



**DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, April 19, 2022**

SPECIAL MEETING

At 5:30 p.m., Mayor Darcy Paul called the Special City Council Meeting to order in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None.

STUDY SESSION

1. Subject: Consideration of update on the City of Cupertino Lobbyist Registration Program pursuant to Cupertino Municipal Code Chapter 2.100 regarding lobbying registration and reporting requirements
Recommended Action: Receive the update on the City of Cupertino Lobbyist Registration Program pursuant to Cupertino Municipal Code Chapter 2.100 regarding lobbying registration and reporting requirements; provide any direction to staff
Presenter: Kirsten Squarcia, City Clerk

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

Peggy Griffin asked about whom to contact for anyone wishing to report an unregistered lobbyist.

Jennifer Griffin supported requiring people to register as lobbyists.

Mayor Paul closed the public comment period.

Council recessed from 5:51 p.m. to 5:57 p.m.

Councilmembers asked questions and made comments.

Paul moved and Moore seconded that the Council direct staff to examine the exemptions based upon 501(c) organizations which are exempt from registration under the current lobbying ordinance; and to examine an added requirement to indicate contributions to the organization by potentially lobbying entities or people; and to consider adding a private right of civil action for enforcement to the lobbying ordinance.

Paul amended his motion to include an examination of the significance of a political action committee (PAC). (Councilmember Moore accepted the amendment).

Paul further amended this motion to include direction to staff to study the issue whether consultants could be included in the definitions for those that are considered city officials. (Councilmember Moore accepted the amendment).

The amended motion carried unanimously.

Final Motion Summary

Paul moved and Moore seconded that the Council direct staff to:

- examine the exemptions based upon 501(c) organizations which are exempt from registration under the current lobbying ordinance;
- examine an added requirement to indicate contributions to the organization by potentially lobbying entities or people;
- consider adding a private right of civil action for enforcement to the lobbying ordinance;
- examine the significance of a political action committee (PAC); and
- study the issue whether consultants could be included in the definitions for those that are considered city officials.

The amended motion carried unanimously.

ADJOURNMENT

At 6:32 p.m., Mayor Paul adjourned the Special City Council Meeting.

REGULAR MEETING

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

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation for Fremont Union High School District Superintendent Polly Bove upon her retirement and recognizing her 40 years of service to the community
Recommended Action: Present proclamation for Fremont Union High School District Superintendent Polly Bove upon her retirement and recognizing her 40 years of service to the community

Written communications for this item included an email to Council.

Polly Bove received the proclamation.

Mayor Paul opened the public comment period.

Gilbert Wong supported the proclamation and recognition of Polly Bove's years of service to the community.

Naomi Nakano-Matsumoto, on behalf of FUHSD Board, supported the proclamation and recognition of Polly Bove's years of service to the community.

Mayor Paul closed the public comment period.

Councilmembers made comments in appreciation of Superintendent Bove's service.

Mayor Paul presented the proclamation for Fremont Union High School District Superintendent Polly Bove upon her retirement and recognizing her 40 years of service to the community.

POSTPONEMENTS AND ORDERS OF THE DAY

29. Subject: Consideration of Municipal Code amendments to the Cupertino Municipal Code, Title 2 to add Chapter 2.96 and codify the Economic Development Committee (continued from April 5, 2022). (Postponement to May 3, 2022 meeting proposed by staff).

Paul moved and Wei seconded to continue the following agenda items to May 3:

- Item 24. Consider the Fiscal Year (FY) 2022-23 Fee Schedule Update;
- Item 26. Consider conducting the first reading of an Ordinance related to regulation of single-use plastic foodware and single-use carryout bags; and
- Item 29. Consideration of Municipal Code amendments to the Cupertino Municipal Code, Title 2 to add Chapter 2.96 and codify the Economic Development Committee.

The motion carried unanimously.

ORAL COMMUNICATIONS

Written communications for this item included an email to Council concerning the occupation of the tennis courts at Monta Vista Park.

