



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, July 2, 2024

SPECIAL MEETING

At 5:30 p.m., Mayor Sheila Mohan 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 Sheila Mohan, Vice Mayor J.R. Fruen, and Councilmembers Liang Chao, Kitty Moore, and Hung Wei. Absent: none.

ACTION CALENDAR

1. Subject: Accept the Enterprise Risk Assessment Final Report and FY 2024-25 Internal Audit Work Plan

Recommended Action: 1. Accept the Enterprise Risk Assessment Final Report
2. Accept the FY 2024-25 Internal Audit Work Plan

Presenter: Kristina Alfaro, Director of Administrative Services

Written communications for this item included a consultant presentation and an email to Council.

Colleen Rozillis, Partner at Moss Adams, gave a presentation.

Councilmembers asked questions and made comments.

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

Donna Austin

Parks and Recreation Commissioner Claudio Bono (representing self)

San R

Jennifer Griffin

Mayor Mohan closed the public comment period.

MOTION: Chao moved and Fruen seconded to:

1. Accept the Enterprise Risk Assessment Final Report; and
2. Accept the FY 2024-25 Internal Audit Work Plan.

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

ADJOURNMENT

At 6:40 p.m., Mayor Mohan adjourned the Special City Council Meeting.

REGULAR MEETING

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. Absent: none.

CLOSED SESSION REPORT – None

CEREMONIAL ITEMS

1. Subject: Recognition of July as Parks and Recreation Month
Recommended Action: Recognize July as Parks and Recreation Month

Written communications for this item included supplemental Attachment A-Proclamation.

Mayor Mohan recognized July as Parks and Recreation Month.

POSTPONEMENTS AND ORDERS OF THE DAY – None

ORAL COMMUNICATIONS

Written communications for this item included emails to Council.

The following members of the public spoke:

Jennifer Griffin discussed housing bill AB 1893: Housing Accountability Act.

R. Jerry Lami, representing West Coast Farmers Market Association, discussed the West Coast Farmers Market. (Submitted written comments).

Lisa Warren discussed the acquisition of property located at 19400 Stevens Creek Blvd.

San R discussed the farmers market, the acquisition of property located at 19400 Stevens Creek Blvd, and Council procedures.

Danessa Techmanski discussed the acquisition of property located at 19400 Stevens Creek Blvd.

CONSENT CALENDAR (Items 2-6)

Item 5 was removed from the Consent Calendar by Councilmember Chao.

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

MOTION: Wei moved and Fruen 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.

Item 5 was placed after the Action Calendar for consideration per rule.

2. Subject: Approve the June 18, 2024 City Council minutes
Recommended Action: Approve the June 18, 2024 City Council minutes
 3. Subject: Approve the June 19, 2024 City Council minutes
Recommended Action: Approve the June 19, 2024 City Council minutes
 4. Subject: Second reading of Municipal Code Amendments to Chapter 19.48 (Fences), Chapter 19.12 (Administration), and Chapter 19.08 (Definitions) and related CEQA exemption. (Application No.: MCA-2024-001; Applicant: City of Cupertino; Location: Citywide)
Recommended Action: Conduct the second reading and enact Ordinance No. 24-2260: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO TO AMEND MUNICIPAL CODE CHAPTER 19.08, CHAPTER 19.12, AND CHAPTER 19.48 REGARDING FENCES", which includes a finding to find the actions exempt from CEQA.
 6. Subject: Bridge Preventative Maintenance Program construction contract.
-

Recommended Action: 1. Award a construction contract for the Bridge Preventative Maintenance Program in the amount of \$1,647,475 with American Civil Constructors West Coast LLC.;

2. Authorize the City Manager to execute the construction contract;

3. Authorize the Director of Public Works to execute any necessary change orders up to a construction contingency amount of \$164,750 (10%) for a total contract amount of \$1,812,225; and

4. Adopt Resolution No. 24-066 approving budget modification #2425-347, approving an appropriation of \$300,000 in the Transportation Fund (270) for the project (budget unit 270-90-960) and a transfer of \$300,000 from the Capital Reserve Fund (429) to the Transportation Fund (270).

