

CC 06-06-2025

Item #1

Public Employee
Discipline/Dismissal/Release

Written Communications

Lauren Sapudar

From: Lisa Warren <la-warren@att.net>
Sent: Friday, June 6, 2025 1:08 PM
To: City Clerk; City Attorney's Office; City Council
Cc: Lisa Warren
Subject: Closed Session CC mtg June 6, 20225 Agenda Item 1 - public comment

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.

City Attorney and City Council,

I bothers me that I feel the need to send this message that will become public record.

I learned of today's Closed Session meeting a short while ago. I am 'confused ?', and imagine that others are equally unsure of the surprising subject matter of the agenda item. I can only speculate what it may be alluding to. Is it that the council's agreement to settle an 'offer' is being undermined ? By whom, and how ? I don't know what to think, and certainly no one can 'share', so I won't ask.

I sense (but know that I can't confirm) that Pamela Wu may be trying to 'renege' on something. Something that is the 'pleasure of the council', and *presumably* something that she proposed. If so, then my reaction is 'I am not surprised'.

"I serve at the pleasure of the council". In the last couple of years, these words were often stated by the then city manager, Pamelu Wu, in public settings. Of course, saying it does not make it so.

The statement matches the job description. What it is meant to cover is the entire city council. All five members. There are many, many instances both in the background, and in full public view, that illustrated Pamela Wu did not meet the mark.

I do, of course, realize that a non-unanimous or majority vote on the dais can mean that some council members are not having their 'pleasure served'. So Democracy goes. But when individual council members are 'handled' or 'treated' differently by a city manager then there should be great concern by management level staff and everyone else, including residents (top of the org chart).

I, and many others, are aware of numerous situations where there was more of an 'I will do it my way' or 'I will ignore you' vibe. I personally stopped trying to communicate with CM Wu within the first year of her employment in the city. It was essentially useless, so I reached out to others on staff when needed.

There is a long list of examples where CM Wu deviated from required protocol, procedures, and reasonable expectations.

She did this in ways that have already been shared with this current council in recent meetings on the subject of CM Wu.

I have mentioned some in past closed session 'evaluations'. But today's meeting is something different. As I stated above, I don't know what the agenda item is 'about', but it seems totally unnecessary. What happened between Tuesday and Thursday to require another discussion? I heard City Attorney report out of the June 4 Closed Session. And it surely sounded like we were 'done' (my words) with discussing the subject.

I have no time to locate and re-send the emails that I provided in recent closed session mtgs. And in some cases I spoke during oral communications without providing written material. I was tempted to do that today, but my schedule/commitments won't allow for that.

Lisa Warren

Lauren Sapudar

From: Rhoda Fry <fryhouse@earthlink.net>
Sent: Friday, June 6, 2025 1:04 PM
To: Liang Chao; 'Kitty Moore'; Sheila Mohan; J.R. Fruen; R "Ray" Wang; City Clerk
Subject: For the June 6 City Council Meeting

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 Clerk, please include the following in the written communications for today's only agenda item.

Dear City Council,

I think that it is unfortunate that the City intends to pay Pamela Wu any severance. Clearly she is being let go for cause otherwise you would not be endeavoring to let her go. Although I get it, you don't want to go through the headache of a lawsuit so please find a middle-ground.

You have many letters, so I won't repeat. More information comes out daily – like her taking out the city attorney and assistant city manager out to an expensive lunch using our public funds. It also sends a message to other employees that everyone is entitled to something extra using public money. Meanwhile, services for residents are being cut and expenses for services are escalating.

I would suggest that if she is to receive anything over 2 months of severance pay, that the alleged investigation that was made be made public.

The public has paid for the investigation and should have a right to see it.

We need transparency on this issue.

Thank you for ending her pattern of over-spending, failing to adhere to council direction (not remodeling Torre), being rude to councilmembers and the public, abusing public funds for vanity projects (purchasing a building), being fiscally irresponsible (allowing \$60M to earning 0 interest and defending it), not adhering to the law (divulging confidential CDTFA information in public meetings outside of the city and not providing timely or complete financial reports), and more.

Regards,
Rhoda Fry

Lauren Sapudar

From: Anne Ezzat <aezzat95014@gmail.com>
Sent: Friday, June 6, 2025 12:31 PM
To: Liang Chao; Kitty Moore; Sheila Mohan; J.R. Fruen; R "Ray" Wang; City Clerk
Subject: Item #1

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 Mayor Chao, Vice Mayor Moore, Council Members Mohan, Fruen, and Wang,

Regarding item 1, I do not believe that Ms. Wu is a good fit as City Manager for the following reasons:

- In 2024, Ms. Wu traveled to India on a sister city trip and stayed at the Ritz Carlton in Bangalore for a weekend. I could find no record stating that these expenditures, paid by tax dollars, were authorized by the Council. Under Municipal Code, the Council should have authorized these expenditures. Also, where are the reports for the sister city trips to Taiwan and India?
- Ms. Wu resurrected an archaic rule that changed written public comment so that writers needed to explicitly state they wanted the comments added to the public record. This served to add an additional barrier to those wanting to participate in the process and limited transparency.
- Under Ms. Wu's stewardship, the city had approximately \$50 million in a non-interest bearing account. When this was brought to the attention of the City Manager, it was initially defended. When the money was moved to a more suitable interest-bearing account, it was not made public. The money that could have been earned could have funded a number of city programs.

For the reasons above and more, I believe that Ms. Wu should not remain as city manager. Please add my comments to the public record.

Thank you for your time and consideration.

Best regards,

Brooke Ezzat

Lauren Sapudar

From: Jim Lee <jimlee95014@gmail.com>
Sent: Friday, June 6, 2025 12:05 PM
To: City Council; City Clerk
Subject: Written comments for 6/6 Special Council Meeting

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 and City Clerk,

I am surprised to see what appears to be yet another City Manager-related special session tonight. Per Tuesday's City Council meeting, Council already voted 4-1 on a settlement. Why is this topic being revisited?

If the former City Manager truly cares about Cupertino, she should let the City move on. Dragging out an exit does not benefit anyone, and is instead exemplary of the behavior that led to this unfortunate end decision.

Jim

On Fri, May 2, 2025 at 7:36 AM Jim Lee <jimlee95014@gmail.com> wrote:
Written comments for 5/2 City Manager Performance Evaluation

Dear City Council,

"I serve at the pleasure of City Council." We hear City Manager Wu say this line repeatedly during Council meetings.

But it doesn't take long to see the hypocrisy of this statement. Wu only serves at the discretion of certain Councilmembers whom she favors.

I have seen requests from Liang Chao and Kitty Moore, both when they were Councilmembers and now when they are Mayor and Vice Mayor, continually be met with delay, relegation to the "TBD List" which is a place agenda items go to die, or worst of all, a false agreement but it never gets done. Does this sound like "serving at the leisure of Council" to you?

A few specific examples, but there are many more:

- Why is the City Hall renovation taking so long to get back into the CIP? The new Council majority has asked for it endlessly. The work has already been done. Is it because the City Manager would rather delay this project in hopes that a new Council might vote to rebuild a brand new City Hall? The continual delay of this project feels like willful insubordination.

- Why did it take 4-5 months to get a list of 20 CWP items prioritized? From start to finish, the process was unnecessarily dragged out. When Mayor Chao requested changes, City Manager Wu complained that Chao had created an "entirely new" list and took even more weeks to incorporate changes. We pay the City Manager over \$300K/year. Handling lists should not be difficult.

- Why did it take months to figure out how to handle \$65M in a non-interest-bearing checking account? This is an egregious loss of taxpayer dollars and financial mismanagement.

I trust the City Council to make the right decision on the City Manager.

Jim

Lauren Sapudar

From: Peggy Griffin <griffin@compuserve.com>
Sent: Friday, June 6, 2025 10:28 AM
To: Liang Chao; Kitty Moore; J.R. Fruen; Sheila Mohan; R "Ray" Wang
Cc: City Clerk
Subject: 2025-06-06 City Council Closed Session-ITEM1 Employee Discipline/Dismissal/Release
Attachments: CM_Wu_Eval_EMAILS.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.

PLEASE INCLUDE THIS EMAIL AND THE ATTACHMENT AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE CITY COUNCIL AGENDA ITEM.

Dear Mayor Chao, Vice Mayor Moore and Councilmembers,

Enough is enough!

Attached are emails I have sent over a period of 2 years regarding City Manager Wu's performance. When I re-read these emails I realized that it is an escalating pattern of misbehavior during Council meetings, abuse of her position, misappropriations of public funds, refusal to follow council directions, refusal to keep both the Council and the public informed regarding the status of our city, and violations of both her contract and our municipal codes.

During the 2024 election period in the fall, under her leadership an employee of the city used city property to steal campaign signs of Vice Mayor Moore and Councilmember Wang. She also has presented the status of the city to both the Cupertino Chamber of Commerce and a religious group but has not bothered to present to the public/Council.

City Manager Wu has a salary that is one of the highest in the city. She has used public funds for an unauthorized trip to India, charged meals at high-end restaurants and spent hundreds of thousands of dollars on coaching for herself. All this using public tax dollars. She has been compensated way beyond what is reasonable. Consider the coaching costs as her severance. Do not pay a penny more.

Sincerely,
Peggy Griffin

2025-05-02

EMAIL

to

COUNCIL

Peggy Griffin

From: Peggy Griffin <griffin@compuserve.com>
Sent: Thursday, May 1, 2025 11:03 PM
To: 'Liang Chao'; 'Kitty Moore'; rwan@cupertino.gov; 'Sheila Mohan'; jrfruen@cupertino.gov; City Attorney's Office
Cc: 'City Clerk'
Subject: 2025-05-02 City Council Meeting - Agenda Item1-City Manager Evaluation/discipline
Attachments: Costs for Baker Tilly Executive Coaching.pdf; Costs for Klarity Consulting Executive Coaching.pdf

PLEASE INCLUDE THIS EMAIL AND ALL ATTACHMENTS AS PART OF WRITTEN COMMUNICATIONS FOR THE ABOVE MEETING AGENDA ITEM.

Dear Mayor Chao, Vice Mayor Moore, Councilmembers and City Attorney Floy,

Based on Accounts Payable documents, I found that our taxpayer dollars have paid for hours of coaching for our city manager. When were all these hours for coaching taking place? Where they during business hours? If so, along with all the travel, when was our city manager in Cupertino performing her duties? Was this at the cost of other staff member training?

It seems like contracts that directly benefit an employee should be approved by others.

