



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, August 2, 2016

SPECIAL CITY COUNCIL MEETING

ROLL CALL

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

Present: Mayor Barry Chang, Vice Mayor Savita Vaidhyathan, and Council members Darcy Paul, Rod Sinks and Gilbert Wong. Absent: None.

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.

CLOSED SESSION

1. Subject: Conference with Legal Counsel- Existing litigation (Paragraph (1) of subdivision (d) of Gov't Code Section 54956.9) Name of Case: *Carlton v. City of Cupertino, et. al.*, Federal District Court, Case no. 5:14-CV-03178-RMW

Mayor Chang announced that Council gave direction to staff.

2. Subject: Conference with Legal Counsel - Anticipated Litigation: Significant Exposure to litigation pursuant to paragraph (2) of subdivision (d) of Gov't Code Section 54956.9 - [one case]

Mayor Chang announced that Council gave direction to staff.

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Present: Mayor Barry Chang, Vice Mayor Savita Vaidhyanathan, and Council members Darcy Paul, Rod Sinks and Gilbert Wong. Absent: None.

Mayor Chang also reported out from the Closed Session of July 11.

Subject: Conference with Labor Negotiators pursuant to Government Code Section 54957.6; Agency designated representatives: City Manager, Director of Administrative Services and Dania Torres Wong; Employee organizations: Operating Engineers Local No. 3 Union; Cupertino Employees' Association; Unrepresented (Management and Confidential) Employees' Compensation Program.

Mayor Chang reported that Council gave direction to staff.

Assistant Sheriff Ken Binder introduced Captain Rich Urena as the new captain of the West Valley Division serving Cupertino.

STUDY SESSION

1. Subject: Update on Economic Development Strategic Plan
Recommended Action: Receive update

Written communications for this item included a staff PowerPoint presentation.

Economic Development Manager Angela Tsui introduced Sujata Srivastava, Principal at Strategic Economics and Alison Nemirow, Senior Associate at Strategic Economics who reviewed the draft Economic Development Strategic Plan via a PowerPoint presentation.

Staff and the consultants answered questions from Council.

Jennifer Griffin talked about how other cities handle their technology parks.

Council comments included:

- Look into parking ratios when transitioning from office to retail and vice versa
- Include arts and design as part of the creative uses for the Innovation District. Possibly to honor Cupertino's agricultural heritage through structural/artistic markers within the planned district
- More information on City of Berkeley's Revolving Loan Fund
- Move the transportation issues (within the Place-making and Connectivity strategy) higher in priority
- Reach out to schools to engage students with businesses as part of "grow your own" internship opportunities

CEREMONIAL MATTERS AND PRESENTATIONS

2. Subject: Transportation video of the Shanghai Metro subway system in Shanghai, China
Recommended Action: Present video

A video on the Shanghai Metro subway system was shown.

POSTPONEMENTS - None

ORAL COMMUNICATIONS

Gary Latshaw talked about the Vallco 9212 Report (distributed written comments).

Ignatius Y. Ding talked about concerns with third party consultants' reports (distributed written comments).

Jon Willey talked about asking to receive the traffic information data shown in the Community Vision 2040 General Plan.

Richard Adler speaking on behalf of Age Friendly Cupertino Task Force talked about the needs of Cupertino's older population and making the City more age-friendly.

CONSENT CALENDAR

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

3. Subject: Approve the July 5 City Council minutes
Recommended Action: Approve the minutes
4. Subject: Accept Accounts Payable for the week ending May 13, 2016
Recommended Action: Adopt Resolution No. 16-076 accepting Accounts Payable for the week ending May 13, 2016
5. Subject: Accept Accounts Payable for the period ending May 20, 2016
Recommended Action: Adopt Resolution No. 16-077 accepting Accounts Payable for the period ending May 20, 2016
6. Subject: Accept Accounts Payable for the period ending May 27, 2016
Recommended Action: Adopt Resolution No. 16-078 accepting Accounts Payable for the period ending May 27, 2016
7. Subject: Accept Accounts Payable for the period ending June 3, 2016
Recommended Action: Adopt Resolution No. 16-079 accepting Accounts Payable for the period ending June 3, 2016
8. Subject: Accept Accounts Payable for the period ending June 10, 2016
Recommended Action: Adopt Resolution No. 16-080 accepting Accounts Payable for the period ending June 10, 2016
9. Subject: Accept Accounts Payable for the period ending June 17, 2016
Recommended Action: Adopt Resolution No. 16-081 accepting Accounts Payable for the period ending June 17, 2016
10. Subject: Accept Accounts Payable for the period ending June 24, 2016
Recommended Action: Adopt Resolution No. 16-082 accepting Accounts Payable for the period ending June 24, 2016
11. Subject: Treasurer's Investment Report for the Quarter ending December 31, 2015
Recommended Action: Accept the Treasurer's Investment Report for the Quarter ending December 31, 2015
12. Subject: Treasurer's Investment Report for the Quarter ending March 31, 2016
Recommended Action: Accept the Treasurer's Investment Report for the Quarter ending March 31, 2016

