



**APPROVED MINUTES  
CUPERTINO CITY COUNCIL  
Tuesday, October 21, 2014**

**SPECIAL CITY COUNCIL MEETING**

**ROLL CALL**

At 5:05 p.m. Mayor Gilbert Wong called the Special City Council meeting to order in Cupertino City Hall Conference Room A, 10300 Torre Avenue.

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

**CLOSED SESSION**

At 5:05 p.m. Council went into closed session and reconvened in open session at 6:45 p.m. in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue.

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

Mayor Wong announced that Council gave briefing and gave direction to legal counsel.

2. Subject: Conference with Legal Counsel - Pending Litigation (Gov't Code Section 54956.9(a); New Cingular v. City of Alameda, et al, Superior Court of California, County of Los Angeles Case No. BC462270

Mayor Wong announced that Council obtained briefing and gave direction to staff and City Attorney.

**REGULAR CITY COUNCIL MEETING****PLEDGE OF ALLEGIANCE**

At 6:45 p.m. Mayor Gilbert Wong called the Regular City Council meeting to order and led the Pledge of Allegiance.

**ROLL CALL**

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

**CEREMONIAL MATTERS AND PRESENTATIONS**

3. Subject: Update by John Ristow from the Valley Transportation Authority (VTA) regarding the Highway 85 Express Lane Project  
Recommended Action: Receive update

Written communications for this item included a PowerPoint presentation.

John Ristow from the Valley Transportation Authority (VTA) gave Council an update on the Highway 85 Express Lane Project via a PowerPoint presentation.

Council received the update and asked Mr. Ristow to return on Monday, November 3 to provide additional information.

4. Subject: Update from Santa Clara County Fire Department Fire Chief Kenneth Kehmna  
Recommended Action: Receive update

Written communications for this item included a PowerPoint presentation.

Santa Clara County Fire Department Fire Chief Kenneth Kehmna gave Council an update on the County Fire Department via a PowerPoint presentation.

Council received the update.

5. Subject: Update from the Cupertino Union School District (CUSD) Superintendent Wendy Gudalewicz  
Recommended Action: Receive update

Written communications for this item included a PowerPoint presentation.

Cupertino Union School District (CUSD) Superintendent Wendy Gudalewicz gave Council an update on the District via a PowerPoint presentation.

Council received the update.

6. Subject: Library Commission quarterly update regarding the 10th Anniversary of the Cupertino Library  
Recommended Action: Receive update

Written communications for this item included a PowerPoint presentation.

Library Commissioner Jerry Liu gave Council an update regarding the 10th Anniversary of the Cupertino Library via a PowerPoint presentation.

Council received the update.

#### **POSTPONEMENTS - None**

#### **ORAL COMMUNICATIONS**

Annie Yang representing the Monta Vista neighbors asked for Council support to consider the installation of sidewalks and drainage systems in the Pasadena Ave. neighborhood for the fiscal year 2015-16 CIP program.

#### **CONSENT CALENDAR**

Mahoney moved and Chang seconded to approve the items on the Consent Calendar as presented. Ayes: Chang, Mahoney, Santoro, Sinks, and Wong. Noes: None. Abstain: None. Absent: None.

7. Subject: Approve the October 7 City Council minutes  
Recommended Action: Approve minutes
8. Subject: Accept Accounts Payable for the period ending September 26, 2014  
Recommended Action: Adopt Resolution No. 14-199 accepting Accounts Payable for the period ending September 26, 2014

9. Subject: Accept Accounts Payable for the period ending October 3, 2014  
Recommended Action: Adopt Resolution No. 14 -200 accepting Accounts Payable for the period ending October 3, 2014
10. Subject: Accept Accounts Payable for period ending October 10, 2014  
Recommended Action: Adopt Resolution No. 14-201 accepting Accounts Payable for the period ending October 10, 2014
11. Subject: Second Amended Employment Contract for the City Manager.  
Recommended Action: Approve the Second Amended Employment Contract for the City Manager
12. Subject: City Project, 2013 Pavement Maintenance Phase 2, Project No. 2013-05  
Recommended Action: Accept Project No. 2013-05

