



**DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, July 5, 2016**

SPECIAL CITY COUNCIL MEETING

ROLL CALL

At 4:30 p.m. Mayor Barry Chang called the Special City Council meeting to order in Cupertino City Hall Conference Room A, 10300 Torre Avenue.

Present: Mayor Barry Chang, Vice Mayor Savita Vaidhyanathan, and Council members Darcy Paul, Rod Sinks and Gilbert Wong. Absent: None.

Council went into closed session and reconvened in open session at 6:45 p.m. in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue.

CLOSED SESSION

1. Subject: Conference with Real Property Negotiators pursuant to Government Code Section 54956.8. Properties: APN 375-21-001, Lawrence Expressway at Mitty Avenue and APN 381-19-015, Lawrence Expressway at Doyle Road. Agency Negotiators: Jaqui Guzman and Gail Seeds. Negotiating Parties: San Jose Water Company; County Roads and Airports; City of San Jose. Under Negotiation: Price and terms of payment

Mayor Chang announced that Council gave direction.

2. Subject: Conference with legal counsel - Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Gov't Code 54956.9; Name of Case: *City of Saratoga; City of Cupertino; Town of Los Gatos v. California Department of Transportation*, et al; Santa Clara County Superior Court Case No.: 115CV281214

Mayor Chang announced that Council gave direction.

3. Subject: Conference with legal counsel - Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Gov't Code 54956.9: Name of Case: *Committee Supporting Cupertino Citizens' Sensible Growth Initiative, Steven Scharf, Xiangchen Xu, Govind Tatachari, Petitioners v. City of Cupertino*, et al. Santa Clara County Case No. 16CV296322

Mayor Chang announced that no action was taken.

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

At 6:45 p.m. Mayor Barry Chang reconvened the Regular City Council meeting in Cupertino Community Hall Council Chambers, 10350 Torre Avenue and led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Barry Chang, Vice Mayor Savita Vaidhyanathan, and Council members Darcy Paul, Rod Sinks and Gilbert Wong. Absent: None.

Mayor Chang also reported out from the Closed Session of June 27.

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.

Mayor Chang reported that no action was taken.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation for July as Park and Recreation Month
Recommended Action: Present Proclamation

A short video from the recent Fourth of July celebration was shown. Mayor Chang presented the proclamation to Acting Director of Recreation and Community Services Christine Hanel.

2. Subject: Commendations to winners of CU Hacks 2 hackathon contest sponsored by the Cupertino Library and the Cupertino Library Foundation to promote engineering and computer programming skills

Recommended Action: Present commendations and view videos of the four winning teams: Hector the Hippo (Beginner category); No Collisions (Traffic category); My Water (Environment category); Savior (Public Safety category)

Mayor Chang presented commendations to the winners of each category.

POSTPONEMENTS - None

ORAL COMMUNICATIONS

Val Vitols invited Council and the community to a concert at De Anza College Flint Center hosted by a non-profit education group supporting a clean environment.

Joan Chin talked about affordable housing in Cupertino and reconstruction of smaller, existing office buildings.

Lisa Warren talked about Cupertino's zoning and land map.

CONSENT CALENDAR

Sinks moved and Wong seconded to approve the items on the Consent Calendar as presented with the exception of item number 4 which was removed for discussion. Ayes: Chang, Vaidhyathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

3. Subject: Approve the June 21 City Council minutes

Recommended Action: Approve the minutes

4. Subject: Request for Funding - Stevens Creek L.P. an affiliate of Charities Housing Development Corporation of Santa Clara County - Affordable Senior Housing, 19160 Stevens Creek Boulevard

Recommended Action: Adopt Resolution No. 16-071 to reserve \$3,672,000 from the City's Affordable Housing Fund to assist in the potential development of affordable senior housing at 19160 Stevens Creek Boulevard in the City of Cupertino; and to make findings required by the California Environmental Quality Act

Written communications for this item included emails to Council.

Jennifer Griffin spoke on this item.

Sinks moved and Wong seconded to adopt Resolution No. 16-071 to reserve \$3,672,000 from the City's Affordable Housing Fund to assist in the potential development of affordable senior housing at 19160 Stevens Creek Boulevard in the City of Cupertino; and to make findings required by the California Environmental Quality Act. The motion carried unanimously.

5. Subject: Pasadena Avenue Public Improvements Project No. 2016-13

Recommended Action: Authorize the City Manager to award and execute a construction contract with O'Grady Paving, Inc. in the amount of \$373,100 and approve a construction contingency of \$37,000 for a total of \$410,100

SECOND READING OF ORDINANCES

6. Subject: Second reading of an ordinance 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

Recommended Action: Conduct the second reading and enact 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"

City Clerk Grace Schmidt read the title of the ordinance.

