



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, August 16, 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. Councilmembers Hung Wei and Jon Robert Willey attended via teleconference.

ORDINANCES AND ACTION ITEMS

1. Subject: Consider conducting the first reading of an Ordinance related to regulation of single-use plastic foodware and single-use carryout bags (Continued from May 17, 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 a staff presentation and emails to Council.

Environmental Programs Manager Ursula Syrova gave a presentation.

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

Jennifer Griffin was concerned about packaging safety and supported the availability of lids and carriers for takeout beverages and adequate packaging for Instacart deliveries.

Peggy Griffin supported removing the prohibition of self-serve stations, increasing the budget to \$100,000, and language modifications. (Submitted written comments).

Mayor Paul closed the public comment period.

Councilmember asked questions and made comments.

Moore moved and Chao seconded to approve the Draft Ordinance per the staff recommendation, with the addition of a \$300 need-based financial assistance mini-grant per business, up to a total of \$21,000.

Chao made a friendly amendment to build a culture to change consumer behavior patterns and create new models. (Moore accepted the friendly amendment).

Moore amended the motion to include \$100,000 for contracting technical and financial assistance as per the recommended action. (Chao accepted the amendment).

Paul made a friendly amendment for staff to return in 6-9 months with an update. (Moore and Chao accepted the friendly amendment).

The motion as amended carried unanimously.

Final Motion:

Moore moved and Chao seconded to approve the Draft Ordinance per the staff recommendation with the following modifications:

- addition of a \$300 need-based financial assistance mini grant per business, up to a total of \$21,000;
- build a culture to change consumer behavior patterns and create new models;
- include \$100,000 for contracting technical and financial assistance as per the staff recommendation; and
- staff to return in 6-9 months with an update.

The amended motion carried unanimously.

ADJOURNMENT

At 6:38 p.m., Mayor Paul adjourned the Special City Council Meeting.

RECESS

At 6:45 p.m., Mayor Paul reopened the Special City Council Meeting in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

City Clerk Kirsten Squarcia read the title of Ordinance No. 22-2239 as modified: "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"

Moore moved and Chao seconded to approve the staff recommendation as modified:

1. Read Ordinance No. 22-2239 by title only, and that the City Clerk's reading constitutes the first reading thereof, which includes a finding that adoption of the Ordinance is exempt from the California Environmental Quality Act (CEQA); and
2. Add a \$300 need-based financial assistance mini-grant per business, up to a total of \$21,000;
3. Build a culture to change consumer behavioral patterns and create new models;
4. Include \$100,000 for contracting technical and financial assistance as per the staff recommendation; and
5. Staff to return in 6-9 months with an update.

Ayes: Moore, Wei, Willey, Chao, and Paul. Noes: None. Abstain: None. Absent: None.

At 6:47 p.m., Mayor Paul adjourned the Special City Council Meeting.

REGULAR MEETING

At 6:47 p.m., Mayor Paul called the Regular City Council Meeting to order and led the Pledge of Allegiance in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Councilmembers Jon Robert Willey and Hung Wei attended via teleconference.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Presentation from Safer From Wildfires on achievable and effective wildfire recovery and readiness measures for homes and businesses

Recommended Action: Receive presentation from Safer From Wildfires on achievable and effective wildfire recovery and readiness measures for homes and businesses

Written Communications for this item included a presentation.

Mary Beth Bykowsky, Outreach Analyst for California Department of Insurance, gave a presentation.

Council received the presentation from Safer From Wildfires on achievable and effective wildfire recovery and readiness measures for homes and businesses.

POSTPONEMENTS AND ORDERS OF THE DAY

Moore moved and Willey seconded to reorder the agenda to hear Item 23 regarding the Cupertino City Employees' Association before Item 22 regarding the Unrepresented (Management and Confidential) Employees and Appointed Employees; and to hear Item 24 regarding the Housing Element before any Consent Calendar items that are pulled for discussion. The motion carried unanimously.