Rashi Sharma supported solutions to reduce impacts to wildlife species and biodiversity. (Submitted a video).

Call-in-user 1 was concerned about legal assistance for an unpermitted accessory structure in her backyard that was torn down.

Peggy Griffin supported hybrid meetings.

Lisa Warren supported in-person meetings.

Jennifer Griffin supported hybrid meetings and investigating a new assessment of the RHNA numbers in the region.

Cathy Helgersen was concerned about various topics including Lehigh Cement and Permanente Quarry violations and supported purchasing Lehigh's land. (Submitted written comments).

REPORTS BY COUNCIL AND STAFF (10 minutes)

2. Subject: Brief reports on councilmember activities and brief announcements
Recommended Action: Receive brief reports on councilmember activities and brief announcements

Written communications for this item included an email from Vice Mayor Chao.

Council received brief reports on councilmember activities and brief announcements.

3. Subject: Report on Committee assignments

Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

4. Subject: City Manager update

Recommended Action: Receive City Manager update on City business

Council received the City Manager update on City business.

5. Subject: Farmers Market update

Recommended Action: Receive the Farmers Market update

Written communications for this item included an email to Council.

Farmers Market Location Council Subcommittee Members Vice Mayor Chao and Councilmember Willey provided an update.

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

Peggy Griffin supported finding a new space for the Farmers Market.

Jerry Lami, on behalf of West Coast Farmers Markets, supported a new location for the Farmers Market and a temporary location with the Cherry Blossom Festival.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Council received the Farmers Market update.

Council recessed from 7:53 p.m. to 7:58 p.m.

CONSENT CALENDAR (Items 6-23)

Willey moved and Wei seconded to approve the items on the Consent Calendar except for Items 9 - 18, 20, 21, 22, and 23 which were pulled for discussion. Ayes: Paul, Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: None.

6. Subject: Approve the March 29 City Council minutes

Recommended Action: Approve the March 29 City Council minutes

7. Subject: Approve the April 4 City Council minutes
Recommended Action: Approve the April 4 City Council minutes
8. Subject: Approve the April 5 City Council minutes
Recommended Action: Approve the April 5 City Council minutes
9. Subject: Consider accepting Accounts Payable for the period ending February 7, 2022
Recommended Action: Adopt Resolution No. 22-036 accepting Accounts Payable for the period ending February 7, 2022

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

Councilmembers asked questions and made comments.

Paul moved and Moore seconded that Council create a subcommittee of the Audit Committee members of the Council to examine the monthly Treasurer's Report requirements; and bring that back to the Council at the next regularly scheduled meeting for Items 9 through 18. The motion carried unanimously.

10. Subject: Consider accepting Accounts Payable for the period ending February 14, 2022
Recommended Action: Adopt Resolution No. 22-037 accepting Accounts Payable for the period ending February 14, 2022

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

Councilmembers asked questions and made comments.

As noted under Item 9, Council continued this item to May 3.

11. Subject: Consider accepting Accounts Payable for the period ending February 21, 2022
Recommended Action: Adopt Resolution No. 22-038 accepting Accounts Payable for the period ending February 21, 2022

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

Councilmembers asked questions and made comments.

As noted under Item 9, Council continued this item to May 3.

12. Subject: Consider accepting Accounts Payable for the period ending February 22, 2022 MISC
Recommended Action: Adopt Resolution No. 22-039 accepting Accounts Payable for the period ending February 22, 2022 MISC

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

Councilmembers asked questions and made comments.

As noted under Item 9, Council continued this item to May 3.

13. Subject: Consider accepting Accounts Payable for the period ending February 28, 2022
Recommended Action: Adopt Resolution No. 22-040 accepting Accounts Payable for the period ending February 28, 2022

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

Councilmembers asked questions and made comments.

As noted under Item 9, Council continued this item to May 3.

