

CC 09-19-2023

Oral Communications

Written Communications

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, September 19, 2023 11:06 PM
To: City Council; Kirsten Squarcia
Cc: City Clerk
Subject: 2023-09-19 City Council Meeting ORAL COMMUNICATIONS - Peggy's slides
Attachments: Peggys Oral Communications-Loss of Transparency.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council and City Clerk Squarcia,

Attached the slides I used during my Oral Communications this evening.

Sincerely,
Peggy Griffin

TRANSPARENCY – Not mentioned in the Ethics Survey!

Every meeting we lose more TRANSPARENCY



Treasurer's Investment Report...



1. **NO** sign off by the Treasurer, not even initialed!
 - a. How do we know it was even looked at?
2. **NO** Chandler Custodial Report
 - a. lists assets and cash and where it goes
3. **NO** PARS Pension and OPEB Account statements
 - a. Lists pension funds and what returns they are getting
4. **NO** LAIF Account Statement
 - a. Local Agency Investment Fund
 - b. Cities can use the state expertise to invest money at no additional cost to the taxpayer.

Daily Tax Report: State
Aug. 30, 2023, 1:38 PM; Updated: Aug. 30, 2023, 3:22 PM

Lawmakers Ask Newsom to Save Apple, eBay Hometowns' Tax Deals (1)

By Laura Mahoney

Exclusive

-
- Tax-sharing deals in San Jose and Cupertino at issue
 - Tax department examining if money belongs elsewhere

Millions of dollars in sales tax revenue that the city of Cupertino shares with hometown company Apple Inc. would be protected until 2035 under legislation a group of lawmakers is asking California Gov. Gavin Newsom to pursue.

Six lawmakers representing Santa Clara County asked the Democratic governor for a bill blocking redistribution of the tax revenue in question away from cities in the county, or the county as a whole, according to a copy of their Aug. 18 letter to Newsom obtained by Bloomberg Tax.

The proposed bill would shield Cupertino from a 73% drop in annual sales tax revenue resulting from the California Department of Tax and Fee Administration's examination of a tax-sharing agreement the city has with Apple. It would also cover a similar arrangement between San Jose and eBay Inc., preempting the department's actions and carving out an exception for Santa Clara cities that wouldn't extend to the handful of other cities and counties where similar deals exist.

Newsom's office has received the letter and is reviewing it, spokesperson Alex Stack said. The governor's office has been in contact with legislators about the issue, he said.

The proposal comes four months after Cupertino officials said the city's revenue would plummet because the tax department was on the verge of determining that the community's largest taxpayer was assigning sales tax revenue to the city improperly. Although city officials don't name Apple in their discussions of the matter, citing taxpayer confidentiality rules, the computer and gadget giant is the city's biggest source of sales tax revenue because of the tax-sharing agreement.

Under the agreement, Apple marks online sales from anywhere in California as having taken place in Cupertino. In return, Cupertino gives 35% of the sales tax proceeds back to Apple. The deal has resulted in one of the world's richest companies getting \$107.7 million from its hometown between 1998 and 2022.

In San Jose's case, the city keeps the first \$5 million it gets from eBay online sales tax annually, then pays eBay 30% of additional proceeds. Since the deal was cut in 2019, San Jose has paid eBay \$26.4 million of the \$97.2 million it's received through sales to Californians on eBay's platform, according to city records.

The lawmakers don't mention Cupertino, Apple, San Jose, or eBay in their letter, but focus on what they say are new requirements from the department that retailers have "genuine physical human interaction" related to sales they attribute to specific jurisdictions.

'Serious Threat to Revenues'

The test "makes little sense in a world where sales processes are increasingly automated," the letter reads. "The CDTFA's new approach to online sales is not in line with the Legislature's intentions, it is inconsistent with the CDTFA's own regulations, and it poses a serious threat to the revenues local governments depend on."

Using the test, the tax department "has initiated audits and issued notices to reallocate sales tax revenue away from cities that are home to online retailers, leading to uncertainty and potential financial hardships for the communities these governments serve," the letter says.

State Sen. Dave Cortese (D), who led the effort to send Newsom the letter, didn't respond to requests for comment. Sens. John Laird (D) and Josh Becker (D) and Assemblymembers Marc Berman (D), Ash Kalra (D), and Evan Low (D) also signed the letter.

Cupertino spokesperson Stephanie Jantzen declined to comment. Apple didn't provide a comment by publication time.

San Jose disagrees with any CDTFA claim that sales tax was paid to the city improperly and is pleased that legislators are making the proposal to protect revenue, the city said in a prepared statement.

"This proposal would also help create breathing room for the Legislature to resolve the difficult policy questions that have plagued the administration of Bradley-Burns taxes in recent years," the statement read, referring to the local portion of sales tax at issue.

"We value our long-term relationship with San Jose and comply with all federal, state, and local tax obligations," eBay spokesperson Scott Overland said.

The League of California Cities doesn't have a position on the letter's proposal, lobbyist Ben Triffo said. League members reached agreement in July to seek legislation in 2024 to limit future tax-sharing agreements between cities and retailers.

Under state law and the department's rules, a retailer's involvement determines where a transaction takes place. That jurisdiction gets a 1 percentage point increment of the total sales tax customers pay. Cupertino, San Jose, and several other cities around the state have leveraged those rules to make deals with retailers to share revenue.

The tax department's requirements aren't new, spokesperson Tamma Adamek said. Longstanding regulations and guidance state that the storage location where an item is picked, packed, and shipped is often the only place of business that participates in an internet transaction. Activities related to automated online processes don't constitute the retailer's participation and the location of a server where the website is hosted or maintained is also immaterial, according to the department's rules.

The department has been taking a closer look at sales tax allocations involving several cities that have tax sharing agreements with retailers following stories by Bloomberg Tax on Cupertino's Apple deal, as well as similar agreements in a handful of other cities with Best Buy Co. Inc., Walmart Inc., Home Depot Inc., Nike Inc., and others.

Money Meant for Others

The Santa Clara delegation's letter doesn't mention that money going to Cupertino or other cities in Santa Clara is meant for communities around the state that are currently losing out on tax revenue, said Sen. Steve Glazer (D), a critic of the tax sharing deals.

"It's a significant error of omission," said Glazer, who represents the East San Francisco Bay Area

The Aug. 18 letter, written on behalf of a wealthy county in the heart of Silicon Valley, also belies Newsom's own statements when he vetoed a bill by Glazer in 2019 to ban the deals. In his veto message, the governor said the deals are an important tool that especially helps inland and rural cities facing high unemployment, Glazer said.

Cupertino hasn't received the tax department's final word on how its revenue stream will change following the examination, but city officials said in April that they expected annual revenue to drop to \$11.4 million in the current fiscal year from \$42.1 million, and the city may have to repay amounts from past years.

Under the terms of the city's agreement with Apple, the company could be required to give up at least \$20 million it has received from the city.

Cupertino City Council members said in April they would appeal the tax department's determination. Apple bears the cost of administrative proceedings with the state related to the dispute and must cooperate in efforts to avoid, reduce, or nullify the reallocation of revenue away from Cupertino, according to its agreement.

In the letter, lawmakers are asking Newsom to support amendments to the Revenue and Taxation Code blocking the tax department from redistributing revenue away from cities within Santa Clara County, or the county itself, if a retailer remitted the money to them before Jan. 1, 2035. The prohibition would apply to revenue from retailers that remit at least \$3.5 million to the cities or county per quarter.

The proposal includes "marketplace facilitators"—online platforms that sell items on behalf of third-party sellers. San Jose has netted between \$8.2 million and \$11.5 million per quarter from eBay, according to information the city provided to Bloomberg News.

—with assistance from Eliyahu Kamisher.

(Updated to add comment from city of San Jose)

To contact the reporter on this story: Laura Mahoney in Sacramento, Calif. at lmahoney@bloombergindustry.com

To contact the editors responsible for this story: Benjamin Freed at bfreed@bloombergindustry.com; Kathy Larsen at klarsen@bloombergtax.com

Related Stories	California Cities Agree To Rein In Apple-Like Tax Windfalls	Apple's Hometown Will Appeal Sales Tax Loss Tied To Sharing Deal	E-Commerce Realities Could Mint New California Sales Tax Winners
	Aug. 17, 2023, 11:51 AM	April 20, 2023, 1:45 AM	April 13, 2023, 1:45 AM

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Blackberry Farm Golf Course **Management Alternatives**

9/19/23

Don Halsey

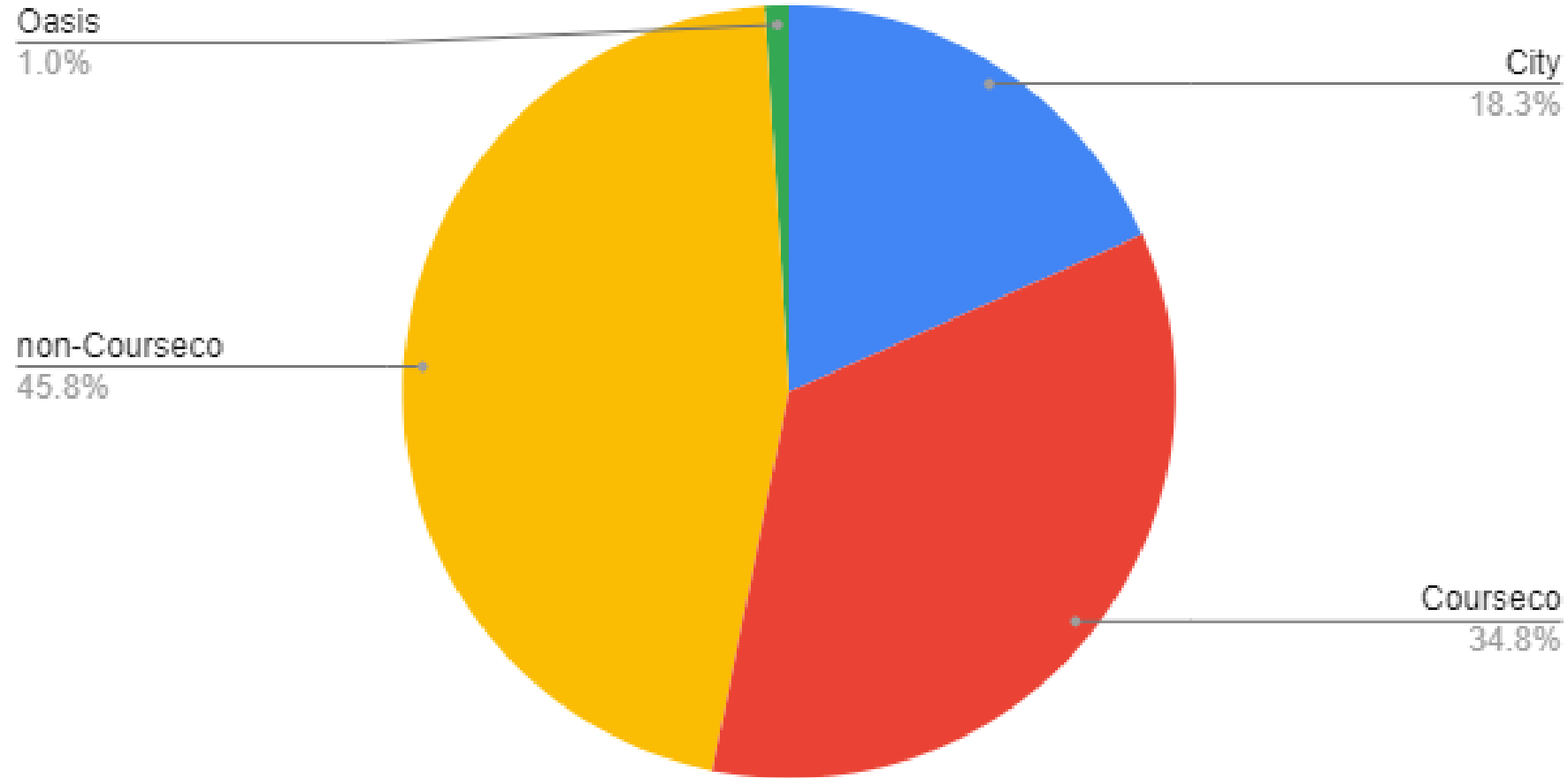
Friends of Blackberry Farm Golf Course

Management Options

	Option	Comment	Link
A	Cupertino (50+%)	No change	
B	Courseco	Courseco manages Deep Cliff.	https://www.courseco.com/
C	Other course management companies <ul style="list-style-type: none"> • Sierra • Troon • Kemper Sports • Invited • American Golf • Still others 		https://sierragolfmanagement.com/about-us/ https://www.troon.com/management-services/ https://kempersports.com/public-golf-courses/ https://www.invitedclubs.com/our-portfolio/explore-our-major-markets/southern-california https://www.americangolf.com/management-services
E	Oasis	<ul style="list-style-type: none"> • Pickleball for golf • One of a kind Social Experience • Modern Technology • World-class course • Sustainable footprint 	https://www.oasisgolfcenter.com

Quick survey on which option people want

Preferred Management Option for BFGC (by Friends of Blackberry Farm Golf Course)



Things to consider:

- Contract duration: 3 – 10 years, typically 5, renewable
- Management service contract (20+%)
 - Profit / loss flows to City
- Turnkey / lease (15+%)
 - City gets defined annual 'rent'
 - Subcontractor has profit / loss risk
 - Fee changes may be limited by City
- Hybrid
- Food and beverage service
- Who pays for water

Blackberry Farm Golf Course Use Analysis Comparative Costs - 25 Year Outlook				
			Option A	Option B
Item #	Item		Repair Golf Course	Natural Habitat
1	Capital Cost		\$1,970,000	\$1,882,825
2	Total O&M Expenditure (0-25 yr)		\$17,626,250	\$10,720,594
	O&M Expenditure Breakdown			
	2A	Irrigation Water Cost ***	\$1,575,000	\$100,800
	2B	Sewer Discharge Cost	\$525,000	\$297,200
	2C	City Labor Costs	\$7,569,500	\$9,591,844
	2D	Contracted O&M Services	\$7,610,000	\$562,000
		Miscellaneous	\$346,750	\$168,750
3	Estimated Revenue (0-25 yrs)		\$9,378,624	\$500,000
4	O&M Expenditure minus Revenue (0-25 yrs)		\$8,247,626	\$10,220,594
5	Total Cost minus Revenue (0-25 yrs)		\$10,217,626	\$12,103,419
6	Irrigation Water Use (0-25 yrs) Gallons*		168 to 212 million Gallons	14 million Gallons
7	Grant Funding Potential**		N/A	\$600,000

\$330K loss per year

Support

- Consultant: National Golf Foundation
 - Did the 2022 study for Cupertino on the golf course renovation
 - <https://www.ngf.org/>
- Consultant: Proforma Golf Advisors LLC
 - <https://www.proformaadvisors.com/home/golf>
 - A to Z support RFP through implementation

Lauren Sapudar

From: Cathy Helgerson <cathyhelger@gmail.com>
Sent: Tuesday, September 19, 2023 9:27 AM
To: City Clerk
Subject: Letter for City Council meeting tonight
Attachments: City of Cupertino AD HOC Advisory Committee letter.docx

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I called and spoke to you about this.

Please see that the City Council members, staff members receive my letter. I understand that it will be put on the web for public review under comments. I would like someone to get back to me about my requests.

Thanks,
Cathy Helgerson - 408-253-0490

September 20, 2023 – City of Cupertino City Council Meeting

To: Council members – Hung Wei, Sheila Mohan, Liang-Fang Chao, Kitty Moore, & J.R. Fruen

City Clerk - Please provide copies to all staff members that need to be included.

From: Cathy Helgerson – Cathyhelger@gmail.com – Phone Number 408-253-0490

Subject: I would like to make a request that the city council consider the forming of an AD HOC Advisory Committee to be established in order to investigate, review, and find solutions to the serious problem of immigration, homelessness and more in Cupertino, surrounding cities such as San Jose and San Francisco. I would also like to see that the cities in the Silicon Valley be included in the collaboration of ideas and solutions that need to be implemented in order to save lives and to bring about the needed changes to these problems. The AD Hoc Advisory Committee should be established in an ongoing continuous manner in order to make sure that the problems will be continually addressed over the years.

Please review and address also my writeup on September 13, 2023 at a meeting that I attended with a council member and two staff members mentioned in my writeup. Note here that Pamela Wu did not attend the meeting and did make an appearance after the meeting had been concluded. I had requested this meeting and the date was way in advance in order to make sure that the people I requested to appear did appear. Pamela Wu has problems attending meetings and this has happened on more than one occasion. I would like the City Council members to be aware of this problem in order to make sure that it does not continue in the future. The public has the right to ask for constructive meetings with council members and staff and the position of City Manager is a very important position and the City Manager must attend these meetings.

The AD HOC Advisory Committee should review the relationship that the City of Cupertino has with the West Valley Community Services, a non-profit that resides in the City of Cupertino. I would like to make sure that the public is aware of this non-profit organization and what services they provide that benefit the homeless and the poor in our community. The committee should extend the services with available housing to not only low-income persons but also people that are in a homeless situation that have no income. The forming of a soup kitchen where hot meals can be provided morning, noon, and night. Resources that can provide jobs and training, rehabilitation from drug abuse, health reviews to help with the mentally ill homeless, helping kids clocking out of foster care with all kinds of things, building housing projects to support the poorest of the poor and so much more.

The other non-profit that the AD HOC Advisory Committee should be aware of in their investigation is Conxion to Community in San Jose, Ca. who conduct their own fund raisers. What are their needs and how do they serve the community? The office in San Jose is right next to a homeless encampment that it seems Conxion staff provide bag lunch meals and other services to. There is a job availability service that the non-profit connects with that helps some of the poor and homeless actually find work and earn some wages and it seems they are paid in cash for that day's work.

The AD HOC Advisory Committee should also look at the San Francisco homelessness issues which it seems is needing all kinds of help. Drugs addiction with Fentanyl and others drugs are available and the people addicted to drugs stay addicted. Disease is another situation that should be looked at the homeless population has all kinds of medical and mental problems which are not being looked at or addressed. Giving the homeless money through disability insurance is not solving the problem it is just making it easier for the heads of government to just look the other way. These people need to be cared for and helped. The Committee should include a review of all the cities in the Silicon Valley and the Bay area. Each city needs to evaluate their specific needs putting a committee that looks at the big picture which could also allow all the cities to come together even collectively with all kinds of resources. This would seem to be the way to solve many of the overall problems.

Immigration issues the fact that there are undocumented immigrants that have lived in the Silicon Valley and the bay area for over 10 and 20 years and still do not have a green card, visa or citizenship is a terrible shame. The immigration laws do not address this problem and the AD HOC Advisory Committee could also address these issues and help solve them. Many migrants are coming over the Mexican border from all over and many of them are criminals and are affiliated with the drug cartels this horrible situation needs to be addressed. What are we doing as a city to stop this flood of illegals? Shouldn't cities and the state address the problem and find solutions the AD HOC Advisory Committee could do just that and it is time that all the immigration issues are looked at with major considerations on solving the problems instead of leaving all this to our Federal Government.

Many of the immigrants have had to work under the table at all kinds of jobs with little pay of any kind being used by many employers how can they feed themselves and their families? How can this continue? Working together with our local and Federal Governments and our representatives to solve the problems should be the goal.

People are put into human trafficking and the cartels are pushing their drugs that are coming over to Mexico from China and they are becoming rich people are suffering from fentanyl drug abuse the young and old alike many have died and it seems nothing can stop these crimes. I do believe that the AD HOC Advisory Committee could also investigate problems such as these. The responsibility of our nation to work on creating a safe and stable government lies in the workings of the people's government all of use should help to solve the injustices that plague our county, states, cities, and towns.

I am sorry to say that if these travesties are allowed to continue that Cupertino is not going to remain a nice quiet city and the public will suffer. We need new immigration laws that deal with the real issues as it stands nothing is being solved and unless we the people take a stand nothing will be solved.