The following individuals spoke on this item:

Jennifer Griffin

Darrel Lum

Wong moved and Sinks seconded to read Ordinance No. 16-2144 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Vaidhyanathan, Paul, Sinks and Wong. Noes: Chang. Abstain: None. Absent: None.

Wong moved and Sinks seconded to enact Ordinance No. 16-2144. Ayes: Vaidhyanathan, Paul, Sinks and Wong. Noes: Chang. Abstain: None. Absent: None.

Chang said he voted no because he would prefer more affordable housing units in the project. Council requested a study session on affordable housing at a future meeting.

PUBLIC HEARINGS

7. Subject: Consideration of a payment to solid waste franchisee (Recology Cupertino) of \$146,128 for increased costs incurred to process organic materials from October 2015 through June 2016; and establishing a maximum rate schedule which includes a 5.28% increase in maximum rates effective July 1, 2016 to non-residential/multi-family and compactor garbage/compostable materials customers

Recommended Action: 1. Authorize a payment of \$146,128 to Recology Cupertino from the Resource Recovery fund 520-81-801; and 2. Adopt Resolution 16-072 (Attachment A) establishing a maximum rate schedule which includes an increase of 5.28% in non-residential/multi-family and compactor garbage and compostable materials customers effective July 1, 2016

Written communications for this item included a letter to Council and a staff PowerPoint presentation.

Assistant Director of Public Works Roger Lee reviewed the staff report via a PowerPoint presentation.

Mayor Chang opened the public hearing. There were no speakers and the public hearing was closed.

Wong moved and Sinks seconded to 1) Authorize a payment of \$146,128 to Recology Cupertino from the Resource Recovery fund 520-81-801; and 2) Adopt Resolution 16-072 establishing a maximum rate schedule which includes an increase of 5.28% in non-residential/multi-family and compactor garbage and compostable materials customers effective July 1, 2016. The motion carried unanimously.

8. Subject: Update on regional drought response, proposed regulations restricting water use and authorize negotiation and execution of a Memorandum of Understanding (MOU) with the Santa Clara Valley Water District (District) for a landscape conversion rebate program

Recommended Action: Staff recommends that Council take the following actions: 1) Receive staff report on current regional drought actions; and 2) Adopt Resolution No. 16-073 adopting 2016-2017 Regulations Restricting Water Use; and 3) Adopt Resolution No. 16-074 authorizing the City Manager to negotiate and execute a Memorandum of Understanding (MOU) with the District in an amount up to \$115,000 for a landscape conversion rebate program

Written communications for this item included a staff PowerPoint presentation.

Assistant Director of Public Works Roger Lee reviewed the staff report via a PowerPoint presentation.

Mayor Chang opened the public hearing and the following individuals spoke on this item:

Joan Chin

Ignatius Ding (distributed written materials)

Mayor Chang closed the public hearing.

Wong moved and Vaidhyanathan seconded to 1) Receive the staff report on current regional drought actions; and 2) Adopt Resolution No. 16-073 adopting 2016-2017 Regulations Restricting Water Use; and 3) Adopt Resolution No.16-074 authorizing the City Manager to negotiate and execute a Memorandum of Understanding (MOU) with the District in an amount up to \$115,000 for a landscape conversion rebate program. The motion carried unanimously.

ORDINANCES AND ACTION ITEMS

Council concurred to hear item numbers 9 and 10 together.

9. Subject: First reading of an ordinance amending section 11.27.145 of the Cupertino Municipal Code relating to Designation of Preferential Parking Zone on Hammond Way
Recommended Action: Conduct the first reading of Ordinance No. 16-2145: "An ordinance of the City Council of the City of Cupertino amending section 11.27.145 of the Cupertino Municipal Code relating to designation of preferential parking zones" on Hammond Way on Saturdays, Sundays and holidays between the hours of 7 a.m. and 4 p.m.

Assistant Director of Public Works Roger Lee reviewed the staff report via a PowerPoint presentation.

The following individuals spoke on items 9 or 10:

Jim Wheeler (support for 9)

Francois Delepine (support on 9)

Marjorie Mancuso (support on 9)

Keith Hocker – working on petition for Canyon Oak Way (no speaker card submitted)

Ken Tissavek - from Oak Valley (no speaker card submitted)

City Clerk Grace Schmidt read the title of the ordinance.

Sinks moved and Vaidhyanathan seconded to read Ordinance No. 16-2145 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

10. Subject: First reading of an ordinance amending section 11.27.145 of the Cupertino Municipal Code relating to Designation of Preferential Parking Zone on Oak Valley Road, Juniper Court, Sycamore Drive and Black Oak Way
Recommended Action: Conduct the first reading of Ordinance No. 16-2146: "An Ordinance of the City Council of the City of Cupertino amending section 11.27.145 of the Cupertino Municipal Code relating to designation of preferential parking zones" on Oak Valley Road, Juniper Court, Sycamore Drive and Black Oak Way on Saturdays, Sundays and holidays between the hours of 7 a.m. and 4 p.m.