13. Subject: Amendment to Silicon Valley Regional Interoperability Authority joint powers authority
Recommended Action: Approve revisions to the Silicon Valley Regional Interoperability Authority joint powers authority to add a new member, the Santa Clara Valley Transportation Authority
14. Subject: Approval of the destruction of records from the City Clerk, City Manager, Human Resources, Public Works, and Recreation & Community Services (Quinlan Community Center and Senior Center) Departments
Recommended Action: Adopt Resolution No. 16-083 approving the destruction of records from the City Clerk, City Manager, Human Resources, Public Works, and Recreation & Community Services (Quinlan Community Center and Senior Center) Departments
15. Subject: Accept resignation of Public Safety Commissioner Bob Cascone and fill the unscheduled vacancy.
Recommended Action: Accept resignation of Public Safety Commissioner Bob Cascone and direct staff to fill the unscheduled vacancy; and set an application deadline of 4:30 p.m. on Friday, September 9, 2016 and an interview date of Tuesday September 20, 2016 beginning at 5:30 p.m.
16. Subject: Execute a contract with Dan Gertmanian for Math Olympiad Program and Chess instruction for period July 1, 2016 to June 30, 2017
Recommended Action: Authorize City Manager to negotiate and execute contract with Dan Gertmanian for Math Olympiad Program and Chess instruction for period July 1, 2016 to June 30, 2017
17. Subject: Application for Alcoholic Beverage License for Husdow, Inc (dba Red Hot Wok), 10074 E Estates Drive
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the Application for Alcoholic Beverage License for Husdow, Inc (dba Red Hot Wok), 10074 E Estates Drive
18. Subject: Application for Alcoholic Beverage License for Oren's Hummus Cupertino, LLC (dba Oren's Hummus Shop), 19419 Stevens Creek Boulevard #100
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the Application for Alcoholic Beverage License for

Oren's Hummus Cupertino, LLC (dba Oren's Hummus Shop), 19419 Stevens Creek Boulevard #100

19. Subject: 2016/17 Reconstruction of Curbs, Gutters and Sidewalks Project, Project No. 2017-01
Recommended Action: Authorize the City Manager to award and execute a contract with Spencon Construction, Inc., in the amount of \$1,943,818 and approve a construction contingency of \$56,182, for a total of \$2,000,000

SECOND READING OF ORDINANCES

20. Subject: Second Reading of an ordinance amending section 11.27.145 of the Cupertino Municipal Code relating to Designation of Preferential Parking Zone on Hammond Way
Recommended Action: Conduct the second reading and enact Ordinance No. 16-2145: "An ordinance of the City Council of the City of Cupertino amending section 11.27.145 of the Cupertino Municipal Code relating to designation of preferential parking zones" on Hammond Way on Saturdays, Sundays and holidays between the hours of 7 a.m. and 4 p.m.

City Clerk Grace Schmidt read the title of the ordinance.

Wong moved and Sinks seconded to read Ordinance No. 16-2145 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Chang, Vaidhyathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

Wong moved and Sinks seconded to enact Ordinance No. 16-2145. Ayes: Chang, Vaidhyathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

21. Subject: Second Reading of an ordinance amending section 11.27.145 of the Cupertino Municipal Code relating to Designation of Preferential Parking Zone on Oak Valley Road, Juniper Court, Sycamore Drive and Black Oak Way
Recommended Action: Conduct the second reading and enact Ordinance No. 16-2146: "An ordinance of the City Council of the City of Cupertino amending section 11.27.145 of the Cupertino Municipal Code relating to designation of preferential parking zones" on Oak Valley Road, Juniper Court, Sycamore Drive and Black Oak Way on Saturdays, Sundays and holidays between the hours of 7 a.m. and 4 p.m.

City Clerk Grace Schmidt read the title of the ordinance.

Wong moved and Sinks seconded to read Ordinance No. 16-2146 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

Wong moved and Sinks seconded to enact Ordinance No. 16-2146. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

22. Subject: Cancel the Regular Meeting of December 6 and call a Special Meeting for December 8 to receive the Certification of Election results from the November 8 General Municipal Election and conduct the swearing-in ceremony
Recommended Action: Cancel the Regular Meeting of December 6 and call a Special Meeting for December 8 to receive the Certification of Election results from the November 8 General Municipal Election and conduct the swearing-in ceremony

Jennifer Griffin talked about new Council members not voting on any policy the same night they are sworn in.

