



**APPROVED MINUTES
CUPERTINO CITY COUNCIL**

Tuesday, May 20, 2025

REGULAR MEETING

At 6:00 p.m., Mayor Liang Chao called the Regular City Council Meeting to order in City Hall Conference Room C, 10300 Torre Avenue, Cupertino, CA 95014.

ROLL CALL

Present: Mayor Liang Chao, Vice Mayor Kitty Moore, and Councilmembers J.R. Fruen, Sheila Mohan, and R "Ray" Wang. Absent: None.

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

CLOSED SESSION

1. Subject: Conference with legal counsel - anticipated litigation; California Government Code Sections 54954(c) and 54956.9(e)(1): (1 case)

Council met with legal counsel regarding the anticipated litigation (1 case).

At 6:47 p.m., Mayor Chao recessed the meeting.

OPEN SESSION

At 6:57 p.m., Mayor Chao reconvened the Regular City Council Meeting in open session and led the Pledge of Allegiance in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference

ROLL CALL

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

Mohan, and R “Ray” Wang. Absent: None.

CLOSED SESSION REPORT

City Attorney Floy Andrews reported on the closed session held at 6:00 p.m. There was no reportable action.

CEREMONIAL ITEMS

2. Subject: Recognition of Public Works Week from May 18-24, 2025
Recommended Action: Recognize Public Works Week from May 18-24, 2025

Mayor Chao recognized Public Works Week from May 18-24, 2025.

POSTPONEMENTS AND ORDERS OF THE DAY

MOTION: Chao moved and Moore seconded to reorder the agenda to move Item 21 Study Session before Item 20 Third Quarter Financial Report. The motion passed with the following vote: Ayes: Chao, Moore, Fruen, Mohan, and Wang. Noes: None. Abstain: None. Absent: None.

ORAL COMMUNICATIONS

Written communications for this item included emails to the Council.

The following members of the public spoke:

Jean Bedord discussed the process for posting written communications for City Council meetings.

Planning Commissioner San Rao (representing self) discussed defunding Capital Improvement Program (CIP) projects.

Rhoda Fry discussed the Foothill-De Anza Community College District’s purchase of McClellan Terrace.

CONSENT CALENDAR (Items 3-17)

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

Jean Bedord (Item 9)

Mayor Chao closed the public comment period.

Councilmembers asked questions and made comments.

MOTION: Wang moved and Moore seconded to approve Items 3-16 on the Consent Calendar. The motion passed with the following vote: Ayes: Chao, Moore, Fruen, Mohan, and Wang. Noes: None. Abstain: None. Absent: None; and

MOTION: Wang moved and Chao seconded to approve Item 17 on the Consent Calendar. The motion passed with the following vote: Ayes: Chao, Moore, and Wang. Noes: Mohan and Fruen. Abstain: None. Absent: None.

3. Subject: Approval of July 9, 2024 City Council meeting minutes
Recommended Action: Approve the July 9, 2024 City Council meeting minutes
4. Subject: Approval of April 29, 2025 City Council meeting minutes
Recommended Action: Approve the April 29, 2025 City Council meeting minutes

Written communications for this item included a supplemental report and Attachment B - Amended Draft Minutes.

5. Subject: Approval of May 2, 2025 City Council meeting minutes
Recommended Action: Approve the May 2, 2025 City Council meeting minutes

Written communications for this item included a supplemental report and Attachment B - Amended Draft Minutes.

6. Subject: Approval of May 6, 2025 Special City Council meeting minutes
Recommended Action: Approve the May 6, 2025 Special City Council meeting minutes
7. Subject: Approval of May 6, 2025 Regular City Council meeting minutes
Recommended Action: Approve the May 6, 2025 Regular City Council meeting minutes
8. Subject: Consider setting a hearing date of June 17, 2025 to declare brush with potential fire hazard a public nuisance and consider objections to proposed removal through the Cupertino Brush Abatement Program (Wildland-Urban Interface Fire Area); and consider adopting a resolution declaring properties as having potential fire hazards from brush a public nuisance and authorizing removal (Postponed on March 4, 2025)
Recommended Action: Adopt Resolution No 25-029 declaring properties as having

potential fire hazards from brush a public nuisance; and set a hearing date of June 17, 2025 to declare brush with potential fire hazard a public nuisance and to hear objections to proposed removal

