



## CITY COUNCILMEMBER REPORT\*

Meeting: Tuesday, May 7, 2024

+for the "Councilmember Reports" agenda item under the "COUNCIL REPORTS" section

Reporting Councilmember: Councilmember Liang Chao

Report Dates: 4/10/24 to 4/29/24

### Section 1: Activities by Date (Date, Title, and Description):

#### NOTE:

- This list does not include internal meetings with staff only, such as prep sessions or meetings with the City Manager.
- This list includes activities to "represent the community I am elected to serve", "to respond to community needs and complaints," and "to communicate policies and programs to residents," among other [responsibilities](#) of a City Councilmember.
- Due to my work schedule, I have cut down on the event attendance for ceremonial purposes, especially those I have attended almost every year in the past. Instead, I focus more of my time on constituent services.

2024-04-12 Follow-up to a public comment on April 3 during the first reading of the two hotel projects questioning whether the language used in the Development Agreement "good faith and diligent effort" is sufficient to ensure Cupertino can capture the local portion of the sales/use tax we deserve to get.

- I have since verified that the DA with Apple Park in 2013 did include assertive language to ensure the [Sales Tax Localization Plan](#) is implemented with contractors and subcontractors. Other cities, like [San Jose's Diridon Station Project](#), do include assertive language in their DA to capture sales tax.
- Note that this provision does not require purchasing of constructor materials from Cupertino. It merely requires the designation of Cupertino as the site where the construction materials will be used so that the local portion of the sales tax does not go to the County pool or a branch office of a contractor in another city.
- This is the section of the DA in question from the two hotel projects on the April 3 Council Agenda.

5.5 Sales Tax Point of Sale Designation. Developer shall use good faith, diligent efforts to the extent allowed by law to require all persons and entities providing bulk lumber, concrete, structural steel, and pre-fabricated building components, such as roof trusses, to be used in connection with the construction and development of, or incorporated into, the Project, to (a) obtain a use tax direct payment permit; (b) elect to obtain a subcontractor permit for the job site of a contract valued at Five Million Dollars (\$5,000,000) or more; or (c) otherwise designate the Property as the place of use of material incorporated in the Project to have the local portion of the sales and use tax distributed directly to City instead of through the county-wide pool. Developer shall instruct its general contractor(s) for the Project to, and shall cause such general contractor(s) to instruct its/their subcontractors to, cooperate with City to ensure that the local sales/use tax derived from construction of the Project is allocated to City to the fullest extent possible. To assist City in its efforts to ensure that such local sales/use tax is so allocated to City, Developer shall on an annual basis, or more frequently upon City's request, provide City with such information as shall be reasonably requested by City regarding subcontractors working on the Project with contracts in excess of the amount set forth above, including a description of all applicable work and materials and the dollar value of such subcontracts, and, if applicable, evidence of their designation, such as approvals or applications for the direct payment permit, of City as the place of use of such work and materials. City may use such information to contact each subcontractor who may qualify for local allocation of use taxes to City.

2024-04-12 Follow up to a constituent's comment questioning the need for yet another Bike-Pedestrian Plan in 2024 when there are already plans completed recently and unfinished projects.

- [Plans Cupertino has completed](#) so far: [2016 Bike Plan](#), [2018 Pedestrian Plan](#), [2023 Local Road Roadway Safety Plan](#), [2024 Vision Zero Plan](#).
- [Status of all bike path projects and feasibility studies that I can find](#) (likely not complete)

2024-04-20 [Stevens Creek County Park Centennial Celebration](#) at the Sycamore Group Site at Stevens Creek County Park

- "One hundred years ago, on January 24, 1924, Santa Clara County acquired an initial 400 acres near Cupertino with the intent to establish a public park. The park, now known as Stevens Creek County Park, opened to the public later that year, making it the first County park and laying the foundation for the modern-day Santa Clara County Parks system. "
- "In 1935, the Santa Clara Valley Water Conservation District purchased 171.5 acres adjacent to the County's land to develop a reservoir. The Stevens Creek dam was completed in 1936. Over the years, additional acreage and improvements have been made to Stevens Creek County Park so that visitors can enjoy archery, disc golf, boating, fishing, historic sites, horseshoe tossing, interpretive programs, picnicking, and trails for hiking, bicycling, horseback riding, and nature study."

