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City Council Meeting

Tuesday, October 17, 2023

SPECIAL MEETING

Present: Mayor Hung Wei, Vice Mayor Sheila Mohan, and Councilmembers Liang Chao (5:38 p.m.), J.R. Fruen (5:32 p.m.) and Kitty Moore. Absent: none.

ACTION CALENDAR

1. Subject: Approval of Joint Powers Agreement to establish the Cities Association of Santa Clara Count Joint Powers Agency
Recommended Action: 1. Approve the proposed Joint Powers Agreement (“JPA”) 2. Delegate authority to the City Council’s Cities Association of Santa Clara County (“CASCC”) Board representative to report approval of the JPA at the CASCC Board of Directors (“CASCC Board”) Meeting 3. Authorize the City Manager to execute the JPA
Presenter: Christopher Jensen, City Attorney

SUBSTITUTE MOTION: Moore moved a substitute motion (seconded by Chao) to continue this item until the City of San Jose’s meeting can be viewed, and an informational report is provided, and then return to Council two to four weeks after the meeting.

FRIENDLY AMENDMENT: Chao seconded the motion with a friendly amendment that when it returns to Council, to consider approving the JPA but with comments addressing concerns on the bylaws, and send to the CASCC Executive Board for consideration. (Moore accepted Chao’s friendly amendment).

FRIENDLY AMENDMENT: Chao made a second friendly amendment to provide the following comments to the Executive Board:

- 1) the bylaws should address the concerns for a unified voice by majority vote and include diverse opinions of members;
- 2) Add diversity and inclusion in the representation on the Executive Board over time; and
- 3) Clarify restrictions on policy representation. The bylaws should outline the Legislative Action Committee limits and what it can and cannot do in terms of representing policies. (Moore accepted Chao’s friendly amendment).

The substitute motion failed with the following vote: Ayes: Chao and Moore. Noes: Wei, Mohan, and Fruen. Abstain: None. Absent: None.

MOTION: Fruen moved and Mohan seconded to:

1. Approve the proposed Joint Powers Agreement (“JPA”);
2. Delegate authority to the City Council’s Cities Association of Santa Clara County (“CASCC”) Board representative to report approval of the JPA at the CASCC Board of Directors (“CASCC Board”) Meeting; and
3. Authorize the City Manager to execute the JPA.

The motion carried with the following vote: Ayes: Wei, Mohan, and Fruen. Noes: Chao and Moore. Abstain: None. Absent: None.

REGULAR MEETING

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

CEREMONIAL ITEMS

1. Subject: Recognition of October as Domestic Violence Awareness Month
Recommended Action: Recognize October as Domestic Violence Awareness Month

Mayor Wei Recognized October as Domestic Violence Awareness Month.

POSTPONEMENTS AND ORDERS OF THE DAY

Moore moved to continue Item 7 Options for construction of a City Hall facility to a date uncertain. (There was no second and the motion was not considered).

CONSENT CALENDAR (Items 2-6)

MOTION: Fruen moved (Chao seconded) to approve the items on the Consent Calendar, as presented. FRIENDLY AMENDMENT: Chao made a friendly amendment to include the amended draft resolution for Item #6. (Fruen accepted the friendly amendment). The amended motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

2. Subject: Ratifying Accounts Payable for the periods ending September 1, 2023; September 8, 2023; September 15, 2023; September 22, 2023; and September 29, 2023
Recommended Action: A. Adopt Resolution No. 23-108 ratifying Accounts Payable for the Period ending September 1, 2023;
B. Adopt Resolution No. 23-109 ratifying Accounts Payable for the Period ending September 8, 2023;
C. Adopt Resolution No. 23-110 ratifying Accounts Payable for the Period ending September 15, 2023;

D. Adopt Resolution No. 23-111 ratifying Accounts Payable for the Period ending September 22, 2023; and

E. Adopt Resolution No. 23-112 ratifying Accounts Payable for the Period ending September 28, 2023

A. Adopted Resolution No. 23-108 ratifying Accounts Payable for the Period ending September 1, 2023;

B. Adopted Resolution No. 23-109 ratifying Accounts Payable for the Period ending September 8, 2023;

C. Adopted Resolution No. 23-110 ratifying Accounts Payable for the Period ending September 15, 2023;

D. Adopted Resolution No. 23-111 ratifying Accounts Payable for the Period ending September 22, 2023; and

E. Adopted Resolution No. 23-112 ratifying Accounts Payable for the Period ending September 28, 2023

(unanimous)

