



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, March 5, 2024**

SPECIAL MEETING

At 5:00 p.m., Mayor Sheila Mohan 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 Sheila Mohan, Vice Mayor J.R. Fruen, and Councilmembers Liang Chao (5:03 p.m.), Kitty Moore, and Hung Wei. Absent: none.

STUDY SESSION

1. Subject: Revisions to Cupertino City Council Procedures Manual (tabled from September 6, 2023)
Recommended Action: Provide input regarding revisions to Cupertino City Council Procedures Manual
Presenter: Christopher Jensen, City Attorney

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

City Attorney Chris Jensen 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

Jean Bedord

Parks and Recreation Commissioner Jennifer Shearin (representing self)

Parks and Recreation Commissioner Carol Stanek (representing self)

Lisa
Rhoda Fry
Tracy K
Louise Saadati

Mayor Mohan closed the public comment period.

MOTION: Fruen moved and Wei seconded that the City Attorney return to Council with the following revisions to the Procedures Manual:

1. Revise procedures for pulling consent calendar items by:
 - a. Establishing a cutoff time of 12 noon on the day of a council meeting for councilmembers to unilaterally removing items from the consent calendar;
 - b. Requiring any councilmember pulling a consent calendar item unilaterally to make the request in writing and provide a reason why;
 - c. Council would reserve the right to pull consent calendar items after noon on the basis of majority vote and harmonize with opportunity for public comment.
2. Add a procedure for councilmembers to reserve their remaining time for council discussion and questions after the first time they speak so that there's no confusion around how much time councilmembers have left to speak.
3. Shift councilmember reports to "Informational Items" and clarify what such reports should include--specifically, require that reports focus on council committee assignments and ceremonial appearances. Remove the reference to "councilmember comments."

FRIENDLY AMENDMENT: Wei made a friendly amendment for councilmember reports to remain as a separate item. (Fruen accepted the friendly amendment).

Council did not vote on this motion.

SUBSTITUTE MOTION: Chao moved and Moore seconded a substitute motion:

In this study session individual Councilmembers have proposed the revisions, which were never discussed before.

Direct the staff to collect all the input from Council and bring them back as options for the Council to make final decisions after listening to public input on this, especially newly proposed revisions.

Council did not vote on the substitute motion.

SECOND SUBSTITUTE MOTION: Wei moved and Fruen seconded a substitute motion that the City Attorney return to Council with the following revisions to the Procedures Manual:

1. Revise procedures for pulling consent calendar items by:
 - a. Establishing a cutoff time of 12 noon on the day of a council meeting for councilmembers to unilaterally removing items from the consent calendar;

- b. Requiring any councilmember pulling a consent calendar item unilaterally to make the request in writing and provide a reason why;
 - c. Council would reserve the right to pull consent calendar items after noon on the basis of majority vote and harmonize with opportunity for public comment.
2. Add a procedure for councilmembers to reserve their remaining time for council discussion and questions after the first time they speak so that there's no confusion around how much time councilmembers have left to speak.
 3. ~~Shift councilmember reports to "Informational Items" and~~ Clarify what councilmember reports should include--specifically, require that reports focus on council committee assignments and ceremonial appearances. Remove the reference to "councilmember comments."
 4. Clarify the procedure for commissioners appearing at City Council meetings and providing reports to Council.

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

ADJOURNMENT

At 6:31 p.m., Mayor Mohan adjourned the Special City Council Meeting.

REGULAR MEETING

At 6:45 p.m., Mayor Sheila Mohan 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 Sheila Mohan, Vice Mayor J.R. Fruen, and Councilmembers Liang Chao, Kitty Moore, and Hung Wei. Absent: none.

CLOSED SESSION REPORT – None

CEREMONIAL ITEMS

1. Subject: Recognition of March as American Red Cross Month
Recommended Action: Recognize March as American Red Cross Month

Mayor Mohan recognized March as American Red Cross Month and presented a proclamation to Stuart Chessen representing American Red Cross Silicon Valley Chapter.

2. Subject: Recognition of March as Youth Art Month
Recommended Action: Recognize March as Youth Art Month

Mayor Mohan recognized March as Youth Art Month.

POSTPONEMENTS AND ORDERS OF THE DAY

MOTION: Mohan moved and Fruen seconded to postpone item 5 Second Amendment to the master agreement with Richard Yau to March 19. 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 housing bills.

Andrea Wald, representing Community for Natural Play Surfaces, discussed the Community for Natural Play Surfaces organization.

Councilmember Kitty Moore (representing self) discussed item 11 Blackberry Farm Fees. (Submitted written comments).

Louise Saadati discussed City Council meeting procedures and public comments.

Peggy Griffin discussed councilmember comment procedures.

Councilmembers made brief comments.

CONSENT CALENDAR (Items 3-5)

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

MOTION: Fruen moved and Wei seconded to approve the items on the Consent Calendar except for item 5 which was postponed to March 19. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

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3. Subject: Approve the February 21, 2024 City Council minutes
Recommended Action: Approve the February 21, 2024 City Council minutes

 4. Subject: Second reading of an ordinance to make 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 second reading and enact Ordinance No. 24-2255: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CHAPTERS 3.22 AND 3.23"

Written communications for this item included a supplemental report with a correction.

