



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Wednesday, June 21, 2023**

At 5:00 p.m. Mayor Hung Wei called the Special City Council Meeting to order and led the Pledge of Allegiance in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

ROLL CALL

Present: Mayor Hung Wei, Vice Mayor Sheila Mohan, and Councilmembers Liang Chao, J.R. Fruen, and Kitty Moore. Absent: none.

CLOSED SESSION REPORT – None

CEREMONIAL ITEMS - None

ACTION CALENDAR

1. Subject: Consider the Memorial Park Specific Plan conceptual design
Recommended Action: Staff recommends the City Council to:
 1. Receive the Memorial Park Specific Plan design updates;
 2. Confirm the Memorial Park Specific Plan design direction of the Conceptual Plan; and
 3. Proceed with the Memorial Park Specific Plan schematic design.Presenter: Susan Michael, Capital Improvement Programs Manager

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

Interim Public Works Director Chad Mosley and Capital Improvement Programs Manager Susan Michael, and Gates + Associates Consultants Michael Freitag and Rebecca Flanagan, gave a presentation and answered questions.

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

Larry Kubo opposed removal of the softball field at Memorial Park.

Ron Routh opposed removal of the softball field at Memorial Park.

Shani Kleinhaus (representing Santa Clara Valley Audubon Society) supported biodiversity and integrating nature at Memorial Park. (Submitted written comments).

Chris O'Reilly (representing LGCS Softball) opposed removal of the softball field at Memorial Park.

Nico Avlas (representing LGCS Softball) opposed removal of the softball field at Memorial Park.

Harlan Jackson opposed removal of the softball field at Memorial Park.

Ronny Tey opposed removal of the softball field at Memorial Park.

John Leong (representing Vintage Softball Club of Santa Clara) opposed removal of the softball field at Memorial Park.

William Bonin opposed removal of the softball field at Memorial Park.

Alesia Hacker opposed removal of the softball field at Memorial Park.

Lucy Howng (representing LGCS Softball) opposed removal of the softball field at Memorial Park.

Mahesh Pakala (representing Cupertino-Bhubaneswar Sister City) supported including a healing garden as part of the Memorial Park Plan.

Louise Saadati supported a Dog Off-Leash Area (DOLA) at Memorial Park that is larger than Mary Avenue Park, with a wide fence gate opening, and featuring grass surface.

Mike Stanek opposed removal of the softball field at Memorial Park.

Donny Garber opposed removal of the softball field at Memorial Park.

Jean Bedord supported improvements including expanding the Senior Center courtyard, better park access, a fitness station, gardens, a DOLA, and a vehicle lot on Anton Way.

Jennifer Rutherford opposed removal of the softball field at Memorial Park.

Rick Adkins (representing Geezers) opposed removal of the softball field at Memorial Park.

Annie Yang (representing Santa Clara Valley Audubon Society Environmental Action Committee) supported Memorial Park as an urban biodiversity hotspot by supporting local pollinators and planting native plants. (Submitted written comments).

Deepa Mahendraker supported a DOLA featuring grass surface and multipurpose area options, nature walk, and additional water fountains.

Nori supported modifications including a larger playground and locating the pickleball and basketball courts away from the playground and the picnic areas.

San R was concerned about the survey questions and outcomes resulting from input and supported no changes to Memorial Park and retaining the softball field as is.

Padma Garimella supported a DOLA with a large enough grass or clover surface and additional water fountains.

Lisa Warren opposed removal of the softball field and supported it as a potential multi-purpose space for dogs.

Parks and Recreation Commissioner Jennifer Shearin (representing self) supported bike parking locations and bike traffic garden and considering Parks and Recreation Commission input.

Mayor Wei closed the public comment period.

Councilmembers asked questions and made comments.

Wei moved to revise the schematic design to retain the existing softball field but find a location to add pickleball. Chao seconded with a friendly amendment to bring back another Conceptual Plan to retain the existing softball field, find locations for pickle ball and basketball court, explore options to reduce the size of the extra parking lot area on Anton Way; and include native plants and gardens, especially for the nature walk, as presented by the Audubon Society. (Wei accepted Chao's friendly amendment).

Chao made a second friendly amendment to come back as another Conceptual Plan but include an economical option with some additions, but most existing park features remain in the original locations, if possible. (Wei declined Chao's second friendly amendment and

it was not included).