CM Pamela Wu Coaching Contracts

Klarity Consulting, LLC

Executive Coaching & Mentoring

\$41,340.00 from April 2024-February 2025

Agreement for \$7,200.00 through Dec. 2024:

<https://records.cupertino.org/WebLink/DocView.aspx?id=1097128&dbid=0&repo=CityofCupertino&searchid=e7984bdd-8ec0-4771-bbb3-c83baac757ba>

First Amendment for \$150,000 through June 2025:

<https://records.cupertino.org/WebLink/DocView.aspx?id=1101051&dbid=0&repo=CityofCupertino&searchid=e7984bdd-8ec0-4771-bbb3-c83baac757ba>

Second Amendment through June 2027:

<https://records.cupertino.org/WebLink/DocView.aspx?id=1154024&dbid=0&repo=CityofCupertino&searchid=e7984bdd-8ec0-4771-bbb3-c83baac757ba>

Baker Tilly US, LLP

Executive coaching for PWu

\$9,625.00 from December 2022-February 2024

Q: Where is the contract for this work?

I only see the 1-day council workshop contract not to exceed \$17,900.00-no executive training. I cannot find it on the city's website.

Council 1-day Workshop Contract:

<https://records.cupertino.org/WebLink/DocView.aspx?id=1002914&dbid=0&repo=CityofCupertino&searchid=c81a4ff5-2cb7-4823-b351-3f27947637f3>

TOTAL COST OF EXECUTIVE COACHING = \$50,965.00

Sincerely,
Peggy Griffin

P.S. I find it worrisome that someone can issue a contract for their own benefit and be the major signer on that contract...

Date	Payee Name	Invoice Number	Invoice Date	Invoice Amount	Description
2/24/2023	Baker Tilly US, LLP	BT2263242	12/7/2022	\$1,522.50	Executive Coaching Pamela Wu
8/11/2023	Baker Tilly US, LLP	BT2500878	8/3/2023	\$402.50	Executive Coaching For PWu Through July 2023
6/16/2023	Baker Tilly US, LLP	BT2458804	6/6/2023	\$632.50	Executive Coaching For PWu
10/20/2023	Baker Tilly US, LLP	BT2526933	9/8/2023	\$2,357.50	Executive Coaching For PWu through August 2023
10/20/2023	Baker Tilly US, LLP	BT2556122	10/4/2023	\$287.50	Executive Coaching For PWu through Sept 30,2023
7/28/2023	Baker Tilly US, LLP	BT2478907	7/7/2023	\$690.00	Executive Coaching For PWu through June 30,2023
7/28/2023	Baker Tilly US, LLP	BT2415365	5/4/2023	\$225.00	FY 22-23 Executive Coaching For PWu
6/30/2023	Baker Tilly US, LLP	BT2334680A	3/3/2023	\$690.00	Executive Coaching For PWu provided through February 2023
4/21/2023	Baker Tilly US, LLP	BT2370827	4/7/2023	\$460.00	Executive Coaching CM Wu
11/17/2023	Baker Tilly US, LLP	BT2598038	11/7/2023	\$977.50	Fees for PWu Coaching Provided Through October 31,2023
12/15/2023	Baker Tilly US, LLP	BT2622249	12/5/2023	\$402.50	Executive Coaching For PWu
4/5/2024	Baker Tilly US, LLP	BT2648477	1/4/2024	\$172.50	Fees for coaching provided through December 31, 2023
3/29/2024	Baker Tilly US, LLP	BT2676617	2/7/2024	\$345.00	Executive Coaching For PWu provided through January 2024
3/29/2024	Baker Tilly US, LLP	BT2707046	3/7/2024	\$460.00	Executive Coaching For PWu provided through February 2024

Date	Payee Name	Invoice Numb	Invoice Date	Invoice Amo	Description
6/14/2024	Klarity Consulting, LLC	2024-004	6/10/2024	\$3,480.00	Executive Coaching & Mentoring - May 2024 Services
5/24/2024	Klarity Consulting, LLC	2024-001	5/10/2024	\$840.00	Executive Coaching Services - April to May 2024
7/26/2024	Klarity Consulting, LLC	2024-005	7/10/2024	\$12,960.00	FY23-24 Executive Coaching and Mentoring - June 2024 Services
9/13/2024	Klarity Consulting, LLC	2024-010	9/10/2024	\$3,360.00	Executive Coaching & Mentoring - August 2024 Services
9/13/2024	Klarity Consulting, LLC	2024-008	8/10/2024	\$8,400.00	Executive Coaching & Mentoring - July 2024 Services
11/1/2024	Klarity Consulting, LLC	2024-011	10/10/2024	\$5,280.00	Executive Coaching & Mentoring - September 2024 Services
12/12/2024	Klarity Consulting, LLC	2024-016	12/10/2024	\$1,260.00	Executive Coaching & Mentoring - November 2024 Services
1/17/2025	Klarity Consulting, LLC	2024-018	1/10/2025	\$1,320.00	Executive Coaching & Mentoring - December 2024 Services
2/28/2025	Klarity Consulting, LLC	2024-020	2/10/2025	\$720.00	Executive Coaching & Mentoring - January 2025 Services
3/28/2025	Klarity Consulting, LLC	2024-023	3/10/2025	\$3,720.00	Executive Coaching & Mentoring - February 2025 Services

2025-04-29

EMAIL

to

COUNCIL

Peggy Griffin

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, April 29, 2025 2:40 PM
To: 'City Council'; City Attorney's Office
Cc: 'City Clerk'
Subject: 2025-04-19 City Council Meeting ITEM 1 - City Manager Evaluation
Attachments: Itinerary for Sister City Trip-Bhubaneswa Nov 10-13 2024.pdf; PRR 25-81 CM Wu vacation days Nov 2025.pdf; Map of Flights in India.pdf

PLEASE INCLUDE THIS EMAIL AND ALL ATTACHMENTS IN WRITTEN COMMUNICATIONS FOR THE ABOVE MEETING AGENDA ITEM.

Dear Mayor Chao, Vice Mayor Moore, Councilmembers and City Attorney Floy,

I am writing you due to my concern regarding our Cupertino City Manager Pamela Wu's apparent misappropriation of public funds and her behavior as the top staff member of our city.

The information obtained through a series of public records requests point to a possible larger issue regarding the use of public funds and her breaking the conditions of her contract.

BACKGROUND

- 1) April 13, 2023 a sudden City Council Special Meeting was called to approve the funding of City Manager Wu's trip to the Sister City Hsinchu, Taiwan to accompany Mayor Wei, both from Taiwan. This meeting was called on a Thursday night, the night before they were to leave for Taiwan, tickets already in hand. Without this approval, CM Wu's trip would not be covered by public funds.
 - a. NOTE: During the Council meeting there was an extensive discussion regarding the appropriateness of the City Manager going on the trip at all so the awareness of the need for prior authorization was known to City Manager Wu back in April of 2023.
 - b. Page 4 of 8 of the 2018 Sister City and Friendship City Policy 2018 stated:

All other Council or City Staff travel for Sister City programs must be funded by the City Council, except for Council Committee fundraising activities, or by the individual traveling council member, unless authorized in advance by the City Council
- 2) Oct. 10, 2023, Consent Item 5 Updates to the Policies and Guidelines on Sister Cities etc. was pulled for discussion. Again an extensive discussion ensued.
 - a. Page 8 of 8 under INTERNATIONAL DELEGATIONS-Travel Expenses

Travel Expenses -

International travel shall be at the expense of the traveling Council member or staff member, unless authorized in advance by the City Council
- 3) Nov. 6-15, 2024 City Manager Wu accompanied then Mayor Mohan on a lengthy vacation using public funds.
 - a. NOTE1: No Council approval was obtained to go on this trip! No Council approval was obtained for any expenses to be paid for this trip.
 - i. There was ample time to put the item on the agenda as indicated by her US Bank Card charge on 10-1-2023 for a VISA so plans were already underway.
 - b. NOTE2: CM Wu chose to take a side trip to Bangalore, India (NOT a sister city) but the hometown of Mayor Mohan, staying 2 nights at the Ritz Carlton on the city's dime!
- 4) City Manager Wu's employment contract

- a. Section 1.3 Other Activities – “shall not engage, without the express prior written consent of the City Council, in any other business duties or pursuits whatsoever...”
 - b. Section 6.6 Professional Development specifically talks about travel in the US, not internationally.
- 5) Loss of work time and costs to our city
- a. In 2023, CM Wu went on another Sister City trip to Taiwan, her hometown. Rather than take vacation, she charged all but one day as “work time”.
 - b. On this vacation to India, CM Wu spent 5 work days traveling to and from India! She arrived in Bangalore just in time to spend the weekend vacationing in Bangalore at the Ritz Carlton, paid for by our tax dollars.
 - c. In both these cases, Cupertino lost valuable work time from a very highly paid individual and it preserved her vacation time so the city incurred double costs!
- 6) Restaurant charges on CM Wu’s city US Bank Card – they look excessive and some look to be just a normal lunch not associated with travel or seminars.
- 7) Blatantly absent from the February 26th, 2025 State of the City event.
- a. This event was set in advance. It is THE big city event where other dignitaries from other cities, CA legislature and organizations are present and yet CM Wu was not there!
 - b. This came across as a non-verbal statement of disapproval of our new Mayor Chao and our newly elected council when the City Manager’s position, along with staff, is supposed to be neutral, working with whomever has been elected.
- 8) Behavior at City Council meetings – non-verbal body language showing disapproval of council actions
- a. I’ve seen her storm off of the dais after a council meeting.
 - b. I’ve seen her intentionally go hug some representatives of the now-minority council but this does not happen to those opposing residents.
- 9) Poor leadership/setting an example – CM Wu’s expenditures and her behavior do not set a good example for our city employees.
- a. When the top employee spends extravagantly when others (both staff and residents) are asked to cut costs sends a mixed signal and does not build trust.
 - b. When the top employee doesn’t show up for important events or spends work time traveling in order to arrive at a vacation location in time for the weekend, tells employees they can do the same!
 - c. The strongest leaders lead by example. Their actions are stronger than your words. CM Wu’s actions speak for themselves.

Please look into this apparent misappropriation of public funds . The residents of Cupertino have had to take cuts in services and increases in fees due to a “lack of funds” yet the cost of some of these services could have been covered by or helped cover all these misappropriated funds!

As council members change and options or priorities change it is extremely important that our City Manager and staff remain neutral and follow whatever direction has been decided because they reflect the people who elected them into office. It also builds trust and cooperation.

