



**DRAFT MINUTES  
CUPERTINO CITY COUNCIL  
Tuesday, June 19, 2018**

**REGULAR CITY COUNCIL MEETING**

At 6:00 p.m. Mayor Darcy Paul called the Regular City Council meeting to order in the City Hall Conference Room A, 10300 Torre Avenue.

Present: Mayor Darcy Paul, Vice Mayor Rod Sinks, and Councilmembers Barry Chang, Steven Scharf, and Savita Vaidhyanathan. Absent: None.

**CLOSED SESSION**

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.

1. Subject: Conference with Real Property Negotiators (Government Code Section 54956.8);  
Property: Cupertino Municipal Water System; Agency Negotiator: Timm Borden;  
Negotiating Parties: City of Cupertino and San Jose Water Company; Under Negotiation:  
Terms for City Leased Asset

Mayor Paul announced that the item was heard, direction was provided, and no final action was taken.

**PLEDGE OF ALLEGIANCE**

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

**ROLL CALL**

Present: Mayor Darcy Paul, Vice Mayor Rod Sinks, and Councilmembers Barry Chang, Steven Scharf, and Savita Vaidhyanathan. Absent: None.

**CEREMONIAL MATTERS AND PRESENTATIONS**

2. Subject: Proclamations to the 2018 CREST Award winners  
Recommended Action: Present proclamations to the 2018 CREST Award winners

Mayor Paul presented proclamations to the 2018 CREST Award winners.

3. Subject: Proclamation to Public Works Department Stormwater Pollution Inspector Manny Barragan for his dedicated service to our community  
Recommended Action: Present proclamation to Public Works Department Stormwater Pollution Inspector Manny Barragan for his dedicated service to our community

Mayor Paul presented a proclamation to Public Works Department Stormwater Pollution Inspector Manny Barragan for his dedicated service to our community.

4. Subject: Presentation from the Recreation and Community Services department recognizing July as National Park & Recreation Month  
Recommended Action: Receive presentation from the Recreation and Community Services department recognizing July as National Park & Recreation Month

Written communications for this item included a staff presentation.

Acting Director of Recreation and Community Services Christine Hanel gave a presentation regarding the department.

Council received the presentation from the Recreation and Community Services department recognizing July as National Park & Recreation Month.

## **POSTPONEMENTS – None**

City Clerk Grace Schmidt noted that item numbers 13 and 14 were listed under the wrong agenda header and should be under Ordinances and Action Items. She also noted that item number 15 under Public Hearings would need to be heard first followed by item number 14 and then 13.

## **ORAL COMMUNICATIONS**

Janet Van Zoeren (Cupertino resident) on behalf of Housing Choices Cupertino Task Force talked about a Vallco Development Agreement.

Brooke Ezzat (Cupertino resident) talked about the City Attorney's absence on the dais.

Randy Shingai talked about the Vallco EIR process (distributed written comments).

Richard Lowenthal (Cupertino resident) talked about the Regnart Creek Trail.

Mahesh Vegiraju (Cupertino resident) talked about the Regnart Creek Trail.

Arnav Gokhale (Cupertino resident) talked about the Regnart Creek Trail.

Aakash Gokhale (Cupertino resident) talked about the Regnart Creek Trail.

Peggy Griffin (Cupertino resident) talked about the Vallco SB35 application.

Jehannaz Destoor (Cupertino resident) talked about the Regnart Creek Trail.

Megha Ilango (Cupertino resident) talked about the Regnart Creek Trail.

Jennifer Griffin talked about lack of retail in Cupertino.

Danessa Techmanski (Cupertino resident) talked about the Vallco SB35 application.

Gary Wong (Cupertino resident) talked about the Regnart Creek Trail.

Julia Miyakawa (Cupertino resident) talked about the Regnart Creek Trail.

Res Dent (Cupertino resident) talked about the Vallco SB35 application.

Jon Willey (Cupertino resident) talked about the Vallco SB35 application (distributed written comments)

Liang Chao (Cupertino resident) talked about the Vallco SB35 application.

Kitty Moore (Cupertino resident) talked about the Vallco SB35 application.

Pete Heller (Cupertino resident) on behalf of the Bicycle Pedestrian Commission talked about the Regnart Creek Trail.

Hannah Follweiler (Cupertino Resident) talked about the Vallco Specific Plan process.

Nick Garcia (Cupertino resident) talked about the Regnart Creek Trail.

Lisa Warren talked about the Vallco SB35 application.

Council recessed from 8:05 p.m. to 8:13 p.m.

Vice Mayor Sinks noted that he would recuse himself from participating in the study session and left the dais.

