



**APPROVED MINUTES
CUPERTINO CITY COUNCIL**

Tuesday, April 4, 2023

At 6:00 p.m., Mayor Hung Wei called the Regular City Council Meeting to order in the City Hall Conference Room C, 10300 Torre Avenue.

ROLL CALL

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

CLOSED SESSION

1. Subject: Conference with legal counsel - existing litigation pursuant to Government Code § 54956.9 (five cases)
 - a. National Opioids Settlements - Teva, Allergan, CVS, Walgreens, and Walmart
 - b. Huang Family v City of Cupertino, Santa Clara County Superior Court Case No. 19CV347316
 - c. Huang v. City of Cupertino, Santa Clara County Superior Court Case No. 20CV369469;
 - d. Huang Family v. City of Cupertino, Santa Clara County Superior Court Case No. 22CV404353
 - e. Jane Wang v. City of Cupertino, U.S.D.C. N.D. Cal. Case No. 22-cv-06822-BLF

Council met with legal counsel on the existing litigation (five cases).

There was no reportable action.

Council recessed from 6:27 p.m. to 6:45 p.m.

OPEN SESSION

At 6:45 p.m. Mayor Wei reconvened the Regular City Council Meeting 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

City Attorney Chris Jensen conducted the open session report regarding the Closed Session held at 6:00 p.m. City Attorney Jensen reported that there was no reportable action.

CEREMONIAL ITEMS

2. Subject: Proclamation declaring April as Fair Housing Month
Recommended Action: Present proclamation declaring April as Fair Housing Month

Sara Menashe, Fair Housing Coordinator with Project Sentinel, received the proclamation.

Mayor Wei presented the proclamation declaring April as Fair Housing Month.

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

Jennifer Griffin supported preserving Cupertino history, starting work to restore the Stockmeir House, and hiring additional Code Enforcement Officers.

Toby Leavitt (representing San Francisco Shakespeare Festival) was concerned about financial constraints impacting Free Shakespeare in the Park and supported discussing budget solutions.

Rhoda Fry was concerned about a loss of sales tax income and potential sales tax audit, the impacts on future expenditures, and deferring projects. (Distributed written comments).

Housing Commissioner Connie Cunningham (representing self) requested information about reporting Code violations for public right-of-way and private property signs.

Peggy Griffin was concerned about a drop in City sales tax revenue and a potential sales tax audit and supported exploring ways to cut costs.

Call-In-User-1 was concerned about a code enforcement case for their home which required tearing down an illegal structure in their backyard.

Stanley Moriya supported prioritizing to DOLAs (Dog Off Leash Areas) and spending funds in neighborhood parks.

PRESENTATIONS

Council unanimously consented to hear Item 3 after Oral Communications.

3. Subject: Presentation from Assemblyman Evan Low's Office regarding Assembly Constitutional Amendment 5: Relating to Marriage
Recommended Action: Receive the presentation from Assemblyman Evan Low's Office regarding Assembly Constitutional Amendment 5: Relating to Marriage

Written communications for this item included handouts for Assembly Constitutional Amendment 5: Relating to Marriage and Assembly Bill 1064: Hate Crimes.

Assemblymember Evan Low gave a presentation.

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

Housing Commissioner Connie Cunningham (representing self) supported the Assembly Constitutional Amendment 5: Relating to Marriage.

Mayor Wei closed the public comment period.

Councilmembers asked questions and made comments.

Council received the presentation regarding Assembly Constitutional Amendment 5: Relating to Marriage.

CONSENT CALENDAR (Items 4-8)

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

Jennifer Griffin supported the Wilson Park Basketball Court Project and the importance of encouraging sports.

San R supported partnering with the school district to share costs for the Wilson Park Basketball Court Project and equitable consideration of Capital Improvement Program projects.

Peggy Griffin supported the community outreach for the Wilson Park Basketball Court Project and continuing hybrid City Council meetings.

Rhoda Fry was concerned about the proximity of the basketball courts to neighbors and the

radius notice information.

Mayor Wei closed the public comment period.

Fruen moved and Mohan seconded to approve the items on the Consent Calendar, except for Items 4 and 5 which were pulled for discussion. Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

Items 4 and 5 were placed after the Action Calendar for consideration.

