



# COMMISSIONER'S HANDBOOK

~~2021~~

2024

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## THE STRUCTURE OF GOVERNMENT

### FORM OF GOVERNMENT

The City of Cupertino operates as a general law city with a City Council-City Manager form of government where the City Council sets policy ~~and the~~. The City Manager manages the implementation and administration of those policies.

### CITY COUNCIL

The City Council is the governing legislative body of the City, consisting of five members elected in odd numbered years to staggered four-year terms. These councilmembers then elect the mayor and vice mayor to one-year terms. ~~It~~The City Council sets goals and priorities and establishes policies. The Mayor is the presiding officer of the Council, and the official spokesperson and representative of the City.

### CITY MANAGER AND STAFF

#### City Manager

The City Manager has complete responsibility and authority for the administration of the City's government. ~~This individual~~The City Manager is appointed by and serves at the pleasure of the Council and is the appointing authority for the City, selecting the department heads and other employees. The City Manager coordinates and directs the services of the City staff, ~~and commissioners.~~ Commissioners should not attempt to direct or prioritize work for departments or individual staff.

#### City Clerk

The City Clerk ~~plays an important role for advisory bodies, administers the recruitment, appointment, and onboarding of the appointed commissioners.~~ The City Clerk ~~accepts and maintains applications, processes appointments, updates~~administers the necessary steps for commissioners to begin their service, including administering the Oath of Office to commissioners and providing an orientation to the commissioners regarding the role of the commission to which they have been appointed. The City Clerk oversees commission membership rosters, bylaws, informational booklets, and yearly, including annual attendance records, ensuring commissioners submit a signed Code of Ethics and complete the AB 1234 Local Ethics and Harassment Prevention trainings, as required by State law. The City Clerk is the filing officer for Statements of Economic Interests,

(Form 700s), and any other required filing as identified by the City Council and the State.

#### City Attorney

The City Attorney's Office provides legal advice to City commissions and staff supporting the commissions. The City Attorney may provide advice regarding matters pending before a commission, compliance with the Brown Act, and other legal issues. In addition, commissioners may seek informal advice from the City Attorney's Office regarding conflicts of interest; provided, however, that it is understood that a commissioner is automatically protected from potential liability for conflict of interest only upon taking action that conforms to a written opinion issued by the California Fair Political Practices Commission.

#### Staff

When assigned by the City Manager, staff assist and act in a technical advisory capacity to the commissions. It is not expected that every staff recommendation will be followed; however, because of the staff's technical knowledge, full consideration should be given to their recommendation. Staff are at liberty to make their recommendation to the City Council through the City Manager, even though the commission may have taken a different position. However, in these cases, the commission recommendation will be made clear to the City Council.

#### Staff Liaison

A staff liaison is assigned to each commission. Their main duties include facilitating meetings, preparing agendas, advising commissioners, and ~~writing~~preparing meeting minutes. Commissioners should reach out to their liaison if they have any questions regarding matters of the commission or if they would like to contact other staff regarding official business.

## COMMISSIONS

Commissions are subsidiary legislative bodies, subject to the Brown Act, comprised solely of members appointed by the City Council. The primary purpose of the City's commissions is to serve as advisory bodies to Council by weighing public input and rendering recommendations to the City Council. There are times when the advisory body's recommendation will not be sustained or will be modified by the City Council. It is important to recognize this not as a rejection of the integrity of the recommendation, but as an inevitable part of the process of community decision-making. The Council has appointed commissioners as advisors to them. This underlying philosophy makes it improper for an individual

commissioner, acting in their official capacity, to try to persuade the Council into the acceptance of a recommendation other than that voted by the majority of the commission. The role of a commission is to assist the City Council in the formation of policy, having been created for the purpose of advising. The scope of work, purpose, and other primary functions for each commission can be found in the City Municipal Code Chapter Title 2.

### Chair and Vice Chair

Each year, every commission will elect from its membership a Chairperson (Chair) and a vice Chairperson (Vice Chair) who serve at the pleasure of the commission for a one-year term. The Vice Chair acts in this capacity when the Chair is not available.

The Chair should:

- Maintain order of the meeting, ensure respect for all opinions, protect commissioners, staff, and the public from personal attacks.
- Keep discussion focused on the issue at hand.
- Solicit opinions from commissioners. Encourage evaluation of new, tentative, or incomplete ideas. Discourage overly dominant commissioners from having disproportionate control over the discussion.
- Attempt to reach decisions expeditiously on action items. At those times when action would be premature, guide discussion toward a timeline or framework for responsible action.
- Set meeting rules early and make sure everyone abides by them without exception.
- Set an acceptable time limit for public testimony (generally three minutes per individual and 10 minutes per group) and stick to it. At the Chair's discretion, the public can interact with the members of the commission beyond the public-comment time limit in order to facilitate better communication of the agenda item. However, the Chair should take care that all members of the public are given the same opportunities to participate in commission meetings.
- Provide periodic ~~written~~ updates, approved by the full body, to Council regarding the status of their activities at least every six months.

