



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, December 5, 2023

SPECIAL MEETING

At 5:00 p.m., Mayor Wei called the Special City Council Meeting to order in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

ROLL CALL

Present: Mayor Hung Wei, Vice Mayor Sheila Mohan, and Councilmembers Liang Chao (5:04 p.m.), J.R. Fruen, and Kitty Moore. Absent: none.

STUDY SESSION

1. Subject: Receive presentation regarding revenue tax measure options for the City's General Fund and provide direction to staff on which revenue tax measure(s), if any, to explore for feasibility through opinion research for the November 2024 election
Recommended Action: Provide direction to staff regarding exploring the feasibility of one or more potential revenue tax measures-Transaction and Use Tax, Transient Occupancy Tax, Parcel Tax, and/or Business Operations Tax-through opinion research for the November 2024 election
Presenter: Kristina Alfaro, Director of Administrative Services

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

Director of Administrative Services Kristina Alfaro introduced the item.

Wing-See Fox and James Morris, Managing Directors with Urban Futures, gave a presentation.

Councilmembers asked questions and made comments.

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

Claudio Bono (representing the Cupertino Hotel)
Rhoda Fry (submitted written comments)
Yvonne Thorstenson
Jean Bedord
Glenn Fishler
Mohan
Yan Song
Babu Srinivasan
San R
Parks and Recreation Commissioner Jennifer Shearin (representing self)
Sean Hughes
Peggy Griffin
Louise Saadati
Debbie Timmers

Mayor Wei closed the public comment period.

MOTION: Fruen moved and Mohan seconded to direct the City Manager to:

1. Delay any polling on the question of any specific revenue measure;
2. Conduct outreach to the business community on the potential revenue measures; and
3. Return to Council early in the new year to report back on the findings of outreach to the business community and to receive further direction.

FRIENDLY AMENDMENT: Chao made a friendly amendment to direct staff to consider a resident survey on the potential tax measures to also conduct outreach to the residents. (Fruen declined the friendly amendment and it was not included in the motion).

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

ADJOURNMENT

At 6:34 p.m., Mayor Wei adjourned the Special City Council Meeting.

REGULAR MEETING

At 6:45 p.m., Mayor Wei called the Regular City Council Meeting to order and led the Pledge of Allegiance in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

ROLL CALL

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

CLOSED SESSION REPORT - None

CEREMONIAL ITEMS

1. Subject: Certificates of appreciation to volunteers at the Silicon Valley Korean School (SVKS)

Recommended Action: Present certificates of appreciation to volunteers at the Silicon Valley Korean School (SVKS)

Mayor Wei presented the certificates of appreciation to the volunteers at the Silicon Valley Korean School (SVKS).

2. Subject: Recognition of Manny Barragan as the City of Cupertino's longest serving employee

Recommended Action: Present certificate of recognition recognizing Manny Barragan as the City of Cupertino's longest serving employee

Mayor Wei presented the certificate of recognition to Manny Barragan as the City of Cupertino's longest serving employee.

3. Subject: Recognition of Cupertino Sister City relationships

Recommended Action: Present certificates of recognition to Cupertino Sister Cities representing Cupertino, Italy; Toyokawa, Japan; Hsinchu, Taiwan; and Bhubaneswar, India

Mayor Wei presented the certificates of recognition to the Cupertino Sister Cities representing Cupertino, Italy; Toyokawa, Japan; Hsinchu, Taiwan; and Bhubaneswar, India.

POSTPONEMENTS AND ORDERS OF THE DAY

Item 11 for proposed Municipal Code amendments regarding Two-Story Permit and Accessory Dwelling Unit (ADU) laws was postponed to a future meeting date.

ORAL COMMUNICATIONS

Written communications for this item included emails to Council.

Sandy James discussed (Item 2) Manny Barragan's service.

Roger Lee discussed (Item 2) Manny Barragan's service.

Peggy Griffin discussed (Item 13) the Vallco project.

Emily Poon discussed bird proof solar panels. (Submitted written comments).

John Smith discussed Charlene Lee's police record.

Charlene Lee discussed her police record.

Danessa Techmanski (representing Cupertino Voice) discussed the Cupertino Voice organization.

Liang Jiao (representing Cupertino Voice) discussed the Cupertino Voice organization.

Jane discussed a Code Enforcement matter on her property.

Rhoda Fry discussed televised meetings, budgeted staff positions, and City financing.

San R discussed Dog Off-Leash Areas and July 4 events.

Lisa Warren discussed (Item 2) Manny Barragan's service and (Item 13) the Vallco project.

Babu Srinivasan discussed July 4 events and local sales and revenues.

Venkat Ranganathan discussed traffic on Portal Avenue and Stevens Creek Boulevard and July 4 events.

CONSENT CALENDAR (Items 4-9)

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

MOTION: Mohan moved and Moore seconded to approve the items on the Consent Calendar except for Items 6, 8, and 9 which were pulled for discussion. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

MOTION: Wei moved and Mohan seconded to reorder the agenda to consider Items 6, 8, and 9

before Public Hearings.

