

From: [Lisa Warren](#)
To: [City of Cupertino Planning Commission](#); [Beth Ebben](#)
Subject: Re: Oral Communications Slides and Comment for PLANNING COMMISSION MTG Tues Oct 27 ,2020
Date: Tuesday, October 27, 2020 5:15:26 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

All,

The email I sent (below) had attachment too large for the city clerk to receive.

I will send THE "SLIDES" again in multiple emails.

You should have them in time for oral communications,

Thanks you.

Lisa Warren

On Tuesday, October 27, 2020, 05:11:21 PM PDT, Lisa Warren <la-warren@att.net> wrote:

Planning Commission Chair, Vice Chair and Members,

Please see attached information that has recently been provided as a response to a public records request .

I am requesting that all eight (8) pages be entered into the record for this evening's PC mtg
I am also requesting that the city clerk read this message and display the accounting pages as well as the 5 check images.

I further request that the same 8 pages be posted on the city of Cupertino's website under the Vallco SB35 Project title.

The community has continued to be mislead by certain residents who repeatedly publish erroneous information claiming that the Friends of Better Cupertino lawsuit (and name Kitty Moore) filed against the City of Cupertino has resulted in over \$240,000.00 of tax payer money being 'spent' on the lawsuit.

These same community members continue to dispute the facts.

The attached details and images were provided by the city and should serve to support those who have been saying 'all along' that the city was protected by an indemnification clause written in to the Development Agreement (DA) years ago.

Each of the 5 current Cupertino city council candidate was provided with the same information yesterday., directly by city staff.

Thank you.

Lisa Warren

Friends of Better Cupertino v City of Cupertino (SB35) 18CV330190 – Attorneys’ Fees

In response to your public records request for “Valico SB 35 attorney fees,” the City of Cupertino is providing this list of all legal costs associated with Friends of Better Cupertino, et al. v. City of Cupertino, et al., Santa Clara Superior Court Case No.

18CV330190 (“Lawsuit”). Within this document you will find the monthly invoice amount and date broken down by law firm. Below are the total amounts spent on all legal costs associated with the Lawsuit broken down by year.

2018: \$ 91,365.23

2019: \$138,984.46

2020: \$ 11,032.70

Please note that prior to August 2019, the City had in-house City Attorneys. While the bulk of the work for the above-named lawsuit was performed by outside consulting attorneys, the City Attorneys also likely contributed on these projects. We are unable to determine what portion of the City Attorneys’ time was dedicated to this litigation. Instead, we are providing the total office salary for all City Attorneys’ from the years 2018 to 2019 below.

2018: \$495,436.66

2019: \$168,124.86

Law firm:	Monthly Charge:	Date:
Wendel Rosen		
	\$11,220.00	06/30/2018
	\$ 5,207.47	07/31/2018
	\$ 740.68	08/31/2018
	\$ 3,035.39	09/30/2018
	\$ 4,467.40	10/31/2018
	\$30,197.17	11/30/2018
	\$36,497.12	12/31/2018
	\$18,122.95	01/31/2019
	\$19,140.10	02/28/2019
	\$ 7,058.05	03/31/2019
	\$ 3,344.90	04/30/2019
	\$18,530.00	05/31/2019
	\$ 5,278.75	06/30/2019
	\$ 1,484.80	07/31/2019
	\$ 1,782.50	08/31/2019
	\$ 552.50	09/30/2019
	\$ 2,372.50	10/31/2019
	\$ 1,657.50	11/04/2019
	\$ 382.50	11/30/2019
Total legal fees: \$171,072.28		

Law firm:	Monthly Charge:	Date:
Shute Mihaly & Weinberger		
	\$ 4,612.50	06/26/2019
	\$ 8,296.02	07/22/2019
	\$ 8,971.09	08/29/2019
	\$22,319.70	09/26/2019
	\$ 5,080.75	10/28/2019
	\$ 4,943.01	11/29/2019
	\$ 1,591.24	12/31/2019
	\$ 3,463.10	01/31/2020
	\$ 55.00	02/28/2020
	\$ 220.00	04/29/2020
	\$ 4.20	05/29/2020
	\$ 9,680.00	06/30/2020
	\$ 1,073.50	08/14/2020

Total legal fees: \$70,310.11

DO NOT ACCEPT THIS CHECK UNLESS YOU CAN SEE AN ARTIFICIAL WATERMARK THAT APPEARS ON BACK OF CHECK WHEN HELD AT ANGLE. VERIFY AUTHENTICITY BY RUBBING RED "LS" LOGO BELOW.

