



CUPERTINO

**APPROVED MINUTES
CUPERTINO CITY COUNCIL
SUCCESSOR TO THE REDEVELOPMENT AGENCY**

Special Meeting
Tuesday, December 18, 2012

CITY COUNCIL MEETING

ROLL CALL

At 3:35 p.m. Mayor Orrin Mahoney called the special meeting to order in the Council Chamber, 10350 Torre Avenue, Cupertino, California.

Present: Mayor Orrin Mahoney, Vice Mayor Gilbert Wong, and Council members Barry Chang (3:39 p.m.), Mark Santoro, and Rod Sink. Absent: none.

STUDY SESSION

1. Subject: Civic Center Master Plan Framework

Recommended Action: Staff recommends that Council accept the report and provide direction to staff

Written communications for this item included:

- Staff PowerPoint presentation and Attachment A handout: "Cupertino Civic Center Master Plan Framework, July 26, 2012"

Director of Public Works Timm Borden introduced CIP Manager Katy Jensen; Karen Alschuler, Global Leader for Urban Designs at Perkins + Will Architecture, who also participated in the planning and architecture for the Library and Community Hall with SMWM Architects; and noted Project Manager Carmen Lynaugh was in the audience.

Director Borden gave some background and said parking became an issue in 2010 because the library was so popular. He said that in 2011, \$100,000 was budgeted to perform a parking study on how to solve the parking problems, structural upgrades for an older City Hall, and energy efficiency measures. He said this budget was not

enough to solve the parking problem but it could be incorporated into a larger plan, for a whole Civic Center project. He noted that the \$100,000 was downsized to \$50,000 to create a framework for a long-range master plan, keeping parking in mind but also including other opportunities for the site. He explained that in the spring of 2012, Perkins + Will was hired and internal working groups from Public Works, the City Manager's office, Community Development and the Library were set-up to hold workshops and develop a long-range plan. In August 2012, Perkins + Will completed the framework which would be the starting point for the next step of seeking public engagement. After August, the cost projections were developed for Council to understand the three alternatives. All are long-term plans that give a broad range of costs for the different plans. Director Borden said that we want to be a civic facility that fits within the neighborhood, is close to arterial roadways and bicycle transit, and is easily walk-able to Civic Center via different pathways like Town Center Lane. He said the success of City facilities like the Library and Community Hall has competed with demands for parking. Additionally, the aging of City Hall makes it necessary to take a comprehensive look for long-term solutions.

Karen Alschuler said that her initial studies focused on existing and potential parking spaces, certain high-demand times of the day, and the condition of trees in some locations. She went through the PowerPoint slides which included the site character, traffic and parking, and ways in whole of how the site is used. She said they looked at activity during the weekday, morning and afternoon, and weekends; She noted the existing parking spaces are 224 total; 104 on the street; 120 devoted to City-use, for employees (107) and City vehicles (16); and concluded that less than half of the spaces are available to the public. She added that 90% of vehicles are single-occupancy.

Director Borden discussed the three alternatives for the Civic Center noting each plan would include a creek trail, increased parking, and a solar energy infrastructure within the new buildings. Alternative 1: Civic Network features: a new driveway at Pacifica Ave.; enhanced pedestrian and bike pathways, improved existing City Hall upgrades, modifications to space allocations and seismic deficiencies; addressed traffic at the intersection of Pacifica Ave. and Torre Ave.; no new buildings; net increase of 78 spaces. Alternative 2: Civic Youth features: a new Teen Center with outdoor basketball court, classrooms, and other programming near the Library Field; solar cells atop the Teen Center; a one-level parking garage under the Teen Center for 170 cars; reconfigured Library field with Cricket retained; a playground; Library Plaza demonstration garden; improved City Hall as per Alternative 1; net

increase of 160 spaces. Alternative 3: Civic Life features: a new City Hall in its current location with better meeting and permitting center, emergency facility, and alignment; a new Community Center with meeting rooms, classrooms, performance and exhibition spaces; a rebuilt Library Plaza to support community needs with festival areas and a retaining the fountain; a one-level parking garage under the Community Center and City Hall; new picnic area and playground; net increase of 133 spaces.

