



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, October 17, 2023**

SPECIAL MEETING

At 5:30 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 (5:38 p.m.), J.R. Fruen (5:32 p.m.) and Kitty Moore. Absent: none.

ACTION CALENDAR

1. Subject: Approval of Joint Powers Agreement to establish the Cities Association of Santa Clara Count Joint Powers Agency
Recommended Action: 1. Approve the proposed Joint Powers Agreement ("JPA")
2. Delegate authority to the City Council's Cities Association of Santa Clara County ("CASCC") Board representative to report approval of the JPA at the CASCC Board of Directors ("CASCC Board") Meeting
3. Authorize the City Manager to execute the JPA
Presenter: Christopher Jensen, City Attorney

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

Cities Association of Santa Clara County ("CASCC") Executive Director Shali Sirkay, San Jose Vice Mayor Chappie Jones, and CASCC Co-General Counsel Jannie Quinn of Renne Public Law Group (RPLG) answered questions.

Councilmembers asked questions and made comments.

Councilmember Fruen joined the meeting at 5:32 p.m. and Councilmember Chao joined

the meeting at 5:38 p.m.

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

SUBSTITUTE MOTION: Moore moved and Chao seconded a substitute motion to continue this item until the City of San Jose's meeting can be viewed, and an informational report can be provided, and then return to Council two- to four-weeks after the meeting.

FRIENDLY AMENDMENT: Chao made a friendly amendment that when the item returns to Council, to consider approving the JPA but with comments addressing concerns on the bylaws, and then send to the CASC Executive Board for consideration. (Moore accepted Chao's friendly amendment).

FRIENDLY AMENDMENT: Chao made a second friendly amendment to provide the following comments to the Executive Board:

- 1) The bylaws should address the concerns for a unified voice by majority vote and include diverse opinions of members;
- 2) Increase diversity and inclusion in the representation on the Executive Board over time; and
- 3) Clarify restrictions on policy representation- bylaws should outline the Legislative Action Committee limits and what it can and cannot do in terms of representing policies. (Moore accepted Chao's friendly amendment).

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

MOTION: Fruen moved and Mohan seconded to:

1. Approve the proposed Joint Powers Agreement ("JPA");
2. Delegate authority to the City Council's Cities Association of Santa Clara County ("CASC") Board representative to report approval of the JPA at the CASC Board of Directors ("CASC Board") Meeting; and
3. Authorize the City Manager to execute the JPA.

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

ADJOURNMENT

At 6:12 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: Recognition of October as Domestic Violence Awareness Month
Recommended Action: Recognize October as Domestic Violence Awareness Month

Mayor Wei Recognized October as Domestic Violence Awareness Month.

POSTPONEMENTS AND ORDERS OF THE DAY

Moore moved to continue Item 7 Options for construction of a City Hall facility to a date uncertain. There was no second and the motion was not considered.

ORAL COMMUNICATIONS

Claudio Bono discussed an upcoming Cupertino Historical Society event and political matters.

Kathy Stakey discussed City staff and Domestic Violence Awareness Month.

Chester Haley, representing Carpenters Local Union 405, discussed union values and wages.

Santosh Rao discussed the processes for agenda setting and public comment and City projects and events.

Rhoda Fry discussed recorded commission meetings, the CDTFA audit, City projects, and revenue strategies. (Submitted written comments).

Jenny Huang discussed City policies and a Code Enforcement matter.

Patrick Kwok discussed the street sweeping program and parking enforcement.

Louis Saadati discussed the City Attorney's response to a lawsuit.

Lisa Warren discussed the City Attorney's response to a lawsuit, agenda item selection, and the Housing Element.

CONSENT CALENDAR (Items 2-6)

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

Councilmembers made comments.

MOTION: Fruen moved and Chao seconded to approve the items on the Consent Calendar as presented. FRIENDLY AMENDMENT: Chao made a friendly amendment to include the Amended Draft Resolution for Item #6. (Fruen accepted the friendly amendment). The amended motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

2. Subject: Ratifying Accounts Payable for the periods ending September 1, 2023; September 8, 2023; September 15, 2023; September 22, 2023; and September 29, 2023
Recommended Action: A. Adopt Resolution No. 23-108 ratifying Accounts Payable for the Period ending September 1, 2023;
B. Adopt Resolution No. 23-109 ratifying Accounts Payable for the Period ending September 8, 2023;
C. Adopt Resolution No. 23-110 ratifying Accounts Payable for the Period ending September 15, 2023;
D. Adopt Resolution No. 23-111 ratifying Accounts Payable for the Period ending September 22, 2023; and
E. Adopt Resolution No. 23-112 ratifying Accounts Payable for the Period ending September 28, 2023

