



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, February 21, 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 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.

ACTION CALENDAR

1. Subject: Consider City Hall Renovation Project update
Recommended Action: Staff requests City Council re-affirm the direction previously provided for the City Hall Renovation Project
Presenter: Susan Michael, Capital Improvement Programs Manager

Written communications for this item included a staff presentation, Amended Attachment B - City Council Timeline City Hall Project, Supplemental Staff Answers to Councilmember Questions, and emails to Council.

Capital Improvement Programs Manager Susan Michael reviewed the staff report.

Councilmembers asked questions and made comments.

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

Housing Commissioner Connie Cunningham (representing self) supported revisiting the previous direction, choosing a long-term investment, and adding native plants.

Gary Latshaw supported discussions of climate change issues and conservation and a life cycle cost analysis of a new building versus a renovated building.

Peggy Griffin was concerned about cost and what the City can afford and supported the previous direction for renovation and risk category.

Jean Bedord supported a change from the previous direction due to staff size increases, seismic safety, City liability, energy efficiency, and sustainability goals.

Lisa Warren supported a risk category 4 retrofit and had cost concerns for a new build and opposed comparisons with Sunnyvale's new City Hall.

Jennifer Griffin supported overbuilding for future growth and sizing appropriately for Cupertino, seismic safety for employees, and using the annex building.

Mayor Wei closed the public comment period.

Fruen moved and Wei seconded:

1. That staff suspend all work on the City Hall renovation plan considered at the City Council meeting of November 15, 2022, not including the City Hall Annex project.
2. That staff, instead, return to Council with options for a new city hall and civic center up to approximately 80,000 square feet including flexible events programming space(s) suitable for events hosting up to 500 people and based primarily upon options previously provided with the City Council at its meeting on November 15, 2022, with alternatives for such flexible events programming space at other city-owned locations, to be considered as part of the City Council's March 7 consideration of the Capital Improvement Program.

Moore moved and Chao seconded a substitute motion to re-affirm the direction previously provided for the City Hall Renovation Project. The substitute motion failed with Moore and Chao voting yes.

Fruen's main motion carried with Chao and Moore voting no.

ADJOURNMENT

At 6:13 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

Mayor Wei recognized February as Black History Month.

CEREMONIAL ITEMS

1. Subject: Recognition of 2022 STEM Winners from the City of Cupertino who participated in the Santa Clara County 2022 Synopsys Championship Science Fair
Recommended Action: Present Certificates of Recognition to 2022 STEM Winners from the City of Cupertino who participated in the Santa Clara County 2022 Synopsys Championship Science Fair

Santa Clara Valley Science and Engineering Fair Association (SCVSEFA) Board Member Forrest Williams received the certificates of recognition on behalf of the participants.

Mayor Wei presented the certificates of recognition to the 2022 STEM Winners from the City of Cupertino who participated in the Santa Clara County 2022 Synopsys Championship Science Fair.

2. Subject: Consider a proclamation recognizing the Wafu School of Ikebana
Recommended Action: Present proclamation recognizing the Wafu School of Ikebana

Mrs. Fusako "Seiga" Hoyrup received the proclamation.

Mayor Wei presented the proclamation recognizing the Wafu School of Ikebana.

3. Subject: Consider a proclamation recognizing Mrs. Fusako "Seiga" Hoyrup, a principal instructor of the Wafu School of Ikebana
Recommended Action: Present proclamation recognizing Mrs. Fusako "Seiga" Hoyrup, a principal instructor of the Wafu School of Ikebana

Mrs. Fusako "Seiga" Hoyrup received the proclamation.

Mayor Wei presented the proclamation recognizing Mrs. Fusako "Seiga" Hoyrup, a principal instructor of the Wafu School of Ikebana.

POSTPONEMENTS AND ORDERS OF THE DAY - None**ORAL COMMUNICATIONS**

Jennifer Griffin was concerned about public comment procedures, the “builders remedy” law for housing development, and the Grand Jury report basis; and supported retail at Main Street.

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

Don Halsey (representing Friends of Blackberry Farm) supported biodiversity and increasing wildlife as part of a Blackberry Farm Golf Course restoration. (Submitted written comments).

Sunnyvale City Councilmember Richard Mehlinger (representing self) supported the removal of Commissioner R Wang from the Planning Commission.

Lisa Warren opposed a proposed entertainment-use project in the former Target space at Main Street Cupertino. (Submitted written comments).

Rhoda Fry opposed the approval of a sign at Public Storage and supported Council reconsidering the approval due to the sign location and design impact on residents.

