



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, March 7, 2023

SPECIAL MEETING

At 5:00 p.m., Mayor Hung Wei called the Special City Council Meeting to order in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue.

ROLL CALL

Present: Mayor Hung Wei, Vice Mayor Sheila Mohan, and Councilmembers Liang Chao, J.R. Fruen and Kitty Moore. Absent: none.

ACTION CALENDAR

1. Subject: Consideration of a resolution amending the established City Council meeting calendar through January 2, 2024
Recommended Action: Adopt Resolution 23-027 amending the established City Council meeting calendar through January 2, 2024

City Clerk Kirsten Squarcia reviewed the staff report.

Councilmembers asked questions and made comments.

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

Jennifer Griffin was concerned about cancelling or moving meetings far in advance.

Mayor Wei closed the public comment period.

Moore moved and Chao seconded to adopt Resolution No. 23-027 amending the established City Council meeting calendar through January 2, 2024, with an amendment that staff will proceed based on the same agenda preparation process timelines set forth for regular meetings in the City Council Procedures Manual. Moore amended the motion to add that those special meetings would include the regular meeting order of business.

(Chao accepted the amendment). The amended motion carried unanimously.

2. Subject: Consider the Mid-Year Financial Report for Fiscal Year 2022-23, amending the Unrepresented Employees' Compensation Program, and approving a new job classification

Recommended Action: 1. Receive the City Manager's Mid-Year Financial Report for Fiscal Year 2022-23;

2. Adopt Resolution No. 23-028 amending the Unrepresented Employees' Compensation Program and Classification Plan; and

3. Approve a new Special Project Executive job classification and separate the Assistant Director of Community Development and Building Official job classifications.

Written communications for this item included a staff presentation.

Administrative Services Director Kristina Alfaro and Budget Manager Thomas Leung gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin supported potentially raising the Transient Occupancy Tax and funding for school resource officers and cybersecurity.

Mayor Wei closed the public comment period.

Mohan moved and Chao seconded to:

1. Receive the City Manager's Mid-Year Financial Report for Fiscal Year 2022-23;

2. Adopt Resolution No. 23-028 amending the Unrepresented Employees' Compensation Program and Classification Plan; and

3. Approve a new Special Project Executive job classification and separate the Assistant Director of Community Development and Building Official job classifications.

The motion carried unanimously with Moore abstaining.

ADJOURNMENT

At 6:02 p.m., Mayor Wei adjourned the Special City Council Meeting.

REGULAR MEETING

At 6:45 p.m., Mayor Wei 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 Hung Wei, Vice Mayor Sheila Mohan, and Councilmembers Liang Chao, J.R. Fruen and Kitty Moore. Absent: none.

CLOSED SESSION REPORT - None

CEREMONIAL ITEMS

1. Subject: Consider a proclamation declaring March as Youth Arts Month
Recommended Action: Present proclamation declaring March as Youth Arts Month

Sofia Fojas, Arts Coordinator for the Santa Clara County Office of Education, received the proclamation.

Mayor Wei presented the proclamation declaring March as Youth Arts Month.

POSTPONEMENTS AND ORDERS OF THE DAY

Moore moved to reorder the agenda to hear Item 11 Removal of Planning Commissioner before Oral Communications. There was no second and the motion died.

Chao moved and Moore seconded to reorder the agenda to hear Item 12 FY 2023-24 five-year plan for CIP before Item 11 Removal of Planning Commissioner. The motion failed with Chao and Moore voting yes.

ORAL COMMUNICATIONS

Jennifer Griffin supported increasing the Transient Occupancy Tax, funding for school resource officers and cybersecurity, and a presentation by the Chamber of Commerce.

Housing Commissioner Tessa Parish (representing self) was concerned about elected officials making ethical and impartial decisions.

Housing Commissioner Connie Cunningham (representing self) was concerned about Councilmembers adhering to the Council Procedures Manual and delaying City business.