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

3. Subject: Second reading of Cupertino Municipal Code, Chapter 9.22, expanding existing property maintenance requirements in accordance with California Health and Safety Code 17970.5
Recommended Action: Conduct a second reading and enact Ordinance No. 23-2250: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CITY CODE CHAPTER 9.22 of Title 9 (Health and Sanitation) TO PROHIBIT SUBSTANDARD HOUSING CONDITIONS".
4. Subject: Second reading of Ordinance No. 23-2251 amending Tobacco Regulation

Ordinance Municipal Code chapter 5.50

Recommended Action: Conduct a second reading and enact Ordinance No. 23-2251; "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CHAPTER 5.50 TO TITLE 5 (BUSINESS LICENSES AND REGULATIONS) TO REGULATE THE SALE OF TOBACCO PRODUCTS".

5. Subject: Stevens Creek Boulevard/Calabazas Creek Storm Drain Repair Emergency Work status report and authorization to continue.

Recommended Action: Receive a status update on the Emergency Work at Stevens Creek Boulevard/Calabazas Creek Storm Drain Capital Improvement Programs (CIP) project and authorize the continuation of the emergency action, by four-fifths vote.

Written communications for this item included a supplemental report with staff responses to councilmember questions, new Attachment A - Plans for Calabazas Creek at Stevens Creek Blvd and Attachment B - Photos of Storm Drain Damage, and a councilmember email.

6. Subject: Amend the established City Council meeting calendar through January 17, 2024

Recommended Action: Adopt Resolution 23-113 amending the established City Council meeting calendar through January 17, 2024

Written communications for this item included new Attachment B - Amended Draft Resolution and an email to Council.

PUBLIC HEARINGS – None

ACTION CALENDAR

7. Subject: Options for construction of a City Hall facility

Recommended Action: Direct staff to pursue conceptual development of a mixed used Public Private Partnership for City Hall and the Sports Center properties

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

Assistant City Manager Matt Morley and CIP Manager Susan Michael gave a presentation.

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.

Brooke Ezzat

Susan Wuthrich (submitted written comments)

Enuace, Ken, Larry, Betty, and Lauie ceded time to Susan Wuthrich.

Rocky Chen

Ravi Rajagopalan

Marcia Alicea

Vidya

Janet Chang

Madhumita Datta

Kamchan Patalay

Edward Hirschfield

Ravi Kumar, Sargon Issac, Lee See Loh, and Carrie Y ceded time to Edward Hirschfield.

Joe Stevens

Laura Carroll

Pankaj Malviya

Tak Young, Gloria Young, Kiran Kolpe, and George Mattinger ceded time to Pankaj Malviya.

Santosh Rao

Ahmad Yazdi

Patrick Kwok

Sandra Miller

Rajeev Krishnamoorthy

Rhoda Fry

Derek Chen

Prathap Kudupu

Arjun Ghatak

Craig Cerbagi

Amir

Jean Yih

Poonam

Amy Meno

Sam Liu

Karen

Srinivas Ketavarapu

Jean Bedord

Mayor Wei closed the public comment period.

At 9:12 p.m., Mayor Wei recessed the meeting. The meeting reconvened at 9:19 p.m. with all Councilmembers present.

SUBSTITUTE MOTION: Moore moved and Chao seconded a substitute motion to deny the recommended action and reaffirm the prior City Council renovation and pursue the alternative a la carte options. Moore's substitute motion failed with the following vote: Ayes: Chao and Moore. Noes: Wei, Mohan, and Fruen. Abstain: None. Absent: None.

SUBSTITUTE MOTION: Chao moved and Moore seconded a substitute motion to stop spending more staff time and money on consultants to pursue options that would likely come at a significant cost to the City; and consider putting a Council sponsored ballot measure in the 2024 General Election to ask for voter approval of the renovation of the City Hall project, up to \$40M (\$37.5M with some contingency cost). Chao's substitute motion failed with the following vote: Ayes: Chao and Moore. Noes: Wei, Mohan, and Fruen. Abstain: None. Absent: None.

MOTION: Wei moved and Fruen seconded to direct staff to pursue conceptual development with viable financing strategies for the City Hall, including a new City Hall and/or renovation of existing City Hall, while excluding development to publicly owned recreational facilities including the Sports Center. Also, instruct City staff to research and bring to the public and City Council the following:

- 1) Examples of successful Public Private Partnership projects for reference;
- 2) Pursue partnership with potential development partnerships.

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

8. Subject: Blackberry Farm (BBF) Golf Course Feasibility Study, considering options to complete minimal repairs and improvements to the BBF Golf Course (Option 1) or convert BBF Golf Course to a Natural Habitat (Option 3).
Recommended Action: Direct staff to proceed with minimal repairs to maintain the BBF Golf Course (Option 1).

