



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, February 6, 2024**

At 6:45 p.m., Mayor Sheila Mohan called the Regular City Council Meeting to order and led the Pledge of Allegiance in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

ROLL CALL

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

CLOSED SESSION REPORT - None

CEREMONIAL ITEMS

1. Subject: Recognition of STEM Winners from the City of Cupertino who participated in the Santa Clara County 2023 Synopsys Championship Science Fair
Recommended Action: Recognize STEM Winners from the City of Cupertino who participated in the Santa Clara County 2023 Synopsys Championship Science Fair

Santa Clara Valley Science and Engineering Fair Association (SCVSEFA) representative Aulena Chaudhuri spoke.

Mayor Mohan recognized the STEM Winners from the City of Cupertino who participated in the Santa Clara County 2023 Synopsys Championship Science Fair.

2. Subject: Recognition of February as Black History Month
Recommended Action: Recognize February as Black History Month

Mayor Mohan recognized February as Black History Month.

As part of ceremonial matters, Mayor Mohan recognized the passing of former Cupertino Mayor Philip Johnson. Mr. Johnson's wife, Petchie Johnson, and mother, Barbara Johnson, also spoke.

POSTPONEMENTS AND ORDERS OF THE DAY

MOTION: Wei moved and Moore seconded to postpone Item 11 Cessation of Hybrid Commission and Committee Meetings to February 21. The motion carried with the following vote: Ayes: Mohan, Fruen, Moore, and Wei. Noes: Chao. Abstain: None. Absent: None.

ORAL COMMUNICATIONS

Written communications for this item included emails to Council.

The following people spoke:

Jennifer Griffin discussed the Regional Housing Needs Allocation (RHNA) and Housing Element.

Parks and Recreation Commissioner Hemant Buch (representing self) discussed the Athletic Field Use Policy.

Brooke Ezzat discussed the recent weather event and the Housing Element.

Prabhu K discussed the Athletic Field Use Policy.

Rinky Gupta discussed the Athletic Field Use Policy.

Srividya Sundaresan discussed Cupertino Sports Center operations.

Srikantan Nagarajan discussed Cupertino Sports Center operations.

Parks and Recreation Commissioner Claudio Bono (representing self) discussed the Transient Occupancy Tax (TOT).

Louise Saadati discussed City finances and revenue strategies.

Parks and Recreation Commissioner Jennifer Shearin (representing self) discussed Regnart Creek Trail access.

San R discussed Fremont Union High School District (FUHSD) Board meetings and Cupertino Sports Center operations.

Babu Srinivasan discussed hybrid Commission meetings (Item 11) and City Commission appointments.

Tracy K discussed FUHSD Board meetings.

Call-In User 1 discussed a Code Enforcement matter.

CONSENT CALENDAR (Items 3-10)

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

MOTION: Wei moved and Fruen seconded to approve the items on the Consent Calendar except for items 7, 8, and 9 which were pulled for discussion. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

Items 7, 8, and 9 were placed after the Action Calendar for consideration.

3. Subject: Approve the December 19, 2023 (Closed Session) City Council minutes
Recommended Action: Approve the December 19, 2023 (Closed Session) City Council minutes
4. Subject: Approve the January 12, 2024 City Council minutes
Recommended Action: Approve the January 12, 2024 City Council minutes
5. Subject: Approve the January 17, 2024 City Council minutes
Recommended Action: Approve the January 17, 2024 City Council minutes
6. Subject: Approve the January 29, 2024 (Closed Session) City Council minutes
Recommended Action: Approve the January 29, 2024 (Closed Session) City Council minutes
10. Subject: Approve a Cooperative Services Agreement with SHI International Corporation for Managed, Detection, and Response (MDR) Cybersecurity services, for a total not-to-exceed amount of \$180,025.50.
Recommended Action: Authorize the City Manager to execute a Cooperative Services Agreement with SHI International Corp., for Managed, Detection, and Response (MDR) Cybersecurity services for a total not-to-exceed amount of \$180,025.50.

PUBLIC HEARINGS - None

ACTION CALENDAR

11. Subject: Cessation of Hybrid Commission and Committee Meetings

Recommended Action: Conduct City Council and Planning Commission meetings in a hybrid format while continuing to utilize in-person only meetings for all other Commissions and Committee meetings

Presenter: Bill Mitchell, Chief Technology Officer

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

As noted under Postponements and Orders of the Day, this item was postponed to February 21.

12. Subject: Cost Allocation Plan, User Fee Study, and Cost Recovery Policy

Recommended Action: Receive and File Cost Allocation Plan and User Fee Study and provide direction on the components of a Cost Recovery Policy

Presenter: Kristina Alfaro, Director of Administrative Services

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

Administrative Services Director Kristina Alfaro and Finance Manager Jonathan Orozco gave a presentation.

Courtney Ramos, Senior Vice President/Chief Financial Officer with Matrix Consulting Group, gave a presentation.

Councilmembers asked questions and made comments.

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

Peggy Griffin
Jennifer Griffin
San R
Tessa Parish

Mayor Mohan closed the public comment period.

At 8:37 p.m., Mayor Mohan recessed the meeting. The meeting reconvened at 8:46 p.m. with all Councilmembers present.

Council received and filed the Cost Allocation Plan and User Fee Study and provided the following input as potential components of a Cost Recovery Policy:

- The Council was supportive of the five policy components proposed by staff
- Councilmembers provided various comments specific to the fee study

ITEMS REMOVED FROM THE CONSENT CALENDAR

7. Subject: Second reading of Municipal Code Amendment to Chapter 19.76 to allow privately operated educational uses and privately operated public serving uses in the BA zoning district. (Application No. MCA-2023-003; Applicant: City of Cupertino; Location: BA-zoned (Public Building) properties in Cupertino)
Recommended Action: Conduct the second reading and enact Ordinance No. 23-2253: “An Ordinance of the City Council of the City of Cupertino to amend Cupertino Municipal Code Chapter 19.76 (Table 19.76.030) to allow privately operated educational uses and privately operated public serving uses in the BA zoning district”.