## COMMITTEES

Committees, for purposes of this Handbook, are subsidiary legislative bodies that are comprised in part of members appointed by the City Council (either directly

or ex officio). Committees may also include Councilmembers or City staff among their membership. Where applicable, the requirements of this Handbook shall apply to Council-appointed committee members and to committee meetings and procedures.

## **COMMISSION MEMBERSHIP**

### **QUORUM~~AND~~, ATTENDANCE, TRAINING, AND REPORTING**

A quorum consists of a majority of the members of the commission. A quorum is required to conduct business at any meeting whether it is a regular, adjourned, or special meeting. While it is expected that members be present at all meetings, the Chair should be notified if a member knows in advance that he/she will be absent. Each member should complete all training required by state or federal law or by a City rule or policy. A member shall be considered removed from an advisory body under the following conditions:

- A member misses more than three consecutive meetings
- A member misses more than 25% of the advisory body's regular meetings in a calendar year ~~(16-137)~~
- A member fails to comply with legally required training or conflict of interest reporting requirements after receiving notice and a reasonable opportunity to correct the noncompliance

### **VACANCIES**

Vacancies are filled by appointment by the Council. Appointments made in the middle of a term are for the unexpired portion of that term. ~~Council-appointed Alternates will automatically fill a vacancy.~~

### **RESIGNATIONS AND REMOVALS**

If a member is unable to continue serving because of health, business requirements or personal reasons, a letter of resignation should be submitted to the City Council.

The position of any member is automatically vacated when the member ceases to meet the qualifications for office, when Council accepts the member's resignation, when the member fails to comply with requirements of Section A, above, or when the Council so declares.

## **ETHICS**

The citizens and businesses of Cupertino and the general public are entitled to have fair, ethical, and accountable local government. To this end, the City Council has adopted a Code of Ethics and Conduct for Elected and Appointed Officials (Resolution No. 23-122). Commissioners should be familiar with and must comply with the Ethics Code in conducting City business.

## **MEETINGS**

### **REGULAR MEETINGS**

Commissions are required to hold regular meetings open to the public as provided by the enabling ordinance. The agenda for this meeting must be posted at least 72 hours prior to the meeting. A meeting may be cancelled by the staff liaison in consultation with the Chair if there is no Commission business to be conducted.

### **ADJOURNED MEETINGS**

If the business to be considered at a regular meeting cannot be completed, the commission then may designate a time and date for an adjourned meeting.

### **SPECIAL MEETINGS**

A special meeting may be called by the Chair or a majority of the members with coordination with the staff liaison.

### **SUBCOMMITTEES**

The Chair may appoint special subcommittees of less than a quorum of the commission who then may meet at their convenience to carry out the purpose of the subcommittee. If the subcommittee has a continuing subject matter or a regularly scheduled meeting time, it may qualify as a [Brown Act](#) committee and public notice provisions will apply.

### **AGENDAS**

Each commission has a staff liaison responsible for preparing agendas in consultation with the Chair. If a commissioner or staff member intends to bring up an item for discussion or action, the item must be included on the agenda in

accordance with the Brown Act. For each meeting, a date should be scheduled for the Chair and staff liaison to set the agenda. Commissioners can propose agenda items within the purpose of the commission to the staff liaison prior to the agenda setting date. No agenda item requiring preparation of a staff report may be scheduled without approval of the City Manager or their designee.

#### Future Agenda Setting

The staff liaison will maintain a list of future agenda items that the commission plans to discuss. The Chair, the staff liaison, or any two commissioners can add an agenda item within their purpose to the future agenda item list and it will be scheduled at the discretion of the Chair and staff liaison. To provide commissioners an opportunity to discuss whether to add an item to the future agenda item list, each regularly -scheduled agenda will include a “Future Agenda Setting” item. Once an item is added to the future agenda item list, it cannot be removed until it is discussed for removal at a regularly scheduled meeting during the item for “Future Agenda Setting.” In addition, the item will not be removed if the Chair or at least two commissioners wish for the item to remain on the future agenda item list.

#### Staff Updates and Commissioner Activity Report

Each regularly scheduled agenda will also include a “Staff Updates and Commissioner Activity Report” item for staff to report on updates and the members to provide a concise report on any activities they have taken part in related to the commission since the prior regularly scheduled meeting.

### **PREPARATION FOR MEETINGS**

- —Thoroughly review the agenda packet, including agenda reports, and any other materials *before* the meeting. Check if you may have a conflict of interest with any of the items due to property or monetary interests. If it is unclear, the commissioner
- can explain the situation to the staff liaison who can seek legal counsel from the City Attorney. For more information on conflicts of interest, please review [the Fair Political Practices Commission \(FPPC\) Conflicts of Interest Rules](#).
- Understand what action you are being called upon to take for each particular agenda item.
- Contact the Chair or your staff liaison before the meeting to clarify questions about the agenda or request further information.
- Understand the responsibilities of your commission. As a member of an



advisory body, you will be asked to provide recommendations to the City Council about specific issues. Keep in mind that your appointment does not empower you to supervise or direct City staff.