3. Subject: Second reading of Cupertino Municipal Code, Chapter 9.22, expanding existing property maintenance requirements in accordance with California Health and Safety Code 17970.5

Recommended Action: Conduct a second reading and enact Ordinance No. 23-2250: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CITY CODE CHAPTER 9.22 of Title 9 (Health and Sanitation) TO PROHIBIT SUBSTANDARD HOUSING CONDITIONS".

Conducted a second reading and enacted Ordinance No. 23-2250: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CITY CODE CHAPTER 9.22 of Title 9 (Health and Sanitation) TO PROHIBIT SUBSTANDARD HOUSING CONDITIONS" (unanimous)

4. Subject: Second reading of Ordinance No. 23-2251 amending Tobacco Regulation Ordinance Municipal Code chapter 5.50

Recommended Action: Conduct a second reading and enact Ordinance No. 23-2251; "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CHAPTER 5.50 TO TITLE 5 (BUSINESS LICENSES AND REGULATIONS) TO REGULATE THE SALE OF TOBACCO PRODUCTS".

Conducted a second reading and enacted Ordinance No. 23-2251; "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CHAPTER 5.50 TO TITLE 5 (BUSINESS LICENSES AND REGULATIONS) TO REGULATE THE SALE OF TOBACCO PRODUCTS" (unanimous)

5. Subject: Stevens Creek Boulevard/Calabazas Creek Storm Drain Repair Emergency Work status report and authorization to continue.

Recommended Action: Receive a status update on the Emergency Work at Stevens Creek Boulevard/Calabazas Creek Storm Drain Capital Improvement Programs (CIP) project and authorize the continuation of the emergency action, by four-fifths vote.

Received a status update on the Emergency Work at Stevens Creek Boulevard/Calabazas Creek Storm Drain Capital Improvement Programs (CIP) project and authorized the continuation of the emergency action, by four-fifths vote (unanimous)

6. Subject: Amend the established City Council meeting calendar through January 17, 2024

Recommended Action: Adopt Resolution 23-113 amending the established City Council meeting calendar through January 17, 2024

Adopted Resolution 23-113 amending the established City Council meeting calendar through January 17, 2024 as amended by staff (unanimous)

ACTION CALENDAR

7. Subject: Options for construction of a City Hall facility
Recommended Action: Direct staff to pursue conceptual development of a mixed used Public Private Partnership for City Hall and the Sports Center properties

SUBSTITUTE MOTION: Moore moved and Chao seconded a substitute motion to deny the recommended action and reaffirm the prior city council renovation and pursue the alternative a la carte options. Moore's substitute motion failed with the following vote: Ayes: Chao and Moore. Noes: Wei, Mohan, and Fruen. Abstain: None. Absent: None.

SUBSTITUTE MOTION: Chao moved and Moore a substitute motion to stop spending more staff time and money on consultants to pursue options that would likely come at a significant cost to the City. Consider putting a council-sponsored ballot measure in the 2024 general election to ask for voter approval of the renovation of the City Hall project with up to the cost of the \$40M (\$37.5M with some contingency cost). - not a bond measure, asking approval for a loan, similar to the loan for the Library project in the year 2000. Chao's substitute motion failed with the following vote: Ayes: Chao and Moore. Noes: Wei, Mohan, and Fruen. Abstain: None. Absent: None.

MOTION: Wei moved and Fruen seconded to direct staff to pursue conceptual development with viable financing strategies for the City Hall, including new City Hall

and/or renovation of existing City Hall, while excluding development to publicly owned recreational facilities including the Sports Center. Also instruct City staff to research and bring to the public and City Council the following:

- 1) Examples of successful Public Private Partnership projects for reference.
- 2) Pursue partnership with potential development partnerships

Wei's motion carried with the following vote: Ayes: Wei, Mohan, and Fruen. Noes: Chao and Moore. Abstain: None. Absent: None.

