



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, October 10, 2023**

SPECIAL MEETING

At 6:45 p.m., Mayor Wei called the Special 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 (6:57 p.m.), J.R. Fruen, and Kitty Moore. Absent: none.

CLOSED SESSION REPORT - None

CEREMONIAL ITEMS

1. Subject: Recognition of October as Hindu Heritage and Awareness Month
Recommended Action: Recognize October as Hindu Heritage and Awareness Month

Mayor Wei recognized October as Hindu Heritage and Awareness Month.

2. Subject: Recognition of 2nd week of October as Code Enforcement Officer Week
Recommended Action: Recognize 2nd week of October as Code Enforcement Officer Week

Mayor Wei recognized the 2nd week of October as Code Enforcement Officer Week.

3. Subject: Silicon Valley Clean Energy (SVCE) Electric Showcase Award honoring Cupertino resident winner
Recommended Action: Receive presentation for SVCE Electric Showcase Award honoring Cupertino resident winner

Don Bray, SVCE Director of Strategic Development, gave a presentation and introduced awardee Amit Butala.

Council received the presentation for the SVCE Electric Showcase Award honoring a Cupertino resident winner.

POSTPONEMENTS AND ORDERS OF THE DAY - None

ORAL COMMUNICATIONS

Dennis Whitaker (representing De Anza Optimists Club and American Legion Post 642) discussed Optimists Club and veteran events. (Submitted written comments).

At 6:57 p.m., Councilmember Chao joined the meeting.

David Han (representing American Legion Post 642) discussed Wreaths Across America for veterans.

Cathy Helgerson discussed homelessness and immigration and the Israel– Hamas war.

Jean Bedord discussed recorded commission meetings.

Planning Commissioner Muni Madhhipatla (representing self) discussed Senate Bill 403 and the Israel– Hamas war.

Keith Kreft discussed Blackberry Farm Golf Course rates. (Submitted written comments).

Rich Parker discussed the future of Blackberry Farm Golf Course.

Emily Poon (Friends of Blackberry Farm Golf) discussed the future of Blackberry Farm Golf Course. (Submitted written comments).

Rhoda Fry discussed Blackberry Farm Golf Course, Council procedures, recorded commission meetings, committees, and the Chamber of Commerce. (Submitted written comments).

Jenny discussed various cultural topics and a Code Enforcement matter.

San R discussed recorded commission meetings, Blackberry Farm Golf Course, Sports Center, and Teen Center.

CONSENT CALENDAR (Items 4-10)

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

Cathy Helgerson provided comments on Item 6.

Mayor Wei closed the public comment period.

MOTION: Fruen moved and Mohan seconded to approve the items on the Consent Calendar, except for Items 5, 9, and 10 which were pulled for discussion. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

MOTION: Fruen moved and Mohan seconded to move Item 10 Stevens Creek Boulevard/Calabazas Creek Storm Drain Repair before the Action Calendar. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

Items 5 and 9 were placed after the Action Calendar for consideration.

4. Subject: Approval of the September 19 City Council minutes
Recommended Action: Approve the September 19 City Council minutes

Written communications for this item included an Amended Attachment A - Draft Minutes, Page 8.

6. Subject: Community Development Block Grant (CDBG) Program funding allocation for the Senior Center Fire Alarm Upgrade Project
Recommended Action: 1. Authorize the use of CDBG funding to upgrade the fire alarm system at the City's Senior Center, as part of the Capital Improvement Programs (CIP) Building Condition Assessment (BCA) Improvements project.
2. Adopt Resolution No. 23-103 approving Budget Modification No. 2324-305 increasing appropriations in the Capital Improvement Programs Capital Project Fund for the Building Condition Assessment (BCA) Improvements project by \$367,951.38 through the use of CDBG funding
7. Subject: First amendment to the Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee (TAC) to allow members to participate in TAC meetings using teleconference technology pursuant to Brown Act provisions.
Recommended Action: Authorize the City Manager to execute the first amendment to the Agreement Creating the Santa Clara County Recycling and Waste Reduction TAC to

allow members to participate in TAC meetings using teleconference technology pursuant to Brown Act provisions.

