



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, July 18, 2023

At 6:00 p.m. Mayor Hung Wei called the Regular City Council Meeting to order in Cupertino City Hall Conference Room C, 10300 Torre Avenue.

ROLL CALL

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

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

CLOSED SESSION

1. Subject: Conference with legal counsel - existing litigation pursuant to Government Code § 54956.9 (one case) - California Housing Defense Fund et al. v. City of Cupertino, Santa Clara County Superior Court Case No. 23CV410817

Council met with legal counsel on the existing litigation.

Council recessed from 6:37 p.m. to 6:45 p.m.

OPEN SESSION

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

CLOSED SESSION REPORT

City Attorney Chris Jensen conducted the open session report regarding the closed session held at 6:00 p.m. City Attorney Jensen reported that there was nothing to report.

CEREMONIAL ITEMS - None

POSTPONEMENTS AND ORDERS OF THE DAY – None

ORAL COMMUNICATIONS

Aram James supported best practices for law enforcement, including prohibiting the use of police canines except to search for humans and for explosives detection.

Lisa Warren supported prioritizing a Council discussion to re-evaluate the City's Code regarding residential balconies and privacy screening.

Jennifer Griffin opposed Senate Bill 423 removing the California Coastal Commission's authority and supported requiring a vote by the people for passage of the bill.

Louise Saadati supported maintaining respect and cordiality during meetings and receiving continued feedback from the Grand Jury Report and independent investigation findings.

Brooke Ezzat supported funding teen programs instead of the independent investigation and League of Women's Voters lawsuit and was concerned about the reasons for case settlement.

CONSENT CALENDAR (Items 2-9)

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

Jennifer Griffin (Items 4 and 9) supported clear definitions on lobbying and the Cristo Rey Bike Lanes Project and was concerned about the roundabout and pedestrian crossing safety.

Peggy Griffin (Item 4) supported including travel related expenses in the \$5,000 lobbyist limit set for every quarter.

Lisa Warren (Item 4) was concerned whether the lobbying regulations have been challenged in other cities and supported the people who have registered as lobbyists with the City.

Mayor Wei closed the public comment period.

Mohan moved and Fruen seconded to approve the items on the Consent Calendar as presented. Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

2. Subject: Consider approval of the July 6 City Council minutes
Recommended Action: Approve the July 6 City Council minutes
3. Subject: Consider ratifying Accounts Payable for the periods ending June 2, 2023; June 9, 2023; June 16, 2023; June 23, 2023; and June 30, 2023.
Recommended Action: A. Adopt Resolution No. 23-085 ratifying Accounts Payable for the Period ending June 2, 2023;
B. Adopt Resolution No. 23-086 ratifying Accounts Payable for the Period ending June 9, 2023;
C. Adopt Resolution No. 23-087 ratifying Accounts Payable for the Period ending June 16, 2023;
D. Adopt Resolution No. 23-088 ratifying Accounts Payable for the Period ending June 23, 2023; and
E. Adopt Resolution No. 23-089 ratifying Accounts Payable for the Period ending June 30, 2023.

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

4. Subject: Consider a second reading and act on Ordinance No. 23-2249, amending Municipal Code Chapter 2.100 (Regulation of Lobbying Activities)
Recommended Action: Conduct a second reading and enact Ordinance No. 23-2249; "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CITY CODE CHAPTER 2.100," (Regulation of Lobbying Activities)

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

5. Subject: Consider authorizing the City Manager to execute the Fourth Amendment to the recreation agreement with Red Line Gymnastics LLC, DBA Bay Aerials Gymnastics, a Limited Liability Company for Gymnastics Classes and Programs
Recommended Action: Authorize the City Manager to execute a Fourth Amendment to the recreation agreement with Red Line Gymnastics LLC, DBA Bay Aerials Gymnastics, a limited liability company, increasing the amount by \$643,028.80 for a total amount not to exceed \$817,028.80 and extending the term of the agreement to December 31, 2026
6. Subject: Award of a construction contract for the Blackberry Farms Pool Improvements

Project to Adams Pool Solutions for replastering the pools

Recommended Action: 1. Award a construction contract for the Blackberry Farms Pool Improvements Project (Project No. 2022-107P) in the amount of \$320,609.25 to Adams Pool Solutions;