2024-04-20 [Cupertino Earth and Arbor Day Festival](#) and Tree Planting at the Wilson Park

- visited many booths and talked to volunteers at the festival.
- used the trail entrance near the Library to enter Regnart Creek Trail and walked to Wilson Park for the annual tree planting. Each year the City Council plants one tree of a different variety, which is natural to our climate.

2024-04-21 The 125th Anniversary of [Cupertino Odd Fellow Lodge No. 70](#)

- The reception was accompanied with a Live Hawaiian Band, performed by the lodge

members. Then, a formal ceremony was held with speeches providing inspiring historic background of the lodge. At one time, there were only 5 members, but now the membership has grown to 60 members.

2022-04-22 Follow up to a constituent's concern from 2024-04-06 questioning why Annual Comprehensive Financial Report (ACFR) has been filed many months late.

- I have verified with staff that [Gov. Code 40804 requires "the annual report", which is ACFR, to be filed within seven months](#) of the close of the fiscal year, which is June 30. Thus, ACFR should have been finished before Jan. 31 at the latest.
- I looked up the ACFR until 2012 and [Cupertino has been filing ACFR around March since 2016](#). Yet for the fiscal year ending June 30, 2014 and the fiscal year ending June 30, 2013, the ACFR was filed around mid November of the same year, respectively.
- For the fiscal year ending June 30, 2023, all cities around us, except Los Altos, filed their ACFRs by December 2023.

2024-04-22 Visit of a delegation from Coppertino, hosted by the Cupertino-Coppertino Sister City Association.

- The delegation consists of one adult and three high school students. They toured the City Hall, Community Hall and the Library, accompanied by Economic Development Manager and Communication Coordinator, with a visit from a few staff, such as the City Manager, Senior Planner.

2024-04-22 Follow-up to April 3 public comment questioning whether the refinance of the City's Debt in 2020 indeed saves \$0,5M in annual interest payment.

- The Dec. 2023 [memo](#) for Cupertino Public Facilities Corporation did mention that "The refinancing resulted in annual savings of approximately half a million dollars for the remaining 10 years of the debt.". Since the public brought up the question again, I submitted some specific questions for the issue on April 10.
- Comprehensive answers were provided from the staff on April 22: [Answers to questions, Debt Service Program Payment Schedule from FY 21-22 Adopted Budget](#). There is indeed a savings of \$0.5M per year.
  - Answer: "annual payments around \$3.17 million for FY21-FY30, versus the annual payment schedule from FY22 with annual payments around \$2.67 million. The difference is a \$0.5 million savings per year." This debt will be paid off by June 2030.
- This page from the FY 21-22 Adopted Budget provides a good history of what properties the city used the debt to purchase. such as Quinlan Center, Sports Center, Blackberry Farm (voter-approved debt), Creekside Park (voter-approved debt) and the construction of the Library and the Community Hall.

## Service Objectives

The majority of the borrowings occurred in early 1990 to acquire additional park real estate and expand community facilities. A breakdown of the capital acquisitions follows:

- Increased 90 acres of park real estate to 190 acres, a 111% increase
- Increased 26,031 sq ft of recreation building space to 84,460 sq ft, a 224% increase

Specific purchases included:

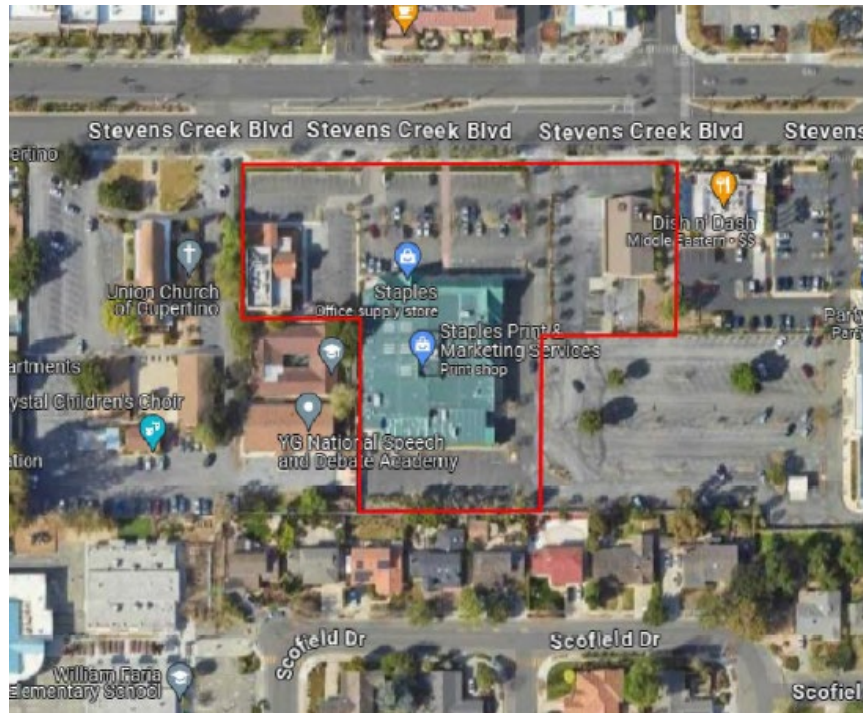
- Blackberry Farm - \$18 million, voter-approved debt;
- Creekside Park - \$12 million voter-approved debt;
- Sports Center - \$8 million;
- Quinlan Community Center, including park real estate - \$6.1 million;
- Wilson Park and improvements - \$5.6 million;
- Jollyman Park development - \$1 million;
- City Hall renovation/improvements - \$1.7 million;
- Library renovation/improvements - \$1.7 million;
- New library/community center - \$10 million.

In May 2012, the Corporation refinanced its \$44 million in outstanding debt to lower the interest rate and save approximately \$350,000 per year in debt payments. On September 29, 2020, the City's 2020A Certificates of Participation (2020 COPs) were successfully sold in order to refund the City's 2012 Certificates of Participation for debt service savings. The refunding generated net present value savings of approximately \$3.14 million, 11.61% of refunded par and a True Interest Cost of 0.72%. Savings to the City's General Fund

2024-04-25 Follow up to a public comment at April 16 Council Meeting questioning why the city has \$50M sitting in a cash account not earning any interest

- The [Feb. 27 response from the City Manager](#) to Councilmember Moore confirmed that the City does have around \$50M in checking account for operational expenses: "I believe the amount you referenced was around \$50M. In short, the amount in question is mainly used to carry out daily city operation. In a simpler analogy, this would be the City's checking account to cover for routine expenses. The goal is to maintain enough liquid funds in this account to ensure invoices are paid in time."
- The Treasurer's Quarterly Investment Reports have the balance in checking account, LAIF (interest-earning cash-equivalent account for government agency) or other investment.
- I did some research and [here are my findings](#):
  - I looked at the Q2 reports, ending December 31 of each year and found that Cupertino typically keeps around 15-20% of the total portfolio in the checking account, since 2016. Before that, we kept around 2% in checking.
  - I sampled a few cities around us for their FY 2023-24 Q2 reports, I found that other cities keep about \$2-7M (0.25% to 2% of the entire portfolio) in the checking account.

2024-04-26 Meeting with the developer, Summerhill Homes, with a [SB 330 Preliminary Application](#) for the Staples + Pizza Hut + Dish n' Dash site for 58 units of 3-story for-sale townhomes, including 20% middle-income units.