9. Subject: Ratifying Accounts Payable for the periods ending April 11, 2025 and April 25, 2025

Recommended Action: A. Adopt Resolution No. 25-030 ratifying Accounts Payable for the Period ending April 11, 2025; and

B. Adopt Resolution No. 25-031 ratifying Accounts Payable for the Period ending April 25, 2025

10. Subject: Accept the City's Investment Policy

Recommended Action: Adopt Resolution No. 25-032 accepting the City's Investment Policy

11. Subject: Award a contract to Lisa Molaro dba MudnStix, a sole proprietor/individual, for Ceramics and Art Instruction for a total not-to-exceed amount of \$1,025,000.

Recommended Action: 1. Award a five-year contract to Lisa Molaro dba MudnStix to provide Ceramics and Art Instruction at the Wilson Park Building in the amount not to exceed \$205,000 per year, totaling \$1,025,000; and

2. Authorize the City Manager to execute the contract with Lisa Molaro dba MudnStix when all conditions have been met.

12. Subject: Award a contract to Dan Gertmenian dba Dynamic Teaching, a sole proprietor/individual, for Math Olympiads Instruction for a total not-to-exceed amount of \$1,480,000.

Recommended Action: 1. Award a five-year contract to Dan Gertmenian to provide Math Olympiads Instruction in the amount not to exceed \$296,000 per year, totaling \$1,480,000; and

2. Authorize the City Manager to execute the contract with Dan Gertmenian when all conditions have been met.

13. Subject: Authorize OpenGov renewal contract for budgeting, performance, communications, and reporting software for a total amount of \$222,401 over three years

Recommended Action: Authorize the City Manager to execute an agreement with OpenGov, Inc. to renew a contract for budgeting, performance, communications, and reporting software for a total amount of \$222,401 over three years.

14. Subject: Acceptance of donation from the Houston Living Trust in the amount of \$70,000 for the Cupertino Senior Center.

Recommended Action: Authorize the City of Cupertino to accept a \$70,000 monetary

donation from the Houston Living Trust for the Cupertino Senior Center in accordance with the City's Donation Policy.

Written communications for this item included a supplemental report with staff responses to councilmember questions.

15. Subject: Fiscal Year (FY) 2025/2026 projects proposed to receive funding from the Road Maintenance and Rehabilitation Account (RMRA), created by Senate Bill (SB) 1.
Recommended Action: Adopt Resolution No. 25-033 (Attachment A) establishing a list of projects proposed to be funded by \$1,583,075 of SB 1 revenues, estimated to be received in FY 2025/2026

Written communications for this item included a supplemental report with staff responses to councilmember questions.

16. Subject: Summary Vacation of a Portion of Street Along 21831 Hermosa Avenue
Recommended Action: Adopt Resolution No. 25-034 summarily vacating a portion of street along 21831 Hermosa Avenue

Written communications for this item included a supplemental report with staff responses to councilmember questions.

17. Subject: Accept Ad-Hoc LRC City Council Subcommittee recommendation regarding SB 753, SB 79, AB 650, AB 340, AB 648, and SB 501
Recommended Action: Accept the Ad-Hoc LRC City Council Subcommittee recommendation regarding the following:
1. Support SB 753 (Cortese)
 2. Oppose SB 79 (Weiner)
 3. Support AB 650 (Papan)
 4. Oppose AB 340 (Ahrens)
 5. Oppose AB 648 (Zbur)
 6. Support SB 501 (Allen)

PUBLIC HEARINGS – None

ACTION CALENDAR

18. Subject: Modification to a previously approved Development Permit and Architectural & Site Approval for the Westport Development including, but not limited to, dwelling count and ground floor retail, Park Land Dedication Fees and minor changes to Building 1. (Application No(s): M-2024-003, ASA-2024-003; Applicant(s): Related California

(Cascade Zak); Location: 21267 Stevens Creek Boulevard; APN #326-27-048) (Continued from May 6, 2025)

Recommended Action: 1. Adopt Resolution No. 25-027 approving the First Addendum to an EIR and approving the Development Permit Amendment (M-2024- 003); and
2. Adopt Resolution No. 25-028 approving the Architectural and Site Approval Permit (ASA-2024-003).