Neil Park-McClintick supported the removal of Commissioner R Wang from the Planning Commission.

Fruen moved and Mohan seconded to suspend the Council Procedures rules for Oral Communications and allow public comment to continue. The motion carried unanimously.

Danessa Techmanski opposed the Council’s February 7 approval of signage at Public Storage due to the sign location, size, and aesthetics.

Peggy Griffin opposed comments against Commissioner R Wang and supported an EIR process with public input for a proposed project in the former Target at Main Street and providing monthly treasurers reports to Council.

Housing Commissioner Tessa Parish (representing self) opposed new Council procedures for public comments and comments against Planning Commissioner R Wang.

Kamyab Mashian supported the steps taken by Council for good governance and the removal of Commissioner R Wang from the Planning Commission.

Debra Timmers supported the removal of Commissioner R Wang from the Planning Commission.

Parks and Recreation Commissioner Jennifer Shearin (representing self) supported acceptance of the Grand Jury report findings and the removal of R Wang from the Planning Commission.

San R supported Council reconsideration of a sign approval at Public Storage due to the sign location and traffic safety concerns, and review of the Sign Ordinance.

Philip Nguyen supported the removal of Commissioner R Wang from the Planning Commission.

Fruen moved and Mohan seconded to request that staff bring back an item for discussion on a future agenda to remove Commissioner R Wang from the Planning Commission with a resolution attached thereto.

CONSENT CALENDAR (items 4-9)

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

Fruen moved and Mohan seconded to approve the items on the Consent Calendar, except for Items 5 and 6 which were pulled for discussion. Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

Items 5 and 6 were placed after the Action Calendar for consideration.

4. Subject: Consider approval of the January 25 City Council minutes (continued from February 7)
Recommended Action: Approve the January 25 City Council minutes
7. Subject: Consider approval of the January 30 City Council minutes
Recommended Action: Approve the January 30 City Council minutes
8. Subject: Consider approval of the January 31 City Council minutes
Recommended Action: Approve the January 31 City Council minutes
9. Subject: Consider approval of the February 7 City Council minutes
Recommended Action: Approve the February 7 City Council minutes

Council recessed from 7:42 p.m. to 7:47 p.m.

PUBLIC HEARINGS - None

ACTION CALENDAR

10. Subject: Consider approval of response to 2022 Civil Grand Jury of Santa Clara County Report entitled, "A House Divided" (continued from February 7)
Recommended Action: Approve response to 2022 Civil Grand Jury of Santa Clara County Report entitled, "A House Divided"
Presenter: Christopher Jensen, City Attorney

Written communications for this item included Supplemental Staff Answers to Councilmember Questions and emails to Council.

Council continued the consideration and deliberation from February 7. The public comment period was closed and remained closed.

Mohan moved and Chao seconded to approve the draft response to 2022 Civil Grand Jury of Santa Clara County Report entitled, "A House Divided." Council did not vote on this motion.

Fruen moved and Wei seconded a substitute motion to approve response to 2022 Civil Grand Jury of Santa Clara County Report entitled, "A House Divided" with amendments:

- Re Finding 1

Change language to not overstate the city's actions. Change last sentence in first paragraph to:

In addition, the City continues to make policy progress in many areas—for example, the City Council recently approved two significant large development projects and a number of smaller developments in a timely fashion, and the City continues to innovate in policy areas such as its response to climate change and the reduction of single-use plastics.

- Re Finding 4 and elsewhere as the City Attorney deems appropriate or helpful to the strength of the response:

Adding language to note:

1. the adoption of the Council Procedures Manual,
2. that the city will revisit its Ethics Policy using the 2018 policy as a starting point for revision,
3. that the city will revisit the Commissioner's Handbook to bring it into alignment with the Council Procedures Manual and to address other concerns raised by the Civil Grand Jury Report,
4. And that the City Attorney will investigate and report back on other violations of the Municipal Code with respect to council-staff and commissioner-staff relations so that the City Council may establish policy to correct or prevent such violations in future.

Chao made a friendly amendment to Fruen's substitute motion:

- Re Finding 4 and elsewhere as the City Attorney deems appropriate or helpful to the strength of the response:

Adding language to note:

1. the adoption of the Council Procedures Manual,
 2. that the city will revisit its Ethics Policy ~~using the 2018 policy as a starting~~
-

~~point for revision,~~

Fruen declined Chao's friendly amendment and it was not considered.