Wei modified the motion to ~~bring back another Conceptual Plan~~ revise the Schematic Design to retain the existing softball field; prioritize finding a revised location for pickle ball and basketball court; consider options to reduce the size of the extra parking lot area on Anton Way; and include native plants and gardens, especially for the nature walk, as presented by the Audubon Society. (Chao accepted Wei's modification).

Final Motion:

Wei moved and Chao seconded as amended and modified to proceed with the Memorial Park Specific Plan design process into Schematic Design with the following revisions to the Conceptual Plan:

- Retain the existing softball field;
- Prioritize finding a revised location for pickle ball and basketball court;
- Consider options to reduce the size of the extra parking area on Anton Way; and
- Include native plants and gardens where feasible, especially in the nature walk area, as presented by the Audubon Society.

The amended and modified motion carried unanimously.

Councilmembers also provided the following comments for consideration when contemplating plan revisions:

- Consider installing temporary fence to fully enclose the existing softball field at Memorial Park for a pilot Dog Off-Leash Area (DOLA) program to evaluate the efficacy of a combined Softball/DOLA use for the area. (Moore)
- Provide Softball Field utilization data for use pre-pandemic. (Moore, Chao)
- Consider a small water feature/fountain for birds. (Chao)
- Consider a more economical features for the Specific Plan. (Chao)
- Consider reducing the parking or loop turnaround along the westerly property line if it could facilitate other amenities. (Fruen)
- Consider adopting a maintenance plan for native vegetation. (Fruen)
- Consider a covered area near the Quinlan Community Center. (Moore)
- Consider removing the central event lawn space to minimize the loss of other proposed amenities due to the inclusion of the softball field. (Fruen)
- Consider incorporating a bicycle garden as opposed to a tricycle track. (Fruen)
- Consider reducing the passive garden area to minimize the loss of other proposed amenities due to the inclusion of the softball field. Consider placing native vegetation in other passive areas throughout the park. (Moore)

Council recessed from 6:59 p.m. to 7:08 p.m.

POSTPONEMENTS AND ORDERS OF THE DAY – None

ORAL COMMUNICATIONS

Planning Commissioner Muni Madhhipatla (representing self) opposed Senate Bill 403: Discrimination on the basis of caste and supported the City sending a letter opposing the Bill.

Toby Leavitt (representing San Francisco Shakespeare Festival) supported the approved budget funding for Free Shakespeare in the Park and continued program participation by the City.

Rhoda Fry was concerned about City spending and values, budgetary pressures, councilmember conflicts of interest, and supported spending reductions and funding for Shakespeare in the Park.

Louise Saadati supported Council meeting efficiency with shorter durations, streamlined processes, shortened debate, and transparency and changes resulting from the Grand Jury Report.

San R supported working with corporate leasing offices to attract certain retail tenants to move into vacant retail spaces and permitting food trucks in vacant shopping malls.

Giresh Thobi opposed SB-403: Discrimination on the basis of caste and supported the City adopting a resolution opposing the Bill, and expediting Council consideration.

Lisa Warren supported collaboration, opposed limiting consideration of councilmember questions and input, and was concerned about the consent calendar public comment process.

Call-In User_1 was concerned about litigation involving the removal of an illegal structure on their property and supported fair treatment and new representation.

CONSENT CALENDAR (Items 2-9)

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

San R (Item 2) supported amendments prohibiting any profitable transactions and incentivizing compliance until the ridgeline repairs, soil cleanup, and reclamation plan is complete.

Jennifer Griffin (Item 2) supported securing all details and opposed dividing up the land for housing and was concerned about fire hazard potential and inadequate roads.

Mayor Wei closed the public comment period.

Fruen moved Mohan seconded to approve the items on the Consent Calendar, except for Items 7, 8, and 9 which were pulled for discussion. Ayes: Wei, Mohan, Chao, and Fruen. Noes: None.

Abstain: Moore. Absent: None.

Items 7, 8, and 9 were placed after Public Hearings for consideration.