Sincerely,
Peggy Griffin

REFERENCES

Reference1 - 2018 Sister City and Friendship City Policy

<https://cupertino.legistar.com/View.ashx?M=F&ID=12344589&GUID=2C4E53C6-34D8-4301-9F4A-8A0B081F5DF3&G=74359C04-A5F0-4CB2-A97A-0032996BB90E>

Reference2 - 2023 Sister City and Friendship City Policy

<https://records.cupertino.org/WebLink/DocView.aspx?id=1160518&dbid=0&repo=CityofCupertino&searchid=182d5a89-661d-49ce-ba32-9c9163959c6e>

Reference3 – City Manager Pamela Wu’s employment contract

<https://www.cupertino.gov/files/assets/city/v/1/your-city/documents/cc-resolution-no-22090-2.pdf>

Reference 4 - Public Records Request PRR #25-038 All costs for Sister & Friendship Cities expenses

<https://cityofcupertino.ca.nextrequest.com/requests/25-38>

Page 20 - shows 10-1-2024 cost for Visa

Page 29 – shows a 2 night stay at the Ritz Carlton, Bengaluru (NOT A SISTER CITY but is former Mayor Mohan’s hometown!)

Reference 5– Public Records Request PRR #25-053 All US Bank Card Statements for Pamela Wu

<https://cityofcupertino.ca.nextrequest.com/requests/25-53>

Note the many, many higher end restaurant charges. Several look like charges for her nice lunches while in Cupertino – again not covered under her contract.

Reference 6 – Public Records Request PRR #25-054 Itemized invoices

<https://cityofcupertino.ca.nextrequest.com/requests/25-54>

Reference 7 – Attached PDF-Itinerary for Sister City Trip-Bhubaneswa Nov 10-13 2024.pdf

Reference 8 – Attached PDF-PRR #25-81 Vacation days taken in November 2024

No vacation days were taken during the sister city trip November 6-14, 2024.

Reference 9 – Attached PDF-Map of Flights in India

The sister city trip to India went out of their way to go to Bangalore.

2024-09-04

EMAIL

to

COUNCIL

Peggy Griffin

From: Peggy Griffin <griffin@compuserve.com>
Sent: Wednesday, September 4, 2024 12:00 PM
To: 'City Council'; 'Kristina Alfaro'; 'City Clerk'
Subject: 2024-09-04 City Council Meeting ITEM1 - City Manager Evaluation
Attachments: 2024-06-18 CC Mtg-Supplemental Reports.pdf

Dear City Council, City Clerk and Director Alfaro,

REQUESTS:

- 1) Please include this email and the attachment as part of Written Communications for the 2024-09-04 City Council Closed Session Item #1 City Manager Wu's Evaluation.
- 2) Please also include this in her personnel file.

City Manager Wu has not followed the powers and duties of her position as City Manager.

- 1) She has created new positions without approval. (2.28.040 D)
- 2) She has not kept the City Council fully informed regarding the financial conditions/needs of the City. (2.28.040 G)
- 3) She has not followed City Council directions. (2.28.040 O)

The following are details in support of the above statements.

2.28.040 D. "The power to appoint...does not include the power to create a new position..."

Yet, City Manager Wu created the Economic Development Manager position without approval!



2.28.040 G. "To keep the City Council at all times fully advised as to the financial conditions and needs of the City;"

Not only has this not been done, but the information has been late, delayed and misleading.

- The Council and public has been told we are in a financial crisis then she continues to authorize non-essential studies, projects and consultants spending millions of dollars while cutting services to residents.
- Contracts are "approved" by Council then 1-2 months later appended to add more!
- She continues to mislead the Council and the public.
 - EXAMPLE: Recently, she described the 19400 Stevens Creek Blvd building as a "turnkey" building. This implies it is ready to move in without alterations which is no where near the truth! This is an old building requiring significant seismic and other upgrades! She has already hired an architect yet the building has not been purchased, nor should it.
 - EXAMPLE: City Hall...the actual plans and needs have not been discussed in public. The "wisdom of the purchase" must be discussed in public before any purchase is considered. The Council and the public has no idea what has been decided behind closed doors spending money we don't have.
 - EXAMPLE: She stopped the progress of the Torre Ave Annex without notifying or discussing it with Council! It just quietly was stopped and only disclosed when it came up in some other discussion.

- EXAMPLE: Continually dodges direct questions regarding the plans for City Hall, the EOC and the Sherriff's Office. These are key financial, health and safety issues that need to be addressed in public and the Council and the public should have a right to know how our tax dollars will be spent on these items yet she continually evades and refuses to put them on the agenda to be discussed!

2.28.040 O. To make reports and initiate recommendations as may be desirable or as requested by the City Council.

- City Manager Reports continue to be video ads for the city rather than actual informative reports to Council. We used to get CM reports that were of substance rather than fluff pieces produced by someone else.

When City Manager Wu spoke at a recent Cupertino Rotary meeting, she presented information on the state of the city that one would expect to be presented to Council and the public but never was presented to Council.

<https://vimeo.com/915834364?share=copy>

- In addition, at that same Cupertino Rotary meeting, City Manager Wu divulged Closed Session information of the name of the Cupertino business that was being audited in the CDTFA audit!
- City Manager Wu has NOT followed Council direction regarding what to do about City Hall renovation. She was directed to look into but NOT execute! She has yet to present the options, the costs, what is and is not available to the Council. This would allow them to make a decision yet she has decided for them! She is attempting to purchasing a building without a "plan" approved by Council and discussed in public.

I have attached her 2024-06-18 City Council Supplemental Report for reference so you can go back and listen to the meetings for yourself to see what was directed.

Sincerely,
Peggy Griffin

CC 06-18-2024

#12

Consider acquisition of
property located at 19400
Stevens Creek Blvd

Supplemental Report

CITY COUNCIL MEETING

Lead Negotiator for a
Property Transaction

June 18, 2024



Background

- Aging infrastructure, seismic deficiencies, inadequate space
- Subcommittee and Council discussions about this topic since 2022
- Cost of renovation estimated at \$27.5 M, cost of a new City Hall estimated at \$80 M



Prior Council Direction

- **November 15, 2022:** include a City Hall retrofit project in the CIP
- **February 21, 2023:** suspend work on renovation plan and explore options for a new City Hall
- **October 17, 2023:** pursue conceptual development with financing strategies for new or renovated City Hall; bring back examples of public private partnership projects and pursue potential partnerships

Key Elements and Opportunities

- Turnkey office space located at 19400 Stevens Creek Boulevard
- 1.2-acre lot, 20,700 square feet of office
- Accessible location for the community
- Could serve as an interim City Hall while potential partnership and funding options are explored for current site

Recommendation

Authorize the City Manager to act as the lead negotiator for purchase of the property located at 19400 Stevens Creek Boulevard

Lead Negotiator for a Property Transaction



CUPERTINO

2023-10-30

EMAIL

to

COUNCIL

Peggy Griffin

From: Griffin <griffin@compuserve.com>
Sent: Monday, October 30, 2023 3:32 PM
To: City Council
Cc: City Clerk
Subject: 2023-10-30 City Council Meeting Agenda Item2- City Manager Performance Evaluation

Please include this email and any attachments as part of written communication for the above city council meeting agenda item.

Dear City Council,

I am including the comments I submitted in early July 2023 again since City Manager Wu's performance evaluation was "postponed" according to what the public was told was the result of the Closed Session.

In addition, I would like to point out that under the Cupertino Municipal Code section 2.28.040 Powers and Duties, City Manager Wu shall act under the direction and control of the City Council. In February, she was instructed to continue the work on the City Hall Annex yet in October staff reported that this was stopped! This was done without City Council approval or knowledge!

Also, in February she was instructed to look into the feasibility of a new city hall but what resulted and was presented to Council in October did not look anything like what was requested! No one mentioned housing on public land! Staff did not ask Council if this sound be considered. It was another decision done behind closed doors without public or Council oversight!

City Manager Wu is making decisions that should be done in public with Council direction and public comment. The Housing and Planning Commissions have been completely left out of any participation in the Housing Element input on policies and procedures and their meetings have just about all been eliminated! Decisions have been made without public oversight or input!

This is not how our city should be run. Video recordings of Parks and Rec meetings have been eliminated using cost as a reason yet money is spent on meals and travel that far exceed the cost of video recordings. Priorities need to be adjusted!

Maybe it's time for a change in management and improved oversight? Please do your job and fix this! It has gone in too long and it's not improving.

Sincerely,
Peggy Griffin

"

2.28.040 Powers and Duties.

The City Manager shall be the administrative head of the City government acting under the direction and control of the City Council except as otherwise provided in this chapter."

From: Peggy Griffin
Date: July 6, 2023 at 1:37:38 AM PDT
To: City Council <CityCouncil@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>
Subject: 2023-07-06 City Council Meeting Agenda Item3 - City Manager Performance Evaluation

Dear City Council,

With regard to City Manager Wu's evaluation, please consider addressing the following issues:

ISSUE #1: CUTTING PEOPLE OFF

Often during City Council meetings, City Manager Wu cuts people off, not allowing them to finish their statement or answer questions that were asked of them, not the City Manager. This has happened to her staff, the City Attorney, and to the minority City Council Members. It does not happen to the 3 majority City Council members.

From the recently passed "City of Cupertino City Council Procedures Manual", Section 6 "Relationship with City Staff", Section 6.5 Decorum. "All Council members and City staff shall treat each other with dignity, courtesy, and respect" This applies to the City Manager-City Council relationships and City Manager-Staff relationships.

ISSUE #2: NOT ANSWERING QUESTIONS IN COUNCIL MEETINGS

VERY OFTEN, when a City Council Member asks a question she refuses to answer it and responds that it will be taken offline and answered in a memo. Sometimes, questions are brought up during public comment on an item and Council Members note them and repeat the question during their comment time. These questions need to be addressed in public and often the answers can impact the vote.

This comes across as arrogant and condescending, as if the information is not important enough to be addressed in public. There is no follow up. The public never hears the answers to these questions and the vote is forced without an answer. When a Council Member asks a question, the City Manager should answer the question or find someone who can!

ISSUE #3: KNOWINGLY ALLOWING MUNICIPAL CODE VIOLATIONS BY STAFF TO CONTINUE

Since December 2022, the City has been in violation of California state and Cupertino municipal code regarding the timely reporting of monthly financial information. During the February 21, 2023 City Council meeting, Agenda Item #5 Accounts Payable for Nov. 22, 2022 the frequency of the Accounts Payable reports coming to council was brought up. City Manager Wu insisted that these reports would adhere to the requirements specified in Resolution 5939, Section D Number 3. She repeatedly said this on February 21, 2023!



Even in June, these reports were presented late. The City Manager has been aware of this the whole time yet it was not corrected for over 6 months!

Please address these 3 issues when discussing City Manager Wu's review. Hopefully, by identifying and discussing these issues they can be resolved which would help improve communication and relationships.