Chao moved and Moore seconded a substitute motion:

- Re Finding 4 and elsewhere as the City Attorney deems appropriate or helpful to the strength of the response:

Adding language to note:

1. the adoption of the Council Procedures Manual,
2. that the city will revisit its Ethics Policy ~~using the 2018 policy as a starting~~
~~point for revision,~~

Chao's substitute motion failed with Chao and Moore voting yes.

Fruen's substitute motion carried with Chao abstaining and Moore voting no.

11. Subject: Consider (1) adopting Resolution No. 23-026 to repeal and replace Resolution No. 18-010, regarding the Legislative Review Committee; (2) establishment of an Economic Development Working Group by the City Manager; (3) 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; and (4) finding the above actions exempt from the California Environmental Quality Act

Recommended Action: 1. Adopt Resolution No. 23-026 to repeal and replace Resolution No. 18-010, regarding the Legislative Review Committee.

2. Conduct the first reading of 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.

3. Find the actions exempt from the California Environmental Quality Act.

Presenter: Pamela Wu, City Manager

Written communications for this item included a staff presentation, Supplemental Staff Answers to Councilmember Questions, and emails to Council.

City Manager Pamela Wu gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin opposed eliminating or changing committees.

Rhoda Fry opposed eliminating or changing committees and supported providing committee information as part of the Council agenda and continuing meeting minutes.

Jean Bedord supported the staff recommendation regarding consolidation of committees and dissolving subcommittees.

Peggy Griffin opposed eliminating committees and was concerned about representation in the economic advisory working group and supported meeting minutes.

Parks and Recreation Commissioner Jennifer Shearin (representing self) supported the staff recommendation.

Lisa Warren opposed eliminating committees and supported providing committee information in Council agendas and supported transparency and meeting minutes.

Mayor Wei closed the public comment period.

City Clerk Kirsten Squarcia read the title of 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.

Mohan moved and Fruen seconded to adopt the staff report on the committees. Fruen made a friendly amendment to adopt the staff recommendation and waive the first reading of Ordinance No. 22-2347 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. (Mohan accepted the friendly amendment). Fruen modified the friendly amendment to also adopt Resolution No. 23-026 to repeal and replace Resolution No. 18-010, regarding the Legislative Review Committee. (Mohan accepted the friendly amendment).

Chao moved and Moore seconded to pause the Council meeting procedures to allow more time to discuss the item. The motion failed with Chao and Moore voting yes.

Chao moved and Moore seconded to adopt Resolution No. 23-026 to repeal and replace Resolution No. 18-010, regarding the Legislative Review Committee with an amendment to strike the following paragraph:

“WHEREAS the City Council finds that this delegation of authority is inconsistent with Municipal Code section 2.17.031, which provides that the

authority of the City Council “cannot be delegated to individual Council members, nor to committees composed of council members consisting of less than a quorum of the City Council”

Chao’s motion failed with Chao and Moore voting yes.

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

1. Adopt Resolution No. 23-026 to repeal and replace Resolution No. 18-010, regarding the Legislative Review Committee;
2. Conduct the first reading of Ordinance No. 23-2247 as recommended with the modification to retain 2.96 (Economic Development Committee) and remove the change to 2.88 (Audit Committee); and
3. Find the actions exempt from the California Environmental Quality Act.

Moore’s substitute motion failed with Chao and Moore voting yes.

Mohan’s amended main motion carried with Chao and Moore voting no.

Motion Summary:

Mohan moved and Fruen seconded and amended motion to adopt the staff recommendation:

1. Adopt Resolution No. 23-026 to repeal and replace Resolution No. 18-010, regarding the Legislative Review Committee; and
2. Conduct the first reading of 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; and
3. Find the actions exempt from the California Environmental Quality Act.

Ayes: Wei, Mohan, and Fruen. Noes: Chao and Moore. Abstain: None. Absent: None.

Council recessed from 9:59 p.m. to 10:02 p.m.

ITEMS REMOVED FROM THE CONSENT CALENDAR

The following items were pulled from the Consent Calendar and placed after the Action Calendar for discussion.

Wei moved and Fruen seconded to hear Item 6 before Item 5. The motion carried with Chao voting no and Moore abstaining.

6. Subject: Consider adoption of a resolution establishing the Commemorative Bench Dedication Policy and waiving the commemorative fee for Marilyn Francesco. (continued from February 7)

Recommended Action: Adopt Resolution No. 23-024 (Attachment A) establishing the

Commemorative Bench Dedication Policy and allow a one-time waiver of the policy for Marilyn Francesco.

This item was pulled from the Consent Calendar for discussion.

Written communications for this item included Supplemental Staff Answers to Councilmember Questions and emails to Council.