Rhoda Fry opposed Council's approval of an illuminated sign facing the freeway at Public

Storage and the impacts on nearby residents. (Submitted written comments.)

Heather Dean supported Council for making progress on city business during meetings.

Lisa Warren was concerned about traffic safety issues and supported A-frame signage at intersections to display traffic flow changes.

Brooke Ezzat supported councilmembers recusing themselves from discussions and decision-making when a conflict of interest exists. (Submitted written comments).

San R recognized City staff for their work and supported Council considering resident interests when making decisions.

Janny Choy supported refining the tree canopy list, combating climate change, and planting native trees, and was concerned about night lighting and making preventive adjustments.

Moore moved and Chao seconded for staff to prepare a future agenda item to discuss the Chamber of Commerce attachments provided in the June 21, 2022 City Council meeting agenda; and requested information regarding the definition of freeway facing signs.

CONSENT CALENDAR (Items 2-10)

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

Fruen moved and Moore seconded to approve the items on the Consent Calendar, except for Items 3, 4, 9, and 10 which were pulled for discussion. Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

Wei moved and Chao seconded to reorder the agenda to move Items 4, 9, and 10 before the Action Calendar. Item 3 was placed after the Action Calendar for consideration. The motion carried unanimously.

2. Subject: Consider approval of the February 3 City Council minutes and receive consultant workshop report
Recommended Action: Approve the February 3 City Council minutes and receive the consultant workshop report (Exhibit A)
5. Subject: Consider ratifying Accounts Payable for the periods ending January 6, 2023; January 13, 2023; January 20, 2023; January 27, 2023; and February 3, 2023
Recommended Action: A. Adopt Resolution No. 23-029 ratifying Accounts Payable for

the Period ending January 6, 2023;

B. Adopt Resolution No. 23-030 ratifying Accounts Payable for the Period ending January 13, 2023;

C. Adopt Resolution No. 23-031 ratifying Accounts Payable for the Period ending January 20, 2023;

D. Adopt Resolution No. 23-032 ratifying Accounts Payable for the Period ending January 27, 2023; and

E. Adopt Resolution No. 23-033 ratifying Accounts Payable for the Period ending February 3, 2023

Written communications for this item included an email to Council and supplemental staff responses to councilmember questions.

6. Subject: Consider authorizing the City Manager to execute a services agreement with Azteca Systems, LLC., for Cityworks, Cupertino's Asset Management System subscription service, for \$217,502.63, plus a contingency of \$21,750.26 for a total cost of \$239,252.89 over three years
Recommended Action: 1. Authorize the City Manager to execute a services agreement with Azteca Systems, LLC., for Cityworks, Cupertino's Asset Management System subscription service, for \$217,502.63, plus a contingency of \$21,750.26 for a total cost of \$239,252.89 over three years
a. Find under Municipal Code section 3.22.060(B) that the formal competitive bidding procedures are impractical for procurement
7. Subject: Consider adopting a resolution authorizing the City Manager to take all necessary steps to accept \$5,000,000 in specified grant funds from the Budget Act of 2022-2023 for the McClellan Road Bridge Reconstruction Project
Recommended Action: Adopt Resolution No. 23-034 (Attachment A) authorizing the City Manager to execute a Funds Transfer Agreement and any amendments thereto and take all necessary steps to accept \$5,000,000 in specified grant funds from the Budget Act of 2022-2023 for the McClellan Road Reconstruction Project
8. Subject: Consider amending the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) Memorandum of Agreement (MOA) to extend the term through one fiscal year beyond the date of termination of the current Municipal Regional Stormwater Permit (MRP). The current five-year permit term would end June 30, 2027, so the MOA term would end on June 30, 2028, unless the MRP is extended. There are no other amendments proposed at this time.
Recommended Action: Authorize the City Manager to execute the fourth amendment (Attachment A) to an agreement providing for implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program (Attachment B), a multi-jurisdictional agreement between Santa Clara County, the Santa Clara Valley Water

District, and thirteen Santa Clara County municipalities.

