

April 30, 2019 Cupertino City Council meeting:

Good evening, Mayor Scharf and Councilmembers:

My name is Jean Bedord and I live in Cupertino. I am here to urge you to examine the behavior of Planning Commission Chair, R “Ray” Wang, and to take appropriate disciplinary action, up to and including his removal from the Planning Commission.

I attended the Commission’s meeting on April 23, expecting a professionally run session with knowledgeable discussion. I was floored when Chairman Wang made a motion that could have led to enormous legal liability for the city, including general damages and, among other things, penalties from \$24 million to \$120 million for violating the Housing Accountability Act in connection to the Vallco SB35 project. Chairman Ray Wang described these sums as a “small price to pay”.

As a resident and a taxpayer, I can’t say that \$24 million—let alone \$120—is any kind of “small price to pay.” I can’t imagine any reasonable steward of Cupertino’s public trust disagreeing. \$24 million would build a library expansion, bike trails and park improvements...all of which would benefit the residents. I don’t want Ray Wang spending taxpayer money--my money, OUR money—on housing penalties.

Bad publicity already besets this city. We have acquired, fairly or unfairly, an image as the anti-housing city. Already, Chairman Wang’s comments are drawing negative attention to Cupertino in the press and on social media; namely, that Cupertino would rather incur massive fines than build much-needed housing. His comments inquiring into whether SB 35 applied to a non-housing site, his apparent confusion about subdivision maps, coupled with Vice-Chair Vikram Saxena’s query about what a subdivision even is, do not instill public confidence that the members you most recently appointed to the commission are competent.

As managers, all of us have made hiring mistakes. I urge council to accept ownership of this mistake and to take immediate remedial action.

I am attaching a copy of the transcript of the incident from the planning commission meeting, and request that it be placed in the public record for this meeting.

“Planning Commission Chair calls on city to rescind SB 35 approval of Vallco”

<https://cupertinotoday.com/2019/04/25/planning-commission-chair-calls-on-city-to-rescind-sb-35-approval-of-vallco/>

Here is the video of the relevant conversation:



Cupertino Planning Commission Meeting - April 23...

Live coverage of the Cupertino Planning Commission Meeting from the Cupertino Community Hall.

youtube.com

6:36 PM - 25 Apr 2019

Comm. Wang: My motion is, we should look at to see if it's okay, right? Alright, so maybe I should make two motions. [...] And number two is, so we know there's a problem over there, and we might not trust the tests that have been done—let's do another test! And not do anything else on that property until we get those results. Okay, those are two motions that I'm thinking about suggesting—I haven't made the motion—and that's for part of the discussion. [...]

City Attorney Petta: If I may, this may be the appropriate time to mention another consideration with regards to the second proposed motion, [...] If the commission were to recommend to the council and the council would, on its recommendation, act to impose a blanket moratorium on development permits—were they building or demolition permits that are ministerial permits subject to certain timelines in the code—the city could be subjected to high mitigation risk. So that should be taken into consideration before passing any such motion.

Comm. Wang: Small price to pay, but yes.

Comm. Fung: This actually, the Housing Accountability Act terms, this is that \$10,000 per unit penalty.

Comm. Wang: I understand, I understand.

Comm. Saxena: Could you elaborate more on what penalty this is?

City Attorney Petta: Well in fact I was just referring to a general damages claim that could be brought by the developer, but Commissioner Fung may be correct, and I'd have to look at the law for SB 35 to determine which penalty that is.

Comm. Saxena: Commissioner Fung, what was the penalty you were referring to?

Comm. Fung: In the 2017 new housing bills, the Housing Accountability Act was modified so that denial of a qualified streamlined project would carry a large penalty. That penalty was a minimum of \$10,000 per unit.

Comm. Wang: Yeah.