



**DRAFT MINUTES**  
**CUPERTINO CITY COUNCIL**  
Tuesday, December 18, 2018

**SPECIAL CITY COUNCIL MEETING**

At 5:00 p.m. Mayor Steven Scharf called the Special City Council meeting to order in the City Hall Conference Room A, 10300 Torre Avenue.

Present: Mayor Steven Scharf, Vice Mayor Liang Chao, and Councilmembers Darcy Paul, Rod Sinks, and Jon Robert Willey. Absent: None.

**CLOSED SESSION**

Council went into closed session and reconvened in open session at 6:45 p.m. in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue for the Regular Meeting.

1. Subject: Conference with Real Property Negotiator (Gov't Code 54956.8); Property: 10800 Torre Avenue, Agency Negotiator: Timm Borden (Coffee Society); Under Negotiation: Lease Extension

Mayor Scharf reported that Council heard the item, direction was given, and no final action was taken.

- 1A. Subject: Public Employee Appointment: Title: Interim City Manager (California Gov. Code Sections 54957, 54957(b))

Mayor Scharf reported that Council took action to unanimously appoint Timm Borden as Interim City Manager beginning January 7, 2019 and noted that current Interim City Manager Amy Chan's last day would be January 4, 2019 as she has reached her maximum CalPERS hours.

Mayor Scharf also reported out from the December 7, 2018 closed session:

Subject: Public Employee Employment (Gov't Code 54957(b)(1); Title: City Manager Recruitment.

Mayor Scharf reported that Council discussed the item and no final action was taken.

Subject: Conference with Legal Counsel - Pending Litigation: Friends of Better Cupertino, et al., v. City of Cupertino, et al; Santa Clara Superior Court Case No. 18CV330190 (California Gov't Code sections 54956.9(a) and 54956.9(d)(1)).

Mayor Scharf reported that the item was continued to a future date and no action was taken.

Mayor Scharf noted that the December 14, 2018 closed session was cancelled.

## ADJOURNMENT

### REGULAR CITY COUNCIL MEETING

#### PLEDGE OF ALLEGIANCE

At 6:45 p.m. Mayor Steven Scharf called the Regular City Council meeting in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue and led the Pledge of Allegiance.

#### ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Liang Chao, and Councilmembers Darcy Paul, Rod Sinks, and Jon Robert Willey. Absent: None.

#### CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamations to the Santa Clara County Fire Department and the American Red Cross for their response efforts to the Camp Fire  
Recommended Action: Present Proclamations to the Santa Clara County Fire Department and the American Red Cross for their response efforts to the Camp Fire

Mayor Scharf presented proclamations to representatives of the Santa Clara County Fire Department and the American Red Cross for their response efforts to the Camp Fire.

2. Subject: Presentation on vigilance against package theft and raising awareness for prevention  
Recommended Action: Receive presentation on vigilance against package theft and raising awareness for prevention

Captain Urena from the Sheriff's Office made a presentation on vigilance against package theft and raising awareness for prevention. Cupertino Postmaster Manny Jutty also spoke, and Vice Chair Rob McCoy was in attendance to answer any questions.

Cathy Helgersen (Cupertino resident) spoke on this item.

Council requested staff to post on social media the top 5 package theft prevention tips from the Sheriff's Office, the United States Postal Service's (USPS) "informed delivery" link, and information for the USPS Hold Mail Service.

#### **POSTPONEMENTS - None**

#### **ORAL COMMUNICATIONS**

Hemant Buch speaking on behalf of the California Cricket Academy talked about being allowed to play cricket on the Cupertino Library Field all day on the weekends.

18 additional representatives from the California Cricket Academy spoke about being allowed to play cricket on the Cupertino Library Field all day on the weekends (speaker cards received: Ganesh Pravid, Aarav Fani, Toshar Singh, Amritha Adi, Hasiprasad Swasup, Venki, Amit Agarwal, Sameer Jaih, Viver, Vibhor, Larshmi Nayak, Ved Kamath, Sarada Cherukupdli).

Ed Hirshfield (Cupertino resident) talked about conflict of interest of Councilmembers and the need to recuse themselves as necessary regarding actions on Vallco.

Hung Wei, Ramesh Hariharan and Anna from the Red Cross (Cupertino residents and speaking on behalf of Rotary District 5170) talked about the upcoming Red Cross Rotary Bootcamp on January 20, 2019 in San Jose.

Taghi Saadati (Cupertino resident) talked about Regnart Creek Trail.

