

CC 05-14-2024

Item No. 1

6th Cycle Housing Element  
and Associated General Plan  
Amendments

Written  
Communications

**From:** [Peggy Griffin](#)  
**To:** [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2024-05-14 City Council Meeting-ITEM1-Housing Element  
**Date:** Monday, May 13, 2024 12:33:42 PM  
**Attachments:** [image002.png](#)

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PLEASE INCLUDE THE FOLLOWING EMAIL IN WRITTEN COMMUNICATION FOR THE ABOVE MEETING AGENDA ITEM.

Dear City Council and Staff,

I was unable to attend the 4-29-2024 Special Meeting of the Planning Commission on the 2023-2031 Housing Element but watched the video. For those of you who did not watch or attend this meeting, I'd like to point out several key points not addressed in the Council's Staff Report:

1. Over and over the Planning Commission expressed their disappointment and frustration at not having ANY public meetings since July 2022, almost 2 years (!), to discuss, provide comments, get the public's buy-in on the Housing Element as it evolved.
2. Being asked to review and approve this huge document yet being told repeatedly that they could not make changes without significant consequences! So, the net result is their input changes nothing!

So, when you read the 2 paragraphs at the top of page 5 of the Staff Report, please note that what it does not say is that staff told the Planning Commissioners not to change anything! You will be told the same thing so save yourself time and frustration by not bothering to read any of it!

Sincerely,  
Peggy Griffin

Please reference the Staff Report, Page 5 of 6, top of page 5 below:

*Planning Commission:*

At a special meeting of the Planning Commission held on April 29, 2024, the Commission adopted PC Resolution No. 2024-05 recommending approval of the proposed changes, with a minor edit to remove one site from the Priority Housing Sites list, on a 3-2 vote (Madhhipatla and Scharf: No). The Commission discussed two policies at length – the missing middle strategy related to duplex development on certain R1 lots and the parkland dedication fee study. Both policies were incorporated in the draft Housing Element to address HCD comments related to Affirmatively Furthering Fair Housing and housing constraints. Ultimately, the Commission did not recommend any changes to these policies.

Eight members of the public spoke at the meeting. Comments included concerns about the validity of the RHNA numbers, the missing middle strategy and associated parking impacts, the continued use of Below Market Rate Affordable Housing Funds for residential rehabilitation projects without any specified income level restrictions, ensuring that the policies cover programs for seniors, a request to include prevailing wage requirements for development projects, and questions about environmental review. None of the comments received at the hearing warranted any changes to the draft Housing Element or the associated general plan amendments.

**From:** [Peggy Griffin](#)  
**To:** [Piu Ghosh \(she/her\)](#); [Luke Connolly](#); [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2024-05-14 City Council Meeting, ITEM1 Housing Element - QUESTION-LAND USE DESIGNATION CHANGES  
**Date:** Monday, May 13, 2024 3:31:41 PM  
**Attachments:** [image001.png](#)

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Dear Staff and City Council,

Staff Report, Page 3 of 6, paragraph 3:

residential densities. Due to this, some properties, while not designated as Priority Housing Sites, are identified with a different land use designation on the land use map (see Exhibit GPA-7) to ensure internal consistency. However, *these do not* result in any change to development standards or residential density for any of these sites.

Q: Could you please provide a list of the properties (addresses and APN) whose land use designation has changed and their current and future designations?

The land use map is huge and hard to read. Comparing every single color to find the changes is difficult. This would be very helpful. Thank you.

Sincerely,  
Peggy Griffin

**From:** [Peggy Griffin](#)  
**To:** [Piu Ghosh \(she/her\)](#); [Luke Connolly](#); [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2024-05-14 City Council Meeting-ITEM1 - Housing Element - Dish N Dash site not removed  
**Date:** Monday, May 13, 2024 3:49:29 PM  
**Attachments:** [image001.png](#)

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Dear Piu, Luke and City Council,

Based on the Planning Commission meeting, HCD told staff to remove the Dish N' Dash site (Site ID 48, APN 359-08-029) from the Priority Housing Sites. BUT, when I look at Table B4 it is still listed but with an asterisk by it throughout Appendix B.

Staff has stated that "only the priority housing element sites will be rezoned", nothing else.

**Q: Will Site ID 48 be rezoned?**

It appears in the B4 Tables BUT is NOT a priority housing element site. This seems confusing. Please clarify. Thank you.

Sincerely,  
Peggy Griffin

PDF Page 246 of 330, bottom of page

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Source: City of Cupertino, September 2023

**NOTE:** \*The City is not relying on site 48 to accommodate the RHNA and capacity is not reflected in Table B4-12.

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**From:** [Peggy Griffin](#)  
**To:** [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** FW: 2024-05-14 City Council Meeting-ITEM1 Housing Element - MOBILITY BANKING FEE and PARKING -  
**Date:** Tuesday, May 14, 2024 3:17:55 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

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Dear City Council and Staff,

FYI...A few points regarding the Mobility Chapter of the Housing Element:

1-"Unbundling parking" means projects can charge their residents extra for parking. For example, an apartment can have a base fee then if you want a parking space you'd pay extra each month. In SF, this means the apartment residents try to park elsewhere so they don't have to pay the fee. This means it impacts the nearby neighborhoods.

IMPORTANT...Now, couple this "unbundling" with the city's decision to charge for parking permits, it means that the cost of parking for these new apartments is moved from the developer to the nearby residents! Enforcement becomes a bigger issue and additional cost to the city which trickles down to home owners.

2-VMT Mitigation Banking Fee

Means the money goes into a big pot that does not have to fix or mitigate the problem at the project but could be used clear across town!

WOW! How is this better?

Sincerely,  
Peggy Griffin

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**From:** Peggy Griffin <griffin@compuserve.com>  
**Sent:** Tuesday, May 14, 2024 2:56 PM  
**To:** 'City Council' <CityCouncil@cupertino.org>  
**Cc:** 'City Clerk' <CityClerk@cupertino.org>; 'Luke Connolly' <LukeC@cupertino.org>; 'Piu Ghosh (she/her)' <PiuG@cupertino.gov>  
**Subject:** 2024-05-14 City Council Meeting-ITEM1 Housing Element - MOBILITY BANKING FEE and

## PARKING

PLEASE INCLUDE THIS EMAIL AS PART OF WRITTEN COMMUNICATION FOR THE ABOVE MEETING AGENDA ITEM.

Dear City Council, Asst. Community Development Director Luke Connolly and Planning Manager Piu Ghosh,

NOTE: At the 4-29-2024 Planning Commission Meeting, at video point 1:02:07, Commissioner Lindskog asked Assistant Director Connolly...

PC QUESTION: We can't make changes to the Housing Element but does it apply to the Mobility and Land Use Element?

STAFF ANSWER (Luke Connolly): It would not apply to those to the same degree.

With that in mind, PLEASE consider making changes to aspects of the Mobility and Land Use Elements!

### EXAMPLE - VMT MITIGATION BANKING

NOTE: M-1.2.4 means that if one project will have significant transportation impacts and is required to pay into a "VMT Mitigation Banking Fee Program", that money does not need to be spent to mitigate the issues caused by that specific project!!! It could be used clear across town and not fix or mitigate anything related to traffic for the project!!!

M-1.2.4: VMT Mitigation Banking Fee Program  
Establish a VMT Mitigation Banking Fee Program. This  
program shall fund the construction of facilities  
throughout Cupertino that support the reduction of  
VMT per service population impacts from new  
development and redevelopment projects.

~~Participate in the development of~~  
~~new multi-modal analysis methods and impact~~  
~~thresholds as required by Senate Bill 743. However,~~  
~~until such impact thresholds are developed, continue~~  
~~to optimize mobility for all modes of transportation~~  
~~while striving~~

~~to maintain the following intersection Levels of~~  
~~Service (LOS) at a.m. and p.m. peak traffic hours:~~

- ~~• Major intersections: LOS-D~~
- ~~• Stevens Creek Boulevard and De Anza Boulevard: LOS-E+~~
- ~~• Stevens Creek Boulevard and Stelling Road: LOS E+~~
- ~~• De Anza Boulevard and Bollinger Road: LOS E+~~

### EXAMPLE – PARKING METERS

NOTE: Charging for parking has multiple issues:

1-You will kill what little retail we have left! I once dropped off shoes at a local Cupertino store to be fixed and when I returned there were no parking spaces and there was no street parking allowed so I had to do multiple trips to finally pick up my shoes. I NEVER returned to that store again.

2-If you have parking meters or paid parking, you MUST enforce it by hiring people to ticket violators. You MUST get more vehicles for those meter people to cruise our streets. You MUST have a way to catch multiple offenders that just pile up their parking tickets.

#### M-1.2.2: Citywide VMT Reduction

Establish a framework for reducing VMT at the citywide scale. These measures may include, but are not limited to:

- Working with Valley Transit Authority to increase bus frequency and speed throughout Cupertino.
- Unbundling parking costs from property costs.
- Developing a fair-share cost program for Silicon Valley Hopper or car share initiatives for development projects.
- Implementing market pricing for parking spaces throughout the city.
- Limiting parking supply.
- Discouraging single occupancy vehicle travel.
- Implementing a citywide bikeshare program.

