



**DRAFT MINUTES**  
**CUPERTINO CITY COUNCIL**  
Tuesday, September 19, 2023

At 6:45 p.m., Mayor Wei 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 Hung Wei, Vice Mayor Sheila Mohan, and Councilmembers Liang Chao (6:54 p.m.), J.R. Fruen and Kitty Moore. Absent: none. Vice Mayor Mohan participated via teleconference.

**CLOSED SESSION REPORT - None**

**CEREMONIAL ITEMS**

1. Subject: Recognize National Hispanic Heritage Month September 15-October 15  
Recommended Action: Recognize National Hispanic Heritage Month September 15-October 15

Mayor Wei recognized September 15 to October 15 as National Hispanic Heritage Month.

2. Subject: Recognize September as National Preparedness Month  
Recommended Action: Recognize September as National Preparedness Month

Mayor Wei recognized September as National Preparedness Month.

**POSTPONEMENTS AND ORDERS OF THE DAY - None**

**ORAL COMMUNICATIONS**

Keith Kreft discussed golf course rates at municipal golf courses and Blackberry Farm Golf

Course. (Shared written comments).

Don Halsey, representing Friends of Blackberry Farms Golf, discussed subcontract management options for Blackberry Farm Golf Course. (Submitted written comments).

At 6:54 p.m., Councilmember Chao joined the meeting.

Peggy Griffin discussed the City's Treasurer's investment reports.

Ricardo Acevedo discussed safety and ethics policies and training in the workplace.

Thomas Holodnik, representing Meadows of Cupertino HOA, discussed the future plans at Blackberry Farms Golf Course.

Rhoda Fry discussed televised meetings, Council meeting procedures, memorial adjournments, and the City's sales tax. (Submitted written comments).

San R discussed Parks and Recreation Department events and staff and tree removal.

#### **CONSENT CALENDAR (Items 3-7)**

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

Peggy Griffin provided comments on Item 5.

San R provided comments on Item 7

Mayor Wei closed the public comment period.

MOTION: Fruen moved and Chao seconded to approve the items on the Consent Calendar, except for Items 3 and 6 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: Wei moved and Fruen seconded to move Item 6 Software-as-a Service (SaaS) agreement to Avolve Software Corporation before the Action Calendar. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

Item 3 was placed after the Action Calendar for consideration.

4. Subject: Approve the September 6 City Council minutes

Recommended Action: Approve the September 6 City Council minutes

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5. Subject: Ratifying Accounts Payable for the periods ending August 4, 2023; August 11, 2023; August 18, 2023; and August 25, 2023  
Recommended Action: A. Adopt Resolution No. 23-099 ratifying Accounts Payable for the Period ending August 4, 2023;  
B. Adopt Resolution No. 23-100 ratifying Accounts Payable for the Period ending August 11, 2023;  
C. Adopt Resolution No. 23-101 ratifying Accounts Payable for the Period ending August 18, 2023; and  
D. Adopt Resolution No. 23-102 ratifying Accounts Payable for the Period ending August 25, 2023.

Written communications for this item included new Attachment I – Weekly AP Payment Register for the Period Ending 8.11.23 (Revised), a supplemental report with staff responses to councilmember questions, and emails to Council.

7. Subject: Award a Cooperative Services Agreement to ReDesign Group, for City's server and storage infrastructure, for a total cost of \$389,692.60, including 10% contingency over five years.  
Recommended Action: 1. Find under Municipal Code section 3.22.070(C) that this procurement from the National Association of State Procurement Officials is exempt from formal competitive bidding procedures.  
2. Authorize the City Manager to execute a Cooperative Services Agreement with ReDesign Group, for Technology Refresh of the City's server and storage infrastructure, for a total cost of \$389,692.60, including 10% contingency over five years.

Written communications for this item included emails to Council.

**PUBLIC HEARINGS – None**

#### **ITEMS REMOVED FROM THE CONSENT CALENDAR**

As noted under the Consent Calendar, this item was pulled from the Consent Calendar and moved before the Action Calendar for discussion.

6. Subject: Award a Software-as-a Service (SaaS) agreement to Avolve Software Corporation, for Migration, Deployment and Subscription Services of ProjectDox from on-premises environment to Cloud Services, for a total cost of \$488,680.50, including 10% contingency over five years.  
Recommended Action: 1. Find under Municipal Code section 3.22.060(B). that the formal competitive bidding procedures are impractical for procurement.

2. Authorize the City Manager to execute a Software-as-a Service (SaaS) agreement to Avolve Software Corporation, for Migration, Deployment, and Subscription Services of ProjectDox from on-premises environment to Cloud Services, for a total cost of \$488,680.50 including 10% contingency over five years.

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

Councilmembers asked questions and made comments.

