



# CITY OF CUPERTINO

## AGENDA

### CITY COUNCIL

10350 Torre Avenue, Council Chamber

Tuesday, February 4, 2020

6:45 PM

#### PLEDGE OF ALLEGIANCE

#### ROLL CALL

#### CEREMONIAL MATTERS AND PRESENTATIONS

- Subject: Presentation by Cupertino High School seniors on "What the youth would like to see in Vallco."  
Recommended Action: Receive presentation by Cupertino High School seniors "What the youth would like to see in Vallco."
- Subject: Certificates of recognition for the 2019 STEM Winners from Cupertino who participated in the Santa Clara County 2019 Synopsys Championship  
Recommended Action: Present certificates of recognition to the 2019 STEM Winners from Cupertino who participated in the Santa Clara County 2019 Synopsys Championship
- Subject: Proclamation to Human Resources Manager Maria Delgado-Jimenez upon her retirement and recognizing her thirty-five years of dedicated service to the City of Cupertino.  
Recommended Action: Present proclamation to Human Resources Manager Maria Delgado-Jimenez upon her retirement and recognizing her thirty-five years of dedicated service to the City of Cupertino.

#### 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)**

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 January 21 City Council minutes  
Recommended Action: Approve the January 21 City Council minutes  
[A - Draft Minutes](#)
6. Subject: Award of Construction Inspection Services, Plan Review Services, and Public Works Inspection Services contracts for the Vallco Town Center SB 35 project  
Recommended Action: 1 - Authorize the City Manager to award a 3-year contract to 4LEAF, Inc., to provide Construction Inspection Services and Public Works Inspection Services for a not to exceed contact price of \$7,407,710 for the Vallco SB35 project;  
2 - Authorize the City Manager to award a 3-year contract to CSG Consultants, Inc., for a not to exceed contract price of \$1,150,000 for plan review services for the Vallco SB35 project;  
3 - Authorize the City Manager to award a 3-year contract to Independent Code Consulting, Inc., for a not to exceed contract price of \$13,500,000 for plan review services for the Vallco SB35 project  
[Staff Report](#)  
[A - 4LEAF, Inc. contract](#)  
[B - Independent Code Consultants, Inc. contract](#)  
[C - CSG Consultants, Inc. contract](#)
7. Subject: Planning Commission's recommendation to select Kitty Moore as the Environmental Review Committee representative  
Recommended Action: Accept the Planning Commission's recommendation to the Environmental Review Committee  
[Staff Report](#)
8. Subject: Consider entering into a funding agreement with Santa Clara Valley Transportation Authority (VTA) to allow the City of Cupertino to receive 2016 Measure B funds for expenditure on bicycle and pedestrian educational programs within the City that qualify under the 2016 Measure B Bicycle & Pedestrian Education and Encouragement Program

Recommended Action: Authorize the City Manager to enter into a funding agreement with Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bicycle & Pedestrian Education and Encouragement Program

[Staff Report](#)

[A - Draft Funding Agreement](#)

## SECOND READING OF ORDINANCES

9. Subject: Second reading of an Ordinance Repealing Ordinance No. 006 Regarding Adoption of Robert's Rules of Order and Amending Chapter 2.08 of the Cupertino Municipal Code Accordingly.

Recommended Action: Conduct the second reading and enact Ordinance No. 20-2196: "An Ordinance of the City Council of the City of Cupertino Repealing Ordinance No. 006 Regarding Adoption of Robert's Rules of Order and Amending Chapter 2.08 of the Cupertino Municipal Code Accordingly."

[A - Draft Ordinance Repealing Ord No. 006 Regarding Robert's Rules of Order and Amending Ch 2.08 of the Cupertino Municipal Code](#)

## PUBLIC HEARINGS

10. Subject: Relative to Recology Cupertino's Franchise Agreement with the City:
- 1) Termination of the residential on-call, curbside Household Hazardous Waste (HHW) program, termination of collection of the HHW fee, refund of fees collected since January 2019, and establishment of an annual assessment of costs against Recology Cupertino (Recology) in an annual, not to exceed amount of \$93,535; and
  - 2) Authorizaion of Recology's request for a Special Maximum Rate Adjustment of an additional \$2.24 per month for residential customers in single-family homes and a rate increase of 3.93% for all other categories of Service Recipients to cover the increased cost of mixed recycling processing as a result of disruption and volatility of overseas recycling commodity markets for the period of October 2018 through January 31, 2021 (Special Maximum Rate Adjustment effective beginning January 1, 2020); and
  - 3) Authorization to execute Franchise Agreement amendment for same.

