

CC 11-21-2023

Oral
Communications

Written
Communications
(updated
11/22/23)

	2018-19	2019-20	2020-21	2021-22	2022-23
MAINTENANCE WORKER I/II	43	44	45	46	45
RECREATION COORDINATOR	11	11	13	12	11
MAINTENANCE WORKER III	7	7	7	7	7
ADMINISTRATIVE ASSISTANT	7	7	6	7	7
SR OFFICE ASSISTANT	3	6	6	7	6
COUNCIL MEMBER	5	5	5	5	5
PUBLIC WORKS SUPERVISOR	4	4	4	4	4
BUILDING INSPECTOR	4	4	4	4	4
PUBLIC WORKS PROJECT MANAGER	3	3	3	5	4
RECREATION SUPERVISOR	4	4	4	4	2
ENVIRONMENTAL PROGRAMS ASSISTANT	3	3	3	3	3
PERMIT TECHNICIAN	3	3	3	3	3
ASSOCIATE PLANNER	3	3	3	3	3
FACILITY ATTENDANT	3	3	3	3	3
OFFICE ASSISTANT	3	3	3	3	3
MULTIMEDIA COMMUNICATIONS SPEC	3	3	3	3	3
ACCOUNT CLERK II	3	2	3	3	3
MANAGEMENT ANALYST	3	3	2	3	3
SR CODE ENFORCEMENT OFFICER	3	3	3	2	2
SENIOR MANAGEMENT ANALYST	2	2	3	3	3
ASSISTANT PLANNER	3	2	2	2	2
I.T. ASSISTANT	2	2	2	2	2
ASSISTANT ENGINEER	0	2	3	3	2
PUBLIC WORKS INSPECTOR	2	2	2	2	2
BUSINESS SYSTEMS ANALYST	2	2	2	2	2
SENIOR PLANNER	2	1	2	3	2
COMMUNITY OUTREACH SPECIALIST	2	2	2	2	2
PLAN CHECK ENGINEER	2	2	1	2	2
ACCOUNTANT II	1	2	2	2	2
PLANNING MANAGER	1	2	2	2	2
GIS ANALYST	1	1	2	2	2
TRAFFIC SIGNAL TECHNICIAN	2	2	1	1	2
SENIOR CIVIL ENGINEER	1	1	2	2	2
HUMAN RESOURCES ANALYST II	1	1	2	2	2
ASSIST DIR OF PW ENGINEER	1	1	1	2	2
HUMAN RESOURCES TECH	1	1	1	2	2
ASSIST DIR OF COMMUNITY DEV	2	2	1	1	1
CASE MANAGER	2	2	2	0	0
ACCOUNTING TECHNICIAN	1	1	1	2	1
EQUIPMENT MECHANIC	1	1	1	1	1
LEAD EQUIPMENT MECHANIC	1	1	1	1	1
GIS PROGRAM MANAGER	1	1	1	1	1
INFO TECHNOLOGY MANAGER	1	1	1	1	1
ENV. PROG. COMPLIANCE TECHNICIAN	1	1	1	1	1
ENV. PROGRAMS SPECIALIST	1	1	1	1	1
ENVIRONMENTAL PROGRAM MGR	1	1	1	1	1
TRANSPORTATION MANAGER	1	1	1	1	1
TRANSIT & TRANSPORTATION PLANNER	1	1	1	1	1
STREET LIGHTING WORKER	1	1	1	1	1
CIP MANAGER	1	1	1	1	1
ENGINEERING TECHNICIAN	1	1	1	1	1
DIRECTOR OF PUBLIC WORKS	1	1	1	1	1
SR BUILDING INSPECTOR	1	1	1	1	1
PERMIT CENTER MANAGER	1	1	1	1	1
ASST DIR RECREATION COMM SVCS	1	1	1	1	1
HUMAN RESOURCES MANAGER	1	1	1	1	1
SENIOR ACCOUNTANT	1	1	1	1	1
FINANCE MANAGER	1	1	1	1	1
DIRECTOR OF ADMIN SERVICES	1	1	1	1	1
INNOVATION & TECHNOLOGY MGR APPS	1	1	1	1	1
CHIEF TECHNOLOGY OFFICER	1	1	1	1	1
LEGAL SERVICES MANAGER	1	1	1	1	1
DEPUTY CITY CLERK	1	1	1	1	1

