



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, July 3, 2018

SPECIAL CITY COUNCIL MEETING

At 5:30 p.m. Mayor Darcy Paul called the Special City Council meeting to order in the City Hall Conference Room A, 10300 Torre Avenue.

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

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 Legal Counsel - Existing Litigation pursuant to Government Code section 54956.9, subdivision (d), paragraph 1. Case: Friends of Better Cupertino, Kitty Moore, Ignatius Ding and Peggy Griffin, v. City of Cupertino, et al., Santa Clara Superior Court, Case No. 18CV330190

Written communications for this item included emails to Council.

The following individuals spoke on this item before Council went into closed session:

Randy Shingai (San Jose resident) distributed written comments
Kitty Moore (Cupertino resident)

In open session, Mayor Paul announced that the item was postponed to July 31.

2. 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. Negotiating Parties: San Jose Water Company; County Roads and Airports; City of San Jose. Under Negotiation: Price and terms of payment.

The following individual spoke on this item before Council went into closed session:

Jennifer Griffin

In open session, Mayor Paul announced that the item was received.

REGULAR CITY COUNCIL MEETING

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, and Councilmembers Barry Chang (6:50 p.m.), Steven Scharf, and Savita Vaidhyathan. Absent: Vice Mayor Rod Sinks.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamations to Green Business Certification Awardees
Recommended Action: Present Proclamations to Green Business Certification Awardees

Sustainability Manager Misty Mersich introduced the item.

Mayor Paul presented Proclamations to Green Business Certification Awardees.

2. Subject: Proclamation to the NAACP of Silicon Valley for its efforts to promote inclusion, fairness, and involvement for the many groups comprising our community.
Recommended Action: Present Proclamation to the NAACP of Silicon Valley for its efforts to promote inclusion, fairness, and involvement for the many groups comprising our community.

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

Don Sun (Cupertino resident) on behalf of the Cupertino Historical Society.

Mayor Paul closed public comment.

Mayor Paul presented a Proclamation to the NAACP of Silicon Valley for its efforts to promote inclusion, fairness, and involvement for the many groups comprising our community.

Mayor Paul presented a Proclamation to City Manager David Brandt congratulating him on his retirement and a video presentation was also shown. Members of the public and Councilmembers congratulated Mr. Brandt on his retirement.

3. Subject: Presentation by Bhubaneswar, India Sister City Committee
Recommended Action: Receive presentation by Bhubaneswar, India Sister City Committee

Council received the presentation from the Bhubaneswar, India Sister City Committee.

4. Subject: Climate Action Plan annual progress update
Recommended Action: Receive presentation and review Climate Action Plan progress Report

Written communications for this item included a staff presentation.

Sustainability Manager Misty Mersich gave a presentation regarding the Climate Action Plan.

Council received the presentation regarding the Climate Action Plan progress report.

Council recessed from 7:46 p.m. to 7:59 p.m.

ORAL COMMUNICATIONS

Jim Davis (Cupertino resident) talked about Regnart Creek Trail.

Simran Raheja (Cupertino resident) talked about Regnart Creek Trail.

Sager Sanghavi (Cupertino resident) talked about Regnart Creek Trail.

Zvika Ashkenazi (Cupertino resident) talked about Regnart Creek Trail.

Jennifer Griffin talked about retail shopping in Cupertino.

Ignatius Y Ding (Cupertino resident) talked about a Cupertino resident survey, the Vallco Opticos process, and the lawsuit from Friends of Better Cupertino (distributed written

comments).

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

Ilango Ganga (Cupertino resident) talked about Regnart Creek Trail.

STUDY SESSION

5. Subject: Study Session promoting school safety and preventing gun violence
Recommended Action: Conduct Study Session promoting school safety and preventing gun violence and give direction to staff as necessary

Written communications for this item included a staff presentation.

Deputy City Manager Jaqui Guzman gave a presentation regarding school safety.

Captain Rich Urena and Deputy Joanne Michalak, School Resource Officer talked about school safety and answered questions from Council.

Superintendents Dr. Craig Baker from Cupertino Union School District and Polly Bove from Fremont Union High School District, and Marisa Spatafore, Director of Marketing and Communications from De Anza College talked about school safety and answered questions from Council.

Council concurred to direct staff work with stakeholders (Sheriff's Office, School Districts, and De Anza College) and bring back additional information regarding gun violence and what other cities are doing (Sinks absent).

6. Subject: Study session on proposed restructuring of Cupertino's business license tax
Recommended Action: Provide staff direction on a proposed tax measure to restructure Cupertino's business license tax.

Deputy City Manager Jaqui Guzman reviewed the staff report.

Mayor Paul opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Paul closed public comment.