Sincerely,
Peggy Griffin

Below is a summary of City Council Resolution 5939:

CC Resolution 5939 amends Resolution #3721, dated Sept. 7, 1982

Treasury Functions

1) Office of the Treasurer

- a) The City Council reserves the right to appoint the Treasurer who serves at the pleasure of the City Council. (Page 1 of 3, A)

2) Investment Funds

- a) CDs only deposited in financial institutions located within CA. (Page 2 of 3, B.1)
- b) "A summary of investment types and depository balances **shall be reported by the Treasurer not less often than once a month.**" (Page 3 of 3, end of B)

3) Issuance of Checks

- a) Checks are issued "in payment of obligations under contract previously approved by the City Council."

2023-07-06

EMAIL

to

COUNCIL

Peggy Griffin

From: Peggy Griffin <griffin@compuserve.com>
Sent: Thursday, July 6, 2023 1:38 AM
To: 'City Council'
Cc: 'City Clerk'
Subject: 2023-07-06 City Council Meeting Agenda Item3 - City Manager Performance Evaluation

Dear City Council,

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a) Checks are issued "in payment of obligations under contract previously approved by the City Council" (Page 3 of 3, end of C)

Even in June, these reports were presented late. The City Manager has been aware of this the whole time yet it was not corrected for over 6 months!

Please address these 3 issues when discussing City Manager Wu's review. Hopefully, by identifying and discussing these issues they can be resolved which would help improve communication and relationships.

Sincerely,
Peggy Griffin

2023-05-12

EMAIL

to

DA Rosen

Peggy Griffin

From: Peggy Griffin <griffin@compuserve.com>
Sent: Friday, May 12, 2023 2:04 PM
To: jrosen@dao.sccgov.org
Subject: Cupertino Treasurer Violations of Laws and apparent concealment of negative ACFR
Attachments: FILE_3818-Crowe Horwath March 1, 2018.pdf; FILE_8769-Maze and Assoc June 30, 2016 Interim Accounting.pdf

May 12, 2023

Dear District Attorney Rosen,

I'm concerned about the selective enforcement of our Cupertino Municipal Code to retaliate against certain Councilmembers who have tried to bring our city into compliance with state and municipal code.

Last year, the Cupertino Audit Committee chaired by Councilmembers Moore and former Councilmember Paul worked to get our city into compliance with these laws. Since their removal from this committee the city Treasurer has fallen out of compliance despite their response to the Santa Clara County Civil Grand Jury (CGJ) report "Show Me the Money".

Recommendation 8

The City of Cupertino should maintain compliance with California Government Code section 41004. Continued compliance is recommended.

Response: *Agree.* The City will continue to comply with Government Code section 41004.

Link to the CGJ's report "Show Me the Money"

https://www.sccourt.org/court_divisions/civil/cgj/2022/Show%20Me%20the%20Money%20-%20Financial%20Transparency%20Needed.pdf

Link to City of Cupertino's Response to the CGJ's report "Show Me the Money"

https://www.sccourt.org/court_divisions/civil/cgj/2023/Show%20Me%20the%20Money-City%20of%20Cupertino.pdf

I'd like to bring these violations listed below to your attention.

I-Violation of Municipal Code Section 2.24.030 Monthly Reports and California Government Code Section 41004.

The City's Municipal Code Section 2.24.030 Monthly Reports states:

The Treasurer shall make monthly reports which conform to the requirements of Government Code Section 41004. Said reports shall be delivered to the City Council, the City Manager and made available for review by such other persons who may so request.

California Government Code Section 41004 states:

Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. The city treasurer shall file a copy with the legislative body.

In the May 16, 2023 Cupertino City Council Agenda, it includes the March 2023 Monthly Treasurer's Report (Agenda Item #18) which is late and violates both Cupertino municipal code and California state law. This is not the first time since December 2022. They are continually late.

Link to May 16, 2023 Cupertino City Council Agenda

<https://cupertino.legistar.com/View.ashx?M=A&ID=1053215&GUID=154456CA-6159-4A41-8BAE-5C85CDECDF07E&G=74359C04-A5F0-4CB2-A97A-0032996BB90E>

II-Violation of California Government Code Section 53607, Cupertino Municipal Code 2.24.050 and the Cupertino Investment Policy

This is an excerpt from the top of the December 2022 Monthly Treasurer's Investment Report. This is included in every Monthly Treasurer's Investment Report as background information.

CITY COUNCIL STAFF REPORT

Meeting: February 7, 2023

Subject

Consider the Monthly Treasurer's Investment Report for December 2022

Recommended Action

Receive the Monthly Treasurer's Investment Report for December 2022

Discussion

Background

On May 19, 2022, the City Council approved the City's Investment Policy. Per the City's Investment Policy, the Treasurer shall submit monthly transaction reports to the City Council within 30 days of the end of the reporting period per California Government Code Section 53607. In addition to the monthly transaction reports, quarterly investment reports are submitted to the City Council approximately 45 days following the end of the quarter. The quarterly investment report offers a more extensive discussion of the City's economy, cash flow, and investments.

The City's Municipal Code Section 2.24.050 Investment Authority states that the Treasurer shall make a monthly report of all investment transactions to the City Council. Lastly, the City's Municipal Code Section 2.88.100 Duties-Powers-Responsibilities lists one of the powers and functions of the Audit Committee is "to review the monthly Treasurer's report."

Link to current and about to be updated Cupertino Investment Policy

<https://cupertino.legistar.com/View.ashx?M=F&ID=11960748&GUID=32777BC5-C26B-4777-AFD8-125ECE8D6F2D&G=74359C04-A5F0-4CB2-A97A-0032996BB90E>

The May 16, 2023 Cupertino City Council Agenda Item #17 "Receive the Monthly Treasurer's Investment Report for March and April 2023", the March 2023 Monthly Treasurer's Investment Report is late.

III-Staff made new 2023 agenda rule forbidding the City Council from discussing agenda items labeled “INFORMATIONAL” which include the Treasurer’s Reports and the negative annual audit results in a public form.

The May 16, 2023 Agenda places the March and April Monthly Treasurer’s Investment Reports (Agenda Item #17) as INFORMATIONAL items along with the most important annual audit report called the Annual Comprehensive Financial Report (ACFR Agenda Item #21). Included in this ACFR is a management letter which has internal deficiencies listed.

The Management Letter is intended to provide the City Council with information regarding the organization to fulfil their fiduciary duties. In order to do this, they need to discuss the findings in the letter.

Link to ACFR Management Letter

<https://cupertino.legistar.com/View.ashx?M=F&ID=11961088&GUID=5A2D8FA3-C09D-4224-BAE7-5445D8CDF580&G=74359C04-A5F0-4CB2-A97A-0032996BB90E>

INFORMATIONAL ITEMS are different from CONSENT ITEMS because INFORMATIONAL ITEMS cannot be pulled for discussion and are NEVER even presented to the public. They just listed on the agenda. The City Council never voted to implement the INFORMATIONAL Agenda category. This was purely a staff decision.

In light of the above violations and concerns, I have 2 requests for your consideration:

REQUEST1: Consider the referral received from City Attorney Jensen in light the above violations by the city itself and the efforts of Councilmembers Moore and Paul to identify and bring the city into compliance.

REQUEST2: Please request a state auditor to audit the City of Cupertino.

Thank you.

Sincerely,

Peggy Griffin

griffin@compuserve.com

P.S. I’ve attached 2 older audit documents that show a long history of audit issues.

- March 1, 2019 Crowe Horwath Report

- June 30, 2016 Maze and Associates Report

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL
STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

To the Honorable Mayor and City Council
City of Cupertino, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of City of Cupertino, California (City) as of and for the year ended June 30, 2017, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated March 1, 2018.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered City's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of City's internal control. Accordingly, we do not express an opinion on the effectiveness of City's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did identify certain deficiencies in internal control, described in the accompanying schedule of findings and responses as items 2017-001, 2017-002 and 2017-003 that we consider to be material weaknesses.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether City's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*

The City's Response to Findings

The City's response to the findings identified in our audit are described in the accompanying schedule of findings and responses. The City's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.


Crowe Horwath LLP

Costa Mesa, California
March 1, 2018

CITY OF CUPERTINO, CALIFORNIA
SCHEDULE OF FINDINGS AND RESPONSES
YEAR ENDED JUNE 30, 2017

2017-001 – INFORMATION SYSTEM CONTROLS

Criteria: Internal controls over information systems are a key component of an organization's control environment. Entities should have internal controls including policies and procedures regarding user access, change management, and back-up and recovery. Where adequate segregation of duties cannot be employed via system access restrictions, detective and monitoring review controls should be established that adequately mitigate such risks. Such controls enable entities to increase efficiency by reducing manual processes and improving the accuracy and quality of the data used across those information systems. Such controls are also important to prevent erroneous and fraudulent transactions or entry to systems.

Condition: We evaluated system access to the City's Active Directory as well as the financial reporting system, New World Systems (NWS). The Active Directory authenticates and authorizes all users and computers in a Windows domain type network—assigning and enforcing security policies for all computers and installing or updating software. For example, when a user logs into a computer that is part of a Windows domain, Active Directory checks the submitted password and determines whether the user is an authorized user.

During our assessment of the City's information system controls, we noted the following:

Financial Reporting System/Active Directory

- The City's Finance Manager and Accountant II maintain super user access to the financial reporting system, in addition to operational roles in the normal course of business. Super user access includes the ability to add/modify/delete user accounts as well as assign security privileges to user accounts.
- The City's information and technology (IT) and finance departments do not have a process to evaluate the propriety of changes to user access within the financial reporting system. For example, the City's IT and finance departments are not able to provide evidence that access was removed from NWS in a timely manner. We selected a sample of 5 out of 44 terminated employees during the period reviewed. While we can confirm that user access has been removed from NWS as of the date of fieldwork, neither the IT department or the finance departments maintained records indicating the date that user access was removed.

Policies and Procedures

- The City's information technology policies and procedures have not been recently updated to reflect the practices that are currently in use. It is unknown when the City last reviewed the IT policies and procedures. For example, areas such as the disaster recovery plan and internet access and use monitoring policy, are no longer applicable to the City due to changes in hardware, software and/or management structure, yet are still presented therein.

Cause:

Financial Reporting System/Active Directory

- Super user access was granted to the 2 individuals, as management had not yet identified a position within the City, but outside the finance department, which could permanently fulfill this role. As of June 15, 2017, super user access was removed from the users identified during testing.
- User access requests for the financial reporting system are informal, typically verbal or through email. The City does not have a mechanism for tracking when user access is changed. Within the financial reporting system, the City has not yet identified the key reports which should be utilized to evaluate changes made to user access.