Katy Jensen reviewed the cost projections for the three alternatives, noting that the plan could occur over a 5, 10, or 20-year period, or longer: Alternative 1: Civic Network, for structural modifications, developing pedestrian walkways and access, and renovating the existing City Hall would cost \$3.8 million. This would involve moving the permitting function up to the first floor. A new surface parking would cost \$1.9 million and other site amenities would cost \$4.3 million; total cost projection is \$10 million. Alternative 2: Civic Youth, for adding a new Teen Center with underground parking, a new entry plaza, and basketball courts would cost \$36.9 million; structural modifications, developing pedestrian walkways and access, and renovating the existing City Hall would cost \$3.8 million; a new surface parking lot behind Community Hall would cost \$600,000; and other site amenities of changes to Library Plaza, adding a trail, and playground would cost \$2.2 million; total cost projection is \$43.5 million. Alternative 3: Civic Life, a new City Hall and Community Center with underground parking would cost \$86 million; a new surface parking lot behind Community Hall and by Memorial Grove would cost \$1.9 million; and other site amenities of changes to Library Plaza, adding a picnic area, trail, and playground would cost \$5.1 million; total cost projection is \$93 million.

Mayor Mahoney opened the meeting to public comments.

Mark Fink, Cupertino Librarian said the Library has 3300 visitors on average and that depends on what programs are being offered. He observed that they may only need about 20-40 more parking spaces, depending on location and where people want to park. For Community Hall bookings: the Library books about a third of the time; they book up to a year in advance on Saturdays, Wednesday evenings, every Friday; in summer they book more frequently, including Wednesday afternoons for children's programs but they are flexible with those needs. He said he would like to add a dedicated meeting space in the Library and liked the idea of converting the current courtyard in front of the Library to a meeting space. He added that they only have the Story Room which accommodates 25 people, booking Community Hall, and they now offer programs at Quinlan Community Center due to the lack of

availability at Community Hall. He said they need space to fit at least 50 people and if the City is looking at putting in a Teen Center, they should look at where people are coming from, how far they travel, the current uses at the current Teen Center, and staffing options. The Library has an average of 50 programs a month and 3000 people visit a month, including story times in the Library. He said there needs to be more programming on the children's side.

Council directed staff to bring back more information on the following topics: public opinion; demand in library programming and facilities being booked, and the need for additional meeting space for community groups; public outreach to neighbors near the trail; reducing the size of Library Field; cricket and soccer community input; a short-term parking management solution; studying the cost of an adjacent library courtyard add-on; possible location of a youth center near Library Field; public input regarding underground parking and perhaps partially underground parking; the issue of traffic flow; sourcing money to go ahead with project before spending money on public outreach; projected cost of an enclosed library courtyard; moving parking by the trail closer to the Library; public input with the increase of parking and creating another parking problem with increased success; a multi-purpose space for meetings, activities, and extended teen activities instead of a performing arts center; the square footage of the playgrounds; the frequency of use for the current Community Hall; and adequacy of the current Library.

CLOSED SESSION

At 5:33 p.m. Council recessed to a closed session, and reconvened in open session at 6:45 p.m.

2. Subject: Conference with Legal Counsel - Initiation of Litigation pursuant to subdivision (c) of Section 54956.9 - One Case

Mayor Mahoney announced that Council obtained briefing from legal counsel and gave direction.

3. Subject: Conference with Legal Counsel - Significant Exposure to Litigation pursuant to subdivision (b) of Section 54956.9 - One Case

Mayor Mahoney announced that Council obtained briefing from legal counsel and no action was taken.

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PLEDGE OF ALLEGIANCE

At 6:48 p.m. Mayor Orrin Mahoney reconvened the special City Council meeting and led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Orrin Mahoney, Vice Mayor Gilbert Wong, and Council members Barry Chang, Mark Santoro, and Rod Sink. Absent: none.

