



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, April 16, 2024

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 National Volunteer Week, April 21-27, 2024
Recommended Action: Recognize April 21-27, 2024 as National Volunteer Week

Mayor Mohan recognized April 21-27, 2024 as National Volunteer Week.

POSTPONEMENTS AND ORDERS OF THE DAY

2. Subject: Fiscal Year 2024-25 Fee Schedule
Recommended Action: Continue the item to May 7, 2024

MOTION: Mohan moved and Wei seconded to continue the Fiscal Year 2024-25 Fee Schedule item to May 7, 2024. 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 an email to Council.

The following members of the public spoke:

Brooke Ezzat discussed Council actions and City project studies.

Donna Austin discussed resident communication and decorum.

Jennifer Griffin discussed housing bills and the California Coastal Commission.

Rhoda Fry discussed the City's budget and banking.

San R discussed City outreach and incidents of panhandling.

Councilmembers requested the following information from staff:

- Informational memo on City funds in a non-interest bearing account.
- Update on incidents of panhandling.

CONSENT CALENDAR (Items 3-10)

Items 6, 7, and 9 were pulled from the Consent Calendar by Councilmember Chao.

MOTION: Moore moved and Wei seconded to hear items 6 and 7 before the Action Calendar. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

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

Rhoda Fry (Item 4)

Mayor Mohan closed the public comment period.

MOTION: Fruen moved and Wei seconded to approve the items on the Consent Calendar except as indicated. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

Items 6 and 7 were moved after the Consent Calendar for consideration. Item 9 was placed after the Action Calendar for consideration per rule.

3. Subject: Approval of April 3, 2024 City Council minutes
Recommended Action: Approve the April 3, 2024 City Council minutes
 4. Subject: Ratifying Accounts Payable for the periods ending March 1, 2024; March 8, 2024; March 15, 2024; March 22, 2024; and March 29, 2024
Recommended Action: A. Adopt Resolution No. 24-031 ratifying Accounts Payable for the Period ending March 1, 2024;
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- B. Adopt Resolution No. 24-032 ratifying Accounts Payable for the Period ending March 8, 2024;
- C. Adopt Resolution No. 24-033 ratifying Accounts Payable for the Period ending March 15, 2024;
- D. Adopt Resolution No. 24-034 ratifying Accounts Payable for the Period ending March 22, 2024; and
- E. Adopt Resolution No. 24-035 ratifying Accounts Payable for the Period ending March 29, 2024

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

- 5. Subject: Adoption of Ordinance No. 24-2257, Regulating the Sale of Tobacco Products
Recommended Action: Conduct the second reading and enact Ordinance No. 24-2257, entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CHAPTER 5.50 OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) TO REGULATE THE SALE OF TOBACCO PRODUCTS"

- 8. Subject: Award a construction contract for the De Anza Boulevard Buffered Bike Lanes Project (Project) in the amount of \$529,680 and approve a budget modification in the amount of \$5,533.
Recommended Action: 1. Award a construction contract for the De Anza Boulevard Buffered Bike Lanes Project (Budget Unit 420-99-262) in the amount of \$529,680 to Chrisp Company;
2. Authorize the City Manager to execute the contract when all conditions have been met; and
3. Adopt Resolution No. 24-036 approving budget modification #2324-237, approving an appropriation of \$5,533 in the Capital Improvement Fund (420) and a transfer of \$5,533 from the Capital Reserve Fund (429) to the project (budget unit 420-99-262 900-905) for a total authorized project expenditure of \$529,680.

- 10. Subject: Fiscal Year (FY) 2024-25 recommended funding allocations for the Community Development Block Grant (CDBG) Program and Below Market Rate Affordable Housing Fund (BMR AHF)
Recommended Action: Authorize the City Manager to execute the FY 2024-25 Housing & Human Services Grant Programs funding agreements.

PUBLIC HEARINGS – None

ITEMS REMOVED FROM THE CONSENT CALENDAR

6. Subject: Adoption of Ordinance No. 24-2258, Amendment to a Development Agreement for the Cupertino Village Boutique Hotel Project from five to eight years and associated environmental review. (Application No(s): DA-2023-002; Applicant(s): KIMCO (Sunil Plaha); Location: 10801 and 10805 N. Wolfe Rd.; APN: 316 45 017, 316 05 056)

Recommended Action: Conduct the second reading and enact Ordinance No. 24-2258: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO APPROVING AN AMENDMENT TO A DEVELOPMENT AGREEMENT FOR THE CUPERTINO VILLAGE BOUTIQUE HOTEL"

Written communications for this item included an email to Council.

This item was pulled from the Consent Calendar for discussion and combined with Item 7 for consideration.

7. Subject: Adoption of Ordinance No. 24-2259, Amendment to a Development Agreement for the De Anza Hotel Project from five to eight years and associated environmental review. (Application No(s): DA-2023-003; Applicant(s): De Anza Properties (John Vidovich); Location: 10931 N De Anza Blvd.; APN: 326-10-061)

Recommended Action: Conduct the second reading and enact Ordinance No. 24-2259: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO APPROVING AN AMENDMENT TO A DEVELOPMENT AGREEMENT FOR THE DE ANZA HOTEL PROJECT"

Written communications for this item included an email to Council.

