



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

10350 Torre Avenue, Council Chamber

Tuesday, November 1, 2016

6:45 PM

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Recognize student artists for participating in phase 2 of the Citywide “Energized by Art” Utility Box Pilot Project
Recommended Action: Present proclamations
2. Subject: Presentation regarding Platinum Level Beacon Spotlight Award for Energy and Best Practices given to Cupertino from Institute of Local Government
Recommended Action: Receive presentation regarding Platinum Level Beacon Spotlight Award for Energy and Best Practices given to Cupertino from Institute of Local Government

POSTPONEMENTS

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the council on any matter not on the agenda. Speakers are limited to three (3) minutes. In most cases, State law will prohibit the council from making any decisions with respect to a matter not listed on the agenda.

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.

3. Subject: Approve the October 18 City Council minutes
Recommended Action: Approve the October 18 City Council minutes
[A - Draft Minutes](#)

4. Subject: Amend interview dates to Monday and Tuesday, January 30 and 31 for commissions with terms expiring January 30, 2017 beginning at 5:00 p.m.
Recommended Action: Amend interview dates to Monday and Tuesday, January 30 and 31 for commissions with terms expiring January 30, 2017 beginning at 5:00 p.m.
[Staff Report](#)
[A - Amended Appointments List and Notice of Commission Terms Expiri](#)
5. Subject: Approve the First amendment of the Employment Contract for the City Attorney and Appointed Employee's Compensation Program.
Recommended Action: 1. Adopt Resolution No. 16-111 approving the First Amendment to the Employment Contract for the City Attorney.
2. Adopt Resolution No. 16-112 approving Amendment to the Appointed Employee's Compensation Program.
[Staff Report](#)
[A - Draft Resolution Amending Employment Contract](#)
[B - Employment Contract for City Attorney](#)
[C - Redlined Employment Contract for City Attorney](#)
[D - Draft Resolution Amending Appointed Employees' Compensation Prc](#)
[E - Appointed Employees' Compensation Program](#)
[F - Redlined Appointed Employees' Compensation Program](#)
6. Subject: Approve the Fourth amendment of the Employment Contract for the City Manager and Appointed Employees' Compensation Program.
Recommended Action: 1. Adopt Resolution No. 16-113 approving the Fourth Amendment to the Employment Contract for the City Manager; and 2. Adopt Resolution No. 16-114 amending the Appointed Employees' Compensation Program
[Staff Report](#)
[A - Draft Resolution Amending Employment Contract](#)
[B - Employment Contract for City Manager](#)
[C - Redlined Employment Contract for City Manager](#)
[D - Draft Resolution Amending Appointed Employees' Compensation Prc](#)
[E - Appointed Employees' Compensation Program](#)
[F - Redlined Appointed Employees' Compensation Program](#)
7. Subject: New contracts and contract amendments for professional building department services for Apple Campus 2

Recommended Action: 1) Authorize the City Manager to:

- a. Execute Agreement with West Coast Code Consultants, Inc. for professional building department services at Apple Campus 2 for a total amount not to exceed \$821,720.00; and
 - b. Execute Agreement with CSG Consultants, Inc. for plan review services at Apple Campus 2 for a total amount not to exceed \$1,120,000.00; and
 - c. Execute the Second Amendment to Agreement 14-028 with 4LEAF, Inc. for Apple Campus 2 Phase 1 building inspection services and public works inspection services to increase the previously authorized contract amount by \$4,761,376.00 for a total amount not to exceed \$15,126,478.00; and
 - d. Execute the First Amendment to Agreement 15-146 with 4LEAF, Inc. for Apple Campus 2 Phase 2 building inspection services to increase the previously authorized contract amount by \$567,531.00 for a total amount not to exceed \$914,787.00; and
- 2) Authorize the City Manager to execute contract amendments to the extent that the costs are recovered from the project applicant

[Staff Report](#)

[A - Draft Agreement – WC3 for Apple Campus 2, 10-13-2016](#)

[B - Draft Agreement – CSG for Apple Campus 2, 10-20-2016](#)

[C - Draft Second Amendment – 4LEAF for Apple Campus 2, 10-20-2016](#)

[D - Draft First Amendment – 4LEAF for Apple Campus 2, 10-20-2016](#)

SECOND READING OF ORDINANCES

8. Subject: Second Reading of an ordinance to repeal and replace Cupertino Municipal Code Chapter 16.52 regarding prevention of flood damage for properties within the City