6. Subject: Consider approval of the March 21 City Council minutes
Recommended Action: Approve the March 21 City Council minutes
7. Subject: Consider the proposed rescission of the Proclamation of a Local Emergency regarding the presence and community spread of the COVID- 19 pandemic
Recommended Action: Adopt Resolution No. 23-041 rescinding the Proclamation of existence of a Local Emergency regarding the presence and community spread of the COVID- 19 pandemic
8. Subject: Consider authorizing an increase in the total contract amount with Guerra Construction Group for the Wilson Park Basketball Court Project (Project No. 2022-11).
Recommended Action: 1. Authorize the Director of Public Works to execute any necessary change orders for an additional construction contingency amount of \$40,000 and increase the authorized contract amount to a not-to-exceed total of \$369,421.40 to Guerra Construction Group; and
2. Adopt Resolution No. 23-042 approving budget modification #2223-271 increasing appropriations by \$40,000 in the Capital Improvement Program Capital Projects Fund (budget unit 420-99-252) for construction contingency and transferring the funds from the Capital Reserve (budget unit 429-99-001).

Written communications for this item included a supplemental report with staff responses to councilmember questions, new Attachment B - Wilson Community Meeting Minutes 11-30-2021, new Attachment C - Wilson Park mailing November 2021, and an email to Council.

PUBLIC HEARINGS - None

ACTION CALENDAR

9. Subject: Adopt Fiscal Year 2023-2025 City Work Program
Recommended Action: Consider Adopting Fiscal Year 2023-2025 City Work Program
Presenter: Astrid Robles, Management Analyst

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

Management Analyst Astrid Robles gave a presentation.

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

Jennifer Griffin supported purchasing license plate readers.

Louis Saadati supported prioritizing Dogs Off-Leash Area (DOLA) Programs. (Shared a video).

Ishi Chopra supported prioritizing DOLA Programs.

Planning Commissioner Seema Lindskog (representing Walk-Bike Cupertino) supported DOLA Programs and the New Bicycle-Pedestrian Plan.

Parks and Recreation Commissioner Carol Stanek (representing self) supported DOLA Programs, the Recycled Water Feasibility Study, and Commission Governance Reform Package.

Linyin Wu supported prioritizing DOLA Programs.

Vasanthan Niranjan supported prioritizing DOLA Programs.

Peggy Griffin supported the first three items and was concerned about costs, the prioritization process, and inclusion of the Housing Element Update.

Janey Geiger supported prioritizing DOLA Programs.

Mayor Wei closed the public comment period.

Councilmembers asked questions and made comments.

Chao moved and Moore seconded to adopt the Fiscal Year 2023-2025 City Work Program with the amendment to direct staff to bring back an estimate for the following two items during the budget adoption process in May, with the understanding that these two items will be worked on after the Housing Element is near completion:

1. Amendment to the Sign Ordinance to clarify freeway signs and windows with interior lighting for advertisement purposes, and Councilmember Moore's proposal such as

quasi-public and clarification of regular street definition; and
2. Extending the notification distance from 300 foot to 500 foot.
Council did not vote on this motion.

Fruen moved and Mohan seconded a substitute motion to adopt the Fiscal Year 2023-2025 City Work Program as written. The substitute motion carried unanimously with Moore abstaining.

Council recessed from 8:38 p.m. to 8:43 p.m.

10. Subject: Consider submitting a letter in support of, or otherwise regarding, Assembly Bill (“AB”) 1469: Valley Water - Assisting Unsheltered People
Recommended Action: Consider submitting a letter in support of AB 1469
Presenter: Christopher Jensen, City Attorney

City Attorney Christopher Jensen reviewed the staff report.

Councilmembers asked questions and made comments.

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

Jennifer Griffin opposed State control in waterways and loss of local control and was concerned about providing services for unsheltered individuals.

Housing Commissioner Connie Cunningham (representing self) supported providing services for unsheltered individuals and AB 1469.

Mayor Wei closed the public comment period.

Roseryn Bhudsabourg and Bart Broome, with Valley Water’s Office of Government Relations, answered questions.

Fruen moved Mohan seconded to submit a letter in support of AB 1469 (Attachment B in the staff report). The motion carried unanimously.

Wei moved and Fruen seconded to hear Item 5 before Item 4. The motion carried unanimously.

ITEMS REMOVED FROM THE CONSENT CALENDAR

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

Calendar for discussion.