5. Subject: Second Amendment to the master agreement with Richard Yau to provide program and project management consultant services on various Capital Improvement Programs (CIP) projects, for a not-to-exceed amount of \$470,000.
Recommended Action: Authorize the City Manager to execute a Second Amendment to the master agreement with Richard Yau to provide program and project management consultant services on various Capital Improvement Programs projects, increasing the contract amount by \$300,000 for a new total not-to-exceed contract amount of \$470,000 and extending the term of the agreement to June 30, 2027.

Written communications for this item included supplemental report with staff responses to councilmember questions.

As noted under Postponements and Orders of the Day, this item was postponed to March 19.

PUBLIC HEARINGS

6. Subject: Consider an appeal of the Planning Commission's decision to approve a sign exception to allow two wall signs for a single tenant (Shane Co.) at an existing retail building (Application No(s): EXC-2022-004; Applicant/Appellant: Kevin Tallman, Shane Co.; Location: 19900 Stevens Creek Blvd.; APN: 369-05-044)
Recommended Action: Conduct a public hearing and adopt Resolution No. 24-021 upholding the appeal in part, approving an exception for one of the two-requested wall signs along the east facade
Presenter: Gian Martire, Senior Planner

Written communications for this item included staff and appellant presentations and emails to Council.

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

Senior Planner Gian Martire and Dani Calkins, Director of Store Experience at Shane Co., each gave a presentation.

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

Louis Saadati
Jean Bedord
San R
Lisa
Peggy Griffin

Mayor Mohan closed the public hearing.

Councilmembers asked questions and made comments.

At 8:09 p.m., Mayor Mohan recessed the meeting. The meeting reconvened at 8:21 p.m. with all Councilmembers present.

MOTION: Wei moved and Fruen seconded to accept the appellants exception for the two lighted signs along the east facade with an amendment to return to Council for review that after the sign has been installed for one year.

FRIENDLY AMENDMENT: Chao made a friendly amendment for one lighted sign and one non lighted sign. (Wei declined Chao's friendly amendment).

Council did not vote on this motion.

SUBSTITUTE MOTION: Moore moved and Chao seconded a substitute motion to approve one lighted sign at location 2 and no sign at location 1. Council did not vote on the substitute motion.

SECOND SUBSTITUTE MOTION: Chao moved and Moore seconded a second substitute to approve one lighted sign at location 1 and no sign at location 2 (and adopting Resolution No. 24-021 upholding the appeal in part, approving an exception for one of the two-requested wall signs along the east façade). The second substitute motion carried with the following vote: Ayes: Mohan, Chao, and Moore. Noes: Wei and Fruen. Abstain: None. Absent: None.

ACTION CALENDAR

7. Subject: Revisions to City commission and committee administration, procedure, and governance, including an ordinance to regularize commissioner appointments and revise commissioner qualifications; and resolutions adopting revisions to advisory bodies appointment process and Commissioners' Handbook.

Recommended Action: 1. Conduct the first reading of Ordinance No. 24-2256 "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO TO REGULARIZE CITY COMMISSION AND COMMITTEE TERMS AND REVISE COMMISSIONER QUALIFICATIONS."

2. Adopt Resolution No. 24-022 to repeal and replace Resolution No. 16-137, regarding City advisory bodies.

3. Adopt Resolution No. 24-023 revising the Commissioners' Handbook.

Presenter: Christopher Jensen, City Attorney

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

City Attorney Christopher Jensen gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin

Parks and Recreation Commissioner Carol Stanek (representing self)

Planning Commissioner David Fung (representing self)

Jean Bedord

Planning Commissioner Seema Lindskog (representing self)

Tessa Parish

Parks and Recreation Commissioner Jennifer Shearin (representing self)

Peggy Griffin

San R

Mayor Mohan closed the public comment period.

MOTION: Moore moved and Chao seconded to send this item to the various commissions and committees for input and then return to Council for consideration. Council did not vote on this motion.

SUBSTITUTE MOTION: Fruen moved and Wei seconded a substitute motion to approve the staff recommended action to:

1. Conduct the first reading of Ordinance No. 24-2256: "An Ordinance of The City Council of the City of Cupertino to Regularize City Commission and Committee Terms and Revise Commissioner Qualifications;"
2. Adopt Resolution No. 24-022 to repeal and replace Resolution No. 16-137, regarding City advisory bodies; and
3. Adopt Resolution No. 24-023 revising the Commissioners' Handbook.

With the following changes:

1. To further amend Cupertino Municipal Code 2.86.02(B)(4) and 2.94.010(C) to add that "... Council may give priority to ... representatives of a business located in Cupertino, and in doing so may waive any Cupertino residency requirement so long as the business is located in Cupertino."
2. To modify Resolution 24-022 at paragraph C, subparagraph 3, at the final bullet point to read as follows "... A member fails to comply with legally required training or conflict of interest reporting requirements after receiving notice and a 30-day opportunity to correct the noncompliance."
3. To further modify Resolution 24-022 to add a subparagraph to paragraph C reading as follows: "A member who has failed to complete any mandated or legally required training or reporting requirement shall be precluded from participating in advisory body meetings as a member of such body."