I do think it is time to look at what are our rights do we not have the right to live in a clean and safe cities and a country free from all the issues that plague our society? How can these unjust laws stay into effect they are hurting all of us and they are hurting humanity.

The AD HOC Advisory Committee that is established can do so much more to help and it is time that the City of Cupertino take the lead in such work that could be of great help to so many.

CC 09-19-2023

Councilmember
Written Communications

Lauren Sapudar

From: Liang Chao
Sent: Tuesday, September 19, 2023 10:53 PM
To: City Clerk
Subject: MY Presentation for Ethics Code

This is the presentation I used for the Code of Ethics Revision.
Please include it as written communication.

Thanks.



Liang Chao

Council Member
City Council
LChao@cupertino.org
408-777-3192



Code of Ethics Revisoin

2023-09-19 CC Meeting
Liang Chao

Ethics Policy Goals

- Encourage high standards of behavior by public officials
- Increase public confidence in institutions
- Assist public officials with decision-making
- *Rules- v. values-based ethics policies*

Questions for Council

- Who should be covered by the policy?
- What values should be reflected in the policy?
- Should any rules beyond the requirements of state ethics law be included in the policy?
- How should the policy be enforced?
- Should the policy include provisions for training and periodic review?

FACTS on the 2018 Code of Ethics

- **Cupertino did not have any adopted “Code of Ethics” prior to 2018.**
- From Staff Presentation:

Background

- **November 2018:** Council adopts Ethics Code for elected and appointed officials
- **January 2019:** Council rescinds Ethics Code
- **January 2020:** Council adopts current Ethics Policy
- **December 2022:** Civil Grand Jury identifies Ethics Policy as area of concern

FACTS on the 2018 Code of Ethics (Cont'd)

- The 2018-19 work program did not include any item related to “Code of Ethics”.
- **After deciding to not consolidate Library Commission and the Public Safety Commission**, the 2018 Council directed the staff on July 31, 2018 to “Explore ways to improve Council/Commission communication”.
- **The agenda item on November 20, 2018 was titled “Overview of City Commissions and recommendations for improving their effectiveness and communications with the City Council”,** but somehow one of the 6 documents to be approved is titled “Code of Ethics and Conduct” (CoEC)

FACTS on the 2018 Code of Ethics (Cont'd)

- The [staff report of November 20, 2018 Council Meeting](#) clearly indicated the 15-page “[Code of Ethics and Conduct](#)” was newly added. **There was no mention of any earlier public engagement or notification.**
- The Nov. 20, 2018 staff report stated incorrectly that “Commissions were very supportive of adopting a code of ethics and conduct.” But **there was no record of any written comments from commissioners or commissions.**

Problem with the 2018 Code of Ethics

The 2018 CoEC broadly applied **the standard normally used for quasi-judicial decisions (to comply with existing laws, such as project approvals)** to legislative decisions (to make laws and policies). This is evidenced by the following two quotes from the 2018 CoEC.

- Item 6 under Ethics: **“decision makers ... will base their decisions on the facts presented at the hearing and the law”, which is supposed to apply only for quasi-judicial decisions.**”
- Item 7 under Ethics: **"Communication. ... City Officials will rely on the agenda materials and information received at the public meeting to support their decision."**

Problem with the 2018 Code of Ethics

The 2018 CoEC expanded the normal “Conflict of Interest” on financial interests to include one’s opinions or positions on policy issues. This is evidenced by this quote:

- Item 8 under Ethics: "Conflict of Interest. ... Consistent with the law, decision-makers will not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) **an organizational responsibility to or personal commitment to others** that creates a conflict of interest or the appearance of one, or (c) **a strong personal bias as to one party or position.**"

Problem with the 2018 Code of Ethics

According to Ethics Item 6 and Item 7, City Officials appear to have to ignore public comments received through emails or at any meeting with community members. City Officials cannot use their past experiences based on reading articles or information derived from their own research on the issues.

Ethics Item 8 goes beyond the state law on Conflict of Interest, which is limited to financial interest. According to such broad interpretation of Conflict of Interest, **all members of the Bike and Pedestrian Commission would have to recuse themselves since they have a "strong person bias"** towards some bike paths and actively advocate for it. Most Sustainability Commissioners have "personal commitment" to Clean Energy. Most Housing Commissioners have a "personal commitment" towards affordable housing. Most Parks and Recreation Commissioners have a "strong personal bias" towards all-inclusive playground to accommodate children of special needs.

Problem with the 2018 Code of Ethics

The 2018 CoEC might result in Brown Act violation:

COMPLIANCE 3 (a):

Individual Councilmembers should point out to the offending Councilmember **perceived infractions of the Code of Ethics and Conduct**. If the offenses continue, then the matter should be **referred to the Mayor in private**. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Vice Mayor. It is the responsibility of the Mayor (or Vice Mayor) **to initiate action if a Councilmember' s behavior is not in compliance** with the Code of Ethics and Conduct. If no action is taken by the Mayor (or Vice Mayor), then the alleged violation(s) can be brought up with the full Council.

Potential Issues:

- This could result in Brown Act violation involving three Councilmembers through private communications.
- If there is a disagreement in the interpretation of the “perceived” violation, who decides if there is a real violation or not?
 - This puts the Mayor in charge of deciding whether there is a violation or not, rather than the Council.
- What if one member of the Council plus the Mayor provide biased interpretation and enforcement in private against another Council member without the knowledge of the other two Councilmembers and the public?
- This is a dangerous practice.

Due Process is essential for accountability.

Perception is deceiving.

Eye witness account is often biased because of their own perception.

If anyone is to be punished, the city must provide clear documented evidence to avoid abuse of the procedures and also to avoid making the city liable for claiming violations based on biased views.

Transcripts must be retained for all interviews for the investigation.

The accused must be informed of their violations in writing with clear evidence (with dates/times/locations and persons involved for the incident) to provide them the opportunity to clarify any misunderstanding.

Suggestions

1. City Officials [“OFFICIALS”] including the Councilmembers, Appointed Officials, and Executive City Staff should abide by the Code of Ethics. This is because they all influence decisions of the Council, through recommendations.
2. Revise Ethics Item 6 and 7 should apply only to Quasi-judicial decisions.,.
3. Revise Ethics Item 8 : strong opinion should not be considered a conflict of interest
4. Due Process for investigation with clear evidence (with dates/time/context involved)

Suggestions (Cont'd)

5. Transparency: For any staff-formed committee, the committee members should be disclosed to the public and the committee members should abide by the Code of Ethics and disclose any potential conflict of interest. This is because such committee provides input to staff, who provides recommendations to the City Council.
6. Any OFFICIALS who has been on the board of an organization within the last 12 months should declare it and recuse themselves from any Council actions/decisions/closed sessions associated with that organization.
7. If an OFFICIAL has been on the board of an organization within the last 5 years, the OFFICIAL must declare this at the beginning of the agenda item.

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Suggestions (Cont'd)

8. Distinguish between Rules and Values (aspirational). Any compliance reporting should apply to Rules, not the Values.
9. Distinguish between requirements for quasi-judicial decisions and policy decisions. And define with examples of what is quasi-judicial decisions.
10. The Mayor should not be given the responsibility to determine whether any perceived violation is a real violation and whether any warning is necessary. To encourage collaboration between Councilmembers, we should not ask the Mayor alone to act as both a judge and a police.

The complaint of a few residents on a bike path project who never expressed the concerns to the City admin/Council should not define how well the bike path is constructed.

The complaint of certain residents or staff who never brought up the issue to the City admin/Council should not define whether a city is functional or not.

FUNCTIONAL CITY GOVERNMENT



PROJECT/POLICY PROPOSAL

Initiated by the Council or originated from the public or staff

STUDY SESSION/SURVEY/PUBLIC MEETING

Taking Input; Explore options; Seek more information or Give direction for the next step

APPROVE/ADOPT

Staff starts the implementation

ADJUSTMENTS/AMENDMENTS DUE TO PUBLIC COMPLAINTS OR UNFORESEEN ISSUES

Public Policy Making is an iterative process.
Public Projects are continuously being improved.

BETTER PROJECT/POLICY

is only possible with continued two-way public engagement

WHAT'S DYSFUNCTIONAL?

ANONYMOUS REPORT TO CIVIL GRAND JURY

where one does not swear to tell the whole truth, get cross-examined, and one does not need to provide evidence

NEVER EXPRESSED CONCERNS DIRECTLY TO THE CITY ADMIN/COUNCIL

As a result, they make assumptions based on false information, which the city has no chance to clarify at all/

Political Gain

COMPLAIN TO MEDIA OR FILE LAWSUIT

But never expressed concerns through either oral or written comments

FUNCTIONAL CITY GOVERNMENT



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BETTER PROJECT/POLICY

Is only possible with continued two-way public engagement

Lauren Sapudar

From: Kirsten Squarcia
Sent: Tuesday, September 19, 2023 9:44 PM
To: City Clerk
Subject: FW: Copy of Resolution No. 16-137 (Item 11)
Attachments: 16-137 Resolution Establishing Rules Governing Recruitment, Attendance, Appointments, and Vacancies on City Advisory Bodies.pdf



Kirsten Squarcia

City Clerk
City Manager's Office
KirstenS@cupertino.org
(408) 777-3225



From: J.R. Fruen <JRFruen@cupertino.org>
Sent: Tuesday, September 19, 2023 9:19 PM
To: Kirsten Squarcia <KirstenS@cupertino.org>
Subject: Copy of Resolution No. 16-137



J.R. Fruen

Councilmember
City Council
JRFruen@cupertino.org
(408) 777-1316



RESOLUTION NO. 16-137

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO RESCINDING RESOLUTION NO. 10-048 AND AMENDING THE RESOLUTION ESTABLISHING RULES GOVERNING RECRUITMENT, ATTENDANCE, APPOINTMENTS, AND VACANCIES ON CITY ADVISORY BODIES TO ADD DESIGNATED ALTERNATES TO THE INTERVIEWS AND APPOINTMENTS PROCESS

WHEREAS, the City of Cupertino wishes to establish uniform terms and conditions of office for advisory commissions; and

WHEREAS, there are within the City of Cupertino many citizens with talent, expertise and experience who wish to serve the community; and

WHEREAS, the City Council believes it is important to provide these citizens the opportunity to contribute to their community;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cupertino rescinds Resolution No. 10-048 and establishes the following rules governing recruitment, appointment and reappointment to City of Cupertino Advisory bodies.

A. RECRUITMENT

1. Two months before regular terms expire, or immediately following receipt of a resignation, the City Clerk distributes the vacancy notice as follows:
 - The Cupertino Scene
 - The Cupertino Courier
 - The World Journal
 - The Cupertino City Channel
 - City Hall bulletin board
 - The City Clerk's Office
 - The Cupertino Library
 - The Cupertino Chamber of Commerce
 - Cupertino City Web site
 - Other organizations as appropriate with respect to the openings
 - All persons with applications on file for that particular commission

2. Two months before regular terms expire, the City Clerk's Office also mails the vacancy notice to the following individuals:
 - Students and graduates of Cupertino Emergency Response Training
 - Students or graduates of Leadership Cupertino
 - Neighborhood Block Leaders
 - Individuals who have signed up for notification at the Cupertino Town Hall meetings.
3. All vacancy notices and posting shall be done in accordance with the provisions of the Maddy Act, California Government Code 54970. Specifically, vacancy notices shall be posted for a minimum of 10 days.
4. Applications will be retained for a maximum of one year after Council review. After that time, applicants shall submit a new application if they wish to remain on the list for consideration.
5. Those persons with applications on file within one year of Council review are advised of the vacancy by the City Clerk and may activate that application. –Upon receipt of the vacancy notice, the applicant must contact the City Clerk's Office and ask that the application be reactivated.
6. An applicant may file for a maximum of two commissions at any one application period.
7. A member of an advisory body, having completed two consecutive terms, must wait two years after the term would have normally ended before being eligible to apply for the same commission or committee.
8. Application forms will be available in the City Clerk's Office and will be mailed upon request with information about the opening(s). Application forms will also be available on the City's Web site.
9. No application shall be accepted after the deadline.
10. When the final deadline has passed, the City Clerk's Office will mail applicants the date, time and location of the interviews along with sample questions to consider.

11. The City Clerk's Office will copy the applicants' written material for Council members. The written material will also be available for public review in the City Clerk's Office.
12. An applicant who is unable to attend the interview may submit a 5-minute video presentation in advance of the interview meeting. The tape will be reviewed at the meeting. The video will be made by City staff at the applicant's request upon the approval of the City Clerk. The City will fund these costs.

B. INTERVIEWS AND APPOINTMENTS

1. When Council meets to conduct interviews, it is a public meeting subject to the Brown Act and therefore open to the public. The candidates will be asked by the City Clerk (either in person or by written instructions left in the waiting area) to remain seated in the waiting area until they are called in for the interview. Candidates will also be asked to return to the waiting area until the announcement of the vote, or to go home and contact the City Clerk's Office the next day regarding the results. However, all applicants and members of the public have the option of remaining in the room for any or all of the meeting.
2. The order in which interviews are scheduled to take place will be determined by a drawing of names. The City Clerk will do this in advance.
3. Interviews are informal and usually last 5-8 minutes. Council members are looking for:
 - Familiarity with the subject
 - Decision-making ability
 - Commitment to the position for which they have applied
4. Appointments will be made following a vote in public. Ballots will be distributed, and Council members will vote and sign the ballots. The City Clerk will announce the votes.

5. The City Council may appoint alternates to serve on boards, commissions and committees in the event of a vacancy. Such alternates may attend and participate in meetings of the board, commission, or committee but shall not vote in such meetings until such time as a vacancy has occurred and the alternate has filled such vacancy. If the City Council appoints more than one alternate for a particular board, commission or committee, the City Council shall designate the alternates as first alternate, second alternate and so on such that immediately upon a vacancy occurring in a board, commission, or committee, the first alternate shall fill such vacancy without the need for further City Council action.

C. UNSCHEDULED VACANCIES AND ATTENDANCE

1. If a vacancy occurs for an unexpired term and interviews for appointment to that advisory body have been conducted within the previous ninety days, the unexpired term may be filled from those applications following the required posting of the vacancy.
2. The notice of unscheduled vacancy shall be posted no earlier than 20 days before nor later than 20 days after the vacancy occurs, and at least 10 working days before appointment. The notice of unscheduled vacancy must be posted in the Office of the City Clerk, at the City Hall bulletin board, at the Cupertino Library, and in other places designated by the City Clerk.
3. A member shall be considered removed from an advisory body under the following conditions.
 - A member misses more than three consecutive meetings
 - A member misses more than 25% of the advisory body's meetings in a calendar year
4. It is the responsibility of the advisory body's staff liaison to notify the City Clerk of a member's attendance record to allow sufficient time to send a warning notice if the member has missed three consecutive meetings or 25% of the meetings, and to send a termination notice if the member has missed more three consecutive meetings or more than 25% of the meetings in a calendar year.

5. A member who has been removed from an advisory body for inadequate attendance may request a waiver of this provision by submitting a letter to the City Council setting forth the reason for the absences and confirming future availability.

D. GENERAL PROVISIONS

1. Term limit restrictions listed in this resolution do not apply to temporary appointments for unexpired terms.
2. All provisions of this resolution shall apply unless otherwise decided by the City Council on a case-by-case basis.
3. In the event that any provision of this resolution conflicts with the provisions of any other ordinance or resolution governing a particular advisory body, the provisions governing that advisory body shall prevail.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 20th day of December, 2016, by the following vote:

<u>Vote</u>	<u>Members of the City Council</u>
-------------	------------------------------------

AYES:	Vaidhyanathan, Chang, Scharf, Sinks
-------	-------------------------------------

NOES:	None
-------	------

ABSENT:	Paul
---------	------

ABSTAIN:	None
----------	------

ATTEST:

APPROVED:

/s/ Grace Schmidt

/s/ Savita Vaidhyanathan

Grace Schmidt, City Clerk

Savita Vaidhyanathan, Mayor,
City of Cupertino

Lauren Sapudar

From: Kirsten Squarcia
Sent: Tuesday, September 19, 2023 9:44 PM
To: City Clerk
Subject: FW: Example Comment & Illustration (Item 11)
Attachments: Restat 2d of Torts, § 217.pdf



Kirsten Squarcia

City Clerk
City Manager's Office
KirstenS@cupertino.org
(408) 777-3225



From: J.R. Fruen <JRFruen@cupertino.org>
Sent: Tuesday, September 19, 2023 9:19 PM
To: Kirsten Squarcia <KirstenS@cupertino.org>
Subject: Example Comment & Illustration



J.R. Fruen

Councilmember
City Council
JRFruen@cupertino.org
(408) 777-1316





User Name: Joseph Fruen

Date and Time: Tuesday, September 19, 2023 6:27:00PM PDT

Job Number: 206183593

Document (1)

1. [*Restat 2d of Torts, § 217*](#)

Client/Matter: -None-

Search Terms: trespass to chattels

Search Type: Natural Language

Narrowed by:

Content Type
Secondary Materials

Narrowed by
Content Type: Restatements

Restat 2d of Torts, § 217

Restatement of the Law, Torts 2d - Official Text > Division 1- Intentional Harms to Persons, Land, and Chattels > Chapter 9- Intentional Invasions of Interests in the Present and Future Possession of Chattels > Topic 1- Trespass to Chattels

§ 217 Ways of Committing Trespass to Chattel

A trespass to a chattel may be committed by intentionally

- (a) dispossessing another of the chattel, or
- (b) using or intermeddling with a chattel in the possession of another.

COMMENTS & ILLUSTRATIONS

Comment:

a. This Section sets forth the ways in which a trespass may be committed. It does not purport to state the circumstances or conditions under which a trespass makes the actor liable. These are set forth in §§ 218-220. As to what constitutes a dispossession, see § 221. As to liability for a trespass which is a dispossession, see § 222.

A trespass, though not actionable under the rule stated in §§ 218-220, may nevertheless be important in the determination of the legal relations of the parties. Thus, the fact that one person is committing a trespass to another's chattel, while it may not be actionable because it does no harm to the chattel or to any other legally protected interest of the possessor, affords the possessor a privilege to use force to defend his interest in its exclusive possession. (See § 77.) So too, the fact that one person is a trespasser is important in determining the duty of care owing to him by the possessor of the chattel. (Compare § 333.)

b. *Necessity of intent.* Under early common law pleading, the form of action for trespass to a chattel would lie for any direct and immediate interference with the chattel, whether the trespass was intentional, or negligent, or even accidental. With the passage of time and the abolition of the common law forms of action in many states, and their modification in others, the word "trespass," so far as it applied to interference with chattels, has come to be limited to intentional interferences. Some vestiges of the earlier usage still remain in some jurisdictions, where it is possible to speak of a negligent "trespass" to a chattel. Even in such jurisdictions, however, such "trespasses" are governed by the ordinary rules of negligence actions.