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

PUBLIC HEARINGS – None

ITEMS REMOVED FROM THE CONSENT CALENDAR

As noted under Consent Calendar, Items 4, 9, and 10 were moved before the Action Calendar.

4. Subject: Consider amending the Cupertino Municipal Code to repeal Chapters 2.84 (Environmental Review Committee), 2.90 (Design Review Committee), and 2.96 (Economic Development Committee); to adopt Chapter 17.02 (California Environmental Quality Act), regarding local environmental review procedures; and to amend Chapters 2.32, 2.88, 9.20, 19.08, 19.12, 19.28, 19.104, and 19.124, regarding the duties of the Planning Commission, Audit Committee, and Local Assessment Committee

Recommended Action: Adopt Ordinance No. 23-2247 repealing Municipal Code Chapters 2.84, 2.90, and 2.96, adopting Municipal Code Chapter 17.02, and amending Municipal Code Chapters 2.32, 2.88, 9.20, 19.08, 19.12, 19.28, 19.104, and 19.124, the title of which is as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO TO REPEAL MUNICIPAL CODE CHAPTERS 2.84, 2.90, AND 2.96; TO ADOPT MUNICIPAL CODE CHAPTER 17.02; AND TO AMEND MUNICIPAL CODE CHAPTERS 2.32, 2.88, 9.20, 19.08, 19.12, 19.28, 19.104, AND 19.124, REGARDING CITY COMMISSIONS AND COMMITTEES

This item was pulled from the consent calendar for discussion.

Written communications for this item included emails to Council.

Councilmembers asked questions and made comments.

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

Jennifer Griffin opposed changes to the second reading and public comment processes and eliminating committees.

Peggy Griffin was concerned about changes to the agenda process and supported noting “second reading” in the item description for ordinance adoptions.

Mayor Wei closed the public comment period.

Mohan moved and Fruen seconded to adopt Ordinance No. 23-2247 repealing Municipal Code Chapters 2.84, 2.90, and 2.96, adopting Municipal Code Chapter 17.02, and amending Municipal Code Chapters 2.32, 2.88, 9.20, 19.08, 19.12, 19.28, 19.104, and 19.124, the title of which is as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO TO REPEAL MUNICIPAL CODE CHAPTERS 2.84, 2.90, AND 2.96; TO ADOPT MUNICIPAL CODE CHAPTER 17.02; AND TO AMEND MUNICIPAL CODE CHAPTERS 2.32, 2.88, 9.20, 19.08, 19.12, 19.28, 19.104, AND 19.124, REGARDING CITY COMMISSIONS AND COMMITTEES. Ayes: Wei, Mohan, and Fruen. Noes: Chao and Moore. Abstain: None. Absent: None.

9. Subject: Consider a four-year contract with Nomad Transit LLC (Via) for the Transit & Intercity Rail Capital Program (TIRCP) funded Via expansion into the City of Santa Clara, with two sites in Mountain View, deployment of an electric vehicle (EV) fleet, construction of necessary charging stations, and a resolution authorizing execution of a Master Agreement with Caltrans, which is a funding pre-requisite of the TIRCP grant program.

Recommended Action: 1. Approve a four-year contract with Nomad Transit, LLC (Attachment A);

2. Adopt Resolution No. 23-035 (Attachment B) authorizing the City Manager to execute the Caltrans Master Agreement; and

3. Adopt Resolution No. 23-036 (Attachment C) approving a budget modification, increasing appropriations in the General Fund, Transportation, Via Shuttle program budget by \$3,594,928 for the planning, launch, and operation of the Via-Cupertino/Santa Clara expansion with two sites in Mountain View, including design, construction, and contingency funds for installation of EV charging equipment to support the program.

This item was pulled from the consent calendar for discussion.

Written communications for this item included an email to Council and supplemental staff responses to councilmember questions.

Senior Transit & Transportation Planner Chris Corrao reviewed the staff report.