2. Subject: Consider a Joint Policy Framework Agreement Regarding the Restoration and Potential Future Development of the Lehigh Quarry Property between the City of Cupertino and Santa Clara County
Recommended Action: Authorize the City Manager to execute a Joint Policy Framework Agreement Regarding the Restoration and Potential Future Development of the Lehigh Quarry Property between the City of Cupertino and Santa Clara County
3. Subject: Consider approval of the June 6 City Council minutes
Recommended Action: Approve the June 6 City Council minutes
4. Subject: Consider ratifying Accounts Payable for the periods ending May 5, 2023; May 12, 2023; May 19, 2023; and May 26, 2023
Recommended Action: A. Adopt Resolution No. 23-071 ratifying Accounts Payable for the Period ending May 5, 2023;
B. Adopt Resolution No. 23-072 ratifying Accounts Payable for the Period ending May 12, 2023;
C. Adopt Resolution No. 23-073 ratifying Accounts Payable for the Period ending May 19, 2023; and
D. Adopt Resolution No. 23-074 ratifying Accounts Payable for the Period ending May 26, 2023
5. Subject: Consider authorizing the City Manager to execute a Second Amendment to the Professional Services Agreement with Moss Adams, LLP
Recommended Action: Authorize the City Manager to execute a Second Amendment to the Professional Services Agreement with Moss Adams, LLP for continued internal auditor services, extending the current contract term by three years to June 30, 2026, and increasing the total contract amount to \$500,000 (\$100,000 annually)
6. Subject: Consider authorizing the City Manager to execute a Professional Services Agreement with The Pun Group, LLP for professional auditing services
Recommended Action: 1. Award a Professional Services Agreement for auditing services from June 2023 through June 2025 in a total not to exceed contract amount of \$420,859, with an option to extend the contract for two additional years in the amount of \$316,813 for a total contract amount of \$737,672, to The Pun Group, LLP;
2. Authorize the City Manager to execute a Professional Services Agreement with The Pun Group, LLP, when all conditions have been met; and
3. Authorize the City Manager to extend the contract for up to two years

PUBLIC HEARINGS

10. Subject: Consider a proposed mixed-use redevelopment project consisting of 34 residential units and approximately 7,482 square feet of commercial space. Project includes the removal and replacement of 51 development trees and a range of site and landscape improvements. Consider the adoption of a Mitigated Negative Declaration for the project, which includes the following discretionary approvals: Application Numbers TM-2021-003, ASA-2021-004, DP-2021-002, U-2021-001, TR-2022-006, EA-2022-005. Applicant(s): Carlson Chan (Prospect Venture LLC); Location: 1655 S. De Anza Blvd., APNs 366-10-061, -126.

Recommended Action: Staff recommends that the City Council adopt the Resolutions (Attachments A-F) to:

- a. Adopt Resolution No. 23-075 adopting the Mitigated Negative Declaration (EA-2022-005);
- b. Adopt Resolution No. 23-076 approving the Development Permit (DP-2021-002);
- c. Adopt Resolution No. 23-077 approving the Architectural and Site Approval Permit (ASA-2021-004);
- d. Adopt Resolution No. 23-078 approving the Use Permit (U-2021-001);
- e. Adopt Resolution No. 23-079 approving the Tentative Map (TM-2021-003); and
- f. Adopt Resolution No. 23-080 approving the Tree Removal Permit (TR-2022-006)

Presenter: Gian Martire, Senior Planner

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

Senior Planner Gian Martire gave a presentation.

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

Jennifer Griffin supported an Environmental Review Committee (ERC), working with San Jose on developments, and asked about including new park land and parking overflow.

Rhoda Fry supported assembling an ERC and preserving the trees on the edge of the property.

Mayor Wei closed the public hearing.

Councilmembers asked questions and made comments.

The applicant responded to questions.

Moore moved Fruen seconded the staff recommendation as amended by staff to:

1. Adopt Resolution No. 23-075 adopting the Mitigated Negative Declaration (EA-2022-005);
 2. Adopt Resolution No. 23-076 approving the Development Permit (DP-2021-002) as amended by staff to remove Condition 13 of the Development Agreement;
 3. Adopt Resolution No. 23-077 approving the Architectural and Site Approval Permit (ASA-2021-004);
 4. Adopt Resolution No. 23-078 approving the Use Permit (U-2021-001);
 5. Adopt Resolution No. 23-079 approving the Tentative Map (TM-2021-003); and
 6. Adopt Resolution No. 23-080 approving the Tree Removal Permit (TR-2022-006)
- The motion as amended carried unanimously.