This Section follows the commonly accepted terminology, by which there can be no unintended "trespass" to a chattel. Under the rules stated in Chapter 12 of this Restatement, the actor may be subject to liability for harm resulting from a negligent interference with a chattel. Such liability is dealt with as in other cases of negligence, in which the word "trespass" usually is not even mentioned. Under the rules stated in Chapters 20 and 21, there may also be liability for harm to a chattel resulting from strict liability, without either intent or negligence. Again any such liability is nearly always rested upon the nature of the actor's conduct itself, without any reference to "trespass."

c. *Character of intent necessary.* The intention required to make an actor liable for trespass to a chattel is similar to that necessary to make one liable for an invasion of another's interest in bodily security, in freedom from an offensive contact, or confinement. (See § 8 A and § 13, Comment c.) Such an intention is present when an act is done for the purpose of using or otherwise intermeddling with a chattel or with knowledge that such an intermeddling will, to a substantial certainty, result from the act. It is not necessary that the actor should know or have reason to know that such intermeddling is a violation of the possessory rights of another. Thus, it is immaterial that the actor intermeddles with the chattel under a mistake of law or fact which has led him to believe that he is the possessor of it or that the possessor has consented to his dealing with it. (See § 244.) So too, a mistake of law or fact which leads him to believe even upon reasonable grounds that he is

privileged to meddle with the chattel without the consent of the possessor does not prevent his act from being a trespass if the privilege is one which does not depend upon his reasonable belief, as where he acts to abate a private nuisance. (See § 244, Comment c.) On the other hand, the greater number of privileges require only the actor's reasonable belief that the necessary facts exist. In such cases, a mistake as to the existence of these facts does not destroy the privilege. Privilege is then based not on the facts but on the belief.

d. Direct and indirect interference. Under strict common law pleading, the action of trespass did not lie for harm caused to a chattel unless the intermeddling was the direct and immediate result of some act done by the actor. There was, however, liability in an action on the case for harm intentionally, though indirectly, caused by the actor's misconduct, whether of act or omission. The rules stated in this Chapter set forth the conditions necessary to liability, and do not purport to state the circumstances under which at common law the action of trespass or the action of trespass on the case was the appropriate procedure. Therefore, the rule stated in this Section is applicable irrespective of whether the intermeddling was the direct or indirect result of an act done by the actor, provided that his misconduct was the legal cause of the harm. (See § 870.)

e. Physical contact with chattel. "Intermeddling" means intentionally bringing about a physical contact with the chattel. The actor may commit a trespass by an act which brings him into an intended physical contact with a chattel in the possession of another, as when he beats another's horse or dog, or by intentionally directing an object or missile against it, as when the actor throws a stone at another's automobile or intentionally drives his own car against it. So too, a trespass may be committed by causing a third person through duress or fraud to intermeddle with another's chattel. An actor may also commit a trespass by so acting upon a chattel as intentionally to cause it to come in contact with some other object, as when a herd of sheep is deliberately driven or frightened down a declivity. If such intermeddling with another's chattel is done without his consent and without any other privilege, the actor is subject to liability for harm thus caused to the chattel under the rules stated in §§ 218-220.

f. Persistent contact. The actor may commit a new trespass by continuing an intermeddling which he has already begun, with or without the consent of the person in possession. Such intermeddling may persist after the other's consent, originally given, has been terminated. So too, an intermeddling may persist after a privilege conferred by law, irrespective of the possessor's consent, has been terminated by the accomplishment of the purpose for which the privilege was allowed. On the other hand, an intermeddling unprivileged by the other's consent or otherwise may be a continuous one, in which case the persistence is important in determining the operation of the statute of limitations, which may have run against the original intermeddling but not as against its subsequent continuance.

g. Action at common law. Although the rules of common law pleading did not permit an action of trespass against one who tortiously remained in contact with a chattel if his original contact with it had been made pursuant to the possessor's consent, he was liable to the possessor of the chattel or to one entitled to its immediate possession in an action on the case for any harm thus caused to the chattel. Such conduct is treated in the Restatement of this Subject as a trespass, since the abolition of the forms of action has very largely done away with the distinction, and even where vestiges of it remain it is one of procedure rather than substance.

REPORTER'S NOTES

The first Restatement has been changed by including dispossession in this Section, in order to make it complete. The substance of Comment *b*, and Comments *c* and *d*, have been moved forward from § 218, where they formerly appeared as Comments *a*, *b* and *c*.

Cross Reference

Digest System Key Numbers:

Trespass 6 et seq.

End of Document

Lauren Sapudar

From: Kitty Moore
Sent: Tuesday, September 19, 2023 9:48 PM
To: Kirsten Squarcia; City Clerk
Subject: Item 11 Ethics Policy Civil Grand Jury Recommendations
Attachments: Pages from CC 09-19-2023 Searchable Packet-2.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear City Clerk,

Please include the attached page from the Civil Grand Jury *House Divided* report. Please note that councilmembers were removed from their committees by the Council Majority without establishing a procedure per the recommendations.

Finding 4

A comprehensive Code of Ethics not only provides guidance and baseline standards for ethical behavior, it includes sanctions and consequences for deviations from the standard. The City's Ethics Policy is generic and lacks enforcement provisions and therefore fails to provide a framework to address ramifications for policy violations.

Recommendation 4a

The City should establish an independent Public Ethics Commission with guidance from experts in applied ethics, such as the Markkula Center for Applied Ethics at Santa Clara University, to: (i) develop and implement a robust government ethics training program for all councilmembers; and (ii) evaluate a best practices enforceable Code of Ethics and Conduct Policy that governs all councilmembers and appointed officials for consideration by the City Council. This recommendation should be implemented by March 31, 2023.

Recommendation 4b

The City should reinstate enforcement procedures to enable the City Council and the public to file complaints and testify at public hearings to help remediate ethics violations. This revision should include a procedure for public admonishment, revocation of special privileges, or censure. This recommendation should be implemented by March 31, 2023.

Recommendation 4c

The City Council should engage a conflict resolution professional to help enhance mutual understanding and respect amongst all stakeholders. This recommendation should be implemented by January 31, 2023, and should be repeated at least once per year.

Thank you,

Kitty Moore



Kitty Moore

Councilmember

City Council

Kmoore@cupertino.org

(408) 777-1389



internal audit risk reduction and mitigation recommendations. Recommendation 3b should be implemented by July 31, 2023.

Finding 4

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Recommendation 4c

The City Council should engage a conflict resolution professional to help enhance mutual understanding and respect amongst all stakeholders. This recommendation should be implemented by January 31, 2023, and should be repeated at least once per year.

Recommendation 4d

The City should publish its current Ethics Policy on the City website by January 31, 2023.

Lauren Sapudar

From: Kitty Moore
Sent: Tuesday, September 19, 2023 9:15 PM
To: Kirsten Squarcia; City Clerk
Subject: Written Communications Item 11 Draft Ethics Policy from 2018 Annotated
Attachments: Draft Annotated CJ Pages from CC 09-19-2023 Searchable Packet.pdf

Dear City Clerk,

Please include the attached annotated draft 2018 Ethics Policy which is in the current Agenda Packet for the item.

Thank you,

Kitty Moore



Kitty Moore

Councilmember
City Council
Kmoore@cupertino.org
(408) 777-1389



ATTACHMENT D



City of Cupertino

DRAFT Code of Ethics and Conduct
For
Elected and Appointed Officials

Adopted _____ by Resolution No. 18-____

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PURPOSE

The Cupertino City Council adopts this Code of Ethics and Conduct as guidelines for elected and appointed officials to exercise their office and conduct themselves in a manner that instills public confidence and trust in the fair operation and integrity of Cupertino's city government.¹

In accordance with State law and Title 2 of the Cupertino Municipal Code, Cupertino's elected and appointed officials include the members of the City Council, the Mayor, appointed officers of City boards and commissions, the City Manager, the City Attorney, the City Clerk and the City Treasurer.

ETHICS

The citizens and businesses of Cupertino and the general public are entitled to have fair, ethical, and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the law and policies affecting the operations of government and their respective roles and responsibilities; and
- Are independent, impartial, and fair in their judgment and actions; and
- Use their public office for the public good and not for personal gain; and
- Conduct their deliberations and make their decisions in an atmosphere of respect and civility, and during public meetings in accordance with Open Meeting laws, except for confidential proceedings allowed by law.

Therefore, members of the City Council, City Boards and Commissions, the City Clerk, the City Treasurer, the City Manager and the City Attorney (hereinafter, "City Officials") should conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, City Officials will work for the common good of the people of Cupertino and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims, and transactions coming before them.

¹ These guidelines are intended to codify the values of the City of Cupertino relative to the conduct of its elected and appointed officials and in no way distract from or supersede the many other rules and laws that govern city officials. By their very nature, some guidelines apply only to legislative bodies and decision-makers as noted in the Code.

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2. **Comply with both the spirit and the letter of the Law and City Policy.** City Officials must comply with applicable federal, state and local laws in the performance of their public duties. These include the United States and California constitutions; the Cupertino Municipal code; laws concerning financial disclosures; sources of income and gifts; conflicts of interest laws; elections; campaign contributions; incompatible offices; employer responsibilities; and open government rules.
3. **Conduct of City Officials.** The professional and personal conduct of City Officials while exercising their office must be above reproach and avoid situations that create the appearance of impropriety. Officials must refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other City Officials, city staff, or the public.
4. **Respect for Process.** City Officials will perform their duties in accordance with the processes and rules of order established by the City Council.
5. **Conduct at Public Meetings.** City Officials will come prepared to address items and issues at public meetings; will listen courteously and attentively to all public discussions before the body; and will focus on the business at hand.
6. **Decisions Based on Merit.** City Officials will base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions that require determination of the facts of a particular case and application of the law and rules, decision-makers will maintain an open mind until the conclusion of the hearing on the matter and will base their decisions on the facts presented at the hearing and the law.
7. **Communication.** For adjudicative matters pending before the body, City Officials will rely on the agenda materials and information received at the public meeting to support their decision. To the extent substantive or material information is received outside of a public meeting, decision-makers must, at a minimum, publicly disclose the circumstances and the outside source of information. Consultation with the City Attorney is strongly advised to ensure the integrity and legality of decisions made on adjudicative matters.
8. **Conflict of Interest.** To maintain independence and impartiality for the common good and comply with the extensive set of conflict of interest

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laws, City Officials will use caution and their best efforts to avoid the appearance of impropriety in their actions and decisions. Consistent with the law, decision-makers will not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility to or personal commitment to others that creates a conflict of interest or the appearance of one, or (c) a strong personal bias as to one party or position.

Potential conflicts of interest should be discussed with the City Attorney at the earliest opportunity prior to a public meeting or hearing in order to ensure time to research and analyze the facts. Decision-makers are referred to the Cupertino Municipal Code, Section 2.18.030, which provides, among other things, that the City Attorney may render informal advice to individual Councilmembers regarding potential conflicts of interest, as appropriate. However, it is understood that Councilmembers are protected from potential liability for a conflict of interest only upon taking action that complies with a written opinion issued by the California Fair Political Practices Commission (FPPC).

If informed to seek formal advice from the FPPC or other State agency, a member will not participate in a decision until the FPPC has issued a written opinion that concludes there is no conflict. The member will provide the City Attorney a copy of the written request to the FPPC and the opinion, and will conform his or her participation to the advice given.

If a conflict of interest exists regarding a particular matter or decision, the member will not participate in the decision or discuss the matter with other decision-makers or other persons, unless otherwise permitted by law.

9. **Gifts and Favors.** Public Officials will not take advantage of services or opportunities for personal gain, by virtue of their public office, which is not available to the general public. They should refrain from accepting gifts, favors or promises of future benefits, which might compromise their independence of judgment or action or give the appearance of impropriety.
10. **Confidential/Privileged Information.** Public Officials have a duty to maintain the confidentiality of privileged documents and communications and the legal advice provided to or by them, in accordance with the law. This includes information gathered during a closed session and advice rendered by the City Attorney. Members will not disclose confidential or

privileged information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.

11. **Use of Public Resources.** Public Officials should not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies, or facilities) for private gain or for personal purposes not otherwise authorized by law.
12. **Representation of Private Interests.** In keeping with their role as independent representatives of the City and stewards of the public interest, Councilmembers should not appear on behalf of the private interests of third parties before the Council or any Commission or proceeding of the City, nor should members of Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
13. **Advocacy.** Members should represent the official policies and positions of the City Council and Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members should explicitly state they are speaking in their personal capacity and not in their official capacity as members of their respective bodies. When speaking in their personal capacities, members should state their views do not represent their bodies' official positions. Councilmembers and Commissioners have the right to endorse candidates for Council seats and other elected offices; however, it is inappropriate to mention or display endorsements during Council meetings, Commission meetings, or other official City meetings, unless otherwise allowed by law.
14. **Policy Role of Members.** Members should respect and adhere to the Council-Manager structure of Cupertino City government as outlined in the Cupertino Municipal Code. In this structure, the City Council determines the budget priorities and policies of the City with input provided by City staff and Commissions and the general public. Members should not interfere with the administrative functions of the City or the professional duties of City staff; nor should they impair the ability of staff to implement Council policy decisions.
15. **Independence of Commissions.** Because of the value of the independent advice of Commissions to the public decision-making process, members of

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the City Council should refrain from using their position to unduly influence the deliberations or outcomes of Commission proceedings.

16. **Positive Work Place Environment.** Public Officials should support a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members should recognize their special role with City employees and in no way create the perception of inappropriate direction to staff.

CONDUCT GUIDELINES

The Conduct Guidelines are designed to describe the manner in which City Officials should treat one another, City staff, constituents, and others they come into contact with while representing the City of Cupertino.

1. **City Officials' Conduct with Each Other in Public Meetings and Private Encounters**

Elected and appointed officials are individuals with different backgrounds, personalities, values, opinions and goals, who have chosen to serve in public office to protect the City's interests and the wellbeing of the community they serve. In all cases, this common goal should guide officials' conduct with each other and with the public, particularly when individuals may not agree on every issue.

- (a) *Respect and facilitate the role of the Chair in maintaining order*
It is the responsibility of the Chair to keep comments of City Officials on track during public meetings. City Officials should recognize and assist the Chair to focus discussion on noticed agenda items. If there is disagreement about the agenda or the Chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.
- (b) *Practice civility and decorum in discussions and debate*
Difficult questions, challenges and disagreements with a particular point of view, and criticism of ideas and information are legitimate elements of debate and public discourse of a free democracy in action. Robust discussion and free debate, however, do not justify making belligerent, personal, impertinent, slanderous, threatening, abusive or disparaging comments.

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- (c) *Work through the Chair to address offensive personal comments*
If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The Chair will maintain control of this discussion.
- (d) *Demonstrate effective problem-solving approaches*
City Officials have a public stage and have the responsibility to show how individuals with different points of view can find common ground and seek a compromise that benefits the community as a whole.
- (e) *Continue respectful behavior in private*
The same level of respect and consideration of differing points of view that is appropriate for public discussions should be maintained in private conversations.

2. City Officials' Conduct with the Public in Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice, or disrespect should be evident on the part of individual City Officials toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- (a) *Be welcoming to speakers and treat them with respect*
Members' primary responsibility during public testimony is to listen. Welcome all public speakers and encourage their active participation in public meetings by listening to their comments. Avoid engaging public speakers in debate, and call on the Chair whenever a point of order or clarification is required.
- (b) *Be fair and equitable in allocating public hearing time to individual speakers*
Consistent with legal requirements, the Chair will determine and announce limits on speakers at the start of a public meeting or hearing process.
- (c) *Practice active listening*
It is disconcerting to some speakers to have members not look at them when they are speaking. It is fine to look down at documents or

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to make notes, but reading for a long period of time or gazing around the room may give the appearance of disinterest. Members should try to be conscious of facial expressions, and avoid those that could be interpreted as "smirking," disbelief, anger or boredom.

(d) *Maintain an open mind*

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.

(e) *Ask for clarification, but avoid debate and argument with the public*

Only the Chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the Chair for a point of order if the speaker is off topic, exceeds the time allotted for public comment, or engages in behavior or discussion/language that is disruptive or violates the law.

(f) *Avoid personal comments that could offend members of the public*

Whether addressing an individual member of the public or the public at large, it is never appropriate to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.

3. City Officials' Conduct with the Public in Unofficial Settings

(a) *Make no promises on behalf of the Council, Commission or City*

Members will frequently be asked to explain a Council or Commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is not appropriate to overtly or implicitly promise Council or Commission action, or to promise that City staff will do something specific for the constituent.

(b) *Make no personal comments about other City Officials*

It is acceptable to publicly disagree about an issue, but it is not acceptable to make derogatory comments about other City Officials, their opinions, or actions.

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4. City Officials' Conduct with City Staff

Governance of a city relies on the cooperative efforts of elected officials who set policy, appointed officials who advise the elected, and City staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the roles and contributions made by each individual for the good of the community.

The City of Cupertino operates under a Council/Manager form of government as established in Cupertino Municipal Code Chapter 2.28 whereby the City Council controls the administrative services of the City only through the City Manager. The Council/Manager form of government is intended to provide the best of unencumbered professional/technical staff input balanced with the collective oversight of elected officials. Under the Council/Manager form of government neither the City Council, nor individual Council members, can give orders to any subordinate of the City Manager. The City Manager takes his or her orders and instructions from the City Council only when given at a duly held meeting of the City Council. No individual Councilmember can give any orders or instructions to the City Manager.

(a) *Treat all staff as professionals*

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

(b) *Do not disrupt City staff from their jobs*

City Officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support of a position, shows partiality, may intimidate staff, and may hamper staff's ability to do their job objectively.

(c) *Never publicly criticize an individual employee*

City Officials should not criticize the performance of City employees in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation. Appointed

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officials should make their comments regarding staff to the City Manager.

- (d) *Do not get involved in administrative functions*
City Officials acting in their individual capacity must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
- (e) *Do not solicit political support from staff*
City Officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates, but all such activities must be done away from the workplace.
- (f) *Attorney-Client Relationship*
The City Attorney provides advice to City staff, to Public Officials, and to Councilmembers individually and collectively. In accordance with law and Rules of Professional Conduct, the City Attorney represents the full City Council and the City as a municipal organization, and any attorney-client relationship established belongs to the City, acting by and through the full City Council. To the extent permitted by law, only the City Council as a body and not individual councilmembers can waive the attorney-client privilege.

5. Council Conduct with Commissions

The City has established several Commissions as a means of gathering more community input. Citizens who serve on Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- (a) *If attending a Commission meeting, be careful to only express personal opinions*
Councilmembers may attend any Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a Commission meeting should be clearly made as individual

A HOUSE DIVIDED

opinion and not a representation of the feelings of the entire City Council.

(b) *Limit contact with Commission members to questions of clarification*

It is inappropriate for a Councilmember to contact a Commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Commission members in order to clarify a position taken by the Commission.

(c) *Respect that Commissions serve the community, not individual Councilmembers*

The City Council appoints individuals to serve on Commissions, and it is the responsibility of Commissions to follow policy established by the Council. But Commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Commission appointment should not be used as a political "reward."

(d) *Be respectful of diverse opinions*

A primary role of Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Commissions, but must be fair and respectful of all citizens serving on Commissions.

(e) *Keep political support away from public forums*

Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

6. **Conduct with the Media**

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Commission members are not authorized to represent the City to media outlets (including broadcast, print, and social media sites) outside of official Commission meetings unless specifically authorized to do so.

- (a) *The Mayor is the official spokesperson for the City Council on City positions*
The Mayor is the designated representative of the City Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.
- (b) *Choose words carefully and cautiously*
Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

COMPLIANCE

1. *Acknowledgement of Code of Ethics and Conduct*
City Officials should sign an acknowledgement that they have read and understand the guidelines contained in the Code of Ethics and Conduct.
 2. *Ethics Training for Local Officials*
City Officials must comply with State or City mandated requirements for ethics training. Ethics training must be completed prior to representing the City on intergovernmental assignments or Council subcommittees.
 3. *Behavior and Conduct*
The Cupertino Code of Ethics and Conduct sets forth guidelines and standards of ethical conduct desired and expected for members of the Cupertino City Council and Commissions and other City Officials. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of city government. The Chairs of Commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.
- (a) City Council:
Individual Councilmembers should point out to the offending

A HOUSE DIVIDED

Councilmember perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Vice Mayor. It is the responsibility of the Mayor (or Vice Mayor) to initiate action if a Councilmember's behavior is not in compliance with the Code of Ethics and Conduct. If no action is taken by the Mayor (or Vice Mayor), then the alleged violation(s) can be brought up with the full Council.

(b) Commission Members:

Counseling, verbal reprimands, and written warnings may be administered by the Mayor to Commission members failing to comply with City policy. These lower levels of sanctions should be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor should be distributed in memo format to the Chair of the respective Commission, the Commission Staff Liaison, the City Clerk, the City Attorney, the City Manager, and the City Council.

In accordance with law, the City Council may impose sanctions on Commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council should be determined by a majority vote of at least a quorum of the Council at a noticed public meeting, and such action should be preceded by a Report to Council with supporting documentation.

When deemed warranted, the Mayor or majority of Council may call for an investigation of Commission member conduct. Also, should the City Manager or City Attorney believe an investigation into a member's conduct is warranted, they may refer the matter to the Mayor or Council. The Mayor or Council should ask the City Manager or the City Attorney to investigate the allegation and report the findings.

