



**DRAFT MINUTES
CUPERTINO CITY COUNCIL**

Tuesday, June 21, 2016

REGULAR CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

At 6:50 p.m. Vice Mayor Savita Vaidhyanathan called the Regular City Council meeting to order in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue and led the Pledge of Allegiance.

ROLL CALL

Present: Vice Mayor Savita Vaidhyanathan, and Council members Darcy Paul, Rod Sinks and Gilbert Wong. Absent: Mayor Barry Chang.

Vice Mayor Vaidhyanathan reported out from the Closed Session of May 25 regarding:

Subject: Conference with Labor Negotiators pursuant to Government Code Section 54957.6; Agency designated representatives: City Manager, Director of Administrative Services and Dania Torres Wong; Employee organizations: Operating Engineers Local No. 3 Union; Cupertino Employees' Association; Unrepresented (Management and Confidential) Employees' Compensation Program.

She reported that Council gave direction.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Commendations to Monta Vista neighborhood residents, recognizing their community spirit and engagement, for providing landscaping services to a disadvantaged homeowner.
Recommended Action: Present commendations

Vice Mayor Vaidhyanathan presented the commendations to the following individuals on behalf of the Monta Vista neighborhood residents:

Eileen Carey
Rich Williams (and kids)
Lisa Itatani
Jane Welch & Husband
Jean Bedord
Anu Murthy
Mike Lyon

POSTPONEMENTS

2. Subject: Agenda Item No. 17 Brush abatement for public nuisance and potential fire hazard
Recommended Action: Remove the item from the agenda since any parcels on the list have complied

Wong moved and Sinks seconded to remove Item No. 17 from the agenda. The motion carried with Chang absent.

ORAL COMMUNICATIONS

Jon Willey talked about upcoming development projects and concerns with transportation and traffic. He distributed written comments.

Lisa Warren talked about the Vallco Town Center Specific Plan Initiative.

Ignatius Y. Ding talked about traffic issues with the proposed Vallco project.

Gary Latshaw on behalf of the Loma Prieta Chapter of Sierra Club Forest Protection Committee talked about a recommendation against banning clear-cutting of forests. He distributed written comments.

Rhoda Fry talked about meaningful air quality regulation.

CONSENT CALENDAR

Wong moved and Sinks seconded to approve the items on the Consent Calendar as presented with the exception of item numbers 6, 8, and 12a which were removed for discussion. Ayes: Vaidhyathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: Chang.

3. Subject: Approve the June 6 City Council minutes
Recommended Action: Approve the minutes
4. Subject: Accept the Final Report of the Classification Study, dated May 23, 2016
Recommended Action: 1. Accept the Report, approve title changes, re-classifications, new classifications and deleted classification effective July 1, 2016. 2. Adopt Resolution 16-064 Amending the Unrepresented Employees' Compensation Program and salary schedule. 3. Approve budget adjustments to the FY 2016-17 Final Budget as described in the fiscal impact section of this report.
5. Subject: Appointment of City of Cupertino representative to the Santa Clara County Valley Transportation Authority (VTA) Bicycle & Pedestrian Advisory Committee (BPAC)
Recommended Action: Accept the Bicycle Pedestrian Commission (BPC) recommendation to appoint Gary Jones to the VTA BPAC for a two-year term beginning July 1, 2016
6. Subject: Governor's By Right Housing Proposal
Recommended Action: Oppose the Governor's By-Right Housing proposal and authorize the Mayor to send letters of opposition to state legislative leaders along with our state delegation

Jennifer Griffin spoke on this item.

Sinks moved and Wong seconded to oppose the Governor's By-Right Housing proposal and authorize the Mayor to send letters of opposition to state legislative leaders along with our state delegation. The motion carried with Paul abstaining and Chang absent.

7. Subject: Approve the First Amendment to the lease agreement with Friends of Stevens Creek Trail for the period extending through June 30, 2017
Recommended Action: Authorize City Manager to amend the lease agreement with Friends of Stevens Creek Trail at McClellan Ranch preserve for the period extending through June 30, 2017
8. Subject: Approve the First Amendment to the Lease Agreement with Santa Clara Valley Audubon Society for the period extending through June 30, 2017

Recommended Action: Authorize City Manager to amend the lease agreement with Santa Clara Valley Audubon Society at McClellan Ranch Preserve for the period extending through June 30, 2017

Ralph Schardt, Executive Director for Santa Clara Valley Audubon Society spoke on this item.

Sinks moved and Wong seconded to authorize the City Manager to amend the lease agreement with Santa Clara Valley Audubon Society at McClellan Ranch Preserve for the period extending through June 30, 2017. The motion carried with Chang absent.

