



**DRAFT MINUTES**  
**CUPERTINO CITY COUNCIL**  
Tuesday, August 21, 2018

**SPECIAL CITY COUNCIL MEETING**

At 4:35 p.m. Mayor Darcy Paul called the Special City Council meeting to order in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue.

Present: Mayor Darcy Paul, Vice Mayor Rod Sinks, and Councilmembers Barry Chang, Steven Scharf, and Savita Vaidhyanathan. Absent: None.

**STUDY SESSION**

1. Subject: Study session regarding the annexation process and options for Lehigh Permanente Quarry.  
Recommended Action: Conduct study session and discuss annexation and options for Lehigh Permanente Quarry

Written communications for this item included emails to Council and a presentation.

Acting City Attorney Rocio Fierro and consultant Richard Taylor from Shute, Mihaly & Weinberger gave a presentation on annexation and options for Lehigh Permanente Quarry.

Staff, Christopher Hoem from Santa Clara County Planning & Development, Richard Taylor, and Kristina Loquist from Supervisor Simitian's office answered questions from Council.

Mayor Paul opened public comment and the following individuals spoke:

Randy Shingai (San Jose resident)

Jennifer Griffin

Cathy Helgerson (Cupertino resident)

Geoff Paulsen (Cupertino resident) speaking as a Planning Commissioner

Rhoda Fry (Cupertino resident) distributed written comments

Paula Wallis (Cupertino resident)

Mayor Paul closed public comment.

There was no direction to return to Council with a work plan or to initiate annexation at this point.

2. Subject: Study Session on the potential formation of a Santa Clara County Regional Housing Needs Allocation (RHNA) subregion  
Recommended Action: That the City Council provide comments on the possibility of the formation of a RHNA subregion.

Written communications for this item included a staff presentation.

Principal Planner Piu Ghosh reviewed the staff report and gave a presentation on the potential formation of a Santa Clara County Regional Housing Needs Allocation (RHNA) subregion.

Eric Phillips from Goldfarb and Lipman and staff answered questions from Council.

Mayor Paul opened public comment and the following individuals spoke:

Jennifer Griffin  
Cathy Helgerson (Cupertino resident)  
David Fung

Mayor Paul closed public comment.

City Council provided the following comments on the possibility of the formation of a RHNA subregion:

- Concern that Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) are heavily weighted toward big cities.
- Big cities are championing business impact fees that are levied regionally but passed on to cities that generate more new housing, so big cities would receive more money since they have more developable land.
- With subregions, larger cities would be motivated to force more allocation on job rich cities at the regional level (MTC/ABAG) and expect allocation trading in exchange for financial consideration at the subregional level.
- Right way to allocate housing is objective needs for each city.

- Wary of allocation trading.
- Need to have vote on regional body so proceed but make sure staff gets answers to questions such as how does a city consent to an increase in allocation (is it a majority vote or super majority vote)?
- Keep autonomy over any increases in allocation.

## ADJOURNMENT

### REGULAR CITY COUNCIL MEETING

#### PLEDGE OF ALLEGIANCE

At 6:50 p.m. Mayor Darcy Paul called the Regular City Council meeting to order in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue and led the Pledge of Allegiance.

#### ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Rod Sinks, and Councilmembers Barry Chang, Steven Scharf, and Savita Vaidhyanathan. Absent: None.

#### CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamations recognizing the Monta Vista High School Boys Volleyball Team for winning the NorCal Championship  
Recommended Action: Present Proclamations recognizing the Monta Vista High School Boys Volleyball Team for winning the NorCal Championship

Muni Madhhipatla (Cupertino resident) talked about the team and introduced the coach who talked about the season. A video was shown of the last few winning points of the championship game.

Mayor Paul presented proclamations recognizing the Monta Vista High School Boys Volleyball Team for winning the NorCal Championship.