CITY OF CUPERTINO, CALIFORNIA
SCHEDULE OF FINDINGS AND RESPONSES
YEAR ENDED JUNE 30, 2017

2017-001 – INFORMATION SYSTEM CONTROLS (Continued)

Policies and Procedures

- With regard to the City's IT policies and procedures, there have been systematic changes to the City's disaster recovery plan, and other IT areas which have not yet been carried forward into the City's written policies.

Effect:

Financial Reporting System/Active Directory

Improper user access could result in fraudulent and/or unauthorized transactions being recorded in the City's financial reporting system, where management would not be able to detect such activity.

Policies and Procedures

Outdated policies and procedures may not provide the City a mechanism to restore critical information systems should there be a disaster recovery event. Further, in the event that key IT employees separate from the City, outdated policies and procedures may deter the City's ability to smoothly transition responsibilities to successors.

Recommendation:

Financial Reporting System/Active Directory

- The City should establish written policies and procedures which provide for the appropriate levels of user access based on the relative roles and responsibilities within the financial reporting system. A best practice is to provide the lowest level of access based on operational need. Further, we recommend the City perform a systematic review and maintain documentation of user's access rights within the financial reporting system, to ensure that a) there are not users with super user access who also have the ability to perform operational functions within the financial reporting system and b) users access roles are only for those functions which are necessary to perform in the normal course of business.

Policies and Procedures

- We recommend that the City update its policies and procedures to reflect current conditions and establish a process to ensure periodic review occurs. IT policies should be reviewed and approved by management or those charged with governance on a periodic basis.

Management's Response and Planned Corrective Action: Management agrees with auditor's recommendation and has already drafted a policy for the purpose of ensuring user access is effectively managed in the New World financial reporting system to maintain internal controls and segregation of duties. This policy emphasizes control procedures over granting and changing user access to the system as well as periodic reviews (monthly and annually) of users who have access to the system. In addition, management has already removed super-user access from all employees within the finance department.

CITY OF CUPERTINO, CALIFORNIA
SCHEDULE OF FINDINGS AND RESPONSES
YEAR ENDED JUNE 30, 2017

2017-002 – TIMELY PROCESSING OF BANK RECONCILIATIONS

Criteria: A bank reconciliation is used to compare the records of the City to those of the bank, to see if there are any differences between those two sets of records for cash transactions. Performing timely bank reconciliations is critical to the accurate financial reporting of the City. In addition, the bank reconciliation cannot be considered complete until it has been reviewed and approved, and where applicable, changes to the City's financial records have been processed.

Condition: Prior to beginning the interim audit procedures for the fiscal year ended June 30, 2017, we noted that the predecessor auditor reported (among other conditions) material unreconciled variances between the financial records of the bank and the financial records of the City. During our interim procedures, we noted that the City has been continuously evaluating the accuracy of the underlying financial activity included in the bank reconciliation information in order to have confidence in the data interfacing with the financial reporting system. The City had engaged another CPA firm to assist with this process and ensure that the bank reconciliation process is completed from December 2014 through the current fiscal year, and that process was completed in August 2017.

Cause: The City implemented its new financial reporting system in the previous fiscal period. As a result, the bank reconciliation process was not completed timely and fell behind schedule in prior years.

Effect: Transactions which have not been reviewed could be recorded incorrectly, and not corrected in a timely manner.

Recommendation: We recommend the City continue its process of reviewing its bank reconciliations and clearing exceptions by posting correcting entries to the general ledger, when necessary. This will result in more accurate financial reporting.

Management's Response and Planned Corrective Action:

During fiscal year 2016-2017, the City allocated significant resources to ensure the bank reconciliation comments that were noted in the prior year financial statement audit were resolved in a timely manner. Prior to the commencement of fieldwork for the fiscal year 2016-2017 audit, the City completed its bank reconciliations; however, because the City required to address differences noted in prior reporting months, they could not be completed within thirty (30) days subsequent to the reporting period end. Since addressing the bank reconciliation-related comments noted in the fiscal year 2015-2016 audit, the City has been completing and reviewing its monthly bank reconciliations in a timely manner.

CITY OF CUPERTINO, CALIFORNIA
SCHEDULE OF FINDINGS AND RESPONSES
YEAR ENDED JUNE 30, 2017

2017-003 – PRIOR PERIOD RESTATEMENTS FOR PENSIONS AND CAPITAL ASSETS

Criteria: Financial Statements prepared in accordance with GASB Statement No. 34 must include activities related to capital assets. Reporting of capital assets on financial statements requires management to track and monitor capital assets activities including those classified as construction in progress. All costs incurred relating to construction of entity-owned assets must be accounted and classified under construction in progress in the appropriate fund. Also, in consideration of the City's net pension liability and related deferred inflows and outflows of resources, National Council on Governmental Accounting (NCGA) Statement 1, *Governmental Accounting and Financial Reporting Principles*, paragraph 42, as amended, requires that long-term liabilities that are directly related to and expected to be paid from those funds be reported in the statement of net position or statement of fiduciary net position, respectively.

Condition: During the fiscal year, the City identified instances in its capital asset records where certain capital assets were reported in the incorrect opinion units as well as construction in progress in prior year was not reported. In addition, in prior years, the City did not properly allocate its net pension liability, deferred outflows of resources or deferred inflows of resources to its internal service funds. As a result, the City reported prior period restatements in the applicable opinion units for all material adjustments.

Cause: The cause for the capital asset prior period restatement appears to be manual errors in the record keeping for capital assets in prior years, which the City corrected during the fiscal year ended June 30, 2017. The cause for the pension restatement was the City not properly considering the guidance within NCGA Statement 1 when reviewing the allocation of its pension liabilities, deferred outflows of resources and deferred inflows of resources in prior years to ensure material allocations to applicable opinion units were presented correctly.

Effect: Approximately \$327,000 in capital assets were not recorded in the Recreation Program Enterprise Fund in previous years. Also, \$1,267,056 in net pension liability, \$162,743 in deferred outflows of resources and \$80,330 in deferred inflows of resources were not recorded in the Information Technology Internal Service Fund.

Recommendation: We recommend that the City continue its monitoring of capital asset records to ensure proper recording of these items in its financial statements. This includes implementing procedures to timely identify capital asset activity as either expenses or construction in progress and that capital assets are recorded in their correct fund. We also recommend that annual pension calculations be reviewed to ensure proper allocation to applicable opinion units.

Management's Response and Planned Corrective Action:

Management agrees with auditor's recommendation and will continue the monitoring of capital asset records to ensure proper recording of these items in the City's financial statements. The City is currently implementing a new fixed assets module in fiscal year 2017-2018 that will assist in the monitoring, maintenance, and reporting of the fixed assets-related activities of the City. Furthermore, management will be providing the training necessary for the proper identification and recording of capitalizable costs. In regards to the finding related to pension allocation, the City also agrees and will ensure all pension-related activities are properly allocated to the appropriate opinion unit on an on-going basis.

CITY OF CUPERTINO
INTERIM ACCOUNTING ISSUES MEMO
JUNE 30, 2016

Final Schedule

We will provide the City the final closing checklist via e-mail during the week of July 18, 2016. We will need the final closing checklist items available for us on **Monday, November 7, 2016**. Please reserve a room for our staff for the period **Monday, November 21, 2016 – Friday, December 9, 2016**.

We have provided the audit confirmation drafts to the City during the week of July 18, 2016. Please **mail** the original signed confirmations as soon as they are ready to our Maze office in Pleasant Hill, along with **a check payable to the State Controller in the amount of \$100**. **Please do not mail them directly; we will do that after we review them.**

The following is a timeline of proposed dates for the City's audit, please let us know if you have any concerns:

- November 7, 2016 – Latest date that City staff will have City's financial reports emailed to Chris Hunt (chrish@mazeassociates.com) and cc Mark/Grace/Zach. Please coordinate with Chris Hunt directly for the types of reports required.
- Week of November 14, 2016 – Maze will e-mail the analytical review questions to City.
- November 21 – December 9, 2016 – Final Audit fieldwork days. All items requested in the Final closing checklist should be ready on the first date of the fieldwork.
- December 9, 2016 – Maze will provide the draft of the following reports for City's review:
 - CAFR
 - Investment AUP Report
- December 16, 2016 – City to provide the draft changes, MD&A and Statistics for Maze review
- December 19, 2016 – Maze to provide the 2nd round draft of CAFR for City to review
- December 22, 2016 – City to provide the final draft changes to Maze and provide the Transmittal letter
- December 27, 2016 – Maze to provide the revised completed version of CAFR for City for a final proof
- December 27, 2016 – City provide signed Management Representation Letters (MRL) for all reports
- December 30, 2016 – Maze issues the finalized reports and provides bounded copies to City.
- January, 2016 (To be confirmed) – Maze to present to the Audit Committee

We plan to start **Single Audit** sometime in December 2016. Here is our proposed timeline:

- November 21, 2016 – Finalized SEFA (Scheduled of Expenditures for Federal Awards) for Single Audit e-mailed to Maze.
- January 2016 – Single Audit field work starts for one week.

CITY OF CUPERTINO
INTERIM ACCOUNTING ISSUES MEMO
JUNE 30, 2016

INTERIM CONTROL TESTING RESULTS

Our interim audit results did not note any material weaknesses in the City's internal control thus far. However we do have issues that we would like to bring to the City's attention as documented below:

1. ISSUE (Title): Super-User Rights

Criteria – A system super-user is an individual who has full access over the City's financial system including all modules and all functions. This type of access should be limited to as few people as possible. If possible, super-user rights should be removed from Finance Department staff.

Condition – During our interim audit, we noted that the Accountant is a super-user in the City's financial system.

Cause – The City is working to implement sufficient controls subsequent to converting to New World Systems effect January 1, 2015.

Effect – When an accounting staff has super-user rights, there is an increased risk that unauthorized adjustments or transactions could be processed without proper review and approval. As a result, there is an increased risk that financial statements material misstatements and/or loss of financial asset may not be detected and correctly timely.

Recommendation – The City should review the necessity of granting any employee the super-user rights to the financial system. For any module within the financial system that these employees do not need to have editing rights, their access should be limited to read-only.

2. ISSUE (Title): Review of the Payroll Register

Criteria – To ensure proper and accurate processing of City payroll, payroll check registers should be reviewed, approved and signed off by a designated individual who is not directly involved with payroll processing.

Condition – During our interim audit, we noted that the payroll registers are reviewed; however there does not appear to be any indication that a review of the payroll register took place.

Cause – The Finance Manager did not sign off on the payroll register to document that the payroll register was reviewed and approved.

Effect – Reviewing payroll registers is an essential internal control to ensure all employees are being paid the appropriate and approved amount. Without a proper review, the City is subject to an increased risk of error or unauthorized payroll.

