



# CITY OF CUPERTINO

## AGENDA

### CITY COUNCIL

10350 Torre Avenue, Council Chamber

Tuesday, November 5, 2019

6:45 PM

#### PLEDGE OF ALLEGIANCE

#### ROLL CALL

#### CEREMONIAL MATTERS AND PRESENTATIONS

- Subject: Presentation from Toyokawa Sister City delegation regarding recent student exchange  
Recommended Action: Receive presentation from Toyokawa Sister City delegation regarding recent student exchange
- Subject: Fine Arts Commission presentation of the 2019 Distinguished and Emerging Artist Winners.  
Recommended Action: Receive Fine Arts Commission presentation of the 2019 Distinguished and Emerging Artist Winners.
- Subject: Presentation on pedestrian safety by Divergent Debuggers First Lego League robotics team.  
Recommended Action: Receive presentation on pedestrian safety by Divergent Debuggers First Lego League robotics team.

#### POSTPONEMENTS

#### ORAL COMMUNICATIONS

*This portion of the meeting is reserved for persons wishing to address the Council on any matter 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)

- 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 October 15 City Council minutes  
Recommended Action: Approve the October 15 City Council minutes  
[A - Draft Minutes](#)
  
6. Subject: Mitigation Fee Act - Annual & Five-Year Report - Fiscal Year 2018-2019  
Recommended Action: 1) Accept the Annual & Five-Year Review of the City of Cupertino's Development Impact Fees (Government Code Section 55000 et seq.); and 2) Adopt Resolution No. 19-132 entitled "A Resolution of the Cupertino City Council Approving the Annual & Five-Year Development Impact Fee Report for FY Ending June 30, 2019 and Making Required Findings."  
[Staff Report](#)  
[A - Annual and Five-Year Report for the fiscal year ending June 30, 2019](#)  
[B - Draft Resolution](#)
  
7. Subject: Adopt Resolution No. 19-133 to accept the September 30, 2019 Carmen Road Pedestrian/Bicycle Bridge Feasibility Study Report. No authorization for design, construction or budget action requested at this time.  
Recommended Action: Adopt Resolution No. 19-133 to accept the September 30, 2019 Carmen Road Pedestrian/Bicycle Bridge Feasibility Study Report.  
[Staff Report](#)  
[A - Carmen Road Pedestrian Bicycle Bridge Final Feasibility Study Report 9-30-19](#)  
[B - Draft Resolution](#)  
[C - Pre-qualified List of Consultants](#)

## SECOND READING OF ORDINANCES

8. Subject: An Ordinance amending Title 16, Buildings and Construction, of the Cupertino Municipal Code adopting the 2019 California Building Standards Code as mandated by the State of California with certain exceptions, deletions, modifications, additions, and amendments.

Recommended Action: Staff recommends that the City Council conduct the second reading to enact Ordinance No. 19-2189: “An Ordinance of the City Council of the City of Cupertino Amending City Code Chapters 16.02, 16.04, 16.06, 16.16, 16.20, 16.24, 16.40, 16.54, and 16.58 and Adding Chapters 16.62, 16.64, and 16.68 of Title 16 of the Cupertino Municipal Code adopting the 2019 California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Fire, Historical Building Code, Existing Building Code, Referenced Standards Code, and Green Building Standards Code with certain exceptions, deletions, modifications, additions and amendments,” (the “Ordinance”), attached as Attachment A.

[Staff Report](#)

[A - Draft Ordinance](#)

[B - Redline Version Showing Corrections](#)

[C - Adopted Resolution for Findings](#)

[D - Public Handout of Code Updates](#)

## PUBLIC HEARINGS

9. Subject: Consideration of Municipal Code Amendments to the Cupertino Municipal Code, Title 5, adopting new policies regulating the sale of tobacco, such as requiring a local permit to sell tobacco products, prohibiting the sale of flavored tobacco, prohibiting new businesses from selling tobacco near schools and reducing tobacco retailer density, prohibiting tobacco sales at pharmacies and in vending machines, and limiting storefront signage.

Recommended Action: 1. Conduct the first reading of Ordinance No. 19-2190: “An ordinance of the City Council of the City of Cupertino adding chapter 5.50 to title 5 (Business Licenses and Regulations) to regulate the sale of tobacco products and repealing chapter 10.27 of the Municipal Code (Cigarette and/or Tobacco Vending Machines)”;

2. Authorize the City Manager to negotiate and enter into a Memorandum of Understanding (MOU) with the County of Santa Clara to administer, implement, and enforce Cupertino’s ordinance; and

3. Find that the proposed actions are exempt from CEQA.

[Staff Report](#)

[A - Tobacco Free Communities Policies Santa Clara County](#)

[B - Healthy Cities Program 2018 Cupertino Dashboard](#)

[C - American Lung Association Report Card](#)

[D - Letter to Cupertino City Council from FUHSD](#)

[E - FUHSD Resolution 1819-21](#)

[F - Matrix of 35 Local Ordinances Restricting Flavored Tobacco](#)

[G - Healthy Stores for a Healthy Community 2016 Survey](#)

[I - Draft Ordinance to Regulate the Sale of Tobacco Products](#)

[H - Tough Questions on Flavored Tobacco Products](#)

[J - 8.6.19 Study Session Staff Report](#)

[K - Survey Responses](#)

**ORDINANCES AND ACTION ITEMS**

10. Subject: Consider whether to authorize the formal submission and processing of a General Plan Amendment application to allow 29 units where four (4) units are currently allowed on an 86-acre hillside property, on the west side of the City adjacent to Linda Vista Park, with an average slope of ~48% which would require General Plan Amendments to change the existing General Plan Land Use Designation. (Application No.(s): GPAAAuth-2019-01; Applicant: Lixin Chen; Location: APN(s): 356-27-026, 356-05-007, 356-05-008.

Recommended Action: Determine if the proposed project described in General Plan Amendment Authorization application (GPAAAuth-2019-01) is authorized to proceed to apply for the requested General Plan Amendments. If authorized, adopt Resolution No. 19-134 authorizing a perspective development proposal described in the Canyon View Project General Plan Amendment Authorization application, No: GPAAAuth-2019-01, to proceed with a General Plan Amendment application.

[Staff Report](#)

[A - Draft Resolution](#)

[B - City Council Policy for General Plan Amendment Application Procedures](#)

[C - Project Plans](#)

[D - Project Description](#)

[E - Fiscal Analysis of the Canyon View GPA Application, prepared by EPS](#)

**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/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.*

*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.*

*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.*