



**DRAFT MINUTES  
CUPERTINO CITY COUNCIL  
Tuesday, August 17, 2021**

**REGULAR MEETING**

At 6:45 p.m. Vice Mayor Liang Chao called the Regular City Council meeting to order. This was a teleconference meeting with no physical location.

**ROLL CALL**

Present: Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: Mayor Darcy Paul. All Councilmembers teleconferenced for the meeting.

**CEREMONIAL MATTERS AND PRESENTATIONS**

1. Subject: Presentation from the Santa Clara Valley Urban Forestry Alliance on raising awareness to protect and expand the urban tree canopy for our region  
Recommended Action: Receive presentation from the Santa Clara Valley Urban Forestry Alliance on raising awareness to protect and expand the urban tree canopy for our region

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

Olivia Rodriguez gave a presentation on behalf of the Santa Clara Valley Urban Forestry Alliance.

Councilmembers asked questions and made comments.

Vice Mayor Chao opened the public comment period and the following people spoke.

Housing Commissioner Connie Cunningham (representing self) supported the importance of the urban forest and trees for providing habitat and food for birds.

Jill Halloran supported rich urban tree canopies in cities which serve as bird habitats, and for traffic calming, ambient temperature reduction, and boosting home values.

Vice Mayor Chao closed the public comment period.

Council received the presentation from the Santa Clara Valley Urban Forestry Alliance on raising awareness to protect and expand the urban tree canopy for our region.

2. Subject: Presentation on online resources for the public to participate in the legislative process  
Recommended Action: Receive presentation on online resources for the public to participate in the legislative process

Written communications for this item included a presentation.

Consultant Casey Elliott with Townsend Public Affairs gave a presentation.

Councilmembers asked questions and made comments.

Vice Mayor Chao opened the public comment period and the following people spoke.

Jennifer Griffin supported the presentation and was concerned about impacts to the legislative process in the event of the Governor's recall.

Vice Mayor Chao closed the public comment period.

Council received the presentation on online resources for the public to participate in the legislative process.

3. Subject: Proclamation Acknowledging Drought Conditions Regarding Local Water Conservation Efforts.  
Recommended Action: Present Proclamation Acknowledging Drought Conditions Regarding Local Water Conservation Efforts.

Director of Public Works Roger Lee received the proclamation.

Vice Mayor Chao presented the proclamation acknowledging drought conditions regarding local water conservation efforts.

## **POSTPONEMENTS AND ORDERS OF THE DAY**

4. Subject: Consider approval of a Vesting Tentative Map to replace a previously approved Vesting Tentative Map (TM-2018-03) for the Westport Cupertino development project to create a separate parcel for the age restricted senior below market rate building. City approval would be a Vesting Tentative Map; (Application No(s): TM-2021-002; Applicant(s): KT Urban (Mark Tersini); Location: 21267 Stevens Creek Boulevard; APN #326-27-042, -043 has been continued to September 7, 2021.

Consideration of approval of a Vesting Tentative Map to replace a previously approved Vesting Tentative Map (TM-2018-03) for the Westport Cupertino development project was continued to September 7, 2021 and will be re-noticed.

## ORAL COMMUNICATIONS

James Apffel supported the upcoming Bloom Energy Stars and Strides Charity Run to support frontline healthcare workers.

Jennifer Griffin was concerned about legislative housing bills SB9, SB10, and AB1401, streamlined and ministerial review processes, and loss of local control.

Call-In User\_1 was concerned about an unpermitted structure in her backyard that must be torn down and would like resolution with the City.

Rhoda Fry was concerned about a County notice of violation against Stevens Creek Quarry and Lehigh Cement's new operations of importing materials and selling unwashed rock.

Interim City Manager Greg Larson provided updates on Ms. Fry's previous concerns regarding Lehigh.

Peggy Griffin was concerned about a potential General Plan land use designation violation with the proposed Bateh Brothers residential development project. (Submitted written comments).

Anjali Kausar, on behalf of the Cupertino Chamber of Commerce, supported the upcoming STAR awards to recognizing people, organizations, and businesses.

Tushar was concerned that Chapter 10.48 of the City's Noise Control Ordinance doesn't factor distance between commercial and residential properties like other cities.