VALLCO PROPERTY OWNER, LLC

965 Page Mill Road
Palo Alto, CA 94304

JP MORGAN CHASE BANK, N.A.
3981 ALEMANY BOULEVARD
SAN FRANCISCO, CA 94132

3180

06-13

**** FORTY FOUR THOUSAND THREE HUNDRED TWENTY ONE AND 10/100 DOLLARS

TO THE
ORDER OF

05/21/2019

\$44,321.10**

CITY OF CUPERTINO
10300 TORRE AVENUE
CUPERTINO, CA 95014

(ATTN: OFFICE OF THE CITY ATTORNEY)

[Signature]

[Signature]

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DATE: 05/21/2019 CK#: 3180 TOTAL: \$44,321.10** BANK: PosPay-JPM Checking (vlcprock)
PAYEE: CITY OF CUPERTINO(coc)

Job(Prop)	Categ(Acct)	Invoice - Date	Description	Amount
vlco-600(vlc_lpro)		FBC V COC V-SB35-WR JAN WR	INV#2000176958 (1/31/19) -CITY'S	18,122.95
vlco-600(vlc_lpro)		FBC V COC V-SB35-WR JAN WR	INV#2000178033 (2/28/19) -CITY'S	19,140.10
vlco-600(vlc_lpro)		FBC V COC-V SB35 WR-MAR WR	INV#2000179358 (3/31/19)-CITY LEG	7,058.05
				44,321.10

VALLCO PROPERTY OWNER, LLC965 Page Mill Road
Palo Alto, CA 94304JP MORGAN CHASE BANK, N.A.
3981 ALEMANY BOULEVARD
SAN FRANCISCO, CA 94132

3202

06-13

**** SIXTY SIX THOUSAND SIX HUNDRED NINETY FOUR AND 29/100 DOLLARS

TO THE
ORDER OF

06/07/2019

\$66,694.29**

CITY OF CUPERTINO
10300 TORRE AVENUE
CUPERTINO, CA 95014

(DTN: OFFICE OF THE CITY ATTORNEY)

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Ink DisappearsDATE:06/07/2019 CK#:3202 TOTAL:\$66,694.29** BANK:PosPay JPM Checking(vlcprock)
PAYEE:CITY OF CUPERTINO(coc)

Job(Prop)	Categ(Acct)	Invoice - Date	Description	Amount
vlco-600(vlc_lpro)			FBC V CITY V SB35 WR NO WR INV#2000175189-NOV2018-CITY LEGAL	30,197.17
vlco-600(vlc_lpro)			FBC V CITY V SB35 WR NO WR INV#2000176494-DEC2018-CITY LEGAL	36,497.12
				66,694.29

RECEIVED**JUN 12 2019****City Attorney's Office**

DO NOT ACCEPT THIS CHECK UNLESS YOU CAN SEE AN ARTIFICIAL WATERMARK THAT APPEARS ON BACK OF CHECK WHEN HELD AT ANGLE. VERIFY AUTHENTICITY BY RUBBING RED "LS" LOGO BELOW.

VALLCO PROPERTY OWNER, LLC

965 Page Mill Road
Palo Alto, CA 94304

JP MORGAN CHASE BANK, N.A.
3981 ALEMANY BOULEVARD
SAN FRANCISCO, CA 94132

3605

06-13

**** SEVENTEEN THOUSAND ONE HUNDRED SIXTY EIGHT AND 15/100 DOLLARS

TO THE
ORDER OF

12/23/2019

\$17,168.15**

CITY OF CUPERTINO
10300 TORRE AVENUE
CUPERTINO, CA 95014

ATTN: ARACELI ALEJANDRE
CITY ATTORNEY'S OFFICE

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LS
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DATE:12/23/2019 CK#:3605 TOTAL:\$17,168.15** BANK:PosPay JPM Checking(vlcprock)
PAYEE:CITY OF CUPERTINO(coc)

