



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, June 4, 2024

At 6:00 p.m., Mayor Sheila Mohan called the Regular City Council Meeting to order in City Hall Conference Room C, 10300 Torre Avenue.

ROLL CALL

Present: Mayor Sheila Mohan, Vice Mayor J.R. Fruen, and Councilmembers Liang Chao and Kitty Moore. Absent: Hung Wei.

CLOSED SESSION

In open session prior to closed session, Mayor Mohan opened the public comment period regarding any item on the agenda. No members of the public requested to speak, and Mayor Mohan closed the public comment period.

1. Subject: Conference with legal counsel - existing litigation pursuant to Government Code § 54956.9 (Harshit Sharma et al. v. City of Cupertino, Santa Clara County Superior Court Case No. 22CV39297)

Council met with legal counsel regarding the existing litigation (Harshit Sharma et al. v. City of Cupertino, Santa Clara County Superior Court Case No. 22CV392971).

RECESS

At 6:22 p.m., Mayor Mohan recessed the meeting. At 6:45 p.m., Mayor Mohan reconvened the meeting and led the Pledge of Allegiance in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

ROLL CALL

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

MOTION: Mohan moved and Fruen seconded to allow Councilmember Wei to participate in the meeting remotely. The motion passed with the following vote: Ayes: Mohan, Fruen, Chao, Moore. Noes: None. Abstain: None. Absent: Wei.

CLOSED SESSION REPORT

City Attorney Chris Jensen conducted the open session report regarding the closed session held at 6:00 PM. City Attorney Jensen reported that there was nothing to report.

CEREMONIAL ITEMS

- Subject: Proclamation recognizing June as Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Pride Month
Recommended Action: Present proclamation recognizing June as Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Pride Month

Written communications for this item included an email to Council.

Huy Le, De Anza College Equity & Engagement Division Counselor & Instructor, received the proclamation.

Mayor Mohan recognized June as LGBTQ+ Pride Month.

POSTPONEMENTS AND ORDERS OF THE DAY – None

ORAL COMMUNICATIONS

Written communications for this item included an email to Council.

The following members of the public spoke:

Helene Davis, Judy Wilson, Dawn McLeod, Ruhi Aggarwal, and Jocelyn Leanos, representing Cupertino Copertino Sister Cities Association, discussed their 2024 Student Exchange Program. (Submitted written comments).

Audit Committee Member Angela Chen (representing self), Angelo Noguero, Grace Lin, Alina Wong, Anav Daya, and Betty Huang, representing Cupertino-Hsinchu Sister City Association, discussed their 2024 Student Exchange Program. (Submitted written comments).

Brooke Ezzat discussed the City Organizational Chart and Council procedures.

Housing Commissioner Connie Cunningham (representing self) discussed SB 330 preliminary application No. PR-2024-017. (Submitted written comments).

Susan Bassi discussed the WomenSV organization.

Patricia Boone discussed the WomenSV organization.

Peggy Griffin discussed the City Organizational Chart. (Submitted written comments).

CONSENT CALENDAR (Items 3-12)

Item 7 was removed from the Consent Calendar by Councilmember Moore.

MOTION: Chao moved and Moore seconded to remove Item 8 from the Consent Calendar. The motion failed with the following roll call vote: Ayes: Chao and Moore. Noes: Mohan, Fruen, and Wei. Abstain: None. Absent: None.

Mayor Mohan opened the public comment period and the following members of the public spoke.

Peggy Griffin (Item 8)

San R (Item 9)

Louise Saadati (Item 8)

Lisa (Item 8)

Rhoda Fry (Items 8 and 9)

Mayor Mohan closed the public comment period.

Councilmembers asked questions and made comments.

MOTION: Moore and Chao moved to continue Items 8 and 9 to the next meeting. The motion failed with the following roll call vote: Ayes: Chao and Moore. Noes: Mohan, Fruen, and Wei. Abstain: None. Absent: None.

MOTION: Fruen moved and Mohan seconded approve the items on the Consent Calendar except as indicated. The motion passed with the following roll call vote:

Items 3, 4, 5, 6, 10, 11, 12: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None; and

Items 8 and 9: Ayes: Mohan, Fruen, and Wei. Noes: Moore. Abstain: Chao. Absent: None.

Item 7 was moved after the Action Calendar for consideration.

