and deliberation, the Council voted to adopt the staff recommendation to consolidate certain Commissions and Committees and to discontinue all previously formed Council subcommittees. The proposed changes to the structure

of City commission and committees are summarized below and reflected in a draft resolution (Attachment A) and ordinance (Attachments B and C). The discussion below also addresses Council direction regarding economic development issues provided at the January 25 meeting.

### ***Discussion***

#### *Legislative Review Committee*

The current Legislative Advocacy Policy was established in 2018 through the adoption of Resolution No. 18-010. The Policy delegates authority to the Legislative Review Committee (“LRC”) to take positions on proposed legislation that are in alignment with the City’s Legislative Platform.

On January 25, 2023, the City Council voted to dissolve the LRC in order to take positions on pending legislation as a full Council. Attachment A (Resolution No. \_\_\_) rescinds Resolution No. 18-010 and establishes an updated Legislative Advocacy Policy that requires full Council consideration of City positions on proposed legislation, except that the City Manager may act in limited circumstances where a Council-adopted policy or other clear direction provided by vote of the full Council supports the position taken on the legislation. The proposed resolution is consistent with the requirements of Municipal Code section 2.17.031.<sup>1</sup> Staff recommends that Council adopt the proposed resolution to ensure consistency with the Municipal Code and to authorize the City Manager to act on pending legislation in limited, exigent circumstances.

#### *Economic Development Committee*

On January 25, 2023, the City Council voted to direct staff to prepare an ordinance to dissolve the Economic Development Committee (“EDC”) and to return to Council with an alternative recommendation to support the City’s economic development objectives.

The proposed ordinance would repeal the ordinance establishing the EDC. In place of the EDC, staff recommends establishing an Economic Development Working Group, which would be facilitated by the Economic Development Division through the authorization of the City Manager.

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<sup>1</sup> Municipal Code section 2.17.031 provides: “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.”

The Working Group would further the City's economic development goals as follows:

- The Working Group would allow for greater flexibility, the ability to pivot quickly, and to promptly review items of immediate interest.
- The Working Group would serve in an advisory capacity to Economic Development staff on an as-needed basis, allowing for discussions around specific topics that are outside the scope of the current EDC's jurisdiction (e.g., taxation, fees, permitting).
- The Working Group would include a broad array of businesses and business-serving agencies both locally and regionally.

The first meeting of the Working Group is anticipated to take place in Spring/Summer of 2023. For the first six to twelve months, the Working Group would focus on assessing current programs and developing a holistic framework to support businesses by fostering a more robust ecosystem in terms of resources, information, and partnerships. Updates on the discussions and recommendations of the Working Group would be provided to Council annually via an informational memo or during staff updates at a Council meeting.

No action by Council is required if Council agrees with the staff recommendation. Alternatively, Council may direct staff to return with a different proposal for an economic development advisory body.

#### *Environmental Review Committee*

On January 25, 2023, Council further directed staff to prepare an ordinance to dissolve the Environmental Review Committee ("ERC") and reassign its functions to other advisory bodies or to staff. Proposed changes to the Municipal Code include:

1. Repealing Chapter 2.84 (Environmental Review Committee).
2. Amending Chapter 9.20 (Review of Off-Site Hazardous Waste Facilities) to address ERC functions in that Chapter.
3. Establishing a new Chapter 17.02 (California Environmental Quality Act) to ensure compliance with state CEQA Guidelines.

Determinations as to when an environmental impact report must be prepared for a project would be made by staff, in consultation with appropriate subject matter experts. The jurisdiction of the Local Assessment Committee ("LAC") would be

clarified to state that scoping meetings for off-site hazardous waste facilities should include issues related to CEQA review.<sup>2</sup> The LAC is not presently active.

The proposed Chapter 17.02 would adopt by reference the state CEQA Guidelines and authorize the City Manager to develop administrative procedures necessary to tailor the guidelines to the specific operations of the City. The proposed ordinance is necessary to comply with CEQA Guidelines section 15022 and would authorize the City Manager to replace out-of-date local CEQA procedures that are not in practice relied upon in the City’s current CEQA process.