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

San R

Mayor Wei closed the public comment period.

MOTION: Fruen moved and Chao seconded to:

1. Find under Municipal Code section 3.22.060(B). that the formal competitive bidding procedures are impractical for procurement; and
2. Authorize the City Manager to execute a Software-as-a Service (SaaS) agreement to Avolve Software Corporation, for Migration, Deployment, and Subscription Services of ProjectDox from on-premises environment to Cloud Services, for a total cost of \$488,680.50 including 10% contingency over five years.

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

## **ACTION CALENDAR**

8. Subject: FY 2023-24 Internal Audit Program  
Recommended Action: Approve the FY 2023-24 Internal Audit Program  
Presenter: Jonathan Orozco, Finance Manager

Finance Manager Jonathan Orozco and Colleen Rozillis, Partner at Moss Adams, gave a presentation.

Councilmembers asked questions and made comments.

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

Jean Bedord  
Peggy Griffin

Mayor Wei closed the public comment period.

MOTION: Chao moved and Fruen seconded to approve the FY 2023-24 Internal Audit Program. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

At 8:11 p.m., Mayor Wei recessed the meeting. The meeting reconvened at 8:16 p.m. with all Councilmembers present.

9. Subject: Adoption of amendments to the Cupertino Municipal Code, Chapter 9.22, expanding existing property maintenance requirements in accordance with California Health and Safety Code 17970.5

Recommended Action: Conduct the first reading of Ordinance No. 23-2250: "An Ordinance of the City Council of the City of Cupertino Amending City Code Chapter 9.22 of Title 9 (Health and Sanitation) to Prohibit Substandard Housing Conditions."

Presenter: Monica Diaz, Senior Code Enforcement Officer

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

Senior Code Enforcement Officer Monica Diaz gave a presentation.

Councilmembers asked questions and made comments.

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

Peggy Griffin

Mayor Wei closed the public comment period.

City Clerk Kirsten Squarcia read the title of Ordinance No. 23-2250: "An Ordinance of the City Council of the City of Cupertino Amending City Code Chapter 9.22 of Title 9 (Health and Sanitation) to Prohibit Substandard Housing Conditions."

MOTION: Moore moved and Fruen seconded for the City Clerk to read the title of Ordinance No. 23-2250, that further reading of the Ordinance be waived, and that the City Council conduct the first reading of the Ordinance by title only. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

10. Subject: Amendments to the Cupertino Municipal Code Chapter 5.50 of Title 5 (Business Licenses and Regulations), regulating the sale of tobacco products
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Recommended Action: Conduct the first reading of Ordinance No. 23-2251: "An Ordinance of the City Council of the City of Cupertino Amending Chapter 5.50 to Title 5 (Business Licenses and Regulations) to Regulate the Sale of Tobacco Products"  
Presenter: Christopher Jensen, City Attorney

Written communications for this item included a staff presentation.

City Attorney Chris Jensen gave a presentation.

Councilmembers asked questions and made comments.

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

City Clerk Kirsten Squarcia read the title of Ordinance No. 23-2251: "An Ordinance of the City Council of the City of Cupertino Amending Chapter 5.50 to Title 5 (Business Licenses and Regulations) to Regulate the Sale of Tobacco Products."

MOTION: Chao moved and Fruen seconded for the City Clerk to read the title of Ordinance No. 23-2251, that further reading of the Ordinance be waived, and that the City Council conduct the first reading of the Ordinance by title only. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

**11.** Subject: Revisions to City of Cupertino Ethics Policy

Recommended Action: Direct the City Attorney to revise the City of Cupertino Ethics Policy to incorporate the provisions of the 2018 City's Ethics Code, as amended to ensure consistency with the City Council Procedures Manual and to address recommendations of the City's internal auditor, and provide direction on any additional Ethics Policy revisions

Presenter: Christopher Jensen, City Attorney

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

City Attorney Chris Jensen gave a presentation.

Councilmembers asked questions and made comments.

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

Peggy Griffin  
Jean Bedord  
Donna Austin  
Louise Saadati  
Parks and Recreation Commissioner Jennifer Shearin (representing self)  
Parks and Recreation Commissioner Seema Lindskog (representing self)  
Glenn Fishler

Mayor Wei closed the public comment period.

At 9:51 p.m., Mayor Wei recessed the meeting. The meeting reconvened at 9:57 p.m. with all Councilmembers present.