Bert Nelson (Cupertino resident) talked about Regnart Creek Trail.

Chung Park speaking on behalf of CEA and IFPTE Local 21 introduced himself as the Cupertino employee union representative.

Mike McNutt (Cupertino resident) talked about Better Cupertino, newly-elected Councilmembers and the need to recuse themselves as necessary.

Art Zimmerman (Cupertino resident) speaking on behalf of AYSO (American Youth Soccer Organization) talked about soccer in Cupertino.

Cathy Helgerson (Cupertino resident) talked about support for newly-elected Councilmembers and Lehigh Cement poisoning the air and soil in Cupertino.

Kitty Moore (Cupertino resident) talked about un-redacted personal information on the Cupertino website from Nextdoor posts and residency requirements on field use in Cupertino.

Kathy Chole (Cupertino resident) talked about Regnart Creek Trail and revisions to the feasibility study.

Ian Greensides talked about Better Cupertino and conflict of interest for Councilmembers regarding SB35 and Measure C litigation.

Rob Trujillo speaking on behalf of AYSO 64 talked about soccer in Cupertino.

Ilango Ganga (Cupertino resident) talked about Regnart Creek Trail and the feasibility study.

Rhoda Fry (Cupertino resident) talked about notice of violation for Lehigh and the Stevens Creek Quarry (distributed written comments).

Eric Schafer (Cupertino resident) speaking on behalf of AYSO talked about field use in Cupertino.

Danessa Techmanski (Cupertino resident) talked about Better Cupertino, what the group stands for, and resident involvement and education for Cupertino residents.

## **CONSENT CALENDAR**

Paul moved and Sinks seconded to approve the items on the Consent Calendar as presented with the exception of item number 6 which was pulled for discussion. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

3. Subject: Approve the December 4 City Council minutes  
Recommended Action: Approve the December 4 City Council minutes
4. Subject: Approve the December 6 City Council minutes  
Recommended Action: Approve the December 6 City Council minutes

5. Subject: Cancel the Wednesday, January 2, 2019 regular City Council meeting (moved from Tuesday, January 1 due to holiday as per CMC 2.04.010).  
Recommended Action: Cancel the Wednesday, January 2, 2019 regular City Council meeting (moved from Tuesday, January 1 due to holiday as per CMC 2.04.010).
6. Subject: Resolution in support of the Fourth U.S. National Climate Assessment  
Recommended Action: Adopt Resolution No. 18-118 supporting the Fourth U.S. National Climate Assessment

Paul moved and Sinks seconded to adopt Resolution No. 18-118 supporting the Fourth U.S. National Climate Assessment. The motion carried unanimously.

## **SECOND READING OF ORDINANCES - None**

## **PUBLIC HEARINGS - None**

## **ORDINANCES AND ACTION ITEMS**

7. Subject: Receive the City Clerk's Certification of Sufficiency for referenda petitions against the following resolutions and ordinances, and direct staff to bring back options at the next regular meeting for Council to take as required by California Elections Code Section 9241. (Those actions include (1) repealing any or all of the resolutions or ordinances against which the petition is filed; and (2) submitting any or all of the resolutions or ordinances to the voters, either at the next regular municipal election or at a special election called for the purpose): Resolution No. 18-085: A Resolution of the City Council of the City Of Cupertino Approving a General Plan Amendment to Development Allocations, the General Plan Land Use Map and Development Standards Related to the Vallco Town Center Special Area Resolution No. 18-086: A Resolution of the City Council of the City of Cupertino Adopting the Vallco Town Center Specific Plan Ordinance No. 18-2178: An Ordinance of the City Council of the City of Cupertino Rezoning the Parcels within the Vallco Special Area Ordinance No. 18-2179: Ordinance of the City Council of the City of Cupertino Approving a Development Agreement by and Between the City of Cupertino and Vallco Property Owner LLC for the Development of Vallco Town Center  
Recommended Action: Receive the City Clerk's Certification of Sufficiency for referenda petitions against Resolution Nos. 18-085 and 18-086, and Ordinance Nos. 18-2178 and 18-2179, and direct staff to bring back options at the next regular meeting for Council to take as required by California Elections Code Section 9241. (Those actions include (1) repealing any or all of the resolutions or ordinances against which the petition is filed; and (2) submitting any or all of the resolutions or ordinances to the voters, either at the next regular municipal election or at a special election called for the purpose).