ORAL COMMUNICATIONS

Jennifer Griffin opposed AB 2097 allowing minimum parking requirements and AB 2011 allowing ministerial building on commercial sites in office, retail, and parking areas.

Peggy Griffin was concerned about organizations categorized as nonprofits engaging in political campaigns and lobbying. (Submitted written comments).

Don Halsey was concerned about Blackberry Farm being converted to a natural habitat and supported keeping the golf course open.

Elizabeth was concerned about less rainfall and increased use of underground water, and supported conservation education in schools and community outreach events.

Brooke Ezzat opposed a League of Women Voters lawsuit against the City's lobbying ordinance and was concerned about lack of transparency and unregistered lobbyists.

Rhoda Fry was concerned about Lehigh Quarry and Cement Plant activity, delivery of reclamation and geological reports, and construction and operation of a new aggregate plant.

City Clerk Kirsten Squarcia read an email on behalf of Danessa Techmanski opposing a League of Women Voters lawsuit against the City's lobbying ordinance.

REPORTS BY COUNCIL AND STAFF

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

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: Report on Subcommittee assignments
Recommended Action: Report on Subcommittee assignments

Councilmembers reported on Subcommittee assignments.

5. Subject: City Manager update
Recommended Action: Receive City Manager update on City business

Council received the City Manager update on City business.

6. Subject: Department Update - Information Technology
Recommended Action: Receive update regarding the Information Technology Department

Chief Technology Officer Bill Mitchell gave a presentation.

Council received the update regarding the Information Technology Department.

CONSENT CALENDAR (Items 7-19)

Wiley moved and Moore seconded to approve the items on the Consent Calendar except for Items 12 and 17 which were pulled for discussion. Ayes: Paul, Chao, Moore, Wei, and Wiley. Noes: None. Abstain: None. Absent: None.

As noted under Postponements and Orders of the Day, Council moved Items 12 and 17 after Item 24.

City Council	Minutes	August 16, 2022
7.	<u>Subject:</u> Consider approval of the July 19 City Council minutes <u>Recommended Action:</u> Approve the July 19 City Council minutes	
8.	<u>Subject:</u> Consider approval of the July 21 City Council minutes <u>Recommended Action:</u> Approve the July 21 City Council minutes	
9.	<u>Subject:</u> Consider approval of the July 28 City Council minutes <u>Recommended Action:</u> Approve the July 28 City Council minutes	
10.	<u>Subject:</u> Consider approval of the August 8 City Council minutes <u>Recommended Action:</u> Approve the August 8 City Council minutes	
11.	<u>Subject:</u> Consider adopting a resolution authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period August 16, 2022 through September 15, 2022 pursuant to the Brown Act, as amended by AB 361 <u>Recommended Action:</u> Consider Resolution No. 22-096 authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period August 16, 2022 through September 15, 2022 pursuant to the Brown Act, as amended by AB 361	
13.	<u>Subject:</u> Consider accepting Accounts Payable for the periods ending June 6, 2022, June 13, 2022, June 20, 2022, June 27, 2022 (Postponed from July 19, 2022); and July 5, 2022 <u>Recommended Action:</u> A. Adopt Resolution No. 22-084 accepting Accounts Payable for the period ending June 6, 2022; B. Adopt Resolution No. 22-085 accepting Accounts Payable for the period ending June 13, 2022; C. Adopt Resolution No. 22-086 accepting Accounts Payable for the period ending June 20, 2022; D. Adopt Resolution No. 22-087 accepting Accounts Payable for the period ending June 27, 2022; and E. Adopt Resolution No. 22-099 accepting Accounts Payable for the period ending July 5, 2022	
14.	<u>Subject:</u> Consider the Monthly Treasurer's Report for June 2022 <u>Recommended Action:</u> Accept the Monthly Treasurer's Report for June 2022	
15.	<u>Subject:</u> Consider the Monthly Treasurer's Investment Report for June 2022 <u>Recommended Action:</u> Accept the Monthly Treasurer's Investment Report for June 2022	
16.	<u>Subject:</u> Consider the Treasurer's Investment Report for Quarter Ending June 30, 2022	