Acting Public Works Director Chad Mosley answered questions.

Councilmembers asked questions and made comments.

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

Jennifer Griffin supporting naming I-280 after Steve Jobs, adopting a memorial bench policy, and looking at policies in other cities.

Peggy Griffin supported bench location alternatives, involving the Parks and Recreation Department in the process, changes to the policy, and denying the fee waiver request.

Mayor Wei closed the public comment period.

Fruen moved and Wei seconded to adopt Resolution No. 23-024 establishing the Commemorative Bench Dedication Policy and allow a one-time waiver of the policy for Marilyn Francesco. Council did not vote on this motion.

Chao moved and Moore seconded a substitute motion:

- Deny the request to place a citizen-bought plaque to place on an existing park bench without making any donation nor comply with any existing policy.

- Revise Resolution No. 23-XXX to Parks and Rec Commission to advise a procedure

II. GOVERNING RULES AND REGULATIONS

1. The Department of ~~Public Works~~ Parks and Recreation will accept donations for benches that commemorate or recognize a person provided that all provisions of the policy are met.

2. The Director of ~~Public Works~~ Parks and Recreation, in consultation with Parks and Recreation Commission, shall establish a procedure for applying for placement of a commemorative bench and has the authority to approve or deny any bench donation.

3. The City will only accept bench donations that commemorate, memorialize, or recognize an individual or family by name who has a direct connection to the City of Cupertino. No organizations or groups will be considered.

4. Only one bench shall be dedicated to any single person or family, unless there is a compelling reason for additional dedications as shall be determined by the Director of Public Works.

- Add on the application to describe the connection to Cupertino.

Chao's substitute motion failed with Chao and Moore voting yes.

Wei moved and Chao seconded to extend the meeting past 11:00 p.m. to continue consideration of Item 6. The motion carried unanimously.

Chao moved and Moore seconded a substitute motion to approve the staff recommendation to adopt Resolution No. 23-024 establishing the Commemorative Bench Dedication Policy. Chao's substitute motion carried with Wei and Mohan voting no.

Fruen moved and Wei seconded to waive the Commemorative Bench Dedication Bench Policy to allow a one-time waiver for the policy for Marilyn Francesco. Fruen's motion carried with Chao and Moore voting no.

Chao moved and Mohan seconded to extend the meeting to 11:20 p.m. to consider Item 5. The motion carried with Moore abstaining.

Motions Summary:

1. Chao moved and Moore seconded a substitute motion to approve the staff recommendation to adopt Resolution No. 23-024 establishing the Commemorative Bench Dedication Policy. Chao's substitute motion carried with Wei and Mohan voting no.

2. Fruen moved and Wei seconded to waive the Commemorative Bench Dedication Bench Policy to allow a one-time waiver for the policy for Marilyn Francesco. Fruen's motion carried with Chao and Moore voting no.

5. Subject: Consider ratifying Accounts Payable for the period ending November 13, 2022 (continued from February 7)

Recommended Action: Adopt Resolution No. 23-023 ratifying Accounts Payable for the period ending November 13, 2022

This item was pulled from the Consent Calendar for discussion.

Written communications for this item included Supplemental Staff Answers to Councilmember Questions and emails to Council.

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

Peggy Griffin was concerned about accounts payable items being missed in reports and supported transparency.

Mayor Wei closed the public comment period.

Councilmembers asked questions and made comments.

Administrative Service Director Kristina Alfaro answered questions.

Fruen moved and Mohan seconded to adopt Resolution No. 23-023 ratifying Accounts Payable for the period ending November 13, 2022.

Moore moved and Chao seconded a substitute motion postpone approval until Council has received the requested consultant services contract and receipt information. The substitute motion failed with Chao and Moore voting yes.

Fruen's main motion carried with Moore voting no.

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

12. Subject: Consider the Monthly Treasurer's Report for December 2022 (continued from February 7)

Recommended Action: Receive the Monthly Treasurer's Report for December 2022

The information was provided to Council.

13. Subject: Informational memorandum regarding retail square footage analysis of Main Street (continued from February 7)

Recommended Action: Receive the informational memorandum on the retail square

footage analysis and the provisions for restaurant use at the Main Street Cupertino project

The information was provided to Council.

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Council did not hear this item.

As noted under Oral Communications, two Councilmembers added a future agenda item to discuss removing Commissioner R Wang from the Planning Commission (Fruen/Mohan).

ADJOURNMENT

At 11:13 p.m., Mayor Wei adjourned the Regular City Council Meeting.



Kirsten Squarcia, City Clerk