Written communications for this item included a letter from Nielsen Merksamer, a letter from League of Women Voters of Cupertino-Sunnyvale, and emails to Council.

City Clerk Grace Schmidt presented the City Clerk's Certification of Sufficiency for referenda petitions against Resolution Nos. 18-085 and 18-086, and Ordinance Nos. 18-2178 and 18-2179 as per the Validation Letters from the Santa Clara County Registrar of Voters Office and noted that staff would bring back options at a future Council meeting.

Acting City Attorney Rocio Fierro and outside counsel Perl Perlmutter answered questions from Councilmembers.

Mayor Scharf opened public comment and the following individuals spoke:

Marie Liu (Cupertino resident)

Roberta Hollimon (Cupertino resident) on behalf of League of Women Voters Cupertino-Sunnyvale (distributed written comments)

Kitty Moore (Cupertino resident)

Liana Crabtree (Cupertino resident)

Jim Moore (Cupertino resident)

Janet Van Zoeren (Cupertino resident)

Dongming Yao

Mayor Scharf closed public comment.

Initial motion: Paul moved and Scharf seconded to receive the City Clerk's Certification of Sufficiency for referenda petitions against Resolution Nos. 18-085 and 18-086, and Ordinance Nos. 18-2178 and 18-2179 and direct staff to bring back options at the next regular meeting for Council to take as required by California Elections Code Section 9241. Paul withdrew his motion after further discussion.

Paul moved and Willey seconded to receive the City Clerk's Certification of Sufficiency for referenda petitions against Resolution Nos. 18-085 and 18-086, and Ordinance Nos. 18-2178 and 18-2179. The motion carried unanimously.

Council recessed from 9:19 p.m. to 9:25 p.m.

8. Subject: Schedule a study session to review, clarify, and discuss the Code of Ethics and Conduct for Elected and Appointed Officials adopted by Council on November 20, 2018

Recommended Action: Schedule a study session at the January 15, 2019 City Council meeting to review, clarify, and discuss the Code of Ethics and Conduct for Elected and Appointed Officials adopted by Council on November 20, 2018.

Written communications for this item included a staff presentation.

Senior Management Analyst Katy Nomura made a presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Jennifer Griffin

Kitty Moore (Cupertino resident)

Mayor Scharf closed public comment.

Paul moved and Sinks seconded to place an item on the Jan 15 Council agenda to repeal Resolution No. 18-115, form a subcommittee of Chao and Paul to craft a new Code of Ethics and Conduct for Elected and Appointed Officials, and bring back a draft document no earlier than March 5 at a study session to discuss further. The motion carried unanimously.

## **REPORTS BY COUNCIL AND STAFF**

9. Subject: Report on the 2018 Pilot Neighborhood Events Program and Discussion of Future Neighborhood Events Programs.

Recommended Action: Accept report on the 2018 pilot neighborhood events program and provide staff direction on offering an ongoing neighborhood events program in the future.

Written communications for this item included a staff presentation.

Director of Recreation and Community Services Jeff Milkes introduced Recreation Supervisor Kim Calame who made a presentation.

Council received the presentation and report on the 2018 pilot neighborhood events program and gave direction to staff to continue the program with one suggestion to look into how events are run in downtown Redwood City.

10. Subject: Report on Committee assignments and general comments

Recommended Action: Report on Committee assignments and general comments

Councilmembers highlighted the activities of their committees and various community events.

Mayor Scharf asked to add an item on a future Council meeting to discuss the City's Policies and Guidelines on Sister Cities, Friendship Cities, and International Delegations.

Councilmembers asked staff to look into the following: Privacy issues on Nextdoor posts that are posted to the City's website and City's policy; Field Use Policy; Regnart Creek Trail version tracking; gifts for Friendship Cities, and typing resolutions on the screen when crafting motions.

Interim City Manager Amy Chan noted that the State of the City would be held on January 30, one at 11:30 a.m. and the other at 7:00 p.m. at Quinlan Community Center. She also noted that the Council goal setting would be held on Saturday, February 2 time and place to be determined. She said that this would be her last Council meeting and her last day would be January 4, 2019.

## ADJOURNMENT

11. Subject: Adjourn in memory of former Cupertino Mayor Bob Meyers  
Recommended Action: Adjourn in memory of former Cupertino Mayor Bob Meyers

At 11:00 p.m., Mayor Scharf adjourned the meeting in memory of former Cupertino Mayor Bob Meyers who passed recently passed away.

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Grace Schmidt, City Clerk