



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, May 16, 2023

At 6:45 p.m. Mayor Hung 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: Presentation from West Valley Community Services on the Annual Impact Report
Recommended Action: Receive the presentation from West Valley Community Services on the Annual Impact Report

Sujatha Venkatraman, Executive Director for West Valley Community Services (WVCS), gave a presentation and WVCS client Joshua Pringle provided comments.

Council received the presentation from West Valley Community Services on the Annual Impact Report.

POSTPONEMENTS AND ORDERS OF THE DAY – None

ORAL COMMUNICATIONS

Brooke Ezzat opposed recent Council actions, including a referral to the District Attorney's Office regarding councilmembers.

Gary Wipfler was concerned about code violations and property owner behavior at 7573 Prospect Road and supported action from the City in the matter.

Council unanimously consented to suspend the Council rules of procedure for public comment to allow additional time for Steve Kelly.

Steve Kelly was concerned about code violations and property owner behavior at 7573 Prospect Road and supported action from the City in the matter. (Submitted written comments).

Denise Gantt ceded their time to Steve Kelly.

Paul Ensign ceded their time to Steve Kelly.

Mindy Masli ceded their time to Steve Kelly.

Rhoda Fry was concerned about the budget and a potential payback of sales tax revenues and supported ways to increase revenues and make cuts. (Submitted written comments).

Matthew Tinsley (representing Santa Clara County Office of Education) supported early learning programs for working families and City action to ensure community access to these programs.

Bicycle Pedestrian Commissioner Jennifer Shearin (representing self) supported Councilmember attendance at meetings and Council working together.

Peggy Griffin was concerned about Item 21 ACFR's actual results when compared to the proposed budget, and the general numbers in both documents. (Submitted written comments).

San R was concerned about the community budget survey questions being limited and supported adding options to allow additional public input.

Chao and Moore added Item 21 FY 2021-22 Annual Comprehensive Financial Report (ACFR) as an item for discussion on a future agenda.

CONSENT CALENDAR (Items 2-12)

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

Peggy Griffin was concerned about the conformity of accounts payables and treasurers reports and the projected numbers for Item 9 Lisa Molaro contract.

Bicycle Pedestrian Commissioner Jennifer Shearin (representing self) supported the use of funds for Item 10 De Anza Boulevard and McClellan Road/Pacifica Drive Intersection Modifications.

Mayor Wei closed the public comment period.

Fruen moved Mohan seconded to approve the items on the Consent Calendar, except for Item 6 which was pulled for discussion. Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

Item 6 was placed after the Action Calendar for consideration.

2. Subject: Consider approval of the May 2 City Council minutes
Recommended Action: Approve the May 2 City Council minutes

3. Subject: Consider setting a hearing date to declare brush with potential fire hazard a public nuisance and for objections to proposed removal through the Cupertino Brush Abatement Program WUI (Wildland-Urban Interface Fire Area); adopting a resolution declaring properties as having potential fire hazards from brush and authorizing removal
Recommended Action: Adopt Resolution No. 23-053 declaring properties as having potential fire hazards from brush; and set a hearing date of July 6, 2023 to declare brush with potential fire hazard a public nuisance and to hear objections to proposed removal

4. Subject: Consider accepting the City's Investment Policy
Recommended Action: Adopt Resolution No. 23-054 accepting the City's Investment Policy

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

5. Subject: Consider ratifying Accounts Payable for the periods ending March 10, 2023; March 17, 2023; March 24, 2023; March 31, 2023; April 7, 2023; April 14, 2023; April 21, 2023; and April 28, 2023
Recommended Action: A. Adopt Resolution No. 23-055 ratifying Accounts Payable for the Period ending March 10, 2023;
B. Adopt Resolution No. 23-056 ratifying Accounts Payable for the Period ending March 17, 2023;
C. Adopt Resolution No. 23-057 ratifying Accounts Payable for the Period ending March 24, 2023;
D. Adopt Resolution No. 23-058 ratifying Accounts Payable for the Period ending March 31, 2023;
E. Adopt Resolution No. 23-059 ratifying Accounts Payable for the Period ending April 7, 2023;
F. Adopt Resolution No. 23-060 ratifying Accounts Payable for the Period ending April 14, 2023;

- G. Adopt Resolution No. 23-061 ratifying Accounts Payable for the Period ending April 21, 2023; and
- H. Adopt Resolution No. 23-062 ratifying Accounts Payable for the Period ending April 28, 2023

Written communications for this item included an updated Supplemental Report with staff responses to councilmember questions and emails to Council.