These sanctions are alternatives to any other remedy allowed by law to remedy conduct that violates this code or State or Federal law. In order to protect and preserve good government, all members of the City organization should be cognizant of their responsibilities and duties to meet the requirements of the law and uphold the guidelines

contained in this Code.

IMPLEMENTATION

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for City Officials expected by the City. It therefore becomes most effective when City Officials are thoroughly familiar with it and embrace its provisions.

For this reason, this document should be included in the regular orientations for candidates for City Council, City Manager, City Attorney, applicants to Commissions, and newly elected and appointed City Officials. Members entering office should sign a statement (example below) acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct should be periodically reviewed by the City Council and updated it as necessary.

I affirm that I have read and understand the City of Cupertino Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

CC 09-19-2023

#3

July 18, 2023 Minutes

Written Communications

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, September 19, 2023 1:42 PM
To: City Council; Kirsten Squarcia
Cc: City Clerk
Subject: 2023-09-19 City Council Meeting-Agenda Item3 DRAFT Minutes for July 18, 2023 CC Mtg - 3 additions

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PLEASE INCLUDE THIS EMAIL AS PART OF WRITTEN COMMUNICATION FOR THE ABOVE CITY COUNCIL MEETING AGENDA ITEM.

Dear City Clerk Squarcia and City Council,

I think the minutes for the July 18, 2023 City Council meeting, Agenda Item 13, SB403 are missing 4 pieces of vital information:

- 1) the total number of speakers who wanted to speak
 - a. Total number of speakers who wanted to speak was 145 (98 blue cards and 47 hands raised on Zoom = 145 speakers).
- 2) the total amount of time allotted for the item and the exact amount of time each speaker was allowed to speak.
 - a. Mayor Wei allotted 90 minutes total for public comment on this item with each speaker allowed 1 minute.
 - b. This action knowingly disregarded 55 people's desire to speak and provide input BUT IN ACTUALITY 65 people could not speak!
- 3) the total who actually spoke
 - a. Only 80 people (54 in Community Hall, 26 on Zoom) were allowed to speak which is only 55% of the people!
- 4) the 2 disruptions that occurred,
 - a. one by a member of the public right after Mayor Wei closed public comment and
 - b. one by the City Attorney near the end of the City Council meeting.

Without this information, the minutes imply that everyone who wanted to speak, spoke, which is not the case! Errors can be made by omission and I believe omitting this information is an error that needs to be corrected.

To address #1 and #2

Page 7, 2nd paragraph from bottom currently reads:

Mayor Wei opened the public comment period and the following people spoke. Mayor Wei reduced the time allotted for public comment and allowed for consolidation of time among speakers.

SUGGESTION-MODIFY TO READ:

"Mayor Wei asked everyone who wanted to speak to submit their blue cards and/or raise their hands. There were 145 speakers. Mayor Wei reduced the time allotted for public comment to 90 minutes with 60 minutes for Community Hall speakers and 30 minutes for Zoom speakers. Each speaker allowed 1 minute and consolidation of time among speakers was allowed."

Without this information, the minutes imply that everyone who wanted to speak, spoke, which is not the case! Errors can be made by omission and I believe omitting this information is an error that needs to be corrected.

To address #3 and #4a

Page 9, 2nd paragraph from bottom currently reads:

Mayor Wei closed the public comment period.

SUGGESTION ADD AFTER THIS:

"65 speakers were not allowed to speak. City Attorney Jensen quieted a disruption when a member of the public whose son was not allowed to speak became upset."

To address #4b

Page 10, 2nd paragraph from bottom currently reads:

Chao moved and Moore seconded to extend the meeting by an additional five minutes to further discuss this item. The motion carried with Fruen voting no.

SUGGESTION ADD A SENTENCE AFTER THIS:

"City Attorney Jensen packed up his bags making it difficult for both the public, Councilmembers and staff to hear. Nothing was done to stop it."

Thank you.

Sincerely,
Peggy Griffin

Lauren Sapudar

From: Kitty Moore
Sent: Tuesday, September 19, 2023 1:22 PM
To: Kirsten Squarcia; City Clerk
Subject: Written Communications Item 3 Minutes September 19, 2023 Please Pull

Dear City Clerk,

I request to pull the September 19, 2023 City Council Consent Agenda Item 3, which is the July 18, 2023 City Council meeting minutes and submit the following Written Communications edit requests to more completely reflect the meeting record.

Please see the July 18, 2023 page 7, Item 13 Meeting Minutes which state:

“Mayor Wei opened the public comment period and the following people spoke. Mayor Wei reduced the time allotted for public comment and allowed for consolidation of time among speakers.”

I have two edit requests shown below:

1. Please have the minutes reflect that 145 people requested to speak and that the total time allotted did not allow dozens of speakers to be heard. Only about 82 individuals were given an opportunity to speak.

To accomplish that, the above quoted minutes could be edited like this:

Mayor Wei opened the public comment period, **145 people requested to speak and the following people spoke.** Mayor Wei reduced the **total** time allotted for public comment **to 90 minutes, reduced the speaker time from 3 minutes to one minute,** and allowed for consolidation of time among speakers. **The following 82 people were provided time to speak:**

2. I would also like the minutes to include and reflect that:

Milind Makwana, a member of the public, spoke without being recognized requesting his son be allowed to speak, because he had not been called on due to the truncated speaker time. Mr. Makwana's request went unanswered, and he received a warning by staff.

I think it would be appropriate to also adjourn the meeting in remembrance of Milind Makwana, community member and volunteer, who passed away after the conclusion of the July 18, 2023 meeting. I have not seen policy on this process and am including a link from the City of Mill Valley regarding their remembrance adjournment protocol:

http://cityofmillvalley.granicus.com/MetaViewer.php?view_id=&event_id=464&meta_id=45574

Thank you very much for your consideration,

Kitty Moore



Kitty Moore

Councilmember

City Council

Kmoore@cupertino.org

(408) 777-1389



CC 09-19-2023

#5

Accounts Payable

Written Communications

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, September 19, 2023 7:53 AM
To: City Council
Cc: City Clerk
Subject: Re: 2023-09-19 City Council Meeting-Agenda Item5-Please PULL and DO NOT RATIFY 8.11.2023
Attachments: D - Weekly AP Payment Register for the Period Ending 8.11.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

I withdraw my request to pull this item. Mr. Orozco has provided the correct report in the Supplemental Reports and I thank him.

Sincerely,
Peggy Griffin

On Sep 16, 2023, at 3:47 PM, Peggy Griffin <griffin@compuserve.com> wrote:

PLEASE INCLUDE THIS EMAIL AND ANY ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE CITY COUNCIL MEETING AGENDA ITEM.

Dear City Council,

I am asking you to please PULL AGENDA ITEM 5-Accounts Payables so that you can vote NO to ratifying the Accounts Payable for the Period ending August 11, 2023 until this report is replaced with the correctly formatted report.

WRONG FORMAT for FILE "D – Weekly AP Payment Register for the Period Ending 8.11.pdf"

The current report is a reconciliation report and thus is missing quite a lot of information! For example, it is missing:

- Invoice date (located under "Date" in the correct format)
- Invoice number of each invoice that added up to the payment amount. This is an ENORMOUS LOSS of information!
- Actual fund the money came out of (located under "Source" in the correct format). Often, the various invoice amounts that add up to the total paid amount come from different funds.
- Description for what the payment was for

PLEASE have this report replaced with the correct information. If it is not, please DO NOT RATIFY the Accounts Payables for the Period Ending August 11, 2023. I am hoping that this issue can be corrected quickly and this item will not need to be pulled.

It is reassuring that the accounts are being reconciled and I do appreciate the Staff Report explaining the procedures but this report needs to be corrected. Thank you.

Sincerely,
Peggy Griffin

Payment Register

From Payment Date: 8/5/2023 - To Payment Date: 8/11/2023

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
Main Account - Main Checking Account									
<u>Check</u>									
733148	08/11/2023	Reconciled		08/18/2023	Accounts Payable	ALHAMBRA	\$369.54	\$369.54	\$0.00
733149	08/11/2023	Reconciled		08/16/2023	Accounts Payable	AT & T	\$351.32	\$351.32	\$0.00
733150	08/11/2023	Reconciled		08/18/2023	Accounts Payable	AT&T	\$2,574.10	\$2,574.10	\$0.00
733151	08/11/2023	Reconciled		08/15/2023	Accounts Payable	CARBONIC SERVICE INC.	\$7.25	\$7.25	\$0.00
733152	08/11/2023	Reconciled		08/17/2023	Accounts Payable	CINTAS CORP	\$1,148.89	\$1,148.89	\$0.00
733153	08/11/2023	Reconciled		08/16/2023	Accounts Payable	County of Santa Clara	\$750.00	\$750.00	\$0.00
733154	08/11/2023	Reconciled		08/16/2023	Accounts Payable	County of Santa Clara -Office of the Sheriff	\$14,564.00	\$14,564.00	\$0.00
733155	08/11/2023	Reconciled		08/15/2023	Accounts Payable	First Vanguard Rentals & Sales, Inc.	\$36,221.18	\$36,221.18	\$0.00
733156	08/11/2023	Open			Accounts Payable	Growing IQ - California	\$1,845.00		
733157	08/11/2023	Reconciled		08/16/2023	Accounts Payable	Hexagon Transportation Consultants, Inc.	\$462.00	\$462.00	\$0.00
733158	08/11/2023	Reconciled		08/18/2023	Accounts Payable	HOME DEPOT CREDIT SERVICES	\$3,546.19	\$3,546.19	\$0.00
733159	08/11/2023	Reconciled		08/18/2023	Accounts Payable	INTERSTATE BATTERY SYSTEM SAN JOSE INC.	\$90.35	\$90.35	\$0.00
733160	08/11/2023	Open			Accounts Payable	Joint Venture Silicon Valley	\$6,600.00		
733161	08/11/2023	Reconciled		08/15/2023	Accounts Payable	KELLY-MOORE PAINT CO INC	\$1,161.20	\$1,161.20	\$0.00
733162	08/11/2023	Reconciled		08/15/2023	Accounts Payable	Little Medical School	\$2,555.00	\$2,555.00	\$0.00
733163	08/11/2023	Open			Accounts Payable	Melissa Conaulty	\$1,200.00		
733164	08/11/2023	Reconciled		08/18/2023	Accounts Payable	One Day Installation and Repairs, Inc	\$17,975.00	\$17,975.00	\$0.00
733165	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$97.95	\$97.95	\$0.00
733166	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$36,774.89	\$36,774.89	\$0.00
733167	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$228.11	\$228.11	\$0.00
733168	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$114.11	\$114.11	\$0.00
733169	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$23.86	\$23.86	\$0.00
733170	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$10.10	\$10.10	\$0.00
733171	08/11/2023	Open			Accounts Payable	Play-Well TEKologies	\$3,500.00		
733172	08/11/2023	Reconciled		08/15/2023	Accounts Payable	ROYAL BRASS INCORPORATED - SAN JOSE	\$122.02	\$122.02	\$0.00
733173	08/11/2023	Reconciled		08/18/2023	Accounts Payable	SAN JOSE WATER COMPANY	\$41,648.37	\$41,648.37	\$0.00
733174	08/11/2023	Open			Accounts Payable	SSB EDUCATION LLC	\$10,512.00		
733175	08/11/2023	Reconciled		08/22/2023	Accounts Payable	Staples	\$150.57	\$150.57	\$0.00
733176	08/11/2023	Reconciled		08/16/2023	Accounts Payable	SWANK MOTION PICTURES, INC.	\$1,920.00	\$1,920.00	\$0.00
733177	08/11/2023	Reconciled		08/15/2023	Accounts Payable	SYSCO - SAN FRANCISCO	\$989.12	\$989.12	\$0.00
733178	08/11/2023	Reconciled		08/24/2023	Accounts Payable	TELEPATH CORPORATION	\$245.53	\$245.53	\$0.00
733179	08/11/2023	Reconciled		08/15/2023	Accounts Payable	TYMAN Construction	\$101,345.60	\$101,345.60	\$0.00
733180	08/11/2023	Reconciled		08/17/2023	Accounts Payable	United Site Services	\$813.98	\$813.98	\$0.00
733181	08/11/2023	Reconciled		08/15/2023	Accounts Payable	VNH Builders	\$29,331.25	\$29,331.25	\$0.00
733182	08/11/2023	Reconciled		08/21/2023	Accounts Payable	BCCI CONSTRUCTION COMPANY	\$410.36	\$410.36	\$0.00
733183	08/11/2023	Reconciled		08/15/2023	Accounts Payable	BEN MORAN	\$2.00	\$2.00	\$0.00
733184	08/11/2023	Reconciled		08/15/2023	Accounts Payable	BHAGWAT, DEEPAVALI	\$5,000.00	\$5,000.00	\$0.00
733185	08/11/2023	Reconciled		08/15/2023	Accounts Payable	Daniel Diaz	\$57.00	\$57.00	\$0.00
733186	08/11/2023	Open			Accounts Payable	Frank Sedillo	\$103.95		
733187	08/11/2023	Reconciled		08/16/2023	Accounts Payable	Gaohua Xu	\$63.42	\$63.42	\$0.00
733188	08/11/2023	Reconciled		08/18/2023	Accounts Payable	LIN, CLAUDIA	\$5,000.00	\$5,000.00	\$0.00
733189	08/11/2023	Reconciled		08/15/2023	Accounts Payable	LOCHAB CHARANPAL	\$2,703.11	\$2,703.11	\$0.00
733190	08/11/2023	Reconciled		08/16/2023	Accounts Payable	MEHROTRA, VANDANA	\$24.61	\$24.61	\$0.00
733191	08/11/2023	Reconciled		08/24/2023	Accounts Payable	SUNRUN	\$249.01	\$249.01	\$0.00

Payment Register

From Payment Date: 8/5/2023 - To Payment Date: 8/11/2023

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
733192	08/11/2023	Reconciled		08/24/2023	Accounts Payable	SUNRUN	\$276.93	\$276.93	\$0.00
733193	08/11/2023	Reconciled		08/15/2023	Accounts Payable	TUMAMAO, ESTEPHAN	\$25.56	\$25.56	\$0.00
733194	08/11/2023	Reconciled		08/14/2023	Accounts Payable	Weili Liu	\$63.42	\$63.42	\$0.00
Type Check Totals:							\$333,227.85	\$309,466.90	\$0.00
EFT									
37681	08/07/2023	Reconciled		08/07/2023	Accounts Payable	EMPLOYMENT DEVEL DEPT	\$54,575.81	\$54,575.81	\$0.00
37682	08/07/2023	Reconciled		08/07/2023	Accounts Payable	IRS	\$181,838.82	\$181,838.82	\$0.00
37683	08/10/2023	Reconciled		08/10/2023	Accounts Payable	P E R S	\$167,044.21	\$167,044.21	\$0.00
37684	08/07/2023	Reconciled		08/02/2023	Accounts Payable	SQUARE, INC.	\$105.00	\$105.00	\$0.00
37685	08/11/2023	Reconciled		08/11/2023	Accounts Payable	JOYFUL MELODIES	\$1,010.00	\$1,010.00	\$0.00
37686	08/11/2023	Reconciled		08/11/2023	Accounts Payable	ABAG POWER- ASSOCIATION OF BAY AREA GOVERNMENTS	\$6,460.00	\$6,460.00	\$0.00
37687	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Aquatic Central	\$3,000.00	\$3,000.00	\$0.00
37688	08/11/2023	Reconciled		08/11/2023	Accounts Payable	B&H PHOTO-VIDEO	\$127.86	\$127.86	\$0.00
37689	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Baker Tilly US, LLP	\$402.50	\$402.50	\$0.00
37690	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Boucher Law, PC	\$16,030.50	\$16,030.50	\$0.00
37691	08/11/2023	Reconciled		08/11/2023	Accounts Payable	CAROL KORADE	\$29.13	\$29.13	\$0.00
37692	08/11/2023	Reconciled		08/11/2023	Accounts Payable	CodeLinkd, LLC	\$7,488.00	\$7,488.00	\$0.00
37693	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Dance Force LLC	\$2,912.00	\$2,912.00	\$0.00
37694	08/11/2023	Reconciled		08/11/2023	Accounts Payable	GOT POWER, INC. DBA CD & POWER, INC	\$6,925.00	\$6,925.00	\$0.00
37695	08/11/2023	Reconciled		08/11/2023	Accounts Payable	GRACE DUVAL	\$176.00	\$176.00	\$0.00
37696	08/11/2023	Voided	Account Closed	08/23/2023	Accounts Payable	Green Halo Systems	\$4,068.00		
37697	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Health and Human Resource Center, Inc.	\$287.62	\$287.62	\$0.00
37698	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Health Care Employees	\$29,260.80	\$29,260.80	\$0.00
37699	08/11/2023	Reconciled		08/11/2023	Accounts Payable	HortScience I Bartlett Consulting	\$4,600.00	\$4,600.00	\$0.00
37700	08/11/2023	Reconciled		08/11/2023	Accounts Payable	IncrediFlix Inc.	\$16,306.80	\$16,306.80	\$0.00
37701	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Independent Code Consultants, Inc.	\$19,516.30	\$19,516.30	\$0.00
37702	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Junior Chef Stars	\$6,960.00	\$6,960.00	\$0.00
37703	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Life Insurance Company of North America	\$8,236.09	\$8,236.09	\$0.00
37704	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Matrix Consulting Group, Ltd	\$4,200.00	\$4,200.00	\$0.00
37705	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Rise Housing Solutions, Inc	\$17,579.00	\$17,579.00	\$0.00
37706	08/11/2023	Reconciled		08/11/2023	Accounts Payable	South Bay Youth Sports	\$15,819.30	\$15,819.30	\$0.00
37707	08/11/2023	Reconciled		08/11/2023	Accounts Payable	TeamViewer Gmbh	\$4,328.58	\$4,328.58	\$0.00
37708	08/11/2023	Reconciled		08/11/2023	Accounts Payable	TERRYBERRY COMPANY LLC	\$207.31	\$207.31	\$0.00
37709	08/11/2023	Reconciled		08/11/2023	Accounts Payable	THE HARTFORD	\$11,725.41	\$11,725.41	\$0.00
37710	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Thomson Reuters - West	\$767.55	\$767.55	\$0.00
37711	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Vision Service Plan	\$4,250.80	\$4,250.80	\$0.00
37712	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Walter Buenning	\$670.00	\$670.00	\$0.00
37929	08/10/2023	Open			Accounts Payable	California Public Employees' Retirement System	\$391,906.05		
Type EFT Totals:							\$988,814.44	\$592,840.39	\$0.00
Main Account - Main Checking Account Totals									

Checks	Status	Count	Transaction Amount	Reconciled Amount
	Open	6	\$23,760.95	\$0.00
	Reconciled	41	\$309,466.90	\$309,466.90
	Voided	0	\$0.00	\$0.00
	Stopped	0	\$0.00	\$0.00

Payment Register

From Payment Date: 8/5/2023 - To Payment Date: 8/11/2023

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
					Total	47	\$333,227.85	\$309,466.90	
					EFTs	Status	Count	Transaction Amount	Reconciled Amount
						Open	1	\$391,906.05	\$0.00
						Reconciled	31	\$592,840.39	\$592,840.39
						Voided	1	\$4,068.00	\$0.00
						Total	33	\$988,814.44	\$592,840.39
					All	Status	Count	Transaction Amount	Reconciled Amount
						Open	7	\$415,667.00	\$0.00
						Reconciled	72	\$902,307.29	\$902,307.29
						Voided	1	\$4,068.00	\$0.00
						Stopped	0	\$0.00	\$0.00
						Total	80	\$1,322,042.29	\$902,307.29
Grand Totals:					Checks	Status	Count	Transaction Amount	Reconciled Amount
						Open	6	\$23,760.95	\$0.00
						Reconciled	41	\$309,466.90	\$309,466.90
						Voided	0	\$0.00	\$0.00
						Stopped	0	\$0.00	\$0.00
						Total	47	\$333,227.85	\$309,466.90
					EFTs	Status	Count	Transaction Amount	Reconciled Amount
						Open	1	\$391,906.05	\$0.00
						Reconciled	31	\$592,840.39	\$592,840.39
						Voided	1	\$4,068.00	\$0.00
						Total	33	\$988,814.44	\$592,840.39
					All	Status	Count	Transaction Amount	Reconciled Amount
						Open	7	\$415,667.00	\$0.00
						Reconciled	72	\$902,307.29	\$902,307.29
						Voided	1	\$4,068.00	\$0.00
						Stopped	0	\$0.00	\$0.00
						Total	80	\$1,322,042.29	\$902,307.29

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Saturday, September 16, 2023 3:47 PM
To: City Council
Cc: City Clerk
Subject: 2023-09-19 City Council Meeting-Agenda Item5-Please PULL and DO NOT RATIFY 8.11.2023
Attachments: D - Weekly AP Payment Register for the Period Ending 8.11.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PLEASE INCLUDE THIS EMAIL AND ANY ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE CITY COUNCIL MEETING AGENDA ITEM.