8. Subject: Updated Resolution Authorizing the City of Cupertino to Apply for CalRecycle Payment Programs.
Recommended Action: Adopt Resolution No. 23-104, authorizing submittal of applications for CalRecycle's Payment Programs using an updated resolution as required by CalRecycle.

PUBLIC HEARINGS - None

ITEMS REMOVED FROM THE CONSENT CALENDAR

As moved during the Consent Calendar, the following item was pulled from the Consent Calendar and placed before the Action Calendar for discussion.

10. Subject: Stevens Creek Boulevard/Calabazas Creek Storm Drain Repair Emergency Work Declaration, and authorization for the City Manager to negotiate and execute contract(s) for the repair work
Recommended Action: 1. Adopt Resolution No. 23-106 declaring the repairs necessary to restore Stevens Creek Storm Drain as Emergency Work, per City of Cupertino Municipal Code (CMC) Section 3.23.130 C and Public Contract Code Section 22050;
2. Adopt Resolution No. 23-107 approving budget modification #2324-306, approving a transfer out appropriation of \$580,000 from the Capital Reserve Fund (429), a transfer in revenue and increased appropriations of \$460,000 to the project (budget unit 420-99-266), for a total authorized project expenditure of \$880,000; and
3. Authorize the City Manager to negotiate and execute a construction contract to perform the repairs, without a public bidding process, for an amount (CIP Project number 2024-01) not to exceed the project's approved funding level of \$880,000

Written communications for this item included a supplemental report with staff responses to councilmember questions and new Attachment D - Corrected Staff Report.

CIP Manager Susan Michael and Director of Public Works Chad Mosley reviewed the staff report.

Councilmembers asked questions and made comments.

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

Cathy Helgerson

Rhoda Fry
San R
Louis Saadati

Mayor Wei closed the public comment period.

MOTION: Chao moved and Fruen seconded to:

1. Adopt Resolution No. 23-106 declaring the repairs necessary to restore Stevens Creek Storm Drain as Emergency Work, per City of Cupertino Municipal Code (CMC) Section 3.23.130 C and Public Contract Code Section 22050;
2. Adopt Resolution No. 23-107 approving budget modification #2324-306, approving a transfer out appropriation of \$460,000 from the Capital Reserve Fund (429), a transfer in revenue and increased appropriations of \$460,000 to the project (budget unit 420-99-266), for a total authorized project expenditure of \$880,000; and
3. Authorize the City Manager to negotiate and execute a construction contract to perform the repairs, without a public bidding process, for an amount (CIP Project number 2024-01) not to exceed the project's approved funding level of \$880,000.

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

At 7:58 p.m., Mayor Wei recessed the meeting. The meeting reconvened at 8:04 p.m. with all Councilmembers present.

ACTION CALENDAR

- 11.** Subject: Establish a General Fund Sales Tax Repayment Reserve
Recommended Action: A. Approve an amendment to the City's Committed, Unassigned Fund Balance, and Use of One Time Funds Policy to:
- i. Create a General Fund Sales Tax Repayment Reserve with an initial allocation of \$56.5 million
 - ii. Authorize staff to increase the Sales Tax Repayment Reserve when the City receives additional sales tax revenue in dispute
 - iii. Decrease the General Fund Capital Projects Reserve by \$10.0 million
 - iv. Decrease the General Fund Economic Uncertainty Reserve by \$6.0 million
- Presenter: Kristina Alfaro, Director of Administrative Services

Written communications for this item included a staff presentation, a supplemental report with staff responses to councilmember questions and written comments from Councilmembers.

Director of Administrative Services Kristina Alfaro gave a presentation.

Councilmembers asked questions and made comments.

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

Cathy Helgerson
Rhoda Fry
San R

Mayor Wei closed the public comment period.