Assistant Director of Public Works Roger Lee reviewed the staff report via a PowerPoint presentation.

Sinks moved and Vaidhyanathan seconded to read Ordinance No. 16-2146 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

Wong moved and Paul seconded to direct the City Manager to send a letter to the Mid-Peninsula Regional Open Space District and to the County of Santa Clara board of Supervisors to request additional parking at Rancho San Antonio County Park; and gave direction to the City Manager to review the Cristo Rey Drive roundabout for any potential safety improvements. The motion carried unanimously.

11. Subject: Election Code section 9212 report relating to proposed initiative entitled, "Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area ("Area") contains a mixture of residential, office, retail, civic and education uses; (2) require any development to fund or provide community

benefits such as transit, schools, a green roof and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino's General Plan and Municipal Code" ("Initiative"); determination whether to place measure on the ballot; determination regarding ballot arguments and impartial analysis

Recommended Action: 1) Receive the Report on the Impacts of Proposed Initiative and either: a. Adopt the Initiative; or b. Adopt Resolution No. 16-075 ordering that the Initiative be placed on the Ballot for the November 8, 2016 General Municipal Election, to be consolidated with the Statewide General Election; and 2) Consider whether to direct the City elections official to transmit the Initiative to the city attorney for preparation of an impartial analysis per the draft resolution; and 3) Consider whether to authorize City Council members, or the Council as a whole, to submit ballot arguments against the Initiative per the draft resolution

Written communications for this item included emails to Council and a staff PowerPoint presentation.

Outside Counsel Winter King and Catherine Engberg from Shute, Mihaly, & Weinberger, Libby Seifel from Seifel Consulting Inc., and Kristy Weis, Project Manager with David J. Powers and Associates reviewed the 9212 Report via a PowerPoint presentation.

Francisca Church from Pehr and Feers Transportation Consultants and the other outside Counsel and consultants answered questions from Council.

The following individuals spoke on this item:

Group on behalf of Vallco Initiative - Judy Wilson, Reed Moulds, Zhlioli Yang, Craig Bachewer, Sandy James (support Initiative)

Rafael Viñoly, Architect for proposed Vallco project (support)

Group on behalf of Better Cupertino - Phyllis Dickstein, Brooke Ezzat, Sashi Begur, Yanping Zhao, Cathy Yue Wang, X.C. Xu, Joan Lawler-Chin (opposed to Initiative) – distributed written comments

Dundee Maples (support)

Barbara Chang (support)

Daphne Jeu (support)

Gloria You (support)

Grace King (support)
Ann Woo (support)
Lisa Warren (opposed) – distributed written comments
Ed Hirshfield (support)
Jennifer Griffin (opposed)
Donna Austin (support)
Chihua Wei (support)
Kevin McClelland on behalf of Cupertino Chamber of Commerce (support)
Sabrina Risk also speaking for Anthony Risk (support)
Hemant Buch (support)
Balaji (opposed)
Danessa Techmanski (opposed)
Steve Scharf (opposed)
Darrel Lum (opposed)
Ignatius Ding (opposed)
Randy Shingai (opposed)
Kimberly Sandstrom (opposed)

Wong moved and Sinks seconded to receive the Report on the Impacts of Proposed Initiative and adopt Resolution No. 16-075 ordering that the Initiative be placed on the Ballot for the November 8, 2016 General Municipal Election, to be consolidated with the Statewide General Election.

Paul offered a friendly amendment to amend the ballot language wording to replace “community benefits” with “or equivalent improvements” and to change the range for transportation to be between \$30 million and \$36 million.

Wong did not accept the friendly amendment. The motion carried with Paul voting no. Paul stated he voted no because he preferred the language he had suggested.

Wong moved and Chang seconded to direct the City elections official to transmit the Initiative to the city attorney for preparation of an impartial analysis per the draft resolution. The motion carried with Paul voting no.

Sinks moved and Wong seconded to omit Section 11 in the resolution and not have Council members submit ballot arguments. The motion carried unanimously.

12. Subject: Designation of voting delegate and alternates for League of California Annual Conference, October 5-7, Long Beach

Recommended Action: Designate a voting delegate and up to two alternates for League of California Annual Conference, October 5-7, Long Beach

Wong moved and Vaidhyanathan seconded to designate Vaidhyanathan as the voting delegate and Wong as alternate for the League of California Annual Conference, October 5-7, Long Beach. The motion carried unanimously.

REPORTS BY COUNCIL AND STAFF

13. Subject: Construction Project Updates
Recommended Action: Receive Update

Written Communications for this item included a staff PowerPoint presentation.

This item was not heard.

14. 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 1:20 a.m. on Wednesday, July 6, Mayor Chang 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.