#### **EXAMPLE – UNBUNDLED PARKING**

NOTE: “Unbundled Parking” is when apartments and offices charge extra for parking. For an apartment, nickel-and-diming the apartment residents by charging additional monthly fees for parking, pets, breathing, etc. increases the cost of living in Cupertino!

**IMPORTANT:** It also means residents of those apartments will park on neighboring streets, impacting the local residents! So, now with fees for permit parking, you are moving the cost of apartment parking onto the neighboring residents!!!

In San Francisco, where some apartments have unbundled parking, the local residents are forced to pay for a PERMIT PARKING STICKER so they can park in front of their house! Then the city is forced to enforce this parking permit. Who pays for the decision to unbundle? Why of course the nearby neighbors, not the development that caused the problem!



**POLICY M-6.2: OFF-STREET PARKING**

Ensure new off-street parking is properly designed and efficiently used.

**POLICY M-6.3: UNBUNDLED PARKING**

Where required by State law, require residential, commercial, and office uses to unbundle parking. Encourage commercial and office uses to unbundle parking.

Sincerely,  
Peggy Griffin

**From:** [Peggy Griffin](#)  
**To:** [City Council](#)  
**Cc:** [City Clerk](#); [Luke Connolly](#); [Piu Ghosh \(she/her\)](#)  
**Subject:** 2024-05-14 City Council Meeting-ITEM1 Housing Element - MOBILITY BANKING FEE and PARKING  
**Date:** Tuesday, May 14, 2024 2:55:52 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

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~~Participate in the development of new multi-modal analysis methods and impact thresholds as required by Senate Bill 743. However, until such impact thresholds are developed, continue to optimize mobility for all modes of transportation while striving~~

~~to maintain the following intersection Levels of Service (LOS) at a.m. and p.m. peak traffic hours:~~

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Sincerely,  
Peggy Griffin



**From:** Rhoda Fry  
**To:** City Clerk; City Council  
**Subject:** City Council Agenda Item #1 - more housing element comments  
**Date:** Tuesday, May 14, 2024 12:04:05 PM

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Please find below my comments to the planning commission from April 29.  
They are also applicable to today's agenda.  
Thanks, Rhoda

**From:** Rhoda Fry <fryhouse@earthlink.net>  
**Sent:** Monday, April 29, 2024 5:34 PM  
**To:** 'planningcommission@cupertino.org' <planningcommission@cupertino.org>  
**Subject:** Agenda Item #2 - housing element comments

Dear Planning Commission,

Regarding the housing element, I was shocked by the number of changes that have been made recently without public participation. One of these is the policies. With so many high-density sites already defined, we do not need to be adding more. I would have liked to see these late additions removed.

Regarding the Evulich Court site. All of a sudden the site could grow by 0.4 acres because the public road into the site could be purchased by the property owner. Unfortunately the GPA-2022-001 (see below snip) is very hard to read because it only lists APNs – so many other documents also listed addresses and it would have been better to list them here. Originally, the combination of four properties was expected to generate a maximum of 89 homes. With the addition of the road into the property, it is now expected to generate a maximum of 104 homes. And who knows how many more could be added after throwing in a few density bonuses.

While I do think that it is a good idea to include the public road into the project to improve the distribution of new homes, I do not think that it should increase the effective housing density by 20%.  
**Can you please modify the density of this “Transportation lot” for adding no density to the project?**

356 06 001	0.73	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	30
356 06 002	0.69	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	30
356 06 003	0.25	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
356 06 004	0.87	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
N/A (Evluch Ct)	0.43	Transportation	0	0	Residential – Medium/ High Density	20.01	35	No change

Also, I am concerned about the Housing Element not having CEQA. When a developer needs to do CEQA, they have nothing to tier off of. How do you decide which projects are infill and which are not? While I am not personally affected by traffic on Linda Vista, I am keenly aware of traffic in the tri-school (Lincoln, Kennedy, Monta Vista) area and cannot imagine what adding 104 homes (plus density bonus plus other projects in the area in turning corner lots into multi-family) would do to traffic. Where is the study on that? And with all of that traffic, can an emergency-vehicle get in or out of the area timely? And I'm just using this site as an example – I am confident that there are other issues within the housing element as well that should get ironed out.

Finally we need to do what we can to retain our park space. I was dismayed to see that the park mitigation fees could go down. By allowing higher density on so many properties, the property values of those properties have increased and should have an appropriate fee to provide additional park space. I would also like to see the calculations that were derived in the document for the decline of park space as specified in our General Plan and the use of that new lower number as a benchmark.

Sincerely, Rhoda Fry

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**From:** [Rhoda Fry](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** Cupertino City Council 5/14/2024 Agenda Item #1 Housing Element - - - comment #2  
**Date:** Tuesday, May 14, 2024 11:23:07 AM

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I see that Dish Dash has been removed from the count for RHNA numbers.  
Why isn't that property also removed from the list?



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**From:** [Jennifer Griffin](#)  
**To:** [City Council](#); [City Clerk](#)  
**Cc:** [grenna5000@yahoo.com](mailto:grenna5000@yahoo.com)  
**Subject:** EIR Concerns with Rezoning Etc.  
**Date:** Tuesday, May 14, 2024 11:17:01 AM

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(Please add this to the public comments about the Housing Element Rezonings and General Plan Amendments at the Cupertino City Council Meeting on 5/14/24).

Dear City Council:

I am greatly concerned that there are going to be CEQA and Environmental Impact Issues With the amount of massive rezoning HCD is forcing us to do to get their certification. There Is also the Yimby Law Lawsuit mess which has jeopardized our city CEQA and Environmental Impact Reports for projects.

I think there are massive amounts of CEQA and Environmental issues that have not been addressed And these will harm Cupertino. We don't have enough parks now and these forced rezonings With bad RHNA numbers will make it so the builders will not have to provide any new Parks. Our roads will be taken away as well as our parking. Our beautiful Heart of the City which we have worked so hard on to maintain will be destroyed and cut down just Because the people pushing the rezonings don't care about our city and what makes Cupertino Cupertino.

HCD doesn't care anymore than Yimby Law does or some other groups do about our city. Our city is there just to make them a fast buck or maybe some builders a fast buck. HCD has so little respect for Cupertino that they use bad RHNA numbers , when they Know the numbers are bad, to insist that Cupertino has to needlessly rezone everything To high density and no building setbacks just so Builders can make a fast buck from Throwing up highrises that no one needs because the RHNA numbers are bad.

HCD is no one's friend, especially not Cupertino's, in this current scheme of rezone with bad Numbers. Everything Cupertino has done to make a wonderful environmental statement is Being thrown by the wayside.

I have grave CEQA and Environmental concerns for the city as HCD is forcing us to go down HCD's CEQA and Environmentally deficient road toward their demands for certification. This path demanded by HCD of rezoning and General Plan Amendments is a dangerous road For Cupertino to go down. I do hope this audit goes through by the state.

Thank you.

Sincerely,

Jennifer Griffin



**From:** [Rhoda Fry](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** Cupertino City Council 5/14/2024 Agenda Item #1 Housing Element  
**Date:** Tuesday, May 14, 2024 11:15:11 AM

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Dear City Council,

I am concerned about some items in the Housing Element, particularly the letter from Valley Church which states that the church had never been contacted regarding rezoning its property for housing on the Housing Element. We have been told that we cannot make changes to the Housing Element – yet this is a significant change. Is it possible that other property owners were not notified?

Furthermore, to my knowledge, there has been no public engagement on the City's new housing policies. I am very concerned about disclosure.

Similarly, the residents near Evulich at Linda Vista do not know the true impacts because a 0.4 acre lot (the former driveway to the properties which is now public land) can accommodate another 9 to 15 homes. This is a significant change to the original number of homes in that area. I certainly hope that if the City decides to sell that land, that it will keep in mind that the land can accommodate 9 to 15 homes and receives appropriate compensation. If it could accommodate just one home, then it would cost much less.

Most importantly, I hope that the State does an audit of HCD because I think that the amount of housing (RHNA) that Cupertino is expected to generate (along with other cities) is ridiculous. I sincerely hope that the City will reserve the right to modify the Housing Element if it turns out that the RHNA numbers are too high.

Sincerely,  
Rhoda Fry



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**From:** [Jennifer Griffin](#)  
**To:** [City Council](#); [City Clerk](#)  
**Cc:** [grenna5000@yahoo.com](mailto:grenna5000@yahoo.com)  
**Subject:** Parking in the Cup. Housing Element and General Plan Amendments for City Council Meeting (5/14)  
**Date:** Monday, May 13, 2024 8:17:47 PM

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(Please include these comments in the Cupertino City Council Meeting on ((5/14/24)  
As public input on the Housing Element and Proposed General Plan Amendments )

Dear City Council:

I am assuming the city will try to rezone the city of Cupertino tomorrow at the city council Meeting to try to get HCD to certify the city's Housing Element as promised by HCD. Also, there will be General Plan Amendments to the City General Plan that is being Required by HCD to try to change our Transportation Code and our Parking Code To make there be no parking in the city and try to take away car driving in the city.