2. Authorize the City Manager to execute the contract when all conditions have been met; and

3. Authorize the Director of Public Works to execute any necessary construction change orders up to a construction contingency amount of \$32,060.93 (10%) for a total contract amount of \$352,670.18

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

7. Subject: Annual Evaluation Report on the Federal Emergency Management Agency (FEMA) Community Rating System's (CRS) Program for Public Information

Recommended Action: Adopt Resolution No. 23-090 accepting the Annual Evaluation Report for Fiscal Year (FY) 2023 (year two) of the 2021 Santa Clara County Multi-Jurisdictional Program for Public Information

8. Subject: Acceptance of \$3,205,620 in the Highway Safety Improvement Program (HSIP) grant funding from the State of California (State) for improving safety on 17 roadway segments in the City of Cupertino

Recommended Action: 1. Adopt Resolution No. 23-091 accepting \$3,205,620 in HSIP grant funding from the State of California for safety improvements on 17 roadway segments in the City of Cupertino; and

2. Authorize the City Manager to execute all documentation necessary to accept the grant funding

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

9. Subject: Cost sharing agreement between the City of Cupertino and the Midpeninsula Regional Open Space District for the Cristo Rey Bike Lanes Project

Recommended Action: 1. Authorize the City Manager to negotiate and execute a cost sharing agreement between the City of Cupertino and the Midpeninsula Regional Open Space District for the Cristo Rey Bike Lanes Project; and

2. Adopt Resolution No. 23-092 approving budget modification #2324-295, increasing appropriations in the Capital Improvement Program Capital Projects Fund (420-99-036) by \$30,000 and Capital Reserve (429-90-001) by \$30,000, transferring \$15,000 funds from the Capital Reserve to Capital Improvement Program Capital Projects Fund (420-99-036) and increasing estimated revenues by \$15,000

PUBLIC HEARINGS

10. Subject: Hearing to consider approval of lien assessment and collection of fees on private parcels resulting from abatement of public nuisance (weeds and/or brush) for the annual Weed and Brush Abatement Programs and accompanying budget appropriation request
Recommended Action: 1. Conduct public hearing to consider objections from any property owners listed on the assessment report;
2. Adopt the Resolution No. 23-093 approving the lien assessment and collection of fees on private parcels for the annual Weed and Brush Abatement Programs; and
3. Approve budget appropriations of \$7,454 in the General Fund (100-13-133 480-401) to fund properties that passed the initial inspection
Presenter: Kirsten Squarcia, City Clerk

Written communications for this item included a staff presentation.

City Clerk Kirsten Squarcia gave a presentation.

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

Moore moved and Fruen seconded to:

1. Adopt Resolution No. 23-093 approving the lien assessment and collection of fees on private parcels for the annual Weed and Brush Abatement Programs; and
2. Approve budget appropriations of \$7,452 in the General Fund (100-13-133 480-401) to fund properties that passed the initial inspection

The motion carried unanimously.

11. Subject: Fiscal Year (FY) 2023-24 Fee Schedule Update
Recommended Action: Adopt Resolution No. 23-094 approving FY 2023-24 Fee Schedules A, D, and E effective July 19, 2023, and Schedules B and C effective September 17, 2023
Presenter: Jonathan Orozco, Finance Manager

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

Finance Manager Jonathan Orozco gave a presentation.

Councilmembers asked questions and made comments.

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

Don Halsey supported raising Blackberry Farm Golf Course fees. (Submitted written comments).

Peggy Griffin supported raising Blackberry Farm Golf Course fees and was concerned about deferring increases to parkland dedication and transportation impact fees.

Lisa Warren supported raising Blackberry Farm Golf Course fees.

Mayor Wei closed the public hearing.

Chao moved and Wei seconded to adopt Resolution No. 23-094 approving FY 2023-24 Fee Schedules A, D, and E effective July 19, 2023, and Schedules B and C effective September 17, 2023 with an amendment that staff bring back to Council a golf course fee increase, with a potential 10% increase for residential fees and 20% increase for nonresidential fees; and prioritize a nexus study for the Traffic Impact Fee.