Dear City Council,

I am asking you to please PULL AGENDA ITEM 5-Accounts Payables so that you can vote NO to ratifying the Accounts Payable for the Period ending August 11, 2023 until this report is replaced with the correctly formatted report.

WRONG FORMAT for FILE “D – Weekly AP Payment Register for the Period Ending 8.11.pdf”

The current report is a reconciliation report and thus is missing quite a lot of information! For example, it is missing:

- Invoice date (located under “Date” in the correct format)
- Invoice number of each invoice that added up to the payment amount. This is an ENORMOUS LOSS of information!
- Actual fund the money came out of (located under “Source” in the correct format). Often, the various invoice amounts that add up to the total paid amount come from different funds.
- Description for what the payment was for

PLEASE have this report replaced with the correct information. If it is not, please DO NOT RATIFY the Accounts Payables for the Period Ending August 11, 2023. I am hoping that this issue can be corrected quickly and this item will not need to be pulled.

It is reassuring that the accounts are being reconciled and I do appreciate the Staff Report explaining the procedures but this report needs to be corrected. Thank you.

Sincerely,
Peggy Griffin

Payment Register

From Payment Date: 8/5/2023 - To Payment Date: 8/11/2023

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
Main Account - Main Checking Account									
<u>Check</u>									
733148	08/11/2023	Reconciled		08/18/2023	Accounts Payable	ALHAMBRA	\$369.54	\$369.54	\$0.00
733149	08/11/2023	Reconciled		08/16/2023	Accounts Payable	AT & T	\$351.32	\$351.32	\$0.00
733150	08/11/2023	Reconciled		08/18/2023	Accounts Payable	AT&T	\$2,574.10	\$2,574.10	\$0.00
733151	08/11/2023	Reconciled		08/15/2023	Accounts Payable	CARBONIC SERVICE INC.	\$7.25	\$7.25	\$0.00
733152	08/11/2023	Reconciled		08/17/2023	Accounts Payable	CINTAS CORP	\$1,148.89	\$1,148.89	\$0.00
733153	08/11/2023	Reconciled		08/16/2023	Accounts Payable	County of Santa Clara	\$750.00	\$750.00	\$0.00
733154	08/11/2023	Reconciled		08/16/2023	Accounts Payable	County of Santa Clara -Office of the Sheriff	\$14,564.00	\$14,564.00	\$0.00
733155	08/11/2023	Reconciled		08/15/2023	Accounts Payable	First Vanguard Rentals & Sales, Inc.	\$36,221.18	\$36,221.18	\$0.00
733156	08/11/2023	Open			Accounts Payable	Growing IQ - California	\$1,845.00		
733157	08/11/2023	Reconciled		08/16/2023	Accounts Payable	Hexagon Transportation Consultants, Inc.	\$462.00	\$462.00	\$0.00
733158	08/11/2023	Reconciled		08/18/2023	Accounts Payable	HOME DEPOT CREDIT SERVICES	\$3,546.19	\$3,546.19	\$0.00
733159	08/11/2023	Reconciled		08/18/2023	Accounts Payable	INTERSTATE BATTERY SYSTEM SAN JOSE INC.	\$90.35	\$90.35	\$0.00
733160	08/11/2023	Open			Accounts Payable	Joint Venture Silicon Valley	\$6,600.00		
733161	08/11/2023	Reconciled		08/15/2023	Accounts Payable	KELLY-MOORE PAINT CO INC	\$1,161.20	\$1,161.20	\$0.00
733162	08/11/2023	Reconciled		08/15/2023	Accounts Payable	Little Medical School	\$2,555.00	\$2,555.00	\$0.00
733163	08/11/2023	Open			Accounts Payable	Melissa Conaulty	\$1,200.00		
733164	08/11/2023	Reconciled		08/18/2023	Accounts Payable	One Day Installation and Repairs, Inc	\$17,975.00	\$17,975.00	\$0.00
733165	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$97.95	\$97.95	\$0.00
733166	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$36,774.89	\$36,774.89	\$0.00
733167	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$228.11	\$228.11	\$0.00
733168	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$114.11	\$114.11	\$0.00
733169	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$23.86	\$23.86	\$0.00
733170	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$10.10	\$10.10	\$0.00
733171	08/11/2023	Open			Accounts Payable	Play-Well TEKologies	\$3,500.00		
733172	08/11/2023	Reconciled		08/15/2023	Accounts Payable	ROYAL BRASS INCORPORATED - SAN JOSE	\$122.02	\$122.02	\$0.00
733173	08/11/2023	Reconciled		08/18/2023	Accounts Payable	SAN JOSE WATER COMPANY	\$41,648.37	\$41,648.37	\$0.00
733174	08/11/2023	Open			Accounts Payable	SSB EDUCATION LLC	\$10,512.00		
733175	08/11/2023	Reconciled		08/22/2023	Accounts Payable	Staples	\$150.57	\$150.57	\$0.00
733176	08/11/2023	Reconciled		08/16/2023	Accounts Payable	SWANK MOTION PICTURES, INC.	\$1,920.00	\$1,920.00	\$0.00
733177	08/11/2023	Reconciled		08/15/2023	Accounts Payable	SYSCO - SAN FRANCISCO	\$989.12	\$989.12	\$0.00
733178	08/11/2023	Reconciled		08/24/2023	Accounts Payable	TELEPATH CORPORATION	\$245.53	\$245.53	\$0.00
733179	08/11/2023	Reconciled		08/15/2023	Accounts Payable	TYMAN Construction	\$101,345.60	\$101,345.60	\$0.00
733180	08/11/2023	Reconciled		08/17/2023	Accounts Payable	United Site Services	\$813.98	\$813.98	\$0.00
733181	08/11/2023	Reconciled		08/15/2023	Accounts Payable	VNH Builders	\$29,331.25	\$29,331.25	\$0.00
733182	08/11/2023	Reconciled		08/21/2023	Accounts Payable	BCCI CONSTRUCTION COMPANY	\$410.36	\$410.36	\$0.00
733183	08/11/2023	Reconciled		08/15/2023	Accounts Payable	BEN MORAN	\$2.00	\$2.00	\$0.00
733184	08/11/2023	Reconciled		08/15/2023	Accounts Payable	BHAGWAT, DEEPAVALI	\$5,000.00	\$5,000.00	\$0.00
733185	08/11/2023	Reconciled		08/15/2023	Accounts Payable	Daniel Diaz	\$57.00	\$57.00	\$0.00
733186	08/11/2023	Open			Accounts Payable	Frank Sedillo	\$103.95		
733187	08/11/2023	Reconciled		08/16/2023	Accounts Payable	Gaohua Xu	\$63.42	\$63.42	\$0.00
733188	08/11/2023	Reconciled		08/18/2023	Accounts Payable	LIN, CLAUDIA	\$5,000.00	\$5,000.00	\$0.00
733189	08/11/2023	Reconciled		08/15/2023	Accounts Payable	LOCHAB CHARANPAL	\$2,703.11	\$2,703.11	\$0.00
733190	08/11/2023	Reconciled		08/16/2023	Accounts Payable	MEHROTRA, VANDANA	\$24.61	\$24.61	\$0.00
733191	08/11/2023	Reconciled		08/24/2023	Accounts Payable	SUNRUN	\$249.01	\$249.01	\$0.00

Payment Register

From Payment Date: 8/5/2023 - To Payment Date: 8/11/2023

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
733192	08/11/2023	Reconciled		08/24/2023	Accounts Payable	SUNRUN	\$276.93	\$276.93	\$0.00
733193	08/11/2023	Reconciled		08/15/2023	Accounts Payable	TUMAMAO, ESTEPHAN	\$25.56	\$25.56	\$0.00
733194	08/11/2023	Reconciled		08/14/2023	Accounts Payable	Weili Liu	\$63.42	\$63.42	\$0.00
Type Check Totals:							\$333,227.85	\$309,466.90	\$0.00
EFT									
37681	08/07/2023	Reconciled		08/07/2023	Accounts Payable	EMPLOYMENT DEVEL DEPT	\$54,575.81	\$54,575.81	\$0.00
37682	08/07/2023	Reconciled		08/07/2023	Accounts Payable	IRS	\$181,838.82	\$181,838.82	\$0.00
37683	08/10/2023	Reconciled		08/10/2023	Accounts Payable	P E R S	\$167,044.21	\$167,044.21	\$0.00
37684	08/07/2023	Reconciled		08/02/2023	Accounts Payable	SQUARE, INC.	\$105.00	\$105.00	\$0.00
37685	08/11/2023	Reconciled		08/11/2023	Accounts Payable	JOYFUL MELODIES	\$1,010.00	\$1,010.00	\$0.00
37686	08/11/2023	Reconciled		08/11/2023	Accounts Payable	ABAG POWER- ASSOCIATION OF BAY AREA GOVERNMENTS	\$6,460.00	\$6,460.00	\$0.00
37687	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Aquatic Central	\$3,000.00	\$3,000.00	\$0.00
37688	08/11/2023	Reconciled		08/11/2023	Accounts Payable	B&H PHOTO-VIDEO	\$127.86	\$127.86	\$0.00
37689	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Baker Tilly US, LLP	\$402.50	\$402.50	\$0.00
37690	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Boucher Law, PC	\$16,030.50	\$16,030.50	\$0.00
37691	08/11/2023	Reconciled		08/11/2023	Accounts Payable	CAROL KORADE	\$29.13	\$29.13	\$0.00
37692	08/11/2023	Reconciled		08/11/2023	Accounts Payable	CodeLinkd, LLC	\$7,488.00	\$7,488.00	\$0.00
37693	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Dance Force LLC	\$2,912.00	\$2,912.00	\$0.00
37694	08/11/2023	Reconciled		08/11/2023	Accounts Payable	GOT POWER, INC. DBA CD & POWER, INC	\$6,925.00	\$6,925.00	\$0.00
37695	08/11/2023	Reconciled		08/11/2023	Accounts Payable	GRACE DUVAL	\$176.00	\$176.00	\$0.00
37696	08/11/2023	Voided	Account Closed	08/23/2023	Accounts Payable	Green Halo Systems	\$4,068.00		
37697	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Health and Human Resource Center, Inc.	\$287.62	\$287.62	\$0.00
37698	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Health Care Employees	\$29,260.80	\$29,260.80	\$0.00
37699	08/11/2023	Reconciled		08/11/2023	Accounts Payable	HortScience I Bartlett Consulting	\$4,600.00	\$4,600.00	\$0.00
37700	08/11/2023	Reconciled		08/11/2023	Accounts Payable	IncrediFlix Inc.	\$16,306.80	\$16,306.80	\$0.00
37701	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Independent Code Consultants, Inc.	\$19,516.30	\$19,516.30	\$0.00
37702	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Junior Chef Stars	\$6,960.00	\$6,960.00	\$0.00
37703	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Life Insurance Company of North America	\$8,236.09	\$8,236.09	\$0.00
37704	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Matrix Consulting Group, Ltd	\$4,200.00	\$4,200.00	\$0.00
37705	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Rise Housing Solutions, Inc	\$17,579.00	\$17,579.00	\$0.00
37706	08/11/2023	Reconciled		08/11/2023	Accounts Payable	South Bay Youth Sports	\$15,819.30	\$15,819.30	\$0.00
37707	08/11/2023	Reconciled		08/11/2023	Accounts Payable	TeamViewer Gmbh	\$4,328.58	\$4,328.58	\$0.00
37708	08/11/2023	Reconciled		08/11/2023	Accounts Payable	TERRYBERRY COMPANY LLC	\$207.31	\$207.31	\$0.00
37709	08/11/2023	Reconciled		08/11/2023	Accounts Payable	THE HARTFORD	\$11,725.41	\$11,725.41	\$0.00
37710	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Thomson Reuters - West	\$767.55	\$767.55	\$0.00
37711	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Vision Service Plan	\$4,250.80	\$4,250.80	\$0.00
37712	08/11/2023	Reconciled		08/11/2023	Accounts Payable	Walter Buenning	\$670.00	\$670.00	\$0.00
37929	08/10/2023	Open			Accounts Payable	California Public Employees' Retirement System	\$391,906.05		
Type EFT Totals:							\$988,814.44	\$592,840.39	\$0.00
Main Account - Main Checking Account Totals									

Checks	Status	Count	Transaction Amount	Reconciled Amount
	Open	6	\$23,760.95	\$0.00
	Reconciled	41	\$309,466.90	\$309,466.90
	Voided	0	\$0.00	\$0.00
	Stopped	0	\$0.00	\$0.00

Payment Register

From Payment Date: 8/5/2023 - To Payment Date: 8/11/2023

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
					Total	47	\$333,227.85	\$309,466.90	
					EFTs	Status	Count	Transaction Amount	Reconciled Amount
						Open	1	\$391,906.05	\$0.00
						Reconciled	31	\$592,840.39	\$592,840.39
						Voided	1	\$4,068.00	\$0.00
						Total	33	\$988,814.44	\$592,840.39
					All	Status	Count	Transaction Amount	Reconciled Amount
						Open	7	\$415,667.00	\$0.00
						Reconciled	72	\$902,307.29	\$902,307.29
						Voided	1	\$4,068.00	\$0.00
						Stopped	0	\$0.00	\$0.00
						Total	80	\$1,322,042.29	\$902,307.29
Grand Totals:					Checks	Status	Count	Transaction Amount	Reconciled Amount
						Open	6	\$23,760.95	\$0.00
						Reconciled	41	\$309,466.90	\$309,466.90
						Voided	0	\$0.00	\$0.00
						Stopped	0	\$0.00	\$0.00
						Total	47	\$333,227.85	\$309,466.90
					EFTs	Status	Count	Transaction Amount	Reconciled Amount
						Open	1	\$391,906.05	\$0.00
						Reconciled	31	\$592,840.39	\$592,840.39
						Voided	1	\$4,068.00	\$0.00
						Total	33	\$988,814.44	\$592,840.39
					All	Status	Count	Transaction Amount	Reconciled Amount
						Open	7	\$415,667.00	\$0.00
						Reconciled	72	\$902,307.29	\$902,307.29
						Voided	1	\$4,068.00	\$0.00
						Stopped	0	\$0.00	\$0.00
						Total	80	\$1,322,042.29	\$902,307.29

Approved by: Jonathan Orozco
Tuesday, September 12, 2023

Lauren Sapudar

From: Griffin <griffin@compuserve.com>
Sent: Friday, September 15, 2023 9:51 PM
To: Kristina Alfaro; Pamela Wu
Cc: City Council; City Clerk
Subject: 2023-09-19 City Council Mtg - Item5 Accounts Payables for August 2023

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PKEASE INCLUDE THIS EMAIL AND ALL ATTACHMENTS IN WRITTEN COMMUNICATIONS FOR THE ABIVE CITY COUNCIL MEETING AGENDA ITEM.

Dear Finance Manager Orozco (please forward to him), Director Alfaro and City Manager Wu,

The accounts payables for week ending 8-18-2023 shows a Q1 2023 sales tax sharing payment to Insight Consulting Services LLC for \$292k! There are no payments to BAZ Industries (Apple). In fact, Apple has not received any tax sharing payments in 2023.

Q: Why was Insight paid but BAZ payments withheld?

9:09 PM Fri Sep 15

257727	06/29/2023
256659	06/06/2023
Paying Fund	

user: Vi Tran

lumber	Date	Status	Void Reason
---------------	-------------	---------------	--------------------

630 - Vehicle/Equip Replacement

733213	08/18/2023	Open	
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Invoice	Date
July 2023	07/04/2023
Paying Fund	
100 - General Fund	

733214	08/18/2023	Open	
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Sincerely,
Peggy Griffin

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Friday, September 15, 2023 9:08 PM
To: Kristina Alfaro; Pamela Wu
Cc: City Council; City Clerk
Subject: 2023-09-19 City Council Mtg ITEM 5 - Accounts Payables for August 2023 WRONG FORMAT!

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PLEASE INCLUDE THIS EMAIL AND ALL ATTACHMENTS IN WRITTEN COMMUNICATIONS FOR THIS CITY COUNCIL MEETING AGENDA ITEM.

Dear Finance Manager Orozco (Please forward to him), Directory Alfaro and City Manager Wu,

Attachment D for Accounts Payables for period ending 8/11/2023 (8/5/2023-8/11/2023) is in the WRONG FORMAT! It does not show the funds the payments come from. I am sure it was just an oversight. Please correct this before this Tuesday's City Council meeting.

