



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location.

Tuesday, April 21, 2020

6:15 PM

Non-televised Closed Session (6:15) and Televised Regular Meeting Open Session (6:45)

TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION TO HELP STOP THE SPREAD OF COVID-19

In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location to help stop the spread of COVID-19.

Members of the public wishing to observe the meeting may do so in one of the following ways:

- 1) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.**
- 2) The meeting will also be streamed live on and online at www.Cupertino.org/youtube and www.Cupertino.org/webcast**

1) E-mail comments for the closed session or open session by 5:00 p.m. on Tuesday, April 21 to the Council at citycouncil@cupertino.org. These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.

2) E-mail comments for the closed session or open session during the times for public comment during the meeting to the City Clerk at cityclerk@cupertino.org. The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking.

3) Teleconferencing Instructions

CLOSED SESSION

Members of the public may provide oral public comments in open session prior to the closed session teleconference meeting as follows:

To address the City Council, click on the link below to register in advance and access the meeting:

Online

Please click the link below to join the webinar:

<https://cityofcupertino.zoom.us/j/7427039002>

Phone

Dial 888 788 0099 and enter Meeting ID: 742 703 9002 (Type *9 to raise hand to speak)

Unregistered participants will be called on by the last four digits of their phone number.

OPEN SESSION

Members of the public may provide oral public comments during the open session teleconference meeting as follows:

Oral public comments will be accepted during the open session teleconference meeting. Comments may be made during “oral communications” for matters not on the agenda, and during the public comment period for each agenda item.

To address the City Council, click on the link below to register in advance and access the meeting:

Online

Please click the link below to join the webinar:

https://cityofcupertino.zoom.us/webinar/register/WN_PVs22CLrRjm0Ncz4isdtUA

Phone

Dial 888 788 0099 and enter Webinar ID: 929-1101-8235 (Type *9 to raise hand to speak)

Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

Meeting ID: 929 1101 8235

SIP: 92911018235@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.
2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter "Cupertino Resident" or similar designation.
3. When the Mayor calls for the item on which you wish to speak, click on "raise hand." Speakers will be notified shortly before they are called to speak.
4. When called, please limit your remarks to the time allotted and the specific agenda topic.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

ROLL CALL - 6:15 PM

CLOSED SESSION

1. Subject: Conference with Legal Counsel - Anticipated Litigation; (Government Code Section 54956.9(d)); Possible Initiation of Litigation (Government Code Section 54956.9(d)(4)) (1 matter).

RECESS

OPEN SESSION

PLEDGE OF ALLEGIANCE - 6:45 PM

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

POSTPONEMENTS

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the Council on any matter within the jurisdiction of the Council and not on the agenda. The total time for Oral Communications will ordinarily be limited to one hour. Individual speakers are limited to three (3) minutes. As necessary, the Chair may further limit the time allowed to individual speakers, or reschedule remaining comments to the end of the meeting on a first come first heard basis, with priority given to students. In most cases, State law will prohibit the Council from discussing or making any decisions with respect to a matter not listed on the agenda.

REPORTS BY COUNCIL AND STAFF (10 minutes)

2. Subject: City Manager update on COVID-19 response efforts
Recommended Action: Receive City Manager update on COVID-19 response efforts
3. Subject: Report on Homeless
Recommended Action: Receive the Report on Homeless
4. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

CONSENT CALENDAR

Unless there are separate discussions and/or actions requested by council, staff or a member of the public, it is requested that items under the Consent Calendar be acted on simultaneously.

5. Subject: Approve the March 31 City Council minutes.
Recommended Action: Approve the March 31 City Council minutes.
[A - Draft Minutes](#)
6. Subject: Approve the April 7 City Council minutes
Recommended Action: Approve the April 7 City Council minutes
[A - Draft Minutes](#)
7. Subject: Proclaiming May 2020 as “Keep it Clean Santa Clara County” Month
Recommended Action: Proclaim May 2020 as “Keep it Clean Santa Clara County” Month

SECOND READING OF ORDINANCES

8. Subject: Second reading of a Development Agreement for a new 155-room 7-story hotel (24-hour operations) with underground parking, event meeting rooms, a ground floor restaurant with separate bar and a rooftop lounge with separate bar by demolishing a commercial building with an area of 8,323 sq. ft. (Application No: DA-2018-01; Applicant(s): John Vidovich (De Anza Properties); Location: 10931 N De Anza Blvd.; APN #326-10-061)
- Recommended Action: That the City Council conduct a second reading and enact Ordinance No. 20-2195: "An Ordinance of the City Council of the City of Cupertino Approving a Development Agreement for the Development of a New 7-Story, 155 Room Hotel and Associated Site and Landscaping Improvements Located at 10931 N. De Anza Blvd. (APN #326-10-061)"
- [Staff Report](#)
[A – Draft Ordinance No. 20-2195 – Development Agreement between the City and Northwest Properties LP](#)

