



PUBLIC WORKS DEPARTMENT

CITY HALL

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CITY COUNCIL STAFF REPORT

Meeting: April 3, 2018

Subject

Amend Cupertino Municipal Code Chapter 2.48 to codify design approval authority for public improvements and update the organizational structure of the Department of Public Works.

Recommended Actions

Conduct the first reading of the Draft Ordinance: "An Ordinance of the City Council of the City of Cupertino Amending Section 2.48, "Departments and Divisions",

and;

Schedule the second reading for April 17.

Background

The Government Code provides an affirmative defense of "design immunity" for a public entity where there is a claim of an injury caused by a dangerous condition of public property. To establish the immunity, a city must show that, before constructing or improving the public property, the city had approved the reasonable plan or design for the property that caused the injury, or that the plan or design conformed with previously approved standards. The City's Municipal Code already provides that the Department of Public Works is responsible for the design and maintenance of transportation facilities and traffic signal improvements.

This proposed Municipal Code amendment provides further clarification of the City Engineer's, along with the Director of Public Work's, authority to approve plans and designs for all public projects and improvements, vesting that discretionary authority in the City Engineer. The proposed Amendment also authorizes the City Engineer to accept a public works project on behalf of the City and to record a notice of completion for a project that has been accepted by the City.

Discussion

California Government Code section 830.6 provides that neither a public entity nor a public employee is liable for an injury caused by the plan or design of a construction of, or an improvement to, public property when the plan or design is approved in advance

of the construction or improvement by the legislative body of the public entity, or by some other body or employee exercising discretionary authority to give such approval.

The Municipal Code Amendment, in order to facilitate efficiency in the review and approval of plans and designs for City projects, and to preserve the City's design immunity protection under Section 830.6, would, in addition to the Director of Public Works, confer upon and delegate the authority to approve plans and designs for all of the City's public works projects to the City Engineer, or his or her designee.

Sustainability Impact

None.

Fiscal Impact

None.

Prepared by: Timm Borden, Director of Public Works
Approved for Submission by: David Brandt, City Manager

Attachments:

A – Draft Ordinance
B - Redline changes