MOTION: Mohan moved and Fruen seconded to approve the staff recommendation to direct the City Attorney to revise the City of Cupertino Ethics Policy to incorporate the provisions of the 2018 City's Ethics Code, as amended to ensure consistency with the City Council Procedures Manual and to address recommendations of the City's internal auditor, and provide direction on any additional Ethics Policy revisions; with the following additional direction:

1. That mechanisms for disciplinary actions for ethics violations as detailed in the City Council Procedures Manual be incorporated into the Ethics Policy.
2. That a mechanism for holding elected and appointed officials accountable to timely completion of required documentation, including especially Form 700 Disclosures
3. That the City Attorney and City Manager direct staff to periodically review the policy and provide training to elected and appointed officials

Council did not vote on the motion.

SUBSTITUTE MOTION: Chao moved a substitute motion to direct the City Attorney to incorporate the comments from all Councilmembers and best practices for implementation, for accountability, and bring back a revision to achieve the ethics policy goals, taking into consideration the results of public outreach and public comments, as appropriate. FRIENDLY AMENDMENT: Moore seconded the substitute motion with a friendly amendment to add Recommendations 4A, 4B, and 4C from "A House Divided." (Chao declined the friendly amendment and it was not included in the substitute motion). Council did not vote on the substitute motion.

SECOND SUBSTITUTE MOTION: Wei moved a second substitute motion to approve the staff recommendation to direct the City Attorney to revise the City of Cupertino Ethics Policy to incorporate the provisions of the 2018 City's Ethics Code, as amended to ensure consistency with the City Council Procedures Manual and to address recommendations

of the City's internal auditor, and provide direction on any additional Ethics Policy revisions; and to incorporate Vice Mayor Mohan and Vice Mayor Chao's items:

Vice Mayor Mohan's items:

1. That mechanisms for disciplinary actions for ethics violations as detailed in the City Council Procedures Manual be incorporated into the Ethics Policy.
2. That a mechanism for holding elected and appointed officials accountable to timely completion of required documentation, including especially Form 700 Disclosures
3. That the City Attorney and City Manager direct staff to periodically review the policy and provide training to elected and appointed officials; and

Councilmember Chao's item:

4. Direct the City Attorney to incorporate the comments from all councilmembers and best practices for implementation for accountability and bring back a revision to achieve the ethics policy goals, taking into consideration the results of public outreach and public comments as appropriate.

FRIENDLY AMENDMENT: Chao seconded the second substitute motion with a friendly amendment to modify Item 4:

4. Direct the City Attorney to incorporate the comments from all Councilmembers and best practices for implementation, for accountability, and bring back a revision to achieve the ethics policy goals, taking into consideration the results of public outreach and public comments, as appropriate; **with flexibility for the City Attorney to include options for Council to choose from.** (Wei accepted the friendly amendment).

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

## ITEMS REMOVED FROM THE CONSENT CALENDAR – CONTINUED

The following item was pulled from the Consent Calendar and placed after the Action Calendar for discussion.

3. Subject: Approve the July 18 City Council minutes (continued from September 6, 2023)  
Recommended Action: Approve the July 18 City Council minutes

Written communications for this item included emails to Council.

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

Peggy Griffin  
Louise Saadati

Mayor Wei closed the public comment period.



Councilmembers asked questions and made comments.

MOTION: Mohan moved and Fruen seconded to approve the July 18 City Council minutes (as presented). The motion carried with the following vote: Ayes: Wei, Mohan, and Fruen. Noes: Chao and Moore. None. Abstain: None. Absent: None.

SUBSTITUTE MOTION: Chao moved and Moore seconded a substitute motion to include the number of people who raised their hand within nine minutes of the Mayor opening public comment. The substitute motion failed with the following vote: Ayes: Chao and Moore. Noes: Wei, Mohan, and Fruen. None. Abstain: None. Absent: None.

MOTION: Fruen moved and Mohan seconded to extend the meeting by ten minutes to hear Council Reports and City Manager Report. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, and Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

## COUNCIL REPORTS AND COMMENTS

### 12. Subject: Councilmember Reports

Written communications for this item included a supplemental report from Councilmember Moore.

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

## CITY MANAGER REPORT

This item was not heard.

## ORAL COMMUNICATIONS – CONTINUED – None

## INFORMATIONAL ITEMS

### 13. Subject: Receive the Monthly Treasurer's Report for August 2023 Recommended Action: Receive the Monthly Treasurer's Report for August 2023

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

The Monthly Treasurer's Report for August 2023 was provided as part of the published agenda.

14. Subject: Receive the Monthly Treasurer's Investment Report for August 2023  
Recommended Action: Receive the Monthly Treasurer's Investment Report for August 2023

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

The Monthly Treasurer's Report for August 2023 was provided as part of the published agenda.

### **COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS**

Council did not hear this item.

### **ADJOURNMENT**

At 10:46 p.m., Mayor Wei adjourned the Regular City Council Meeting in memory of Milind Makwana, community member and volunteer.

Minutes prepared by:

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Kirsten Squarcia, City Clerk