Wei made a friendly amendment to approve the FY 2023-24 Fee Schedules as recommended and add the golf course fee increase and nexus study for traffic impact fee as future agenda items. (Chao accepted Wei's friendly amendment).

The motion as amended by Wei carried unanimously.

Final Motion:

Chao moved and Wei seconded to adopt Resolution No. 23-094 approving FY 2023-24 Fee Schedules A, D, and E effective July 19, 2023, and Schedules B and C effective September 17, 2023, as recommended. The motion as amended by Wei carried unanimously.

ACTION CALENDAR

12. Subject: Consider scheduling a Council agenda item to update the FY 23-25 City Work Program to include an item relating to the Noise Ordinance
Recommended Action: Direct staff to 1) proceed or 2) not proceed with necessary analysis regarding preparing an update to the FY 23-25 City Work Program
Presenter: Pamela Wu, City Manager

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

City Manager Pamela Wu reviewed the staff report.

Councilmembers asked questions and made comments.

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

Peggy Griffin supported not proceeding with the necessary analysis and including the item with the annual work program review.

Lisa Warren opposed prioritizing the item over other previously requested work program items.

Mayor Wei closed the public comment period.

Council took no action on this item.

Council recessed 8:12 p.m. to 8:22 p.m.

13. Subject: Consider taking a position in support of, in opposition to, or otherwise regarding or in response to Senate Bill 403, amending the Unruh Civil Rights Act to clarify that existing state law prohibitions on discrimination based on ancestry prohibit discrimination based on caste or other inherited status

Recommended Action: Consider taking a position in support of, in opposition to, or otherwise regarding or in response to Senate Bill 403, amending the Unruh Civil Rights Act to clarify that existing state law prohibitions on discrimination based on ancestry prohibit discrimination based on caste or other inherited status

Presenter: Christopher Jensen, City Attorney

Written communications for this item included emails to Council.

City Attorney Chris Jensen reviewed the staff report.

Councilmembers asked questions and made comments.

Mayor Wei opened the public comment period and the following people spoke. Mayor Wei reduced the time allotted for public comment and allowed for consolidation of time among speakers.

Karthik, representing Ambedkar King Study Circle, supported SB 403.

Ajinkya, representing Ambedkar King Study Circle, supported SB 403.

Prasanna G, representing Ambedkar King Study Circle, supported SB 403.

Thenmozhi Soundararajan, representing Californians for Caste Equity, supported SB 403.

Sunita Singh, representing Sri Guru Ravidass Temple, supported SB 403.

Ranganathan Srinivasan opposed SB 403.

Sandeep Dedage (representing Ambedkar-Phule Network of American Dalits and Bahujans (APNADB) opposed SB 403.

Ajitih Dasari and Ravi Adusumilli ceded their time to Sandeep Dedage.

Shailendra Kardy opposed SB 403.

Mehul Choube opposed SB 403.

Nirmalendu Das opposed SB 403.

Rishi Kumar opposed SB 403.

Murali Mallipedi and Ram Sripathi ceded their time to Rishi Kumar.

Viraj Raut, representing Shivaji Maharaj Antarrashtriya Parivaar (SMAP), opposed SB 403.

Vrushali Raut opposed SB 403.

Mahesh Natarajan opposed SB 403.

Parks and Recreation Commissioner Sashi Begur (representing self) opposed SB 403.

Sri S. opposed SB 403.

Debabrata S. Biswas opposed SB 403.

Housing Commissioner Govind Tatachari (representing self) opposed SB 403.

Mohan Gummalam, representing Chinmaya Mission, opposed SB 403.

Sonali and Krithika ceded their time to Mohan Gummalam.

Pranav Kaushik opposed SB 403.

Sathya Prakash ceded time to Pranav Kaushik.

Planning Commissioner Muni Madhhipatla (representing his family) opposed SB 403.

Venkat Ranganathan, Uju Thobi, Sai, and Satyr ceded their time Muni Madhhipatla.

Pragna Shree opposed SB 403.

Archana Shinde opposed SB 403.

Venkat Srinivasan opposed SB 403.