FRIENDLY AMENDMENT: Chao made a friendly amendment to consider Item 9 after Public Hearings. (Wei and Mohan accepted the friendly amendment).

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

Items 6 and 8 were moved before Public Hearings and Item 9 was moved after Public Hearings.

4. Subject: Approval of the November 14 City Council minutes
Recommended Action: Approve the November 14 City Council minutes
5. Subject: Approval of the November 21 City Council minutes
Recommended Action: Approve the November 21 City Council minutes
7. Subject: Adopt the OPEB and Pension Trust Investment Policies
Recommended Action: 1. Adopt Resolution No. 23-132 for the OPEB Trust Investment Policy; and
2. Adopt Resolution No. 23-133 for the Pension Trust Investment Policy

ITEMS REMOVED FROM THE CONSENT CALENDAR

6. Subject: Adopt a maximum rate schedule for Rate Period Four for Recology to provide recycling, organics, and solid waste collection, recycling and organics processing services, and transport for disposal as calculated using the allowed and approved methodology in the Franchise Agreement
Recommended Action: Adopt Resolution No. 23-131 (Attachment A) to:
 1. Adopt a maximum rate schedule for Rate Period Four for Recology to provide recycling, organics, and solid waste collection, recycling and organics processing services, and transport for disposal pursuant to the franchise agreement (Attachment B; (FA Exhibit E2)); and
 2. Authorize the use of \$547,800 of restricted-use enterprise funds to smooth and mitigate the Rate Period Four adjustment

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

This item was pulled from the Consent Calendar for discussion.

Councilmembers asked questions and made comments.

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

Brooke Ezzat
Rhoda Fry
Peggy Griffin
Jean Bedord
Glenn Fishler
San R
Lousie Saadati

Mayor Wei closed the public comment period.

Environmental Programs and Sustainability Manager Ursula Syrova answered questions.

MOTION: Fruen moved and Mohan seconded the Recommended Action to Adopt Resolution No. 23-131 to:

- a. Adopt a maximum rate schedule for Rate Period Four for Recology to provide recycling, organics, and solid waste collection, recycling and organics processing services, and transport for disposal pursuant to the franchise agreement; and
- b. Authorize the use of \$547,800 of restricted-use enterprise funds to smooth and mitigate the Rate Period Four adjustment.

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

8. Subject: Accept Silicon Valley Clean Energy Community Resilience Grant in the amount of up to \$233,963 to purchase two (2) Electric Vehicle Autonomous Renewable Charger (EV ARC) portable solar-powered charging systems
Recommended Action: 1. Adopt Resolution No. 23-134 accepting up to \$233,963 in Community Resilience Grant funding from Silicon Valley Clean Energy and approving budget modification #2324-316 increasing appropriation and estimated revenues by \$233,963 in 100-87-829 900-990 for procurement of Electric Vehicle Autonomous Renewable Charger units;
2. Authorize the City Manager to execute all documentation necessary to accept the grant funding; and
3. Authorize the purchase the two (2) Electric Vehicle Autonomous Renewable Charger units, trailer and additional support and maintenance for a total cost of \$233,963 from Beam Global

Written communications for this item included a supplemental report with staff responses to councilmember questions, Attachment F - Solar Array Seismic Design Letter, Attachment G -EV ARC unit Operation & Maintenance, and an email to Council.

This item was pulled from the Consent Calendar for discussion.

Councilmembers asked questions and made comments.

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

MOTION: Chao moved and Fruen seconded the Recommended Action to:

1. Adopt Resolution No. 23-134 accepting up to \$233,963 in Community Resilience Grant funding from Silicon Valley Clean Energy and approving budget modification #2324-316 increasing appropriation and estimated revenues by \$233,963 in 100-87-829 900-990 for procurement of Electric Vehicle Autonomous Renewable Charger units;
2. Authorize the City Manager to execute all documentation necessary to accept the grant funding; and
3. Authorize the purchase of the two (2) Electric Vehicle Autonomous Renewable Charger units, trailer and additional support and maintenance for a total cost of \$233,963 from Beam Global.

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

At 8:24 p.m., Mayor Wei recessed the meeting. The meeting reconvened at 8:32 p.m. with all Councilmembers present.

PUBLIC HEARINGS

10. Subject: Municipal Code Amendment to Chapter 19.76 and a Conditional Use Permit and Parking Exception for the use of a former public school site by a pre-kindergarten through 9th grade private educational facility and associated Categorical Exemption under CEQA. (Application No.: MCA-2023-003; U-2023-002; EXC-2023-009 Applicant: City of Cupertino; Grace Stanat on behalf of Tessellations; Location: BA-zoned (Public Building) properties in Cupertino; 1170 Yorkshire Drive; APN# 362-08-001)
Recommended Action: That the City Council:
 1. Find the proposed actions exempt from the California Environmental Quality Act (CEQA) and CEQA Guidelines;
 2. Conduct the first reading of Ordinance No. 23-2253: "An Ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Chapter 19.76 (Table 19.76.030) to allow privately operated educational uses and privately operated public serving uses in the BA zoning district";
 3. Adopt Resolution No. 23-135 approving the Conditional Use Permit (U-2023-002); and
 4. Adopt Resolution No. 23-136 approving the Parking Exception (EXC-2023-009)Presenter: Emi Sugiyama, Associate Planner

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

Associate Planner Emi Sugiyama and Applicant Grace Stanat each gave presentations.