Job(Prop)	Categ(Acct)	Invoice - Date	Description	Amount
vlco-600(vlc_1pro)		WENDEL ROSEN-VALLCO(JUN WR-INV#2000169350 6/30/18	LEGAL FEE	11,220.00
vlco-600(vlc_1pro)		WENDEL ROSEN-VALLCO(JUN WR-INV#2000170940 7/31/18	LEGAL FEE	5,207.47
vlco-600(vlc_1pro)		WENDEL ROSEN-VALLCO(JUN WR-INV#2000171638 8/31/18	LEGAL FEE	740.68
				17,168.15

RECEIVED

JAN -3 2020

City Attorney's Office

RECEIVED

JAN -3 2020

City Attorney's Office

(REIMBURSEMENT OF LEGAL COUNSEL EXPENSE)

DO NOT ACCEPT THIS CHECK UNLESS YOU CAN SEE AN ARTIFICIAL WATERMARK THAT APPEARS ON BACK OF CHECK WHEN HELD AT ANGLE. VERIFY AUTHENTICITY BY RUBBING RED "LS" LOGO BELOW.

VALLCO PROPERTY OWNER, LLC

965 Page Mill Road
Palo Alto, CA 94304

JP MORGAN CHASE BANK, N.A.
3981 ALEMANY BOULEVARD
SAN FRANCISCO, CA 94132

3658

06-13

**** SEVENTY EIGHT THOUSAND FIVE HUNDRED TWENTY EIGHT AND 51/100 DOLLARS

TO THE
ORDER OF

01/28/2020

\$78,528.51**

CITY OF CUPERTINO
10300 TORRE AVENUE
CUPERTINO, CA 95014

ATTN: ARACELI ALEJANDRE
LEGAL SR MGR - CITY ATTORNEY'S OFFICE

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DATE:01/28/2020 CK#:3658 TOTAL:\$78,528.51** BANK:PosPay JPM Checking(vlcprock)
PAYEE:CITY OF CUPERTINO(coc)

Job(Prop)	Categ(Acct)	Invoice - Date	Description	Amount
vlco-600(vlc_lpro)			(FBC V COC-VSB35 WR(4-9) Legal Fee : FBC v COC in Yr 2019)	78,528.51
			Reimbursement - Legal Fee	78,528.51

VALLCO PROPERTY OWNER, LLC

965 Page Mill Road
Palo Alto, CA 94304

JP MORGAN CHASE BANK, N.A.
3981 ALEMANY BOULEVARD
SAN FRANCISCO, CA 94132

3762

06-13

**** FOURTEEN THOUSAND FOUR HUNDRED NINE AND 85/100 DOLLARS

TO THE
ORDER OF

03/25/2020

\$14,409.85**

CITY OF CUPERTINO
10300 TORRE AVENUE
CUPERTINO, CA 95014

(ATTN: ATTORNEY'S OFFICE)






DATE:03/25/2020 CK#:3762 TOTAL:\$14,409.85** BANK:PosPay JPM Checking(vlcprock)
PAYEE:CITY OF CUPERTINO(coc)

Job(Prop)	Categ(Acct)	Invoice - Date	Description	Amount
vlco-600(vlc_1pro)		FBC V COC-V SB35 SMW-NO SMW # 262198	11/29/19 -CITY'S LEGAL	4,943.01
vlco-600(vlc_1pro)		FBC V COC (SB35) SMW -D SMW # 262489	(12/31/2019) -CITY'S LE	1,591.24
vlco-600(vlc_1pro)		FBC V COC (SB35)-SMW-JA SMW # 262565	(1/31/2020) -CITY'S LEG	3,463.10
vlco-600(vlc_1pro)		FBC V COC (SB35)-WR-OCT WENDEL ROSEN # 2000187792	(10/31/201	2,372.50
vlco-600(vlc_1pro)		FBC V COC (SB35)-WR JUL WENDEL ROSEN # 2000188018	(11/4/19)-	1,657.50
vlco-600(vlc_1pro)		FBC V COC (SB35)-WR-NOV WENDEL ROSEN # 2000188610	(11/30/19)-	382.50
				14,409.85

From: [Connie Cunningham](#)
To: [City of Cupertino Planning Commission](#)
Subject: 10/27/2020, Agenda Item 4 Dark Sky and Bird-Safe Design
Date: Monday, October 26, 2020 10:19:56 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Planning Commission 10/27/2020; Agenda Item 4, Municipal Code Amendments to adopt ... items related to Dark Sky and Bird-Safe Design (continued from August 11, 2020 meeting).