Recommended Action: Accept the Treasurer's Investment Report for Quarter Ending June 30, 2022

18. Subject: Consideration of an award of a construction contract for the 2022 Pavement Maintenance Phase 1 - Project No. 2022-104.
Recommended Action: 1. Award a construction contract for the 2022 Pavement Maintenance Phase 1 Project;
2. Authorize the City Manager to execute a contract in the amount of \$1,791,791.91 with G. Bortolotto & Company, Inc.; and
3. Authorize the Director of Public Works to execute any necessary change orders, up to the construction contingency amount of \$179,179.00 for a total authorized contract amount of \$1,970,970.91.
19. Subject: Consider authorizing an increase in the total contract amount with Granite Rock Company for the Memorial Park Ponds Repurposing Project (Project 2022-03) for removal of concrete ponds at Memorial Park.
Recommended Action: Authorize the Director of Public Works to execute any necessary change orders for an additional construction contingency amount of \$250,000 and increase the authorized contract amount to a not to exceed total of \$1,706,627.70 to Granite Rock Company.

SECOND READING OF ORDINANCES

20. Subject: Consider conducting a second reading of an Ordinance amending Municipal Code Section 2.88.100 (Audit Committee - Duties-Powers-Responsibilities)
Recommended Action: Conduct the second reading and enact Ordinance No. 22-2243: "An Ordinance of the City Council of the City of Cupertino Amending Municipal Code Section 2.88.100: Audit Committee - Duties-Powers-Responsibilities."
Presenter: Thomas Leung, Senior Management Analyst

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

City Clerk Kirsten Squarcia read the title of Ordinance No. 22-2243: "An Ordinance of the City Council of the City of Cupertino Amending Municipal Code Section 2.88.100: Audit Committee - Duties-Powers-Responsibilities."

Chao moved and Willey seconded to:

1. Read Ordinance No. 22-2243 by title only, and that the City Clerk's reading constitutes the second reading thereof; and
2. Enact Ordinance No. 22-2243.

Ayes: Moore, Wei, Willey, Chao, and Paul. Noes: None. Abstain: None. Absent: None.

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

21. Subject: Approve the July 1, 2022 through June 30, 2025 Memorandum of Understanding setting the salary and terms and conditions of employment for the Operating Engineers Local No. 3 Union, AFL-CIO (OE3).

Recommended Action: 1. Adopt Resolution 22-101 amending the Memorandum of Understanding (MOU) for the Operating Engineers Local No. 3 Union, AFL-CIO (OE3) based on the attached tentative agreements;

2. Adopt Resolution 22-102 to approve budget modification 23-232, increasing budget appropriations by \$471,742 ensuring that there are sufficient budget appropriations to cover the costs associated with the negotiated contract; and

3. Approve the corresponding Salary Schedule for OE3 employees effective July 1, 2022.

Presenter: Kristina Alfaro, Director of Administrative Services

Director of Administrative Services Kristina Alfaro provided an oral report.

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

Councilmembers asked question and made comments.

Moore moved and Wei seconded to:

1. Adopt Resolution 22-101 amending the Memorandum of Understanding (MOU) for the Operating Engineers Local No. 3 Union, AFL-CIO (OE3) based on the attached tentative agreements;

2. Adopt Resolution 22-102 to approve budget modification 23-232, increasing budget appropriations by \$471,742 ensuring that there are sufficient budget appropriations to cover the costs associated with the negotiated contract; and

3. Approve the corresponding Salary Schedule for OE3 employees effective July 1, 2022.

The motion carried unanimously.

As noted under Postponements and Orders of the Day, Council heard Item 23 before Item 22.

23. Subject: Approve the July 1, 2022 through June 30, 2025 Memorandum of Understanding setting the salary and terms and conditions of employment for the Cupertino City Employees' Association (CEA)/IFPTE Local 21.