Recommended Action: Staff recommends that the City Council approve the following:

- 1) Termination of the residential on-call curbside HHW program stipulated in the Franchise Agreement, as amended, Section 4.17; and
- 2) Termination of collection of the HHW fee retroactive to January 1, 2019, with direction for Recology to administer full credits for any fee collected after such date from single and multi-family Cupertino rate payers within no more than thirty calendar days; and
- 3) Approve and direct Recology to annually pay the City for its costs related to termination of the curbside HHW program not to exceed an annual amount of \$93,535 retroactive to January 1, 2019 and through the remainder of the term of the Franchise Agreement; and
- 4) Authorize a Special Maximum Rate Adjustment of an additional \$2.24/per month for residential customers in single-family homes and an increase of 3.93% for all other categories of Service Recipients pursuant to Section 12.3 of the Franchise Agreement to cover the increased cost of mixed recycling processing for the period October 2018 through January 31, 2021 (rate adjustment beginning January 1, 2020 and continuing through January 31, 2021, which is the remainder of the term of the current Agreement); and
- 5) Adopt Resolution No. 20-013 to Authorize the City Manager to execute the Third Amendment to the Franchise Agreement with Recology Cupertino, implementing the above (Attachment B).

[Staff Report](#)

[A - Draft Resolution](#)

[B - Recology Third Amendment to Franchise Agreement](#)

[C - Recology Rate Adjustment Letter 1-28-2020](#)

11. Subject: First reading of Municipal Code Amendments to the Cupertino Municipal Code, repealing and replacing Cupertino Municipal Code Chapter 5.50 of Title 5 (Business Licenses and Regulations), adopting new policies to regulate the sale of tobacco, such as prohibiting the sale or distribution of electronic cigarette products, extending the look-back period for permit suspensions from 24 months to 60 months, requiring a minimum age for individuals selling tobacco products, and amending the administrative appeal process for permit violations.

Recommended Action: 1. Conduct the first reading of Ordinance No. 20-2197: "An Ordinance of the City Council of the City of Cupertino repealing and replacing Chapter 5.50 of Title 5 (Business Licenses and Regulations) to regulate the sale of tobacco products"

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

[Staff Report](#)

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

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

[C - Survey Results](#)

[D - Community Feedback](#)

[E - Tobacco Free Communities Chart Policies in Santa Clara County](#)

## ORDINANCES AND ACTION ITEMS

12. **Subject:** Municipal Code Amendment to Cupertino Municipal Code Section 2.20.010 to remove the City Clerk's duty to attend each closed session of the City Council and keep closed session minutes; designate the City Manager as the City employee/official to attend each closed session of the City Council and keep closed session minutes.

**Recommended Action:** 1. Conduct the first reading of Ordinance No. 20-2198: "An Ordinance of the City Council of the City of Cupertino amending City Code Section 2.20.010 (Recordkeeping Duties-Closed Sessions) of Chapter 2.20 (City Clerk) to Title 2 (Administration and Personnel) to remove the City Clerk's duty to attend City Council closed sessions and keep minutes."

2. Adopt Resolution No. 20-014 "A Resolution of the Cupertino City Council designating the City Manager as the City employee/officer to attend City Council closed sessions and keep minutes."

[Staff Report](#)

[A - Draft Ordinance](#)

[B - Draft Resolution](#)

13. **Subject:** Hearing regarding abatement of public nuisance from weeds or other fire hazards pursuant to provisions of Cupertino Municipal Code Chapter 9.08 and Resolution No. 19-141; hearing for impacted property owners to contest the matter of proposed abatement (continued from January 21, 2020)

**Recommended Action:** Adopt Resolution No. 20-010 ordering abatement of public nuisance from weeds or other fire hazards pursuant to provisions of Cupertino Municipal Code Chapter 9.08 and Resolution No. 19-141; and conduct hearing for impacted property owners to contest the matter of proposed abatement.

[Staff Report](#)

[A - Draft Resolution and Exhibit A](#)

[B - Weed Abatement Program Commencement Report \(Exhibit A\)](#)

[C - Letter to Property Owners to Abate Weeds](#)

[D - Hearing Notice to Destroy Weeds and Program Fees](#)

[E - Minimum Fire Safety Standards Program Brochure](#)

[F - Return Reply Form \(RRF\) Sample](#)

[G - Approved Resolution No. 19-141](#)

[H - 10408 Menhart Lane 2018-19 photos](#)

## 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 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.*