FRIENDLY AMENDMENT: Mohan made a friendly amendment to add a requirement for Council to receive an annual report from each commission. (Fruen and Wei accepted Mohan's friendly amendment).

FRIENDLY AMENDMENT: Wei made a friendly amendment to direct the City Manager to develop a policy for recruiting replacements; and to amend the staff recommendation so that the City Manager would develop recommended qualifications, but all candidates would be presented to Council for an interview regardless of whether they meet those qualifications. (Fruen and Wei accepted Wei's friendly amendment).

FRIENDLY AMENDMENT: Chao made a friendly amendment for the commissions to develop the qualifications criteria or questions for applicants; and to add the next draft to all commission agendas for review. (Wei declined Chao's friendly amendment).

Council did not vote on the substitute motion.

At 10:21 p.m., Council consented to a recess. Mayor Mohan reconvened the meeting at 10:26 p.m. with all Councilmembers present.

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

1. Conduct the first reading of Ordinance No. 24-2256: "An Ordinance of The City Council of the City of Cupertino to Regularize City Commission and Committee Terms and Revise Commissioner Qualifications;"
2. Adopt Resolution No. 24-022 to repeal and replace Resolution No. 16-137, regarding

City advisory bodies; and

3. Adopt Resolution No. 24-023 revising the Commissioners' Handbook.

With the following changes:

4. To further amend Cupertino Municipal Code 2.86.02(B)(4) and 2.94.010(C) to add that "... Council may give priority to ... representatives of a business located in Cupertino, and in doing so may waive any Cupertino residency requirement so long as the business is located in Cupertino."
5. To modify Resolution 24-022 at paragraph C, subparagraph 3, at the final bullet point to read as follows "... A member fails to comply with legally required training or conflict of interest reporting requirements after receiving notice and a 30-day opportunity to correct the noncompliance."
6. To further modify Resolution 24-022 to add a subparagraph to paragraph C reading as follows: "A member who has failed to complete any mandated or legally required training or reporting requirement shall be precluded from participating in advisory body meetings as a member of such body."
7. Retain an annual report from commissions;
8. Direct the City Manager and liaisons to work with each commission to develop the qualification criteria and provide advanced notice of criteria to applicants, but the Council still interviews all candidates;
9. Direct the City Attorney to propose a procedure to appoint replacements that satisfy requirements.

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

Wei moved and Mohan seconded to extend the meeting to 10:45 p.m. to consider a new item. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

8. Subject: Consider list of agenda items requested by City Councilmembers ("TBD List").
Recommended Action: Review the TBD list and modify the list as recommended below.

Presenter: Pamela Wu, City Manager

City Manager Pamela Wu reviewed the staff report.

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

Jennifer Griffin

Lisa

Mayor Mohan closed the public comment period.

Wei moved and Mohan seconded to extend the meeting to 11:00 p.m. to continue discussion on the item. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

MOTION: Moore moved and Chao seconded to approve the staff recommendation for item 3 Housing Element study session and item 4 Moving Council meetings to Wednesdays. Council did not vote on this motion.

SUBSTITUTE MOTION: Wei moved and Fruen seconded to approve the staff recommendation to:

1. Remove item 1 City Treasurer appointment;
2. Remove item 2 Public Facilities Corporation's tax-exempt status;
3. Keep item 3 Housing Element study session;
4. Remove item 4 Moving Council meetings to Wednesdays; and
5. Receive Council memos for items 1 or 2.

Council did not vote on the substitute motion.

SECOND SUBSTITUTE MOTION: Moore moved and Chao seconded to:

1. Agendize the annual meeting of the Public Facilities Corporation;
2. Retain item 1 City Treasurer appointment and wait for a Council memo;
3. Retain item 3 Housing Element study session; and
4. Remove item 4 Moving Council meetings to Wednesdays.

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

ADJOURNMENT

At 10:58 p.m., Mayor Mohan adjourned the Regular City Council Meeting per rule. There was no Council discussion on the remaining agenda items.

COUNCIL REPORTS AND COMMENTS

9. Subject: Councilmember Reports

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

CITY MANAGER REPORT

Council did not hear this item.

ORAL COMMUNICATIONS - CONTINUED – None

INFORMATIONAL ITEMS

10. Subject: Cupertino Senior Center Bingo and Hidden Treasures
Recommended Action: Receive update on Cupertino Senior Center Bingo and Hidden Treasures

The information regarding the update on Cupertino Senior Center Bingo and Hidden Treasures was provided as part of the published agenda.

11. Subject: Blackberry Farm Golf Course Fee Increase
Recommended Action: Receive update on Blackberry Farm Golf Course Fee Increase

The information regarding the update on Blackberry Farm Golf Course Fee Increase was provided as part of the published agenda.

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Council did not hear this item.

Minutes prepared by:

Kirsten Squarcia, City Clerk