Recommended Action: 1. Adopt the Draft Resolution 22-107 amending the Memorandum of Understanding (MOU) for the Cupertino City Employees' Association (CEA)/IFPTE Local 21 based on the attached tentative agreements;

2. Adopt the Draft Resolution 22-108 to approve budget modification 23-233 increasing appropriations by \$721,354 ensuring that there are sufficient budget appropriations to cover the costs associated with the negotiated contract; and

3. Approve the corresponding Salary Schedule for CEA employees effective July 1, 2022.

Presenter: Kristina Alfaro, Director of Administrative Services

Director of Administrative Services Kristina Alfaro provided an oral report.

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

Chao moved and Willey seconded to:

1. Adopt the Resolution 22-107 amending the Memorandum of Understanding (MOU) for the Cupertino City Employees' Association (CEA)/IFPTE Local 21 based on the attached tentative agreements;

2. Adopt the Resolution 22-108 to approve budget modification 23-233 increasing appropriations by \$721,354 ensuring that there are sufficient budget appropriations to cover the costs associated with the negotiated contract; and

3. Approve the corresponding Salary Schedule for CEA employees effective July 1, 2022.

The motion carried unanimously.

22. Subject: Approve and update the salary and terms, conditions of employment, and new job classification for the Unrepresented (Management and Confidential) Employees and Appointed Employees.

Recommended Action: 1. Adopt Resolution No. 22-103 amending the Compensation Program and salary schedules for the Unrepresented (Management and Confidential) Employees effective July 1, 2022;

2. Adopt Resolution No. 22-104; amending the Compensation Program for the Appointed Employees effective July 1, 2022

3. Approve a new job classification of Sr. Public Works Project Manager;

4. Approve salary realignment for the classifications of Capital Improvement Project Manager to Transportation Manager and of Deputy City Manager to Assistant Director of Community Development/Building Official and Assistant Director of Parks and Recreation; and

5. Accept title changes for classifications in the Unrepresented Employee Compensation Program

6. Adopt Resolution 22-105 to approve budget modification 23-234, increasing budget

appropriations by \$1,152,236 ensuring that there are sufficient budget appropriations to cover the costs associated with the Unrepresented Employee Group; and

7. Adopt Resolution 22-106 to approve budget modification 23-235, increasing budget appropriations by \$27,227 ensuring that there are sufficient budget appropriations to cover the costs associated with the Appointed Employee Group.

Presenter: Kristina Alfaro, Director of Administrative Services

Mayor Paul provided an oral summary of the recommended action.

Director of Administrative Services Kristina Alfaro provided an oral report.

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

Councilmember asked questions and made comments.

Moore moved and Wei seconded to:

1. Adopt Resolution No. 22-103 amending the Compensation Program and salary schedules for the Unrepresented (Management and Confidential) Employees effective July 1, 2022;

2. Adopt Resolution No. 22-104; amending the Compensation Program for the Appointed Employees effective July 1, 2022

3. Approve a new job classification of Sr. Public Works Project Manager;

4. Approve salary realignment for the classifications of Capital Improvement Project Manager to Transportation Manager and of Deputy City Manager to Assistant Director of Community Development/Building Official and Assistant Director of Parks and Recreation;

5. Accept title changes for classifications in the Unrepresented Employee Compensation Program;

6. Adopt Resolution 22-105 to approve budget modification 23-234, increasing budget appropriations by \$1,152,236 ensuring that there are sufficient budget appropriations to cover the costs associated with the Unrepresented Employee Group; and

7. Adopt Resolution 22-106 to approve budget modification 23-235, increasing budget appropriations by \$27,227 ensuring that there are sufficient budget appropriations to cover the costs associated with the Appointed Employee Group.

The motion carried unanimously.

24. Subject: Discuss Priority Housing Sites for the 2023-2031 Housing Element update
Recommended Action: That the City Council receive the report and presentation, provide input on the proposed housing inventory sites, and consider approval of the sites on the "Recommended Sites Inventory Table" (Attachment A) as the 6th Cycle

Housing Element sites inventory

Presenter: Luke Connolly, Senior Planner, Community Development Department

Written Communications for this item included a staff presentation, Attachment F - Pipeline, Tier 1 and Tier 2 Projects Map printout, and emails to Council.