Public Safety Commissioner ALN Reddy (representing self) ceded time to Venkat Srinivasan.

Giresh Thobi opposed SB 403.

Pushpita Prasad opposed SB 403.

Satish Chandra, representing A4H, opposed SB 403.

Dr. Ramesh Japra, representing Fremont Hindu Association, opposed SB 403.

Lakshmi and Vidhya ceded their time to Dr. Ramesh Japra.

Kewal Singh supported SB 403.

Surendar Kumar ceded time to Kewal Singh.

Aaditya Dedge opposed SB 403.

Gargi Dedge opposed SB 403.

Punkhuri Mehrotra opposed SB 403.

Yani opposed SB 403.

Yagnee opposed SB 403.

Milind Makwana opposed SB 403.

Thenmozhi Soundararajan, representing Californians for Caste Equity, supported ending caste discrimination.

Baljinder Singh ceded time to Thenmozhi Soundararajan.
Prassana Kulkarni opposed SB 403.
Manju Murthy opposed SB 403.
Radha Murthy opposed SB 403.
Mahesh Pakala opposed SB 403.
Joti ceded time to Mahesh Pakala.
Vinod Kumar, representing Shri Guru Ravidass Sabha Bay Area, supported SB 403.
Parmjit Kaur ceded time to Vinod Kumar.
Ravi Donthi opposed SB 403.
Mukul Sinvhal opposed SB 403.
Ranjan Desai opposed SB 403.
Aram James supported SB 403.
Veena Sankaranarayanan supported SB 403.
Nithya Krishnamoorthy supported SB 403.
Mangesh Phadke opposed SB 403.
Ravi Kiran Singh Sapaharam opposed SB 403.
Ben Kaila supported SB 403.
Library Commissioner Archana Panda (representing self) opposed SB 403.
Anu Mandavilli supported SB 403.
Satya Pradhan opposed SB 403.
Dilip Amin supported SB 403 as not necessary or modified to remove the word "caste."
Sandeep K supported SB 403.
Pawan Kumar supported SB 403.
Punit Ravin (on behalf of Anil Ravin) opposed SB 403.
Satish Mahajan opposed SB 403.
Kamaljeet supported SB 403.
Dr. Nirmal "Ravi" Singh supported SB 403.
Rohit Sharma opposed SB 403.
Arthi Desai opposed SB 403.
Param Desai opposed SB 403.
Planning Commissioner Seema Lindskog (representing self) opposed SB 403.
Manish Deo opposed SB 403.
Jagan Bearely opposed SB 403.
Musa Tariq (representing San Francisco Bay Area office of the Council on American-Islamic Relations) supported SB 403.

Mayor Wei closed the public comment period.

Fruen moved and Mohan seconded to extend the meeting to 11:20 p.m. to further discuss this item. The motion carried unanimously.

Wei moved and Mohan seconded to direct the City Manager and the City Attorney to prepare a proclamation containing the following language, as proposed by Mohan; and authorize the City Attorney to add a reference of the term “caste” into the proclamation and language in opposition to characterizing discrimination based on caste, as appropriate; and authorize the City Attorney to review the motion as to form and make any changes necessary to make sure that the proclamation is clear and complies with all legal requirements.

Mohan’s proclamation language:

Whereas, Cupertino values its commitment to diversity in our city.

Whereas, we believe that the principles of human rights and equal protection against discrimination apply to all sections and communities in the City.

Whereas, we take immense pride in the fact that almost 70 percent of our population is Asian-American.

Whereas, it is our obligation as City Councilmembers to do everything we can to foster a climate of inclusivity and dignity for all individuals regardless of their background and ethnicity.

Now, Therefore, Be It Resolved that the City Council of Cupertino is opposed to discrimination in all forms and will vigorously oppose any laws in the future that could, intentionally or unintentionally, result in racial or ethnic profiling, violation of civil rights, and stigmatizing any one segment of our society.

Chao moved and Moore seconded a substitute motion to direct the City Manager and the City Attorney to prepare two letters: one, specifically opposing SB 403 unless it is amended with the word “caste” removed and expressing the reasons why “caste” is a negative connotation that will stigmatize and stereotype the Cupertino community; and second, a more general letter that covers Vice Mayor Mohan’s sentiments. The substitute motion failed with Chao and Moore voting yes.