Dear Chair, Co-Chair, and Commissioners:

I am writing to support the City's implementation of Dark Sky and Bird-Safe Design municipal ordinances. These changes will not only protect the birds in our City that bring joy and life to residents, but will, also, protect all humans (a.k.a. residents) since light pollution is detrimental to us as well as wildlife. I have over 30 photos of birds in my neighborhood alone that live and raise their families among us. Enclosed are just a few.

As a resident who enjoys birds and birdwatching, I share with many residents the desire to protect wildlife since they cannot protect themselves from human impacts.

I urge you to take the recommended actions 1) Find that the action is exempt from ECQA and, 2.) Amend the Municipal Code as specified in the report.

Sincerely,

Connie L Cunningham
Resident 33 years
Member, SCV Audubon Society

Black Phoebe



Western Bluebird



Spotted Towhee



Chestnut-backed Chickadee



House Finches, female and male



Yellow-Rumped Warbler



From: [Sanjay Chikarmane](#)
To: [City of Cupertino Planning Commission](#)
Subject: Dark Sky and Bird Safe Design recommendations
Date: Monday, October 26, 2020 7:01:45 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chair Moore and Commissioners Fung, Wang, Saxena, and Takahashi

As a Cupertino resident and someone that would like to see the City conserve our environment and its flora and fauna, please recommend to City Council the adoption of Staff recommendations for Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design.

Thank you,
Sanjay Chikarmane

From: [Peg Albrets](#)
To: [City of Cupertino Planning Commission](#)
Subject: Dark Sky and Birds
Date: Tuesday, October 27, 2020 8:08:29 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

good morning.....my husband and I are long-time Cupertino residents, as well as birders and members of the Silicon Valley Audubon Society. Please ask that the city council adopt recommendations for Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design.

thank you!

Peg

From: [Lisa Karpinski](#)
To: [City of Cupertino Planning Commission](#)
Subject: Glass glazing and lighting regulations that will help protect our Dark Sky and Birds in Cupertino
Date: Monday, October 26, 2020 10:10:02 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chair Moore and commissioners Fung, Wang, Saxena and Takahashi,

I have lived in Sunnyvale for 58 years and have watched the bird population decrease and artificial light pollution increase significantly. It is estimated that hundreds of thousands of migratory birds collide with windows every year. In our region, many of the loveliest birds are frequent victims: Rufus, Allen's and Anna's hummingbirds, Cedar waxwings, American robins, Yellow-rumped warblers, crowned sparrows, Ruby-crowned kinglet, and many more. I am very encouraged by the possibility of Cupertino requiring new and retrofitted buildings in certain areas to incorporate protections for birds. I am also very concerned about the effects of artificial light at night, which interferes with biological functions in all living beings. It affects sleep and growth in humans and has been shown to cause mood disorders and cancer. In birds, it interferes with migration patterns in time and in space, breeding and nesting.

I appreciate your consideration in these matters.

Sincerely,

Lisa Karpinski

lisakarpinski@gmail.com

(408) 726-7868

www.lisakarpinski.com

From: [Connie Cunningham](#)
To: [City of Cupertino Planning Commission](#)
Subject: Oct 27, 2020 Planning Commission, Agenda Item 4, photos to show with Connie Cunningham's comment
Date: Tuesday, October 27, 2020 7:12:05 PM

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From: [Shani Kleinhaus](#)
To: [City of Cupertino Planning Commission](#)
Cc: [Dashiell Leeds](#); [James Eggers](#); [Matthew Dodder](#)
Subject: October 27th Agenda Item 4: Dark Sky and Bird-Safe Design Regulations
Date: Tuesday, October 27, 2020 1:32:36 PM
Attachments: [20201027_CupertinoPC_BSD_DS.pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chair Moore and Cupertino Planning Commissioners

The Santa Clara Valley Audubon Society and the Sierra Club Loma Prieta Chapter and strongly support Staff recommendations for Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design.

Please find our letter attached.