Payment Register									
From Payment Date: 8/5/2023 - To Payment Date: 8/11/2023									
Number	Date	Status	Yield Reason	Reconciled/ Vended Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
Main Account - Main Checking Account									
Check									
73148	08/11/2023	Reconciled		08/16/2023	Accounts Payable	ALJAMBRA	\$369.54	\$369.54	\$0.00
73149	08/11/2023	Reconciled		08/16/2023	Accounts Payable	A T T	\$351.32	\$351.32	\$0.00
73150	08/11/2023	Reconciled		08/16/2023	Accounts Payable	A T T	\$2,574.10	\$2,574.10	\$0.00
73151	08/11/2023	Reconciled		08/16/2023	Accounts Payable	CARDONIC SERVICE INC.	\$7.26	\$7.26	\$0.00
73152	08/11/2023	Reconciled		08/16/2023	Accounts Payable	CITY OF SAN JOSE	\$1,148.89	\$1,148.89	\$0.00
73153	08/11/2023	Reconciled		08/16/2023	Accounts Payable	County of Santa Clara	\$750.00	\$750.00	\$0.00
73154	08/11/2023	Reconciled		08/16/2023	Accounts Payable	County of Santa Clara - Office of the Sheriff	\$14,564.00	\$14,564.00	\$0.00
73155	08/11/2023	Reconciled		08/16/2023	Accounts Payable	First Vanguard Rentals & Sales, Inc.	\$36,221.18	\$36,221.18	\$0.00
73156	08/11/2023	Open		08/16/2023	Accounts Payable	Growing IQ - California	\$1,845.00		
73157	08/11/2023	Reconciled		08/16/2023	Accounts Payable	Heppner Transportation Consultants, Inc.	\$462.00	\$462.00	\$0.00
73158	08/11/2023	Reconciled		08/16/2023	Accounts Payable	HOME DEPOT CREDIT SERVICES	\$3,546.19	\$3,546.19	\$0.00
73159	08/11/2023	Reconciled		08/16/2023	Accounts Payable	INTERSTATE BATTERY SYSTEM	\$60.25	\$60.25	\$0.00
73160	08/11/2023	Open		08/16/2023	Accounts Payable	JOHN VERNER Silicon Valley	\$6,600.00		
73161	08/11/2023	Reconciled		08/16/2023	Accounts Payable	KELLY MOORE PAINT CO INC	\$1,161.20	\$1,161.20	\$0.00
73162	08/11/2023	Reconciled		08/16/2023	Accounts Payable	Life Medical School	\$2,555.00	\$2,555.00	\$0.00
73163	08/11/2023	Open		08/16/2023	Accounts Payable	Melissa Connolly	\$1,200.00		
73164	08/11/2023	Reconciled		08/16/2023	Accounts Payable	One Day Translation and Repairs, Inc.	\$17,975.00	\$17,975.00	\$0.00
73165	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$97.98	\$97.98	\$0.00
73166	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$36,774.89	\$36,774.89	\$0.00
73167	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$259.11	\$259.11	\$0.00
73168	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$114.11	\$114.11	\$0.00
73169	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$23.96	\$23.96	\$0.00
73170	08/11/2023	Reconciled		08/16/2023	Accounts Payable	PG&E	\$10.10	\$10.10	\$0.00
73171	08/11/2023	Open		08/16/2023	Accounts Payable	PG&E	\$3,500.00		
73172	08/11/2023	Reconciled		08/16/2023	Accounts Payable	POTENTIAL REPAIRS INCORPORATED - SAN JOSE	\$122.02	\$122.02	\$0.00
73173	08/11/2023	Reconciled		08/16/2023	Accounts Payable	SAN JOSE WATER COMPANY	\$41,648.37	\$41,648.37	\$0.00
73174	08/11/2023	Open		08/16/2023	Accounts Payable	SBB EDUCATION LLC	\$15,812.00		
73175	08/11/2023	Reconciled		08/16/2023	Accounts Payable	Stamps	\$150.57	\$150.57	\$0.00
73176	08/11/2023	Reconciled		08/16/2023	Accounts Payable	SWANK MOTION PICTURES, INC.	\$1,820.00	\$1,820.00	\$0.00
73177	08/11/2023	Reconciled		08/16/2023	Accounts Payable	SYSCO - SAN FRANCISCO	\$889.12	\$889.12	\$0.00
73178	08/11/2023	Reconciled		08/16/2023	Accounts Payable	TELEPATH CORPORATION	\$245.00	\$245.00	\$0.00
73179	08/11/2023	Reconciled		08/16/2023	Accounts Payable	TYANN Construction	\$10,345.00	\$10,345.00	\$0.00
73180	08/11/2023	Reconciled		08/16/2023	Accounts Payable	United Ship Services	\$615.98	\$615.98	\$0.00
73181	08/11/2023	Reconciled		08/16/2023	Accounts Payable	VNN Builders	\$29,331.35	\$29,331.35	\$0.00
73182	08/11/2023	Reconciled		08/16/2023	Accounts Payable	WCO CONSTRUCTION COMPANY	\$411.38	\$411.38	\$0.00
73183	08/11/2023	Reconciled		08/16/2023	Accounts Payable	WEN MORGAN	\$2.00	\$2.00	\$0.00
73184	08/11/2023	Reconciled		08/16/2023	Accounts Payable	WISCONSIN DEEPWATER	\$5,000.00	\$5,000.00	\$0.00
73185	08/11/2023	Reconciled		08/16/2023	Accounts Payable	Daniel Diaz	\$57.00	\$57.00	\$0.00
73186	08/11/2023	Open		08/16/2023	Accounts Payable	Frank Sandoz	\$205.85		
73187	08/11/2023	Reconciled		08/16/2023	Accounts Payable	Guiliana Xu	\$63.42	\$63.42	\$0.00
73188	08/11/2023	Reconciled		08/16/2023	Accounts Payable	LUX CALIFORNIA	\$6,000.00	\$6,000.00	\$0.00
73189	08/11/2023	Reconciled		08/16/2023	Accounts Payable	LOCHES CHAMPAIGN	\$2,703.11	\$2,703.11	\$0.00
73190	08/11/2023	Reconciled		08/16/2023	Accounts Payable	MEHROTRA, VANDANA	\$24.81	\$24.81	\$0.00
73191	08/11/2023	Reconciled		08/16/2023	Accounts Payable	SUNRUN	\$249.01	\$249.01	\$0.00

user: Vi Tran

Page: 1 of 3

Tuesday, September 12, 2023

View

PDF Document · 145 KB

Thank you.

Sincerely,
Peggy Griffin

CC 09-19-2023

#6

Avolve Software Contract

Written Communications

Lauren Sapudar

From: Santosh Rao <santo_a_rao@yahoo.com>
Sent: Tuesday, September 19, 2023 5:42 PM
To: City Council; Pamela Wu; City Clerk
Subject: Please pull consent agenda item 6, 7.

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello City council,

I request you to kindly pull consent agenda item 6 and 7 for the 09/19/2023 city council meeting.

The 2 items are a double spend where we continue to have to spend to refresh on-prem hardware (7) while now starting a new spend on SaaS (6).

Avolve is a small 55 person startup.

<https://www.linkedin.com/company/avolve-software/>

There is absolutely no guarantee that they remain in business for a 5 year period especially in an economy of tightening liquidity.

The on-prem license for Avolve is already paid for. With item 7 we are refreshing our on-prem hardware. Just run the existing Avolve on the new hardware and **Spend nothing on item 6. Please do NOT approve item 6.**

Please save the city \$500k and cancel the spend on the SaaS deployment of Avolve.

Further there should not be a daily maintenance of upgrades on the on-prem hardware. Backups should be automated. It is a gross mis-representation to combine backups with upgrades and then state there is daily maintenance involved.

Again **please do NOT Fund item 6.** Please do NOT approve the move to SaaS deployment of Avolve.

Thanks,
Santosh Rao

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Sunday, September 17, 2023 4:38 PM
To: Bill Mitchell; City Council
Cc: City Clerk
Subject: 2023-09-19 City Council Meeting-Agenda Item6 Avolve Software Contract questions

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PLEASE INCLUDE THIS EMAIL AND ANY ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE CITY COUNCIL MEETING AGENDA ITEM.

Dear City Council and Staff,

I have several questions regarding the Avolve Software Contract. Please forward my questions to whomever can answer these questions. Thank you.

I understand this contract means the City would be changing from an on-premises solution to a "Software as a Service subscription model" with off-site storage, backup, etc. I also understand that the annual subscription service will go from \$28,000/annually for on-site to \$86,376 discounted/annually for off-site subscription. (Non-discounted price is \$101,618.)

The City just recently (8/4/2023) paid Avolve Software Corp \$28,000 for their on-site subscription for this next year, 9/15/23-9/14/2024.

Q1: Will the City get a credit for this payment?

I did not see anything in the contract addressing this. All I saw was an "Annual Credit for perpetual software trade-in - \$15,242".

Q2: Will these \$28,000/year payments end since we are changing the subscription?

From Accounts Payables for week ending 8.4.2023

37844	08/04/2023	Open		Accounts Payable	Avolve Software Corp	\$28,000.00
	Invoice		Date	Description		Amount
	7985		07/28/2023	ProjectDox Maintenance - 9/15/23 - 9/14/24		\$28,000.00
	Paying Fund			Cash Account		Amount
	100 - General Fund			100 100-100 (Cash & Investments Assets Operating Cash)		\$28,000.00

From Attachment A – Avolve Software Corporation Software-as-a-Service Agreement.pdf, page 15 of 74

SaaS Sub-Total (per annual period):	\$101,618
Annual Credit for perpetual software trade-in	-\$15,242*
Adjusted SaaS Total per annual period:	\$86,376

* Note: for the initial five years, the City will receive an annual trade in credit of \$15,242 for previously procured Avolve software. This credit is reflected in the annual SaaS cost listed above.

This change means Avolve will be doing all the backups, hardware maintenance for storage devices, etc. This is a significant amount of work being shifted to Avolve instead of the City's workforce. The cost is approximately 3 times what we have been paying.

Q3: Will the IT budget be increased to add this item or will the cost/staff needed to do the work in-house be reduced to compensate for moving off-site?

Q4: When would this transition occur and will there be any impact to the public? If so, what and when?

Thank you.

Sincerely,
Peggy Griffin

CC 09-19-2023

#9

First Reading Ordinance
CA Health and Safety

Written Communications

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Sunday, September 17, 2023 9:18 PM
To: City Council
Cc: City Clerk; Benjamin Fu
Subject: 2023-09-19 City Council Meeting-Agenda Item 9 - New Law-QProperty Maintenance Requirements

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PLEASE INCLUDE THIS EMAIL AND ANY ATTACHMENTS AS PART OF WRITTEN COMMUNICATION FOR THE ABOVE CITY COUNCIL MEETING AGENDA ITEM.

Dear City Council and Staff,

I have questions regarding implementation of this new law:

Q1: How will people report issues? Can they use Cupertino 311 app?

Q2: Can their reports be anonymous? If not, why?

Q3: How will you notify rental owners and renters that this exists?

Q4: Does it apply to AirBnB units? BMR units?

Thank you.

Sincerely,
Peggy Griffin

CC 09-19-2023

#11

Ethics Policy Update

Written Communications

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, September 19, 2023 4:57 PM
To: City Council
Cc: City Clerk
Subject: 2023-09-19 City Council Meeting-Agenda Item 11 Ethics Survey results WITH Comments!
Attachments: Ethics Survey Results Expanded WITH comments.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PLEASE INCLUDE THIS EMAIL AND THE ATTACHMENT AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE CITY COUNCIL MEETING AGENDA ITEM.

Dear City Council,

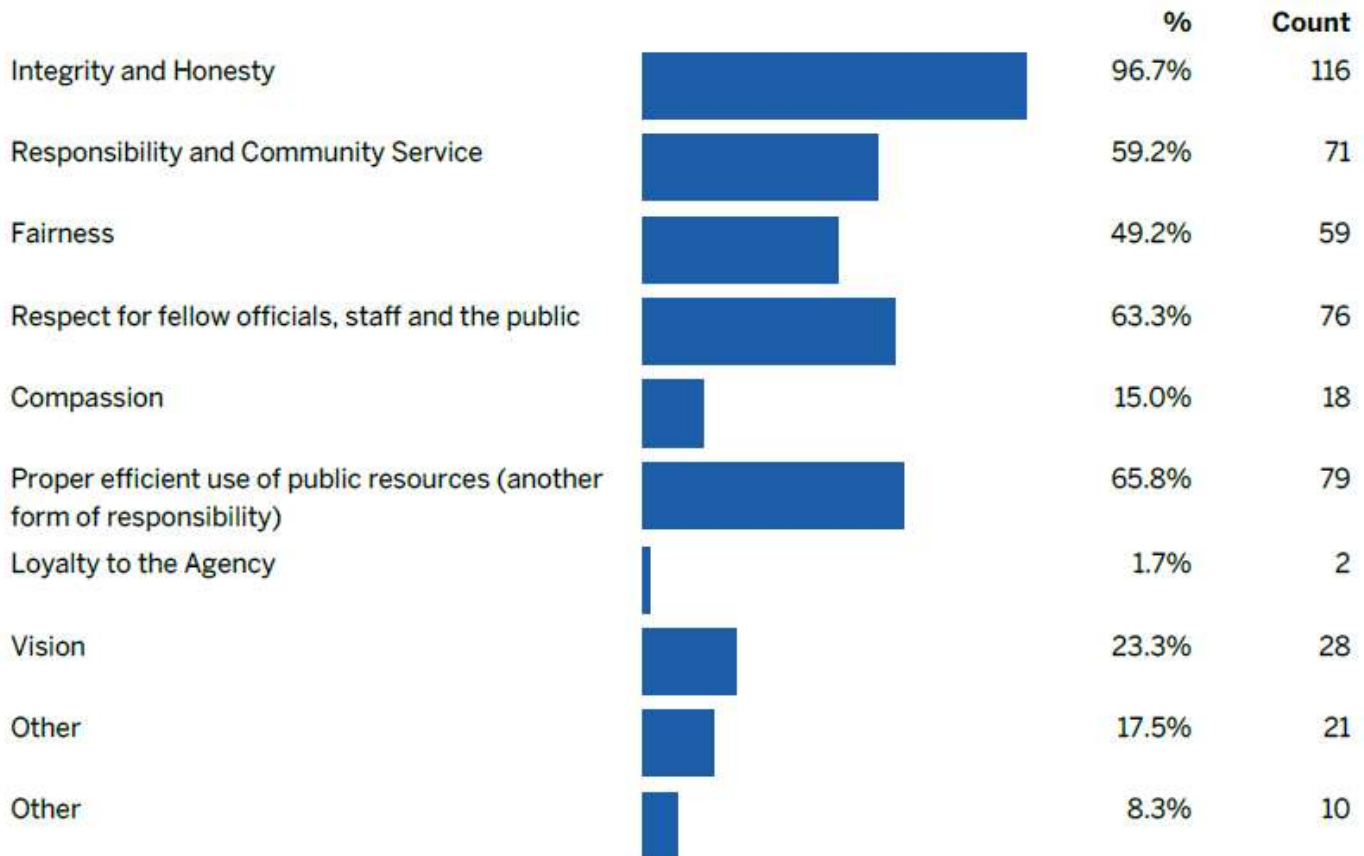
Attached are the Ethics Survey Results WITH the comments for your reference.

Sincerely,
Peggy Griffin

2023-09-19 City Council Meeting, Agenda Item 11 – Ethics Survey Results WITH COMMENTS!

QUESTION 1

Which four values are most important to you for your local officials to uphold?



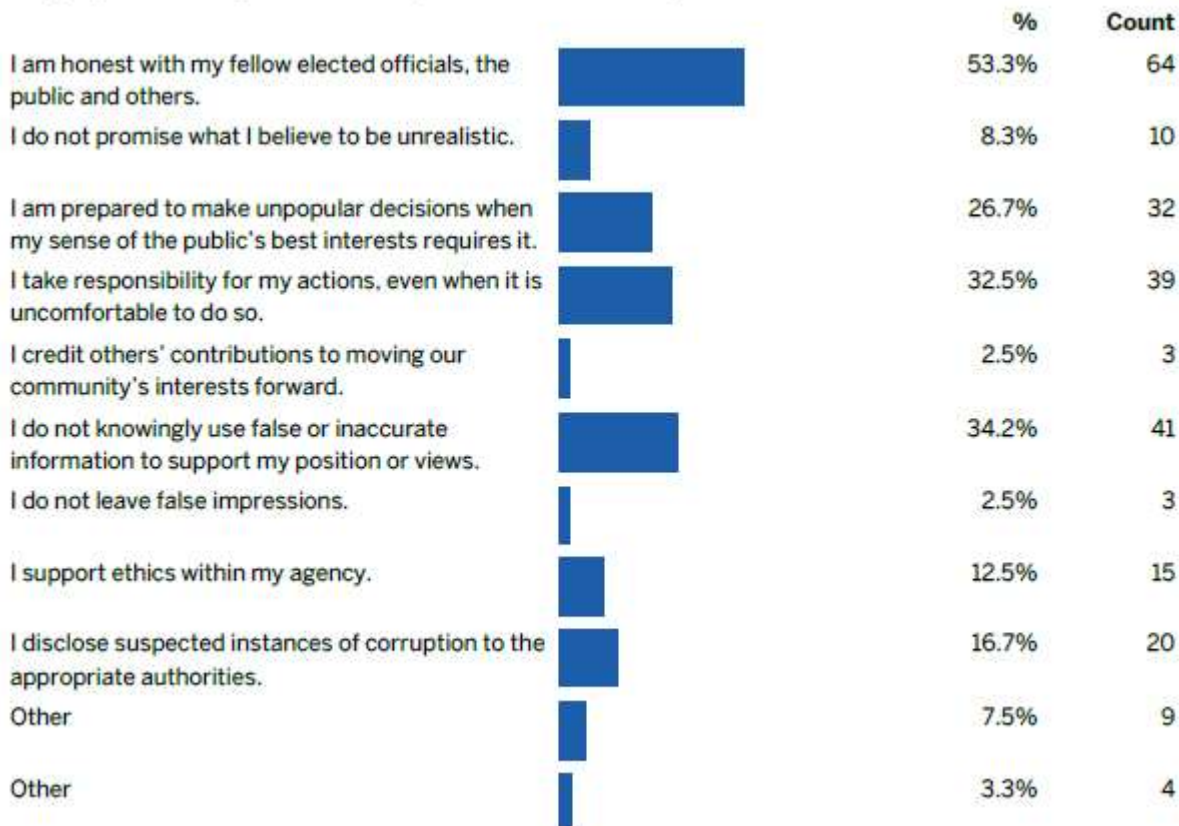
OTHER RESPONSES (21 comments + 10 = 31 comments)

- Other - respect people's religious freedoms
- Other - respect people's right to free speech and freedom to think as they wish.
- Other - Why do I have to choose 4? They are ALL important and part of the fiduciary responsibility of city employees.
- Other - some of them are not
- Other - Hold staff accountable and provide tight oversight to ensure there is no financial misuse of city funds and priorities are aligned with residents needs.
- Other - Aligns staff priorities with resident needs. Put residents first. Do not accept outside interest funding on campaigns.
- Other - Competence
- Other - Efficiency
- Other - To uphold the Constitution in all decisions, law and order.
- Other - To uphold a merit-based system where all are equal.
- Other - Not wasting the public's time with Peyton Place Policies
- Other - Moving on and addressing current issues

- Other - The City honestly observes the highest level of compliance with state and federal law. This should be easy, as it is part of the oath of office sworn by all city electeds, but past and current officials have repeatedly violated this obligation.
- Other - Duty to the "City of Cupertino" as an entity.
- Other - This Code of Ethics cannot be altered without the expressed consent and approval of the City Attorney.
- Other - Listen to the majority views of residents
- Other - Transparency
- Other - Respect for taxpayers' money
- Other - spend taxpayers' money only with extreme diligence
- Other - lawful
- Other - ethical
- Other - Transparency
- Other - accountability for actions
- Other - Respect for the citizens of Cupertino
- Other - Cooperation with other levels of government
- Other - Transparency
- Other - uphold US Constitution
- Other - 2-Transparency, not just words but actions. 3-Responsive to community concerns.
- Other - 4-Fiscally responsible - keep spending down. I CANNOT ENTER A THIRD OTHER COMMENT. I AM BEING FORCED TO PICK ONE OF THE CANNED VALUES.

QUESTION 2

Integrity and Honesty: Which two expressions are most important?












OTHER RESPONSES (9 comments + 4 comments = 13 comments)

- Other - Again, why only 2? They are all important!
- Other - I hold city staff accountable for proper finances and priorities.
- Other - I put residents needs above those of outside interests that funded my campaign and city staff
- Other - Be responsible and hard-working
- Other - Be up to date on current issues
- Other - I make decisions based on what is in the best interest of the city as an entity, long term, even if it is unpopular with residents.
- Other - I base my decisions upon well documented and established facts.
- Other - I do my best to get clear information and sourcing in order to make solid, ethical decisions
- Other - I am accountable for my actions and for reporting suspected instances of public corruption in Cupertino
- Other - I will make decisions for the public based on their input, even when I may disagree with them. My roll is to support what is best for the city and not myself.
- Other - I do not play games. I am clear, direct and to the point.
- Other - I do not lobby staff or my fellow elected officials, except in public on the dais.

QUESTION 3

Responsibility and Community Service: Which two expressions are most important?












		%	Count
I do not accept gifts, services or other special considerations because of my public position.		45.0%	54
I refrain from any action that might appear to compromise my independent judgment.		32.5%	39
I support merit-based processes for the award of public employment and public contracts.		18.3%	22
I excuse myself from participating in decisions when my or my family's financial interests may be affected by my agency's actions.		20.0%	24
As a representative of the community, I serve as a model of leadership and civility.		30.0%	36
I do not use information that I acquire in my public capacity for personal advantage.		13.3%	16
Consistent with my role as a steward of the public trust, I do not represent third parties' interest before either my agency or those of neighboring jurisdictions.		34.2%	41
Other		5.0%	6
Other		1.7%	2

OTHER RESPONSES (6 comments + 2 comments = 8 comments)

- Other - Again, why only 2. By not choosing some I am not saying that they are ok for city officials to do.
- Other - I am responsible for my residents needs and priorities and put those ahead of special interests, campaign donors and city staff.
- Other - I serve my community by regularly meeting with all residents and representing all residents needs not just the subset that my special passions and interests align with.
- Other - Realize the public looks to the city council to provide timely info on evolving subjects
- Other - Expect council members to be helpful with lots of info on current, timely events
- Other - I act as an ambassador for the City of Cupertino as an entity.
- Other - My decisions are based on the best outcomes for the city as a whole, not just for any special interest group.