Senior Planner Luke Connolly provided an overview.

Ande Flower, Principal Planner at EMC Planning Group, reviewed the Cupertino Housing Element website content.

Councilmember asked questions and made comments.

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

Scott Connelly was concerned about the Housing Element process transition from the Planning Commission and supported greater leadership and increased productivity.

Jennifer Griffin was concerned about the Housing Element process and HCD oversight and supported using the same method as the Planning Commission.

Peggy Griffin supported continuing the same method as the Planning and Housing Commissions and modifications to the map and spreadsheet.

Lisa Warren was concerned about map numbering and readability of the inventory lists.

Gauri Chawla supported safe, fair, and equitable housing for all, opposed pipeline projects, and supported alternative plans to ensure builds.

Barris Evulich opposed the proposed minimum density for his parcel and supported changes to the requirement. (Submitted written comments).

Vijay Kasi opposed zoning regulations preventing him from building a single-family home on his lot, which is smaller than the minimum. (Submitted written comments).

Mayor Paul closed the public comment period.

Council unanimously consented to continue this item to a Special City Council Meeting on August 29, 2022 and August 30, 2022, as necessary.

Council recessed from 10:48 p.m. to 10:55 p.m.

12. Subject: Consider adopting the Climate Action Plan 2.0 (CAP 2.0) and GHG Emissions Thresholds

Recommended Action: 1. Adopt Resolution No. 22-097 adopting the Climate Action Plan 2.0 and GHG Emissions Thresholds Initial Study/Negative Declaration
2. Adopt Resolution No. 22-098 adopting the Climate Action Plan 2.0 and GHG Emissions Thresholds

Written communications for this item included a staff presentation.

Sustainability Manager Andre Duurvoort gave a presentation.

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

Shani Kleinhaus, on behalf of the Santa Clara Valley Audubon Society, supported a language modification to Section CS 2.1. (Submitted written comments).

Dashiell Leeds, representing Sierra Club Loma Prieta Chapter, supported the adoption of the Climate Action Plan 2.0.

Mayor Paul closed the public comment period.

Councilmembers asked question and made comments.

Moore moved and Chao seconded the recommended action as modified to:

1. Adopt Resolution No. 22-097 adopting the Climate Action Plan 2.0 and GHG Emissions Thresholds Initial Study/Negative Declaration
2. Adopt Resolution No. 22-098 adopting the Climate Action Plan 2.0 and GHG Emissions Thresholds
3. Modify CS 2.1: Study opportunities to create new natural areas in existing open spaces, parklands, and fields with native species, biodiverse ecology, higher carbon sequestration potential and ~~improved recreational connectivity~~ ecologically responsible recreation opportunities for the community.

The motion carried unanimously.

17. Subject: Consider the Library Commission's Recommendation of Keiko O'Leary for appointment of the new 2023-2024 Cupertino Poet Laureate

Recommended Action: Adopt Resolution No. 22-100 approving the Library Commission's recommendation and appoint Keiko O'Leary as the new 2023-2024 Cupertino Poet Laureate

Written communications for this item included a staff presentation.

Acting Director of Parks and Recreation Rachelle Sander reviewed the item.

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

Councilmembers asked question and made comments.

Moore moved and Willey seconded to Adopt Resolution No. 22-100 approving the Library Commission's recommendation and appoint Keiko O'Leary as the new 2023-2024 Cupertino Poet Laureate, with a referral to staff regarding selecting timing for bringing forth modifications to the Cupertino Poet Laureate playbook, for consideration by the Library Commission in the future.

The motion carried unanimously.

ORAL COMMUNICATIONS - CONTINUED (As necessary) – None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Councilmembers made comments and discussed future agenda items.

ADJOURNMENT

At 11:47 p.m., Mayor Paul adjourned the Regular City Council Meeting.

Kirsten Squarcia City Clerk