9. Subject: Application for Alcoholic Beverage License for Lans Garden Restaurant, 19634 Stevens Creek Boulevard
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the Application for Alcoholic Beverage License for Lans Garden Restaurant, 19634 Stevens Creek Boulevard
10. Subject: Application for Alcoholic Beverage License for Sizzling Gourmet, Inc., 19541 Richwood Drive
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the Application for Alcoholic Beverage License for Sizzling Gourmet, Inc., 19541 Richwood Drive
11. Subject: Application for Alcoholic Beverage License for WAC Kitchen, LLC (dba The Yard), 10235 S. De Anza Boulevard
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the Application for Alcoholic Beverage License for WAC Kitchen, LLC (dba The Yard), 10235 S. De Anza Boulevard
12. Subject: Application for Alcoholic Beverage License for CDUBB Restaurant Ventures, LLC (dba Coconut Fish Cafe), 20010 Stevens Creek Boulevard
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the Application for Alcoholic Beverage License for CDUBB Restaurant Ventures, LLC (dba Coconut Fish Cafe), 20010 Stevens Creek Boulevard
- 12a. Subject: Cancel the Special Meeting of July 6, and consider all items related to the Vallco Town Center Specific Plan Initiative, including the Elections Code Section 9212 report and whether to place the Initiative on the ballot, at the July 5, 2016 Meeting.

Recommended Action: Cancel the Special Meeting of July 6, and consider all items related to the Vallco Town Center Specific Plan Initiative, including the Elections Code Section 9212 report and whether to place the Initiative on the ballot, at the July 5, 2016 Meeting.

Jennifer Griffin spoke on this item.

Sinks moved and Vaidhyanathan seconded to cancel the Special Meeting of July 6, and consider all items related to the Vallco Town Center Specific Plan Initiative, including the Elections Code Section 9212 report and whether to place the Initiative on the ballot, at the July 5, 2016 Meeting. The motion carried with Chang absent.

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS

13. Subject: Development Permit to allow the demolition of a 342 unit apartment complex (The Hamptons) and the construction of a 942 unit apartment complex in a Planned Residential Zoning District, Environmental Analysis proposing adoption of a Mitigated Negative Declaration, Architectural and Site approval for the demolition of a 342 unit apartment complex (The Hamptons) and the construction of a new 942 unit apartment development on the same site with associated site and landscaping improvements, Use Permit to allow a bicycle hub and a separate bar facility within a club house located in a 942 unit apartment development, Tree Removal Permit to allow the removal and replacement of 277 trees in conjunction with the construction of a new apartment development, and Development Agreement for a new 942 apartment unit development in a Planned Residential Zoning District. Application No(s): DP-2015-04, EA-2015-03, ASA-2015-13, U-2015-05, TR-2015-21, DA-2015-01; Applicant(s): Carlene Matchniff (The Irvine Company/IAC at Cupertino LLC); Location: 19500 Pruneridge Avenue APN# 316-06-032, 316-06-037

Recommended Action: The Planning Commission recommends that the City Council

- A) Adopt Resolution No. 16-065 approving Development Permit DP-2015-04 and adopting a Mitigated Negative Declaration EA-2015-03; and
- B) Adopt Resolution No. 16-066 approving Architectural and Site Approval ASA-2015-13; and
- C) Adopt Resolution No. 16-067 approving Use Permit U-2015-05; and
- D) Adopt Resolution No. 16-068 approving Tree Removal Permit TR-2015-21; and

E) Conduct the first reading of Ordinance No. 16-2144: "An Ordinance of the Cupertino City Council approving a Development Agreement by and between the City of Cupertino and IAC at Cupertino LLC for the Hamptons project located at 19500 Pruneridge Avenue"

Written communications for this item included emails to Council, an amended Development Agreement (DA), a DA Relocation Obligation Summary and a staff PowerPoint presentation.

Senior Planner Catarina Kidd reviewed the staff report via a PowerPoint presentation.

Staff answered questions from Council.

Barbara Kautz with Goldfarb and Littman answered questions from Council.

Applicant Carlene Matchniff, Vice President: Entitlements & Public Affairs, Irvine Company talked about the Hamptons proposed development.

Applicant John Jenkins, Vice President: Architecture, Irvine Company also talked about the Hamptons proposed development.

Vice Mayor Vaidhyanathan opened the public hearing and the following individuals spoke making comments including: support for the project; project needs more modification; need dedicated parkland; no unbundled parking; need more BMR units; replace trees before removing others; make the units owner occupied rather than rental; need more parking; Santa Clara Unified School District will become overcrowded.