## Section 2: Committee Assignment

2024-04-24 [Santa Clara County Recycle and Waste Reduction Commission](#) (RWRC) meeting ([agenda](#), [video](#))

- [California Product Stewardship Council](#) (CPSC) [Presentation](#).
  - CPSC was formed so local government could have a voice at Sacramento and their board consists of mostly elected city councilmembers. They get funding from other nonprofits and cities, such as Cupertino. They advocate for bills for producer and consumer responsibilities on recycle/reuse of various products, batteries, mattress, needles, carpet, paint, tires, e-waste, pesticide, mercury, used oil, packaging.
  - Here are the [bills supported by CPSC](#) in 2024, such as AB 2 (Ward) – Recycling: solar photovoltaic modules, SB 707 (Newman) – Responsible Textile Recovery Act of 2024, Waste management: propane cylinders: reusable or refillable, and more.
  - California currently has 13 Product Stewardship Laws for Producer Responsibility and Consumer Responsibility.



# California Product Stewardship Laws (Primary Funding Sources)



## Producer Responsibility

- Oil Recycling Enhancement Act (AB 2076, Sher, 1991; ...)
- Product Recall Safety & Protection Act (AB 1860, Huffman, 2008)
- Ag Pesticide Containers Recycling (SB 1723, Maldonado, 2008)
- Mercury Thermostats (AB 2347, Ruskin, 2008; AB 707, Quirk, 2021; AB 732, Quirk, 2022)
- Meds and Sharps (SB 212, Jackson, 2018)
- Responsible Battery Recycling Act (AB 2440, Irwin, 2022)
- Packaging (SB 54, Allen, 2022)



## Consumer Responsibility

- Beverage Container Recycling Act (AB 2020, Margolin, 1986; ... SB 1013, Atkins 2022; SB 353, Dodd, 2023)
- Tire Recycling Act (AB 1843, Brown, 1989 & SB 876, Escutia, 2000)
- E-waste Recycling Act (SB 20, Sher, 2003; SB 50, Sher, 2004; & SB 1215 Newman, 2022; SB 568, Newman, 2023)
- Paint (AB 1343, Huffman, 2010; AB 1526, Natural Resources Committee, 2023)
- Carpet (AB 2398, Perez, 2010; AB 1158, Chu, 2017; and AB 726, Chu, 2019)
- Mattresses (SB 254, Hancock, 2015 and AB 187, Garcia, 2019)



- The Presentation gave an overview of recycling programs

### Pharmaceuticals & Sharps

#### SB 212 (Jackson, 2012)

- Pharmaceutical & sharps producer responsibility.



### Mercury Thermostats

#### AB 707 & AB 732 (Quirk, 2021 & 2022)

- Mercury Thermostat Collection Act of 2021.
- Consumers and Service Technicians get \$30/unit.

### Batteries

#### AB 2440 (Irwin, 2022)

- Requires “producers” of any “covered batteries” sold or offered for sale within the state to participate in a stewardship plan approved by CalRecycle, no later than April 1, 2027.



### Packaging

#### SB 54 (Allen, 2022)

- Plastic Pollution Prevention & Packaging Producer Responsibility Act.
- 100% of packaging in the state to be recyclable or compostable.



- Some programs include financial incentives for recycling, such as paint, mattress, carpet, etc.

# Programs with Enforcement - Goals



	Medicine	Needles	Loose Batteries	Mattresses	Paint	Carpet
<b>Convenience Collection Standards</b>	Higher of 5 collection sites per county and 1 for every 50,000 people	Mandatory mail back envelopes at point of sale & reimbursement of local gov. collection	Higher of 10 collection sites per county and 1 for every 15,000 people; some rural exceptions	At least 1 permanent mattress drop-off location in each county, & retailer access	Coordinate with local HHW program; Voluntary for retailers	1 location per county, supplementing local government collection
<b>Reuse &amp;/or Renovation Rates</b>	N/A	N/A	N/A	2021 performance: 1,712,000 lbs.	2021 performance: 212,540 gal.	2021 performance: 830,000 lbs.
<b>Financial Incentives</b>	100% costs covered	100% costs covered	100% costs covered	Subsidy per mattress, 100% transportation covered	\$0.35/gal paid for direct reuse	Subsidy per lb of carpet, 100% transportation covered