PUBLIC HEARINGS

9. Subject: Consider an appeal of the Planning Commission's approval of a Minor Residential Permit to allow a second-story balcony. (Application: RM-2017-39; Applicant: Francis Kun (Tsai residence); Project Location: 21865 San Fernando Avenue; A.P.N.: 357-15-043; Appellant(s): Shayjan Huang and Eric and Cindy Fang)
- Recommended Action: That the City Council Adopt Resolution No. 20-036 denying the appeal and upholding the Planning Commission's decision to approve the application, in accordance with the draft resolution (see Attachment A).
- [Staff Report](#)
[A - Draft Resolution approving RM-2017-39](#)
[B - Planning Commission Resolution No. 6887 \(R-2017-33\)](#)
[C - Planning Commission Resolution No. 6888 \(RM-2017-39\)](#)
[D - Approved Plan Set](#)
[E - Appellant Letter and Supplemental Documents](#)
10. Subject: Fiscal Year (FY) 2020-21 Fee Schedule Update
- Recommended Action: Adopt Resolution No. 20-037 Amending Below Market Rate Housing Mitigation Fees to adopt fee categories and amounts for self-storage and warehouse uses; and,
Adopt Resolution No. 20-038 adopting FY 2020-21 Fee Schedules A, B, C, D, and E

[Staff Report](#)[A - FY2020-21 Fee Schedule A - General Fees \(Clean\)](#)[B - FY2020-21 Fee Schedule A - General Fees \(Redline\)](#)[C - FY2020-21 Fee Schedule B - Engineering Fees \(Clean\)](#)[D - FY2020-21 Fee Schedule B - Engineering Fees \(Redline\)](#)[E - FY2020-21 Fee Schedule C - Planning Fees \(Clean\)](#)[F - FY2020-21 Fee Schedule C - Planning Fees \(Redline\)](#)[G - FY2020-21 Fee Schedule D - Building Fees \(Clean\)](#)[H - FY2020-21 Fee Schedule D - Building Fees \(Redline\)](#)[I - FY2020-21 Fee Schedule E - Recreation \(Clean\)](#)[J - FY2020-21 Fee Schedule E - Recreation \(Redline\)](#)[K - Supplement to the Non-Residential Jobs-Housing Nexus Study prepared by Keyser Marsten](#)[Associates](#)[L - User Fee Study 2016](#)[M - Draft Resolution \(07.01.2020\)](#)[N - Draft Resolution - BMR Housing Mitigation Fees](#)**ORDINANCES AND ACTION ITEMS**

11. Subject: Authorization to execute a Fourth Amendment to Franchise Agreement including provisions to pursue sole negotiations for a new Franchise Agreement for solid waste collection services with Recology Cupertino; and, if negotiations are unsuccessful, an 18-month extension with a 5% increase on all rates effective February 1, 2021 and a 5% increase on all rates effective February 1, 2022 in order to allow time to identify another solid waste collector.

Recommended Action: 1. Authorization of the City Manager to execute a Fourth Amendment to Franchise Agreement with Recology Cupertino for solid waste collection services (Attachment A) with provisions including:

- 1) Pursue negotiation of a new 10-year agreement with Recology Cupertino; and
- 2) If negotiations are unsuccessful or are not completed by the end of the current Franchise Agreement term on January 31, 2021, an eighteen (18) month extension to the Franchise Agreement with no changes in service with a 5% special maximum rate adjustment effective February 1, 2021 followed by a second 5% special maximum rate adjustment effective February 1, 2022; and
2. Adopt Franchise Negotiations Communications Protocol (Attachment B); and
3. Adopt Resolution No. 20-039, a resolution to negotiate a new Franchise Agreement and define a bridge term that includes a special maximum rate adjustment (Attachment C).

Staff ReportA - Recology Fourth Amendment to Franchise Agmt (signed by Recology)B - Franchise Negotiations Communications ProtocolC - Draft ResolutionD - Current Franchise Agreement with first three amendmentsE - Recology Letter regarding intention to Negotiate Dated January 29, 2020F - City of Cupertino letter to Recology regarding Intention to Negotiate dated March 25, 2020G - HF&H Summary of Findings Dated April 14, 2020**ORAL COMMUNICATIONS - CONTINUED (As necessary)****COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS****ADJOURNMENT**

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/cityclerk> for a reconsideration petition form.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, during normal business hours and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.

IMPORTANT NOTICE: *Please be advised that pursuant to Cupertino Municipal Code 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agenda item. These written communications are accessible to the public through the City's website and kept in packet archives. You are hereby admonished not to include any personal or private information in written communications to the City that you do not wish to make public; doing so shall constitute a waiver of any privacy rights*

you may have on the information provided to the City.