-
3. Subject: Approval of amended May 7, 2024 City Council minutes
Recommended Action: Approve the amended May 7, 2024 City Council minutes
4. Subject: Approval of the May 14, 2024 (Closed Session) City Council minutes
Recommended Action: Approve the May 14, 2024 (Closed Session) City Council minutes
5. Subject: Approval of the May 14, 2024 (Open Session) City Council minutes
Recommended Action: Approve the May 14, 2024 City Council minutes
6. Subject: Approval of the May 21, 2024 City Council minutes
Recommended Action: Approve the May 21, 2024 City Council minutes
8. Subject: Construction contract and a proposed amendment to the design consultant agreement and construction management services for the All-Inclusive Playground at Jollyman Park project
Recommended Action: 1. Award a construction contract for the All-Inclusive Playground at Jollyman Park Project (budget unit 420-99-051) in the amount of \$3,863,430 to QLM, Inc.;
2. Authorize the City Manager to execute the contract with QLM, Inc. when all conditions have been met;
3. Authorize the Director of Public Works to execute any necessary construction change orders with QLM, Inc., up to a contingency amount of \$386,350 (10%), for a total contract amount of \$4,249,780;
4. Authorize the City Manager to execute an amendment to the agreement with MIG, Inc. for Design Professional Services on the All-Inclusive Playground at Jollyman Park project (420-99-051, PO# 2022-0326) increasing the contract amount by \$45,000, for a new total not-to-exceed contract amount of \$467,411;
5. Authorize the City Manager to execute a professional services agreement with 4Leaf, Inc. for construction management services for a total not-to-exceed contract amount of \$393,081; and
6. Adopt Resolution No. 24-049 approving budget modification #2324-304, approving a transfer out of \$500,000 from the Park Dedication Fund (280) and a transfer into the All-Inclusive Playground at Jollyman Park Project (budget unit 420-99-051) and appropriating \$500,000 to this project.

Written communications for this item included an email to Council.

9. Subject: Approve an agreement with the City of San Jose to provide animal management services for a not-to-exceed amount of \$330,730 for fiscal year 2024-2025, \$343,959.20 for fiscal year 2025-2026, and \$357,717.57 for fiscal year 2026-2027, for a total of \$1,032,406.70, and delegate authority to the City Manager to award contract

extensions through June 30, 2033, depending on approved budget and acceptable services.

Recommended Action: That the City Council the agreement (Attachment A) to:

1. Authorize the City Manager to execute an agreement with City of San Jose to provide animal management services including Field Services, Shelter Services, and Dead Animal Services for a total not-to-exceed amount of \$1,032,406.70 for three years between fiscal years 2024-2025 and 2026-2027.
2. Authorize the City Manager to execute up to two (2) 3-year contract extensions, provided budget is available and services remain acceptable.

Written communications for this item included an email to Council.

10. Subject: Memorandum of Understanding (MOU) between the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee (TAC) member jurisdictions establishing ongoing management and operation of the edible food recovery program to comply with the requirements of Senate Bill (SB) 1383 (California's Short-Lived Climate Pollutant Reduction Strategy).

Recommended Action: Authorize the City Manager to sign a MOU between the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee (TAC) member jurisdictions establishing ongoing management and operation of the edible food recovery program to comply with the requirements of SB 1383 (California's Short-Lived Climate Pollutant Reduction Strategy).

11. Subject: Memorandums of Agreement on behalf of the City of Cupertino, as a coalition partner with other partner agencies, for the purpose of securing grant funds from the United States Environmental Protection Agency's (EPA) Climate Pollution Reduction Grants program for funding electrification of municipal facilities and implementing a regional reusable takeout foodware program.

Recommended Action: Adopt Resolution 24-050 authorizing the City Manager to:

- 1) Negotiate and sign Memorandums of Agreement and any amendments on behalf of the City of Cupertino, as a coalition partner with other partner agencies, for the purpose of securing grant funds from the EPA Climate Pollution Reduction Grants program for funding electrification of municipal facilities and implementing a regional reusable takeout foodware program; and
- 2) Negotiate and execute any documents necessary to accept and effectuate the grants.