CITY CLERK	1	1	1	1	1
ECONOMIC DEVELOPMENT MANAGER	1	1	1	1	1
ASSISTANT CITY MANAGER	1	1	1	1	1
CITY MANAGER	1	1	1	1	1
SUSTAINABILITY MANAGER	1	1	1	1	1
EMERGENCY SERVICES COORDINATOR	1	1	1	1	1
DIRECTOR OF PARKS REC	1	1	1	1	1
EXEC ASST TO THE CITY COUNCIL	1	1	1	1	1
PUBLIC INFORMATION OFFICER	1	1	1	1	1
ASSET MANAGEMENT TECHNCIAN	1	1	1	1	0
PUBLIC WORKS PROJECT MANAGER LTD	0	1	1	1	1
COMMUNITY RELATIONS COORD	0.75	0.75	0.75	0.75	1
DIRECTOR OF COMM DEVELOPMENT	0	1	1	1	1
DEPUTY BUILDING OFFICIAL	0	0	1	1	1
CLIMATE AND UTILITIES ANALYST	0	0	1	1	1
SERVICE CENTER SUPERINTENDENT	1	1	1	0	0
PARK RESTOR & IMPROV MNGR	1	1	1	0	0
RECREATION COORDINATOR LTD TERM	1	1	1	0	0
ASSIST TO THE CITY MNGR	0	1	1	1	0
DEPUTY BOARD CLERK	1	1	1	0	0
TRAFFIC SIGTECH APRNTICE	0	0	1	1	0
PUBLIC WORKS PROJECT MANAGER LT	0	0	0	1	1
CODE ENFORCEMENT OFFICER	0	0	0	1	1
SR. RECREATION SUPERVISOR	1	0	0	0	1
SENIOR ASSISTANT CITY ATTORNEY	1	0	0	0	1
CITY ATTORNEY	1	0	0	0	1
DEPUTY CITY MANAGER	1	0	0	0	1
NETWORK SPECIALIST	1	1	0	0	0
CITY ENGINEER	1	1	0	0	0
ASSOC CIVIL ENG LIMITTERM	1	1	0	0	0
SPECIAL PROGRAMS COORDINATOR	1	1	0	0	0
SENIOR MANAGEMENT ANALYST LTD	1	1	0	0	0
ENVIRONMENTAL PROGRAMS ASSIST LT	1	1	0	0	0
Description pending	0	0	0	0	1
Description pending	0	0	0	0	1
Description pending	0	0	0	0	1
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Description pending	0	0	0	0	1
Description pending	0	0	0	0	1
Description pending	0	0	0	0	1
ASSOCIATE CIVIL ENGINEER	1	0	0	0	0
DEPUTY CITY ATTORNEY	1	0	0	0	0
ASSISTANT CITY ATTORNEY	1	0	0	0	0
OFFICE ASSISTANT LIMITED TERM	1	0	0	0	0
ACCOUNT CLERK I	0	1	0	0	0
Total	201.75	202.75	203.75	208.75	225

From: [j w](#)
To: [City Clerk](#)
Subject: Fw: please correct immediately--injustice and deprive all-
Date: Tuesday, November 21, 2023 11:46:28 PM

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 clerk,

Thank for let us know! It started weeks earlier on the wrongful labeling, another sanction and ban. Actually we had more before. on other retaliation too. Huang family

----- Forwarded Message -----

From: j w <jzw97@yahoo.com>

To: "citycouncil@cupertino.org" <citycouncil@cupertino.org>; "citycouncil@cupertino.org" <citycouncil@cupertino.org>

Sent: Thursday, November 16, 2023 at 10:33:51 AM PST

Subject: Fw: please correct immediately--injustice and deprive all-

continue...

still silent and non stop prosecution persecution instead take the malicious unconstitutional ban out which danger our life...have sent numerous settlement package too...nothing or lot less comparing to just one crook(other residents referred the name for us to use)'s one month cost we pay to...

On Monday, November 13, 2023 at 04:53:35 PM PST, j w <jzw97@yahoo.com> wrote:

Dear city council,

No response from city, but another persecution, prosecution in said today(last Friday)--all defaulted, but defaulted 22cv404353 needs be out per Delinger, not allow/never had any continue, with inflated 10k to put down or no case. That is not justice, which SMW law firm force court to do now. said is instructed by the city. We need know who is the behind it and please stop the injustice, persecution, prosecution at the earliest. Huang

----- Forwarded Message -----

From: j w <jzw97@yahoo.com>

To: citycouncil@cupertino.org <citycouncil@cupertino.org>

Sent: Wednesday, November 8, 2023 at 08:49:01 AM PST

Subject: Fw: please correct immediately--injustice and deprive all

No response but escalated persecution prosecution ...

>>>>

Hello City Attorney Jensen,

When the millimeter thin particle board, exposed sides to rain wind, etc.. to mark as

bearing wall, etc.. is that right? within hours 5 figure retaliatory fine by the oppressor, no mtg increment \$50 ever, who thought the interpreter was an attorney, is that right? two claims each for different property taken down away even belongings no notice saying is repeated filing, is that right? using those and more as vexatious, etc. then put us into further peril in all aspects, could not defend robbery, death threat, attack as 100lbs grey whitish hair soft-spoken (hell you put us in) Asian with young, grave ill elders long term residents, even all remotely related is that all 'false delusional', is that right? all the doctored pictures, personal stuff, this time said not put in, then again again put to court/in all over while we could not keep track but need support family, but generated further peril, lists goes on, is that right? underhandedly changed court to execute while our request/ motion/injunction are all not be heard, is that right?.....you caused no one to want to help us under the color of the law is that right? lists goes on...