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

Director of Public Works Chad Mosley and CIP Manager Susan Michael gave a presentation.

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.

Xinpei

Dave Villafana

Andy Garrido

Kathy Stakey

Pat Dowd

Emily Poon, representing Friends of Blackberry Farm Golf Course (submitted written comments)

Rhoda Fry

Keith Kreft

Len Dumas, representing Northern California PGA

Emmy Moore Minister

Jean Bedord

Will Johnson (submitted written comments)

Rich Parker

Mayor Wei paused the public comment period.

MOTION: Wei moved and Fruen seconded to extend the meeting to 11:30 p.m. to continue discussion on this item. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

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

Claudio Bono

Nancy Sallan

Dashiell Leeds, representing Sierra Club Loma Prieta Chapter

Shani Kleinhaus, representing Santa Clara Valley Audubon Society

San R

Nick Bailey

Lisa Warren

Mayor Wei closed the public comment period.

MOTION: Chao moved and Fruen seconded the staff recommendation (to retain the Golf Course) to direct staff to proceed with minimal repairs to maintain the BBF Golf Course (Option 1) and, in addition:

- prioritize (b) "Evaluate operational and fee rate changes that may improve revenue generation and cost recovery" - the fee update since it hasn't been updated for many years.

- bring a simpler fee schedule update to the Council as soon as possible.

(Fruen seconded the motion with the proviso that it be discussed further).

FRIENDLY AMENDMENT Chao made a friendly amendment:

Amendment 1:

- Bring more information on Audubon certification to the Council.
- In one to two years, bring a proposal for fee restructuring to consider:
 - deeper discounts for Cupertino residents.
 - deeper discounts for youth 18 years or younger and/or fee waiver for younger youth.
 - deeper discounts and/or fee waiver for low income residents and public agency employees.

Amendment 2:

- Consult with organizations like Audubon and Sierra Club on the minimal improvements to be wildlife friendly - such as no addition of netting and
- The operation shall not exceed the current operation time to protect wildlife.
- No future discussion of leasing or selling or intensifying the site. Retain the city ownership.

(Fruen declined the friendly amendment and it was not included in the motion).

FRIENDLY AMENDMENT: Fruen made a friendly amendment that with the recommended direction, staff will pursue:

- a. An updated scope, schedule of work, and cost estimate relating to Option 1 (minimal repairs to the golf course);
- b. Evaluate operational and fee rate changes that may improve revenue generation and cost recovery;
- c. Investigate golf course and facility improvements that may increase revenue, further reduce water use, and opportunities to increase natural habitat areas where feasible; and
- d. Explore the potential of leasing the golf course to an outside vendor to further reduce expenditures and increase City revenues.
- e. **Focus plans for outdoor uses on daytime use in order to avoid significant evening light impacts and noise impacts.**

(Chao accepted the friendly amendment).

FRIENDLY AMENDMENT: Chao made a friendly amendment to bring more information on Audubon certification to the Council. (Fruen accepted the friendly amendment).

FRIENDLY AMENDMENT: Chao made a friendly amendment for no future discussion of leasing or selling or intensifying the site and to retain the city ownership. (Fruen declined the friendly amendment and it was not included in the motion).

FRIENDLY AMENDMENT: Moore made a friendly amendment to modify the language for lighting for night activities to **prohibit** wildlife disturbing night activities with lighting. (Fruen declined the friendly amendment and it was not included in the motion).

Council did not vote on this motion.

MOTION: Wei moved and Chao seconded to extend the meeting to 11:45 p.m. to continue discussion on the item. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

SUBSTITUTE MOTION: Wei moved and Moore seconded the recommended action. With the recommended direction, staff will pursue:

- a. An updated scope, schedule of work, and cost estimate relating to Option 1 (minimal repairs to the golf course);
- b. Evaluate operational and fee rate changes that may improve revenue generation and cost recovery;
- c. Investigate golf course and facility improvements that may increase revenue, further reduce water use, and to look for opportunities to increase natural habitat areas where feasible; and
- d. Explore the potential of leasing the golf course to an outside vendor to further reduce expenditures and increase City revenues.

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

ADJOURNMENT

At 11:27 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

9. Subject: Councilmember Reports

Written communications for this item included a supplemental report from Mayor Wei.

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

CITY MANAGER REPORT

Council did not hear this item.

ORAL COMMUNICATIONS - CONTINUED - None

INFORMATIONAL ITEMS

10. Subject: Receive the Monthly Treasurer's Report for September 2023
Recommended Action: Receive the Monthly Treasurer's Report for September 2023

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

11. Subject: Receive the Monthly Treasurer's Investment Report for September 2023
Recommended Action: Receive the Monthly Treasurer's Investment Report for September 2023

The Monthly Treasurer's Investment Report for September 2023 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