CEREMONIAL MATTERS AND PRESENTATIONS - None

POSTPONEMENTS - None

ORAL COMMUNICATIONS

Rhoda Fry said that in the evening you can see a plume of smoke near Lehigh. She said she talked with the Bay Area Air Quality Management District (BAAQMD) about the plume and was informed that they have technology available to see visual emissions and hydrochloric acid in the plume. She also said that the plume had been gone for a time and now it is back and she is concerned about the hydrochloric acid that is in the plume. She said that BAAQMD told her there is a delay in the County due to understaffing and difficulty getting permits to put the technology in place on a regular basis. Ms. Fry asked Council to urge the County to put the technology in place. She also said that the County does not have a method in place to capture certain violations such as an instance when a huge amount of cement covered the mountain with dust because a hatch was accidentally opened and the cement blew out. She said these types of violations are not captured and available to the public, but that BAAQMD is working on the issue. Ms. Fry said the most urgent issue is for Council to urge the County to expedite the technology. Council asked Ms. Fry who she spoke to at BAAQMD and she said that she spoke to Brian Bateman but she did not have anything in writing. Council suggested that she write a letter to BAAQMD and perhaps attend a Board of Supervisors meeting as well.

Leslie Fowler, activist for a healthy environment, said that the Santa Clara County Water District authorized water fluoridation and asked Council to consider her points. She said that in 2001 the Center for Disease Control said that the main way fluoridation works is topical and when ingested, issues occur. She said that in 2006 the American Dental Association issued a warning to parents of babies under six months not to mix fluoridated water with formula because fluoride goes to the brain and the brain blood

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barrier is not developed in infants under six months. Ms. Fowler also said that the Harvard Public School of Health confirmed that fluoride at less than two parts per million in the water lowers the IQ of children and the Environmental Protection Agency scientist union publically opposed water fluoridations in 2007. She also said that on January 7, 2011, the U.S. Department of Health and Human Services recommended reducing the level of fluoride added to water because 41% of Americans have tooth acidosis caused by excessive fluoride. She said that San Francisco fluoridated and two thirds of grade school children have cavities. Ms. Fowler urged Council to opt out of water fluoridation for the health of residents and for the IQ's of the children.

Catherine Coe said that she lives next to Jollyman Park and that it has become a full-time place for off-leash dogs. She said that every day dogs are off-leash and that is impacting the quality of life, causing people to put up fences where they didn't have to before. She asked for assistance in enforcing leash laws. She said that Cupertino doesn't have an issue with dogs, but an issue with people and feels it should be addressed. She said that a social media site called Foursquare lists Jollyman Park as a dog park and that the Yelp site says it is a great place for your dog. She also suggested that staff go to social media sites and correct things that are not accurate.

City Manager, David Brandt said a Code Enforcement Officer could be sent on rounds to check on off-leash dogs in that park.

CONSENT CALENDAR

Wong moved and Sinks seconded to approve the items on the Consent Calendar as recommended with the exception of item 14 which was pulled for discussion. Ayes: Chang, Mahoney, Santoro, Sinks, and Wong. Noes: None. Abstain: None.

4. Subject: November 5 City Council minutes
Recommended Action: Approve minutes
5. Subject: November 13 City Council minutes
Recommended Action: Approve minutes
6. Subject: Accounts Payable for period ending October 26, 2012
Recommended Action: Adopt Resolution No. 12-132
7. Subject: Accounts Payable for period ending November 2, 2012
Recommended Action: Adopt Resolution No. 12-133

8. Subject: Accounts Payable for period ending November 9, 2012
Recommended Action: Adopt Resolution No. 12-134
9. Subject: Accounts Payable for period ending November 16, 2012
Recommended Action: Adopt Resolution No. 12-135
10. Subject: Accounts Payable for period ending November 21, 2012
Recommended Action: Adopt Resolution No. 12-136
11. Subject: Accounts Payable for period ending November 30, 2012
Recommended Action: Adopt Resolution No. 12-137
12. Subject: Accounts payable for period ending December 7, 2012
Recommended Action: Adopt Resolution No. 12-138
13. Subject: Financial Reports for Fiscal Year 2011-12
Recommended Action: Accept the reports
14. Subject: Adopt resolution amending the Unrepresented Employees' Compensation Program by transferring the positions of Assistant City Attorney and Deputy City Attorney into this group and transferring the City Manager Position out of this group; adopt resolution amending the City Attorney Employees' Compensation Program by transferring the City Manager position into this group and renaming it the Appointed Employees' Compensation Program consisting of the City Manager and City Attorney and any required related action
Recommended Action: Adopt Resolution No 12-139 amending Resolution No. 12-121 amending the Unrepresented Employee Compensation Program; adopt Resolution No. 12-140 amending Resolution No. 12-122 amending the City Attorney Employees' Compensation Program by renaming/establishing an Appointed Employees' Compensation Program

City Manager David Brandt and City Attorney Carol Korade stepped away from the dais due to a conflict of interest on this item.