We need your immediate correction, in past months, outside law firms say you still make decisions but recused as you meant not 'work' on it, but the injustice escalated under the color of law to the weakest target in the city. We'd like to ask you to correct it immediately, can't fix it then resign. Thank you!

We pray!

Huang resident

Please refer to us anyone could help. Thank you!

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: Cupertino Public Facilities Corporation
Date: Wednesday, November 22, 2023 9:05:35 AM
Attachments: [Cupertino Public Facilities Corporation November 21 2023 City Council.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,
Please find attached my not-quite-ready-for-prime-time presentation last night pertaining to the Cupertino Public Facilities Corporation.
Hi City Clerk,
You can include in public records if you wish.
Happy Thanksgiving,
Rhoda Fry

admin appeal to
exist?

Concerns about City Finances Looking at Certificates of Participation

- Certificate of Participation is similar to a Muni bond, but it does not require a vote by the residents. Investors make money through “lease” revenues.
- Cost to City of Certificates of Participation is \$2.7M per year – *principal + interest*
- In 2020, City had \$27M in debt with interest rates of **3.000% to 3.125%**
Council was assured that refinancing would lower the interest rate – new interest rate was not disclosed
\$22M was refinanced at a rate of **4%!!!**
Why did City refinance at a higher interest rate?
Why didn't City provide total cash-out savings?
<https://cupertino.legistar.com/LegislationDetail.aspx?ID=6034958&GUID=4FB2DFF4-B6BC-4DED-89A8-1E1EC38D2EF6&Options=&Search=>
City pays about \$2.7M annually to finance debt
(source Annual Comprehensive Financial Report ACFR)
<https://www.cupertino.org/home/showpublisheddocument/33507/638242268831070000>

About the **Cupertino Public Facilities Corporation**

- The leases are managed through the “tax-exempt” Cupertino Public Facilities Corporation. It is unclear as to which properties are presently being leased with the City’s ACFR and the Certificate of Participation Official Statement. *Please straighten out.*
- City Council Members are directors of the Corporation – but the City has not abided by the rules required for the Corporation.
- **Annual meetings required** for all corporations and this requirement is spelled out in the Corporation’s bylaws. There is only a record of meetings for the following years: 1993, 2002, 2012, 2015, 2016, 2017, and 2020. Strangely, the 2012 minutes were approved at the 2020 meeting.
- **PLEASE MEET ANUALLY and EXPLAIN HOW THIS DEBT WORKS FOR COUNCILMEMBERS and the RESIDENTS**
- **Investors must be informed.** Have the investors in our Certificates of Participation been told about the City’s changing fortunes? Are our issues big enough to warrant a disclosure? The Electronic Municipal Market Access (EMMA®) website isn’t showing anything. *we’ve been told City can’t borrow \$ now.*

- Looking further, has the Cupertino Public Facilities Corporation really lost its tax-exempt status? The federal website shows that the last time an IRS 990 form was filed was for the 2013 year by Jennifer Chang, who subsequently retired and was later indicted for a massive embezzlement. Here is the revocation of the non-profit status?

**CUPERTINO PUBLIC FACILITIES
CORP**

EIN: 77-0131682 | Cupertino, California, United States

Auto-Revocation List

Organizations whose federal tax exempt status was automatically revoked for not filing a Form 990 series return or notice for three consecutive years.
Important note: Just because an organization appears on this list, it does not mean the organization is currently revoked, as they may have been reinstated.

Exemption Type: 501(c)(4) ⓘ

Exemption Reinstatement Date:

Revocation Date: 11-19-2017

Revocation Posting Date: 03-12-2018

- Has the City filed the IRS 8038-G form which is used by issuers of tax-exempt governmental obligations?
- The Annual State of Information forms have also been delinquent. The State's records list an initial filing in 1986, a delinquency for year 0 in 1988, 1991, 2000, and 2013; a pending suspension and penalty in 2013; and finally, a Statement of Information on 5/5/2020 and 6/13/2022. Note that non-profits can file every other year, but because the Corporation is no longer a non-profit per the IRS, is the 2023 filing overdue?