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## Section 3: Other Information of Interest to My Constituents:

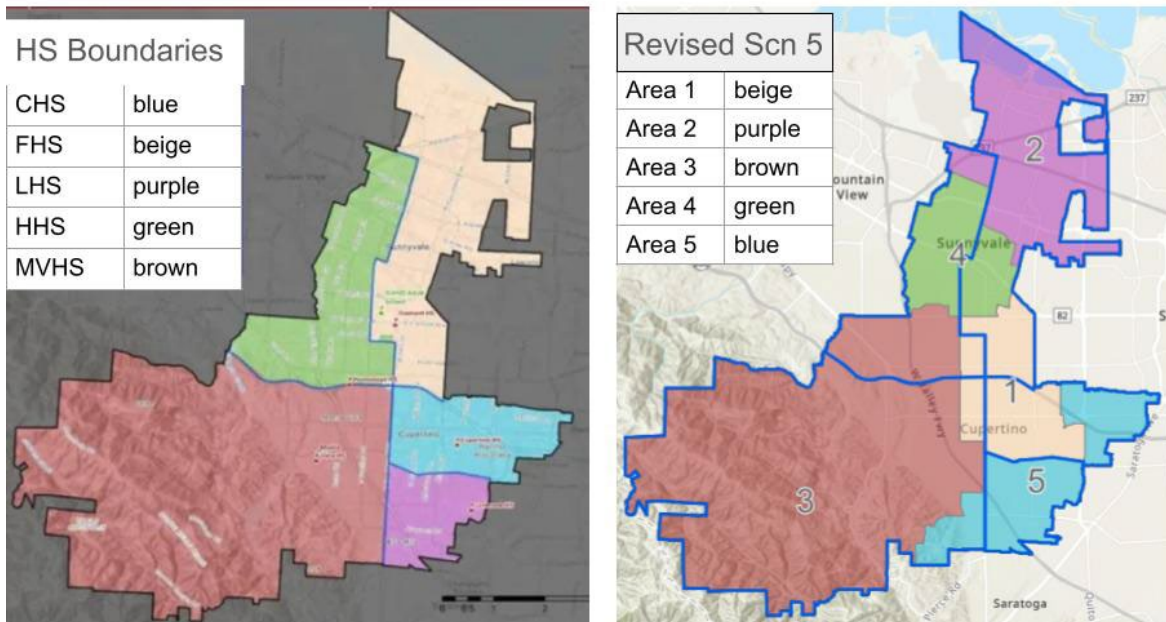
### 1. Housing Element Update:

- **Highlights:** 4,588 units are required for the HE, but the current HE has planned 6,226 units, **about 36% more than required.**
  - By not counting 1,500 units in already approved projects and underestimating the realistic capacity for mixed use projects, **Cupertino will upzone more properties than required to meet the RHNA requirements.**
  - The density (units/acre) of many sites will increase from 20 units/acre to 50-65 units/acre and some will increase to 65-80 units/acre.
  - R1 corner lots will be allowed to develop with R2 standards to allow duplex, triplex or quadruplex. (Every R1 lot already allows up to 3 ADUs due to state laws)
- Current Progress:
  - The [HCD letter on April 10](#) states “HCD is pleased to find the revised draft housing element meets the statutory requirements of State Housing Element Law (Gov. Code, § 65580 et seq.). However, the housing element cannot be found in substantial compliance until the City has completed necessary rezones to address the shortfall of sites to accommodate the regional housing needs allocation (RHNA).”
  - The study session for Housing Element was held at the [April 16 Council Meeting](#). This is the first meeting where a draft of the Housing Element is put on the Council agenda. But unfortunately no answers to Council questions were provided in the supplemental report.
  - Here are some questions submitted and some with answers: [15 more questions](#) without answers, [questions are corner lots](#) with answers, [additional questions from the community](#) without answers.
- **Next Step:** The final draft of the Housing Element and the zoning ordinance to rezone properties will be on the City Council agenda on May 14, after the [April 29 Planning](#)