Chang moved and Vaidhyanathan seconded to direct staff to bring the item back on July 31 with ballot language for a general purpose tax measure for transportation for November, 2018. Council concurred to form an ad-hoc committee composed of Chang and Scharf to work with staff. The motion carried with Sinks absent.

POSTPONEMENTS – None

CONSENT CALENDAR

Vaidhyanathan moved and Chang seconded to approve the items on the Consent Calendar as presented with the exception of item numbers 7, 9, 12, 13, 14 which were pulled for discussion. Ayes: Paul, Chang, Scharf, and Vaidhyanathan. Noes: None. Abstain: None. Absent: Sinks.

7. Subject: Approve the May 15 City Council minutes (continued from June 5, 2018)
Recommended Action: Approve the May 15 City Council minutes

Written communications for this item included an email to Council.

Mayor Paul opened public comment and the following individual spoke:

Randy Shingai (San Jose resident) - distributed written comments.

Mayor Paul closed public comment.

Council concurred to move the approval of the May 15 City Council minutes to the next meeting in order for staff to review the video and go back to original language after reviewing (Sinks absent).

8. Subject: Approve the June 11 (Study Session) City Council minutes
Recommended Action: Approve the June 11 (Study Session) City Council minutes
9. Subject: Approve the June 19 City Council minutes
Recommended Action: Approve the June 19 City Council minutes

Mayor Paul opened public comment and the following individual spoke:

Connie Cunningham (Cupertino resident) on behalf of Housing Choices.

Mayor Paul closed public comment.

Chang moved and Vaidhyanathan seconded to add the wording, “for the developmentally disabled” after extremely low income housing units (item number 6 in minutes) and approve the minutes as amended. The motion carried with Sinks absent.

10. Subject: Accept Accounts Payable for the period ending April 27, 2018
Recommended Action: Adopt Resolution No. 18-063 accepting Accounts Payable for the period ending April 27, 2018
11. Subject: Accept Accounts Payable for the period ending May 4, 2018
Recommended Action: Adopt Resolution No. 18-064 accepting Accounts Payable for the period ending May 4, 2018
12. Subject: Accept Accounts Payable for the period ending May 11, 2018
Recommended Action: Adopt Resolution No. 18-065 accepting Accounts Payable for the period ending May 11, 2018

Mayor Paul opened public comment and the following individual spoke:

Peggy Griffin (Cupertino resident).

Mayor Paul closed public comment.

Chang moved and Vaidhyanathan seconded to adopt Resolution No. 18-065 accepting Accounts Payable for the period ending May 11, 2018 except for item 27584 on page 23 and directed Public Works staff to look into the final payment for O’Grady paving and bring that item back for approval at the next meeting. The motion carried with Sinks absent.

13. Subject: Agreement Extension and Amendment with Lifetime Tennis Inc., DBA Lifetime Activities Inc. (Continued from June 19, 2018)
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.

Chang moved and Vaidhyanathan seconded 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). The motion carried with Sinks absent.

14. Subject: Agreement between the City of Cupertino and HNTB, Inc., for professional design services to conduct survey & inspection, recommend perimeter fencing improvements and resolve bearing pin issues for the Don Burnett Bicycle-Pedestrian Bridge
Recommended Action: Staff recommends Council take the following actions: 1. Approve an Agreement between the City of Cupertino and HNTB, Inc., in the amount not to exceed \$69,945 from the date of execution through November 1, 2018, and authorize the Director of Public Works to negotiate and execute all necessary documents with contractors to complete corrective actions as may be recommended by this agreement in an amount not to exceed \$150,000; and 2. Adopt a Resolution No 18-066 approving a Budget Adjustment in the amount of \$219,945 for Don Burnett Bicycle-Pedestrian Bridge Inspection & Maintenance (Attachment B).

Staff answered questions from Council.

Vaidhyathan moved and Scharf seconded to 1. Approve an Agreement between the City of Cupertino and HNTB, Inc., in the amount not to exceed \$69,945 from the date of execution through November 1, 2018, and authorize the Director of Public Works to negotiate and execute all necessary documents with contractors to complete corrective actions as may be recommended by this agreement in an amount not to exceed \$150,000; and 2. Adopt a Resolution No 18-066 approving a Budget Adjustment in the amount of \$219,945 for Don Burnett Bicycle-Pedestrian Bridge Inspection & Maintenance. The motion carried with Sinks absent.