As you know, I have grave concerns about HCD's ability to carry out a competent Housing Element now that it has come to light that HCD has been using bad RHNA numbers from The start of this Sixth Cycle Housing Element. Maybe HCD did not know the RHNA Numbers were bad at the beginning, but it has been pointed out to the agency by Learned authorities the RHNA numbers are indeed wrong and therefore bad data.

To this date, HCD has not addressed the issue of the bad RHNA numbers and they have Continued the Housing Elements using bad data and propagating error with this bad data as they go Along. They have not behaved as a responsible state agency who has found their program Contains bad data. They have continued to use the bad data and are breaking the first law Of science and statistics: if you find you have bad data, you stop the program or experiment. HCD is breaking STEM teaching.

There has been a request by Senator Glazer to have the State audit HCD again and its methods Used in the Sixth Cycle Housing Element. The decision on whether to have an audit of HCD Will be made tomorrow by The California State Audit Committee at the Joint Audit Committee Meeting on May 14.

I am hopeful an audit of HCD and it's Housing Element Methods will be voted on tomorrow And will be implemented by the state.

I am very concerned that because of the bad RHNA numbers given to Cupertino by HCD That our city is being forced to give up important amenities in Cupertino like parking and Roads to drive vehicles on and is jeopardizing important infrastructures in our city.

Why are we having to do General Plan Amendments in the city? General Plan Amendments Are important and we can only do four a year. Why are we being forced to do all these General Plan Amendments? Why are we having to give up control of our city To an entity that can't even do math?

I'm very concerned whether the things the city is being asked to do tomorrow are even correct. My experience is that HCD makes up rules on the fly and does not Treat each city the same or even fairly.

I don't think it is wise to proceed with eliminating parking or giving up road  
Travel space or do all these General Plan Amendments when the HCD entity  
Is using bad data in the first place. We don't know how that bad data has  
Affected our Housing Element. I think that bad data has had a tremendous adverse  
Affect on our Housing Element, on it's adoption and will have an adverse aftermath on the city if  
The Housing Element is actually adopted tomorrow night.

Thank you.

Sincerely,

Jennifer Griffin

**From:** [Peggy Griffin](#)  
**To:** [City Council](#)  
**Cc:** [City Clerk](#); [Piu Ghosh \(she/her\)](#); [Luke Connolly](#)  
**Subject:** 2024-05-14 City Council Meeting - ITEM1 - Housing Element - NEXT STEPS-REZONING STUDY SESSION!  
**Date:** Monday, May 13, 2024 4:26:58 PM  
**Attachments:** [image001.png](#)

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PLEASE INCLUDE THIS EMAIL AS PART OF WRITTEN COMMUNICATION FOR THE ABOVE MEETING AGENDA ITEM.

Dear Mayor Mohan and Councilmembers,

Timeline presented during the 4/29/2024 Planning Commission meeting:

- 5/14/2024 – CC adopts Housing Element
- 5/28/2024 – PC rezoning
- 6/18/2024 – CC rezoning 1<sup>st</sup> reading
- Fall 2024 – adopt objective standards
- March 2025 – APR submitted

Based on the above, there will be NO OPPORTUNITY to make changes to the proposed zoning. It will be ramrodded through without the Planning Commission, City Council or public to make any changes! AGAIN!

REQUEST: Insert/provide a Study Session, attended by PC and CC members and public, BEFORE the rezoning is presented to the Planning Commission with the INTENT that changes can be made!

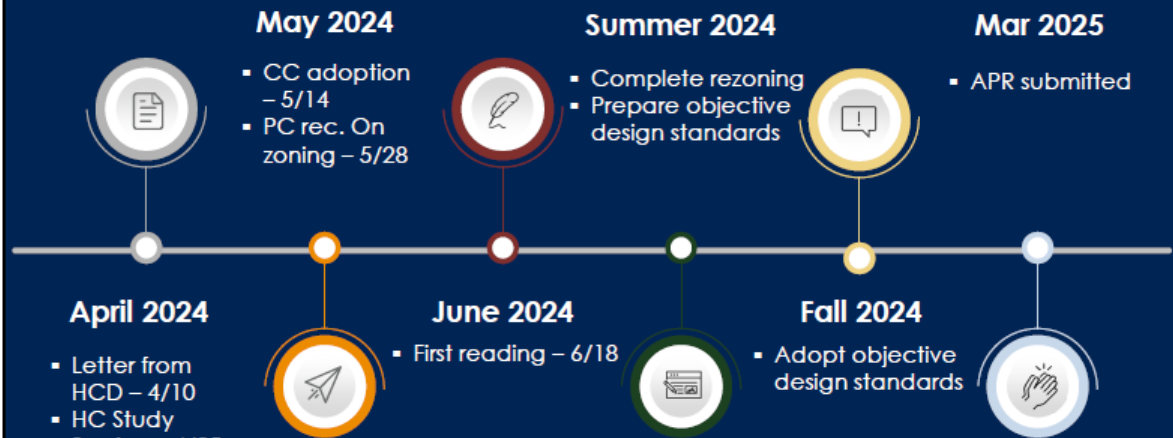
There are 5 weeks from 5/14/2024 to 6/18/2024. Set the Study Session for 5/28/2024 since that's when the staff will be ready to present the rezoning then pick a date for a "Special Meeting" for the Planning Commission to review the "updated zoning".

Mayor Mohan:

- Stop this ramrodding of material through without any ability to make changes or corrections.
- Step forward and improve this process by allowing feedback/input.
- The Council is oversight but it is not happening. Please correct this.

Sincerely,  
Peggy Griffin

# Timeline and Next Steps



**From:** [Sean Hughes](#)  
**To:** [City Clerk](#)  
**Subject:** Comments for Special Meeting on May 14, 2024  
**Date:** Tuesday, May 14, 2024 7:24:52 PM

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Hello,

I know this is late, but if possible, I would like to submit the following commentary on the number 1 agenda item in the special meeting currently happening. I was going to submit a call-in comment but have typed it out below because I cannot stay on for the public comment period.

I appreciate the consideration and hope my commentary does make it into the record somewhere.

Thank you,  
Sean Hughes

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*Public Comment Regarding Special Meeting on May 14, 2024, Item 1: Housing Element Draft and General Plan Amendments*

Hello,

I am reaching out to voice support for the adoption of the draft Housing Element and related General Plan amendments. Hopefully, we can see full Council support to showcase Cupertino's commitment to not only becoming compliant with state law, but adopt a plan for a more equitable and sustainable future for Cupertino.

I support and welcome element policies like a missing middle housing policy, to open up more housing opportunities for new families. Policies like this support not only the health of our community, but also the long-term needs of our schools and student enrollment trends.

In addition, policies like:

- Rethinking parking requirements
- Creating flexibility in commercial zones for compliance with state law and considering the existence of current transit networks
- Supporting design standards for better accessibility

Removing zoning impediments and general upzoning, to enable and legalize the ability to have denser, more walkable and sustainable housing opportunities

I appreciate all the hard work of all those involved: staff, consultants, community members - both residents and non-residents like workers, students, and visitors - and Council members.

Regardless of what philosophical or technical disagreements Council may have had along the way, I hope that this Council can stand united behind an Element and Amendments that not only meet compliance with state law, but set the groundwork for a more progressive, environmentally-friendly, and inclusive Cupertino.

Thank you,  
Sean Hughes

**From:** [Liang Chao](#)  
**To:** [City Clerk](#)  
**Subject:** Reasons for abstaining on the adoption of HE  
**Date:** Tuesday, May 14, 2024 9:10:23 PM

---

Please include this for the meeting minutes:

Reasons for Abstaining on the approval of Housing Element:

- There has been no substantive deliberation in public meetings on the proposed policies or proposed densities of the Housing Element since August 2022 when the City Council first considered the site inventory.
- There are new, never-mentioned-in-previous drafts, never-discussed-in-public citywide policies proposed for the Mobility Element which will impact every resident on their daily travel needs.
- Many of my questions submitted for the May 7 study session were still not answered and they were not still answered in today's supplement report.
- More questions were submitted by the deadline of Monday 10 am and none of the questions were answered, not even one. And I was not able to get through most of these questions today on the dais given the time limit.
- This HE process has gone off rail as a behind-the-back-of-the-City-Council-and-the-public process.
- The growth rate with this HE would be 35% over 8 years, which is 3.5 times of the normal growth rate of 1%. The Environment Assessment did not provide real assessment of the impact as many rationales given were simply copied from the 2014 EIR.
- I appreciate the work to have a compliant HE, which is important.
-



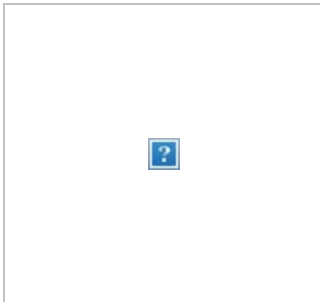
I support some of the policies proposed, such as allowing triplex or quadplex on R2 sites for missing middle.