Recommended Action: Conduct the second reading and enact Ordinance No. 16-2154: "An Ordinance of the City Council of the City of Cupertino to repeal and replace Cupertino Municipal Code Chapter 16.52 regarding prevention of flood damage for properties within the City"

[Staff Report](#)

[A - Draft Ordinance](#)

[B - Existing Ordinance](#)

[C - FEMA Letter](#)

PUBLIC HEARINGS

9. Subject: Appeal of Kimberly Sandstrom Appeal Regarding Eligibility to Purchase Below Market Rate (BMR) Unit (Continued from October 4)

Recommended Action: Approve Resolution No. 16-101 regarding the appeal of Ms. Kimberly Sandstrom and affirming the recommendation of the Housing Commission regarding the eligibility of Ms. Sandstrom to purchase a BMR unit

[Staff Report](#)[A- Summary of Conflict of Interest Investigation](#)[B- Draft Resolution](#)[C- Housing Commission Resolution 16-06](#)[D- Excerpts from BMR Manual Regarding Income Calculation](#)[E- Referenced Regulations \(24 CFR 5.609\(b\) and \(c\)\)](#)[F- Technical Guide for Determining Income](#)[G- Attachments and Other Documents Provided by Appellant](#)[H - Sandstrom presentation](#)

10. **Subject:** Amendment to Title 16, Buildings and Construction, of the Cupertino Municipal Code adopting the California Buildings Standards Code and Fire Code and making local exceptions as mandated by the State of California.

Recommended Action: 1. Conduct the first reading of Ordinance No. 16-2155: an “Ordinance of the City Council of the City of Cupertino Amending Chapters 16.02, 16.04, 16.06, 16.16, 16.24, 16.40, 16.54, 16.58, and 16.80 Repealing Chapter 16.42 of Title 16 of the Cupertino Municipal Code adopting the 2016 California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Historical, Fire, Existing Building Code, Green Building Standards Codes with Certain Exceptions, Modifications, and Additions”; and

2. Adopt Resolution No. 16-115 making factual findings with respect to the local geological, topographical, and climatic conditions necessary to make local amendments to the California Building Standards Code.

[Staff Report](#)[A - Draft Ordinance - Chapter 16 Bldg and Fire Code](#)[B - Draft - Resolution for Findings and Justification.docx](#)

11. **Subject:** Extension of the moratorium on the establishment, expansion, or relocation of payday lending and check cashing businesses within the City of Cupertino and the introduction of an ordinance amending Chapter 19.08, Definitions, of the Municipal Code to add definitions of “financial institutions” and “banks” that expressly exclude payday lending and check cashing businesses with the intent to disallow such uses from operating with the City of Cupertino. Application No(s): MCA-2016-04; Applicant(s): City of Cupertino; Location: Citywide

Recommended Action: 1. Enact Ordinance No. 16-2156: “An Interim Urgency Ordinance of the City Council of the City of Cupertino extending a Temporary Moratorium on the establishment, expansion, or relocation of payday lending and check cashing businesses within the City of Cupertino pending completion of an update to the City’s Zoning Code.”

2. Conduct the first reading of Ordinance No. 16-2157: “An Ordinance of the City Council of the City of Cupertino Amending the Cupertino Municipal Code, Title 19, Zoning, Section 19.08.030, entitled “Definitions” to add the definition of “financial institutions” and “banks” to expressly exclude payday lending and check cashing businesses with the intent to disallow such uses from operating with the City of Cupertino”

[Staff Report](#)

[A - Draft Interim Urgency Ordinance No. 16-2156](#)

[B - Draft Ordinance No. 16-2157](#)

[C - Coalition Against Payday Predators Letter \(March 2016\)](#)

[D - Interim Urgency Ordinance No. 16-2152](#)

[E - Planning Commission Resolution No. 6818](#)

[F - Letter of Support from CAPP \(October 2016\)](#)

ORDINANCES AND ACTION ITEMS

REPORTS BY COUNCIL AND STAFF

12. Subject: Report on Committee assignments and general comments

Recommended Action: Report on Committee assignments and general comments

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/index.aspx?page=125> for a reconsideration petition form.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend the next 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, 48 hours in advance of the Council meeting to arrange for assistance. 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. Also upon request, in advance, an assistive listening device can be made available for use during the meeting.

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.

Members of the public are entitled to address the City Council concerning any item that is described in the notice or agenda for this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in front of the Council, and deliver it to the Clerk prior to discussion of the item. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item not on the agenda, you may do so by during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.