[Commission meeting.](#)

2. County’s Affordable Housing Project at Simian Property at the southwest corner of Wolfe Road and I-280.
  - The [March 28 County memo](#) states “The County of Santa Clara Office of Supportive Housing issued a Request for Offers (RFO) in December 2023 with the goal of identifying a development partner(s) for the County-controlled property located at 10333 N. Wolfe Road, Cupertino (Subject Property), commonly known as the Simian Property.”
  - “On February 6, 2024, Santa Clara County Board of Supervisors approved an exclusive negotiating agreement with Eden Housing as the selected developer for the Subject Property.”
3. [FUHSD By-Trustee-Area Election](#) in November 2024
  - On April 24th, the FUHSD Board adopted the final trustee-area map among [three recommendations from the CTAD Committee](#). The final map will be submitted to the Santa Clara County Committee on School District Organization for approval at a public hearing.
  - The first by-trustee-area election will be held in November 2024 for Trustee Areas 2 and 5, and then in 2026 for Trustee Areas 1, 3, and 4.
  - [Comparison of maps and other resources](#)
  - Below is an image of the adopted map (Revised Scenario 5) versus the high school attendance boundaries.

### HS Boundaries versus Revised Scenario 5



- Below is an image of the adopted map (Revised Scenario 5) with major roadways.



## Adopted FUHSD Trustee Area Map with major roadways

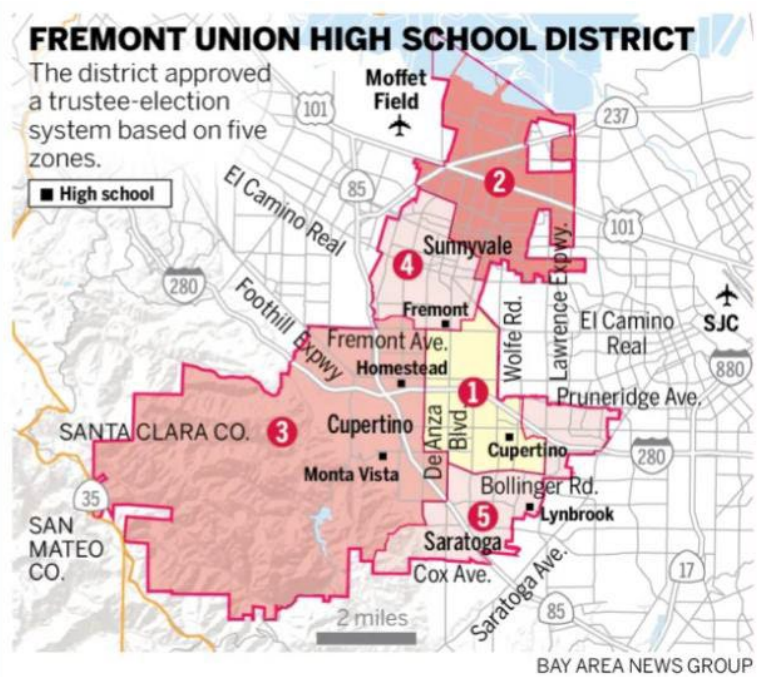
(from Mercury News)

- Adopted on April 24, 2024
- First by-trustee-area election: Nov 2024
- Election Sequence:

Sequencing	
Election Year	Area
2024	2, 5
2026	1, 3, 4

\*\* The area numbering might change in the final ballot.

Source: [Fremont Union School District approves district zoning map for new trustee election system](#) (Mercury News)



(Last Activity Report in the [April 16, 2024 Council Meeting Agenda](#).)