Councilmembers disclosed any ex parte communications prior to deliberation in this matter.

Councilmembers asked questions and made comments.

Mayor Wei opened the public hearing and the following people spoke.

Li Zhang
Tatiana Mejia
Lakshmi Iyer
Gill Doyle
Jennifer Griffin
Rhoda Fry
Babu Srinivasan
San R
Louise Saadati

Mayor Wei closed the public hearing.

City Clerk Kirsten Squarcia read the title of Ordinance No. 23-2253: "An Ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Chapter 19.76 (Table 19.76.030) to allow privately operated educational uses and privately operated public serving uses in the BA zoning district."

SUBSTITUTE MOTION: Chao moved and Moore seconded a substitute motion to approve the Staff Recommendation as amended to:

1. Find the proposed actions exempt from the California Environmental Quality Act (CEQA) and CEQA Guidelines;
2. For the City Clerk to read the title of Ordinance No. 23-2253, that further reading of the Ordinance be waived, and that the City Council conduct the first reading of the Ordinance by title only;
3. Adopt Resolution No. 23-135 approving the Conditional Use Permit (U-2023-002);
4. Adopt Resolution No. 23-136 approving the Parking Exception (EXC-2023-009);
and
5. With an amendment to remove "privately operated public serving uses" and

keep “privately operated educational uses.”

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

MOTION: Fruen moved and Mohan seconded the Recommended Action to:

1. Find the proposed actions exempt from the California Environmental Quality Act (CEQA) and CEQA Guidelines;
2. For the City Clerk to read the title of Ordinance No. 23-2253, that further reading of the Ordinance be waived, and that the City Council conduct the first reading of the Ordinance by title only;
3. Adopt Resolution No. 23-135 approving the Conditional Use Permit (U-2023-002); and
4. Adopt Resolution No. 23-136 approving the Parking Exception (EXC-2023-009).

FRIENDLY AMENDMENT: Chao made a friendly amendment to remove “privately operated public serving uses” and keep “privately operated educational uses.” (Fruen declined the friendly amendment and it was not included in the motion).

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

ITEMS REMOVED FROM THE CONSENT CALENDAR - CONTINUED

9. Subject: Cancellation of the December 19, 2023 City Council meeting
Recommended Action: Cancel the December 19, 2023 City Council meeting

This item was pulled from the Consent Calendar for discussion.

Councilmembers asked questions and made comments.

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

MOTION: Wei moved and Fruen seconded to cancel the December 19, 2023 City Council meeting. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

ACTION CALENDAR

11. Subject: Proposed amendments to Municipal Code Chapter 19.12, Chapter 19.28 and Chapter 19.112 regarding Two-Story Permit and Accessory Dwelling Unit (ADU) laws. (Application No. MCA-2023-002; Applicant: City of Cupertino; Location: City-wide)
Recommended Action: That the City Council conduct the public hearing and conduct the first reading of Ordinance No. 23-2254: "An Ordinance of The City Council of the

City of Cupertino to amend Municipal Code Chapter 19.12, Chapter 19.28 and Chapter 19.112 Regarding Two-Story Permit and Accessory Dwelling Unit (ADU) Laws" (Attachment A) to amend the following:

- a. Chapter 19.12, Administration, and
- b. Chapter 19.28 Single-Family Residential (R-1) Zones.
- c. Chapter 19.112, Accessory Dwelling Units (ADU)

Presenter: Gian Martire, Senior Planner

Written communications for this item included a staff presentation and emails to Council.

As noted under Postponements and Orders of the Day, this item was postponed to a future meeting date.

COUNCIL REPORTS AND COMMENTS

12. Subject: Councilmember Reports

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

CITY MANAGER REPORT

City Manager Wu shared a video of the City's annual Community Tree Lighting.

ORAL COMMUNICATIONS - CONTINUED – None

INFORMATIONAL ITEMS

13. Subject: Update regarding Vallco's SB 35 project approval

Recommended Action: Receive the update regarding Vallco's SB 35 project approval

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

The information regarding Vallco's SB 35 project approval was provided as part of the published agenda.

14. Subject: Update on Main Street

Recommended Action: Receive the update on Main Street

Written communications for this item included an email to Council.

The information regarding the update on Main Street was provided as part of the published agenda.

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Councilmembers made comments and discussed requests for future agenda items.

ADJOURNMENT

At 10:20 p.m., Mayor Wei adjourned the Regular City Council Meeting.

Minutes prepared by:

Kirsten Squarcia, City Clerk