The Importance of the Annual Comprehensive Financial Report (ACFR)

It is used by investors and has required due dates. But the information doesn't reconcile with other facts and documents. *Helps to make informed budget and other decisions*

FISCAL YEAR	CDTFA 1% Sales-Tax Revenue	ACFR Reported Sales-Tax	
22/23	\$41,252,088	TBD	
21/22	\$57,475,110	\$43,647,000	\$13.8m
20/21	\$58,225,876	\$42,581,000	\$15.6m
19/20	\$35,468,863	\$35,657,214	?
18/19	\$31,799,696	\$24,902,000	\$6.9m

Why is there a difference between the Sales Tax Revenue Reported by the CDTFA and the ACFR?

Why is the City paying ~~\$9M~~ in tax-consulting payments?

\$15m

- There's a small note buried in the ACFR that says, "**Sales tax consultant payments which are contingent on revenues collected are netted against the related revenues.**" From what I can tell, these payments are actually our internet sales tax payments to Apple and Insight. Strangely, the 2019/2020 report gave the gross revenue and not the net revenue. The net revenue appears to have been correctly provided by the Certificate of Participation Official Statement as \$26,651,250 (this is evident when comparing the City's payments to Apple and Insight).
- But there's more – IMHO, the City has not been transparent with its over-the-top dependence on these tax-sharing agreements with its investors, City Council and the public. Furthermore, our exposure has only been described as "**business-to-business**" sales – and that doesn't seem right to me.
- Please have ANNUAL or more frequent meetings of the Corporation and be more transparent.

o Please be more transparent so we can make informed decisions.

From: [Rhoda Fry](#)
To: [City Council](#); [City Clerk](#); [Cupertino City Manager's Office](#)
Subject: Has the City created an escrow account? Has the City been repaid by Apple?
Date: Wednesday, November 15, 2023 1:14:05 PM

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Question for City Manager and for public comment for the next City Council Meeting,
Has the City created an escrow account to hold the sales-tax money in question?

Has the City been repaid by Apple?

Please refer to the link with the Apple/City agreement below.

[Reference is made to \(A\) the Agreement for Consultation Services \(the "Consultation Agreement"\), executed in 2007, by and between ACI Holdings, Inc \(aboutblaw.com\)](#)

Thanks,
Rhoda Fry

From: [Rhoda Fry](#)
To: [Cupertino City Manager's Office](#); [City Clerk](#); [City Council](#)
Subject: City Council 11/21/2023 Oral Communications Fry #2
Date: Tuesday, November 21, 2023 3:07:33 PM

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,

Please ask the City Manager to retain audio recordings of City commission meetings that don't have video recordings. Audio recordings are already being made but are only retained for 30 days for the purpose of creating meeting minutes. Because the Parks and Rec meetings are no longer being video-recorded, having an audio recording would be better than nothing.

Separately, I've noticed that .pdf files that are stored on the City website can take up a lot of room. When I download them, I often run them through an old version of Adobe Acrobat that I have and am able to shrink them down to a third of the original size. And I'm NOT zipping them. I'm just shrinking them and retaining all of the features including search.

Thanks,
Rhoda Fry

From: [Rhoda Fry](#)
To: [City Council](#); [City Clerk](#); [Cupertino City Manager's Office](#)
Subject: City Council November 21 2023 Oral Communications #3
Date: Tuesday, November 21, 2023 3:59:11 PM
Attachments: [City Budgeted Employment.pdf](#)

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City Council November 21 2023 Oral Communications #3

Dear City Council,

Can you please explain why we have budgeted for 23 extra jobs that do not appear to have ever been budgeted for in the past for this fiscal year?

The attached chart shows 23 jobs with “Description Pending.” Other searches shows these jobs sprinkled throughout various departments.

You will also notice that there are 23 more jobs budgeted now than we had pre-covid in 2018-19.

You can also find this chart by going here:

https://cupertino.opengov.com/transparency/?fbclid=IwAR3libaZ9QuMIBDfn7TNNbikPuf0hWU67wAFFWeZYPdwmLFvBjrMpU8agtk#/33189/accountType=fteCount&embed=n&breakdown=types¤tYearAmount=cumulative¤tYearPeriod=years&graph=bar&legendSort=desc&proration=true&saved_view=103399&selection=3B47265EDAEBBD4AA92D700FE18A69B7&projections=null&projectionType=null&highlighting=null&highlightingVariance=null&year=2023&selectedDataSetIndex=null&fiscal_start=earliest&fiscal_end=latest

Please explain.