Amanda Montez, Senior Director for Housing and Community Development for Silicon Valley Leadership Group (distributed written comments)

Colin Heyne on behalf of Silicon Valley Bicycle Coalition

Steve Scharf

Kevin McClelland on behalf of Cupertino Chamber of Commerce

Jennifer Griffin

Liana Crabtree

Rhoda Fry

Darrel Lum on behalf of Concerned Citizens of Cupertino

Xiaowen Wang (distributed written comments)

Vice Mayor Vaidhyanathan closed the public hearing.

Staff and Gerald Ramiza from Burke, Williams & Sorensen, LLP answered questions from Council.

Wong moved and Sinks seconded to adopt Resolution No. 16-065 approving Development Permit DP-2015-04 and adopting a Mitigated Negative Declaration EA-2015-03. The motion carried with Chang absent.

Wong moved and Sinks seconded to adopt Resolution No. 16-066 approving Architectural and Site Approval ASA-2015-13. The motion carried with Chang absent.

Wong moved and Sinks seconded to adopt Resolution No. 16-067 approving Use Permit U-2015-05. The motion carried with Chang absent.

Wong moved and Sinks seconded to adopt Resolution No. 16-068 approving Tree Removal Permit TR-2015-21 with direction to have the City Arborist review tree transplant candidates and have staff check with County and Mid-Peninsula and similar organizations to see if they have programs to accept tree transplants. The motion carried with Chang absent.

City Clerk Grace Schmidt read the title of the ordinance.

Wong moved and Sinks seconded to read Ordinance No. 16-2144 by title only and that the City Clerk's reading would constitute the first reading thereof with an amendment to the allocation for BMR units as follows: 7 units for low income and 30 units for moderate income and direction to bring back the monetary difference at the second reading. Ayes: Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: Chang.

Council recessed from 9:40 p.m. to 9:45 p.m.

14. Subject: Petition for Reconsideration of the April 19, 2016 City Council decision to deny appeals of a Planning Commission decision to deny an appeal of a Director's approval of a Two-Story Permit (R-2015-08) to allow the construction of a new 5,140-square-foot single-family residence and a Minor Residential Permit (RM-2015-08) to allow a second story balcony on the new residence. (Application No. R-2015-08 and RM-2015-08; Applicant: WEC & Assoc. (Kingkay Capital, LLC); Petitioner(s): Jan Kucera Jr., and Matthew R. and Angela M.D. Miller; Location: 21900 Oakview Lane; APN: 326-19-105).

Council adopted Resolution No. 16-040, Denying the Appeal and upholding the Planning Commission's decision per Planning Commission Resolution No. 6798 and 6799 (Paul abstaining)

Recommended Action: 1. Adopt Resolution No. 16-069 denying the petition, which does not meet the requirements of Cupertino Municipal Code (CMC) Section 2.08.09

Written communications for this item included a staff PowerPoint presentation.

Assistant Planner Ellen Yau reviewed the staff report via a PowerPoint presentation.

Vice Mayor Vaidhyanathan opened the public hearing and the following individuals spoke:

Scott Hughes

Appellant Angela Miller

Appellant Jan Kucera

Owner Yi-Ning Lu

Vice Mayor Vaidhyanathan closed the public hearing.

Wong moved and Vaidhyanathan seconded to adopt Resolution No. 16-069 denying the petition, which does not meet the requirements of Cupertino Municipal Code (CMC) Section 2.08.09. The motion carried with Paul voting no and Chang absent.

ORDINANCES AND ACTION ITEMS

15. Subject: Receive the Joint Cities Coordinated Stevens Creek Trail Feasibility Study, the recommendation from the Joint Cities Working Team and Commission input

Recommended Action: Accept the Joint Cities Coordinated Stevens Creek Trail Feasibility Study; review the Joint Cities Working Team recommendations and Commission input; and provide direction regarding the recommendations and any desired actions

Written communications for this item included emails to Council, a petition signed by Cupertino residents, and a staff PowerPoint presentation.

Council member Wong recused himself from this item and the next item and left the dais.

Acting Director of Recreation and Community Services Christine Hanel introduced Park Restoration and Improvement Manager Gail Seeds. Ms. Seeds introduced consultant Jana Sokale from Sokale Environmental Planning who provided an overview of the project via a PowerPoint presentation.

The following individuals spoke on this item with comments including support for the Joint Cities Working Team (JCWT) recommendation; no bike trail through the neighborhoods; no new bridge over Highway 280; use current infrastructure (Don Burnett Bridge); trail should be safe and accessible.