12. Subject: Three-year agreement between the City of Cupertino and the County of Santa Clara (County) for the City's participation in the Countywide Household Hazardous Waste (HHW) Collection Program for Fiscal Years (FY) 2024/2025-2026/2027 using earmarked funds within the Resource Recovery Fund 520.

Recommended Action: Adopt Resolution No. 24-051 authorizing the City Manager to sign a three-year agreement between the City of Cupertino and the County of Santa

Clara (County) for the City's participation in the Countywide Household Hazardous Waste (HHW) Collection Program for Fiscal Years (FY) 2024/2025-2026/2027 using earmarked funds within the Resource Recovery Fund 520.

At 8:03 p.m., Mayor Mohan recessed the meeting. The meeting reconvened at 8:10 p.m. with all Councilmembers present.

PUBLIC HEARINGS

13. Subject: Approve the renewal (with no increase) of the 1992 Storm Drain Fee and renewal of the 2019 Clean Water and Storm Protection Fee with a 2.62% increase
Recommended Action: Adopt:
1. Resolution No. 24-052 (Attachment A) approving the renewal and collection of the 1992 Storm Drain Fee with no increase in rates for Fiscal Year (FY) 2024-25
 2. Resolution No. 24-053 (Attachment B) approving the renewal and collection of the 2019 Clean Water and Storm Protection Fee with a 2.62% increase in rates for FY 2024-25
- Presenter: Ursula Syrova, Environmental Programs and Sustainability Manager

Written communications for this item included a staff presentation.

Environmental Programs and Sustainability Manager Ursula Syrova gave a presentation.

Councilmembers asked questions and made comments.

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

MOTION: Moore moved and Fruen seconded to approve the Recommended Action to adopt:

1. Resolution No. 24-052 approving the renewal and collection of the 1992 Storm Drain Fee with no increase in rates for Fiscal Year (FY) 2024-25; and
2. Resolution No. 24-053 approving the renewal and collection of the 2019 Clean Water and Storm Protection Fee with a 2.62% increase in rates for FY 2024-25.

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

14. Subject: Consider the Recommended Operating and Capital Improvement Program Budgets for Fiscal Year (FY) 2024-25, adoption of the Operating and Capital Improvement Program Budgets for FY 2024-25, establishment of the Appropriation Limit, and related actions.
Recommended Action: 1. Adopt Resolution No. 24-054 establishing an Operating Budget of \$120,495,113 for FY 2024-25, which includes the following changes to the FY

2024-25 Proposed Budget, published on May 1, 2024:

- a. Approve the operating budget of \$120,392,308 outlined in the FY 2024-25 Proposed Budget.
 - b. Approve additional appropriations of \$32,500 for the Community Funding Grant Program as included in Attachment D.
 - c. Approve additional appropriations of \$3,905 for festival costs as included in Attachment D.
 - d. Approve additional appropriations of \$2,050 for the Artist Awards program as included in Attachment D.
 - e. Approve additional appropriations of \$64,350 for the animal services contract as included in Attachment D.
 - f. Approve a reduction in revenues of \$21,200 due to the elimination of the proposed permit parking and crane lift fees as included in Attachment D.
 - g. Approve additional revenues of \$212,614 for SB 1 as included in Attachment D.
 - h. Approve Community Funding Grants for the following organizations, allocating a total of \$32,500:
 - i. AINAK: \$2,750
 - ii. Cupertino Little League: \$16,000
 - iii. Cupertino Symphonic Band: \$3,000
 - iv. Rotary Club of Cupertino: \$4,000
 - v. STEMBoost Corporation: \$3,000
 - vi. West Valley Community Services: \$3,750
 2. Adopt Resolution No. 24-055 establishing a Capital Improvement Program Budget of \$26,151,380 for FY 2024-25
 3. Adopt Resolution No. 24-056 establishing an Appropriation Limit of \$132,542,385 for FY 2024-25
- Presenters: Kristina Alfaro, Director of Administrative Services and Thomas Leung, Budget Manager

Written communications for this item included an updated staff presentation, a desk item report with staff responses to questions received from councilmembers, and emails to Council.

Director of Administrative Services Kristina Alfaro and Budget Manager Thomas Leung gave a presentation.

Mayor Mohan opened the public hearing and the following members of the public spoke.

San R
Louise Saadati

Mayor Mohan closed the public hearing.

Councilmembers asked questions and made comments.