## STUDY SESSION

5. Subject: Proposed restructuring of Cupertino's business license tax  
Recommended Action: Provide staff direction on a proposed restructuring of the Cupertino's business license tax

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

Deputy City Manager Jaqui Guzman reviewed the staff report.

Staff answered questions from Council.

Mayor Paul opened public comment and the following individuals spoke:

Edward Hirshfield (Cupertino resident)

Liang Chao (Cupertino resident)

Dan Kostenbauder (Palo Alto resident) on behalf of Silicon Valley Leadership Group

Connie Cunningham (Cupertino resident)

Jennifer Griffin

Kitty Moore (Cupertino resident)

Andrew Walters (Cupertino resident) on behalf of Cupertino Chamber of Commerce

Janet Van Zoeren (Cupertino resident)

Outside counsel Michael Colantuono explained about general and specific tax measures and answered questions from Council.

Andrew Walters from the Cupertino Chamber of Commerce answered additional questions from Council.

Chang moved and Vaidhyathan seconded to direct staff to bring back on July 3 draft language for both a specific and general tax for both 2018 and 2019 to be voted on separately. The motion failed with Chang and Vaidhyathan voting yes, Paul and Scharf voting no, and Sinks recusing. No action was taken.

Vaidhyanathan moved and Scharf seconded to direct staff to bring back on July 3 language for a specific tax measure for transit for a November 2019 special election with phasing for small business and to have a staff plan for outreach to the business community as well. The motion carried with Chang voting no and Sinks recusing.

Council recessed from 10:13 p.m. to 10:20.

Mayor Paul stepped away from the meeting and Vice Mayor Sinks took over as Chair.

## CONSENT CALENDAR

Scharf moved and Chang seconded to approve the items on the Consent Calendar as presented with the exception of item numbers 6, 7, 8, and 9 which were pulled for discussion. Ayes: Sinks, Chang, Scharf, and Vaidhyanathan. Noes: None. Abstain: None. Absent: Paul.

6. Subject: Approve the June 4 (Study Session) City Council minutes  
Recommended Action: Approve the June 4 (Study Session) City Council minutes

Written communications for this item included emails to Council.

Vice Mayor Sinks opened public comment and the following individuals spoke:

Janet Van Zoeren (Cupertino resident) on behalf of Housing Choices Cupertino Task Force  
Connie Cunningham (Cupertino resident)

Vice Mayor Sinks closed public comment.

Chang moved and Vaidhyanathan seconded to direct staff to double-check the video and add comments from Councilmembers to include extremely low income housing units and approved the minutes as amended. The motion carried with Paul absent.

7. Subject: Approve the June 5 City Council minutes  
Recommended Action: Approve the June 5 City Council minutes

Written communications for this item included an email to Council.

Vice Mayor Sinks opened public comment and the following individuals spoke:

Randy Shingai (San Jose resident)

Vice Mayor Sinks closed public comment.

Chang moved and Vaidhyanathan seconded to approve the June 5 City Council minutes. The motion carried with Paul absent.

Mayor Paul returned to the meeting.

8. Subject: Declare brush to be a potential fire hazard and set hearing for July 3 for determination of public nuisance and for objections to proposed removal  
Recommended Action: Adopt Resolution No. 18-062 declaring brush to be a potential fire hazard and set hearing for July 3 for determination of public nuisance and for objections to proposed removal

Written communications for this item included an email from the Santa Clara County Fire Department.

City Clerk Grace Schmidt noted that per the Santa Clara County Fire Department, all parcels were in compliance with the Wildlife Urban Interface Enforced Safety Regulations and there was no need to set a hearing date.

Council concurred to table the item.

9. Subject: Agreement Extension and Amendment with Lifetime Tennis Inc., DBA Lifetime Activities Inc.  
Recommended Action: Authorize the City Manager to extend and amend the City's agreement with Lifetime Tennis Inc., DBA Lifetime Activities Inc. for six years (July 1, 2018 - June 30, 2024).

Written communications for this item included an email to Council.

Mayor Paul opened public comment and the following individual spoke on this item:

Anthony Brittis (Cupertino resident)

Mayor Paul closed public comment.

Council recessed from 11:06 p.m. to 11:09 p.m.

Dana Gill with Lifetime Activities, Inc. and Acting Director Christine Hanel answered questions from Council.

Sinks moved and Scharf seconded to continue the item to authorize the City Manager to extend and amend the City's agreement with Lifetime Tennis Inc., DBA Lifetime Activities Inc. for six years (July 1, 2018 - June 30, 2024) to July 3 for staff to negotiate an agreement like the current one with a risk reward component for the City rather than a flat revenue model guarantee with no upside; and extend the current contract until there is a new agreement. The motion carried with Chang and Vaidhyanathan voting no.