2. Subject: Proclamation recognizing September as Pain Awareness Month.  
Recommended Action: Present Proclamation recognizing September as Pain Awareness Month.

Michele Rice, Ambassador-Advocate from the U.S. Pain Foundation talked about issues with chronic pain.

Mayor Paul presented a proclamation recognizing September as Pain Awareness Month.

### **POSTPONEMENTS – None**

Paul moved and Chang seconded to reorder the agenda as follows: Oral Communications, Consent Calendar item number 25, item number 29, items 12 and 22 which were pulled from the Consent Calendar, and then items back in order beginning with item number 23. The motion carried unanimously.

### **ORAL COMMUNICATIONS**

Acting City Attorney Rocio Fierro made a statement regarding what is appropriate to talk about under Oral Communications.

Jennifer Griffin talked about San Jose Urban Villages.

Randy Shingai (San Jose resident) talked about the absence of the City Attorney at the dais.

Manjunath Bangalore (Cupertino resident) talked about weed abatement (distributed written comments).

Jan Stokley speaking on behalf of Housing Choices talked about the Vallco Specific Plan and housing.

David Meyer from SV@home talked about funding for housing.

Andrea Tsang (Sunnyvale resident) speaking on behalf of Housing Choices talked about housing for developmentally disabled persons.

### **CONSENT CALENDAR**

Vaidhyathan moved and Chang seconded to approve the items on the Consent Calendar as presented with the exception of item numbers 12 and 22 which were pulled for discussion. Ayes: Paul, Chang, Scharf, Sinks, and Vaidhyathan. Noes: None. Abstain: None. Absent: None.

3. Subject: Approve the May 15 City Council minutes (continued from July 3, 2018)  
Recommended Action: Approve the May 15 City Council minutes

4. Subject: Approve the July 3 City Council minutes  
Recommended Action: Approve the July 3 City Council minutes
5. Subject: Approve the July 31 City Council minutes  
Recommended Action: Approve the July 31 City Council minutes
6. Subject: Accept Accounts Payable for the period ending May 18, 2018  
Recommended Action: Adopt Resolution No. 18-071 accepting Accounts Payable for the period ending May 18, 2018
7. Subject: Accept Accounts Payable for the period ending May 25, 2018  
Recommended Action: Adopt Resolution No. 18-072 accepting Accounts Payable for the period ending May 25, 2018
8. Subject: Accept Accounts Payable for the period ending June 1, 2018  
Recommended Action: Adopt Resolution No. 18-073 accepting Accounts Payable for the period ending June 1, 2018
9. Subject: Accept Accounts Payable for the period ending June 8, 2018  
Recommended Action: Adopt Resolution No. 18-074 accepting Accounts Payable for the period ending June 8, 2018
10. Subject: Accept Accounts Payable for the period ending June 22, 2018  
Recommended Action: Adopt Resolution No. 18-075 accepting Accounts Payable for the period ending June 22, 2018
11. Subject: Cancellation of the September 4, 2018 City Council meeting  
Recommended Action: Cancel the September 4, 2018 City Council meeting
13. Subject: Bay Area Air Quality Management District Diesel Free by 2033 Resolution  
Recommended Action: Adopt Resolution No. 18-076 supporting the Bay Area Air Quality Management District's Diesel Free by 2033 statement of purpose.
14. Subject: Accept Unclaimed Property less than \$15 for the period ending May 31, 2018  
Recommended Action: Adopt Resolution No. 18-077 accepting transfer of Unclaimed Property Funds to General Fund for the period ending May 31, 2018
15. Subject: Facility fee waiver request from the Cupertino Senior Coordinating Council.

Recommended Action: Approve fee waiver request for approximately \$4,175 in facility use fees, for the use of the Senior Center Reception Hall on most Fridays, August 24, 2018 - June 29, 2019, for Bingo.

