



**DRAFT MINUTES**  
**CUPERTINO CITY COUNCIL**  
Wednesday, February 21, 2024

**SPECIAL MEETING**

At 5:30 p.m., Mayor Sheila Mohan called the Special City Council Meeting to order in Cupertino City Hall Conference Room C, 10300 Torre Avenue.

**ROLL CALL**

Present: Mayor Sheila Mohan, Vice Mayor J.R. Fruen, and Councilmembers Liang Chao, Kitty Moore, and Hung Wei. Absent: none.

In open session prior to closed session, Mayor Mohan opened the public comment period regarding any item on the agenda. No members of the public requested to speak, and Mayor Mohan closed the public comment period.

**CLOSED SESSION**

1. Subject: Conference with legal counsel - existing litigation pursuant to Government Code § 54956.9 (City of Cupertino v. California Department of Tax & Fee Administration)

Council met with legal counsel regarding the existing litigation (City of Cupertino v. California Department of Tax & Fee Administration).

At 6:05 p.m., Mayor Mohan recessed the meeting.

**OPEN SESSION**

At 6:45 p.m., Mayor Mohan reconvened the Special City Council Meeting in open session and led the Pledge of Allegiance in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

**ROLL CALL**

Present: Mayor Sheila Mohan, Vice Mayor J.R. Fruen, and Councilmembers Liang Chao, Kitty Moore, and Hung Wei. Absent: none.

## **CLOSED SESSION REPORT**

City Attorney Jensen conducted an open session report regarding the closed session heard at 5:30 p.m. There was no reportable action.

## **CEREMONIAL ITEMS – None**

## **POSTPONEMENTS AND ORDERS OF THE DAY**

2. Subject: Cessation of Hybrid Commission and Committee Meetings (Postponed from February 6, 2024)  
Recommended Action: Continue the item to a date to be identified by staff in consultation with the Mayor

MOTION: Fruen moved and Wei seconded to continue Item 2 Cessation of Hybrid Commission and Committee Meetings to a date to be determined. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

## **ORAL COMMUNICATIONS**

Written communications for this item included emails to Council.

The following people spoke:

Jennifer Griffin discussed Cupertino's sales tax revenue and the Housing Element.

Jeff Foster discussed the Union Pacific Railroad and Rails to Trails Conservancy organization (submitted written comments).

Lisa Warren discussed Item 2, written communications, and the Rise project.

Peggy Griffin discussed the Housing Element (submitted written comments).

Rhoda Fry discussed the Vallco (Rise) project and BMR (Below Market Rate) Housing Fund.

Louise Saadati discussed State of the City and City presentations, Item 2, and the Rise project.

Tyler Hawes, representing Civic Bell, discussed the Civic Bell organization.

San R discussed the budget, City fees, a City survey, and Item 2.

Long Jiao representing Cupertino Voice discussed the Cupertino Voice organization and Item 8.

Call-In User\_1 discussed a Code Enforcement matter.

### **CONSENT CALENDAR (Items 3-7)**

Mayor Mohan opened the public comment period and, seeing no one, closed the public comment period.

MOTION: Wei moved and Fruen seconded to approve the items on the Consent Calendar except for item 6 which was pulled for discussion. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

Item 6 was placed after the Action Calendar for consideration.

3.     Subject: Approve the January 29, 2024 City Council minutes  
          Recommended Action: Approve the January 29, 2024 City Council minutes
4.     Subject: Approve the January 30, 2024 City Council minutes  
          Recommended Action: Approve the January 30, 2024 City Council minutes
5.     Subject: Approve the February 6, 2024 City Council minutes  
          Recommended Action: Approve the February 6, 2024 City Council minutes
7.     Subject: Coffee Society Lease Agreement, 10800 Torre Avenue, Cupertino, CA 95014.  
          Recommended Action: Authorize the City Manager to execute a five-year lease agreement with the Coffee Society.

**PUBLIC HEARINGS – None**

### **ACTION CALENDAR**

8.     Subject: Potential November 2024 Revenue Tax Measure Opinion Research  
          Recommended Action: Forego opinion polling and additional efforts at a November 2024 revenue-generating ballot initiative  
          Presenter: Thomas Leung, Budget Manager

Written communications for this item included a staff presentation, desk item with staff responses to councilmember questions, and emails to Council.

Budget Manager Thomas Leung gave a presentation.