MOTION: Fruen moved and Chao seconded to:

A. Approve an amendment to the City's Committed, Unassigned Fund Balance, and Use of One Time Funds Policy to:

- i. Create a General Fund Sales Tax Repayment Reserve with an initial allocation of \$56.5 million;
- ii. Authorize staff to increase the Sales Tax Repayment Reserve when the City receives additional sales tax revenue in dispute;
- iii. Decrease the General Fund Capital Projects Reserve by \$10.0 million; and
- iv. Decrease the General Fund Economic Uncertainty Reserve by \$6.0 million.

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

ITEMS REMOVED FROM THE CONSENT CALENDAR - CONTINUED

The following items were pulled from the Consent Calendar and placed after the Action Calendar for discussion.

5. Subject: Updates to the Policies and Guidelines on Sister Cities, Friendship Cities, and International Delegations
Recommended Action: Adopt the updated City of Cupertino's Policies and Guidelines on Sister Cities, Friendship Cities, and International Delegations, which aim to ensure efficiency within the Sister and Friendship City program and clarity on travel expenses and gifts

Written communications for this item included a supplemental report with staff responses to councilmember questions, new Attachments D - Updated Redline: Policies and Guidelines on Sister Cities, Friendship Cities, and International Delegations, E - Updated Clean: Policies and Guidelines on Sister Cities, Friendship Cities, and International Delegations, F - Sister and Friendship City Policies and Protocols From Other Cities, and G - Sister City Program Cost Fee Waivers, and written comments from Councilmembers.

This item was pulled from the Consent Calendar for discussion.

City Manager Pamela Wu reviewed the staff report and Deputy City Manager Tina Kapoor answered questions.

Councilmembers asked questions and made comments.

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

Helene Davis, representing Cupertino-Cupertino Sister City Association
Alysa Sakkas, representing Cupertino Toyokawa Sister Cities (CTSC) organization
Janice Sung, representing Cupertino-Hsinchu Sister City Association (CHSCA)
Rhoda Fry
San R

Mayor Wei closed the public comment period.

SUBSTITUTE MOTION: Chao moved and Moore seconded to adopt the staff recommendation to adopt the updated City of Cupertino's Policies and Guidelines on Sister Cities, Friendship Cities, and International Delegations, which aim to ensure efficiency within the Sister and Friendship City program and clarity on travel expenses and gifts, with the following additions:

- Retain the minimum of five student delegations with Council approval to consider lower numbers as needed;
- Clarify "non-City supported Sister City Committee";
- add a "not to exceed amount of \$500 per year per committee;
- The termination of sister and friendship city committees would continue to come to the Council agenda as Consent items;
- When the city considers fee increases, bring all the fee waivers and community grant funding for the same city resources to be considered together so we are equitable and inclusive to all organizations.

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 Wei seconded the staff recommendation to adopt the updated City of Cupertino's Policies and Guidelines on Sister Cities, Friendship Cities, and International Delegations, which aim to ensure efficiency within the Sister and Friendship City program and clarity on travel expenses and gifts, with the addition to direct the City Manager to amend the proposed policy to include a definition of an "inactive sister city committee" within the meaning of the proposed termination policy,

in coordination with the four Sister City Committees.

FRIENDLY AMENDMENT: Wei made a friendly amendment to:

- 1) Instead of being 5 to 9, the number of students for student delegations will be 4 to 9 throughout the policy. The City Council will consider funding for student delegations less than four students on a case by case basis.
- 2) Amend the Travel Expenses section as follows:
 - The City will pay for 50% of one trip per year, ~~per~~ **for the Mayor or their designee member**, provided the trip is in conjunction with an official delegation.
 - All other Council ~~or City staff~~ travel for Sister City programs ~~must~~ **shall** be funded by Sister City Committee fundraising activities, **when feasible**, or by the individual traveling council **member** ~~or staff member~~, unless authorized in advance by the City Council.
 - ~~The City will budget for one Sister City delegation trip per year. The number of current Sister City relationships will determine the rotating frequency of delegate visits (e.g. visits to each Sister City will occur every three years when three current Sister City relationships exist, every ten years when ten relationships exist, etc.) Travel expenses for Sister City visits occurring outside this annual rotating schedule will be the sole responsibility of the persons traveling.~~

(Fruen accepted Wei's friendly amendment).