Councilmembers asked questions and made comments.

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

Peggy Griffin supported publishing ridership data updates, new rider areas and stops,

and more of the contract details.

Mayor Wei closed the public comment period.

Chao moved and Fruen seconded to:

1. Approve a four-year contract with Nomad Transit, LLC;
2. Adopt Resolution No. 23-035 authorizing the City Manager to execute the Caltrans Master Agreement; and
3. Adopt Resolution No. 23-036 (Attachment C) approving a budget modification, increasing appropriations in the General Fund, Transportation, Via Shuttle program budget by \$3,594,928 for the planning, launch, and operation of the Via-Cupertino/Santa Clara expansion with two sites in Mountain View, including design, construction, and contingency funds for installation of EV charging equipment to support the program.

The motion carried unanimously.

10. Subject: Consider a contract with Placeworks for the remainder of Housing Element
Recommended Action: Adopt Resolution No. 23-037 to complete the Sixth-Cycle General Plan Housing Element Update, authorizing the City Manager to execute a consultant agreement with Placeworks, and approving Budget Modification #2223-263 for the Sixth-Cycle General Plan Housing Element Update for the Fiscal Year 2022-23

This item was pulled from the consent calendar for discussion.

Written communications for this item included an email to Council.

Interim Assistant Director of Community Development Luke Connelly reviewed the staff report.

Councilmembers asked questions and made comments.

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

Jennifer Griffin was concerned about achieving certification, consulting fees, and Housing and Community Development (HCD) management.

Mayor Wei closed the public comment period.

Chao moved and Moore seconded to adopt Resolution No. 23-037 to complete the Sixth-Cycle General Plan Housing Element Update, authorizing the City Manager to execute a consultant agreement with Placeworks, and approving Budget Modification #2223-263 for the Sixth-Cycle General Plan Housing Element Update for the Fiscal Year

2022-23. The motion carried unanimously.

Council recessed from 8:24 p.m. to 8:30 p.m.

ACTION CALENDAR

11. Subject: Removal of Planning Commissioner R Wang
Recommended Action: Consider the removal of Planning Commissioner R Wang

Written communications for this item included emails to Council.

City Clerk Kirsten Squarcia reviewed the staff report.

Councilmembers asked questions and made comments.

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

Planning Commissioner R Wang (representing self) opposed removal from the Planning Commission.

Ghazon Baloch supported the removal of Planning Commissioner R Wang.

Xinpei Lu supported the removal of Planning Commissioner R Wang.

Jennifer Griffin opposed the removal of Planning Commissioner R Wang.

Parks and Recreation Commissioner Jennifer Shearin (representing self) supported the removal of Planning Commissioner R Wang.

Technology, Information, and Communication Commissioner Emma Shearin (representing self) supported the removal of Planning Commissioner R Wang.

Peggy Griffin opposed the removal of Planning Commissioner R Wang.

Susan Moore opposed the removal of Planning Commissioner R Wang.

Lisa Warren opposed the removal of Planning Commissioner R Wang.

Housing Commissioner Tessa Parish (representing self) opposed the removal of Planning Commissioner R Wang.

Long Jiao opposed the removal of Planning Commissioner R Wang.

Donna Austin supported the removal of Planning Commissioner R Wang.

Housing Connie Cunningham (representing self) supported the removal of Planning Commissioner R Wang.

Ian Greensides supported the removal of Planning Commissioner R Wang.

Planning Commissioner Steven Scharf (representing self) opposed the removal of Planning Commissioner R Wang.

Urs Mader opposed the removal of Planning Commissioner R Wang.

Neil (representing Cupertino for All, Democratic Activists for Women Now—DAWN, South Bay YIMBY, Silicon Valley Young Democrats, South Bay Youth Changemakers, Silicon Valley Asian Pacific American Democratic Club, Ava Chiao, Teacher, Cupertino resident) supported the removal of Planning Commissioner R Wang.