PUBLIC HEARINGS

7. Subject: Municipal Code Text, Specific Plan, Below Market Rate Mitigation Manual and Zoning Map Amendments related to implementing the 6th Cycle Housing Element (Application No.(s): MCA-2023-001, SPA-2023-001, CP-2024-002, Z-2024-001, EA-2024-001; Applicant: City of Cupertino; Location: city-wide)

Recommended Action: That the City Council take the following actions for consistency with the 6th Cycle Housing Element, and minor edits for clarity and compliance with State law, as follows:

1. Conduct the first reading of Ordinance No. 24-2261 "An Ordinance of the City Council of the City Of Cupertino Amending Various Chapters in Title 14, Title 17 And Title 19, Including But Not limited to the Addition of Three New Chapters in Title 19, to Implement Policies in the General Plan and for Clarity" (Attachment A) as further described in the staff report; and
2. Adopt Resolution No. 24-067 approving amendments to the Heart of the City Specific Plan and the Below Market Rate Housing Mitigation Manual to allow implementation of the Housing Element and meet the requirements of State Law (Attachment B); and
3. Conduct the first reading of Ordinance No. 24-2262 "An Ordinance of the City Council of the City of Cupertino Rezoning Certain Sites in the City for Conformance with General Plan and Housing Element" (Attachment C) to reflect changes to Priority Housing Sites and other minor changes for internal consistency.

Presenters: Luke Connolly, Assistant Director of Community Development and Piu Ghosh, Planning Manager

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

Assistant Community Development Director Luke Connolly gave a presentation.

Councilmembers asked questions and made comments.

Mayor Mohan opened the public hearing and the following people spoke.

Lisa Warren

Jennifer Griffin

Yvonne Thorstenson

Housing Commissioner Connie Cunningham (representing self)

Jean Bedord

Louise Saadati

Sandhana Siva

Donna Austin

Phillip Nguyen

Danessa Techmanski

Sashi Begur

Parks and Recreation Commissioner Claudio Bono (representing self)

San R

Rod Sinks

Ju-Xiong Hughes

Venkatesan Ranganathan

Gauri Chawla

Call-In User_2

Mayor Mohan closed the public hearing.

MOTION: Chao moved and Moore seconded to approve the staff recommended action plus a maximum 70 feet height limit in R-4 zones and a 20% difference between units in a duplex.

FRIENDLY AMENDMENT: Fruen made a friendly amendment to increase the floor area ratio to 65%. (Chao declined Fruen's friendly amendment and it was not included in the motion).

Council did not vote on this motion.

SUBSTITUTE MOTION: Fruen moved and Wei seconded a substitute motion to approve the staff-recommended action as modified to:

1. Conduct the first reading of Ordinance No. 24-2261 "An Ordinance of the City Council of the City of Cupertino Amending Various Chapters in Title 14, Title 17 And Title 19, Including But Not limited to the Addition of Three New Chapters in Title 19, to Implement Policies in the General Plan and for Clarity" as further described in the staff report; and
2. Adopt Resolution No. 24-067 approving amendments to the Heart of the City

Specific Plan and the Below Market Rate Housing Mitigation Manual to allow implementation of the Housing Element and meet the requirements of State Law; and

3. Conduct the first reading of Ordinance No. 24-2262: "An Ordinance of the City Council of the City of Cupertino Rezoning Certain Sites in the City for Conformance with General Plan and Housing Element" to reflect changes to Priority Housing Sites and other minor changes for internal consistency.

Modifications:

With the following modest modifications reflected in the public comment to the proposed Municipal Code amendments in Attachment A:

1. That with respect to the new R-4 zone, that the story restriction be removed;
2. That the change in definition of a "duplex" under Municipal Code Section 19.08.030 be removed;
3. That with respect to the duplex overlay implementing Strategy HE 1.3.6:
 1. That the 55% floor area ratio be changed to 65%;
 2. That the existing constraint of 1.5 enclosed and 1.5 exposed parking spaces per dwelling unit be reduced to 1 enclosed and 1 exposed to align with neighboring single-family R-1 standards;
 3. That interior side yard set backs be set at a flat 5 feet to align with minimum single-family R-1 standards; and
 4. That the lot coverage standard be increased to 50%; and
4. That with respect to R-3 zones for developments up to 4 units, that the permissible lot coverage be expanded to 50%; and

Further, to direct the City Manager to align and harmonize these standards in the upcoming Objective Design Standards for our other zoning districts with a focus on feasibility and architectural flexibility.

