



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, August 1, 2017

SPECIAL CITY COUNCIL MEETING

At 5:00 p.m. Mayor Savita Vaidhyanathan called the Special City Council meeting to order in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue.

Present: Mayor Savita Vaidhyanathan, Vice Mayor Darcy Paul, and Councilmembers Barry Chang, Steven Scharf, and Rod Sinks.

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

CLOSED SESSION

1. Subject: Conference with Legal Counsel-Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9. Name of case: *Emmy Glumac v. City of Cupertino*, Santa Clara County Superior Court Case No. 17CV309611

Mayor Vaidhyanathan announced that Council gave direction to staff.

2. Subject: Conference with Legal Counsel-Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Government Code Section 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 Vaidhyanathan announced that Council gave direction to staff.

3. Subject: Conference with Legal Counsel - Anticipated Litigation Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9 (one potential case)

Mayor Vaidhyanathan announced that Council gave direction to staff.

4. Subject: Conference with Real Property Negotiators pursuant to Government Code Section 54956.8. Properties: 10849 Sycamore Drive, Cupertino, California; APN 342-57-028. Agency Negotiators: David Brandt, Jaqui Guzman. Negotiating Parties: Carol Atwood. Under Negotiation: Price and terms of payment

Mayor Vaidhyanathan announced that Council gave direction to staff.

REGULAR CITY COUNCIL MEETING

ROLL CALL

At 6:54 p.m. 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.

Present: Mayor Savita Vaidhyanathan, Vice Mayor Darcy Paul, and Councilmembers Barry Chang, Steven Scharf, and Rod Sinks.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: 2017 Accomplishments of Community Enlightenment (ACE) Award
Recommended Action: Present ACE Award from Library Commission to 2017 Recipients - Cupertino Poet Laureate Steering Committee

Mayor Vaidhyanathan and representatives from the Cupertino Library Commission presented the ACE Award to the Cupertino Poet Laureate Steering Committee.

Council received the presentation.

POSTPONEMENTS - None

ORAL COMMUNICATIONS

Phyllis Dickstein talked about points made at the recent retail-oriented workshop and how they might relate to Vallco as a retail center.

Suzanne Becket talked about acquiring property at the Oaks to enlarge Memorial Park.

Rod Diridon, Sr. talked about transportation and land use planning.

Vivian Wong talked about the City's Below Market Rate (BMR) Program.

Caryl Gorska talked about a blog written by a former Cupertino Mayor and Commissioner about Better Cupertino.

Liang Chao talked about State Senate Bills, development projects, and school over-crowding.

Art Cohen talked about upcoming films and festivals at the Bluelight Cinema.

Rick Chollmon talked about violation of his 4th Amendment rights.

Pete Heller talked about the recent community education series especially the retail-oriented session.

Danessa Techmanski talked about traffic concerns for all development in Cupertino.

Muni Madhhipatla talked about retail in Cupertino.

CONSENT CALENDAR

Sinks moved and Scharf seconded to approve the items on the Consent Calendar as presented. Ayes: Vaidhyathan, Paul, Chang, Scharf and Sinks. Noes: None. Abstain: None. Absent: None.

2. Subject: Approve the July 5 City Council minutes
Recommended Action: Approve the July 5 City Council minutes

Written communications for this item included an amended page.

3. Subject: Accept Accounts Payable for the period ending April 14, 2017
Recommended Action: Adopt Resolution No. 17-065 accepting Accounts Payable for the period ending April 14, 2017
4. Subject: Accept Accounts Payable for the period ending April 21, 2017
Recommended Action: Adopt Resolution No. 17-066 accepting Accounts Payable for the period ending April 21, 2017
5. Subject: Accept Accounts Payable for the period ending April 28, 2017

Recommended Action: Adopt Resolution No. 17-067 accepting Accounts Payable for the period ending April 28, 2017

6. Subject: Accept Accounts Payable for the period ending May 5, 2017
Recommended Action: Adopt Resolution No. 17-068 accepting Accounts Payable for the period ending May 5, 2017
7. Subject: Accept Accounts Payable for the period ending May 12, 2017
Recommended Action: Adopt Resolution No. 17-069 accepting Accounts Payable for the period ending May 12, 2017
8. Subject: Treasurer's Investment Report for Quarter Ending June 2017
Recommended Action: Accept the report
9. Subject: Adopt the draft resolution to add the City Manager as an alternate signor on the Authorization for Transfer of Funds form for the Local Agency Investment Fund in case there is a City Officer vacancy
Recommended Action: Adopt Resolution No. 17-070 adding the City Manager as an alternate signor on the Authorization for Transfer of Funds form for the Local Agency Investment Fund in case there is a City Officer vacancy
10. Subject: 2017/18 Reconstruction of Curbs, Gutters and Sidewalks Project, Project No. 2017-112
Recommended Action: Authorize the City Manager to award and execute a contract with JJR Construction, Inc., in the amount of \$2,648,138 and approve a construction contingency of \$250,000, for a total of \$2,898,138
11. Subject: 2017 Pavement Maintenance Project Phase 3, City Project No. 2017-111
Recommended Action: Authorize the City Manager to award a contract to O'Grady Paving, Inc., in the amount of \$2,250,943.75; and approve a construction contingency of \$249,056.25 for a total of \$2,500,000
12. Subject: Award of the Storm Drain Improvements - Foothill Boulevard and Cupertino Road Project
Recommended Action: Authorize the City Manager to award a contract to Con-Quest Contractors Inc., in the amount of \$1,089,715 and approve a construction contingency of \$200,000, for a total of \$1,289,715
13. Subject: Award and authorize the City Manager to execute a contract for the Fiber Network Extension to the Service Center Project (Project No. 2017-04)