Parks and Recreation Commissioner Seema Swamy (representing self) opposed the removal of Planning Commissioner R Wang.

Tim Shively supported the removal of Planning Commissioner R Wang.

Bill Wilson supported the removal of Planning Commissioner R Wang.

Richard Mehlinger supported the removal of Planning Commissioner R Wang.

Dolly Sandoval supported the removal of Planning Commissioner R Wang.

Jean Bedord supported the removal of Planning Commissioner R Wang.

Sanjiv Kapil opposed the removal of Planning Commissioner R Wang.

Rod Sinks supported the removal of Planning Commissioner R Wang.

Philip Nguyen supported the removal of Planning Commissioner R Wang.

Bicycle Pedestrian Commissioner John Zhao (representing self) supported the removal of Planning Commissioner R Wang.

Martin Pyne supported the removal of Planning Commissioner R Wang.

Deepika Kapil opposed the removal of Planning Commissioner R Wang.

Housing Commissioner Tessa Parish read a statement on behalf of Danessa Techmanski opposing the removal of Planning Commissioner R Wang.

Rick Resident opposed the removal of Planning Commissioner R Wang. (Provided written comments).

Pamela Hershey opposed the removal of Planning Commissioner R Wang.

Housing Commissioner Govind Tatachari (representing self) opposed the removal of Planning Commissioner R Wang.

Planning Commissioner Muni Madhhipatla (representing self) opposed the removal of Planning Commissioner R Wang.

Vikram Saxena opposed the removal of Planning Commissioner R Wang.

Sean Hughes supported the removal of Planning Commissioner R Wang.

Erik Poicon (representing Silicon Valley Young Democrats) supported the removal of Planning Commissioner R Wang.

Karen Tuzman supported the removal of Planning Commissioner R Wang.

Balaji Chalam shared a video of Planning Commissioner R Wang on the importance of the Planning Commission.

Ali Sapirman supported the removal of Planning Commissioner R Wang.

Louis Saadati supported the removal of Planning Commissioner R Wang.

Jaria Jaug (representing Silicon Valley Young Democrats) supported the removal of Planning Commissioner R Wang.

John Geis supported the removal of Planning Commissioner R Wang.

Calley Wang supported the removal of Planning Commissioner R Wang.

Siva opposed the removal of Planning Commissioner R Wang.

Kamyab Mashian supported the removal of Planning Commissioner R Wang.

Scott O'Neil supported the removal of Planning Commissioner R Wang.

Andrew Siegler supported the removal of Planning Commissioner R Wang.

Rajat Mehndiratta supported the removal of Planning Commissioner R Wang.

San R opposed the removal of Planning Commissioner R Wang.

Cam Coulter supported the removal of Planning Commissioner R Wang.

Dan Marshall supported the removal of Planning Commissioner R Wang.

Adam Buchbinder supported the removal of Planning Commissioner R Wang.

Erik Lindskog supported the removal of Planning Commissioner R Wang.

Raphael Villagrancia supported the removal of Planning Commissioner R Wang.

Abdullah Memon supported the removal of Planning Commissioner R Wang. (Shared a video).

Shiv Kavaluru supported the removal of Planning Commissioner R Wang.

Minna opposed the removal of Planning Commissioner R Wang.

Ava Chiao supported the removal of Planning Commissioner R Wang.

William Lin supported the removal of Planning Commissioner R Wang.

Jordan Grimes supported the removal of Planning Commissioner R Wang.

Mayor Wei closed the public comment period.

Moore moved and Chao seconded a substitute motion to agendize a policy process for admonition, probation, censorship, and removal for commissioners. Chao made a friendly amendment to consider any removals after a policy is in place. (Moore accepted the friendly amendment). The substitute motion failed with Chao and Moore voting yes.

Wei moved and Fruen seconded to approve the removal of Planning Commissioner R Wang. The motion carried with Chao and Moore voting no.

Fruen moved and Chao seconded to extend the meeting to 11:40 p.m. to hear Item 12 FY 2023-24 five-year plan for CIP. The motion carried with Moore voting no.