But I simply cannot support the un-democratic, non-transparent process since August 2022. In good conscience, to serve the residents to the best of my ability, I simply cannot support the adoption of these documents on the agenda today.



But recognizing the importance of a compliant housing element, I am abstaining my vote today.



**Liang Chao**

Councilmember

City Council

LChao@cupertino.gov

408-777-3192



**From:** [Connie Cunningham](#)  
**To:** [City Clerk](#)  
**Subject:** Fwd: 2024-5-14, (2nd) Agenda Item 1 Housing Element Public Hearing  
**Date:** Tuesday, May 14, 2024 8:28:27 PM  
**Attachments:** [24-5-14 \(2nd\) CC HE Item 1 HE Public Hearing.docx](#)

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**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.

**From:** Connie Cunningham <cunninghamconniel@gmail.com>  
**Date:** May 14, 2024 at 6:12:41 PM PDT  
**To:** Cunningham Connie <CunninghamConnieL@gmail.com>  
**Subject: 2024-5-14, (2nd) Agenda Item 1 Housing Element Public Hearing**

Hi Kirsten, Please add this to the Oral Communications to document what I said this evening.  
Thank you, Connie

## 2024-5-14. Agenda Item 1 Housing Element Public Hearing

Good evening Mayor Mohan, Vice Mayor Fruen, and Councilmembers:

I am Connie Cunningham, my pronouns are she and her.  
Housing commission, self only.

- I. Thank you to City Manager Wu and City Staff who have created this Housing Element. It is an extraordinary achievement. Thank you for the answers that are thorough and on-point.
- II. In my opinion, this blue print is for a City I want to live in: housing for all income levels and abilities, addressing fair housing issues, and designing that allows for many types of neighborhoods. I like living in Cupertino now, but I will like it more, as it adapts to inviting new neighbors into our community.
- III. The changes add an urban feel in some areas, while retaining a suburban environment in others.

- a. Homeowners who are concerned about the changes will, themselves, benefit from flexibilities for changing their homes as their families grow and age.
    - i. Accessory Dwelling Units can be built by any homeowner
    - ii. Transitions on corner lots will gently increase the number of homes to allow for “Missing Middle” naturally affordable homes.
  - b. Taller buildings will be along major street arteries where they should be
  - c. This Housing Element outlines the many groups in our city who will benefit from the new ideas: including, but not limited to: Students, Workers, Seniors, Individuals with Developmental Disabilities, those who have faced discrimination in the past, and Unhoused Residents.
- IV. This Housing Element supports sustainability for which our city is justifiably proud of its achievements—including Climate Action Plan 2.0.
- a. Building infill homes will save significant energy

- b. Bird Safe and Dark Skies ordinance not only protects birds, but also saves energy with its new lighting standards,
  - c. CAP 2.0 includes the idea of a robust tree canopy that includes biodiversity. A robust canopy will save energy (reduce utility costs) and reduce air pollution, among many other benefits.
- V. I add my voice to others who have said:
- a. Do not dilute the language of the Housing Element programs which are necessary to create homes of all sizes, types, and income levels to meet the housing needs of our entire community.
  - b. HCD has commented that changes should only be made to make the plan more ambitious.
  - c. The Missing Middle Strategy will gradually open up neighborhoods to enhance our community's strength through diversity.

**I urge the Council to unanimously vote to adopt this Housing Element tonight! Please do not abstain or vote no. Vote YES tonight.**

Thank you for this time to comment.

**From:** [Cupertino ForAll](#)  
**To:** [City Council](#); [City Clerk](#); [Cupertino City Manager's Office](#); [City of Cupertino Planning Dept.](#); [Housing](#)  
**Cc:** [CFA Steering Googlegroups](#)  
**Subject:** Re: Item 1: Approving the 6th Cycle Housing Element  
**Date:** Tuesday, May 14, 2024 6:14:05 PM

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Small addendum! These comments were originally directed for the City in March (hence the addressed parties), but we maintain the same opinions heading into tonight's session. We would now like to focus these comments toward the City Council as it takes up the housing element tonight. Thank you.

On Tue, May 14, 2024 at 6:11 PM Cupertino ForAll <[cupertinoforall@gmail.com](mailto:cupertinoforall@gmail.com)> wrote:  
Dear Council, Staff, and Commissioners,

Cupertino for All's leadership would like to submit the following comments for tonight's council meeting regarding Item 1: the 6th Cycle Housing Element and Associated General Plan Amendments.



May 14, 2024

Department of Community Development, Attention: Luke Connolly  
10350 Torre Avenue Cupertino, California 95014

RE: Commentary on the Revised Housing Element Draft

Dear Luke Connolly and to whom it may concern,

Cupertino for All is pleased to express optimism for the most recent iteration of the Housing Element. Revised in March of 2024 and recently [determined by HCD to meet legal requirements](#) pending re-zoning, our organization and constituents believe these revisions provide the City with a better framework to plan for and support the development of more housing opportunities for all. An ambitious element is our most comprehensive policy means of playing our role in desegregating the Bay Area, preventing future school closures, supporting our local businesses, housing the housing insecure, reducing car-

dependency, and so much more. **Tonight, the Council should approve the final draft of the housing element, and the only changes considered should be those made to strengthen the document, rather than weaken it.**

We recognize the continued hard work by all during the drafting process, and support a number of changes made in the Element. Our organization welcomes the greater level of detail, commitment to rezoning, and incorporation of public commentary found in the recent revisions to this draft Element. Specifically, we applaud the following improvements from previous iterations:

- Missing Middle strategies—we recognize that much of the newer mid to high density homes will likely be subsidized and income restricted, or higher range market rate. Therefore, any approval of the final draft must preserve all strategies related to missing middle homes, so families of all incomes can live in Cupertino's neighborhoods.
- Commitment to- and deadline for- rezoning areas at higher densities. **This will make affordable housing more feasible, reduce emissions, and lead to more community-oriented spaces.**
- More specific site inventory, policy goals and language found throughout the document. **This will maximize the number of affordable homes we plan around and ensure we hold ourselves accountable to protecting renters and minimizing displacement.**
- The inclusion of publically-requested policies, such as:
  - Review parking standards in relation to neighboring jurisdictions, **so we can reduce the cost of building homes and reduce the seas of endless parking lots.**
  - Implementation of universal design standards for housing accessibility, **which will provide better living environments that are useful for all people, regardless of abilities.**
  -

Inclusion of local schools and colleges in strategies and policies, **which will include important parts of our community and help address the housing needs of vulnerable populations, like students, staff, and teachers.**

We hope these changes can help the City to implement more effective housing policies throughout the lifetime of this General Plan's Element and onward.

Sincerely,

Steering Committee  
[Cupertino For All](#)



**From:** [Jennifer Griffin](#)  
**To:** [City Council](#); [City Clerk](#)  
**Cc:** [grenna5000@yahoo.com](mailto:grenna5000@yahoo.com)  
**Subject:** Strategy HE-1.3.6: Suburban Corner Lots as Duplexes  
**Date:** Tuesday, May 14, 2024 4:19:15 PM

---

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Dear City Council:

The attempts to have corner lots in suburban neighborhoods become duplexes is absolutely Outrageous. If HCD came up with this plan, they need to be audited immediately for Misrepresenting what their true intentions are. They want to drive everyone who lives In Cupertino from their homes. They want everyone who lives in Cupertino Now to move away. HCD wants the developers to take over our neighborhoods And the developers will decide who lives in Cupertino.

The current residents are not good enough to live here. I get it now. HCD picks and chooses Who will live in their high density utopias with no cars and no parks.

This is a complete scandal. The public gets to vote on stuff like this, not some pseudo public Agency like HCD.

This is ridiculous and I cannot believe our city has been brought to such a lot as this.

HCD is not competent to be conducting any more Housing Elements and has become a Tool of profit seeking builders who just want to buy up all the land in Cupertino For their own nefarious uses and kick all the residents out.

This Housing Element has become a travesty against democracy and HCD needs to be audited For abuses against the City and residents of Cupertino.

Sincerely,

Jennifer Griffin

PLEASE consider making changes to aspects of the

- Mobility and
- Land Use Elements

They were not part of the document reviewed by HCD!