7. Subject: Consider authorizing the City Manager to execute a services agreement with Arctic Wolf Networks, Inc., for Managed Detection and Response (MDR) security services, for a total cost of \$219,552.46 over three years.
Recommended Action: 1. Authorize the City Manager to execute a services agreement with Arctic Wolf Networks, Inc., for Managed Detection and Response (MDR) Security Services, for a total cost of \$219,552.46 over three years.
2. Find under Municipal Code section 3.22.060(B). that the formal competitive bidding procedures are impractical for procurement.
8. Subject: Consider authorizing the City Manager to execute a Third Amendment to Professional Services agreement with Avocette Technologies, Inc., for Accela Configuration and Support Services, for \$220,000, over the next three years for a total cost of \$392,000 across five years
Recommended Action: Authorize the City Manager to execute a Third Amendment to Professional Services agreement with Avocette Technologies, Inc., for Accela Configuration and Support Services for \$220,000, over the next three years for a total cost of \$392,000 across five years.
9. Subject: Consider an amendment to the recreation agreement between the City of Cupertino and Lisa Molaro, a sole proprietor/individual for ceramics and art instruction.
Recommended Action: Authorize the City Manager to execute a Third Amendment to the recreation agreement between the City of Cupertino and Lisa Molaro, a sole proprietor/individual increasing the amount by \$336,941 for a total amount not to exceed \$505,941 and extending the term of the agreement to end on August 30, 2025.
10. Subject: Consider rejection of all bids received for the De Anza Boulevard and McClellan Road/Pacifica Drive Intersection Modifications Capital Improvement Programs (CIP) Project.
Recommended Action: Authorize the Director of Public Works to reject all bids received for the De Anza Boulevard and McClellan Road/Pacifica Drive Intersection Modifications CIP Project.

Written communications for this item included an email to Council.

11. Subject: Consider award of a construction contract for the Pumpkin-Fiesta Storm Drain Improvement Project to Con-Quest Contractors, Inc. for replacement of existing storm drain line and associated improvements.
Recommended Action: 1. Award a construction contract for the Pumpkin-Fiesta Storm Drain Improvement Project (Project No. 2022-01) in the amount of the \$1,545,708 to Con-Quest Contractors, Inc.;
2. Authorize the City Manager to execute the construction contract with Con-Quest Contractors, Inc. when all conditions have been met; and
3. Authorize the Director of Public Works to execute any necessary construction change orders up to a contingency amount of \$154,572 (10%) for a total authorized contract amount of \$1,700,280.
12. Subject: Consider rejecting all bids received for the 2023 Pavement Maintenance Phase 1 Project.
Recommended Action: Authorize the Director of Public Works to reject all bids received for the 2023 Pavement Maintenance Phase 1 Project.

Written communications for this item included an email to Council.

PUBLIC HEARINGS – None

ACTION CALENDAR

13. Subject: Consider a first reading of Ordinance No. 23-2248: "An Ordinance of the City Council of the City of Cupertino amending Chapter 9.18 of the Cupertino Municipal Code (CMC) regarding Stormwater Pollution Prevention and Watershed Protection."
Recommended Action: Conduct the first reading of Ordinance No. 23-2248: "An Ordinance of the City Council of the City of Cupertino amending Chapter 9.18 of the Cupertino Municipal Code regarding Stormwater Pollution Prevention and Watershed Protection."
Presenter: Ursula Syrova, Environmental Programs Manager

Written communications for this item included a staff presentation.

Environmental Programs Manager Ursula Syrova gave a presentation.

Councilmembers asked questions and made comments.

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

Peggy Griffin opposed removal of the "Bio-retention area" definition and supported a

modification for bulky items. (Submitted written comments).

Mayor Wei closed the public comment period.

City Clerk Kirsten Squarcia read the title of Ordinance No. 23-2248: "An Ordinance of the City Council of the City of Cupertino amending Chapter 9.18 of the Cupertino Municipal Code (CMC) regarding Stormwater Pollution Prevention and Watershed Protection."