16. Subject: Application for Alcohol Beverage License for Sushi Kuni Cup, Inc (dba Sushi Kuni), 10211 South De Anza Boulevard  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Sushi Kuni Cup, Inc (dba Sushi Kuni), 10211 South De Anza Boulevard
17. Subject: Application for Alcohol Beverage License for Desi Pizza Express LLC (dba Curry Pizza House), 20080 Stevens Creek Boulevard, Suite 106  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Desi Pizza Express LLC (dba Curry Pizza House), 20080 Stevens Creek Boulevard, Suite 106
18. Subject: 2018/19 Reconstruction of Curbs, Gutters and Sidewalks Project, Project No. 2019-101  
Recommended Action: Authorize the City Manager to award and execute a contract with JJR Construction, Inc., in the amount of \$1,216,715 and approve a construction contingency of \$120,000 for a total of \$1,336,715
19. Subject: Accept final payment to O'Grady Paving Inc. for 2017 Pavement Maintenance Project  
Recommended Action: Adopt Resolution No. 18-078 accepting final payment to O'Grady Paving Inc. for 2017 Pavement Maintenance Project
20. Subject: 2018 Pavement Maintenance Phase 2 Project, Project No. 2019-102  
Recommended Action: Authorize the City Manager to award a contract to Graham Contractors, Inc., in the amount of \$290,769 and approve a construction contingency of \$29,000, for a total of \$319,769
21. Subject: Adopt a Resolution Adopting the Mitigated Negative Declaration for the McClellan Ranch West Parking Lot Improvement project and Approving the Project  
Recommended Action: Staff recommends that the City Council adopt Resolution No. 18-079 adopting the Mitigated Negative Declaration for the McClellan Ranch West Parking Lot Improvement project and approving the project

As noted under Postponements, Council reordered the agenda to hear item number 25 under Ordinances and Action Items next.

Councilmember Scharf noted that he had a conflict of interest for this item and left the dais.

## ORDINANCES AND ACTION ITEMS

25. Subject: Adopt a resolution to approve the Regnart Creek Trail Feasibility Study and direct staff to prepare design documents and conduct environmental review.

Recommended Action: 1. Adopt Resolution No. 18-081 to approve the Regnart Creek Trail Feasibility Study and direct staff to prepare design documents and conduct environmental review for the Regnart Creek Trail, and; 2. Approve a Budget Adjustment in the amount of \$380,000 in the Capital Improvement Fund for the Regnart Creek Trail Project (account #420-99-036 900-905) to prepare design documents and conduct environmental review

Written communications for this item included emails to Council and a staff presentation.

Transportation Manager David Stillman reviewed the staff report and presentation on the Regnart Creek Trail.

Mayor Paul opened public comment and the following individuals spoke:

Erik Lindskog (Cupertino resident)

Tim Oey (Sunnyvale resident)

Saloni Mahajan (Cupertino resident)

Samil Lindskog (Cupertino resident)

Akash Gokhale (Cupertino resident)

Winfred Lin (Cupertino resident)

Shaurya Nair (Cupertino resident)

Arnav Gokhale (Cupertino resident)

Kelly Tung (Cupertino resident) on behalf of JFK Green Commuters

Betty Gao (Cupertino resident)

Howard Peng (Cupertino resident)

Elisa Li (Cupertino resident)

Nicole Han (Cupertino resident)

Shannon Wang (Saratoga resident)

Sabrina Man (Cupertino resident)

Dyvthy Ramachandra

Juliet Shearin (Cupertino resident) on behalf of the Cupertino Teen Commission

Sarah Tan (Cupertino resident) on behalf of the Cupertino Teen Commission

Sidharth Rajaram (Cupertino resident) on behalf of the Cupertino Teen Commission

Lawrence Fan (Cupertino resident) on behalf of Tino Bike Club

Rikmil Konduru (Cupertino resident)