14. Subject: Consider accepting Accounts Payable for the period ending March 7, 2022
Recommended Action: Adopt Resolution No. 22-041 accepting Accounts Payable for the period ending March 7, 2022

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

Councilmembers asked questions and made comments.

As noted under Item 9, Council continued this item to May 3.

15. Subject: Consider accepting Accounts Payable for the period ending March 14, 2022
Recommended Action: Adopt Resolution No. 22-042 accepting Accounts Payable for the period ending March 14, 2022

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

Councilmembers asked questions and made comments.

As noted under Item 9, Council continued this item to May 3.

16. Subject: Consider accepting Accounts Payable for the period ending March 21, 2022
Recommended Action: Adopt Resolution No. 22-043 accepting Accounts Payable for the period ending March 21, 2022

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

Councilmembers asked questions and made comments.

As noted under Item 9, Council continued this item to May 3.

17. Subject: Consider accepting Accounts Payable for the period ending March 28, 2022
Recommended Action: Adopt Resolution No. 22-044 accepting Accounts Payable for the period ending March 28, 2022

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

Councilmembers asked questions and made comments.

As noted under Item 9, Council continued this item to May 3.

18. Subject: Consider accepting Accounts Payable for the period ending March 28, 2022
MISC
Recommended Action: Adopt Resolution No. 22-045 accepting Accounts Payable for the period ending March 28, 2022 MISC

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

Councilmembers asked questions and made comments.

As noted under Item 9, Council continued this item to May 3.

19. Subject: Consider the reappointment of the City of Cupertino's Bicycle Pedestrian Commission (BPC) representative, Erik Lindskog, to the Santa Clara County Valley Transportation Authority (VTA) Bicycle and Pedestrian Advisory Committee (BPAC)
Recommended Action: Accept the Bicycle Pedestrian Commission recommendation to reappoint Erik Lindskog to the VTA BPAC for the upcoming term, beginning July 1
20. Subject: Consider adopting a Resolution of Local Support authorizing the filing of an application for funding assigned to the Metropolitan Transportation Commission (MTC,) committing any necessary matching funds, and stating assurance to complete the project for the One Bay Area Grant (OBAG) Cycle 2 grant application for the Stevens Creek Boulevard Separated Bike Lanes Project
Recommended Action: Adopt Resolution No. 22-046 (Attachment A,) a Resolution of Local Support authorizing the filing of an application for funding assigned to the MTC, committing any necessary matching funds, and stating assurance to complete the project for the OBEG Cycle 2 grant application for the Stevens Creek Boulevard Separated Bike Lanes Project

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

Lisa Warren was concerned about safety and supported having a traffic count at the bike lanes and further study.

Jennifer Griffin was concerned about safety in the bike lanes and at intersections and supported an overall plan and further study.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Chao moved and Wei seconded to adopt Resolution No. 22-046, a Resolution of Local Support authorizing the filing of an application for funding assigned to the MTC, committing any necessary matching funds, and stating assurance to complete the project for the OBAG Cycle 2 grant application for the Stevens Creek Boulevard Separated Bike Lanes Project. The motion carried unanimously.

Council recessed from 9:17 p.m. to 9:20 p.m.

21. Subject: Consider the contract for Below Market Rate (BMR) Program Administration
Recommended Action: Authorize the City Manager to execute Consultant Agreement with Rise Housing Solutions for BMR Program Administration, not to exceed \$1,147,206

Housing Manager Kerri Heusler reviewed the staff report.

Councilmembers asked questions and made comments.

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

Peggy Griffin supported the Housing Commission's recommendation and was concerned about the City losing BMR units and supported looking into preserving them.

Jennifer Griffin was concerned about the City losing BMR units.

Mayor Paul closed the public comment period.

Chao moved and Willey seconded to Authorize the City Manager to execute Consultant Agreement with Rise Housing Solutions for BMR Program Administration, not to exceed \$1,147,206. The motion carried unanimously.

22. Subject: Consider a Master Funding Agreement between the City and the Metropolitan Transportation Commission and Supplement One to the Master Funding Agreement accepting grant funds awarded to the City for updating the Heart of the City Specific Plan.