Respectfully,

Shani

From: [Shani Kleinhaus](#)
To: [City of Cupertino Planning Commission](#)
Cc: [Dashiell Leeds](#); [James Eggers](#); [Matthew Dodder](#)
Subject: October 27th Agenda Item 4: Dark Sky and Bird-Safe Design Regulations
Date: Tuesday, October 27, 2020 1:32:36 PM
Attachments: [20201027_CupertinoPC_BSD_DS.pdf](#)

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Dear Chair Moore and Cupertino Planning Commissioners

The Santa Clara Valley Audubon Society and the Sierra Club Loma Prieta Chapter and strongly support Staff recommendations for Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design.

Please find our letter attached.

Respectfully,

Shani



October 27, 2020

Cupertino Planning Commission
City of Cupertino
10300 Torre Ave.
Cupertino, CA 94014

Re: October 27th Agenda Item 4: Dark Sky and Bird-Safe Design Regulations

Dear Chairperson Moore and Planning Commissioners,

The Santa Clara Valley Audubon Society and the Sierra Club Loma Prieta Chapter and strongly support Staff recommendations for Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design.

Bird Safety

It is estimated that over a billion birds are killed by human impacts every year. Window strikes are one of the primary factors contributing to the carnage, and bird numbers and populations are declining. Indeed, in the past 48 years, North America has lost 29% of its birds. In Cupertino, many of the loveliest birds are frequent victims: Rufus, Allen's and Anna's hummingbirds, Cedar waxwings, American robins, Yellow-rumped warblers, crowned sparrows, Ruby-crowned kinglet, and others. At night, we've even recorded reports of owls striking lit windows as they tried to fly through the glass.

Saving our birds will also benefit our community. Studies have shown that exposure to healthy ecosystems has a variety of positive physical and mental health benefits for humans, particularly for developing children. In recent months, as people are restricted to their homes, more and more people have told us how they took comfort in their backyards, watching and listening to birds. The bird feeders at the Audubon store at McClellan Ranch are selling at an unprecedented rate! .

Artificial Light at Night

LED lighting has transformed our nights. As energy efficient and inexpensive lighting became accessible, light pollution has become ubiquitous, pervasive and

inescapable. We lost our view of the stars, and the impact extends to our health and the health of our ecosystems, because artificial light at night - especially blue wavelength - interferes with biological functions in all living beings. It affects growth, physical and mental health in humans and has been shown to cause mood disorders and cancer. In birds and fish, it interferes with migration patterns in time and in space, breeding activities and success. Because migratory birds fly at night, and are often attracted to light, artificial light at night attracts them to areas where they are likely to collide with buildings. Artificial light at night is also implicated as one of the primary drivers of the "insect apocalypse" which is depriving our landscapes from pollinators and beauty. The list of harmful effects is long and frightening.

Cupertino Staff provides a sincere and effective way to reduce the harmful effects of glass and lighting. We find Staff responses to the questions and concerns raised by the Planning Commission well researched and reasonable. The proposed ordinances allow flexibility in implementation of both glazing for bird safety and lighting Regulations to allow a range of solutions that afford a range of costs.

We urge you to support our community and our ecosystems by recommending that City Council adopt the proposed glazing and lighting regulations.

Sincerely,

Shani Kleinhaus,
Environmental Advocate,
Santa Clara Valley Audubon Society

Dashiell Leeds,
Conservation Assistant,
Sierra Club Loma Prieta Chapter

From: [Stacie Wolny](#)
To: [City of Cupertino Planning Commission](#)
Subject: Yes to Dark skies!
Date: Sunday, October 25, 2020 10:05:56 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino Planning Commission -

I am very pleased to hear that you are considering an ordinance requiring Bird-Safe Design techniques and Dark Sky practices to prevent bird deaths and reduce light pollution, and I strongly support such measures. Having moved to the suburbs a few years ago from a more rural place, I am shocked at the amount of light pollution that people choose to make, and that we allow as a community.

Light pollution disrupts the natural circadian rhythms of humans and other living beings, increasing a variety of health risks. For the other species who are trying to live with us, light pollution disturbs foraging and migration patterns and can cause birds to collide with structures and die from exhaustion. On an economic front, it costs money to keep those bright lights going all night (while increasing our CO2 production). And it keeps every single one of us from seeing the stars at night!

So I encourage you to support Dark Sky and Bird-Safe design practices at all levels throughout Cupertino, from government buildings to private dwelling requirements. Light pollution negatively affects us all.

Thank you!

~ Stacie Wolny