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

Councilmembers disclosed any ex parte communications prior to deliberation in this matter.

Senior Planner Gian Martire gave a presentation.

Balint Simsik, Senior Vice President of Development with Related California, and Terry Ervin, Vice President Operations at Oakmont Senior Living, gave a presentation.

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

Nick

Ruben Galvan, representing Norcal Carpenters Union

Jennifer Griffin

Richard Adler

Jean Bedord

Lisa Warren

Rhoda Fry

Planning Commissioner San Rao (representing self)

Housing Commissioner Connie Cunningham (representing self)

Planning Commissioner Seema Lindskog (representing self)

Mayor Chao closed the public comment period.

Councilmembers asked questions and made comments.

AMENDED MOTION: Fruen moved an amended motion to approve the staff-recommended action with the following changes:

1. Amend the Resolution for M-2024-003 at Section 3, Clause 8, entitled
"Retail/Parkland In-Lieu Dedication Fee" to replace the existing text and to read as follows:

- a. Applicant may increase the proposed retail square footage to 6,500 square feet, with no increased parking requirement for the additional 2,500 square-foot retail component, in exchange for a refund of park in-lieu fees already paid in the amount of \$3 million, with said refund to be made at the time of issuance of building permit, with no further payment of such fees required for the additional thirteen (13) assisted living units proposed (i.e. forego payment of approximately \$300,000).
2. "Retail" here shall consist of the same retail uses as defined in the Heart of the City Specific Plan and shall be a "public accommodation or facility" as that term is defined in California Health and Safety Code section 19955.
3. Authorize the Director of Community Development to approve modifications to the project plans reasonably necessary to accommodate the additional ground floor retail square footage pursuant to the amendment in 1.a. above, including, but not limited to a square footage increase in the floor area at level 6 of the building.
4. Require the City Attorney to make such changes to the Resolutions for M-2024-003 and ASA-2024-003 to give effect to the amendment in 1.a. above and to avoid internal inconsistencies and to confirm the process for effectuating any refund necessary within fourteen (14) days of the adoption of this Resolution.

Fruen's amended motion did not have a second and it was not considered.

MOTION: Chao and Wang seconded the Recommended Action on the agenda to:

1. Adopt Resolution No. 25-027 approving the First Addendum to an EIR and approving the Development Permit Amendment (M-2024- 003); and
2. Adopt Resolution No. 25-028 approving the Architectural and Site Approval Permit (ASA-2024-003).

AMENDMENT: Chao amended the motion as follows:

- Strike Condition 8 in the Draft Resolution for M-2024-003:
 8. ~~RETAIL/PARKLAND IN LIEU OF DEDICATION FEE~~
~~Applicant to consider increasing the proposed retail square footage to 8,000 square feet, with no increased parking requirement for the additional 4,000 square feet retail component, in exchange for a refund of park in-lieu fees already paid in the approximate amount of \$3.69MM, with no further payment of such fees required for the additional thirteen (13) assisted living units proposed (i.e. forego payment of approximately \$300,000).~~
- Authorize the Director of Community Development to approve modifications to the project plans as reasonably necessary, in line with what Council acts on today. (Wang accepted the amendment).

Chao's amended motion passed with the following vote: Ayes: Chao, Moore, Fruen, and Wang. Noes: Mohan. Abstain: None. Absent: None.

19. Subject: Introduce an Ordinance amending Municipal Code Section 2.04.010 pertaining to Removal of Closed Session Start Time and Clarification that Meetings Rescheduled Due to Holidays or Elections Retain Regular Meeting Status (Continued from May 6, 2025)

Recommended Action: Introduce Ordinance No. 25-2271: "An Ordinance of the City Council of the City of Cupertino amending Title 2, Administration and Personnel, of the City of Cupertino Municipal Code amending Section 2.04.010, pertaining to closed session and regular meetings, by title only, and waive the first reading."

Written communications for this item included a Desk item report Attachment C - Amended Draft Ordinance (redline) and Attachment D - Amended Draft Ordinance (clean).

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

Councilmembers asked questions and made comments.