Wong moved and Chang seconded to keep the Regular Meeting on December 6 and call a Special Meeting on December 8 to receive the Certification of Election results from the November 8 General Municipal Election and conduct the swearing-in ceremony. The motion carried unanimously.

23. Subject: First Reading of an ordinance amending section 11.27.145 of the Cupertino Municipal Code relating to Designation of Preferential Parking Zone on Canyon Oak Way
Recommended Action: Conduct the first reading of Ordinance No. 16-2147: "An ordinance of the City Council of the City of Cupertino amending section 11.27.145 of the Cupertino Municipal Code relating to designation of preferential parking zones" on Canyon Oak Way on Saturdays, Sundays and holidays between the hours of 7 a.m. and 4 p.m.

City Clerk Grace Schmidt read the title of the ordinance.

Keith Hocker and Jennifer Griffin spoke on this item.

Wong moved and Sinks seconded to read Ordinance No. 16-2147 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Chang, Vaidhyathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

24. Subject: Propose amendments to the Policy and Procedures Manual for Administering Deed-Restricted Affordable Housing Units (the BMR Manual). The proposed changes clarify and expand procedures and requirements for (1) Section 2.2 on Conflict of Interest to exclude from purchase or rent of any BMR unit any City or consultant employees and officials who have policy-making authority or influence regarding City housing programs, participate in making decisions regarding City housing programs, administer City housing programs, or whose salary is paid in any part from a City housing program; and (2) Section 5.0 on the Appeal Process to streamline the process and to ensure that an appeal can be concluded before a BMR unit is sold
Recommended Action: Adopt Resolution No. 16-084 amending the Policy and Procedures Manual for Administering Deed-Restricted Affordable Housing Units (Below Market Rate (BMR) Manual)

Written communications for this item included a staff PowerPoint presentation.

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

Outside Counsel Barbara Kautz answered questions from staff.

Sinks moved and Wong seconded to adopt Resolution No. 16-084 amending the Policy and Procedures Manual for Administering Deed-Restricted Affordable Housing Units (Below Market Rate (BMR) Manual) with direction to staff to populate the tables in the manual and give that information to Council via Items of Interest, and bring information back to Council regarding preferences for teachers and other public employees after the Housing Commission meeting on August 11.

Wong withdrew his second and the motion died for lack of a second.

Paul moved and Wong seconded to adopt Resolution No. 16-084 with a modification that Council will select the hearing officer on final appeal.

Paul withdrew his motion.

Sinks moved and Vaidhyanathan seconded to adopt Resolution No. 16-084 with a modification to have a professional hearing officer chosen at the City's discretion and monitored by the City Attorney's Office to be the final arbiter.

The motion failed with Chang, Paul, and Wong voting no and Vaidhyanathan and Sinks voting yes.

Final motion: Wong moved and Paul seconded to adopt Resolution No. 16-084 amending the Policy and Procedures Manual for Administering Deed-Restricted Affordable Housing Units (Below Market Rate (BMR) Manual) with modification regarding two levels of appeal (first level Executive Director of West Valley Community Services (WVCS) and/or Director of Community Development and second level City Council. Council provided additional direction to staff to populate the income tables in the manual and give that information to Council via Items of Interest, and bring information back to Council regarding preferences for teachers and other public employees after the Housing Commission meeting on August 11. The motion carried with Vaidhyanathan voting no. Vaidhyanathan said she voted no because she believes that the privacy of the residents is of utmost importance.

25. Subject: Authorization to create a review procedure including guidelines and related Zoning ordinance amendment to allow for the creation of Single-Story Overlay District in the Single-Family Residential (R-1) Zones and a budget amendment.
Recommended Action: Authorize: 1. Staff to develop a process for the review and processing of requests for Single-Story Overlay Districts in Single-Family Residential (R-1) Zones (including guidelines and related Zoning Ordinance amendment); and 2. Budget amendment for \$10,000

Assistant City Manager Aarti Shrivastava reviewed the staff report.

The following individuals spoke on this item:

Lisa Warren

Mrs. Miller

Jan Kucera

Jennifer Griffin

Wong moved and Sinks seconded to authorize staff to develop a process for the review and processing of requests for Single-Story Overlay Districts in Single-Family Residential (R-1) Zones (including guidelines and related Zoning Ordinance

amendment) and do a Budget amendment for \$10,000. The motion carried with Vaidhyanathan abstaining.

REPORTS BY COUNCIL AND STAFF

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

Two Council members asked that staff research and bring a resolution to Council regarding banning clear-cutting of forests.

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

ADJOURNMENT

At 10:40 p.m., Mayor Chang adjourned the meeting.

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. 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. 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.