At 8:49 p.m., Mayor Mohan recessed the meeting. The meeting reconvened at 8:55 p.m. with all Councilmembers present (Wei 8:59 p.m.).

MOTION: Fruen moved and Wei seconded the Recommended Action to:

1. Adopt Resolution No. 24-054 establishing an Operating Budget of \$120,495,113 for FY 2024-25, which includes the following changes to the FY 2024-25 Proposed Budget, published on May 1, 2024:
 - a. Approve the operating budget of \$120,392,308 outlined in the FY 2024-25 Proposed Budget.
 - b. Approve additional appropriations of \$32,500 for the Community Funding Grant Program as included in Attachment D.
 - c. Approve additional appropriations of \$3,905 for festival costs as included in Attachment D.
 - d. Approve additional appropriations of \$2,050 for the Artist Awards program as included in Attachment D.
 - e. Approve additional appropriations of \$64,350 for the animal services contract as included in Attachment D.
 - f. Approve a reduction in revenues of \$21,200 due to the elimination of the proposed permit parking and crane lift fees as included in Attachment D.
 - g. Approve additional revenues of \$212,614 for SB 1 as included in Attachment D.
 - h. Approve Community Funding Grants for the following organizations, allocating a total of \$32,500:
 - i. AINAK: \$2,750
 - ii. Cupertino Little League: \$16,000
 - iii. Cupertino Symphonic Band: \$3,000
 - iv. Rotary Club of Cupertino: \$4,000
 - v. STEMBoost Corporation: \$3,000
 - vi. West Valley Community Services: \$3,750
2. Adopt Resolution No. 24-055 establishing a Capital Improvement Program Budget of \$26,151,380 for FY 2024-25; and
3. Adopt Resolution No. 24-056 establishing an Appropriation Limit of \$132,542,385 for FY 2024-25.

FRIENDLY AMENDMENT 1: Chao made a friendly amendment to restore the Citizens of Cupertino in the City Organizational Chart. (Fruen and Wei accepted the friendly amendment).

FRIENDLY AMENDMENT 2: Chao made a friendly amendment to place the City Treasurer position next to the Director of Administrative Services position on the City Organizational Chart. Fruen declined the friendly amendment, and it was not included in the motion.

FRIENDLY AMENDMENT 3: Chao made a friendly amendment to correct the Adopted FY 24-25 City Work Program (Attachment I) to move Item 20 Active Transportation Plan to the Projects That Require Additional Funding category. Fruen declined the friendly amendment and offered a modified amendment to provide authorization to staff to make various textual changes with relation to the item discussion. (Chao accepted the modified amendment). Wei declined the modified amendment, and it was not included in the motion.

The motion as amended (Friendly Amendment 1) passed with the following roll call vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

ACTION CALENDAR - None

ITEMS REMOVED FROM THE CONSENT CALENDAR

7. Subject: Law Enforcement Contract Extension with the County of Santa Clara Sheriff's Office
Recommended Action: Authorize the City Manager to extend the existing law enforcement contract with the County of Santa Clara Sheriff's Office for two years, from July 1, 2024, through July 1, 2026, and amend the terms of the agreement as needed during the extension

Written communications for this item included an email to Council.

This item was pulled from the consent calendar for discussion.

Mayor Mohan opened the public comment period and the following members of the public spoke.

Jennifer Griffin
Rhoda Fry (submitted written comments)
San R

Mayor Mohan closed the public comment period.

Councilmembers asked questions and made comments.

MOTION: Wei moved and Fruen seconded the Recommended Action to authorize the City Manager to extend the existing law enforcement contract with the County of Santa Clara Sheriff's Office for two years, from July 1, 2024, through July 1, 2026, and amend the terms of the agreement as needed during the extension. The motion passed with the following roll call vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

CITY MANAGER REPORT

City Manager Pamela Wu shared a video highlighting the Cupertino 311 issue reporting application.

ORAL COMMUNICATIONS - CONTINUED - None

COUNCILMEMBER REPORTS

15. Subject: Councilmember Reports

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

FUTURE AGENDA ITEMS

Moore added an informational memo to Council on funding to WomenSV.

ADJOURNMENT

At 9:49 p.m., Mayor Mohan adjourned the Regular City Council Meeting.

Minutes prepared by:

Kirsten Squarcia, City Clerk