#### *Design Review Committee*

On January 25, 2023, Council further directed staff to prepare an ordinance to dissolve the Design Review Committee (“DRC”) and reassign its functions to other advisory bodies or to staff. Proposed changes to the Municipal Code include:

1. Repealing Chapter 2.90 (Design Review Committee).
2. Repealing section 19.12.050 (Authority of the Design Review Committee) and all references in the Municipal Code to the “Design Review Committee” in Title 19.
3. Amending section 2.32.070(H) to remove the reference to the establishment of the DRC from the powers and functions of the Planning Commission.
4. Amending Title 19 to assign the current approval authority of the DRC as follows:

<b>Permit Type</b>	<b>Proposed Approval Authority</b>
Exception Requests in R1 Zoning District	Planning Commission
Sign Exceptions	Planning Commission
Parking Exceptions with Minor Applications as Defined in Chapter 19.12.030	Administrative Hearing
Fence Exceptions (for height, location and/or security gates)	Administrative Hearing
Two Story Permits in R1-a Zoning District	Planning Commission

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<sup>2</sup> Under Ordinance No. 1555 (1991), the City Council may appoint a Local Assessment Committee to review applications for off-site hazardous waste facilities processed pursuant to Chapter 9.20 of the Municipal Code. Based on a review of City records, it is not clear if this authority has ever been exercised. Council’s authority to appoint the LAC is unchanged by the proposed Code amendments.

ASA Permits for Exposed or Visible Neon Signs	Administrative Hearing
ASA Permits for Decorative Statuary	Administrative Hearing

As noted in the table above, approval authority currently delegated to the DRC would be divided between approval at an Administrative Hearing and approval by the Planning Commission.<sup>3</sup>

#### *Audit Committee*

The City Council did not provide direction regarding the Audit Committee's responsibilities at its January 25 meeting. However, on January 23, 2023, the Audit Committee met and voted unanimously to recommend that the Council amend certain financial reporting requirements, including some requirements codified in the Municipal Code. The proposed changes to Chapter 2.88 of the Municipal Code are included in Attachments B and C.

Government Code sections 41004, 53607, and 53646<sup>4</sup> govern the Treasurer's financial reporting. The City complies with section 41004 through the monthly reporting of receipts, disbursements, and fund balances to the City Council.

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<sup>3</sup> Administrative Hearings are publicly noticed meetings where decisions are made by the Hearing Officer (usually the Community Development Director or his/her designee). The meetings use procedures similar to those currently used by the DRC and meet on an as-needed basis. Types of projects considered at Administrative Hearings include decisions on parcel maps (four or fewer lot subdivisions), homes in planned development zoning districts, and additions and improvements in duplexes, triplexes, and other multi-family residential districts. Decisions of the Hearing Officer can be appealed to the Planning Commission. The Planning Commission's decisions can be appealed to the City Council.

<sup>4</sup> Government Code section 41004 provides: "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."

Government Code section 53607 authorizes the City Council to delegate authority to invest local agency funds to the Treasurer. The Treasurer must make a monthly report of transactions to the Council.

Government Code section 53646 governs local agency investment policies and provides that "[t]he treasurer or chief fiscal officer may render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency."

Consistent with the Audit Committee recommendation, this reporting will be provided directly to Council via off-agenda memoranda. No Council action is required to implement the Audit Committee recommendation.

The City complies with Government Code section 53607 by providing a monthly report of investment transactions to Council. As with Monthly Treasurer's Reports, the Audit Committee recommended that these Monthly Investment Reports be provided to Council via off-agenda memoranda. No Council action is required to implement the Audit Committee recommendation.

The City complies with Government Code section 53646 by presenting Quarterly Investment Reports for review by the City Council at a noticed public meeting. This practice would not be altered by the Audit Committee's recommendation. However, the Audit Committee recommended that the City Council amend the Committee's jurisdiction to allow the Committee to review Quarterly Investment Reports before they are presented to Council. The proposed ordinance revises Municipal Code section 2.88.100 to authorize the Audit Committee to review Quarterly Investment Reports, while allowing Monthly Treasurer's Reports to be provided directly to Council as described above.

None of the recommendations of the Audit Committee affects the processing of Accounts Payable reports, which will continue to be presented to Council for ratification pursuant to Resolution No. 5939.

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

California Environmental Quality Act

The proposed action is exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines section 15320 (Changes in Organization of Local Agencies). Additionally, the proposed action is exempt from CEQA because it can be seen with certainty that there is no possibility that the action in question may have a significant impact on the environment. (CEQA Guidelines, § 15061(b)(3).)

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Attachments:

A – Draft Resolution

B – Draft Ordinance (Redline)

C – Draft Ordinance (Clean)