Thanks,

Rhoda Fry

	2018-19	2019-20	2020-21	2021-22
MAINTENANCE WORKER I/II	43	44	45	46
RECREATION COORDINATOR	11	11	13	12
MAINTENANCE WORKER III	7	7	7	7
ADMINISTRATIVE ASSISTANT	7	7	6	7
SR OFFICE ASSISTANT	3	6	6	7
COUNCIL MEMBER	5	5	5	5
PUBLIC WORKS SUPERVISOR	4	4	4	4
BUILDING INSPECTOR	4	4	4	4
PUBLIC WORKS PROJECT MANAGER	3	3	3	5
RECREATION SUPERVISOR	4	4	4	4
ENVIRONMENTAL PROGRAMS ASSISTANT	3	3	3	3
PERMIT TECHNICIAN	3	3	3	3
ASSOCIATE PLANNER	3	3	3	3
FACILITY ATTENDANT	3	3	3	3
OFFICE ASSISTANT	3	3	3	3
MULTIMEDIA COMMUNICATIONS SPEC	3	3	3	3
ACCOUNT CLERK II	3	2	3	3
MANAGEMENT ANALYST	3	3	2	3
SR CODE ENFORCEMENT OFFICER	3	3	3	2
SENIOR MANAGEMENT ANALYST	2	2	3	3
ASSISTANT PLANNER	3	2	2	2
I.T. ASSISTANT	2	2	2	2
ASSISTANT ENGINEER	0	2	3	3
PUBLIC WORKS INSPECTOR	2	2	2	2
BUSINESS SYSTEMS ANALYST	2	2	2	2
SENIOR PLANNER	2	1	2	3
COMMUNITY OUTREACH SPECIALIST	2	2	2	2
PLAN CHECK ENGINEER	2	2	1	2
ACCOUNTANT II	1	2	2	2
PLANNING MANAGER	1	2	2	2
GIS ANALYST	1	1	2	2
TRAFFIC SIGNAL TECHNICIAN	2	2	1	1
SENIOR CIVIL ENGINEER	1	1	2	2
HUMAN RESOURCES ANALYST II	1	1	2	2
ASSIST DIR OF PW ENGINEER	1	1	1	2
HUMAN RESOURCES TECH	1	1	1	2
ASSIST DIR OF COMMUNITY DEV	2	2	1	1
CASE MANAGER	2	2	2	0
ACCOUNTING TECHNICIAN	1	1	1	2
EQUIPMENT MECHANIC	1	1	1	1
LEAD EQUIPMENT MECHANIC	1	1	1	1
GIS PROGRAM MANAGER	1	1	1	1

INFO TECHNOLOGY MANAGER	1	1	1	1
ENV. PROG. COMPLIANCE TECHNICIAN	1	1	1	1
ENV. PROGRAMS SPECIALIST	1	1	1	1
ENVIRONMENTAL PROGRAM MGR	1	1	1	1
TRANSPORTATION MANAGER	1	1	1	1
TRANSIT & TRANSPORTATION PLANNER	1	1	1	1
STREET LIGHTING WORKER	1	1	1	1
CIP MANAGER	1	1	1	1
ENGINEERING TECHNICIAN	1	1	1	1
DIRECTOR OF PUBLIC WORKS	1	1	1	1
SR BUILDING INSPECTOR	1	1	1	1
PERMIT CENTER MANAGER	1	1	1	1
ASST DIR RECREATION COMM SVCS	1	1	1	1
HUMAN RESOURCES MANAGER	1	1	1	1
SENIOR ACCOUNTANT	1	1	1	1
FINANCE MANAGER	1	1	1	1
DIRECTOR OF ADMIN SERVICES	1	1	1	1
INNOVATION & TECHNOLOGY MGR APPS	1	1	1	1
CHIEF TECHNOLOGY OFFICER	1	1	1	1
LEGAL SERVICES MANAGER	1	1	1	1
DEPUTY CITY CLERK	1	1	1	1
CITY CLERK	1	1	1	1
ECONOMIC DEVELOPMENT MANAGER	1	1	1	1
ASSISTANT CITY MANAGER	1	1	1	1
CITY MANAGER	1	1	1	1
SUSTAINABILITY MANAGER	1	1	1	1
EMERGENCY SERVICES COORDINATOR	1	1	1	1
DIRECTOR OF PARKS REC	1	1	1	1
EXEC ASST TO THE CITY COUNCIL	1	1	1	1
PUBLIC INFORMATION OFFICER	1	1	1	1
ASSET MANAGEMENT TECHNCIAN	1	1	1	1
PUBLIC WORKS PROJECT MANAGER LTD	0	1	1	1
COMMUNITY RELATIONS COORD	0.75	0.75	0.75	0.75
DIRECTOR OF COMM DEVELOPMENT	0	1	1	1
DEPUTY BUILDING OFFICIAL	0	0	1	1
CLIMATE AND UTILITIES ANALYST	0	0	1	1
SERVICE CENTER SUPERINTENDENT	1	1	1	0
PARK RESTOR & IMPROV MNGR	1	1	1	0
RECREATION COORDINATOR LTD TERM	1	1	1	0
ASSIST TO THE CITY MNGR	0	1	1	1
DEPUTY BOARD CLERK	1	1	1	0
TRAFFIC SIGTECH APRNTICE	0	0	1	1
PUBLIC WORKS PROJECT MANAGER LT	0	0	0	1
CODE ENFORCEMENT OFFICER	0	0	0	1