15. Subject: Agreement with Pacific Office Automation for the technology refresh of the City's multifunctional printers.
Recommended Action: Authorize the City Manager to approve purchase order for fifteen (15) multifunctional printers in the amount of \$128,305 and authorization to enter into a one-year Service Agreement, with four (4) one-year extension options payable at an annual rate of \$25,000 for a five-year amount of \$125,000 with Pacific Office Automation for a total amount of \$253,305.
16. Subject: Application for Alcohol Beverage License for Prime Works USA, Inc (dba Uzumakiya), 10789 S. Blaney Avenue
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Prime Works USA, Inc (dba Uzumakiya), 10789 S. Blaney Avenue
17. Subject: Authority to award a construction contract for the McClellan Road Sidewalk Improvements-Phase 2 project

Recommended Action: 1. Authorize the City Manager to award a construction contract in an amount not to exceed 90% of the appropriated project budget limits to the lowest responsive bidder if there are no unresolved bid protests; and; 2. Authorize a construction contingency budget of 10% of the construction contract amount to address unforeseen conditions discovered during construction.

18. Subject: Authority to award a construction contract for the McClellan Road Separated Bikeways-Phase 1 project

Recommended Action: 1. Authorize the City Manager to award a construction contract in an amount not to exceed 90% of the appropriated project budget limits to the lowest responsive bidder if there are no unresolved bid protests and; 2. Authorize a construction contingency budget of 10% of the construction contract amount to address unforeseen conditions discovered during construction.

19. Subject: 2015 Contractual Janitorial Services - Project No. 2015-23, contract extension

Recommended Action: Staff recommends Council take the following actions: 1. Authorize the Director of Public Works to negotiate and execute a one-year extension of the 2015 Contractual Janitorial Services contract and increase janitorial services by \$400/month at the Cupertino Library; and; 2. Adopt Resolution No 18-067 approving a Budget Adjustment in the amount of amount of \$4,800 for janitorial services (100-87-828 700-702) (Attachment C).

Council recessed from 9:56 p.m. to 10:01 p.m.

SECOND READING OF ORDINANCES

20. 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 second 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. Enact the ordinance. Note: The first reading was conducted on June 19 and there were no changes to the ordinance.

Deputy City Manager Jaqui Guzman reviewed the staff report.

Mayor Paul opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Paul closed public comment.

City Clerk Grace Schmidt read the title of the ordinance.

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

Chang moved and Vaidhyanathan seconded to enact Ordinance No. 18-2174. Ayes: Paul, Chang, Scharf, and Vaidhyanathan. Noes: None. Abstain: None. Absent: Sinks.

PUBLIC HEARINGS

21. Subject: 2018-19 Community Development Block Grant (CDBG) Annual Action Plan
Recommended Action: 1. Conduct the Public Hearing; and 2. Adopt Resolution No. 18-068 adopting the FY 2018-19 Community Development Block Grant (CDBG) Annual Action Plan and authorizing the City Manager to submit the plan to the US Department of Housing and Urban Development (HUD); and 3. Authorize the appropriation of CDBG funds to the US Department of Housing (HUD) to allow spending of the fiscal year 2018-2019 grant award in the amount of \$361,597

Written communications for this item included a staff presentation.

Associate Planner Erick Serrano reviewed the staff report.

Mayor Paul opened the public hearing and seeing no speakers, closed the public hearing.

Chang moved and Vaidhyanathan seconded to adopt Resolution No. 18-068 adopting the FY 2018-19 Community Development Block Grant (CDBG) Annual Action Plan and authorizing the City Manager to submit the plan to the US Department of Housing and Urban Development (HUD); and authorize the appropriation of CDBG funds to the US Department of Housing (HUD) to allow spending of the fiscal year 2018-2019 grant award in the amount of \$361,597. The motion carried with Sinks absent.

ORDINANCES AND ACTION ITEMS

22. Subject: First Reading of an Ordinance amending to Cupertino Municipal Code Chapters 19.12 (Administration) and 19.148 (Required Artwork in Public and Private Developments). (Application number: MCA-2018-01; Location: City-wide; Applicant: City of Cupertino)
Recommended Action: Conduct the first reading of Ordinance No. 18-2175: "An Ordinance of the City Council of the City of Cupertino amending Municipal Code Chapters 19.12:

Administration and 19.148: Required artwork in Public and Private Developments"; and 2. Schedule the second reading of the ordinance for August 21, 2018.

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

Senior Planner Catarina Kidd reviewed the staff report.

City Clerk Grace Schmidt read the title of the ordinance.

Chang moved and Scharf seconded to read Ordinance No. 18-2175 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Paul, Chang, Scharf, and Vaidhyanathan. Noes: None. Abstain: None. Absent: Sinks.

REPORTS BY COUNCIL AND STAFF

23. Subject: Report on Committee assignments and general comments

Recommended Action: Report on Committee assignments and general comments

Council concurred to agendize a Valley Transportation Authority (VTA) presentation on Stevens Creek Corridor on August 21 (Sinks absent).

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

ADJOURNMENT

At 10:45 p.m. Mayor Paul adjourned the meeting.

Grace Schmidt, City Clerk