FRIENDLY AMENDMENT: Chao made a friendly amendment to clarify "non-City supported Sister City Committee." (Fruen and Wei accepted Chao's friendly amendment).

FRIENDLY AMENDMENT: Chao made a second friendly amendment to add a "not to exceed amount of \$500 per year per committee." (Wei declined Chao's second friendly amendment and it was not included in the motion).

FRIENDLY AMENDMENT: Chao made a third friendly amendment: When the City considers fee increases, bring all fee waivers and community grant funding for the same City resources to be considered together so we are equitable and inclusive to all organizations. (Fruen declined Chao's third friendly amendment and it was not included in the motion).

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

9. Subject: Award a construction contract for the McClellan Road Separated Bike Corridor Phase 3 Project to Redgwick Construction Company for improvements at the intersection of De Anza Boulevard and McClellan Road/Pacifica Drive and approve a budget modification in the amount of \$975,000.

Recommended Action: 1. Award a construction contract for the McClellan Road Separated Bike Corridor, Phase 3 Project (Project 2020-12) in the amount of \$1,569,386 to Redgwick Construction Company;

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

3. Authorize the Director of Public Works to execute any necessary construction change orders up to a construction contingency amount of \$156,939 (10%) for a total contract amount of \$1,726,325; and
4. Adopt Resolution No. 23-105 approving budget modification #2324-304, approving a transfer of \$948,552 from the Capital Improvement Fund (budget unit 420-99-036 900-905, ST 047) to the Transportation Fund (budget unit 270-99-269 900-905) and approving a transfer of \$975,000 within the Transportation Fund from Senate Bill (SB) 1 Capital Outlay (budget unit 270-85-821 900-971) to the project (budget unit 270-99-269 900-905), for a total authorized project expenditure of \$2,299,410.

Written communications for this item included a supplemental report with staff responses to councilmember questions and new Attachment C - Plan View.

This item was pulled from the Consent Calendar for discussion.

Councilmembers asked questions and made comments.

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

Helene Davis

Rhoda Fry

Larry Dean

Henry Widjaja

Planning Commissioner Seema Lindskog (representing self)

Parks and Recreation Commissioner Jennifer Shearin (representing self)

Bicycle Pedestrian Commissioner Joel Wolf (representing self)

San R

Mayor Wei closed the public comment period.

MOTION: Chao moved and Mohan seconded the staff recommendation to:

1. Award a construction contract for the McClellan Road Separated Bike Corridor, Phase 3 Project (Project 2020-12) in the amount of \$1,569,386 to Redgwick Construction Company;
2. Authorize the City Manager to execute the contract when all conditions have been met;
3. Authorize the Director of Public Works to execute any necessary construction change orders up to a construction contingency amount of \$156,939 (10%) for a total contract amount of \$1,726,325; and
4. Adopt Resolution No. 23-105 approving budget modification #2324-304, approving a transfer of \$948,552 from the Capital Improvement Fund (budget unit 420-99-036 900-905, ST 047) to the Transportation Fund (budget unit 270-99-269 900-905) and

approving a transfer of \$975,000 within the Transportation Fund from Senate Bill (SB) 1 Capital Outlay (budget unit 270-85-821 900-971) to the project (budget unit 270-99-269 900-905), for a total authorized project expenditure of \$2,299,410.

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

COUNCIL REPORTS AND COMMENTS

12. Subject: Councilmember Reports

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

CITY MANAGER REPORT

City Manager Pamela Wu shared a video showing photos of recent events for summer camps and the Summer Concert Series.

ORAL COMMUNICATIONS – CONTINUED – None

INFORMATIONAL ITEMS – None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Chao and Mohan requested information regarding hybrid options for commission meetings.

ADJOURNMENT

At 10:20 p.m., Mayor Wei adjourned the Special City Council Meeting.

Minutes prepared by:



Kirsten Squarcia, City Clerk