SR. RECREATION SUPERVISOR	1	0	0	0
SENIOR ASSISTANT CITY ATTORNEY	1	0	0	0
CITY ATTORNEY	1	0	0	0
DEPUTY CITY MANAGER	1	0	0	0
NETWORK SPECIALIST	1	1	0	0
CITY ENGINEER	1	1	0	0
ASSOC CIVIL ENG LIMITTERM	1	1	0	0
SPECIAL PROGRAMS COORDINATOR	1	1	0	0
SENIOR MANAGEMENT ANALYST LTD	1	1	0	0
ENVIRONMENTAL PROGRAMS ASSIST LT	1	1	0	0
Description pending	0	0	0	0
Description pending	0	0	0	0
Description pending	0	0	0	0
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Description pending	0	0	0	0
ASSOCIATE CIVIL ENGINEER	1	0	0	0
DEPUTY CITY ATTORNEY	1	0	0	0
ASSISTANT CITY ATTORNEY	1	0	0	0
OFFICE ASSISTANT LIMITED TERM	1	0	0	0
ACCOUNT CLERK I	0	1	0	0
Total	201.75	202.75	203.75	208.75

2022-23 Adopted

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CC 11-21-2023

Item No. 2

Mitigation Fee Act - Annual
& Five-Year Report for FY
2022-2023

Written Communications

From: [Kitty Moore](#)
To: [City Clerk](#); [Pamela Wu](#); [Kirsten Squarcia](#)
Subject: Questions and Written Communications for Item 2 CC Nov 21 Agenda
Date: Monday, November 20, 2023 9:12:10 AM
Attachments: [Pages from Written Communications \(Updated 11-08-2023\).pdf](#)

Dear City Clerk and Manager,

Attached please find my questions which are also written communications for Item 2 City Council Agenda for November 21. They are from the November 7, 2023 meeting this item was postponed from. Many of the questions are simple budget labeling questions to help readers follow along, some questions were answered in the pre-meeting but I would like the public to know the answers as well, and some questions needed more information.

Thank you very much!

Kitty Moore



Kitty Moore
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Attachments:

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Dear City Clerk,

Please include the following email and the attachments for Agenda Item 11 which I would like pulled from Consent.

AB 1600 requires that both general law and charter cities account for every fee that they collect under its terms. Funds collected for each capital facility or service shall be deposited in separate accounts and not commingled with any other funds for other impact fees. (Gov. Code § 66006(a).) While funds are accruing for individual capital facilities, the city must keep track of each fund and provide an annual report. (Gov. Code § 66006(b).) If the city fails to accurately account for the collected fees, the city can be required to refund the fees. (Gov. Code § 66001(d).)

The City Council must make these findings:

- a. The purpose of the development impact fees has been identified.
- b. There is a continued need for the improvements and a reasonable relationship between the fees and the impacts of development for which the fees are collected.
- c. The sources and amounts of funding anticipated to complete the financing of the improvements have been identified.
- d. The approximate dates for funding improvements have been identified.

I have the following questions/comments:

- CMC 14.05 references a Park Maintenance Fee which would be deposited in the Park and Recreational Facilities Acquisition and Maintenance Fund. I think this would qualify as a Development Impact Fee and the CMC indicates that a nexus study was done, however I am unable to locate this fund in the report and need assistance.
https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino_ca/0-0-0-88074#JD_Chapter14.05
 - **14.05.040 Requirements—General.** Any person who proposes to erect or construct any building or structure for which a building permit is required by the City, or who seeks a use permit or architectural and site approval from the City, must pay a fee, as determined under the provisions of this chapter, for the establishment, maintenance and rehabilitation of parks and recreation facilities within the City. Said fee shall be a condition precedent to the issuance of any required building permit, planned

development permit, use permit, or architectural approval.

- This fund would be separate from fund 280. Is that correct?
- CMC 13.08 Park Land Dedication Fee has a matching “Park dedication in-lieu fee fund” which I believe is fund 280 “Park Dedication,” is this correct and may the fund name be made to match the CMC wording?
 - The Lawrence Mitty purchase of about \$3M does not appear to be reflected in the report, please help me locate it.
- CMC 14.02 Transportation Impact Fee Program has a matching TIF Account which I believe is fund 271 Traffic Impact, is this correct and may the fund names be something like Transportation Impact Fee?
- CHAPTER 19.148: REQUIRED ARTWORK IN PUBLIC AND PRIVATE DEVELOPMENTS has an in lieu of payment for developments which appears to qualify as an AB 1600 Development Impact Fee. The City did collect funds from Westport for this fund. Because the fund has a codified, intended purpose it should probably have a separate fund in the budget and appear in the AB 1600 report? I noticed that Union City has an art fund in their AB 1600 report, for example.

