



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, November 19, 2024

At 6:46 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 (participated remotely). Absent: None.

CLOSED SESSION REPORT

City Attorney Chris Jensen conducted the closed session report. City Attorney Jensen reported that there was nothing to report.

CEREMONIAL ITEMS

1. Subject: Recognition of November 30, 2024 as Small Business Saturday
Recommended Action: Recognize November 30, 2024 as Small Business Saturday

Mayor Mohan recognized November 30, 2024 as Small Business Saturday.

PRESENTATIONS

2. Subject: Annual Report of the Technology, Information, and Communications Commission
Recommended Action: Receive report of annual activities of the Technology, Information, and Communications Commission

Written communications for this item included a presentation.

Technology, Information, and Communications Commission Chair Prabir Mohanty gave a presentation.

Council received the report of annual activities of the Technology, Information, and Communications Commission.

3. Subject: Presentation from Cupertino Bhubaneswar Sister City
Recommended Action: Receive presentation from Cupertino Bhubaneswar Sister City

Written communications for this item included a presentation.

Cupertino Bhubaneswar Sister City Initiative Co-founder Mahesh Pakala gave a presentation.

Council received the presentation from Cupertino Bhubaneswar Sister City.

4. Subject: Presentation from Cupertino Toyokawa Sister City
Recommended Action: Receive presentation from Cupertino Toyokawa Sister City

Written communications for this item included a presentation.

Cupertino-Toyokawa Sister Cities President Alyssa Sakkas shared a video presentation and the 2024 student delegation provided comments.

Council received the presentation from Cupertino Toyokawa Sister City.

POSTPONEMENTS AND ORDERS OF THE DAY – None

ORAL COMMUNICATIONS

Written communications for this item included emails forwarded by Councilmembers.

The following members of the public spoke:

David Lim discussed pickleball courts at Memorial Park.

Keith Kreft discussed the proposed development on Linda Vista Drive.

Lakshmi, representing Ambedkar King Study Circle (AKSC), discussed caste discrimination.

Shan My Gavel, representing Ambedkar King Study Circle (AKSC), discussed caste discrimination.

Karthikeyan, representing Ambedkar King Study Circle (AKSC), discussed caste

discrimination.

Jean Bedord discussed the City Manager and City Attorney performance evaluations.

Louise Saadati discussed the City Manager and City Attorney performance evaluations.

David discussed the rezoning of Linda Vista Drive.

San R discussed various topics including Councilmembers, Council actions, and the election.

Debbie Timmers discussed the City Manager and City Attorney performance evaluations.

Lisa discussed the City Manager and City Attorney performance evaluations.

Sashi Begur discussed various topics including SB 403, transparency, Council actions, and rezoning.

Mayor Mohan closed the public comment period.

CONSENT CALENDAR (Items 5-15)

Items 12 and 14 were removed from the Consent Calendar by Councilmember Chao and items 7 and 15 were removed by Councilmember Moore.

MOTION: Fruen moved (no second) to approve the items on the Consent Calendar except for as indicated. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

Items 7, 12, 14, and 15 were placed after the Action Calendar for consideration per rule.

5. Subject: Approve the October 15, 2024 City Council minutes
Recommended Action: Approve the October 15, 2024 City Council minutes
6. Subject: Approve the October 23, 2024 City Council minutes
Recommended Action: Approve the October 23, 2024 City Council minutes
8. Subject: Ratifying Accounts Payable for the periods ending October 4, 2024; October 11, 2024; October 18, 2024; and October 25, 2024
Recommended Action: A. Adopt Resolution No. 24-100 ratifying Accounts Payable for the Period ending October 4, 2024;
B. Adopt Resolution No. 24-101 ratifying Accounts Payable for the Period ending

October 11, 2024;

C. Adopt Resolution No. 24-102 ratifying Accounts Payable for the Period ending October 18, 2024; and

D. Adopt Resolution No. 24-103 ratifying Accounts Payable for the Period ending October 25, 2024

Written communications for this item included emails to Council.

9. Subject: Adoption of amendments to Cupertino Municipal Code Chapter 2.32 (Planning Commission), Chapter 2.74 (Technology, Information, and Communications Commission), Chapter 2.86 (Housing Commission), Chapter 11.08 (Bicycles), and Chapter 13.04 (Parks), and repeal of Municipal Code Chapter 15.04 (Waterworks System - Rates and Charges).