Councilmembers asked questions and made comments.

Mayor Mohan opened the public comment period and the following people spoke.

Long Jiao, representing Cupertino Voice, as noted under Oral Communications (submitted written comments)

Jennifer Griffin

Rhoda Fry

Louis Saadati

San R

Srividya

Mayor Mohan closed the public comment period.

MOTION: Wei moved and Moore seconded accept the recommended action to forego opinion polling and additional efforts at a November 2024 revenue-generating ballot initiative. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

At 7:57 p.m., Mayor Mohan recessed the meeting. The meeting reconvened at 8:03 p.m. with all Councilmembers present.

9. Subject: Accept the City Manager's Mid-Year Financial Report for Fiscal Year 2023-24  
Recommended Action: 1. Accept the City Manager's Mid-Year Financial Report for Fiscal Year 2023-24  
2. Adopt Resolution No. 24-020 approving Budget Modification No. 2324-326, increasing appropriations by \$10,057 and revenues by \$807,672.  
Presenter: Thomas Leung, Budget Manager

Written communications for this item included a staff presentation, supplemental report with staff responses to councilmember questions, desk item with staff responses to councilmember questions and amended Attachments G – FY 2022-23 Special Projects Update and H – FY 2023-24 Mid-Year Special Projects Update, and emails to Council.

Administrative Services Director Kristina Alfaro and Budget Manager Thomas Leung gave a presentation.

Councilmembers asked questions and made comments.

Mayor Mohan opened the public comment period and the following people spoke.

Jennifer Griffin

Peggy Griffin (submitted written comments)

Rhoda Fry

San R

Sri Nagarajan

Deepa Mahendraker

Tracy K

Mayor Mohan closed the public comment period.

SECOND SUBSTITUTE MOTION: Fruen moved and Chao seconded a second substitute motion for the staff recommended action to:

1. Accept the City Manager's Mid-Year Financial Report for Fiscal Year 2023-24;
2. Adopt Resolution No. 24-020 approving Budget Modification No. 2324-326, increasing appropriations by \$10,057 and revenues by \$807,672; and
3. Direct staff further to follow up with Councilmember Moore with respect to all of her questions involving the reconciliation that she would like.

Council did not vote on this motion.

AMENDED SECOND SUBSTITUTE MOTION: Fruen amended the second substitute motion for the staff recommended action to:

1. Accept the City Manager's Mid-Year Financial Report for Fiscal Year 2023-24;
2. Adopt Resolution No. 24-020 approving Budget Modification No. 2324-326, increasing appropriations by \$10,057 and revenues by \$807,672; and
3. **With additional direction to staff to follow up with all Councilmembers by the end of the week to solicit their questions that they might have with respect the item.** (Chao accepted Fruen's amendment). The amended second substitute motion failed with the following vote: Ayes: Fruen and Chao. Noes: Mohan, Moore, and Wei. Abstain: None. Absent: None.

SUBSTITUTE MOTION: Moore moved and Chao seconded a substitute motion to reconcile Attachment C (Description of Carryovers and Adjustments through December 31, 2023) with the Fiscal Year 2023-24 Mid-Year Special Projects for completion and/or removal of some line items and return to Council with that information and a newly recommended budget modification. The substitute motion failed with the following vote: Ayes: Chao and Moore. Noes: Mohan, Fruen, and Wei. Abstain: None. Absent:

None.

MOTION: Wei moved and Chao seconded the staff recommendation to:

1. Accept the City Manager's Mid-Year Financial Report for Fiscal Year 2023-24
2. Adopt Resolution No. 24-020 approving Budget Modification No. 2324-326, increasing appropriations by \$10,057 and revenues by \$807,672.

The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, and Wei. Noes: Moore. Abstain: None. Absent: None.

10. Subject: Amendments to the Cupertino Municipal Code Chapter 3.22 (Purchase of Supplies, Materials, Equipment and Services) and Chapter 3.23 (Public Works Contract and Bidding Procedures) of Title 3 (Revenue and Finance)

Recommended Action: Conduct the first reading of Ordinance No. 24-2254: "An Ordinance of the City Council of the City of Cupertino Amending Chapters 3.22 and 3.23 of the Municipal Code regarding the purchase of goods and services, and contract and bidding procedures for public work contracts."

Presenter: Greg Card, Purchasing Manager

Written communications for this item included a staff presentation, supplemental report with staff responses to councilmember questions, and Purchasing Matrix.