10. Subject: Cooperative purchasing agreement with Packet Fusion, Inc. for the technology refresh of the City's telephone system  
Recommended Action: Authorize the City Manager to negotiate and entering a cooperative purchasing agreement with Packet Fusion for Voice over Internet Protocol (VoIP) equipment, technical services, training and five years of maintenance for a total amount of \$204,009
11. Subject: Agreement with Dan Gertmenian for the Math Olympiad education program for the period of July 1, 2018 - June 30, 2019.  
Recommended Action: Authorize the City Manager to execute an agreement with Dan Gertmenian for the Math Olympiad youth program for the one-year period of July 1, 2018 - June 30, 2019.
12. Subject: Application for Alcohol Beverage License for Dish N Dash, Inc (dba Dish N Dash), 20750 Stevens Creek Boulevard  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Dish N Dash, Inc (dba Dish N Dash), 20750 Stevens Creek Boulevard

## **SECOND READING OF ORDINANCES – None**

Mayor Paul reordered the agenda to hear item number 15 under the Public Hearings header next and to move item numbers 13 and 14 under the Ordinances and Action Items header and hear them in the following order: 14 followed by 13.

## **PUBLIC HEARINGS**

15. Subject: Ordinance amendment of the collection procedures for the City's Transient Occupancy Tax (TOT), which is a tax imposed on travelers when they rent accommodations within the City pursuant to Cupertino Municipal Code Title 3, Chapter 3.12  
Recommended Action: 1. Conduct the first reading of Ordinance No. 18-2174: "An Ordinance of the City Council of the City of Cupertino amending Chapter 3.12 of the

Municipal Code to provide for the collection of transient occupancy taxes from short-term rentals using internet-based/social media platforms"; and 2. Schedule the second reading of the ordinance for July 3

Deputy City Manager Jaqui Guzman reviewed the staff report.

Mayor Paul left the meeting after the review of the staff report and Vice Mayor Sinks took over as Chair.

Vice Mayor Sinks opened the public hearing and the following individual spoke:

Jennifer Griffin

Vice Mayor Sinks closed the public hearing.

City Clerk Grace Schmidt read the title of the ordinance.

Vaidhyanathan moved and Scharf seconded to read Ordinance No. 18-2174 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Sinks, Chang, Scharf, and Vaidhyanathan. Noes: None. Abstain: None. Absent: Paul.

## **ORDINANCES AND ACTION ITEMS**

14. Subject: Agreement with Airbnb to collect transient occupancy taxes from its platform users who operate short-term rentals in Cupertino.  
Recommended Action: Authorize the City Manager to enter into a voluntary collection agreement with Airbnb to collect transient occupancy taxes owed to City from short-term rental operators in Cupertino using the Airbnb platform.

Deputy City Manager Jaqui Guzman reviewed the staff report.

Vice Mayor Sinks opened public comment and the following individual spoke:

Jennifer Griffin

Vice Mayor Sinks closed public comment.

Vaidhyanathan moved and Scharf seconded to authorize the City Manager to enter into a voluntary collection agreement with Airbnb to collect transient occupancy taxes owed to



City from short-term rental operators in Cupertino using the Airbnb platform. The motion carried with Paul absent.

13. Subject: Pogo Pilot Project

Recommended Action: Approve extending the Pogo Pilot Project through June 30, 2019.

Written communications for this item included a staff presentation.

Senior Management Analyst Katy Nomura reviewed the staff report.

Vaidhyathan moved and Chang seconded to approve extending the Pogo Pilot Project through June 30, 2019. The motion carried with Paul absent.

16. Subject: Designation of voting delegate and alternates for League of California Cities Annual Conference, September 12-14, Long Beach

Recommended Action: Designate a voting delegate and up to two alternates for League of California Cities Annual Conference, September 12-14, Long Beach

Vaidhyathan moved and Scharf seconded to designate Councilmember Scharf as the voting delegate (and no alternate) for the League of California Cities Annual Conference, September 12-14, Long Beach. The motion carried with Paul absent.

## **REPORTS BY COUNCIL AND STAFF**

17. Subject: Report on Committee assignments and general comments

Recommended Action: Report on Committee assignments and general comments

Council concurred to direct staff to bring the Airbnb regulatory zoning program to the Planning Commission with a recommendation to City Council.

City Manager David Brandt noted that the draft brochure for the City Manager recruitment was available for Council review. He also noted that staff would put the County report on affordable housing on the City's website.

Councilmembers highlighted the activities of their committees and various community events.

## **ADJOURNMENT**

At 12:25 a.m. on Wednesday, June 20, Vice Mayor Sinks adjourned the meeting.

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Grace Schmidt, City Clerk