Recommended Action: 1. Adopt Resolution No. 22-047 (Attachment A) to authorize the City Manager to enter into a Master Funding Agreement between the City and the Metropolitan Transportation Commission; and

2. Consider adopting Resolution No. 22-048 (Attachment B) to:

- a. Accept the awarded Priority Development Area Planning Grant funds awarded to the City from the Metropolitan Transportation Commission for the Heart of the City Specific Plan update; and
- b. Authorize the City Manager to execute Supplement One of the Master Funding Agreement to accept the awarded Priority Development Area Planning Grant funds; and
- c. Direct staff to present a consultant agreement regarding the Heart of the City Specific Plan update after the Sixth Cycle Housing Element update has been certified by the California Department of Housing and Community Development.

Written Communications for this item included a staff presentation, an email to Council, and an email from Vice Mayor Chao.

Associate Planner Erika Poveda gave a presentation.

Councilmembers asked questions and made comments.

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

Lisa Warren was concerned about meeting the requirements and constraints for the grant's funds.

Peggy Griffin was concerned about bumping other work program items, putting constraints on the Heart of the City, and opposed accepting the grant.

Jennifer Griffin opposed accepting the grant and adding constraints to the Heart of the City.

Jean Bedord supported accepting the grant from the Metropolitan Transportation Commission (MTC) for reimbursable expenses and few requirements.

Mayor Paul closed the public comment period.

Wei moved to approve the recommended action in the agenda. There was no second and the motion was not considered.

Council did not take any action on this item.

Council recessed from 10:49 p.m. to 10:45 p.m.

23. Subject: Provide an opportunity for Councilmembers to propose and consider Resolution(s) to be submitted to the United States Conference of Mayors Annual Meeting held from June 3-6, 2022

Recommended Action: Direct staff to receive proposed Resolution(s) by electronic mail from individual Councilmembers by the end of the day on Friday April 22, 2022, and to bring back the Resolution(s) proposed by Councilmembers at the City Council's May 3, 2022 meeting for a determination by the full Council as to which Resolution(s) to submit for consideration at the United States Conference of Mayors Annual Meeting held from June 3-6, 2022

Written communications for this item included an email from Mayor Paul.

Mayor Paul reviewed the item.

Councilmembers asked questions and made comments.

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

Mayor Paul closed the public comment period.

Paul moved and Wei seconded to direct staff to receive proposed Resolution(s) by electronic mail from individual Councilmembers by the end of the day on Friday April 22, 2022, and to bring back the Resolution(s) proposed by Councilmembers at the City Council's May 3, 2022 meeting for a determination by the full Council as to which Resolution(s) to submit for consideration at the United States Conference of Mayors Annual Meeting held from June 3-6, 2022. The motion carried unanimously.

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS

24. Subject: Consider the Fiscal Year (FY) 2022-23 Fee Schedule Update
Recommended Action: Adopt Resolution No. 22-049 approving FY 2022-23 Fee Schedule A, B, C, D and E effective July 1, 2022
Presenter: Thomas Leung, Senior Management Analyst

Written communications for this item included an email to Council.

As noted under Postponements and Orders of the Day, the Council continued this item to May 3.

ORDINANCES AND ACTION ITEMS

25. Subject: Internal Audit - Procurement Operational Review Final Report
Recommended Action: Consider accepting the Procurement Operational Review Final Report
Presenter: Thomas Leung, Senior Management Analyst

Written Communications for this item included an email from Councilmember Moore.

Senior Management Analyst Thomas Leung introduced the item and Colleen Rozillis from Moss Adams gave a verbal presentation.

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

Peggy Griffin asked about change in structure examples and about future steps for the City.

Mayor Paul closed the public comment period.

Paul moved and Moore seconded to accept the Procurement Operational Review Final Report with the modification that Council request the Audit Committee members of the Council to go forward and work with staff and the external auditor to bring forth a list of immediate next steps following this final report. The modified motion carried unanimously.