This item was pulled from the Consent Calendar for discussion and combined with Item 6 for consideration.

Councilmembers disclosed any ex parte communications prior to deliberation.

Councilmembers asked questions and made comments.

Mayor Mohan opened the public comment period for Items 6 and 7 and the following members of the public spoke.

Jennifer Griffin
Jean Bedord
Rhoda Fry

Mayor Mohan closed the public comment period for Items 6 and 7.

MOTION: Chao moved and Moore seconded the staff recommendations for Items 6 and 7 to:

1. Conduct the second reading and enact Ordinance No. 24-2258: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO APPROVING AN AMENDMENT TO A DEVELOPMENT AGREEMENT FOR THE CUPERTINO VILLAGE BOUTIQUE HOTEL"; and
2. Conduct the second reading and enact Ordinance No. 24-2259: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO APPROVING AN AMENDMENT TO A DEVELOPMENT AGREEMENT FOR THE DE ANZA HOTEL PROJECT."

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

ACTION CALENDAR

11. Subject: Potential service-level reductions for the FY 2024-25 Proposed and Final Budgets

Recommended Action: Provide confirmation on potential service-level reductions for the FY 2024-25 Proposed and Final Budgets

Presenters: Kristina Alfaro, Director of Administrative Services and Thomas Leung, Budget Manager

Written communications for this item included a staff presentation, a supplemental report and a desk item with staff responses to councilmember questions, Attachment B - Service-Level Reductions Staff Report 1.17.2024, Attachment C - Potential Service-Level Reductions Summary 1.17.2024, and emails to Council.

Director of Administrative Services Kristina Alfaro and Budget Manager Thomas Leung gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin
Rhoda Fry
San R

Mayor Mohan closed the public comment period.

MOTION: Moore moved and Chao seconded the staff recommendation to provide confirmation on potential service-level reductions for the FY 2024-25 Proposed and Final Budgets, with a modification that the budget for Internal Audit be retained at the current funding level of \$100,000, and staff look for a potential funding source from the City Manager Discretionary Fund. Council did not vote on this motion.

SUBSTITUTE MOTION: Wei moved and Fruen seconded a substitute motion for the staff recommendation to provide confirmation on potential service-level reductions for the FY 2024-25 Proposed and Final Budgets. The substitute motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

STUDY SESSION

12. Subject: Study Session and staff presentation on the 6th Cycle Housing Element Update

Recommended Action: Receive the staff presentation on the 6th Cycle Housing Element Update

Presenter: Luke Connolly, Assistant Director of Community Development

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

Assistant Director of Community Development Luke Connolly gave a presentation.

Councilmembers asked questions and made comments.

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

Greg Endom, representing Marina Plaza Shopping Center

Jennifer Griffin

Jean Bedord

San R

Rhoda Fry

Louise Saadati

Mayor Mohan closed the public comment period.

Council received the staff presentation on the 6th Cycle Housing Element Update.

ITEMS REMOVED FROM THE CONSENT CALENDAR - CONTINUED

9. Subject: Approve a fifth amendment with Moore Iacofano Goltsman, Inc. (MIG) to provide additional design and project management services for the Lawrence-Mitty Park and Trail Project for a total not-to-exceed amount of \$955,403 and extend the contract date to December 31, 2027.

Recommended Action: Authorize the City Manager to execute a fifth amendment (Agreement #402, P.O 2022-0325) with MIG to extend the contract term end date to December 31, 2027, and to provide additional design and project management services on the Lawrence-Mitty Park and Trail Project, for a revised total and additional service amount of \$661,619, increasing the maximum compensation amount to \$955,403.

Written communications for this item included a supplemental report and a desk item with staff responses to councilmember questions, Attachment A - Updated Draft Contract, and emails to Council.

This item was pulled from the Consent Calendar for discussion and then continued to the May 7, 2024 City Council meeting.

CITY MANAGER REPORT

Council did not hear this item.

ORAL COMMUNICATIONS - CONTINUED - None**COUNCILMEMBER REPORTS**

13. Subject: Councilmember Reports

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

FUTURE AGENDA ITEMS

Council did not hear this item.

RECESS

At 9:56 p.m., Mayor Mohan recessed the meeting. At 10:04 p.m. Mayor Mohan reconvened the meeting in City Hall Conference Room C, 10300 Torre Avenue.

ROLL CALL

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

CLOSED SESSION

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

14. Subject: Conference with legal counsel - existing litigation pursuant to Government Code § 54956.9 (Lewis & Tibbits, Inc. v. City of Cupertino, Santa Clara County Superior Court Case No. 23CV423990)

Council met with legal counsel on the existing litigation (Lewis & Tibbits, Inc. v. City of Cupertino, Santa Clara County Superior Court Case No. 23CV423990).

OPEN SESSION REPORT REGARDING CLOSED SESSION

City Attorney Jensen conducted the open session report regarding closed session. City Attorney Jensen reported that the City Council voted to approve a settlement to the claimant Lewis & Tibbits, Inc. in the amount of \$45,000 to resolve all claims.

ADJOURNMENT

At 10:19 p.m., Mayor Mohan adjourned the Regular City Council Meeting.

Minutes prepared by:

Kirsten Squarcia, City Clerk