Recommendation – We recommend the City ensures that an employee review all payroll registers timely and document their review on the face of payroll register.

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3. ISSUE (Title): Controls over Cash Receipts

Criteria – Proper segregation of duties and sufficient monitoring procedures over the cash receipt process are essential to the City’s internal control. Authorization, recording, custody and comparison responsibilities should be segregated between separate employees. In addition, appropriate personnel should be reconciling cash receipts to the general ledger on a monthly basis. Coinciding with the preparation of the reconciliation, the City should also be reviewing aging reports and delinquent receivables reports to determine the reasonableness over collectability of its account receivable balances.

Condition – During our interim audit, we ascertained that the City’s Account Clerk is responsible for opening daily mail, performing daily reconciliations, as well as performing daily/weekly deposits to the bank. Per conversation with Cheuk Law, Senior Accountant, it appears that the City is not performing monthly/quarterly cash receipt reconciliations to the general ledger. In addition, the City is not currently reviewing the accounts receivable aging report.

Cause – It appears the City currently does not have sufficient resources available to implement sufficient segregation of duties and effective monitoring. This is caused by increased staff turnover in recent years as well as the City’s election to convert to a new general ledger system (New World System).

Effect – Because the Account Clerk has access to customer database, is responsible for receipt collections, performing daily reconciliations and goes to the bank to make bank deposits, the Account Clerk currently is responsible for the recording, custody and comparisons related to the City’s cash receipt process. As a result, there appears to be an increased risk of potential misstatement and/or fraud. In addition, the lack of monitoring (monthly reconciliations) increases the risk for potential misstatement and/or fraud being uncorrected in a timely manner and even undetected.

Recommendation – We recommend that the City reviews the personnel involved in the cash receipt process and limits access so that no single employee has custody, records cash receipts, can make adjustments; and make bank deposits. In addition, we also recommend the City begin performing monthly reconciliations of its cash receipts and accounts receivable balance on a monthly basis. As part of this review process, the City should also review an accounts receivable aging report and delinquent receivables report to determine the likelihood and reasonableness over the collectability of the balance. Bank deposit should be made by another employee who does not perform cash receipts detail or can make adjustments to cash receipts or accounts receivable.

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4. ISSUE (Title): Compliance with Government Code 53646 and Investment Policy

Criteria- California Government Code 53646 section 1(b) states “The treasurer or chief fiscal officer may render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency. The quarterly report shall be so submitted within 30 days following the end of the quarter covered by the report. In addition, in the City’s Investment Policy section “Performance Evaluation”, the City requires Investment performance statistics and activity reports are generated on a quarterly basis for presentation to the oversight (audit) committee, City Manager and City Council. Additionally, when preparing the quarterly Treasurer’s Report the City should ensure all market values are in agreement with the month-end account statements.

Condition – During our interim audit, we selected the March 2016 Treasurer’s Report for testing against the City’s Investment Policy in addition to California Government Code 53646. Per review of the March 2016 Treasurer’s Report and the City Council minutes located on the City’s website, it appears the City has not submitted the March 2016 Treasurer’s Report to City Council as of 7.13.16. In addition, we noted the March 2016 Treasurer’s Report balance for the Bond Lease Payment Account and Bond Reserve Account did not agree with the March 2016 BNY Statement by a total of \$1,051.

Cause – The City, while striving to be in full compliance with all California Government Code and Investment Policy provisions, was unaware of the specific provision in section 53646. The City believed submitting to the “Audit Committee” was sufficient to fulfill all requirements; however the California Government Code and Investment Policy explicitly state submission to City Council is required.

Effect – The City is not in compliance with California Government Code 53646 or the adopted City Investment Policy. In addition, the City could be presenting inaccurate statements to the Audit Committee and Council without reconciling the amounts with the month end account statements.

Recommendation – We recommend the City submit all quarterly Treasurer Reports to City Council within the 30 days following the end of the quarter covered by the report in order to ensure all requirements outlined in the California Government Code 53646 and Investment Policy are fulfilled appropriately. In addition, we recommend the City verify all market value amounts are in agreement with the month-end account statements.

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5. ISSUE (Title): Timely Processing of Bank Reconciliations

Criteria – Bank reconciliations are one of the most important internal controls a City can have, and the bank reconciliation cannot be considered complete until it has been reviewed and approved. To be an effective control, bank reconciliations and the associated review should be completed in their entirety as soon as reasonably possible after each month-end, usually within thirty days of bank statement month end.

Condition – During our interim audit, we noted that from July 2015 onward the City failed to perform any bank reconciliations due to a failure in the City’s new accounting software reconciliation module over the processing of cash receipts.

Cause – Due to the City transferring its general ledger to new accounting software, New World System, the City has resulted in numerous tasks falling behind schedule as the conversion required much of the staff to be busy with conversion to the new system. Furthermore, due to the switch to the new accounting system there have been issues in regards to the receipts processing module within the system in not properly recording individual entries, this continues to be an issue as of July 13, 2016.

Effect – Any errors, misstatements and/or unauthorized activities may not be identified or corrected in a timely manner.

Recommendation – We recommend that the City follow procedures to ensure the timely preparation of the bank reconciliations ensuring that dates and signatures are visible on the reconciliations. Even though the New World System reconciliation module is not properly processing receipts, the City should still perform monthly bank reconciliations for all accounts in a timely manner.

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6. ISSUE (Title): Journal Entry Timing

Criteria – Journal entries are an important transaction cycle that affects all aspects of accounting and financial reporting. To maintain financial reporting accuracy it is prudent that journal entries should be posted to the general ledger in a timely manner.

Condition – During our interim audit, we sampled forty journal entries and noted the following:

- There were two cases of the tested samples (journal entry number 2016-00000459 & 2016-00001941) that were not posted in a timely manner. Although the two samples appear to have been prepared and reviewed correctly, a significant amount of time (3 years in one case) elapsed between the initiation of the entry by Public Works and the informing of the Finance Department of the need for the journals. This delay presents an increased potential for erroneous entries. Furthermore, four additional journal entries appear to have been posted several months behind due to the Finance Department falling behind in certain accounting areas.
- There was one case from our selected sample (journal entry number 2016-00000226) where the entry appears to have been recorded in the wrong fiscal year.

Cause – The City has fallen behind in certain areas due to the hiring of new staff in certain key roles and implementation of new accounting software in fiscal year 2015 that caused a backhaul of work. Furthermore, it appears that there is a lack of communication between departments.

Effect – Failure to post journal entries in a timely manner could result in increasing the chances of reporting inaccurate financial information.

Recommendation – We recommend that all journal entries be posted in a timely manner and there should be an increase in interdepartmental communication.

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Single Audit – Calculating Expenditures of Federal Awards

The new Uniform Guidance (UG) is effective for the City’s fiscal year 2016 Single Audit, which means that in addition to new administrative requirements, the new threshold triggering the need for a single audit is expenditures of \$750,000 or more during a fiscal year. The calculation of expenditures of federal awards for the SEFA also changed slightly under the UG.

Below are excerpts from the UG related to determining expenditures of federal awards:

§200.502 - Basis for determining Federal awards expended.

- (a) *Determining Federal awards expended.* The determination of when a Federal award is expended must be based on when the activity related to the Federal award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with Federal statutes, regulations, and the terms and conditions of Federal awards, such as: expenditure/expense transactions associated with awards including grants, cost-reimbursement contracts under the FAR, compacts with Indian Tribes, cooperative agreements, and direct appropriations; the disbursement of funds to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or use of food commodities; the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and the period when insurance is in force.

- (b) *Loan and loan guarantees (loans).* Since the Federal Government is at risk for loans until the debt is repaid, the following guidelines must be used to calculate the value of Federal awards expended under loan programs, except as noted in paragraphs (c) and (d) of this section:
 - (1) Value of new loans made or received during the audit period; plus
 - (2) Beginning of the audit period balance of loans from previous years **for which the Federal Government imposes continuing compliance requirements [emphasis added]**; plus
 - (3) Any interest subsidy, cash, or administrative cost allowance received.

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Single Audit – Calculating Expenditures of Federal Awards (Continued)

- (c) *Loan and loan guarantees (loans) at IHEs.* When loans are made to students of an IHE but the IHE does not make the loans, then only the value of loans made during the audit period must be considered Federal awards expended in that audit period. The balance of loans for previous audit periods is not included as Federal awards expended because the lender accounts for the prior balances.
- (d) *Prior loan and loan guarantees (loans).* Loans, the proceeds of which were received and expended in prior years, are not considered Federal awards expended under this part when the Federal statutes, regulations, and the terms and conditions of Federal awards pertaining to such loans impose no continuing compliance requirements other than to repay the loans.
- (e) *Endowment funds.* The cumulative balance of Federal awards for endowment funds that are federally restricted are considered Federal awards expended in each audit period in which the funds are still restricted.
- (f) *Free rent.* Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part of a Federal award to carry out a Federal program must be included in determining Federal awards expended and subject to audit under this part.
- (g) *Valuing non-cash assistance.* Federal non-cash assistance, such as free rent, food commodities, donated property, or donated surplus property, must be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.
- (h) *Medicare.* Medicare payments to a non-Federal entity for providing patient care services to Medicare-eligible individuals are not considered Federal awards expended under this part.
- (i) *Medicaid.* Medicaid payments to a subrecipient for providing patient care services to Medicaid-eligible individuals are not considered Federal awards expended under this part unless a state requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.
- (j) *Certain loans provided by the National Credit Union Administration.* For purposes of this part, loans made from the National Credit Union Share Insurance Fund and the Central Liquidity Facility that are funded by contributions from insured non-Federal entities are not considered Federal awards expended.

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Single Audit – Calculating Expenditures of Federal Awards (Continued)

§200.63 - Loan.

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity, except as used in the definition of §200.80 Program income.

- (a) The term “direct loan” means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Federal Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.
- (b) The term “direct loan obligation” means a binding agreement by a Federal awarding agency to make a direct loan when specified conditions are fulfilled by the borrower.
- (c) The term “loan guarantee” means any Federal Government guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.
- (d) The term “loan guarantee commitment” means a binding agreement by a Federal awarding agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

§200.80 - Program income.

Program income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in §200.307 paragraph (f). (See §200.77 Period of performance.) Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also §200.407 Prior written approval (prior approval). See also 35 U.S.C. 200-212 “Disposition of Rights in Educational Awards” applies to inventions made under Federal awards.

We understand that the City does not expect to spend federal awards of \$750,000 or more during fiscal year 2016. However, the City should review the calculations/terms above to ensure that everything is correctly presented on the City’s draft SEFA.