Recommended Action: Conduct the second reading of and adopt Ordinance No. 24-2267: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO REPEALING MUNICIPAL CODE CHAPTER 15.04 AND AMENDING MUNICIPAL CODE CHAPTERS 2.32, 2.74, 2.86, 11.08, AND 13.04."

10. Subject: Mitigation Fee Act - the Annual & Five-Year Report for Fiscal Year (FY) 2023-2024

Recommended Action: Adopt Resolution No. 24-104 entitled "A Resolution of the City of Cupertino City Council approving the Annual and Five-Year Mitigation Fee Report for Fiscal Year ending June 30, 2024, and making required findings" to:

1. Make the required findings; and
2. Approve the Annual & Five-Year Mitigation Fee Report for the Fiscal Year ending June 30, 2024, as required by Government Code Section 66000 et seq.

Written communications for this item included emails to Council.

11. Subject: Adopt a maximum rate schedule for Rate Period Five (RP 5) 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 (Attachment A)

Recommended Action: Adopt Resolution No. 24-105 (Attachment B) to:

- 1) Adopt a maximum rate schedule for RP 5 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 A (FA Exhibit E1)); and
- 2) Authorize the use of \$394,465 of restricted-use Enterprise Funds to smooth and mitigate the RP 5 adjustment

13. Subject: First Amendment to contract with Azteca Systems, LLC., for Cityworks,

Cupertino's Asset Management System subscription service, for a total not-to-exceed amount of \$362,584.37, and extending the contract date to December 30, 2028.

Recommended Action: Authorize the City Manager to execute a First Amendment of the contract with Azteca Systems, LLC., for Cityworks, Cupertino's Asset Management System subscription service, for a total not-to-exceed amount of \$362,584.37 and extending the contract date to December 30, 2028.

At 8:03 p.m. Mayor Mohan recessed the meeting. The meeting reconvened at 8:15 p.m. with all councilmembers present.

PUBLIC HEARINGS - None

ACTION CALENDAR

16. Subject: Adopt an allocation plan for funds uncommitted from the Sales Tax Repayment reserve

Recommended Action: Option A:

A. Adopt Option A

Option B:

A. Adopt Option B

B. Adopt Resolution No. 24-109 approving budget modification No. 2425-366, increasing appropriations by \$11,688,705

C. Adopt Resolution No. 24-110 amending the Unrepresented Employees' Compensation Program

D. Approve new three-year limited term Grants Analyst position for grants management

E. Approve new Assistant Director of Administrative Services, Grants Analyst, Senior Business Systems Analyst and Supervising Code Enforcement classifications

Option C:

A. Adopt Option C

B. Adopt Resolution No. 24-109 approving budget modification No. 2425-366, increasing appropriations by \$11,688,705

C. Adopt Resolution No. 24-110 amending the Unrepresented Employees' Compensation Program

D. Approve new three-year limited term Grants Analyst position for grants management

E. Approve new Assistant Director of Administrative Services, Grants Analyst, Senior Business Systems Analyst and Supervising Code Enforcement classifications

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

Director of Administrative Services Kristina Alfaro gave a presentation.

Councilmembers asked questions and made comments.

Mayor Mohan opened the public comment period and the following members of the public spoke.

Sujatha Venkatraman, representing West Valley Community Services

Rhoda Fry

San R

Lisa

Mayor Mohan closed the public comment period.

MOTION: Chao moved and Moore seconded to adopt Option A, do nothing and bring the item back to Council in January to consider budget allocations holistically in every area, including the areas where Council made reductions in the last year and any areas that might need a new allocation, with a study session in January for Council and public consideration; and revisit the items before the final budget adoption in June. Chao amended the motion to allocate \$10 million for a CalPERS Additional Discretionary Payment (ADP) and retain the rest of the motion as is (Moore declined the amendment and it was not included in the motion). Council did not vote on this motion.

SUBSTITUTE MOTION: Chao moved and Fruen seconded a substitute motion to adopt Option A, with the remaining amount placed into a committed reserve fund, and a \$10 million allocation for a CalPERS Additional Discretionary Payment (ADP). Chao amended the substitute motion to bring the item back to Council in January to consider the budget allocation holistically in every area, including the reductions made by Council last year, with a study session in January for Council and public consideration (Fruen accepted the amendment). The amended substitute motion carried with the following vote: Ayes: Mohan, Fruen, Chao, and Wei. Noes: Moore. Abstain: None. Absent: None.

Chao requested an informational memo providing information on funding by other jurisdictions in CalPERS and how the City compares, combined with the City's investment in Public Agency Retirement Services (PARs).