Jack Zhang and Rachel Jiang supported the Cupertino Bell Ringing for Peace Ceremony hosted by Cupertino-Toyokawa Sister Cities to commemorate 75 years of peace since the bombing of Hiroshima, Nagasaki, and Toyokawa.

#### **REPORTS BY COUNCIL AND STAFF (10 minutes)**

5. Subject: Brief reports on councilmember activities and brief announcements  
Recommended Action: Receive brief reports on councilmember activities and brief announcements

Council received brief reports on councilmember activities and brief announcements.

6. Subject: City Manager update on emergency response efforts  
Recommended Action: Receive City Manager update on emergency response efforts

Interim City Manager Greg Larson reported on COVID-19 case counts and averages, vaccination booster doses and rates, face covering requirements, and available City Hall services.

7. Subject: Report on Committee assignments  
Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

#### **CONSENT CALENDAR (Items 8-18)**

Willey moved and Moore seconded to approve the items on the Consent Calendar. Ayes: Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: Paul.

8. Subject: Approve the July 20 City Council minutes  
Recommended Action: Approve the July 20 City Council minutes

9. Subject: Approve the July 22 City Council minutes  
Recommended Action: Approve the July 22 City Council minutes

10. Subject: Approve the July 27 City Council minutes  
Recommended Action: Approve the July 27 City Council minutes

11. Subject: Consider Adopting a Resolution of Support for the Annexation of the Lawrence Expressway and Mitty Avenue Properties and Authorize the City Manager to Submit Documentation for Annexation.  
Recommended Action: 1) Adopt Resolution No. 21-072 Supporting the Annexation of Assessor Parcel Numbers (APN) 375-21-001 and 375-22-001, Located Along the Westerly Boundary of Lawrence Expressway and Mitty Avenue (Lawrence-Mitty) Properties into the City of Cupertino; and  
2) Authorize the City Manager to Submit to the Local Agency Formation Commission of Santa Clara County (LAFCO) Applications for Sphere of Influence (SOI) and UrbanService Area (USA) Amendments, and Detachment and Annexation of the Properties, and Execute All Documentation and Take All Steps Necessary to Complete the Annexation of the Lawrence-Mitty Properties.
12. Subject: Consider Adoption of a Resolution Accepting the 2021 Santa Clara County Multi-Jurisdictional Program for Public Information, a Program Under the Community Rating System of the Federal Emergency Management Agency's National Flood Insurance Program.  
Recommended Action: Adopt Resolution No. 21-073 Accepting the 2021 Santa Clara County Multi-Jurisdictional Program for Public Information, a Program Under the Community Rating System of the Federal Emergency Management Agency's National Flood Insurance Program.
13. Subject: Accept Accounts Payable for the period ending July 5, 2021  
Recommended Action: Adopt Resolution No. 21-074 accepting Accounts Payable for the period ending July 5, 2021
14. Subject: Accept Accounts Payable for the period ending July 12, 2021  
Recommended Action: Adopt Resolution No. 21-075 accepting Accounts Payable for the period ending July 12, 2021
15. Subject: Accept Accounts Payable for the period ending July 19, 2021  
Recommended Action: Adopt Resolution No. 21-076 accepting Accounts Payable for the period ending July 19, 2021
16. Subject: Accept Accounts Payable for the period ending July 26, 2021  
Recommended Action: Adopt Resolution No. 21-077 accepting Accounts Payable for the period ending July 26, 2021

17. Subject: Consider approving Resolution No. 21-XXX and Budget Modification #2122-159 increasing Compensated Absences Internal Service Fund appropriations (641-44-420) by \$240,000.  
Recommended Action: Consider approving Resolution No. 21-078 and Budget Modification #2122-159 increasing Compensated Absences Internal Service Fund appropriations (641-44-420) by \$240,000.
18. Subject: Accept Treasurer's Investment Report for period ending June 30, 2021  
Recommended Action: Accept Treasurer's Investment Report for period ending June 30, 2021

## SECOND READING OF ORDINANCES – None

## PUBLIC HEARINGS - None

## ORDINANCES AND ACTION ITEMS

19. Subject: Consideration of a Professional Services Agreement for Plan Check Services for the Westport Cupertino Project  
Recommended Action: That City Council consider authorizing the City Manager to sign a Professional Services Agreement with ICCI and NV5 to provide plan check services for the proposed Westport Cupertino project in the amount not-to-exceed \$300,000 and, consider approving Budget Modification #2122-161 increasing appropriations by \$300,000 and increasing revenues by \$461,000 in the Community Development Department's Building Division (100-73-714)

Written Communications for this item included a staff presentation.