QUESTION 4

Fairness: Which two expressions are most important?
















		%	Count
I support the public's right to know and participate in the conduct of the public's business.		39.2%	47
I am impartial when making decisions, avoiding the temptation to favor those who have supported me and disfavor those who have not.		45.8%	55
I promote non-discrimination in public agency decisionmaking.		10.8%	13
I recognize that I am an agent for the democratic process, not the owner of authority.		32.5%	39
I provide services at or above established standards without favoritism or prejudice.		11.7%	14
I will promote meaningful public involvement in the agency's decision-making processes.		8.3%	10
I treat all persons, claims and transactions in a fair and equitable manner.		21.7%	26
If I receive substantive information that is relevant to a matter under consideration from sources outside the public decision-making process, I publicly share it with my fellow governing board members and staff.		11.7%	14
I make decisions based on the merits of the issue.		14.2%	17
Other		3.3%	4
Other		0.8%	1

OTHER RESPONSES (4 comments + 1 comment)

- Other - Again, why only 2?
- Other - I will be fair to my constituents and residents and not put other interests ahead of my residents interests and priorities.
- Other - Listen to others
- Other - Try to help people as best as they can
- Other - I make decisions based on what best benefits the city as an entity. My decisions must be objective and defensible.

QUESTION 5

Respect for fellow officials, staff and the public: Which two expressions are most important?

		%	Count
I treat my fellow officials, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community.		52.5%	63
I focus on the merits in discussions of issues, not personalities, character or motivations.		29.2%	35
I respect others' time by coming to meetings prepared and offering observations only when I believe it will move the discussion forward.		10.8%	13
I work towards consensus building and gain value from diverse opinions.		9.2%	11
I make decisions and recommendations based upon research and facts, taking into consideration short and long-term goals.		27.5%	33
I respect the distinction between the role of office holder and staff.		8.3%	10
I follow through on my commitments, keeping others informed, and responding in a timely fashion.		7.5%	9
I am approachable, open-minded and willing to participate in dialog and I work to convey this to others.		5.0%	6
I engage in effective two-way communication by listening carefully, asking questions, and determining an appropriate response that adds value to conversations.		15.0%	18
In my interactions with constituents, I am interested, engaged, and responsive.		3.3%	4
I involve staff in meetings with individuals, those with business before the agency, officials from other agencies and legislators to ensure proper staff support and to keep staff informed.		5.8%	7
I support a positive work environment for agency staff and others who serve the agency.		11.7%	14
When campaigning, I avoid personal attacks on issues unrelated to my fellow candidates' ability to discharge the duties of the office that we both seek.		6.7%	8
Other		5.8%	7
Other		1.7%	2







OTHER RESPONSES (7 comments + 2 comments = 9 comments)

- Other - Again, why only 2?
- Other - I will show respect for the public that are constituents of my city and uphold their interests and priorities ahead of all outside interests such as campaign donors, developers, city staff interests and others.
- Other - I do not give special or preferential treatment to certain members of the public, my friends, or family.

- Other - Be a good co-worker and try to help everyone as best as they can
- Other - Be a good co-worker and try hard to help everyone.
- Other - I work cooperatively and with respect, while also acknowledging the need for facts, increasing staffing if supporting these needs is overwhelming them

QUESTION 6

Compassion: Which two expressions are most important?

		%	Count
I recognize government's responsibilities to society's less fortunate.		36.7%	44
I am sensitive to the fact that some people in the community are intimidated by public officials and public agencies and try to make their interactions with our agency as stressfree as possible.		45.0%	54
I convey the agency's care for and commitment to its community members.		39.2%	47
I am attuned to, and care about, the needs and issues of citizens, public officials and agency workers.		65.0%	78
Other		11.7%	14
Other		2.5%	3











OTHER RESPONSES (14 comments + 3 comments = 17 comments)

- Other - AI understand that people have different opinions and thoughts, and one size does not fit all. diversity of thought.
- Other - Again, why only 2?
- Other - I am attuned to, and care about, the needs and issues of citizens. Not the needs of public officials or agency workers who are paid staff in service of the public. We all work for the public.
- Other - I value the time of others
- Other - I promote law and order to convey the agency's care for the community.
- Other - Be a thoughtful person who tries to help others
- Other - Be a kind person who tries to help others
- Other - Many governmental actions are long-term rather than immediate. Official's decisions must consider the future consequences of their actions. Decisions today affect 70,000 people, not 100 people in City Hall and many more thousands in the future.
- Other - I am attuned to, and care about, the needs and issues of citizens, public officials and agency workers - if agency workers feel overwhelmed by the needs for their services, I support increasing their staffing so that the agency can provide needed support
- Other - I realize that compassion can sometimes overextend itself.
- Other - serve the public weal of constituents rather than special interests
- Other - compassionately represent the desire of constituents rather than special interests or ANYONE who donates money.
- Other - I make decisions demonstrating that I care about ALL the residents of the City, and the players and employees working in our City.
- Other - I try to understand the viewpoint and situation of all parties

- Other - I am aware and take into consideration that many people in our city are not wealthy and thus minimize financial impacts to our citizens.

QUESTION 7

Proper and efficient use of public resources (another form of responsibility): Which two expressions are most important?

		%	Count
I recognize that the responsibility for making both large and small decisions about the use of public resources is a public trust.		37.5%	45
I actively promote the efficient and economical use of public resources.		24.2%	29
I do not use public resources, such as agency staff time, equipment, supplies or facilities, for private gain or personal purposes.		29.2%	35
I make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the agency, especially its financial stability.		26.7%	32
I make decisions on hiring and contracting based on merit and value to the agency, rather than favoritism and/or family or personal relationships.		24.2%	29
I demonstrate concern for the proper use of agency assets (such as personnel, time, property, equipment, funds) and follow established procedures.		27.5%	33
I provide friendly, receptive, courteous service to everyone.		6.7%	8
I make good financial decisions that seek to preserve programs and services for agency residents.		12.5%	15
Other		8.3%	10
Other		3.3%	4

OTHER RESPONSES (10 comments + 4 comments = 14 comments)

- Other - Again, why only 2?
- Other - Be a good co-worker
- Other - Be a helpful co-worker
- Other - I make sure not to inconvenience staff that they feel inconvenienced from doing their job.
- Other - I support increasing pay and staffing in order to provide proper support to citizens and governance
- Other - I make good financial decisions that optimize programs and services for agency residents (note: preserving programs is not always a good financial decision)
- Other - I do not burden staff with unnecessary and superfluous requests for information.
- Other - I will act as if the money I allocate is as if it were mine. In others, be conservative with our money.
- Other - I will look into the budget and take out all the frivolous items in the budget.

- Other - I ensure public resources are used to meet the needs and desire of constituents, not potential constituents or special interests.
- Other - I actively demonstrate that no amount of donation, contribution, or other inducement by anyone impacts carrying out residents expressed desires.
- Other - Promote activities that have measurable outcomes which are documented and communicated to the public
- Other - I do not spend or allow to be spent public funds on personal trips.

QUESTION 8

Loyalty to the Agency: Which two expressions are most important?

		%	Count
I respect the confidentiality of information concerning the agency's property, personnel or affairs.		56.7%	68
I do not disclose confidential information without proper legal authorization.		50.0%	60
I represent the official policies or positions of the agency to the best of my ability when authorized to do so.		37.5%	45
When presenting my individual opinions and positions, I explicitly state that my opinions do not represent the agency's position and I will not allow the inference that they do.		41.7%	50
Other		8.3%	10
Other		5.8%	7

OTHER RESPONSES (10 comments + 7 comments)

- Other - I serve as a whistleblower to the public
- Other - Loyalty is with the taxpayers not the agency
- Other - I am loyal to the voting public, residents of my constituency. Not loyal to city staff. We collectively work for the public.
- Other - I am loyal to the path that I took to uphold.
- Other - Loyalty should be to the Constitution; not the agency.
- Other - Loyalty should be to the community and taxpayer; not to the agency.
- Other - Be a good co-worker
- Other - Be a helpful co-worker
- Other - Why need loyalty in public agency? Public agency need hiding secret?
- Other - I do not allow loyalty to the Agency, as a whole or to members of the agency, to come above or before ethical conduct.
- Other - Loyalty to the citizens, especially the taxpayers--rather than the Agency--is paramount
- Other - Loyalty to the citizens, especially the taxpayers--rather than the Agency--is paramount
- Other - I am loyal to my oaths of Office and am NOT loyal to any Agency, understanding that such loyalty is exactly how public corruption is committed and covered up.
- Other - I ensure that no person is loyal to the Agency, but rather loyal to their oaths and service to the public weal, a well established requirement of public service.
- Other - Ensure the agency,'s outcomes are measurable and communicated to the public
- Other - Ensure the resources are allocated so the agency meets their expectations

QUESTION 9

Vision: Which two expressions are most important?

		%	Count
I exhibit a proactive, innovative approach to setting goals and conducting the agency's business.		37.5%	45
I display a style that maintains consistent standards, but is also sensitive to the need for compromise, "thinking outside the box," and improving existing paradigms when necessary.		49.2%	59
I promote intelligent and thoughtful innovation in order to forward the agency's policy agenda and agency services.		59.2%	71
I consider the broader regional and statewide implications of the agency's decisions and issues.		37.5%	45
Other		12.5%	15
Other		4.2%	5

OTHER RESPONSES (15 comments + 5 comments = 20 comments)

- Other - I do not let woke leftist agendas cloud my thinking nor shame me into submission
- Other - I promote a safe community by promoting law and order.
- Other - I study the facts and make decisions based on them to help my public and co-workers
- Other - I try to help the public understand the issues
- Other - Recap from above - governmental decisions are largely long-term decisions and have enormous impact on future residents. Officials need to hear the people physically in City Hall for a hearing, but can't lose sight of their impact on the future.
- Other - I have a general idea of the distant needs of my city and region, as well as the need for the natural environment, so I will be mindful of these when making decisions for the city.
- Other - I take into consideration long term impacts to the environment and broader community when making decisions.
- Other - I consider the community as a whole, and promote improvements that will benefit all residents, regardless of race, class, income, housing, or other status.
- Other - I don't understand these word-salad options. Tip: use plain and direct English in these options for Vision
- Other - I don't understand these word-salad options. Tip: use plain and direct English in these options for Vision
- Other - I help articulate and implement the collective vision of existing Cupertino residents.
- Other - I reject any vision not consistent with the desire of existing Cupertino residents.
- Other - I consider future residents in decisions, and not just current ones

- Other - Ensure the activities aligns to the vision
- Other - Develop a vision that support the public in a realistic manner
- Other - I promote proactive mitigation measures within our city laws to dampen impacts to our community of upcoming legislation.
- Other - I support providing feedback to the state on upcoming bills to improve them before they are passed..

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, September 19, 2023 2:43 PM
To: City Council
Cc: City Clerk
Subject: 2023-09-19 City Council Meeting-Agenda Item11-Ethics Policy-Transparency and Conflicts with Organizations and Employers

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PLEASE INCLUDE THIS EMAIL AS PART OF WRITTEN COMMUNICATION FOR THE ABOVE CITY COUNCIL MEETING AGENDA ITEM.

Dear City Council,

As a member of the public, I want my City Councilmembers to be unbiased, listen to public input with an open mind. That said, I am concerned about the appearances of a conflict of interest whether it meets the strict criteria of the legal definition or not.

ORGANIZATION CONFLICTS

If a Councilmember has been on the board of an organization within the last 12 months, their connections and knowledge are very fresh. Also, the organization may still be working on “projects” that the Councilmember may have participated in. For this reason, I think having been a board member of an organization within the last 12 months should be considered a “conflict of interest” and the Councilmember should not be involved in decisions related to that organization.

SUGGESTION1:

Add a requirement that any Councilmember who has been on the board of an organization within the last 12 months should declare it and recuse themselves from any Council actions/decisions/closed sessions associated with that organization.

SUGGESSTION2:

If a Councilmember has been on the board of an organization within the last 5 years, the Councilmember must declare this at the beginning of the agenda item.

EMPLOYMENT CONFLICTS

Often, Councilmembers have “day jobs”. More and more, these jobs can touch upon topics/issues that are City of Cupertino concerns. Examples of possible employment conflicts:

- A Councilmember represented or is representing a company/organization within the last year/5 years.
- A Councilmember is employed by another city and is assigned on commissions where both Cupertino and their employer (other city) have a say. The interest of Cupertino may not be in line with the interests of their employer. Whose “hat” will they wear?

SUGGESTION3:

Councilmembers who are employed by other cities should not be on committees or commissions that involve both cities. They should always announce their employment vs who they represent.

They should recuse themselves from participating in agenda items that have the potential to impact both cities.

We want to know that our elected representatives are representing Cupertino first and always. Being more transparent is a good thing and builds trust.

Sincerely,
Peggy Griffin

Lauren Sapudar

From: Donna austin <primadona1@comcast.net>
Sent: Tuesday, September 19, 2023 1:00 PM
To: City Clerk
Subject: Fwd: City Council Meeting tonight 9/19/23 Agenda Item 11 Code of ethics
Attachments: letter Code of Ethics.docx

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sent from my iPhone

Begin forwarded message:

From: Donna austin <primadona1@comcast.net>
Date: September 19, 2023 at 12:59:06 PM PDT
To: hungwei@cupertino.org
Subject: Fwd: City Council Meeting tonight 9/19/23 Agenda Item 11 Code of ethics

Sent from my iPhone

Begin forwarded message:

From: Donna austin <primadona1@comcast.net>
Date: September 19, 2023 at 12:57:48 PM PDT
To: Hung Wei <hungweichien@gmail.com>
Subject: Fwd: City Council Meeting tonight 9/19/23 Agenda Item 11 Code of ethics

Sent from my iPhone

Begin forwarded message:

From: Donna Austin <primadona1@comcast.net>
Date: September 19, 2023 at 12:42:01 PM PDT
To: Kirsten Squarcia <KirstenS@cupertino.org>, Hungwei@cupertino.org, Sheila Mohan <smohan@cupertino.org>, liangchao@cupertino.org, jrfruen@cupertino.org, kmoore@cupertino.org, Pamela Wu <PamelaW@cupertino.org>
Cc: Donna austin <primadona1@comcast.net>
Subject: City Council Meeting tonight 9/19/23 Agenda Item 11 Code of ethics

To Kirsten Squarcia: Please distribute to city council, city manager and city attorney and please read. I have attached the letter and I've copied it to this e-mail. Thank you, Donna Austin

**To: Mayor Hung Wei, Vice-Mayor Sheila Mohan, and council Members:
Liang Ciao, Kitty Moore, and J.R. Fruen. City Manager: Pamela Wu**

I urge the Cupertino City Council to accept the staff's recommendation and to direct the city attorney to revise the City of Cupertino Ethics Policy to incorporate the provisions of the 2018 City's ethic's code as amended to ensure consistency with the Council's procedures manual.

The citizens of Cupertino are entitled to responsible, fair, and honest local government guided by a strong Code of Ethics! Elected officials, officers, employees, members of committees, and volunteers, are stewards of the community and should comply with the laws of the nation, the state and the city. They should perform their duties with Integrity and respect for one another, staff and the public. Their actions should be done with:

- Objectivity.**
- Professional Competence**
- Confidentiality and**
- Professional Behavior.**

This Code will inspire public trust in our officers' ethical behavior and will be a model for the community.

**Donna Austin
22283 N. De Anza Circle
Cupertino, CA 95014
408-499-9031
Primadona1@comcast.net**

Sent from [Mail](#) for Windows

**To: Mayor Hung Wei, Vice-Mayor Sheila Mohan, and council
Members: Liang Ciao, Kitty Moore, and J.R. Fruen.**

**I urge the Cupertino city council to accept the staff's
recommendation and to direct the city attorney to revise the City
of Cupertino Ethics Policy to incorporate the provisions of the
2018 City's ethic's code as amended to ensure consistency with
the Council's procedures manual.**

**The citizens of Cupertino are entitled to responsible, fair, and
honest local government guided by a strong Code of Ethics!
Elected officials, officers, employees, members of committees,
and volunteers, are stewards of the community and should
comply with the laws of the nation, the state and the city. They
should perform their duties with Integrity and respect for one
another, staff and the public. Their actions should be done with:**

- Objectivity.**
- Professional Competence**
- Confidentiality and**
- Professional Behavior.**

**This Code will inspire public trust in our officers' ethical behavior
and will be a model for the community.**

Donna Austin

22283 N. De Anza Circle

Cupertino, CA 95014

408-499-9031

Primadona1@comcast.net

Lauren Sapudar

From: Kitty Moore
Sent: Tuesday, September 19, 2023 11:36 AM
To: Kirsten Squarcia; City Clerk
Subject: September 19 Agenda Item 11 Written Communications
Attachments: San Jose Council Conduct Policy.pdf; Council Policy Manual Policy Process.pdf

Dear City Clerk,

Please include these two attachments for Item 11:

1. *San Jose Council Conduct Policy*
 - a. Provides definitions for Admonition, Sanction, and Censure.
 - i. Admonition is similar to a warning and does not necessarily have an investigation to determine if an allegation is true
 - ii. Sanction, allows the Councilmember to respond to the allegation and it is not a punishment or discipline
 - iii. Censure is the most serious. It is an official statement by the Council and is punitive, but it carries *no fine or suspension of the rights of the member* as an elected official.
 - iv. "...the City Council shall not impose censure on any of its members for the exercise of his or her first Amendment rights..."
2. *Council Policy Manual – City of San Jose*
 - a. This is a brief policy for making policies and who is allowed to change them.

Thank you,

Kitty Moore



Kitty Moore

Councilmember
City Council
Kmoore@cupertino.org
(408) 777-1389



City of San José, California

COUNCIL POLICY

TITLE COUNCIL CONDUCT POLICY	PAGE 1 of 4	POLICY NUMBER 0-28
EFFECTIVE DATE November 8, 1994	REVISED DATE November 30, 2004	
APPROVED BY COUNCIL ACTION		11/08/94 Item 9(C)

PURPOSE

This Policy applies only to the Mayor and City Council members, and amends and supersedes the original City Council Policy 0-28, the Censure Policy.

GUIDING PRINCIPLES

It is the Policy of the City Council that all of its members shall abide by federal and state law, City ordinances and City policies, including the Code of Ethics. Violation of such law or policy tends to injure the good name of the City and to undermine the effectiveness of the City Council as a whole.

Depending on the circumstances of alleged violations of law or policy, the Council may initiate an investigation of the allegations prior to the filing of a request for any of the actions described in this policy.

Nothing in this policy shall preclude individual Councilmembers from making public statements regarding such alleged conduct.

Considerations

In deciding whether or not to open an investigation, Council should consider:

- whether an investigation may compromise investigations regarding the same alleged actions, and, if the actions may result in criminal charges, whether the right of the accused Councilmember to a fair jury trial may be compromised by proceeding with an investigation;
- if persons involved in the allegations may choose to exercise their constitutional right against self-incrimination, which may limit the investigation's ability to present a full picture of alleged events;
- how to ensure that it ensures protection of the rights of those accused of violations of law or policy, those making such accusations, and those who have information regarding the accusations.

At any point during any of the processes described in this policy, the Council may refer the matter, as appropriate, to the Santa Clara County District Attorney or to the San José Elections Commission for investigation. Following such a referral, the Council may proceed with any actions it chooses to undertake under the provisions of this policy.

While the Council has broad discretion in deciding actions it may choose to take in response to violations of law or policy, this policy provides definitions and procedures related to three types of action: admonition, sanction, and censure.