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Appendix B4 - Housing

Resources and

Opportunities\_2.26.24\_revised

\_3.18.24\_Clean

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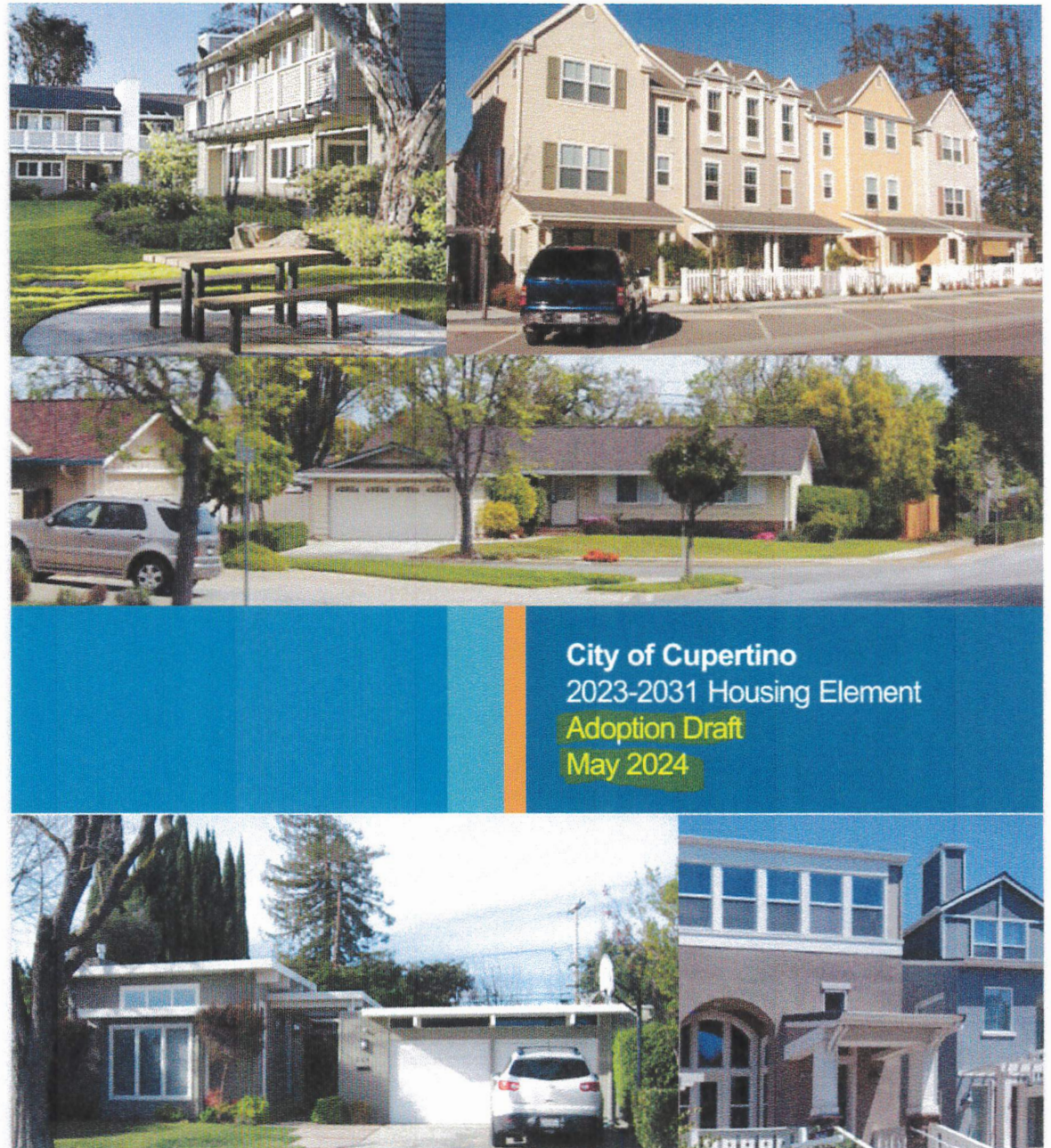
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## MOBILITY CHAPTER

### EXAMPLE - VMT MITIGATION BANKING

#### M-1.2.4: VMT Mitigation Banking Fee Program

Establish a VMT Mitigation Banking Fee Program. This program shall fund the construction of facilities throughout Cupertino that support the reduction of VMT per service population impacts from new development and redevelopment projects.

Participate in the development of

### TRANSLATION

- Transportation Mitigation Fees will be replaced with a “VMT Banking Fee”.
- This is a big pot containing all VMT money from all projects.
- It will no longer have to fix problems caused by a project!
- Instead, it can be used clear across town!

## MOBILITY CHAPTER

### M-1.2.2: Citywide VMT Reduction

Establish a framework for reducing VMT at the citywide scale. These measures may include, but are not limited to:

- Working with Valley Transit Authority to increase bus frequency and speed throughout Cupertino.
- Unbundling parking costs from property costs.
- Developing a fair-share cost program for Silicon Valley Hopper or car share initiatives for development projects.
- Implementing market pricing for parking spaces throughout the city.
- Limiting parking supply.
- Discouraging single occupancy vehicle travel.
- Implementing a citywide bikeshare program.

**UNBUNDLED PARKING** = apartments/offices charge extra for parking

#### RESULT:

- Apartment residents park on neighboring streets instead.
- Local neighborhood forced to get permit parking.
- Parking costs move from developers to the nearby residents!
- Enforcement becomes an issue-need full time parking enforcement staff.

**Wow!**

**How is this better?**

## MOBILITY CHAPTER

### M-1.2.2: Citywide VMT Reduction

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- Developing a fair-share cost program for Silicon Valley Hopper or car share initiatives for development projects.
- Implementing market pricing for parking spaces throughout the city.
- Limiting parking supply.
- Discouraging single occupancy vehicle travel.
- Implementing a citywide bikeshare program.

**MARKET PRICING FOR PARKING SPACES =**  
no free parking in Cupertino

#### RESULT:

- Parking meters all over town
- Impacts our dwindling retail!
- Local neighborhood forced to get permit parking.
- Parking costs move from developers to nearby residents!
- Enforcement becomes an issue-need full time parking enforcement staff. Costs move to residents.

**Wow!**  
**How is this better?**



PLEASE consider making changes to aspects of the

- Mobility and
- Land Use Elements

They were not part of the document reviewed by HCD!

CC 05-14-2024

Item No. 2

FY 2024-25 Fee Schedule

Written  
Communications



**From:** [Ted B](#)  
**To:** [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** 5/14/2024 City Council Meeting, Agenda item 2--New Parking Permit Fee  
**Date:** Tuesday, May 14, 2024 2:11:16 PM

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**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 Cupertino City Council:**

**May 14, 2024**

I am writing to express my **strong opposition** to the recent proposal, (**being considered, on Agenda Item #2 for May 14th**) to implement **charges for permit parking** in our city, for the years beyond 2023-2024 years.

Permit parking has been a long-standing benefit for city residents, to help directly manage parking in areas that the city has struggled with doing so on their own, in the past. Introducing fees for this service would place an undue financial burden on many individuals and families in our community.

Here are several reasons why I believe **charging for permit parking is not in the best interest** of our city:

1. **Community Accessibility:** Permit parking ensures that residents have convenient access to parking spaces near their homes. Introducing fees could limit this accessibility and create additional challenges for those who rely on street parking.
2. **Financial Impact:** Many residents already face financial challenges, and adding permit parking fees would further strain their budgets. This is especially concerning for low-income families and individuals on fixed incomes.
3. **Equity and Fairness:** Charging for permit parking may disproportionately affect certain neighborhoods or demographics within our city. It's crucial to consider the equity implications of such a policy change.
4. **Community Engagement:** The decision to implement permit parking charges should involve extensive input and feedback from residents. Transparent and inclusive decision-making processes are essential for building trust and support within our community.

I urge you to reconsider the proposal to charge for permit parking and explore alternative solutions that promote equitable access to parking while addressing the city's needs. Collaborative efforts between residents and local government can lead to better outcomes for all stakeholders.

**At a minimum, Please strongly consider the financial impact for those on a fixed income and have those individuals assessed ZERO fees. (We have enough financial obligations to manage already!)**

Thank you for considering my concerns. I look forward to a constructive dialogue on this important issue.

Ted Biskupski  
10685 Randy Ln  
Cupertino, CA 95014

**From:** [Christine P. VanHoy](#)  
**To:** [City Council](#); [City Clerk](#)  
**Cc:** [Chris VanHoy](#)  
**Subject:** NO FEES for parking permits  
**Date:** Tuesday, May 14, 2024 12:03:02 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.

These parking permits are not a luxury thing, they are there to protect the neighborhood from random people parking on our street and being there all day, often times blocking driveways, and keeping the people who live on the street from being able to use their own parking area in front of their houses.

**NO FEES FOR PARKING PERMITS!**

Christine  
10556 Larry Way  
Cupertino, CA 95014

=====

Christine P. VanHoy  
*Look inside, and be an Everyday Hero!*

**From:** [Rhoda Fry](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** Cupertino City Council 5/14/2023 - Agenda Item #2 regarding fees  
**Date:** Tuesday, May 14, 2024 10:09:22 AM

---

**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,

Regarding Fee Increases.

**Parking Permit Fees: I am against this because it is not fair to the residents.** Most residents get these permits due to external forces beyond their control. For example, Apple employees had started parking in the neighborhoods instead of in Apple's designated parking areas. Why should the residents shoulder the burden of something that they did not create? Let's say that the neighbors of the Tesselations School, which is leasing the Regnart School site, decide that they need to have permit parking? Again, not a problem that the residents created. It is not fair. I do not have a parking permit and don't expect to get one. I am writing because this is a fairness issue. So please strike this one.

AND . . . guess what? Tesselations does not appear to have a business license, and that would help defray the cost of parking permits, if needed. There would be a nexus there. More on business licenses to follow.