Moore moved and Fruen seconded for the City Clerk to read the title of Ordinance No. 23-2248, that further reading of the Ordinance be waived, and that the City Council conduct the first reading of the Ordinance by title only. Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

ITEMS REMOVED FROM THE CONSENT CALENDAR

6. Subject: Consider the City Manager's Third Quarter Financial Report for Fiscal Year 2022-23

Recommended Action: 1. Receive the City Manager's Third Quarter Financial Report for FY 2022-23;

2. Adopt Resolution No. 23-063 approving Budget Modification 23-277 decreasing appropriations by \$2,758,528 and increasing revenues by \$4,902,598

Written communications for this item included a supplemental report with staff responses to councilmember questions and emails to Council.

This item was pulled from the Consent Calendar for discussion.

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

Peggy Griffin supported staff bringing back the City Hall remodel/rebuild project and was concerned about the use of in-lieu fees.

Mayor Wei closed the public comment period.

Councilmembers asked questions and made comments.

Mohan moved and Fruen seconded to:

1. Receive the City Manager's Third Quarter Financial Report for FY 2022-23; and
2. Adopt Resolution No. 23-063 approving Budget Modification 23-277 decreasing appropriations by \$2,758,528 and increasing revenues by \$4,902,598.

The motion carried unanimously.

COUNCIL REPORTS AND COMMENTS**14. Subject: Councilmember Reports**

Councilmembers reported on their various committees and activities as provided in the published agenda.

CITY MANAGER REPORT

City Manager Pamela Wu shared a video showing photos of the recent Cupertino Post Office Dedication Ceremony in honor of Cupertino native and fallen Navy SEAL, Matthew G. Axelson.

ORAL COMMUNICATIONS - CONTINUED – None**INFORMATIONAL ITEMS****15. Subject: FY 2022-2023 City Work Program Third Quarter Update
Recommended Action: Receive FY 2022-2023 City Work Program Third Quarter Update**

Written communications for this item included a desk item Supplemental Report, Attachment B - Updated FY 2022-2023 City Work Program Q3 Dashboard Printout, and an email to Council.

The FY 2022-2023 City Work Program Third Quarter Update was provided as part of the published agenda.

**16. Subject: Receive the Library Construction Audit Report
Recommended Action: Receive the Library Construction Audit Report**

The Library Construction Audit Report was provided as part of the published agenda.

**17. Subject: Receive the Monthly Treasurer's Investment Report for March and April 2023
Recommended Action: Receive the Monthly Treasurer's Investment Report for March and April 2023**

The Monthly Treasurer's Investment Report for March and April 2023 was provided as part of the published agenda.

18. Subject: Receive the Monthly Treasurer's Report for March 2023
Recommended Action: Receive the Monthly Treasurer's Report for March 2023

The Monthly Treasurer's Report for March 2023 was provided as part of the published agenda.

19. Subject: Receive the Monthly Treasurer's Report for April 2023
Recommended Action: Receive the Monthly Treasurer's Report for April 2023

The Monthly Treasurer's Report for April 2023 was provided as part of the published agenda.

20. Subject: Receive the Treasurer's Investment Report for the Quarter Ending March 31, 2023
Recommended Action: Receive the Treasurer's Investment Report for the Quarter Ending March 31, 2023

The Treasurer's Investment Report for the Quarter Ending March 31, 2023 was provided as part of the published agenda.

21. Subject: Receive the FY 2021-22 Annual Comprehensive Financial Report (ACFR) and related supplemental reports.
Recommended Action: Receive the FY 2021-22 Annual Comprehensive Financial Report (ACFR) and related supplemental reports.

Written communications for this item included emails to Council.

The FY 2021-22 Annual Comprehensive Financial Report (ACFR) was provided as part of the published agenda.

22. Subject: Receive the report regarding the 2023 Cupertino-Hsinchu Sister City Association Student Exchange Program and Adult Delegation Visit
Recommended Action: Receive the report regarding the 2023 Cupertino-Hsinchu Sister City Association Student Exchange Program and Adult Delegation Visit

Written communications for this item included an email to Council.

The report regarding the 2023 Cupertino-Hsinchu Sister City Association Student Exchange Program and Adult Delegation Visit was provided as part of the published agenda.

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

As noted under Oral Communications, Councilmembers Chao and Moore added Item 21 FY 2021-22 Annual Comprehensive Financial Report (ACFR) to a future agenda for discussion.

ADJOURNMENT

At 8:05 p.m., Mayor Wei adjourned the Regular City Council Meeting.

Minutes prepared by:

Kirsten Squarcia, City Clerk