Recommended Action: 1. Award and authorize the City Manager to execute a construction contract for the Fiber Network Extension to the Service Center Project with Aegis ITS, Inc. in the amount of \$264,764.33; and 2. Authorize a construction contingency budget of \$26,500.00, approximately 10% of the contract amount, to address unforeseen conditions during construction, for a total of \$291,264.33

SECOND READING OF ORDINANCES

14. Subject: Second reading of an ordinance amending the Municipal Code to regulate the placement of storage containers and temporary fencing, size of signage notice boards for development, size of Accessory Dwelling Units, and including amendments to various other chapters of Title 19 - Zoning of the Municipal Code, including but not limited to, Chapter 19.08 (Definitions), Chapter 19.28 (Single-Family Residential (R-1) Zones), Chapter 19.36, Multiple Family Residential (R-3) Zones, Chapter 19.40 (Residential Hillside (RHS) Zones), Chapter 19.60 (General Commercial (CG) Zones), Chapter 19.64, Permitted, Conditional and Excluded Uses In Office And Industrial Zones and 19.116 (Conversions of Apartment Projects to Common Interest Developments) for compliance with State Law, readability, clarifications, and internal consistency. (Application No. MCA-2017-03; Applicant: City of Cupertino; Location: City-wide)

Recommended Action: Conduct the second reading and enact Ordinance No. 17-2165: "An Ordinance of the City Council of the City of Cupertino amending Chapter 9.22, Property Maintenance, Chapter 19.12, Administration, Chapter 19.112, Accessory Dwelling Units In R-1, RHS, A and A-1 Zones, and minor amendments in Chapter 19.08, Definitions, Chapter 19.24, Agricultural (A) and Agricultural-Residential (A-1) Zones, Chapter 19.28, Single-Family Residential (R-1) Zones, Chapter 19.36, Multiple-Family Residential (R-3) Zones, Chapter 19.40, Residential Hillside (RHS) Zones, Chapter 19.60, General Commercial (CG)

Zones, Chapter 19.64, Permitted, Conditional and Excluded Uses In Office And Industrial Zones And 19.116, Conversions Of Apartment Projects To Common Interest Developments"

Principal Planner Piu Ghosh reviewed the staff report.

City Clerk Grace Schmidt read the title of the ordinance.

Sinks moved and Chang seconded to read Ordinance No. 17-2165 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Vaidhyanathan, Paul, Chang, Scharf, and Sinks. Noes: None. Abstain: None. Absent: None.

Sinks moved and Chang seconded to enact Ordinance No. 17-2165. Ayes: Vaidhyathan, Paul, Chang, Scharf, and Sinks. Noes: None. Abstain: None. Absent: None.

PUBLIC HEARINGS

15. Subject: 2017-18 Community Development Block Grant (CDBG) Annual Action Plan
Recommended Action: Conduct the Public Hearing and Adopt Resolution No. 17-071 approving the 2017-18 CDBG Annual Action Plan

Written communications for this item included a staff presentation.

Senior Housing Planner Kerri Heusler reviewed the staff report.

Mayor Vaidhyathan opened the public hearing. Seeing no speakers, Mayor Vaidhyathan closed the public hearing.

Chang moved and Paul seconded to adopt Resolution No. 17-071 approving the 2017-18 CDBG Annual Action Plan. The motion carried unanimously.

16. Subject: Consider whether to authorize the formal submission of General Plan Amendment applications for the three proposals received in the 2017 Second Cycle including: 16A - Hotel at Cupertino Village site; 16B - Hotel at Good Year Tire store site; and 16C - Mixed-use development at the Oaks Shopping Center.
Recommended Action: Staff recommends that the City Council adopt Resolution No. 17-072 (Attachment A) after determining if the application(s) is/are authorized to move forward to apply for a General Plan Amendment(s)

Written communications for item 16(a-c) included emails to Council and staff presentations.

Principal Planner Pui Ghosh reviewed the staff report regarding the process and criteria for evaluation of all three projects.

- 16a. Subject: A proposal to demolish two commercial buildings and construct a new full-service boutique hotel with 185 rooms and conference space and restaurant at the Cupertino Village that requires City Council authorization for formal submission of General Plan Amendment applications. (Application No.(s): GPAAuth-2017-03; Applicant: Michael Strahs (Kimco Realty); Location: 10765 N. Wolfe Road; APN(s): 316-45-017)

Associate Planner Erick Serrano reviewed the staff report.