**Credit Card Fees: Please take a look at the proposed 3.4% fee and make sure that it is fair.** Please keep in mind that there needs to be a nexus for a fee. If not, you are implementing a tax and taxes need to be voted on by your constituents (those are the people who voted for you who used to be at the top of the org chart – but for reasons unknown are now missing). How was the 3.40% cost determined? What is the cost of processing ACH or paper checks? I think that the credit card fee should be the actual cost minus the ACH/paper check cost. I do a lot of credit card transactions with many Bay Area cities and I have never seen a rate this high. I do not want the City of Cupertino to get into trouble for charging too much.

**Business Licenses: I see that there is an increase for the "Small Income Business License."** I don't see this listed on the fee schedule <https://www.cupertino.org/home/showpublisheddocument/31179/638312344476270000> Is this different from a business license?

**Please get Cupertino Businesses to pay their business license taxes! That will help the budget.** Businesses in Cupertino are not paying their fair share in business licenses (and btw, a business license is a tax). There are many businesses that are not licensed. I have been asking for years that the City go to businesses and get them licensed. Private schools are supposed to pay \$342 per year. It doesn't look like Tesselations has a business license. See here: <https://www.cupertino.org/home/showpublisheddocument/31857/638499998265000000> But there's a lot more. What about the companies that do business for the City of Cupertino? I started looking through companies that the City has recent contracts with and do not see them as having business licenses: Ginger Tsun, National Academy of Athletics, Futsal, 4Leaf, San Jose Conservation Corps, Baker Tilly, Jones Enterprises, Musson Theatrical. By the way, I

was glad to see that Done Right, which has done a number of roof/gutter contracts in Cupertino does have a business license. One thing that surprised me was that the roof replacement at McClellan Ranch's 4H had been estimated by the City Survey to cost around \$36K, not including gutters (that's what my memory tells me) and the actual cost for roof and gutter was \$11K. The estimates that the City has received seem to be inflated.

Then I did a quick search on other types of businesses within the City, like bakeries. And again, many of them were not listed on the business tax database. Why? Please dedicate some staff time to get businesses licensed. And maybe you can even use some of that \$50K contract with the Chamber of Commerce to get the business licenses up to date. That would also help the Chamber promote membership.

Regards,  
Rhoda Fry



Virus-free. [www.avg.com](http://www.avg.com)

**From:** [ceaneff@comcast.net](mailto:ceaneff@comcast.net)  
**To:** [City Council](#); [City Clerk](#)  
**Cc:** [City Attorney's Office](#); [Chad Mosley](#); [Cupertino City Manager's Office](#)  
**Subject:** Proposed Permit Parking Fees  
**Date:** Tuesday, May 14, 2024 8:23:23 AM

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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.

I would appreciate it if Council would review and reject the proposed \$40 parking permit fee staff proposes. Residential area permit parking is only necessary because of inadequate/inconvenient parking at Cupertino businesses; passing permit parking fees onto impacted residents adds insult to injury. I understand that the loss of Apple revenue is causing financial strain on City resources, however recovering lost Apple revenue from the residents who only need permit parking because of Apple employees refusing to park on Apple campuses would be an unforced policy error.

**From:** [lorraine eaneff](#)  
**To:** [City Council](#); [City Clerk](#)  
**Subject:** Permit Parking Fees  
**Date:** Tuesday, May 14, 2024 7:52:57 AM

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**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.

After working for months, almost a year if I recall, Permit Parking was established on Larry Way. This was necessary to end the Apple Employees parking for the day on our street, which made school pickup at Lawson even more crazy. Driveways were often blocked during school pickup by parents thinking it would not matter. I personally had a conflict when telling a woman to move her car from a driveway one day. Mailboxes were blocked, as ours are on the curb, and mailmen could not reach the boxes to deliver the mail. With both Apple and the school as our neighbors, there were real issues. Permit parking has made our streets safer for those who choose to walk to and from school as there are fewer parked cars on the street to walk around, and allows the USPS to deliver mail to each residence.

When our street applied for permit parking, there was a fee to request the permits, which was paid. There was no additional yearly fee in the agreement, which is what neighbors and the city agreed to when setting up the permits. Many of our homeowners are elderly, and especially considering that the city has not notified any of the residents that they are considering charging a fee for permit parking, I find this unacceptable. Why were residents not notified and allowed time to comment? Fees should be charged for new streets joining the permit parking when residents are told upfront that there will be a cost if that is deemed necessary, but going back and changing the structure after the fact is wrong and unfair, and should not be considered. If the cost is so high to reissue the stickers, other options can be considered such as making the stickers good for longer than 2 years. The signs were placed years ago, so the costs to maintain permit parking on Larry is quite low, and should not require each household to pay to park on their own street.

Lorraine Eaneff  
10698 Larry Way  
since 1985.

**From:** [Gregory Baker](#)  
**To:** [City Council](#); [City Clerk](#)  
**Subject:** City Council 5/14/2024 Agenda #2 Parking Permit Fees  
**Date:** Tuesday, May 14, 2024 6:08:29 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.

I object to the City of Cupertino instituting fees for parking permits. Those of us who live near parks, schools, and other high traffic areas that are impacted by parking, already bear a burden of dealing with the traffic and the lack of parking in our neighborhoods. We also have to order the parking permits, put them on our vehicles, and be mindful to place the placards on our cars or the cars of visitors when they park in our neighborhood. To add a fee for the permits add to this burden and is unfair. The cost of the parking permit program should be shared by all city residents, as we all benefit from the parks, schools, and other facilities. Please vote no on institute parking permit fees.

Gregory Baker  
23615 Oak Valley Rd  
Cupertino, CA 95014



CC 05-14-2024

Item No. 3

Investment Policy

Written  
Communications

**From:** [Rhoda Fry](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** Cupertino City Council 5/14/2024 Agneda Item #3  
**Date:** Tuesday, May 14, 2024 11:01:01 AM  
**Attachments:** [Staff Report - 2024-05-14T102607.046.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,

On April 24, the Investment Policy was on the Audit Committee's Agenda. Why didn't it come to City Council on May 7 when there were fewer agenda items?

Why is the staff report different from what the Audit Committee received? Please see the attached.

Most importantly, **both staff reports fail to state the one significant change:**

**"By adopting this Policy, the City Council delegates to the City Treasurer the authority to invest or to reinvest City funds, or to sell or exchange securities so purchased pursuant to Government Code Section 53607."**

Furthermore, prior to this policy being adopted, \$45M was moved. Who had the authority to do so? The policy was not in place and we did not have an appointed Treasurer at the time. And the City has allowed cash and cash-equivalents to be uninvested which has significantly impacted our public funds. It seems that money started piling up after Carol Atwood and Jennifer Chang left the employ of the City. The cost to the City of not investing our cash has been far greater than the cost of the embezzlement.

Regarding the referenced Government Code, 53607. The authority of the legislative body to invest or to reinvest funds of a local agency, or to sell or exchange securities so purchased, may be delegated for a one-year period by the legislative body to the treasurer of the local agency, who shall thereafter assume full responsibility for those transactions until the delegation of authority is revoked or expires, and shall make a monthly report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each year.

The City Council has not appointed a treasurer in years. It needs to happen annually. What happened? Why didn't the finance department make sure that the annual appointment had been made?

Finally, I have read through some of the court documents regarding the embezzlement, City of Cupertino v. Jennifer Chang, Santa Clara County Superior Court Case No. 21CV380291. The Defendant has made statements that the City lacked internal controls and was aware that there was a lack of internal controls. We have also seen this in annual reports from the City's auditors. The Defendant even mentions our current Mayor, who at the time had the defendant as a direct report. Our Mayor has held a number of finance jobs and has served on the Audit Committee since last year. Please, we need your expertise and help to right our financial ship.

Please also read what I sent for the last City Council below.

Regards,  
Rhoda Fry

----

**From:** Rhoda Fry <fryhouse@earthlink.net>

**Sent:** Thursday, May 2, 2024 11:30 AM

**To:** 'City Clerk' <CityClerk@cupertino.org>; 'citycouncil@cupertino.org' <citycouncil@cupertino.org>

**Subject:** City Council May 7 2024 Oral Communications Investment Policy and more

## City Council May 7 Oral Communications

(Note to City Clerk – please LINK to attachments, no need to have them inline)

Dear City Council,

I am writing you because I am concerned regarding the City's proposed revised investment policy recently discussed at the Audit Committee and more.

The title of the audit committee's agenda item should have disclosed that the investment policy is being REVISED, not reviewed.

**A significant change to the policy was not redlined as described in the agenda – rather it was in blue.**

The staff report should have listed the changes to the policy, but it did not.