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

At 9:11 p.m., Mayor Mohan recessed the meeting. The meeting reconvened at 9:22 p.m. with all Councilmembers present.

ACTION CALENDAR

8. Subject: Review Lawrence-Mitty Park and Trail Project Final conceptual Design and consider the proposed Initial Study/Mitigated Negative Declaration
Recommended Action: 1. Adopt Resolution No. 24-068, adopting Lawrence-Mitty Park and Trail Project's Initial Study/Mitigated Negative Declaration; and
2. Approve the Lawrence-Mitty Park and Trail Project Final Conceptual Design
Presenter: Susan Michael, Capital Improvement Programs Manager

Written communications for this item included a staff presentation.

Mike Campbell, Director of Environmental Analysis, and Jan Eisland, Director of Parks and Play, with MIG, Inc. gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin

Lisa Warren

San R

Mayor Mohan closed the public comment period.

MOTION: Fruen moved and Chao seconded a motion to:

1. Adopt Resolution No. 24-068, adopting Lawrence-Mitty Park and Trail Project's Initial Study/Mitigated Negative Declaration; and
2. Approve the Lawrence-Mitty Park and Trail Project Final Conceptual Design

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

9. Subject: Repeal of the existing General Plan Amendment (GPA) Authorization procedure and process

Recommended Action: Adopt Resolution No. 24-069 (Attachment A) repealing the existing General Plan Amendment Authorization procedure and process and rescinding Resolution 15-078

Presenter: Benjamin Fu, Director of Community Development

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

Community Development Director Ben Fu gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin

Greg Endom, representing the owners of Marina Plaza

San R

Mayor Mohan closed the public comment period.

MOTION: Moore moved to direct staff to bring this item to the Planning Commission for discussion on proposed community benefits and then a recommendation to the City Council. There was no second and the motion died.

Chao and Wei added a future agenda item to consider a community meeting requirement for any project requiring a general plan amendment, so when it comes to the Planning Commission or City Council, there is community input on the amendment.

MOTION: Fruen moved and Wei seconded the staff recommended action to adopt Resolution No. 24-069 repealing the existing General Plan Amendment Authorization procedure and process and rescinding Resolution 15-078. Council did not vote on this motion.

SUBSTITUTE MOTION: Moore moved and Fruen seconded a substitute motion to approve the recommended action and to direct staff to send the community benefits proposed by projects to the Planning Commission for review and recommendation to the City Council. The substitute motion passed with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

MOTION: Wei moved and Mohan seconded to extend the meeting to consider Item 5. The motion passed with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

ITEMS REMOVED FROM THE CONSENT CALENDAR

5. Subject: Status update for prior Internal Audit Work Plans in Fiscal Year (FY) 2021-22 and FY 2022-23
Recommended Action: Receive status update report for prior Internal Audit Work Plans in FY 2021-22 and FY 2022-23

Written communications for this item included an email to Council.

This item was pulled from the Consent Calendar for discussion.

Councilmembers asked questions and made comments.

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

MOTION: Wei moved and Fruen seconded a motion to receive status update report for prior Internal Audit Work Plans in FY 2021-22 and FY 2022-23. The motion passed with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

ADJOURNMENT

At 11:05 p.m., Mayor Mohan adjourned the Regular City Council Meeting per rule. There was no Council discussion on the remaining agenda items.

CITY MANAGER REPORT

Council did not hear this item.

ORAL COMMUNICATIONS - CONTINUED – None

COUNCILMEMBER REPORTS

10. 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. As noted under Item 9, Chao and Wei added a future agenda item to consider a community meeting requirement for any project requiring a general plan amendment, so when it comes to the Planning Commission or City Council, there is community input on the amendment.

Minutes prepared by:

Kirsten Squarcia, City Clerk