Written communications for this item included a supplemental report with staff responses to councilmember questions, Attachment B - Table of BA Zoned Sites, and emails to Council.

This item was pulled from the Consent Calendar for discussion.

Councilmembers asked questions and made comments.

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

Susan Wuthrich
Peggy Griffin (submitted written comments)
Jennifer Griffin
Lisa Warren
Louise Saadati
Babu Srinivasan
San R
Tessa Parish

Mayor Mohan closed the public comment period.

MOTION: Moore moved and Chao seconded a motion to direct staff to return for a first reading with the following changes:

- Under Table 19.76.030 - Permitted, Conditional, and Excluded Uses in BA, BQ and T Zones, Uses:
 2. Privately operated educational uses and privately operated public serving

uses, including but not limited to, day care and private educational facilities **and current school sites only**....; and

- Staff return with suggestions for definitions on public serving uses at future date. Council did not vote on this motion.

SECOND SUBSTITUTE MOTION: Chao moved and Moore seconded a second substitute motion to direct staff to return for a first reading with the following changes:

- Revise Item 2 of the table: Table 19.76.030 - Permitted, Conditional, and Excluded Uses in BA, BQ and T Zones to Revise it to remove the reference to the term “public serving uses” and “opinion of the Director of Community Development”.
2. Privately operated educational uses ~~and privately operated public serving uses, including, but not limited to, day care and private educational facilities, which, in the opinion of the Director of Community Development,~~ are similar to the existing permitted uses in the BA zoning district, and which do not create significant adverse impacts to the surrounding area.
 - With “CUP - PC” – Conditional Use Permit issued by the Planning Commission
- Add Item 3 to the table for “privately operated public serving uses” and with “CUP - CC” – Conditional Use Permit issued by the City Council
 - Include a list of all BA zoned properties and a map in the agenda packet
- Consider adding field use for non-school hours for Conditional Use Permit

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

SUBSTITUTE MOTION: Fruen moved and Mohan seconded a substitute motion to approve the recommended action to conduct the second reading and enact Ordinance No. 23-2253, with further direction to:

- Return to Council as part of the Zoning Code cleanup later in the year, with a definition of the expression “privately operated public serving uses,” and any other suggestions by staff on potential rezonings for other sites that would resolve some of the concerns that were raised during the meeting; and
- With additional direction to reach out to the resident who was concerned about access at Regnart.

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

8. Subject: Second reading of amendments to Municipal Code Chapter 19.12, Chapter 19.28 and Chapter 19.112 regarding Two-Story Permit and Accessory Dwelling Unit (ADU) laws. (Application No. MCA-2023-002; Applicant: City of Cupertino; Location: City-wide)

Recommended Action: Conduct the second reading and enact Ordinance No. 23-2254:

“An Ordinance of the City Council of the City of Cupertino to amend Municipal Code Chapter 19.12, Chapter 19.28 and Chapter 19.112 regarding Two-Story Permit and Accessory Dwelling Unit (ADU) Laws.”

Written communications for this item included an email to Council.

This item was pulled from the Consent Calendar for discussion.

Councilmembers asked questions and made comments.

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

Jennifer Griffin

Louise Saadati

Jean Bedord

Tessa Parish

Planning Commissioner Seema Lindskog

Mayor Mohan closed the public comment period.

MOTION: Wei moved and Mohan seconded a motion to extend the meeting to 11:00 p.m. to continue discussion on this item. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

MOTION: Chao moved and Wei seconded to move the recommended action to conduct the second reading and enact Ordinance No. 23-2254. The motion carried with the following vote: Ayes: Mohan, Fruen, Chao, Moore, and Wei. Noes: None. Abstain: None. Absent: None.

At 10:36 p.m., Mayor Mohan recessed the meeting. The meeting reconvened at 10:41 p.m. with all Councilmembers present.

9. Subject: Exclusive Negotiation Agreement (ENA) with an affordable housing developer on a City owned parcel within the Mary Avenue right-of-way (APN: 326-27-053)
Recommended Action: Consider the Draft Agreement attached (Attachment A) and decide whether to enter into the Agreement.

This item was pulled from the Consent Calendar for discussion.

Councilmembers asked questions and made comments.

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

Jennifer Griffin

Jean Bedord

Orrin Mahoney (representing Cupertino Rotary), on behalf of Jacob Billilleri (representing Charities Housing) and Arts and Culture Commissioner Kiran Varshneya Rohra (representing Cupertino Rotary)

Louise Saadati

Mayor Mohan closed the public comment period.

MOTION: Chao moved and Fruen seconded to approve the recommended action to enter into the Agreement.

FRIENDLY AMENDMENT: Chao made a friendly amendment to include in the action to involve the Housing Commission, when possible. The friendly amendment was not included in the motion.

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

COUNCIL REPORTS AND COMMENTS

13. Subject: Councilmember Reports

Written communications for this item included a desk item Council Report for Councilmember Moore.

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

CITY MANAGER REPORT

City Manager Pamela Wu reported on how the City prepared for and responded to the recent weather event.

ORAL COMMUNICATIONS - CONTINUED – None

INFORMATIONAL ITEMS - None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Council did not hear this item.

ADJOURNMENT

14. Subject: Adjourn in memory of former Cupertino Mayor Philip Johnson

At 10:58 p.m., Mayor Mohan adjourned the Regular City Council Meeting in memory of former Cupertino Mayor Philip Johnson.

Minutes prepared by:



Kirsten Squarcia, City Clerk