Attached is the “redlined” version in the agenda and the current version, which I found elsewhere. You'll notice that the newer version also corrects a typographical error [changes “(“ to “(FPPC)”]/

**Here is the new section that is in blue**

**“By adopting this Policy, the City Council delegates to the City Treasurer the authority to invest or to reinvest City funds, or to sell or exchange securities so purchased pursuant to Government Code Section 53607.”**

No action is requested by the audit committee on this item. **Should the audit committee or city council have a say in this change? When will the change take effect?**

**AND, on March 11,2024, did anyone have investment authority to execute a \$45M transaction? (see screenshot below). Given the above statement in blue, it seems to me that the treasurer did not have investment authority.**

**\$50M in zero-interest checking account – some was moved on March 11, but when asked, staff did not respond:**

Councilmember Moore had learned that our City's checking account did not pay interest and our zero-interest checking account had a balance of nearly \$50M. We have lost a significant amount of money by not earning interest (and significantly more than the well-publicized embezzlement). The balances of the checking account can be found in the Treasurer's report. I am troubled that there was no response from staff regarding subsequent concerns raised from the dais and from the public, regarding no interest being earned in the City's \$50M checking account and what could be done about it. As it turns out, \$45M was moved on March 11 to an interest-bearing account called LAIF. LAIF is like a money-market account and it is run by the State. The interest rate isn't as good as commercial money market accounts but it is certainly

better than nothing. Here are historical interest rates for LAIF:

<https://www.treasurer.ca.gov/pmia-laif/historical/quarterly.asp> The money can be made available on the same day or the next day, depending on when the request is made. **The balance in our checking account has been steadily rising over the past decade and has cost us millions of dollars in lost interest. I am glad that staff listened Councilmember Moore's concern and moved some money. It is a start. But I am flummoxed as to why when we asked staff again what was going on well after March 11, there was no response.**

**Regarding the Appointment of the Treasurer: In the past, the city treasurer was appointed annually. However this has not happened in years. Why?** According to California Government Code 53607, The authority of the legislative body to invest or to reinvest funds of a local agency, or to sell or exchange securities so purchased, may be delegated for a one-year period by the legislative body to the treasurer of the local agency, who shall thereafter assume full responsibility for those transactions until the delegation of authority is revoked or expires, and shall make a monthly report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each

year.” <https://casetext.com/statute/california-codes/california-government-code/title-5-local-agencies/division-2-cities-counties-and-other-agencies/part-1-powers-and-duties-common-to-cities-counties-and-other-agencies/chapter-4-financial-affairs/article-1-investment-of-surplus/section-53607-delegation-of-authority-by-legislative-body-to-treasurer>

**Please consider our State's Guidance on Public Investing** You can find the materials of a State seminar held in January 2017 here: <https://www.treasurer.ca.gov/cdiac/seminars/2017/> and you can find an updated document on local investment guidelines here: <https://www.treasurer.ca.gov/cdiac/LAIG/guideline.pdf>

Regards, Rhoda Fry

---- FYI – the maximum balance in a LAIF account is \$75M

<https://www.treasurer.ca.gov/pmia-laif/laif/laif-deposit-limit.asp> and the account now has \$67M.

Local Agency Investment Fund  
P.O. Box 942809  
Sacramento, CA 94209-0001  
(916) 653-3001

April 16, 2024  
[LAIF Home](#)  
[PMIA Average Monthly](#)  
[Yields](#)

CITY OF CUPERTINO

FINANCE MANAGER  
10300 TORRE AVENUE  
CUPERTINO, CA 95014

[Tran Type Definitions](#)

Account Number: [REDACTED]

March 2024 Statement

Effective Date	Transaction Date	Tran Type	Confirm Number	Web Confirm Number	Authorized Caller	Amount
3/11/2024	3/11/2024	RD	1748866	N/A	KRISTINA ALFARO	45,000,000.00

Account Summary

Total Deposit:	45,000,000.00	Beginning Balance:	22,006,824.00
Total Withdrawal:	0.00	Ending Balance:	67,006,824.00



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## ADMINISTRATIVE SERVICES DEPARTMENT

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3220 • FAX: (408) 777-3109  
CUPERTINO.ORG

### AUDIT COMMITTEE STAFF REPORT

Meeting: April 24, 2023

#### Subject

Consider the City's Investment Policy

#### Recommended Action

Review and accept the City's Investment Policy

#### Reasons for Recommendation

##### **Background**

To ensure the City's investment policy is up-to-date and aligned with its investment objectives, the Audit Committee conducts an annual review before presenting it to the City Council. The most recent review and acceptance of the investment policy by the Audit Committee occurred on April 25, 2022, followed by approval from the City Council on May 19, 2022.

The investment policy is the foundation of the City's investment goals and priorities. It can help protect the City's assets if it is carefully researched, effectively drafted, and regularly reviewed to assure that it continues to meet the City's investment objectives. The existence of an approved investment policy demonstrates that the City is performing its fiduciary responsibilities, thereby inspiring trust and confidence among the public that it serves.

The policy also provides guidance on the proper management of the City's temporary idle cash, outlining protocols to maximize cash efficiency.

California Government Code (Code) section 53646(a)(2) states:

[T]he treasurer or chief fiscal officer of the local agency may annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting.

Assembly Bill 2853 (Chapter 889, Statutes of 2004) amended section 53646(a)(2) to make presentation of the investment policy to the City Council optional. While no longer required by Code, the City annually presents the investment policy to the Audit Committee before submitting it to City Council for approval.

### **Chandler Asset Management**

In FY 2018-19, the City conducted a Request for Proposal (RFP) for investment management services and selected Chandler Asset Management. Under the City's Treasurer's direction, Chandler Asset Management manages the City's investment portfolio in accordance with the City's investment objectives. The City's investment objectives, in order of priority, are to provide:

- Safety to ensure the preservation of capital in the overall portfolio
- Sufficient liquidity for cash needs
- A market rate of return consistent with the investment program

The performance objective is to earn a total rate of return through a market cycle equal to or above the return on the benchmark index. To achieve the objective, Chandler Asset Management invests in high-quality fixed-income securities consistent with the City's investment policy and Code.

### **Investment Policy Review**

Chandler Asset Management reviewed the City's investment policy. The review of the policy focused on compliance with the statutes of Code that govern the investment of public funds, as well as on the inclusion of current best practices.

There was a change to Code Section 53601 for 2023 that Chandler Asset Management recommends the City adopt. Pursuant to Senate Bill 1489, effective January 1, 2023, the Code specified that an investment's term or remaining maturity shall be measured from the settlement date to final maturity rather than from the trade date. Chandler Asset Management has added the change in the Maximum Maturities and Mitigating Market Risk in the Portfolio sections. The City's policy continues to be effective as written.

### Sustainability Impact

No sustainability impact.

### Fiscal Impact

No fiscal impact.

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Prepared by: Thomas Leung, Budget Manager

Reviewed by: Kristina Alfaro, Director of Administrative Services and City Treasurer

Approved for Submission by: Matt Morley, Assistant City Manager



Attachments:

A – Investment Policy

B – Chandler Investment Policy Statement Review Memo

**From:** [Liang Chao](#)  
**To:** [City Clerk](#)  
**Subject:** Fw: Understanding Cupertino's Cash/Cash Equivalent balance to help explore options for improvement  
**Date:** Tuesday, May 14, 2024 10:47:06 PM

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Please include this email for the Written Communication of the May 15 Council meeting, as I referenced the data during the meeting.

Thanks.



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**From:** Liang Chao <LChao@cupertino.gov>  
**Sent:** Thursday, April 25, 2024 12:10 PM  
**To:** Pamela Wu <PamelaW@cupertino.gov>  
**Cc:** Kristina Alfaro <KristinaA@cupertino.gov>; Jonathan Orozco, CPA <JonathanO@cupertino.gov>; Matt Morley <MattM@cupertino.gov>  
**Subject:** Understanding Cupertino's Cash/Cash Equivalent balance to help explore options for improvement

(Resending with a more appropriate title.... since the email evolved to a different topic)

Something new to learn every day on the Council.

Thanks to Ms. Fry who brought up the question of why we have almost \$50M sitting in the Checking account, which the City Manager has confirmed is true.

Then, I started reading our Treasurer's Quarterly Investment Reports of Cupertino. As always, I am curious what other cities do in this case.

I will share what I have learned so far. Please feel free to correct me since I am just learning about this topic. I know that there might be various restrictions and I would like to understand them.

Although we cannot retroactively fix this, we can always figure out how to improve from now on and get credit for fixing it, right?

With that mindset.... I am sharing what I have found out so far with you.

For reference and context, the City Manager's response to Moore's email inquiry (a.k.a.

memo referenced at the April 16 meeting) is copied below. The inquiry of Moore and the response prompted me to learn more about the issue.

I learned about LAIF, which is commonly used by government agencies as Cash Equivalent since there is a one-day turnaround time for withdrawals. There is a cap of \$75M, which was raised from \$65M recently, and a limit of 15 withdrawals (?) a month. The LAIF interest rate (yield) varies over the years. It was below 1% for a few years, but last year it was 3-4%. Here is the historic rate of LAIF: <https://www.treasurer.ca.gov/pmia-laif/historical/quarterly.asp>

## 1. What's kept in the cash/checking account in other cities?

It seems most cities keep 2% or less of their entire portfolio in cash (checking) and about 20% (up to the cap) in LAIF.