Director of Community Development Ben Fu introduced the item.

Assistant Director of Community Development/Building Official Albert Salvador gave a presentation.

Councilmembers asked questions and made comments.

Vice Mayor Chao opened the public comment period and the following people spoke.

Peggy Griffin was concerned that the draft contract did not include a scope of work and only one contract was provided for two different companies.

Vice Mayor Chao closed the public comment period.

Moore moved and Willey seconded to table and continue consideration of a Professional Services Agreement for Plan Check Services for the Westport Cupertino Project item until September 7. The motion carried unanimously with Paul absent.

Council also directed staff to provide additional information requested by Councilmembers when the item comes back for approval.

20. Subject: Consider modifications to the Procedures for Processing General Plan Amendment Applications to implement the Fiscal Year 2020/21 City Work Program items related to quality of life. (Application No. CP-2020-003; Applicant: City of Cupertino; Location: City-Wide). (Tabled on February 2, 2021).

Recommended Action: That the City Council consider and potentially adopt Resolution No 21-079 (Attachment A) to:

- 1) Find the action exempt from CEQA; and
- 2) Amend the Procedures for Processing of General Plan Amendment Applications

Written Communications for this item included a staff presentation.

Director of Community Development Ben Fu introduced the item.

Senior Planner Erick Serrano gave a presentation.

Councilmembers asked questions and made comments.

Vice Mayor Chao opened the public comment period and the following people spoke.

Lisa Warren was concerned about using the term “community benefits/amenities” and supported compiling a prioritized list of items that community members agree on.

Peggy Griffin supported removing “community amenities,” modifications to “Backgrounds/Goals” and Attachment B Redlines, and detailed postcard mailers.

Jennifer Griffin supported postcard mailers, Planning Commission review, and reworking “community amenities.”

Vice Mayor Chao closed the public comment period.

Council consented to table consideration of modifications to the Procedures for Processing General Plan Amendment Applications to implement the Fiscal Year 2020/21 City Work Program items related to quality of life to a future meeting date; and directed staff to make further refinements to Council's direction from February 2, 2021.

21. Subject: Consideration of an Urgency Ordinance of the Cupertino City Council extending authorization of outdoor operations of qualifying establishments (restaurants, wineries, breweries, and bars) pursuant to a Special Temporary Outdoor Dining Permit Recommended Action: 1. Find that the proposed actions are exempt from CEQA; and, 2. Conduct the one and only reading and enact Urgency Ordinance No. 21-2229: "An urgency ordinance of the City Council of the City of Cupertino authorizing the outdoor operations of qualifying establishments (restaurants, wineries, breweries, and bars) pursuant to a special temporary outdoor dining permit."

Written Communications for this item included a staff presentation.

Director of Community Development Ben Fu introduced the item.

Associate Planner Jeff Tsumura gave a presentation.

Councilmembers asked questions and made comments.

Vice Mayor Chao opened the public comment period and the following people spoke.

Anjali Kauser, on behalf of the Cupertino Chamber of Commerce, supported approval of the Urgency Ordinance.

Jennifer Griffin asked about the rules regarding outdoor alcohol service and was concerned that minors would find a way to obtain alcohol.

Vice Mayor Chao closed the public comment period.

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2229: "An urgency ordinance of the City Council of the City of Cupertino authorizing the outdoor operations of qualifying establishments (restaurants, wineries, breweries, and bars) pursuant to a special temporary outdoor dining permit."



Moore moved and Wei seconded to 1. Find that the proposed actions are exempt from CEQA; 2. That Ordinance No. 21-2229 be read by title only and that the City Clerk's reading constitute the only reading thereof; and 3. That Ordinance No. 21-2229 be enacted. Ayes: Moore, Wei, Willey, and Chao Noes: None. Abstain: None. Absent: Paul.

**ORAL COMMUNICATIONS - CONTINUED (As necessary) – None**

**COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS**

Added a new work program item to review the Parks and Recreation field usage rules for cricket games and bring back a future update for Council (Wei/Moore).

**ADJOURNMENT**

At 10:30 p.m., Vice Mayor Chao adjourned the meeting.

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Kirsten Squarcia, City Clerk