Should you need to review any of the UG definitions or sections, the link to the UG website is below:

http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1#se2.1.200_180

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GASB PRONOUNCEMENTS EFFECTIVE FOR FISCAL YEAR 2016

The following comment represents a new pronouncement taking affect in fiscal year 2016 that could have reporting requirements for new transactions. We cite them here to keep you abreast of developments:

GASB 72 – Fair Value Measurement and Application

This Statement addresses accounting and financial reporting issues related to fair value measurements. The definition of *fair value* is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. This Statement provides guidance for determining a fair value measurement for financial reporting purposes. This Statement also provides guidance for applying fair value to certain investments and disclosures related to all fair value measurements.

Fair Value Measurement

Fair value is described as an exit price. Fair value measurements assume a transaction takes place in a government's principal market, or a government's most advantageous market in the absence of a principal market. The fair value also should be measured assuming that general market participants would act in their economic best interest. Fair value should not be adjusted for transaction costs.

To determine a fair value measurement, a government should consider the unit of account of the asset or liability. The unit of account refers to the level at which an asset or a liability is aggregated or disaggregated for measurement, recognition, or disclosure purposes as provided by the accounting standards. For example, the unit of account for investments held in a brokerage account is each individual security, whereas the unit of account for an investment in a mutual fund is each share in the mutual fund held by a government.

This Statement requires a government to use valuation techniques that are appropriate under the circumstances and for which sufficient data are available to measure fair value. The techniques should be consistent with one or more of the following approaches: the market approach, the cost approach, or the income approach. The market approach uses prices and other relevant information generated by market transactions involving identical or comparable assets, liabilities, or a group of assets and liabilities. The cost approach reflects the amount that would be required to replace the present service capacity of an asset. The income approach converts future amounts (such as cash flows or income and expenses) to a single current (discounted) amount. Valuation techniques should be applied consistently, though a change may be appropriate in certain circumstances. Valuation techniques maximize the use of relevant observable inputs and minimize the use of unobservable inputs.

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GASB 72 – Fair Value Measurement and Application (Continued)

This Statement establishes a hierarchy of inputs to valuation techniques used to measure fair value. That hierarchy has three levels:

- Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities.
- Level 2 inputs are inputs—other than quoted prices—included within Level 1 that are observable for the asset or liability, either directly or indirectly.
- Level 3 inputs are unobservable inputs, such as management’s assumption of the default rate among underlying mortgages of a mortgage-backed security.

A fair value measurement takes into account the highest and best use for a nonfinancial asset. A fair value measurement of a liability assumes that the liability would be transferred to a market participant and not settled with the counterparty. In the absence of a quoted price for the transfer of an identical or similar liability and if another party holds an identical item as an asset, a government should be able to use the fair value of that asset to measure the fair value of the liability.

This Statement requires additional analysis of fair value if the volume or level of activity for an asset or liability has significantly decreased. It also requires identification of transactions that are not orderly. Quoted prices provided by third parties are permitted, as long as a government determines that those quoted prices are developed in accordance with the provisions of this Statement.

Fair Value Application

This Statement generally requires investments to be measured at fair value. An *investment* is defined as a security or other asset that (a) a government holds primarily for the purpose of income or profit and (b) has a present service capacity based solely on its ability to generate cash or to be sold to generate cash. Investments not measured at fair value continue to include, for example, money market investments, 2a7-like external investment pools, investments in life insurance contracts, common stock meeting the criteria for applying the equity method, unallocated insurance contracts, and synthetic guaranteed investment contracts. A government is permitted in certain circumstances to establish the fair value of an investment that does not have a readily determinable fair value by using the net asset value per share (or its equivalent) of the investment.

This Statement requires measurement at acquisition value (an entry price) for donated capital assets, donated works of art, historical treasures, and similar assets and capital assets received in a service concession arrangement. These assets were previously required to be measured at fair value.

Fair Value Disclosures

This Statement requires disclosures to be made about fair value measurements, the level of fair value hierarchy, and valuation techniques. Governments should organize these disclosures by type of asset or liability reported at fair value. It also requires additional disclosures regarding investments in certain entities that calculate net asset value per share (or its equivalent).

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GASB 76 - *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments*

The objective of this Statement is to identify, in the context of the current governmental financial reporting environment, the hierarchy of generally accepted accounting principles (GAAP). The “GAAP hierarchy” consists of the sources of accounting principles used to prepare financial statements of state and local governmental entities in conformity with GAAP and the framework for selecting those principles. This Statement reduces the GAAP hierarchy to two categories of authoritative GAAP and addresses the use of authoritative and non-authoritative literature in the event that the accounting treatment for a transaction or other event is not specified within a source of authoritative GAAP. This Statement supersedes Statement No. 55, The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments.

This Statement supersedes Statement No. 55, *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments*.

How the Changes in This Statement Improve Financial Reporting

The requirements in this Statement improve financial reporting by (1) raising the category of GASB Implementation Guides in the GAAP hierarchy, thus providing the opportunity for broader public input on implementation guidance; (2) emphasizing the importance of analogies to authoritative literature when the accounting treatment for an event is not specified in authoritative GAAP; and (3) requiring the consideration of consistency with the GASB Concepts Statements when evaluating accounting treatments specified in nonauthoritative literature. As a result, governments will apply financial reporting guidance with less variation, which will improve the usefulness of financial statement information for making decisions and assessing accountability and enhance the comparability of financial statement information among governments.

GASB 79 – *Certain External Investment Pools and Pool Participants*

The requirements of this Statement are effective for reporting periods beginning after June 15, 2015, except for certain provisions on portfolio quality, custodial credit risk, and shadow pricing. Those provisions are effective for reporting periods beginning after December 15, 2015.

This Statement addresses accounting and financial reporting for certain external investment pools and pool participants. Specifically, it establishes criteria for an external investment pool to qualify for making the election to measure all of its investments at amortized cost for financial reporting purposes. An external investment pool qualifies for that reporting if it meets all of the applicable criteria established in this Statement. The specific criteria address (1) how the external investment pool transacts with participants; (2) requirements for portfolio maturity, quality, diversification, and liquidity; and (3) calculation and requirements of a shadow price. Significant noncompliance prevents the external investment pool from measuring all of its investments at amortized cost for financial reporting purposes. Professional judgment is required to determine if instances of noncompliance with the criteria established by this Statement during the reporting period, individually or in the aggregate, were significant.

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GASB 79 – Certain External Investment Pools and Pool Participants (Continued)

If an external investment pool does not meet the criteria established by this Statement, that pool should apply the provisions in paragraph 16 of Statement No. 31, *Accounting and Financial Reporting for Certain Investments and for External Investment Pools*, as amended. If an external investment pool meets the criteria in this Statement and measures all of its investments at amortized cost, the pool's participants also should measure their investments in that external investment pool at amortized cost for financial reporting purposes. If an external investment pool does not meet the criteria in this Statement, the pool's participants should measure their investments in that pool at fair value, as provided in paragraph 11 of Statement 31, as amended.

This Statement establishes additional note disclosure requirements for qualifying external investment pools that measure all of their investments at amortized cost for financial reporting purposes and for governments that participate in those pools. Those disclosures for both the qualifying external investment pools and their participants include information about any limitations or restrictions on participant withdrawals.

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NEW GASB PRONOUNCEMENTS OR PRONOUNCEMENTS NOT YET EFFECTIVE

The following comment represents new pronouncements taking effect in the next few years. We have cited them here to keep you informed of developments:

EFFECTIVE FISCAL YEAR 2016/17:

GASB 73 - Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB Statement 68, and Amendments to Certain Provisions of GASB Statements 67 and 68

This Statement establishes requirements for defined benefit pensions that are not within the scope of Statement No. 68, *Accounting and Financial Reporting for Pensions*, as well as for the assets accumulated for purposes of providing those pensions. In addition, it establishes requirements for defined contribution pensions that are not within the scope of Statement 68. It also amends certain provisions of Statement No. 67, *Financial Reporting for Pension Plans*, and Statement 68 for pension plans and pensions that are within their respective scopes.

The requirements of this Statement extend the approach to accounting and financial reporting established in Statement 68 to all pensions, with modifications as necessary to reflect that for accounting and financial reporting purposes, any assets accumulated for pensions that are provided through pension plans that are not administered through trusts that meet the criteria specified in Statement 68 should not be considered pension plan assets. It also requires that information similar to that required by Statement 68 be included in notes to financial statements and required supplementary information by all similarly situated employers and nonemployer contributing entities.

This Statement also clarifies the application of certain provisions of Statements 67 and 68 with regard to the following issues:

1. Information that is required to be presented as notes to the 10-year schedules of required supplementary information about investment-related factors that significantly affect trends in the amounts reported
2. Accounting and financial reporting for separately financed specific liabilities of individual employers and nonemployer contributing entities for defined benefit pensions
3. Timing of employer recognition of revenue for the support of nonemployer contributing entities not in a special funding situation.

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GASB 74 – Financial Reporting for Post-employment Benefit Plans Other Than Pension Plans

The objective of this Statement is to improve the usefulness of information about postemployment benefits other than pensions (other postemployment benefits or OPEB) included in the general purpose external financial reports of state and local governmental OPEB plans for making decisions and assessing accountability. This Statement results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for all postemployment benefits (pensions and OPEB) with regard to providing decision-useful information, supporting assessments of accountability and interperiod equity, and creating additional transparency.

This Statement replaces Statements No. 43, *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*, as amended, and No. 57, *OPEB Measurements by Agent Employers and Agent Multiple-Employer Plans*. It also includes requirements for defined contribution OPEB plans that replace the requirements for those OPEB plans in Statement No. 25, *Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans*, as amended, Statement 43, and Statement No. 50, *Pension Disclosures*.

Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*, establishes new accounting and financial reporting requirements for governments whose employees are provided with OPEB, as well as for certain nonemployer governments that have a legal obligation to provide financial support for OPEB provided to the employees of other entities.

The scope of this Statement includes OPEB plans—defined benefit and defined contribution—administered through trusts that meet the following criteria:

- Contributions from employers and nonemployer contributing entities to the OPEB plan and earnings on those contributions are irrevocable.
- OPEB plan assets are dedicated to providing OPEB to plan members in accordance with the benefit terms.
- OPEB plan assets are legally protected from the creditors of employers, nonemployer contributing entities, and the OPEB plan administrator. If the plan is a defined benefit OPEB plan, plan assets also are legally protected from creditors of the plan members.

This Statement also includes requirements to address financial reporting for assets accumulated for purposes of providing defined benefit OPEB through OPEB plans that are not administered through trusts that meet the specified criteria.