Purchasing Manager Greg Card gave a presentation.

Councilmembers asked questions and made comments.

Mayor Mohan opened the public comment period and the following people spoke.

Peggy Griffin (submitted written comments)

Rhoda Fry

Mayor Mohan closed the public comment period.

The City Clerk noted a typo in the Ordinance No. listed on the agenda which was corrected to 24-2255.

City Clerk Kirsten Squarcia read the title of Ordinance No. 24-2255: "An Ordinance of the City Council of the City of Cupertino Amending Chapters 3.22 and 3.23 of the Municipal Code regarding the purchase of goods and services, and contract and bidding procedures for public work contracts."

MOTION: Chao moved and Fruen seconded the recommended action to conduct the

first reading of Ordinance No. 24-2255; and for the City Clerk to read the title of Ordinance No. 24-2255, that further reading of the Ordinance be waived, and that the City Council conduct the first reading of the Ordinance by title only. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

At 9:57 p.m., Mayor Mohan recessed the meeting. The meeting reconvened at 10:01 p.m. with all Councilmembers present.

## ITEMS REMOVED FROM THE CONSENT CALENDAR

6. Subject: Ratifying Accounts Payable for the periods ending December 29, 2023; January 5, 2024; January 12, 2024; January 19, 2024; and January 26, 2024  
Recommended Action: A. Adopt Resolution No. 24-015 ratifying Accounts Payable for the Period ending December 29, 2023;  
B. Adopt Resolution No. 24-016 ratifying Accounts Payable for the Period ending January 5, 2024;  
C. Adopt Resolution No. 24-017 ratifying Accounts Payable for the Period ending January 12, 2024;  
D. Adopt Resolution No. 24-018 ratifying Accounts Payable for the Period ending January 19, 2024; and  
E. Adopt Resolution No. 24-019 ratifying Accounts Payable for the Period ending January 26, 2024

This item was pulled from the Consent Calendar for discussion.

Written communications for this item included a desk item with staff responses to councilmember questions and emails to Council.

Mayor Mohan opened the public comment period and the following people spoke.

Jennifer Griffin  
Rhoda Fry  
Peggy Griffin  
Lisa Warren  
Babu Srinivasan

Mayor Mohan closed the public comment period.

MOTION: Chao moved and Fruen seconded the staff recommendation to:

- A. Adopt Resolution No. 24-015 ratifying Accounts Payable for the Period ending

December 29, 2023;

B. Adopt Resolution No. 24-016 ratifying Accounts Payable for the Period ending January 5, 2024;

C. Adopt Resolution No. 24-017 ratifying Accounts Payable for the Period ending January 12, 2024;

D. Adopt Resolution No. 24-018 ratifying Accounts Payable for the Period ending January 19, 2024; and

E. Adopt Resolution No. 24-019 ratifying Accounts Payable for the Period ending January 26, 2024.

The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei.  
Noes: None. Abstain: None. Absent: None.

## COUNCIL REPORTS AND COMMENTS

### 11. Subject: Councilmember Reports

Councilmembers reported on their various committees and activities as provided in the published agenda.

**CITY MANAGER REPORT** – None

**ORAL COMMUNICATIONS – CONTINUED** – None

## INFORMATIONAL ITEMS

### 12. Subject: Receive the Monthly Treasurer's Report for January 2024

Recommended Action: Receive the Monthly Treasurer's Report for January 2024

The information regarding the Monthly Treasurer's Report for January 2024 was provided as part of the published agenda.

### 13. Subject: Receive the Monthly Treasurer's Investment Report for January 2024

Recommended Action: Receive the Monthly Treasurer's Investment Report for January 2024

The information regarding the Monthly Treasurer's Investment Report for January 2024 was provided as part of the published agenda.

### 14. Subject: Receive the Treasurer's Investment Report for the Quarter Ending December 31, 2023

Recommended Action: Receive the Treasurer's Investment Report for the Quarter



Ending December 31, 2023

The information regarding the Treasurer's Investment Report for the Quarter Ending December 31, 2023 was provided as part of the published agenda.

#### **COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS**

Chao and Moore added a study session on the draft housing element process.

#### **ADJOURNMENT**

At 10:27 p.m., Mayor Mohan adjourned the Regular City Council Meeting.

Minutes prepared by:

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Kirsten Squarcia, City Clerk