Paul moved and Wei seconded to continue Item 27. Consider Fiscal Year 2022-2023 Council goals and prioritize potential items for the FY 2022-2023 City Work Program to a Special Meeting beginning at 8:00 p.m. on Thursday, April 21. The motion carried unanimously.

26. Subject: Consider conducting the first reading of an Ordinance related to regulation of single-use plastic foodware and single-use carryout bags (continued from April 5, 2022)
Recommended Action: Conduct the first reading of Ordinance No. 22-2239: "An Ordinance of the City Council of the City of Cupertino amending City Code to change the name of section 9.15, adopt new sections 9.15.090 and 9.15.125, and amend sections 9.15.100, 9.15.110, 9.15.120, 9.15.130, 9.17.130, and 9.17.140 to regulate the use of single-use food service ware by food providers, regulate sale of single-use food service ware and expanded polystyrene foam coolers, and regulate single-use carryout bags" (Attachment A), which includes a finding that adoption of the Ordinance is exempt from the California Environmental Quality Act (CEQA.)
Presenter: Ursula Syrova, Environmental Programs Manager

Written communications for this item included an email to Council.

As noted under Postponements and Orders of the Day, the Council continued this item to May 3.

27. Subject: Consider Fiscal Year 2022-2023 Council goals and prioritize potential items for the FY 2022-2023 City Work Program
Recommended Action: Adopt Fiscal Year 2022-2023 Council goals and prioritize potential items for the FY 2022-2023 City Work Program
Presenter: Katy Nomura, Deputy City Manager

Written communications for this item included an Amended Attachment A - Proposed items from April Council Meeting with Council Amendments, a staff presentation, and emails to Council.

As noted after Item 25, Council continued this item to a Special Meeting beginning at 8:00 p.m. on Thursday, April 21.

28. Subject: Consideration of corrections to the current Teen Commission staggered term groups to return the Commission back to the term cycle that is specified by Cupertino Municipal Code, Chapter 2.95 Teen Commission (continued from April 5, 2022)
Recommended Action: Consider making corrections to the current Teen Commission staggered term groups to return the Commission back to the term cycle that is specified by Cupertino Municipal Code, Chapter 2.95 Teen Commission; approve option(s) or provide direction to staff as to other measures to ensure compliance with Cupertino Municipal Code Chapter 2.95
Presenter: Kirsten Squarcia, City Clerk

Paul moved and Moore seconded that Council interview for four positions in this upcoming cycle and interview for five positions in the subsequent cycle, when the current two-year cycles for the six terms are expired; and to authorize staff to proceed with the annual recruitment:

- 1.) Application deadline of 4:30 p.m. on Friday, July 29; and
- 2.) Interview dates beginning at 5:30 p.m. on Monday, August 8 and Tuesday, August 9

Paul amended his motion to direct staff to draft a resolution based upon Council's motion and bring it back to Council at the time of appointments. (Moore accepted the amendment).

The amended motion carried unanimously.

29. Subject: Consideration of Municipal Code amendments to the Cupertino Municipal Code, Title 2 to add Chapter 2.96 and codify the Economic Development Committee. (Continued from April 5, 2022). (See Postponements and Orders of the Day).
Recommended Action: 1. Conduct the first reading of Ordinance No. 22-2240; "An Ordinance of the City Council of the City of Cupertino Adding Chapter 2.96 of Title 2 (Administration and Personnel) to Codify the Economic Development Committee"
2. Find that the proposed actions are exempt from CEQA
Presenter: Tina Kapoor, Economic Development Manager

As noted under Postponements and Orders of the Day, the Council continued this item to May 3.

ORAL COMMUNICATIONS - CONTINUED (As necessary) - None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Council did not hear this item.

ADJOURNMENT

At 12:03 a.m. on Wednesday, April 20, Mayor Paul adjourned the Regular City Council Meeting.

Kirsten Squarcia City Clerk