Council recessed from 8:11 p.m. to 8:19 p.m.

ITEMS REMOVED FROM THE CONSENT CALENDAR

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

7. Subject: Consider To Be Determined list (“TBD List”) of agenda items requested by City Councilmembers
Recommended Action: Review the TBD List and modify the list as recommended below

Written communications for this item included emails to Council.

This item was pulled from the Consent Calendar for discussion.

City Manager Pamela Wu reviewed the staff report.

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

Jennifer Griffin was concerned about loss of the Legislative Review Committee (LRC) and local control and opposed Senate Bills 423 and 35 and removal of coastal commissions.

Rhoda Fry supported assembling an LRC and reviewing the Sign Ordinance and was concerned about the City taking a position on proposed legislative bills.

San R supported the City agendizing and adopting a resolution in opposition of Senate Bill 403 regarding discrimination on the basis of caste.

Mayor Wei closed the public comment period.

Councilmembers asked questions and made comments.

Fruen moved and Wei seconded to modify the TBD List as recommended with an amendment to bring back Item 7 Expanding noticing requirement from 300-ft to 500-ft in December. Fruen's main motion was not voted on.

Chao moved and Moore seconded a substitute motion to modify the TBD List as recommended with amendments to bring back Item 7 Expanding noticing requirement from 300-ft to 500-ft in December; and to bring back Item 2 Senate Bill ("SB") 423: Streamlined Housing Approvals: Multifamily Housing Developments: SB 35 Expansion and Item 3 Senate Bill ("SB") 403: Discrimination on the basis of caste sometime in July. Chao's substitute motion carried with Fruen and Wei voting no.

8. Subject: Consider approval of the May 16 City Council minutes (Continued from June 6, 2023)

Recommended Action: Approve the May 16 City Council minutes

Written communications for this item included an email to Council.

This item was pulled from the Consent Calendar for discussion.

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

Rhoda Fry requested a modification to the May 16 meeting minutes.

San R requested a modification and staff follow up on the last City Council meeting minutes.

Jennifer Griffin was concerned about public comment process for consent calendar items.

Mayor Wei closed the public comment period.

Councilmembers asked questions and made comments.

Fruen moved and Mohan seconded to approve the May 16 City Council minutes, as written.

Moore moved and Chao seconded a substitute motion to approve the May 16 City Council minutes with the amendment that Ms. Griffin's comments are reflected from her email, as presented by Chao. Moore's substitute motion failed with Chao and Moore voting yes.

Final Motion:

Fruen moved and Mohan seconded to approve the May 16 City Council minutes, as written. Fruen's main motion carried with Chao and Moore voting no.

9. Subject: Receive the FY 2021-22 Annual Comprehensive Financial Report (ACFR) and related supplemental reports (Continued from June 6, 2023)
Recommended Action: Receive the FY 2021-22 Annual Comprehensive Financial Report (ACFR) and related supplemental reports

Written communications for this item included an email to Council.

This item was pulled from the Consent Calendar for discussion.

Administrative Services Kristina Alfaro and Finance Director Jonathan Orozco.

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

Rhoda Fry was concerned about out of date and accurate reporting.

Mayor Wei closed the public comment period.

Councilmembers asked questions and made comments.

Council received the FY 2021-22 Annual Comprehensive Financial Report (ACFR) and related supplemental reports.

COUNCIL REPORTS AND COMMENTS

11. Subject: Councilmember Reports

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

CITY MANAGER REPORT

City Manager Pamela Wu polled Council for a potential future workshop and shared a video showing photos of recent City events: Wilson Park Ribbon Cutting, Teen Summer Kickoff, and Parent's Night Out.

ORAL COMMUNICATIONS - CONTINUED – None

INFORMATIONAL ITEMS

12. Subject: Receive the Monthly Treasurer's Report for May 2023
Recommended Action: Receive the Monthly Treasurer's Report for May 2023

Written communications for this item included an email to Council.

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

13. Subject: Receive the Monthly Treasurer's Investment Report for May 2023
Recommended Action: Receive the Monthly Treasurer's Investment Report for May 2023

Written communications for this item included an email to Council.

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

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Council did not hear this item.

ADJOURNMENT

At 9:47 p.m., Mayor Wei adjourned the Special City Council Meeting.

Minutes prepared by:



Kirsten Squarcia, City Clerk