Ben Ashkenazi (Cupertino resident)  
Sam Grinells (Cupertino resident)  
Sharlene Liu (Sunnyvale resident)  
Seema Lindskog (Cupertino resident)  
Kama Gupta (Cupertino resident)  
Geoff Paulsen (Cupertino resident)  
Herbert Knoesel (Cupertino resident)  
Greg Klein (Cupertino resident)  
Raja Bhadury (Cupertino resident)  
Julia Miyakawa (Cupertino resident) distributed petition  
Kathy R Chole (Cupertino resident)  
Nick Garcia (Cupertino resident)  
Suzanne Ranney (Cupertino resident)  
Tom Schaefer (Cupertino resident)  
Brian Feinberg (Cupertino resident)  
Gary Virshul (Cupertino resident)  
Tony Fong (Cupertino resident) on behalf of Longacres HOA  
Matthew Bordoni (Cupertino resident)  
Gary Wong (Cupertino resident) on behalf of Campo De Lozano HOA (distributed written comments)  
Megha Ilango (Cupertino resident)  
Ilango Ganga (Cupertino resident) distributed written comments  
Connie Cunningham (Cupertino resident)  
David Fung (Cupertino resident)  
Agnej Pommier (Cupertino resident)  
Barbara O'Conner (Cupertino resident)  
Taghi Saadati (Cupertino resident)  
Meenakshi Biyani (Cupertino resident)  
J.R. Fruen (Cupertino resident)  
Pete Heller (Cupertino resident)  
Jennifer Shearin (Cupertino resident)  
Larry Dean (Cupertino resident) on behalf of Walk-Bike Cupertino (distributed petition)  
Jian He (Cupertino resident) on behalf of Walk-Bike Cupertino  
J.L. De Jong (Cupertino resident)  
Will Shearin (Cupertino resident)  
Dinyar Dastcor (Cupertino resident)  
Carol Stanek (Cupertino resident)  
Surat Dalvi (Cupertino resident)  
Stella Hong (Cupertino resident)  
William Rassieur (Cupertino resident)



Vincent Liu (Cupertino resident)  
Claudette Miller (Cupertino resident)  
Masako Yoshikawa (Cupertino resident)

Mayor Paul closed public comment.

Council recessed from 10:47 p.m. to 10:57 p.m.

Staff answered questions from Council.

Captain Rich Urena talked about safety on the trail and answered questions from Council.

Sinks moved and Chang seconded to adopt Resolution No. 18-081 to approve the Regnart Creek Trail Feasibility Study and direct staff to prepare design documents and conduct environmental review for the Regnart Creek Trail; and approve a Budget Adjustment in the amount of \$380,000 in the Capital Improvement Fund for the Regnart Creek Trail Project (account #420-99-036 900-905) to prepare design documents and conduct environmental review and direct staff to work with residents impacted to insure privacy and safety and bring updates in Items of Interest. The motion carried with Scharf recusing.

Councilmember Scharf returned to the dais.

As noted under Postponements, Council reordered the agenda to hear item number 29 under Ordinances and Action Items next.

#### **ORDINANCES AND ACTION ITEMS (continued)**

29. Subject: Formation of the Santa Clara/Santa Cruz Airport/Community Roundtable on aircraft noise in the South Bay  
Recommended Action: A. Adopt Resolution No. 18-083 to join the Santa Clara/Santa Cruz Airport/Community Roundtable B. Authorize the City Manager to execute the Santa Clara/Santa Cruz Airport/Community Roundtable memorandum of understanding (MOU) C. Approve the Santa Clara/Santa Cruz Airport/Community Roundtable Bylaws

Senior Management Analyst Katy Nomura reviewed the staff report.

Andi Jordan from the Cities Association of Santa Clara County answered questions from Council.

Chang moved and Vaidhyanathan seconded to adopt Resolution No. 18-083 to join the Santa Clara/Santa Cruz Airport/Community Roundtable; authorize the City Manager to execute the Santa Clara/Santa Cruz Airport/Community Roundtable memorandum of understanding (MOU); and approve the Santa Clara/Santa Cruz Airport/Community Roundtable Bylaws. The motion carried unanimously.