5. Subject: Consider authorizing execution of a Maintenance Services Contract for City-owned orchards (Continued from March 21)
- Recommended Action: 1. Authorize the City Manager to execute the Maintenance Service Contract with Anderson Tree Care Specialists, Inc. to provide orchard maintenance services for three years, at an annual amount not-to-exceed \$65,746, and if performance is satisfactory, allow up to two additional years of service.
2. Adopt Resolution No. 23-038 approving budget modification 2223-267 increasing appropriations in the Blackberry Farm Grounds Maintenance (100-84-811) and neighborhood Parks Maintenance (100-84-813) budgets by \$8,362 and \$3,875 respectively

This item was pulled from the Consent Calendar for discussion.

Written communications for this item included a desk item with staff responses to councilmember questions and a letter to Council from the Santa Clara Valley Audubon Society Environmental Action Committee.

City Manager Pamela Wu provided an update.

Councilmembers asked questions and made comments.

Acting Director of Public Works Chad Mosley answered questions.

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

Housing Commissioner Connie Cunningham (representing self) supported edits to the Maintenance Services Contract as proposed by the Audubon Society.

Jennifer Griffin supported maintaining the historic orchard.

Annie Yang (representing Santa Clara Valley Audubon Society Environmental Action Committee) supported edits to the Maintenance Services Contract and future contracts.

Mayor Wei closed the public comment period.

Chao moved and Mohan seconded, as amended to include the proposed edits to the Maintenance Services Contract submitted by the Santa Clara Valley Audubon Society, to:

1. Authorize the City Manager to execute the Maintenance Service Contract with Anderson Tree Care Specialists, Inc. to provide orchard maintenance services for three years, at an annual amount not-to-exceed \$65,746, and if performance is satisfactory,

allow up to two additional years of service.

2. Adopt Resolution No. 23-038 approving budget modification 2223-267 increasing appropriations in the Blackberry Farm Grounds Maintenance (100-84-811) and neighborhood Parks Maintenance (100-84-813) budgets by \$8,362 and \$3,875 respectively. The motion as amended carried unanimously.

4. Subject: Consider staff reports and the attachments provided at the June 21, 2022 and March 7, 2023 City Council meetings regarding the Chamber of Commerce (Continued from March 21)

Recommended Action: Receive the report on previously presented Chamber of Commerce related information

This item was pulled from the Consent Calendar for discussion.

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

Councilmembers asked questions and made comments.

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

Jennifer Griffin supported communication between the Chamber and public and a presentation on Chamber functions.

Rhoda Fry supported a discussion about Chamber funding, use of City facilities and services, and influencing government decisions. (Submitted written comments).

Jean Bedord opposed this item, the use of staff resources to compile the reports, and supported moving forward.

Peggy Griffin supported agendaizing a discussion of Chamber funding, including the I Love Cupertino website and City fee waivers.

Mayor Wei closed the public comment period.

Chao and Moore requested a future study session to review the past partnership history with the Chamber and discuss future partnership options, invite Chamber representatives to provide a presentation on functions and services, and discuss support options for the entire business community.

Council received the report on previously presented Chamber of Commerce related

information.

COUNCIL REPORTS AND COMMENTS

11. Subject: Councilmember Reports

Written communications for this item included Council Reports from Councilmembers Chao and Moore.

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

Jennifer Griffin supported Councilmembers verbally discussing their activities.

Mayor Wei closed the public comment period.

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

CITY MANAGER REPORT

City Manager Pamela Wu shared a video montage showing photos of recent events for Congressman Ro Khanna's Town Hall, Summer Job Fair, and Senior Center Volunteer Recognition Lunch.

ORAL COMMUNICATIONS - CONTINUED – None

INFORMATIONAL ITEMS

12. Subject: Informational memorandum on the Code Enforcement processes

Recommended Action: Receive the informational memorandum on the Code Enforcement processes

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

The informational memorandum was provided as part of the published agenda.

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Councilmembers requested the following future agenda items:

- As noted under Item 4, a study session to review the past partnership history with the

Chamber of Commerce and discuss future partnership options, invite Chamber representatives to provide a presentation on functions and services, and discuss support options for the entire business community (Chao/Moore).

- Update from the Economic Development Manager prior to conducting a study session regarding the Chamber of Commerce (Wei)

Councilmembers also requested the following information:

- Current festival fee waiver policy process (Moore)

ADJOURNMENT

At 10:30 p.m., Mayor Wei adjourned the Regular City Council Meeting.

Minutes prepared by:



Kirsten Squarcia, City Clerk