19.148.090 In Lieu Payment for Artwork is Discouraged.

In some instances the placement of artwork on a particular property may not be feasible. The developer or property owner may apply to the Arts and Culture Commission for an in lieu payment alternative on projects that lack an appropriate location for public art, although such alternative is strongly discouraged. In such cases, an in lieu payment of 1.25% of the construction valuation may be made to the City, pursuant to the approval authority provisions of Cupertino Municipal Code Chapter [19.12.030](#).

- CMC 19.172 Below Market Rate Housing Program, I believe is fund 265 BMR Housing, does not have the fees listed by Ordinance which some other cities do, or the name of the account the fees would go into, it does however reference the Residential Housing Mitigation Program rules and regulations. Would it be better to have the fee and fund name codified?
- Fund 215 Storm Drain AB 1600 is another fund which is not codified however, was adopted by Resolutions 633 and 4422 from 1962 and 1977 per Attachment A for this agenda item. The fee costs appear to still be based off of 1977 values without update? While the city does have two storm drain fees in the CMC, it would seem that the Development Impact fee needed to be reviewed if the fees truly haven't been updated since 1977.
 - The 2018 Storm Drain Master Plan is here:
<https://records.cupertino.org/WebLink/DocView.aspx?id=731252&dbid=0&repo=CityofCupertino>

- Attachment A which is the City’s AB 1600 report, has multiple, unique, Public Works Projects funded by Conditions of Approval of various past projects. Some of the projects have changed since last year’s report, such as TM-2012-04 which used to state it was for Rodriguez and Pacifica but now states Stevens Creek Blvd. Class IV bikeway. Additionally, I could not locate any of these unique funds in the city financial reports to verify there is no commingling.
- The June 30, 2022 and June 30, 2023 Fund Balances are included as attachments. These balances are off in all instances from the amounts shown in the AB 1600 report. Where is the City getting the balance numbers from and in what bank account is the interest being derived from? Are we to assume these funds are in the Chandler account or elsewhere?

Thank you,

Kitty Moore



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June 2022 Report of City-wide Receipts, Disbursements, and Cash Balances

Cash and Investments

Fund Type	Fund Number/Name	Beginning Balance as of May 31, 2022	Receipts	Disbursements	Journal Adjustments	Ending Balance as of June 30, 2022
General Fund	100 General Fund	119,250,480	9,541,698	(4,962,941)	(580,913)	123,248,325
General Fund	130 Investment Fund	(1,200)	-	-	-	(1,200)
Special Revenue Funds	210 Storm Drain Improvement	2,351,326	-	(11,218)	-	2,340,108
Special Revenue Funds	215 Storm Drain AB1600	1,855,315	7,097	-	-	1,862,412
Special Revenue Funds	230 Env Mgmt Cln Crk Strm Drain	981,529	575,866	(100,384)	(103,792)	1,353,218
Special Revenue Funds	260 CDBG	526,002	-	(73,705)	-	452,297
Special Revenue Funds	261 HCD Loan Rehab	232,280	-	-	-	232,280
Special Revenue Funds	265 BMR Housing	6,045,158	3,350	(52,803)	(25,652)	5,970,054
Special Revenue Funds	270 Transportation Fund	12,670,077	224,692	(319,128)	(204,168)	12,371,473
Special Revenue Funds	271 Traffic Impact	750,695	-	-	-	750,695
Special Revenue Funds	280 Park Dedication	22,115,785	-	(35,249)	-	22,080,536
Special Revenue Funds	281 Tree Fund	138,323	-	-	-	138,323
Debt Service Funds	365 Public Facilities Corp	2,284,850	-	-	(2,278,000)	6,850
Capital Project Funds	420 Capital Improvement Fund	30,275,814	110,000	(520,657)	-	29,865,158
Capital Project Funds	427 Stevens Creek Corridor Park	174,018	-	-	-	174,018
Capital Project Funds	429 Capital Reserve*	9,546,568	-	-	-	9,546,568
Enterprise Funds	520 Resource Recovery	6,208,920	217,055	(159,454)	(84,641)	6,181,879
Enterprise Funds	560 Blackberry Farm	1,260,849	539	(62,849)	47,274	1,245,812
Enterprise Funds	570 Sports Center	2,326,278	-	(346,865)	81,553	2,060,966
Enterprise Funds	580 Recreation Program	3,454,398	11,545	(129,012)	12,741	3,349,672
Internal Service Funds	610 Innovation & Technology	1,809,088	-	(343,869)	736,187	2,201,406
Internal Service Funds	620 Workers' Compensation	3,947,638	-	(4,231)	73,109	4,016,516
Internal Service Funds	630 Vehicle/Equip Replacement	865,973	-	(185,307)	426,124	1,106,790
Internal Service Funds	641 Compensated Absence/LTD	691,266	-	790	(2,238)	689,817
Internal Service Funds	642 Retiree Medical	(3,732)	-	(114,486)	(3,720)	(121,938)
Total		\$ 229,757,697	\$ 10,691,842	\$ (7,421,366)	\$ (1,906,137)	\$ 231,122,036