## MINUTES

The approved minutes are placed on file by the City Clerk for public access. Commissions should strive to keep summary minutes as opposed to action minutes, unless automatic transcription of the meeting is available. If automatic transcription is made available to supplement official minutes, action minutes may be sufficient.

## PROCEDURE

Commissions follow the guidelines on parliamentary procedure contained in [Rosenberg's Rules of Order](#) (Rules). These Rules outline how motions are made and the basic format for an agenda item discussion.

## DECORUM AT MEETINGS

- Discourage outward signs of agreement or disagreement from the audience such as cheering or clapping. Such demonstrations can intimidate those wishing to express alternate views and delay the meeting. Also see Conduct of Members in the [Cupertino Ethics Policy Code](#).
- Limit your own comments to the issues before the commission. Avoid the appearance of straying from the subject or "grandstanding".

## BASIS FOR YOUR DECISION

Commission decisions should be based principally on the information presented to you in the open public meeting process. If you collect pertinent information outside of the public process through a meeting with stake holders or site visits, you should share that information with your fellow commissioners in the public meeting. This sharing of information will ensure that other commissioners and members of the public have a better understanding of the rationale for your decision.

Commissioners are free to meet or refuse to meet with residents, resident groups,

developers or prospective contractors, or any persons outside of the public meeting process concerning issues before the commission. ~~If you meet~~ Commissioners shall disclose any ex parte contact with ~~any parties to or participants in a quasi-judicial matter. (A quasi-judicial matter is typically a hearing in which a -commission hears evidence and makes findings of fact to reach a conclusion based on the applicable law.) Commissioners are encouraged to disclose meetings with other individuals outside of the public meeting you should disclose the content of that meeting in the public meeting to again ensure that everybody is aware of the facts and have similar~~ provide information upon which to base ~~their decision; this disclosure is required for quasi-judicial matters.~~ the commissioners' decisions.

All ~~governmental~~ quasi-judicial procedures and process must follow due process and allow an affected party a right to be heard, and to present controverting fact or testimony on the question of right in the matter involved. Unfair determinations, such as bias, predetermination, ~~or~~ refusal to hear, etc., an issue, may invalidate actions.

Keep an open mind. An objective, balanced, and receptive approach will help you assess the facets of a given issue and evaluate new ideas. When receiving written and oral public testimony it will be necessary to discern between fact and opinion, as well as between those concerns which are relevant and those which are secondary to the issue at hand. Keeping an open mind will make it easier for you to understand all sides of an issue before you make a judgment or take a position.

### RECOMMENDATIONS TO CITY COUNCIL

The Chair shall select a member to represent the commission at any City Council meeting where a commission recommendation is agendized for discussion. The commission representative should strive to represent the position of the commission as a whole at the meeting, as necessary, regardless of the personal views of the member.

### CITY WORK PROGRAM

The City Council approves an annual City Work Program to guide the work of the City. Prior to the first draft of the City Work Program each year, staff ~~will~~ may reach out to the commissions to review current City Work Program items and ask for recommendations for additional items within the scope of ~~items to add~~ the commission's jurisdiction, if any. These recommendations will be provided to the

City Council for consideration, but ultimately the City Council will determine the final items on the City Work Program. ~~Commissions support City Work Program items within their scope by reviewing the items and making recommendations to City Council.~~ Since the City Council sets the City Work Program to guide the priority efforts in the City, commission agendas should be aligned accordingly. ~~By August 15, each commission should provide an annual report of all of the topics the commission has addressed in the prior year.~~

## **COMMUNICATIONS**

### **STAYING INFORMED**

Commissioners should [sign up for City email notifications](#) to stay informed of various community events and public meetings. ~~Council encourages commissioners to attend at least two community meetings or meetings of other commissions each year.~~

The City uses social media outlets, surveys, email notifications, the Scene, and the City website ~~to perform for~~ outreach ~~for City business to the community.~~ For appropriate conduct on social media, see the City's [Social Media Policy](#). ~~For questions about City outreach, speak with your staff liaison.~~

### **USE OF CITY EMAIL**

All newly appointed City commissioners will be assigned a mandatory City email address after reviewing and signing the [Technology Use Policy](#).

As noted under the Brown Act, care should be taken with regard to emails. Never select "Reply All" to an email to all commissioners or forward an email sent to you by one commissioner to another commissioner since that would constitute a quorum. All questions and concerns should be directed to the Chair and staff liaison.

All City emails are subject to the Public Records Act and you should use your City email only to conduct City business as a commissioner. Please do not forward or reply to a City email from your personal email address. Once your term on the commission is over, your City email will be terminated.

## **RESOURCES**

Commissioners should familiarize themselves with the following resources:

City policies relating to ethics, social media, commissions, diversity, and technology, as well as the City organizational chart, a Rosenberg's Rules of Order cheat sheet, and ~~guidance on imposed restraints,~~other resources can be found online in the [Commission Resources folder](#).

~~League of California Cities~~

~~Institute for Local Government~~