MOTION: Chao moved and Moore seconded as amended to:

Introduce Ordinance No. 25-2271: "An Ordinance of the City Council of the City of Cupertino amending Title 2, Administration and Personnel, of the City of Cupertino Municipal Code amending Section 2.04.010, pertaining to closed session and regular meetings, by title only, and waive the first reading;" as amended to include the modified version of the language in the Desk Item Report Attachment C - Amended Draft Ordinance (redline).

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

STUDY SESSION

21. Subject: Study Session regarding possible reactivation of and appropriate scope for the Environmental Review Committee ("ERC") and the Legislative Review Committee ("LRC"), and possibly amending the scope of the Audit Committee

Recommended Action: 1. Environmental Review Committee: Direct the Planning Commission to consider re-enacting the ERC and establishing its appropriate scope of review for recommendation to the City Council.

2. Legislative Review Committee: Direct the current limited scope and limited duration Ad Hoc Legislative Review Subcommittee to consider reenacting the standing Legislative Review Committee and establishing an appropriate scope of review for recommendation to the City Council.

3. Audit Committee: Direct the Audit Committee to consider amending its scope of

review for recommendation to the City Council

As noted under Postponements and Orders of the Day, this item was moved before Item 20.

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

Jennifer Griffin

Planning Commissioner San R (representing self)

Mayor Chao closed the public comment period.

Councilmembers asked questions and made comments.

MOTION: Chao and Moore seconded to:

1. Environmental Review Committee: Direct the Planning Commission to consider re-enacting the ERC and establishing its appropriate scope of review for recommendation to the City Council.
2. Legislative Review Committee: Direct the current limited scope and limited duration Ad Hoc Legislative Review Subcommittee to consider reenacting the standing Legislative Review Committee and establishing an appropriate scope of review for recommendation to the City Council.
3. Audit Committee: Direct the Audit Committee to consider amending its scope of review for recommendation to the City Council

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

At 9:47 p.m. Mayor Chao recessed the meeting and Councilmember Wang left the meeting. The meeting reconvened at 9:53 p.m. with Wang absent.

20. Subject: Accept the City Manager's Third Quarter Financial Report for Fiscal Year 2024-25

Recommended Action: 1. Accept the City Manager's Third Quarter Financial Report for Fiscal Year 2024-25

2. Adopt Resolution No. 25-035 approving Budget Modification No. 2425-390, decreasing appropriations by \$(157,425) and increasing estimated revenues by \$5,411,435.

Written communications for this item included a staff presentation, revised staff presentation, supplemental report with staff responses to councilmember questions, Attachment H – Updated Special Projects - Based on Special Project Policy, Amended

Attachment B - Draft Resolution Exhibit A, Amended Attachment D – Description of Carryovers and Adjustments as of March 31, 2025, and Attachment I - Amended Staff Report Third Quarter Adjustments Table.

As noted under Postponements and Orders of the Day, this item was moved after Item 21.

Director of Administrative Services Kristina Alfaro and Acting Budget Manager Toni Oasay-Anderson gave a presentation.

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

Councilmembers asked questions and made comments.

MOTION: Mohan and Chao seconded to:

1. Accept the City Manager's Third Quarter Financial Report for Fiscal Year 2024-25
2. Adopt Resolution No. 25-035 approving Budget Modification No. 2425-390, decreasing appropriations by \$(157,425) and increasing estimated revenues by \$5,411,435.

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

ITEMS REMOVED FROM THE CONSENT CALENDAR – None

CITY MANAGER REPORT

22. Subject: City Manager Report

Acting City Manager Tina Kapoor conducted the City Manager's Report.

ORAL COMMUNICATIONS - CONTINUED – None

ADJOURNMENT

At 10:28 p.m., Mayor Chao adjourned the Regular City Council Meeting. There was no Council discussion on the remaining agenda items.

COUNCILMEMBER REPORTS

23. Subject: Councilmember Reports

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

FUTURE AGENDA ITEMS

The Council did not hear this item.

24. Subject: Upcoming Draft Agenda Items Report

A tentative council meeting agenda calendar was provided in the published agenda.

Minutes prepared by:



Kirsten Squarcia, City Clerk