Pat and Torian Oey

Glenn Lenker

Cassandra Lenker

Barry Bergman on behalf of Rails to Trails Conservancy

Richard Withers

Pat Dowd

Lynn Bonicelli

Colin Heyne on behalf of Silicon Valley Bicycle Coalition

Bill Rankin President of Save our Trails

Tom Schaefer

Michelle Hocker

Tina Ma on behalf of Oakdell Ranch neighbors (distributed petition submitted by Madera/Phar Lap neighborhood)

Ed Bloom

Judy Wilson

John Ennals

Jan Parcel

Ross Heirkamp on behalf of Friends of Stevens Creek Trail

Randall Bettman on behalf of Friends of Stevens Creek Trail

Tim Oey President of Friends of Stevens Creek Trail

Ben Stetson

David Fung

Bruce Euzent on behalf of Citizens for Responsible Trails (distributed written comments)

Simon Lee

Lillian Lee

Penny Osorio

Sue Lampkin

Jane Bloon

Angela Huang

Council recessed from 1:03 a.m. to 1:10 a.m.

The public hearing continued:

Craig Hofstetter

Steve Elich on behalf of Citizens for Responsible Trails

Lucie Honosutomo on behalf of Homestead Villa neighbors

Robin Seaman

Gerhard Eschelbeck

Rhoda Fry

Garth Williams

Elisabeth Eschelbeck

Venki Sessaadri

Vice Mayor Vaidhyanathan closed the public hearing.

Staff and the consultant answered questions from Council.

Paul moved and Vaidhyanathan seconded to accept the Joint Cities Coordinated Stevens Creek Trail Feasibility Study with a modification to the recommendation of 3B as follows: "Reach out proactively to agencies such as Caltrans, VTA, & Union Pacific Railroad to express that bicycle and pedestrian access ~~to and across the highway and~~ through the interchange area is a community priority; discourage any modifications that may limit future improvements; & raise awareness of the shared goal to close the gap in Stevens Creek trail between Cupertino and Mountain View"

The motion carried with Chang absent and Wong recusing.

16. Subject: Adoption of 2016 Cupertino Bicycle Transportation Plan and Mitigated Negative Declaration for the 2016 Cupertino Bicycle Transportation Plan
Recommended Action: a.) Approve a Mitigated Negative Declaration for the 2016 Cupertino Bicycle Transportation Plan; and b.) Adopt Resolution No. 16-070 adopting the 2016 Cupertino Bicycle Transportation Plan

Written communications for this item included emails to Council, an amended 2016 Cupertino Bicycle Transportation Plan, a supplemental staff report and a staff PowerPoint presentation.

Senior Civil Engineer David Stillman reviewed the staff report via a PowerPoint presentation.

The following individuals spoke on this item with comments included support for the Bike Plan; fund Tier 1; holes in Plan regarding San Fernando; don't sacrifice Heart of the City; protect trees.

Steve Elich on behalf of Citizens for Responsible Trails

Vidula Aiyer on behalf of Cupertino Bicycle Pedestrian Commission

Rhoda Fry

Jennifer Griffin

Craig Hofstetter

Gerhard Eschelbeck

Pete Heller on behalf of Bicycle Pedestrian Commission and as a resident

Consultant on project Christopher Kidd with Alta Planning and Design

Paul moved and Sinks seconded to approve a Mitigated Negative Declaration for the 2016 Cupertino Bicycle Transportation Plan. The motion carried with Chang absent and Wong recusing.

Paul moved and Sinks seconded, and the motion carried with Chang absent and Wong recusing to adopt Resolution No. 16-070 adopting the 2016 Cupertino Bicycle Transportation Plan with the following amendments:

- Revised language to the Plan per the supplemental staff report desk item
- Advised staff to prioritize the east west connection across town using McClellan and Pacifica and associated street networks
- Move goal 3 to goal 1

17. Subject: Brush abatement for public nuisance and potential fire hazard

Recommended Action: Remove this item from the agenda since any parcels on the list have complied

Under postponements, this item was removed from the agenda.

REPORTS BY COUNCIL AND STAFF

18. Subject: Report on Committee assignments and general comments
Recommended Action: Report on Committee assignments and general comments

Council members highlighted the activities of their committees and various community events.

ADJOURNMENT

At 3:45 a.m. on Wednesday, June 22, Vice Mayor Vaidhyanathan held a moment of silence for the victims in Orlando and adjourned the meeting.

Grace Schmidt, City Clerk

Staff reports, backup materials, and items distributed at the City Council meeting are available for review at the City Clerk's Office, 777-3223, and also on the Internet at www.cupertino.org. Click on Agendas & Minutes, then click on the appropriate Packet.

Most Council meetings are shown live on Comcast Channel 26 and AT&T U-verse Channel 99 and are available at your convenience at www.cupertino.org. Click on Agendas & Minutes, and then click Archived Webcast. Videotapes are available at the Cupertino Library, or may be purchased from the Cupertino City Channel, 777-2364.