Councilmembers concurred to hear item number 24 under Public Hearings next.

## **PUBLIC HEARINGS**

24. Subject: Petition for Reconsideration of the City Council decision rendered on May 15, 2018 denying a tentative map application (TM-2015-01) to allow the subdivision of three (3) parcels into five (5) parcels, four (4) residential and one (1) common (private road), and denial of a tree removal permit (TR-2016-28) to allow the removal and replacement of seven (7) protected trees. Application No(s): TM-2015-01, TR-2016-28 (EA-2015-04) Appellant: Richard K. Abdalah; Applicant: Welkin International (Cai Xing Xie); Location: 10234 Scenic Blvd., APN#357-08-014, 047

Recommended Action: That the City Council: 1. Adopt Resolution No. 18-080 (Attachment A) denying the petition for a reconsideration hearing, since it does not meet the requirements of Cupertino Municipal Code (CMC) Section 2.08.096 or, in the alternative; 2. If the Council determines the Petition meets the criteria, conduct a hearing on the merits of the petition and make final determination on the project

Written communications for this item included a letter to Council and a staff presentation.

Associate Planner Erick Serrano reviewed the staff report.

Mayor Paul opened the public hearing and the following individuals spoke:

Barton Hechtman, attorney on behalf of the applicant.

Patrick Kwok (Cupertino resident)

Alex Carlton (Cupertino resident)

John Ghashghai (Cupertino resident)

Nadine Carlton (Cupertino resident)

Barton Hechtman (Allowed to speak again)

Mayor Paul closed the public hearing.

Scharf moved and Sinks seconded to adopt Resolution No. 18-080 denying the Petition for Reconsideration, on the basis the Petition does not meet the requirements of Cupertino Municipal Code (CMC) Section 2.08.096. The Petition is further denied based on public testimony before the Council at this hearing and previous meetings of the City Council and Planning Commission, the evidence presented on the record, and the deficiencies of the Petition for Reconsideration. The motion carried unanimously.

As noted under Postponements, Council reordered the agenda to hear items pulled from the Consent Calendar next.

### CONSENT CALENDAR (continued)

12. Subject: Response to Santa Clara Grand Jury Report on "Affordable Housing Crisis: *Density is our Destiny*."  
Recommended Action: That the City Council review and approve the City's response.

Assistant Director of Community Development Ben Fu reviewed the staff report.

Mayor Paul opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Paul closed public comment.

Council recessed from 1:17 a.m. to 1:22 a.m.

Sinks moved and Vaidhanathan seconded to review and approve the City's response with direction for the City Manager to craft a cover letter reflecting Council's concern about inaccuracies in the report. The motion carried unanimously.

Council concurred to hear item number 27 under Ordinances and Action Items next followed by Consent Calendar item number 22.

### ORDINANCES AND ACTION ITEMS (continued)

27. Subject: First Reading of an Ordinance Designating Additional Preferential Parking Zones Ordinance on Noble Fir Court, Red Fir Court and White Fir Court  
Recommended Action: 1. Conduct the first reading of Ordinance No. 18-2176: "An Ordinance of the City Council of the City of Cupertino Amending Cupertino

Municipal Code Section 11.27.145 Designating Additional Preferential Parking Zones to add Noble Fir Court, Red Fir Court and White Fir Court"; and 2. Schedule second reading of the ordinance for September 18, 2018.

Mayor Paul opened public comment and the following individual spoke:

Amar Sajadurang

Mayor Paul closed public comment.

City Clerk Grace Schmidt read the title of the ordinance.

Chang moved and Sinks seconded to read Ordinance No. 18-2176 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Paul, Chang, Scharf, Sinks, and Vaidhyathan. Noes: None. Abstain: None. Absent: None.