Council recessed from 10:56 p.m. to 11:04 p.m.

12. Subject: Consider the Fiscal Year (FY) 2023-24 five-year plan for Capital Improvement Program (CIP).

Recommended Action: Receive presentation and provide input on the proposed FY 2023-24 five-year plan for the CIP.

Presenter: Susan Michael, Capital Improvement Program Manager

Written communications for this item included a staff presentation, FY 2023-24 Five-Year Capital Improvement Plan (CIP) Bicycle Pedestrian Commission memo to Council, and supplemental staff responses to councilmember questions.

Capital Improvement Program Manager Susan Michael gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin supported naming I-280 after Steve Jobs and reserving funds meant for parks infrastructure.

Peggy Griffin supported considering the staff shortage and tax audit and was concerned about the City Hall plan cost in conjunction with the Civic Center microgrid.

Lisa Warren was concerned about matching other city hall construction projects, opposed building more than necessary, and supported other uses for the funds.

San R supported prioritizing the bridge repairs for McClellan Road and Stevens Creek Boulevard.

Sean Hughes supported the microgrid funding and opposed comparisons framing microgrid funding in competition with housing funding.

Janet Van Zoeren supported keeping the small city-owned parcels in the work plan to

expedite repurposing if necessary.

Mayor Wei closed the public comment period.

Council received the presentation on the proposed Fiscal Year (FY) 2023-24 five-year plan for Capital Improvement Program (CIP) and provided input requesting staff to consider options that could accelerate construction of four projects: Carmen Road Bridge and the three shade structures at Blackberry Farm Bocce Courts, Portal Park Picnic area, and Linda Vista Park Picnic area.

Fruen moved and Mohan seconded to further extend the meeting to hear Item 3 February 21 minutes. The motion carried unanimously.

ITEMS REMOVED FROM THE CONSENT CALENDAR

As reordered under Consent Calendar, Item 3 was heard after the Action Calendar.

3. Subject: Consider approval of the February 21 City Council minutes
 Recommended Action: Approve the February 21 City Council minutes

This item was pulled from the consent calendar for discussion.

Written communications for this item included an email to Council.

Councilmembers asked questions and made comments.

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

Peggy Griffin supported amending the language for informational items.

Mayor Wei closed the public comment period.

Fruen moved and Wei seconded to approve the February 21 City Council minutes. The motion carried with Moore voting no.

City Manager Wu shared a video montage of the Wafu School of Ikebana 2023 Flower Show.

ADJOURNMENT

At 12:07 a.m., on Wednesday, March 8, Mayor Wei adjourned the Regular City Council Meeting per rule. There was no Council discussion on the remaining agenda items.

COUNCIL REPORTS AND COMMENTS

Council did not hear this item.

CITY MANAGER REPORT

Council did not hear this item.

ORAL COMMUNICATIONS - CONTINUED – None**INFORMATIONAL ITEMS**

13. Subject: Consider the Monthly Treasurer's Report for January 2023
Recommended Action: Receive the Monthly Treasurer's Report for January 2023

Written communications for this item included an email to Council.

The information was provided as part of the published agenda.

14. Subject: Consider the Monthly Treasurer's Investment Report for January 2023
Recommended Action: Receive the Monthly Treasurer's Investment Report for January 2023

Written communications for this item included an email to Council.

The information was provided as part of the published agenda.

15. Subject: Response to Councilmember questions regarding Cupertino Chamber of Commerce
Recommended Action: Receive informational memorandum responding to questions regarding Cupertino Chamber of Commerce

Written communications for this item included an email to Council.

The information was provided as part of the published agenda.

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

As noted under Oral Communications, Moore and Chao added a future agenda item to discuss the Chamber of Commerce attachments provided at the June 21, 2022 City Council meeting; and requested information regarding the definition of freeway facing signs.

Minutes prepared by:

Kirsten Squarcia, City Clerk