### - [Palo Alto 2022-Q2 Investment Report](#):

- Checking \$2.5M (0.4%)
- LAIF \$46.6M (8%)
- Total Portfolio \$584.7M

### - [Mountain View 2023 May Monthly Investment Report](#)

- Checking \$2.3M (0.23%)
- LAIF \$82M (8.42%)
- Total Portfolio \$1B

### • [Milpitas 2023 December Monthly Investment Report](#)

- Checking \$7.4M (2%)
- LAIF \$78M (21%)
- Total Portfolio \$370M

### • [Morgan Hill 2023-Q2 Quarterly Investment Reports](#)

- Cash \$2M (1%)
- LAIF \$0.2M (0%)
- Total \$185.3M

## 2. What Cupertino typically keep in checking/LAIF?

I tried to look do some sampling of Investment Reports, ending Dec. 31.

It seems Cupertino typically keep about 15-16% of total fund in Checking (cash), since 2016.

On or before 2015, Cupertino keeps about 2-3% in Checking, which seems to be more inline with what other cities do.

The year of 2023 is when Cupertino kept the most amount in checking (20%) and also when LAIF interest rate is highest in recent years (3-4%).

- [2023-Q2 Cupertino Quarterly Investment Report](#), ending Dec. 31, 2023 (Q2 of FY 2023-24)
  - Checking \$48.5M (20%)
  - LAIF \$21.7M (9%)
  - Total Portfolio \$239M
- [2022-Q2 Cupertino Quarterly Investment Report](#)
  - Checking \$33M (15%)
  - LAIF \$21M (9%)
  - Total \$221M
- [2021-Q2 Treasurer's Investment Report](#)
  - Checking \$30M (16%)
  - LAIF \$21M (11%)
  - Total \$190M
- [2020-Q2 Treasurer's Investment Report](#)
  - Checking \$19.6M (12%)
  - LAIF \$21M (13%)
  - Total: \$161.7M
- [2019-Q2 Treasurer's Investment Report](#)
  - Checking \$19.2M (13%)
  - LAIF \$20.6M (14%)
  - Total: \$146.2M
- [2018-Q2 Treasurer's Investment Report](#)
  - Checking \$15M (10.8%)
  - LAIF \$56.3M (40.8%)
  - Total \$137.8M
- [2017-Q2 Treasurer's Investment Report Ending Dec. 31, 2017](#)
  - Checking \$9.7M (7.4%)
  - LAIF \$30.6 (23.4%)
  - Total \$130.6 million
- [2016-Q2 Treasurer's Investment](#)
  - Checking \$7M (17.2%)
  - LAIF \$40.7M
  - Total \$130.8M
- [2015-Q1 Treasurer's Investment Report](#), ending September 30, 2015 (Q1 of FY 2015-16)
  - Checking \$2.9M (2.4%)
  - LAIF \$38.5 (32.1%)
  - Total \$119.8M
  - NOTE: Council agenda search only shows this quarterly report for the year.

- [2014-Q4 Treasurer's Investment Report](#), ending June 30, 2015 (Q4 of FY 2014-15)
  - Checking \$1.6M (1.2%)
  - LAIF \$34.5 (27.2%)
  - Total \$126.6M
  - NOTE: Council agenda search only shows this quarterly report for the year.
- [2013-Q2 Treasurer's Investment Report](#), ending Dec. 31, 2012
  - Checking \$1.4M (2.5%)
  - LAIF \$8.6M (15.6%)
  - Total \$55.2M

I hope this information is helpful to you too.

With the above data in mind, I hope the information could help inform a discussion on how best manage the city's accounts to provide the liquidity we need, while earning as much interest income as possible.

Here are LAIF guidelines: <https://www.treasurer.ca.gov/pmia-laif/answer/procedures.asp>.

- Same day transactions must be completed by 10am.
- Transactions completed after 10:00 am will be effective the next business day
- Transactions may be scheduled up to 10 calendar days in advance
- Please provide LAIF one day prior notice for deposits and withdrawals of \$10 million or more
- Minimum \$5,000 transaction amount in increments of \$1,000  
Maximum 15 transactions (combination of deposits and withdrawals) per month

With routine payments and payroll payments, we should be able to manage it well between Checking and LAIF. I understand that most contracts require payments with 30 days of invoice, which should be sufficient time to withdraw funds. Even repayment to CDTFA would be normally given in pre-determined schedule, since CDTFA knows how the city government operates. There seems to be rare case when the City would be expected to pay a large sum of money unexpectedly.

I hope my understanding of how things work is somewhat accurate.

I see that other cities' Cash Equivalent option also include other options, besides LAIF, as long as they provide short turnaround time for withdrawals.

It seems Sunnyvale and some others do not even show a Checking account in their report. It seems they use some kind of Cash Management service. I hope to find out

more.

I would like to commend the staff for the excellent staff reports which come with each Investment Report. After looking at the reports from different cities, I found that Cupertino's staff reports summarize the numbers in tables and charts best! Thank you.

And the fact that the Quarterly Investment Reports were on the Consent Calendar of the Council Meetings make it easier to look them up since our Council agenda goes back to 2005. I am thankful to that too. Unfortunately, that good practice has now been stopped by this Council/administration.

Thus, I have made a request to the City Manager to please put the memos to the Council, which include these financial reports, to a folder under the "City Council" folder in the "City Records" archive. Then, the webpage of Council memos can simply link to the documents in the "City Records" archive.

I am sorry for conducting my own research into this issue. But for me, the best way to understand something is to get my hands on some data and try to comprehend it. I tend to forget things that are described to me conceptually without the supporting data. But I didn't want to use staff time to collect data to help me advance my own understanding of the issue.

Of course, I am not a finance professional. I may not have interpreted the investment reports correctly or used proper terms. Please correct me. Happy to improve my knowledge.

Regards,

Liang

=====

**Feb. 27 Response from the City Manager to Moore's inquiry:**

Councilmember Moore, I am following up on your questions related to the amount of cash in City's Wells Fargo account. I believe the amount you referenced was around \$50M.

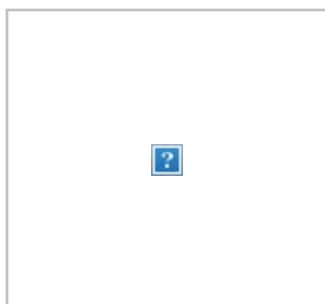
In short, the amount in question is mainly used to carry out daily city operation. In a

simpler analogy, this would be City's checking account to cover for routine expenses. The goal is to maintain enough liquid funds in this account to ensure invoices are paid in time.

In addition, there are limitations imposed from Council's adopted Investment Policy for such fund. Essentially, City's Investment Policy restricts funds invested in a money market or a CD account to be less than 20% (money market) or 30% (CD) of City's total investment. Unfortunately, these funds are not eligible to be invested in any further money market or CD accounts.

However, understanding that this is a seemingly large amount, staff has been in constant discussion with Chandler Investment to look for ways to find us the best investment options, and of course staff does that with the mindset to be in full compliance with the investment policy. As stated in the Investment Policy, the primary objective is the safety of the principle, followed by liquidity and then yield.

Please let me know if you have any additional questions.



**Liang Chao**

Councilmember

City Council

[LChao@cupertino.gov](mailto:LChao@cupertino.gov)

408-777-3192



**From:** [Peggy Griffin](#)  
**To:** [City Council](#)  
**Cc:** [City Clerk](#)  
**Subject:** 2024-05-14 City Council Meeting-ITEM3-Investment Policy changes  
**Date:** Tuesday, May 14, 2024 6:29:57 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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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.

PLEASE INCLUDE THIS EMAIL AS PART OF WRITTEN COMMUNICATION FOR THE ABOVE MEETING AGENDA ITEM.

Dear City Council,

The Investment Policy was reviewed by Chandler Asset Management and found not to need any changes.



April 18<sup>th</sup>, 2024

Ms. Kristina Alfaro  
Director of Administrative Services  
City of Cupertino

Dear Kristina,

The Chandler Team has completed our review of City of Cupertino's investment policy. Our review of the policy focused on compliance with the statutes of California Government Code (Code) that govern the investment of public funds, as well as on inclusion of current best practices. There were changes to Code for 2024, but the changes involve practices that the City already follows. No changes to the policy are needed for this year. The City's policy continues to be effective as written.

Please do not hesitate to contact us with any questions you may have, or if further review is needed.

Sincerely,

Carlos Oblites  
Senior Portfolio Strategist  
Chandler Asset Management

BUT, changes are being made below.



## POLICY

Under authority granted by the City Council, the City Treasurer and Deputy Treasurer are responsible for investing the surplus funds of the City.

The investment of the funds of the City of Cupertino is directed to the goals of safety, liquidity and yield. The authority governing investments for municipal governments is set forth in the California Government Code, Sections 53600 et seq. By adopting this Policy, the City Council delegates to the City Treasurer the authority to invest or to reinvest City funds, or to sell or exchange securities so purchased pursuant to Government Code Section 53607.

Q: WHY WAS THIS ADDED?

Chandler Asset Management saw no need for changes.

Q: Was the \$65M moved in March 2024 moved without authority?

Sincerely,  
Peggy Griffin