Chao moved and Wei seconded to extend the meeting by five minutes until 11:25 p.m. to further discuss this item. The motion carried unanimously.

Chao moved and Moore seconded to extend the meeting by an additional five minutes to further discuss this item. The motion carried with Fruen voting no.

Chao moved a substitute motion revising Mohan’s proclamation language to include the sentiments expressed in Chao’s statement and mention the word “caste” and to authorize the City Attorney to review the motion as to form and make any changes necessary to make sure that the proclamation is clear and complies with all legal requirements. Chao’s Statement:

We express our strong opposition to any legislation that employs wording with negative connotations to stigmatize and stereotype any group, such as the term

"Caste." We believe that the addition of "Caste" to California law fails to contribute meaningfully to the existing anti-discrimination law, the Unruh Civil Rights Act. Instead, it perpetuates harmful stereotypes and prejudices, contrary to the fundamental principles of the Unruh Civil Rights Act.

Chao amended her motion to include, "We oppose SB 403 in its current form unless it is amended." The substitute motion failed with Chao and Moore voting yes.

Wei's main motion carried with Chao abstaining and Moore voting no.

Final Motion:

Wei moved and Mohan seconded to direct the City Manager and the City Attorney to prepare a proclamation containing the following language, as proposed by Mohan; and authorize the City Attorney to add a reference of the term "caste" into the proclamation and language in opposition to characterizing discrimination based on caste, as appropriate; and authorize the City Attorney to review the motion as to form and make any changes necessary to make sure that the proclamation is clear and complies with all legal requirements.

Mohan's proclamation language:

Whereas, Cupertino values its commitment to diversity in our city.

Whereas, we believe that the principles of human rights and equal protection against discrimination apply to all sections and communities in the City.

Whereas, we take immense pride in the fact that almost 70 percent of our population is Asian-American.

Whereas, it is our obligation as City Councilmembers to do everything we can to foster a climate of inclusivity and dignity for all individuals regardless of their background and ethnicity.

Now, Therefore, Be It Resolved that the City Council of Cupertino is opposed to discrimination in all forms and will vigorously oppose any laws in the future that could, intentionally or unintentionally, result in racial or ethnic profiling, violation of civil rights, and stigmatizing any one segment of our society.

The motion carried with Chao abstaining and Moore voting no.

ADJOURNMENT

At 11:28 p.m., Mayor Wei adjourned the Regular City Council Meeting, per Council rule. There was no Council discussion on the remaining agenda items.

COUNCIL REPORTS AND COMMENTS

14. Subject: Councilmember Reports

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

CITY MANAGER REPORT

This item was not heard.

ORAL COMMUNICATIONS - CONTINUED – None

INFORMATIONAL ITEMS

15. Subject: Legislative Process and Bill Watch List
Recommended Action: Receive update on Legislative Process and Bill Watch List

The update on Legislative Process and Bill Watch List was provided as part of the published agenda.

16. Subject: FY 2022-2023 City Work Program Fourth Quarter Update
Recommended Action: Receive FY 2022-2023 City Work Program Fourth Quarter Update

The FY 2022-2023 City Work Program Fourth Quarter Update was provided as part of the published agenda.

17. Subject: Streetlight Transition Assessment Report
Recommended Action: Receive the Streetlight Transition Assessment Information Report

The Streetlight Transition Assessment Information Report was provided as part of the published agenda.

18. Subject: Receive the Monthly Treasurer's Report for June 2023
Recommended Action: Receive the Monthly Treasurer's Report for June 2023

The Monthly Treasurer's Report for June 2023 was provided as part of the published agenda.

19. Subject: Receive the Monthly Treasurer's Investment Report for June 2023
Recommended Action: Receive the Monthly Treasurer's Investment Report for June 2023

The Monthly Treasurer's Investment Report for June 2023 was provided as part of the published agenda.

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

This item was not heard.

As discussed under Item 11, Chao and Wei added the following future agenda items:

- golf course fee increase
- nexus study for traffic impact fee

Minutes prepared by:

Kirsten Squarcia, City Clerk