* For reporting purposes, this fund rolls up/combines with Fund 420

Printed July 20, 2022

June 2023 Report of City-wide Receipts, Disbursements, and Cash Balances
Cash and Investments

Fund Type	Fund Number/Name	Beginning Balance as of May 31, 2023	Receipts	Disbursements	Journal Adjustments	Ending Balance as of June 30, 2023
General Fund	100 General Fund	134,781,301	7,318,800	(5,533,486)	91,789	136,658,405
General Fund	130 Investment Fund	189,996	-	-	-	189,996
Special Revenue Funds	210 Storm Drain Improvement	2,140,100	-	-	-	2,140,100
Special Revenue Funds	215 Storm Drain AB1600	1,872,123	6,696	-	-	1,878,819
Special Revenue Funds	230 Env Mgmt Cln Crk Strm Drain	844,761	559,840	(99,032)	-	1,305,569
Special Revenue Funds	260 CDBG	618,683	1,324	(1,367)	-	618,639
Special Revenue Funds	261 HCD Loan Rehab	222,300	-	-	-	222,300
Special Revenue Funds	265 BMR Housing	5,331,748	30	(35,086)	-	5,296,692
Special Revenue Funds	270 Transportation Fund	11,406,350	298,694	(150,218)	-	11,554,826
Special Revenue Funds	271 Traffic Impact	766,576	-	-	-	766,576
Special Revenue Funds	280 Park Dedication	18,678,878	30,000	(1,980)	-	18,706,898
Special Revenue Funds	281 Tree Fund	76,299	962	-	-	77,261
Debt Service Funds	365 Public Facilities Corp	2,322,250	-	-	(2,315,400)	6,850
Capital Project Funds	420 Capital Improvement Fund	24,939,898	53,333	(478,698)	-	24,514,534
Capital Project Funds	427 Stevens Creek Corridor Park	158,146	-	-	-	158,146
Capital Project Funds	429 Capital Reserve*	13,953,210	-	-	-	13,953,210
Enterprise Funds	520 Resource Recovery	5,466,411	134,397	(179,630)	-	5,421,178
Enterprise Funds	560 Blackberry Farm	890,349	1,471	(69,793)	67,105	889,131
Enterprise Funds	570 Sports Center	1,788,594	-	(267,308)	196,281	1,717,567
Enterprise Funds	580 Recreation Program	3,581,479	2,659	(123,042)	110,197	3,571,293
Internal Service Funds	610 Innovation & Technology	3,181,017	-	(316,657)	-	2,864,360
Internal Service Funds	620 Workers' Compensation	3,813,808	-	(3,302)	-	3,810,507
Internal Service Funds	630 Vehicle/Equip Replacement	1,240,360	-	(173,125)	-	1,067,235
Internal Service Funds	641 Compensated Absence/LTD	790,565	-	794	-	791,359
Internal Service Funds	642 Retiree Medical	(1,250,810)	-	(114,597)	-	(1,365,407)
Total		\$ 237,804,393	\$ 8,408,206	\$ (7,546,527)	\$ (1,850,028)	\$ 236,816,045

* For reporting purposes, this fund rolls up/combines with Fund 420

Printed July 06, 2023

For more information on funds, please see cupertino.org/fund-structure

CC 11-21-2023

Item #11

Accept the City Manager's
First Quarter Financial
Report for FY 2023-2024

Written Communications

From: [Kitty Moore](#)
To: [Pamela Wu](#); [City Clerk](#); [Kirsten Squarcia](#)
Subject: Written Communications and Questions for Item 11
Date: Monday, November 20, 2023 9:52:57 AM

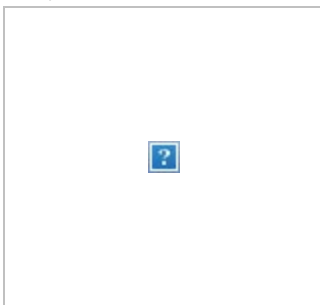
Dear City Manager and City Clerk,

For Item 11, Q1 update, may we have the following:

1. Please provide the number of unfilled positions which we had in January 2023 and how many remain unfilled today.
2. Please provide the free facility use/free staff time/Sheriff support which the City grants each year including Senior Center in the Parks and Recreation totals.
3. Please provide an update on the Vehicle replacement budget: how much was budgeted, what was purchased, what remains.

Thank you!

Kitty Moore



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