Applicant Michael Strahs reviewed the project.

- 16b. Subject: A proposal to demolish a 8,323 s.f. auto service station and construct a new 156-room, five-story hotel, with conference space and restaurant at the Good Year Tire site that requires City Council authorization for formal submission of General Plan Amendment applications. (Application No.(s): GPAAuth-2017-01; Applicant: Claudio Bono (De Anza Properties); Location: 10931 N. De Anza Boulevard; APN(s): 326-10-061

Associate Planner Gian Martire reviewed the staff report.

Applicant Claudio Bono reviewed the project.

- 16c. Subject: A proposal to demolish an existing ~71,254 sq.ft. commercial shopping center and construct one of the two alternative mixed-use developments at the Oaks Shopping Center site that requires City Council authorization for formal submission of one of the alternatives for formal submission of General Plan Amendment applications. (Application No.(s): GPAAuth-2017-02; Applicant: KT Urban (Mark Tersini); Location: 21267 Stevens Creek Boulevard; APN: 326-27-039, -040 and -041)

Senior Planner Catarina Kidd reviewed the staff report.

Applicant Mark Tersini reviewed the project. Laura Worthington Forbes with Kimley-Horn and Associates, Inc. and Beverly Bryant with KT Urban also talked about the project.

Following the staff reports for the three projects, Mayor Vaidhyanathan opened the public hearing and the following individuals spoke:

Tai Lam
Karl Baumheckel
Nicolas Nagle
Michelangelo Nalarro
Irvin Webster
Eswari Sure
Peter Hirsch
Abdullah Ibrahim
Philip Chau
Susan Chau

Patrick Bumb on behalf of Jack Nyblom and KT Urban
Jan Stokley on behalf of Housing Choices
Enzo Pace
Barbara Jones
Stephen Jacobs
Jon Willey (distributed written comments)
Keith Warner
Scott Hughes
Don Tran on behalf of Silicon Valley Leadership Group
Marcus Plutowski
Ignatius Ding (distributed written comments)
Maria Flur Florie
Bridge Housing
Cathy Wang
Luke Lang
Yu Wen Su
Liana Crabtree
Lloyd Ngo
Lawrence Shapiro
Ruby Elbogen on behalf of Cupertino Hotel
Khyati U
Sarah McDermott on behalf of Unite Here Local 19
Ruth Silver Taube on behalf of Santa Clara County Wage Theft Coalition
Muni Madhhipatla
Kelly Lambert
Kevin McClelland on behalf of Cupertino Chamber of Commerce
Jan Kucera (distributed written comments)
Pete Heller
Dennis Martin
Esin Demirlioglu
Jennifer Griffin
Peggy Griffin (distributed written comments)
Ratthalli Sudesh
Christina Armstrong
Liat Zavodivker
Kim-Mai Cutler
Martin Won
David Fung
Francisco Melli-Huber
Joan Chin

Lisa Warren
Qin Pan
Randy Shinghai
Liang Chao
Yonghui Mou
Dolly Sandoval
Jay Cena
Dan Bryant
Kent Vincent
Michael Zhang

Council recessed from 11:13 to 11:27 p.m.

Staff answered questions from Council.

Council took a straw vote indicating unanimous support to authorize 16a (Cupertino Village and 16b (Goodyear Tire site).

Staff and the applicant for 16c (Oaks Shopping Center) answered questions from Council.

Council took a straw vote for 16c indicating no majority vote (1-4) to authorize. (Vaidhyathan, Paul, Scharf, Sinks no and Chang yes).

Sinks moved to adopt Resolution No. 17-072 authorizing the following applications to move forward to apply for a General Plan Amendment(s): Cupertino Village and Good Year Tire, and not authorizing the following application to move forward to apply for a General Plan Amendment(s): Oaks Shopping Center.

Paul added a friendly amendment to have staff go back and draft resolutions to reflect the straw votes for each project. Sinks didn't accept the friendly amendment and the motion died for lack of a second.

Chang moved and Scharf seconded to close the Public Hearing for item 16(a-c) and adopt a modified Resolution No. 17-072 authorizing 16a (Cupertino Village) and 16b (Goodyear Tire) to move forward to apply for a General Plan Amendment(s) and continued 16c (Oaks Shopping Center) to the August 15 City Council meeting. The motion carried unanimously.

ORDINANCES AND ACTION ITEMS

17. Subject: Hearing to approve assessment of fees on private parcels for the annual weed abatement program

Recommended Action: Conduct hearing and adopt Resolution No. 17-073 providing for lien assessments and collection resulting from the abatement of public nuisances and potential fire hazards (weeds on private parcels)

Written communications for this item included an amended assessment report.

City Clerk Grace Schmidt reviewed the staff report.

Vaidhyathan moved and Chang seconded to adopt Resolution No. 17-073 providing for lien assessments and collection resulting from the abatement of public nuisances and potential fire hazards (weeds on private parcels). The motion carried unanimously.

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 1:15 a.m. on Wednesday, August 2, 2017, Mayor Vaidhyathan adjourned the meeting.

Grace Schmidt, City Clerk