DEFINITIONS

Admonition

This is the least severe form of action. An admonition may typically be directed to all members of the City Council, reminding them that a particular type of behavior is in violation of law or City policy, and that, if it occurs

TITLE COUNCIL CONDUCT POLICY	PAGE 2 of 4	POLICY NUMBER 0-28
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or is found to have occurred, could make a member subject to sanction or censure. An admonition may be issued in response to a particular alleged action or actions, although it would not necessarily have to be triggered by such allegations. An admonition may be issued by the City Council prior to any findings of fact regarding allegations, and because it is a warning or reminder, would not necessarily require an investigation or separate hearings to determine whether the allegation is true

Sanction

This is the next most severe form of action. Sanction should be directed to a particular member of the City Council based on a particular action (or set of actions) that is determined to be in violation of law or City policy, but is considered by the Council to be not sufficiently serious to require censure. A sanction is distinguished from censure in that it is not a punishment. A sanction may be issued based upon Council's review and consideration of a written allegation of a policy violation. The member accused of such violation will have an opportunity to provide a written response to the allegation. A sanction may be issued by the City Council and because it is not punishment or discipline, would not necessarily require an investigation or separate hearings.

Censure

Censure is the most severe form of action contemplated in this policy. Censure is a formal statement of the City Council officially reprimanding one of its members. It is a punitive action, which serves as a penalty imposed for wrongdoing, but it carries no fine or suspension of the rights of the member as an elected official. Censure should be used for cases in which the Council determines that the violation of law or policy is a serious offense. In order to protect the overriding principle of freedom of speech, the City Council shall not impose censure on any of its members for the exercise of his or her First Amendment rights, no matter how distasteful the expression was to the Council and the City. However, nothing herein shall be construed to prohibit the City Council from collectively condemning and expressing their strong disapprobation of such remarks.

PROCEDURES

Investigation

1. Any member of the City Council may submit, in writing, an allegation concerning a violation of law or policy to the Rules Committee.
2. The Rules Committee shall determine whether to forward a recommendation to conduct an investigation to the full Council for consideration as part of the Rules Committee report agenda item at the appropriate subsequent Council meeting. Part of the determination should include allowing the Councilmember who is the subject of the allegation the opportunity to address the allegation in writing or by appearing at the Rules Committee meeting at which the allegation is discussed.
3. If the Council determines, by majority vote, that:
 - a. An investigation is warranted, it may designate a standing or special committee or one of its members, including the Mayor, to conduct the investigation. The Council may select an independent investigator to assist in conducting the investigation. The independent investigator would be managed by the committee or individual designated by Council to conduct the investigation.
 - b. An investigation is not warranted, an individual Councilmember is not precluded from submitting a request for admonition, sanction, or censure in accordance with the provisions of this policy.
4. In the course of the investigation, the individual or committee designated to manage it must determine the process by which statements are taken. A witness may choose to provide a signed declaration under penalty of perjury attesting to his or her knowledge of the facts surrounding the allegations. If a witness is unwilling to submit such a declaration, the Council may issue a subpoena to compel the witness' testimony, consistent with its subpoena power granted under the City Charter.

TITLE	COUNCIL CONDUCT POLICY	PAGE	POLICY NUMBER
		3 of 4	0-28

5. At the conclusion of the investigation, the results shall be presented in writing to the full Council. Based on the results, any individual Council member may file a request for admonition, sanction, or censure.

Admonition

1. A request for an admonition must be submitted to the Rules Committee in writing by a member of the Council. The request should contain the specific language of the proposed admonition.

2. The Rules Committee shall determine whether to forward the proposed admonition to the full Council for consideration as part of the Rules Committee report agenda item at the appropriate subsequent Council meeting.

3. An admonition can be approved by a majority vote of the Council.

Sanction

1. A request for sanction must be submitted to the Rules Committee in writing by a member of the Council. The request should contain specific allegations of conduct in violation of federal or state law, City ordinances, and City policies, including the Code of Ethics.

2. A copy of the request for sanction shall be provided to the Council Member accused of the conduct by personal service at least twenty-four (24) hours prior to the Rules Committee meeting at which it will be considered.

3. The Rules Committee shall determine that either:

- a. The proposed sanction should be forwarded to the City Council for consideration as part of the Rules Committee report agenda item at the appropriate subsequent Council meeting; or
- b. An admonition, rather than sanction, should be recommended to the City Council for consideration; or
- c. No action is required.

4. This determination is subject to confirmation by the City Council as part of the Rules Committee report at the next Council meeting.

5. A sanction is based on the Council's review of the written record and of the information provided as part of the public hearing of the issue as part of the Council meeting. A sanction action must be approved by a majority vote of the Council.

Censure

1. A request for a censure hearing must be submitted to the Rules Committee in writing by a member of the Council. The request must contain the specific allegations of conduct in violation of federal or state law, City ordinances, and City policies, including the Code of Ethics, upon which the proposed censure is based.

2. A copy of the request for censure and the charges shall be served on the Council Member accused of the conduct by personal service at least twenty-four (24) hours prior to the Rules Committee meeting at which it will be considered.

3. The Rules Committee shall determine that either:

- a. Further investigation of the charges is required; or
- b. The matter is to be set for a separate public hearing; or
- c. The recommended level of action is admonition or sanction, rather than censure; or
- d. No action is required.

4. This determination is subject to confirmation by the City Council as part of the Rules Committee report at the next Council meeting.

TITLE COUNCIL CONDUCT POLICY	PAGE 4 of 4	POLICY NUMBER 0-28
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5. Depending on the determination of the Rules Committee and the confirmation of the City Council;

- a. If further investigation is required, it shall be done by an ad hoc committee appointed by the Mayor. If the Mayor is the subject of the charges, the committee shall be appointed by the Vice Mayor.

The following guidelines apply to ad hoc committee investigations:

- i) The committee may be staffed by administrative and legal staff.
 - ii) If authorized by City Council, the committee may subpoena witnesses and documents.
 - iii) In making a determination, the committee should determine if taking all the facts and evidence into consideration, there are reasonable grounds to believe or not believe that the conduct, violation, or offense occurred.
 - iv) The committee shall issue a final report and recommendations to the City Council. The final report shall be made available to the public.
- b. If a separate public hearing is set, it must be set far enough in advance to give the member of Council subject to the charges adequate time to prepare a defense, and that member shall be given the opportunity to make an opening and closing statement and to question his or her accusers. The member subject to the charges may be represented and may have the representative speak or question on his or her behalf. The Mayor, or Vice Mayor if the Mayor is the subject of the charges, would preside at the hearing. The rules of evidence shall not apply to the hearing, which is not a formal adversarial proceeding. The City Attorney or designee shall provide legal advice to the City Council during the hearing.

6. A decision to censure requires the adoption of a Resolution making findings with regard to the specific charges, based on substantial evidence, and approved by a two-thirds vote of the Council.

City of San José, California

COUNCIL POLICY

TITLE COUNCIL POLICY MANUAL	PAGE 1 of 2	POLICY NUMBER 0-1
EFFECTIVE DATE August 3, 1970	REVISED DATE October 31, 2006	
APPROVED BY COUNCIL ACTION		10/31/06 Item 3.2(I)

BACKGROUND

The San José City Council is charged with the responsibility of establishing municipal policies to guide the various functions of the City. Regulatory policies established by the City Council are adopted by ordinance and included in the Municipal Code; however, other policies are established, which by their nature, do not require adoption by ordinance. These applicable policy statements adopted by action of the City Council need to be consolidated in a reference document for easy access.

GUIDING PRINCIPLES

1. Government transparency and accessibility
2. Clarity in policies, practices and procedures
3. Government accountability

PURPOSE

The purpose of this policy is to:

1. Clearly state and compile policies of the City Council covered by ordinances, resolutions, or other Council actions.
2. Establish clear processes and procedures by which the City Council and Organization shall conduct City business and activities; propose new policies; and review and revise policies contained in the "Council Policy Manual" so that it is kept current.
3. Establish procedures for the preparation, codification, distribution, and maintenance of Council policies and the "Council Policy Manual."
4. Provide for the availability of these policies to the public.

POLICY

1. There is hereby established a "Council Policy Manual" which will contain all City policy statements adopted by resolution of the City Council.
2. Generally, policy statements in this "Council Policy Manual" will incorporate only such municipal matters by which the responsibility of decision is vested in the City Council by virtue of the City Charter, Municipal Code, or specific ordinances and resolutions.
3. Policy statements of the City Council shall be prepared in writing and approved by action of the City Council. Once approved, statements of policy will be reproduced, distributed, and included in the "Council Policy Manual" accompanied by resolution number and date of adoption, if applicable.

TITLE	COUNCIL POLICY MANUAL	PAGE	POLICY NUMBER
		2 of 2	0-1

4. Unless otherwise stated in a policy, the waiver of a provision of a Council policy requires six votes of the City Council or when authority is granted to the City Manager or other Council Appointee if so noted in the actual policy. Additionally, the request to waive a policy, or provision of a policy, by the City Council must be clearly delineated on the City Council Agenda, such as:

Recommendation:

- (a) Approval to consider the recommendation to waive a provision of Policy XXX pursuant to Policy 0-1, Council Policy Manual.
 - (b) Staff's recommendation.
5. Each policy statement shall include: a) a brief background description of the problem, b) the purpose of the policy, c) the policy statements, and d) other criteria or procedural sections as required.
 6. The Office of the City Clerk shall be responsible for the preparation and continuing maintenance, of the "Council Policy Manual".
 7. The "Council Policy Manual" shall be made available to the public via the City's internet website and a hard copy maintained in the Office of the City Clerk available for public reference.

PROCEDURE

1. Drafts of proposed Council policies and proposed amendments to existing policies shall be referred to the City Manager for review, evaluation, and reporting to the City Council.
2. The City Manager has the authority to make amendments, on as needed basis and at least bi-annually, and such amendments shall be limited to:
 - Updates to the Table of Contents
 - Nouns/pronouns that do not change the essence of the Policy rather result in "clean up" of the Policy (i.e., easier to read)
 - Administrative/Procedural changes to implement a Policy that do not change the essence of the Policy, rather result in efficiencies, cost savings, improved customer service.

The City Manager is not authorized to change legal and/or policy principles.

3. Such drafts may be referred by the Rules Committee or City Council to a Council Committee for discussion, analysis, and recommendation.
4. The City Clerk shall be responsible for the assignment of tentative and final policy numbers and the Administration is responsible for titles to a proposed policy draft.
5. After official adoption by the City Council, the City Clerk shall be responsible for final preparation, codification and distribution of the statement of policy.
6. Annually the Office of the City Clerk and City Manager shall review the Table of Contents and Cross-Reference in the "Council Policy Manual" for needed additions, changes, deletions deemed appropriate. Nothing in this policy shall prevent any individual member of the Council, City Manager, or City Attorney from suggesting revisions or new policies to the Council Policy Manual at other times during the year.

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Sunday, September 17, 2023 9:09 PM
To: City Council
Cc: City Clerk; Christopher Jensen
Subject: 2023-09-19 City Council Meeting-Agenda Item11-Ethics Policy Revision SUGGESTIONS

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PLEASE INCLUDE THIS EMAIL AND ANY ATTACHMENTS AS PART OF WRITTEN COMMUNICATION FOR THE ABOVE CITY COUNCIL MEETING AGENDA ITEM.

Dear City Council,

It appears you will start with the 2018 Ethics Policy which was passed AFTER the 2018 election by Councilmembers that lost the re-election bid thus enacting policies that would not apply to them at all! That said...based on this probable starting point, I suggest the following additions/changes:

SUMMARY OF MY SUGGESTIONS:

- This Ethics Policy should apply to everyone, all staff included.
- Training is critical and needs to be done BEFORE people are allowed to participate, especially newly elected/appointed/hired people.
- Form 700 submitted annually by a date or can't participate because there may be a conflict of interest.
- Campaign endorsements should not specify a City or Council title. It is a personal endorsement not supported by the City.
- The Mayor should not be the sole decision for starting an investigation. It uses public funds and staff time so it should be discussed in public and voted on by Council in public!

SUGGESTION1:

It should apply to City Councilmembers, Commissioners and ALL staff, too! At minimum, it should apply to all senior staff (define it).

The 2018 version only applies to selected staff (City Manager, City Attorney, Treasurer and City Clerk). It does not include Assistant City Managers, Department Heads, Directors, Assistant City Directors, Managers, Senior staff which is very important to have a balanced policy with everyone playing by the same rules.

SUGGESTION2:

Training...is critical before people start to participate!

Training BEFORE officials/commissioners take office

- Rosenberg's Rules of Order
- Brown Act
- Give them take-home reference material.

Training YEARLY for all Councilmembers, Commissioners and Staff

- Brown Act
 - o It does change.
 - o Particularly serial communications Dos and Don'ts with examples. (54952.1, 54952.2)

- Attending a committee meeting as a non-member (54052.2(c)(6))
- If teleconferencing, announcing if anyone is in the room with you
- Public comments and responding to them (54954)
- Open Meeting
- Form 700 submittal by a due date.

SUGGESTION3:

Page 7 of 16, #13 Advocacy...**ADD**

“When Councilmembers and Commissioners endorse candidates, they should NOT USE their titles. “ This also applies to staff. Staff endorsements are not wise, particularly if those they endorse loose.

SUGGESTION4:

Page 7 of 16, #14 Policy Role of Members...**ADD**

“Staff should not alter the City Council policies and priorities without authorization from City Council.”

SUGGESTION4:

Page 12 of 16 (e)...**ADD**

“Staff should not use their titles if giving support.”

SUGGESTION5:

Page 12 of 16, 5a...Council Conduct with Commissions

I believe this **conflicts with the Brown Act**, Gov Code 54952.2(c)(6) Councilmembers can attend but only as observers. They can’t speak.

SUGGESTION6:

Page 13 of 16, 5c...**ADD**

“Commission members volunteer their time and effort to serve our community. Staff and Council should allow them to perform their assigned duties on a regular basis.”

SUGGESTION7:

Page 13 of 16, 5e...**ADD**

Commission and Council member titles should not be used.

SUGGESTION8:

Page 15 of 16, 2nd to last paragraph...**REMOVE** “the Mayor”. Require the majority Council vote, not just one individual!

When deemed warranted, the ~~Mayor or~~ majority of Council may call for an investigation of Commission member conduct. Also, should the City Manager or City Attorney believe an investigation into a member’s conduct is warranted, they may refer the matter to the ~~Mayor or~~ Council. The ~~Mayor or~~ Council should ask the City Manager or the City Attorney to investigate the allegation and report the findings.

Sincerely,
Peggy Griffin

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Sunday, September 17, 2023 5:05 PM
To: Christopher Jensen; City Council
Cc: City Clerk
Subject: 2023-09-19 City Council Meeting-Agenda Item11-Ethics Policy Survey REQUEST

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PLEASE INCLUDE THIS EMAIL AND ANY ATTACHMENTS AS PART OF WRITTEN COMMUNICATION FOR THE ABOVE CITY COUNCIL MEETING AGENDA ITEM.

Dear City Attorney Jensen, City Council and Staff,

There are quite a few "Other" responses totaling 130 yet they are buried in 70 pages of individual responses rather than listing them in the summary under each question. Normally, all the "other" responses are normally shown with each question summary. Hiding these comments in 70 pages of other questions means you do not get a true picture of what the survey may have been missing.

Count of "Other" responses:

Q1 = 31

Q2 = 13

Q3 = 8

Q4 = 5

Q5 = 9

Q6 = 17

Q7 = 10

Q8 = 17

Q9 = 20

REQUEST: Please pull out all the "Other" responses for each question and list them together or in the summary for each question.

Thank you.

Sincerely,
Peggy Griffin

CC 09-19-2023

#13

Monthly Treasurer's Report
for August 2023

Written Communications

Lauren Sapudar

From: Kirsten Squarcia
Sent: Tuesday, September 19, 2023 9:21 AM
To: Kitty Moore
Cc: City Clerk
Subject: RE: Written Communications Item 13 questions

Good morning Councilmember Moore, your comments have been received for the September 19, 2023 City Council meeting and will be included with the Written Communications for Item 13. Regards, Kirsten



Kirsten Squarcia

City Clerk
City Manager's Office
KirstenS@cupertino.org
(408) 777-3225



From: Kitty Moore <Kmoore@cupertino.org>
Sent: Monday, September 18, 2023 6:29 PM
To: Kirsten Squarcia <KirstenS@cupertino.org>
Subject: Written Communications Item 13 questions

Dear City Clerk,

Please include the following questions I have sent to the City Manager in Written Communications for Item 13, September 19, 2023.

My requests below are to clarify the Treasurer is signing off on these reports (add a signature block like /Treasurer or similar) and I have a question on whether we have followed the appointment process.

Item 13: The report in the packet does not indicate that it is from the City Treasurer. While the Municipal Code does indicate the head of Administrative Services is the Treasurer, it would be more clear to have the report indicate that it is the *Treasurer's Report*. Also, would someone please tell me where the Treasurer appointment authority is, I cannot find it, under 2.48.020 (A)(b)(3) it states "shall be appointed Treasurer" but does not say by whom. Who appoints the Treasurer and where is that indicated? It isn't very clear that Council has not retained the appointment authority it originally held and it may need to be recognized.

2.48.020 Departments and Divisions.

The following departments are established:

A. Department of Administrative Services.

1. This department shall consist of the following divisions:

a. Finance Division. This division shall be responsible for the day-to-day processing of fiscal records, the preparation of financial statements and the annual operating budget, the compilation of fiscal data from which a capital improvements budget may be constructed, and the preparation of other statistical and fiscal analysis.

CC 09-19-2023

#14

Monthly Treasurer's
Investment Report for
August 2023

Written Communications

b. Human Resources Division. This division shall be responsible for code enforcement, personnel, disaster preparedness, risk management and special projects.

2. The Director of Administrative Services shall be head of this department, the Finance Officer being responsible for the activities within the Finance Division, and the Personnel Officer being responsible for activities within the Human Resources Division.

3. The Director of Administrative Services also shall be appointed Treasurer and also shall act as ex officio Assessor and shall assess and collect all City taxes save and except for those collected by State and County officers for the City.

This last question on item 13 is regarding a potential conflict of interest or maybe a lack of separation of duties, because the Treasurer IS the head of Administrative Services, this needs an explanation for how this following bit of code works in practice because on the surface it sounds like there are two people involved, but it is the Treasurer who is also the Director of Administrative Services:

2.24.020 Payment Procedure.

The Treasurer shall pay out all moneys owed by the City including obligations incurred by improvement bonds thereof on certification of the Director of Administrative Services that such are due and owing.

What do you think the wording indicates? Should we want to change it somehow, and if so, how?

Thank you,

Kitty Moore

Kitty Moore

Councilmember

City Council

CMoore@cupertino.org

(408) 777-1389

Lauren Sapudar

From: Kirsten Squarcia
Sent: Tuesday, September 19, 2023 9:22 AM
To: Kitty Moore
Cc: City Clerk
Subject: RE: Agenda Item 14 Written Communications

Good morning Councilmember Moore, your comments have been received for the September 19, 2023 City Council meeting and will be included with the Written Communications for Item 13. Regards, Kirsten



Kirsten Squarcia

City Clerk
City Manager's Office
KirstenS@cupertino.org
(408) 777-3225



From: Kitty Moore <Kmoore@cupertino.org>
Sent: Monday, September 18, 2023 6:31 PM
To: Kirsten Squarcia <KirstenS@cupertino.org>
Subject: Agenda Item 14 Written Communications

Dear City Clerk,

Please include the following question which I have sent to the City Manager for item 14, September 19, 2023:

Item 14: This item is an account statement by Chandler and there is no mention of the City Treasurer which is per the CMC. Would the Treasurer want to sign this per the CMC? What do you think?

2.24.050 Investment Authority.

Pursuant to authority granted by state statutes, there is hereby delegated to the Treasurer the authority to invest or to reinvest funds of the City, or to sell or exchange securities so purchased, and who shall thereafter assume full responsibility for such transactions until such time as the delegation of authority is revoked. The Treasurer shall make a monthly report of all such transactions to the members of the City Council, the City Manager and also make it available for review by such other persons who may so request.
(Ord. 650, (part), 1974)

Thank you,

Kitty Moore



Kitty Moore

Councilmember

City Council

Kmoore@cupertino.org

(408) 777-1389