Council member Santoro said that the immediate vesting of medical benefits was specified in the City Attorney's contract but not in the City Manager's contract. He asked to modify the language to reflect the understanding of immediate vesting for both positions.

Mahoney moved and Wong seconded to adopt the resolutions with an amendment to clarify the language to specify an immediate vesting of retiree medical benefits for both the City Attorney and the City Manager positions. The motion carried unanimously.

15. Subject: Declare weeds a nuisance and set hearing date of January 15 for objections to proposed removal
Recommended Action: Adopt Resolution No. 12-141
16. Subject: Alcoholic Beverage License, Bombay Oven Inc, 20803 Stevens Creek Blvd
Recommended Action: Approve Alcoholic Beverage License, Bombay Oven Inc
17. Subject: Alcoholic Beverage License, Safeway Inc, West Homestead Road and North De Anza Boulevard
Recommended Action: Approve Alcoholic Beverage License, Safeway Inc
18. Subject: Citizens' Option for Public Safety (COPS) Program Funds of \$100,000
Recommended Action: Adopt Resolution No. 12-142 to approve the 2012-13 COPS grant funding request
19. Subject: Improvement Agreement, George Chia-Jung Chang and Suk-Yee Chung, 10397 Palo Vista Road, APN: 357-03-027
Recommended Action: Adopt Resolution No. 12-143
Description: Through the improvement agreement with the City, the applicants for a building permit for a residential development will be obligated to construct City-specified street improvements, including curb, gutter and driveway approach along the frontage of their building site
20. Subject: Improvement Agreement, Rajat Gupta and Puja Gupta, 22388 Santa Paula Avenue, APN: 357-05-034
Recommended Action: Adopt Resolution No. 12-144
Description: Through the improvement agreement with the City, the applicants for a building permit for a residential development will be obligated to construct City-specified street improvements, including curb, gutter, sidewalk and driveway approach along the frontage of their building site
21. Subject: Improvement Agreement, Mehrdad Mojgani and Homa Mojgani, 22717 San Juan Road, APN: 342-17-025
Recommended Action: Adopt Resolution No. 12-145

Description: Through the improvement agreement with the City, the applicants for a building permit for a residential development will be obligated to construct City-specified street improvements, including curb, gutter, and driveway approach along the frontage of their building site

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

22. Subject: Mid-Year Budget Adjustment #3

Recommended Action: Adopt Resolution No. 12-146 Approving Mid-Year Budget Adjustment #3

Finance Director Dave Woo reviewed the staff report and the total revenues increases and decreases chart.

Chang moved and Sinks seconded to adopt Resolution No. 12-146 with direction to allow staff to use discretion in using the budgeted amount regarding a Lehigh Air Quality study. The motion carried unanimously.

23. Subject: Adoption of an ordinance prohibiting the feeding of waterfowl (namely, geese, ducks, and coots) in City parks and establishing a schedule of fines for such actions in violation of the proposed section of the Municipal Code

Recommended Action: Conduct the first reading of Ordinance No. 12-2101: "An Ordinance of the City Council of the City Of Cupertino adopting Section 13.04.130 P of the Cupertino Municipal Code prohibiting the feeding of waterfowl in City parks and amending Section 1.12.160 B to set a fine specifically for this code violation"

Director of Public Works Timm Borden reviewed the staff report.

City Clerk Grace Schmidt read the title of the ordinance. Wong moved and Sinks seconded to read the ordinance by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Chang, Mahoney, Sinks and Wong. Noes: Santoro.

REPORTS BY COUNCIL AND STAFF

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City Manager David Brandt noted that the new Economic Development Manager is Angela Tsui.

Council members highlighted the activities of their committees and various community events.

Council agreed to direct the City Manager to write a letter to the Bay Area Air Quality Management District (BAAQMD) expressing appreciation for its concern for the health of Cupertino residents.

ADJOURNMENT

At 7:47 p.m. the meeting was adjourned.

/s/Grace Schmidt

Grace Schmidt, City Clerk

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