MOTION: Fruen moved and Moore seconded to reorder the agenda items to hear items 12, 14, 15, and 7. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

ITEMS REMOVED FROM THE CONSENT CALENDAR

12. Subject: Award a contract to Lifetime Activities Inc. for Sports Center Instruction, Court Maintenance, and Retail Services at the Cupertino Sports Center for a total not-to-exceed amount of \$24,000,000.
- Recommended Action: 1. Award a 10-Year contract to Lifetime Activities Inc. to provide Sports Center Instruction, Court Maintenance, and Retail Services at the Cupertino Sports Center for a total not-to-exceed amount of \$24,000,000 with the estimated revenue amount of \$3,450,000; and
2. Authorize the City Manager to execute the contract with Lifetime Activities Inc. consistent with City Council direction.

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.

Mayor Mohan opened the public comment period and the following members of the public spoke.

Randy Kunkee
Vidya
Sri
Andrew Wu
San R
Vitaly Gorin
Kaz Shin
Lisa
Felix Katsman

Mayor Mohan closed the public comment period.

MOTION: Chao moved to extend the current contract with Lifetime Activities for another six months and conduct another Request for Proposal (RFP) to clarify for applicants what flexible options can be proposed, such as different percentage of revenue, one-time donation, or any other options applicants can propose; and to provide more information on the City's operation and expectations, with more information on the quality of coaches available, rated by high, medium, and beginner levels. Council did not vote on this motion.

MODIFIED MOTION: Chao moved and Moore seconded a modified motion to reject the proposal with Lifetime Activities and bring the item back to the next Council meeting to

consider extending the current contract for six months and revising the Request for Proposal (RFP) to clarify what flexible options can be proposed by applicants, such as different percentage of revenue, one-time donation, or any other options applicants can propose; and to provide more information on the City's operation and expectations, with more information on the quality of coaches available, rated by high, medium, and beginner levels. Moore made a friendly amendment to review the percentage of revenue that the City receives and provide a staff report explaining the reasons for the reduction in the Projected City New Revenue. (Chao consented to the friendly amendment). Council did not vote on this motion.

SUBSTITUTE MOTION: Mohan moved and Fruen seconded a substitute motion to:

1. Award a 5-Year contract to Lifetime Activities Inc. to provide Sports Center Instruction, Court Maintenance, and Retail Services; and
2. Authorize the City Manager to execute the contract with Lifetime Activities Inc. consistent with City Council direction.

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

ADJOURNMENT

At 10:45 p.m., Mayor Mohan adjourned the Regular City Council Meeting per rule. There was no Council discussion on the remaining agenda items.

14. Subject: City Manager's First Quarter Financial Report for Fiscal Year (FY) 2024-25
Recommended Action: A. Accept the City Manager's First Quarter Financial Report for Fiscal Year 2024-25; and
B. Adopt Resolution No. 24-106 approving Budget Modification No. 2425-367, increasing appropriations by \$331,128 fund by unassigned fund balance.

Written communications for this item included a supplemental report with staff responses to councilmember questions, Attachment J - Competitive Grants Revised, and emails to Council.

This item was pulled from the consent calendar for discussion.

This item was continued to the December 3, 2024 Regular City Council Meeting per rule.

15. Subject: Adopt the OPEB and Pension Trust Investment Policies
Recommended Action: A. Adopt Resolution No. 24-107 for the OPEB Trust Investment Policy; and
B. Adopt Resolution No. 24-108 for the Pension Trust Investment Policy

This item was pulled from the consent calendar for discussion.

This item was continued to the December 3, 2024 Regular City Council Meeting per rule.

- 7. Subject: Resolution amending the City of Cupertino Conflict of Interest Code for officials and designated employees; Amended 2024 Local Agency Biennial Notice
Recommended Action: 1.) Adopt Resolution No. 24-099 rescinding Resolution No. 24-083 and amending the City of Cupertino Conflict of Interest Code for officials and designated employees; and
2.) Authorize the City Manager to sign the amended 2024 Local Agency Biennial Notice

Written communications for this item included emails to Council.

This item was pulled from the consent calendar for discussion.

This item was continued to the December 3, 2024 Regular City Council Meeting per rule.

CITY MANAGER REPORT

Council did not hear this item.

ORAL COMMUNICATIONS - CONTINUED – None

COUNCILMEMBER REPORTS

- 17. Subject: Councilmember Reports

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

FUTURE AGENDA ITEMS

Council did not hear this item.

Minutes prepared by:

Kirsten Squarcia, City Clerk