## SECOND READING OF ORDINANCES - None

## PUBLIC HEARINGS

13. Subject: Hyatt House Hotel development project  
Recommended Action:
  1. Adopt Mitigated Negative Declaration (EA-2014-06); and
  2. Adopt Resolution No. 14-202 approving Development Permit (DP-2014-04); and
  3. Adopt Resolution No. 14-203 approving Use Permit (U-2014-04); and
  4. Adopt Resolution No. 14-204 approving Architectural and Site Approval (ASA-2014-06); and
  5. Adopt Resolution No. 14-205 approving Parking Exception (EXC-2014-07); and
  6. Adopt Resolution No. 14-206 approving Tree Removal Permit (TR-2014-28); and
  7. Adopt Resolution No. 14-207 approving Tree Removal Permit (TR-2014-40)Description: Application No.(s): ASA-2014-06, DP-2014-04, EXC-2014-07, TR-2014-28, U-2014-04, TR-2014-40 (EA-2014-06); Applicant: Edward Chan (Cupertino Property Development II, LLC.); Location: Perimeter Rd @ Wolfe Rd; APN: 316-20-092; Architectural Site Approval for a new 5-story, 148 room hotel and associated site and off-site improvements; Development Permit to allow the demolition of an existing parking lot and construct a 5 story, 148 room hotel of approximately 102,700 square feet that includes a restaurant, bar, lounge and conference rooms built over a 35,800 square foot underground parking garage that contains tandem parking; Parking Exception Permit to allow eight tandem parking stalls; Tree Removal Permit to allow the removal and replacement of 96 trees to facilitate the construction of a new hotel; Use Permit to allow a 24-hour hotel, including a restaurant with interior bar; Tree

Removal Permit to allow the removal and replacement of 19 trees to facilitate the off-site improvements associated with the construction of a new hotel

Written communications for this item included a letter from Kevin McClelland representing the Cupertino Chamber of Commerce, a letter from Chris Dobbins representing Hyatt Hotels Corporation, emails from Darrel Lum and Jennifer Griffin, and a staff PowerPoint presentation.

Associate Planner George Schroeder reviewed the staff report via a PowerPoint presentation.

Applicant Edward Chan further reviewed the project and gave an update on changes to the project since the previous Planning Commission meeting. He addressed concerns about the restaurant/bar and parking.

Mayor Wong opened the public hearing.

Robert McKibbin representing the Concerned Citizens of Cupertino (CCC) said that this project doesn't meet the current General Plan criteria for active ground floor retail use with good access and visibility. He also noted that the sales tax benefit would be minimal at best. He encouraged Council to reject the project and ask the applicant to resubmit at 45 feet in height rather than 60.

Lisa Warren said that she agreed with Mr. McKibbin regarding the hotel height. She noted that she also had issues with the design not being diverse enough. She said that this project wouldn't benefit Cupertino residents but rather visitors who aren't part of the community.

Steven Scharf said that Council hasn't ever approved a 60-foot high hotel without retail and claiming that the restaurant is actually retail isn't right. He also commented that he thought it was interesting that every time there was a developer who needed to remove trees, the City Arborist finds a lot of sick trees in the area.

Tom Hugunin said he was concerned that that the applicant asking for reduced parking must mean that they don't expect the retail to be successful. He commented that something needed to be done to make the bottom retail more viable especially at the proposed 60-foot height He also requested a 30-day stay limit in order to retain the TOT tax.

Kevin McClelland speaking on behalf of the Cupertino Chamber of Commerce said that the Chamber supports the hotel project and that it would be a good benefit for Cupertino due to the TOT and meeting rooms.

Jennifer Griffin read comments that she had sent to Planning Commission and Council regarding the project highlighting issues with redwood tree removal, asking to make sure any redwoods removed are replaced with redwoods, and asked to have the hotel be 4 stories instead of 5.

Mayor Wong closed the public hearing.

1. Mahoney moved and Chang seconded to adopt Mitigated Negative Declaration (EA-2014-06). The motion carried unanimously.
2. Mahoney moved and Chang seconded to adopt Resolution No. 14-202 approving Development Permit (DP-2014-04) which includes approval of the South Vallco Connectivity Plan. The motion carried with Sinks voting no.
3. Mahoney moved and Chang seconded to adopt Resolution No. 14-203 approving Use Permit (U-2014-04). The motion carried with Sinks voting no.
4. Mahoney moved and Chang seconded to adopt Resolution No. 14-204 approving Architectural and Site Approval (ASA-2014-06) with the additional condition to have staff and applicant contact Caltrans to consider a direct public bicycle and pedestrian access path from the existing Wolfe Road sidewalk to the project site along the westerly boundary, in order to allow direct access onto Wolfe Road and access over the freeway overpass. If Caltrans approves of the access path, the property owner shall work with staff to construct the path. The motion carried with Sinks voting no.
5. Mahoney moved and Chang seconded to adopt Resolution No. 14-205 approving Parking Exception (EXC-2014-07). The motion carried with Sinks voting no.
6. Mahoney moved and Chang seconded to adopt Resolution No. 14-206 approving Tree Removal Permit (TR-2014-28) with the additional condition to require a tree condition report to be reviewed and approved by the Director of Community Development one year after final occupancy of the project. The City's consulting arborist shall inspect the new and existing trees to ensure proper irrigation, maintenance, and compliance with the arborist's recommendations. All additional recommendations resulting from the one-year review shall be implemented by the property owner. The motion carried unanimously.
7. Mahoney moved and Chang seconded to adopt Resolution No. 14-207 approving Tree Removal Permit (TR-2014-40). The motion carried unanimously.