8. Subject: Blackberry Farm (BBF) Golf Course Feasibility Study, considering options to complete minimal repairs and improvements to the BBF Golf Course (Option 1) or convert BBF Golf Course to a Natural Habitat (Option 3).
Recommended Action: Direct staff to proceed with minimal repairs to maintain the BBF Golf Course (Option 1).

MOTION: Wei moved and Fruen seconded to extend the meeting to 11:30 p.m. to continue discussion on this item. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

MOTION: Chao moved (seconded by Fruen) the staff recommendation (to retain the Golf Course) to direct staff to proceed with minimal repairs to maintain the BBF Golf Course (Option 1) and, in addition:

- prioritize (b) "Evaluate operational and fee rate changes that may improve revenue generation and cost recovery" - the fee update since it hasn't been updated for many years.
- bring a simpler fee schedule update to the Council as soon as possible.

Fruen seconded the motion with the proviso that it be discussed further.

FRIENDLY AMENDMENT Chao made a friendly amendment:

Amendment 1:

- Bring more information on Audubon certification to the Council.
- In one to two years, bring a proposal for fee restructuring to consider:
 - deeper discounts for Cupertino residents.
 - deeper discounts for youth 18 years or younger and/or fee waiver for younger youth.
 - deeper discounts and/or fee waiver for low income residents and public agency employees.

Amendment 2:

- Consult with organizations like Audubon and Sierra Club on the minimal improvements to be wildlife friendly - such as no addition of netting and
- The operation shall not exceed the current operation time to protect wildlife.
- No future discussion of leasing or selling or intensifying the site. Retain the city ownership.

(Fruen declined the friendly amendment and it was not included in the motion)

FRIENDLY AMENDMENT: Fruen made a friendly amendment that with the recommended direction, staff will pursue:

- a. An updated scope, schedule of work, and cost estimate relating to Option 1 (minimal repairs to the golf course);
- b. Evaluate operational and fee rate changes that may improve revenue generation and cost recovery;
- c. Investigate golf course and facility improvements that may increase revenue, further reduce water use, and opportunities to increase natural habitat areas where feasible; and
- d. Explore the potential of leasing the golf course to an outside vendor to further reduce expenditures and increase City revenues.
- e. **Focus plans for outdoor uses on daytime use in order to avoid significant evening light impacts and noise impacts.**

(Chao accepted the friendly amendment)

FRIENDLY AMENDMENT: Chao made a friendly amendment to bring more information on Audubon certification to the Council. (Fruen accepted the friendly amendment)

FRIENDLY AMENDMENT: Chao made a friendly amendment for no future discussion of leasing or selling or intensifying the site and to retain the city ownership. (Fruen declined the friendly amendment and it was not included in the motion).

FRIENDLY AMENDMENT: Moore made a friendly amendment to modify the language for lighting for night activities to **prohibit** wildlife disturbing night activities with lighting. (Fruen declined the friendly amendment and it was not included in the motion).

Council did not vote on this motion.

MOTION: Wei moved and Chao seconded to extend the meeting to 11:45 p.m. to continue discussion on the item. The motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

SUBSTITUTE MOTION: Wei moved and Moore seconded the staff recommendation.

With the recommended direction, staff will pursue:

- a. An updated scope, schedule of work, and cost estimate relating to Option 1 (minimal repairs to the golf course);
- b. Evaluate operational and fee rate changes that may improve revenue generation and cost recovery;
- c. Investigate golf course and facility improvements that may increase revenue, further reduce water use, and to for opportunities to increase natural habitat areas where feasible; and
- d. Explore the potential of leasing the golf course to an outside vendor to further reduce expenditures and increase City revenues.

The substitute motion carried with the following vote: Ayes: Wei, Mohan, Chao, Fruen, and Moore. Noes: None. Abstain: None. Absent: None.

9. Subject: Councilmember Reports

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

INFORMATIONAL ITEMS

10. Subject: Receive the Monthly Treasurer's Report for September 2023

Recommended Action: Receive the Monthly Treasurer's Report for September 2023

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

11. Subject: Receive the Monthly Treasurer's Investment Report for September 2023

Recommended Action: Receive the Monthly Treasurer's Investment Report for September 2023

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

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Council did not hear this item.