#### **CONSENT CALENDAR (continued)**

22. Subject: Submittal of projects for the Metropolitan Transportation Commission's (MTC's) Horizon Initiative  
Recommended Action: Provide direction for staff to submit projects for the Metropolitan Transportation Commission's call for transformative transportation projects for the Horizon Initiative

Written communications for this item included emails to Council and a staff presentation.

Director of Public Works Timm Borden reviewed the staff report.

Mayor Paul opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Paul closed public comment.

Council provided direction for staff to submit projects for the Metropolitan Transportation Commission's call for transformative transportation projects for the Horizon Initiative, adding an alternative alignment that connects De Anza College to Highway 85 north to I-280, past Infinite Loop, Apple Park and then connecting to Diridon Station, and on Exhibit 4, adding a north-south connection through the middle of the loop along Lawrence Expressway, connecting job centers in Sunnyvale and Santa Clara.

**SECOND READING OF ORDINANCES**

23. Subject: Second reading and enactment of an Ordinance amending Cupertino Municipal Code Chapters 19.12 "Administration" and 19.148 "Required Artwork in Public and Private Developments". (Application number: MCA-2018-01; Location: City-wide; Applicant: City of Cupertino)

Recommended Action: Conduct the second reading and enact Ordinance No. 18-2175: "An Ordinance of the City Council of the City of Cupertino amending Municipal Code Chapters 19.12 "Administration" and 19.148 "Required artwork in Public and Private Developments" to create more opportunities for public art in new development"

City Clerk Grace Schmidt read the title of the ordinance.

Vaidhyanathan moved and Scharf seconded to read Ordinance No. 18-2175 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Paul, Chang, Scharf, Sinks, and Vaidhyanathan. Noes: None. Abstain: None. Absent: None.

Vaidhyanathan moved and Chang seconded to enact Ordinance No. 18-2175. Ayes: Paul, Chang, Scharf, Sinks, and Vaidhyanathan. Noes: None. Abstain: None. Absent: None.

**ORDINANCES AND ACTION ITEMS (continued)**

26. Subject: Add a project entitled Memorial Park Amphitheater Improvement Project to the FY 2018-19 Capital Improvement Program.

Recommended Action: Authorize the City Manager to add a project to the FY 2018-19 Capital Improvement Program entitled Memorial Park Amphitheater Improvement Project and direct staff to prepare design documents for the project.

Written communications for this item included a staff presentation.

Director of Public Works Timm Borden reviewed the staff report.

Assistant Director of Recreation and Community Services Christine Hanel answered questions from Council regarding the Parks Master Plan.

Council concurred to defer the project until the Parks Master Plan is complete.

28. Subject: Storm Water Management Fee Study and Ballot Initiative

Recommended Action: 1. Authorize staff to hire a consultant for a contract amount not to exceed \$225,000 to complete a property related storm water management fee study and

balloting process by June 30, 2019; and 2. Adopt Resolution No. 18-082 approving a Budget Adjustment in the amount of \$225,000 to complete a storm water management fee study and balloting process.

Written communications for this item included a staff presentation.

Assistant Director of Public Works Roger Lee reviewed the staff report and presentation.

Scharf moved and Vaidhyanathan seconded to adopt Resolution No. 18-082 approving a budget adjustment in the amount of \$20,000 to complete a storm water management fee initial polling, and if polling is supportive of substantial cost recovery then come back to Council for approval and additional funding (motion includes friendly amendments made by Vaidhyanathan and Chang). The motion carried unanimously.

#### **REPORTS BY COUNCIL AND STAFF**

30. Subject: Report on Committee assignments and general comments  
Recommended Action: Report on Committee assignments and general comments

This item was not heard.

#### **ADJOURNMENT**

At 2:41 a.m. on Wednesday, August 22, Mayor Paul adjourned the meeting.

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Grace Schmidt, City Clerk