Council recessed from 10:15 p.m. to 10:25 p.m.

## ORDINANCES AND ACTION ITEMS

14. Subject: Civic Center Master Plan - Selection of Preferred Project  
Recommended Action: Provide direction on the following, which will comprise the Preferred Project for the Civic Center Master Plan:
- a. City Hall, Library Program Room, and Garage Parking options; and then
  - b. Other site development options

Written communications for this item included a letter from County Librarian Nancy Howe and an email from Eno Schmidt. The PowerPoint presentation was included in the packet information.

Director of Public Works Timm Borden reviewed the background of the project.

Karen Alschuler, Principal from Perkins+Will introduced the rest of the consultants working on the project.

The following individuals from Perkins+Will reviewed the project via a PowerPoint presentation: Geeti Silwal, Associate Principal; Leo Panian, Structural Engineer, Principal, Marco Alves, Mechanical Engineer; Paul Leveriza, Architect; Karen Alschuler, Principal.

Mr. Borden reviewed the staff recommendation.

Jennifer Griffin said that she hopes the City Council, Planning Commission, and Parks & Recreation Commission meetings would still be held in Community Hall. She also noted to make sure any underground parking was secure and that any new City Hall building would be built strong enough to add a third story if necessary.

Mayor Wong noted that the following individuals couldn't stay and read their comments into the record: Bev Lenihan from the Cupertino Library Foundation (supported L1 Library expansion option and increased parking in the vicinity); Annie Ho Cupertino Library Commissioner (supported proposal to expand the Library story room); Adrian Kolb Cupertino Library Commissioner (supported expansion of Library story room to accommodate 100 people; Ann Stevenson Cupertino Library Commissioner (supported expanding the Library story room, continuing use of Community Hall for Library programs, and adding parking).

Eno Schmidt President Cupertino Library Foundation said that he supported the L1 Library expansion and related parking options.

Robert McCoy said that anything involving the new EOC would be premature at this point because requirements will change as the State standardizes all EOC's. He also noted the issue of safety at the current Teen Center location and asked about the plan for a Teen Center in this project.

Wong moved and Mahoney seconded, and the motion carried with Chang and Santoro voting no, to select a preferred project for environmental analysis and development of financing options as follows:

1. Option D - New City Hall) up to 40,000 square feet
2. Option P4 - Parking under new City Hall
3. Option L1 – New 130-seat Library program room addition behind the Library building with no impact to Memorial Grove
4. Review parking demand to ensure adequate capacity for all meeting and program space

15. Subject: Designate voting delegate and alternates for National League of Cities Annual Business Meeting November 22 in Austin, TX  
Recommended Action: Designate voting delegate and up to two alternatives

Santoro moved and Mahoney seconded to designate Gilbert Wong as the voting delegate and no alternate for the National League of Cities Annual Business Meeting November 22 in Austin, TX. The motion carried with Chang voting no.

16. Subject: First reading of an ordinance amending Chapter 2.08 of Title 2 of the Cupertino Municipal Code to add section 2.08.145 to codify the existing Councilmember call for review (continued from October 7)  
Recommended Action: Introduce and conduct the first reading of Ordinance No. 14-2123: "An Ordinance of the City Council of the City of Cupertino amending the Cupertino Municipal Code Chapter 2.08 of Title 2 to include Section 2.08.145 relating to call for Council review"

Mahoney moved and Santoro seconded to read Ordinance No. 14-2123 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Chang, Mahoney, Santoro, Sinks, and Wong. Noes: None. Abstain: None. Absent: None.



**REPORTS BY COUNCIL AND STAFF**

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

Council members agreed to hold a Closed Session on Monday, November 3 regarding Valley Transportation Authority (VTA).

**ADJOURNMENT**

At 1:54 a.m. on Wednesday, October 22 Mayor Wong adjourned the meeting to Monday, November 3. Election Day is Tuesday, November 4.

/s/ Grace Schmidt

---

Grace Schmidt, City Clerk

Staff reports, backup materials, and items distributed at the City Council meeting are available for review at the City Clerk's Office, 777-3223, and also on the Internet at [www.cupertino.org](http://www.cupertino.org). Click on Agendas & Minutes, then click on the appropriate Packet.

Most Council meetings are shown live on Comcast Channel 26 and AT&T U-verse Channel 99 and are available at your convenience at [www.cupertino.org](http://www.cupertino.org). Click on Agendas & Minutes, and then click Archived Webcast. Videotapes are available at the Cupertino Library, or may be purchased from the Cupertino City Channel, 777-2364.