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GASB 77 – Tax Abatement Disclosures

This Statement establishes financial reporting standards for tax abatement agreements entered into by state and local governments. The disclosures required by this Statement encompass tax abatements resulting from both (a) agreements that are entered into by the reporting government and (b) agreements that are entered into by other governments and that reduce the reporting government's tax revenues.

This Statement requires governments that enter into tax abatement agreements to disclose the following information about the agreements:

- Brief descriptive information, such as the tax being abated, the authority under which tax abatements are provided, eligibility criteria, the mechanism by which taxes are abated, provisions for recapturing abated taxes, and the types of commitments made by tax abatement recipients
- The gross dollar amount of taxes abated during the period
- Commitments made by a government, other than to abate taxes, as part of a tax abatement agreement.

Governments should organize those disclosures by major tax abatement program and may disclose information for individual tax abatement agreements within those programs.

Tax abatement agreements of other governments should be organized by the government that entered into the tax abatement agreement and the specific tax being abated. Governments may disclose information for individual tax abatement agreements of other governments within the specific tax being abated. For those tax abatement agreements, a reporting government should disclose:

- The names of the governments that entered into the agreements
- The specific taxes being abated
- The gross dollar amount of taxes abated during the period.

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GASB 78 – Pensions Provided through Certain Multiple-Employer Defined Benefit Pension Plans

The objective of this Statement is to address a practice issue regarding the scope and applicability of Statement No. 68, *Accounting and Financial Reporting for Pensions*. This issue is associated with pensions provided through certain multiple-employer defined benefit pension plans and to state or local governmental employers whose employees are provided with such pensions.

Prior to the issuance of this Statement, the requirements of Statement 68 applied to the financial statements of all state and local governmental employers whose employees are provided with pensions through pension plans that are administered through trusts that meet the criteria in paragraph 4 of that Statement.

This Statement amends the scope and applicability of Statement 68 to exclude pensions provided to employees of state or local governmental employers through a cost-sharing multiple-employer defined benefit pension plan that (1) is not a state or local governmental pension plan, (2) is used to provide defined benefit pensions both to employees of state or local governmental employers and to employees of employers that are not state or local governmental employers, and (3) has no predominant state or local governmental employer (either individually or collectively with other state or local governmental employers that provide pensions through the pension plan). This Statement establishes requirements for recognition and measurement of pension expense, expenditures, and liabilities; note disclosures; and required supplementary information for pensions that have the characteristics described above.

GASB 80 – Blending Requirements for Certain Component Units—an amendment of GASB Statement No. 14

The objective of this Statement is to improve financial reporting by clarifying the financial statement presentation requirements for certain component units. This Statement amends the blending requirements established in paragraph 53 of Statement No. 14, *The Financial Reporting Entity, as amended*.

This Statement amends the blending requirements for the financial statement presentation of component units of all state and local governments. The additional criterion requires blending of a component unit incorporated as a not-for-profit corporation in which the primary government is the sole corporate member. The additional criterion does not apply to component units included in the financial reporting entity pursuant to the provisions of Statement No. 39, *Determining Whether Certain Organizations Are Component Units*.

How the Changes in This Statement Improve Financial Reporting

The requirements of this Statement enhance the comparability of financial statements among governments. Greater comparability improves the decision-usefulness of information reported in financial statements and enhances its value for assessing government accountability.

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GASB 82 – Pension Issues—an amendment of GASB Statements No. 67, No. 68, and No. 73

The objective of this Statement is to address certain issues that have been raised with respect to Statements No. 67, *Financial Reporting for Pension Plans*, No. 68, *Accounting and Financial Reporting for Pensions*, and No. 73, *Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB Statement 68, and Amendments to Certain Provisions of GASB Statements 67 and 68*. Specifically, this Statement addresses issues regarding (1) the presentation of payroll-related measures in required supplementary information, (2) the selection of assumptions and the treatment of deviations from the guidance in an Actuarial Standard of Practice for financial reporting purposes, and (3) the classification of payments made by employers to satisfy employee (plan member) contribution requirements.

Presentation of Payroll-Related Measures in Required Supplementary Information

Prior to the issuance of this Statement, Statements 67 and 68 required presentation of covered-employee payroll, which is the payroll of employees that are provided with pensions through the pension plan, and ratios that use that measure, in schedules of required supplementary information. This Statement amends Statements 67 and 68 to instead require the presentation of covered payroll, defined as the payroll on which contributions to a pension plan are based, and ratios that use that measure.

Selection of Assumptions

This Statement clarifies that a deviation, as the term is used in Actuarial Standards of Practice issued by the Actuarial Standards Board, from the guidance in an Actuarial Standard of Practice is not considered to be in conformity with the requirements of Statement 67, Statement 68, or Statement 73 for the selection of assumptions used in determining the total pension liability and related measures.

Classification of Employer-Paid Member Contributions

This Statement clarifies that payments that are made by an employer to satisfy contribution requirements that are identified by the pension plan terms as plan member contribution requirements should be classified as plan member contributions for purposes of Statement 67 and as employee contributions for purposes of Statement 68. It also requires that an employer's expense and expenditures for those amounts be recognized in the period for which the contribution is assessed and classified in the same manner as the employer classifies similar compensation other than pensions (for example, as salaries and wages or as fringe benefits).

CITY OF CUPERTINO
INTERIM ACCOUNTING ISSUES MEMO
JUNE 30, 2016

EFFECTIVE FISCAL YEAR 2017/18:

GASB 75 – Accounting and Financial Reporting for Post-employment Benefits Other Than Pensions

The primary objective of this Statement is to improve accounting and financial reporting by state and local governments for post-employment benefits other than pensions (other post-employment benefits or OPEB). It also improves information provided by state and local governmental employers about financial support for OPEB that is provided by other entities. This Statement results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for all post-employment benefits (pensions and OPEB) with regard to providing decision-useful information, supporting assessments of accountability and inter-period equity, and creating additional transparency.

This Statement replaces the requirements of Statements No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions, as amended, and No. 57, OPEB Measurements by Agent Employers and Agent Multiple-Employer Plans, for OPEB. Statement No. 74, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, establishes new accounting and financial reporting requirements for OPEB plans.

The scope of this Statement addresses accounting and financial reporting for OPEB that is provided to the employees of state and local governmental employers. This Statement establishes standards for recognizing and measuring liabilities, deferred outflows of resources, deferred inflows of resources, and expense/expenditures. For defined benefit OPEB, this Statement identifies the methods and assumptions that are required to be used to project benefit payments, discount projected benefit payments to their actuarial present value, and attribute that present value to periods of employee service. Note disclosure and required supplementary information requirements about defined benefit OPEB also are addressed.

In addition, this Statement details the recognition and disclosure requirements for employers with payables to defined benefit OPEB plans that are administered through trusts that meet the specified criteria and for employers whose employees are provided with defined contribution OPEB. This Statement also addresses certain circumstances in which a nonemployer entity provides financial support for OPEB of employees of another entity.

In this Statement, distinctions are made regarding the particular requirements depending upon whether the OPEB plans through which the benefits are provided are administered through trusts that meet the following criteria:

- Contributions from employers and nonemployer contributing entities to the OPEB plan and earnings on those contributions are irrevocable.
- OPEB plan assets are dedicated to providing OPEB to plan members in accordance with the benefit terms.
- OPEB plan assets are legally protected from the creditors of employers, nonemployer contributing entities, the OPEB plan administrator, and the plan members.

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GASB 81 – Irrevocable Split-Interest Agreements

The objective of this Statement is to improve accounting and financial reporting for irrevocable split-interest agreements by providing recognition and measurement guidance for situations in which a government is a beneficiary of the agreement.

Split-interest agreements are a type of giving agreement used by donors to provide resources to two or more beneficiaries, including governments. Split-interest agreements can be created through trusts—or other legally enforceable agreements with characteristics that are equivalent to split-interest agreements—in which a donor transfers resources to an intermediary to hold and administer for the benefit of a government and at least one other beneficiary. Examples of these types of agreements include charitable lead trusts, charitable remainder trusts, and life-interests in real estate.

This Statement requires that a government that receives resources pursuant to an irrevocable split-interest agreement recognize assets, liabilities, and deferred inflows of resources at the inception of the agreement. Furthermore, this Statement requires that a government recognize assets representing its beneficial interests in irrevocable split-interest agreements that are administered by a third party, if the government controls the present service capacity of the beneficial interests. This Statement requires that a government recognize revenue when the resources become applicable to the reporting period.

How the Changes in This Statement Improve Financial Reporting

This Statement enhances the comparability of financial statements by providing accounting and financial reporting guidance for irrevocable split-interest agreements in which a government is a beneficiary. This Statement also enhances the decision-usefulness of general purpose external financial reports, and their value for assessing accountability, by more clearly identifying the resources that are available for the government to carry out its mission.

Lauren Sapudar

From: Pournima Krish <krish.pournima@yahoo.com>
Sent: Thursday, June 5, 2025 9:25 PM
To: Public Comments; Liang Chao; Kitty Moore; Sheila Mohan; J.R. Fruen; R "Ray" Wang
Subject: Written Comment: Please Dismiss Pamela Wu

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.

Honorable Mayor Chao, Vice-Mayor Moore, City Council Members Mohan, Fruen, and Wang, and City Clerk:

Please dismiss Pamela Wu. She has been an ineffective City Manager. There are numerous examples of incompetence during her tenure. There must also have been unethical or illegal behavior, that the public is unaware of, for her to be placed on administrative leave. Residents need to have confidence in their City Manager and Pamela Wu does not have the trust or respect of Cupertino residents.

Please put this mess behind us. It appears that the City has come to a mutually acceptable separation agreement with Ms. Wu. If that is the case then please execute the agreement, pay her the agreed upon amount sum of money, and end this mess. Cupertino is functioning well with the acting City Manager. The residents do not want any more time or money wasted on this matter.

If Ms. Wu refuses to accept a reasonable separation agreement then the City Council should terminate her and she should not receive any severance pay.

If there have been financial improprieties then Cupertino should try to recover that money. Residents deserve to not have public money spent improperly.

Ms. Wu is, of course, free to file a wrongful termination lawsuit against the city. If this lawsuit proceeds to court then everything will be made public which would be wonderful since residents appreciate transparency. **IN THE EVENT OF A LAWSUIT PLEASE DO NOT SETTLE OUT OF COURT!** Residents deserve to know everything that transpired and that would come out in court regardless of the outcome of any lawsuit. This would not be in Wu's own self-interest since it would mean that she would be unlikely to ever get another City Manager position in the future. It would also show that Cupertino is not averse to acting in the best interest of residents even when it would be easier to just capitulate.

Please be more careful in the selection of future city managers. Residents deserve better!

Sincerely,

Pournima Krish

Cupertino Resident