



**DRAFT MINUTES  
CUPERTINO CITY COUNCIL  
Tuesday, September 18, 2018**

**SPECIAL CITY COUNCIL MEETING**

**PLEDGE OF ALLEGIANCE**

At 5:00 p.m. Mayor Darcy Paul called the Special City Council meeting to order 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.

Mayor Paul reported out on three closed session meetings from September 28, September 10, and September 11 regarding the CM recruitment.

Subject: Public Employee Employment (Gov't Code 54957(b)(1); Title: City Manager Recruitment.

Mayor Paul reported that no reportable action was taken.

**CEREMONIAL MATTERS AND PRESENTATIONS**

1. Subject: Proclamation recognizing Cupertino Library's extended hours of service, which will begin June 1.  
Recommended Action: Present Proclamation recognizing Cupertino Library's extended hours of service, which will begin June 1.

Mayor Paul presented a Proclamation to Cupertino Librarian Clare Varesio recognizing Cupertino Library's extended hours of service, which will begin June 1.

2. Subject: Proclamation for "Energized by Art" utility box art contest winners  
Recommended Action: Present Proclamation for "Energized by Art" utility box art contest winners

Mayor Paul presented a Proclamation for "Energized by Art" utility box art to the contest winners.

## POSTPONEMENTS

3. Subject: Continue Item Number 16, Second Reading of an Ordinance Designating Additional Preferential Parking Zones to October 2  
Recommended Action: Continue Item Number 16, Second Reading of an Ordinance Designating Additional Preferential Parking Zones to October 2

Vaidhyanathan moved and Chang seconded to continue Item Number 16, Second Reading of an Ordinance Designating Additional Preferential Parking Zones to October 2. The motion carried unanimously.

## ORAL COMMUNICATIONS

Phyllis Dickstein talked about procedural issues and timing of the Vallco Specific Plan.

Tessa Parish (Cupertino resident) talked about SB35.

Liang Chao (Cupertino resident) talked about SB35.

Jennifer Griffin talked about San Jose Urban Villages.

Kitty Moore talked about SB35.

Julia Miyakawa (Cupertino resident) talked about Regnart Creek (distributed written comments)

Richard Mehlinger (Sunnyvale resident) talked about minimum wage.

Sinks moved and Vaidhyanathan seconded to finish all public comment for item number 17 regarding Vallco Specific Plan on September 18, close the public hearing, and then adjourn and continue the meeting to September 19 for deliberation. The motion carried with Chang voting no.

## CONSENT CALENDAR

Vaidhyanathan moved and Sinks seconded to approve the items on the Consent Calendar as presented with the exception of item number 15 which was pulled for discussion. Ayes: Paul, Sinks, Chang, Scharf, and Vaidhyanathan. Noes: None. Abstain: None. Absent: None.

4. Subject: Approve the August 21 City Council minutes  
Recommended Action: Approve the August 21 City Council minutes
5. Subject: Accept Accounts Payable for the period ending June 29, 2018  
Recommended Action: Adopt Resolution No. 18-087 accepting Accounts Payable for the period ending June 29, 2018
6. Subject: Accept Accounts Payable for the period ending July 06, 2018  
Recommended Action: Adopt Resolution No. 18-088 accepting Accounts Payable for the period ending July 06, 2018
7. Subject: Accept Accounts Payable for the period ending July 13, 2018  
Recommended Action: Adopt Resolution No. 18-089 accepting Accounts Payable for the period ending July 13, 2018
8. Subject: Accept Accounts Payable for the period ending July 20, 2018  
Recommended Action: Adopt Resolution No. 18-090 accepting Accounts Payable for the period ending July 20, 2018
9. Subject: Accept Accounts Payable for the period ending July 27, 2018  
Recommended Action: Adopt Resolution No. 18-091 accepting Accounts Payable for the period ending July 27, 2018
10. Subject: Biennial Review of City of Cupertino Conflict of Interest Code for officials and designated employees (Form 700).  
Recommended Action: a.) Rescind Resolution No. 16-090 and adopt Resolution No. 18-092 amending the City of Cupertino Conflict of Interest Code for officials and designated employees and requiring electronic filing of all Statements of Economic Interest; and b.) Authorize the City Manager to sign the required 2018 Local Agency Biennial Notice.
11. Subject: Fee waiver request from League of Women Voters of Cupertino-Sunnyvale for approximately \$300 in facility use fees for use of Community Hall on September 24, October 1, and October 8, 2018 for candidate forums  
Recommended Action: Approve fee waiver request for approximately \$300 in facility use fees for the use of Community Hall on September 24, October 1, and October 8, 2018 for candidate forums
12. Subject: Equipment Sharing Agreement between the City of Cupertino, Town of Los Gatos and City of Campbell

Recommended Action: Authorize the City Manager to execute the Equipment Sharing Agreement (ESA) between the City of Cupertino, Town of Los Gatos and City of Campbell on behalf of the City of Cupertino in substantially similar format to the attached draft agreement; and authorize the City Manager or designee to maintain an Equipment Catalog, establishing shared equipment and rates

13. Subject: Annexation of Creston Dr. 18-01 (10598 Creston Dr. - APN 326-12-089)  
Recommended Action: Adopt Resolution No. 18-093 initiating proceedings and setting October 2, 2018 for City Council consideration of reorganization of territory designated as "Creston Dr. 18-01"
14. Subject: Resolution declaring a climate emergency  
Recommended Action: Adopt Resolution No. 18-094 declaring a climate emergency
15. Subject: Apple, Inc. donation to augment public safety service levels in the City of Cupertino  
Recommended Action: 1. Accept a donation from Apple, Inc. in the amount of \$558,979 for increased police services in Cupertino for FY 2018-19; and 2. Approve an expenditure increase of \$558,979 in the Law Enforcement Division budget for 2,725 hours of additional police services from the Santa Clara County Sheriff's Office for a total FY 2018-19 contract amount of \$12,175,154 to \$12,734,133.

Vice Mayor Sinks noted he had a conflict of interest on this item and left the dais.

Deputy City Manager Jaqui Guzman reviewed the staff report and answered questions from Council.

Mayor Paul opened public comment and the following individual spoke:

Kitty Moore (Cupertino resident).

Mayor Paul closed public comment.

Chang moved and Vaidhyanathan seconded to 1. Accept a donation from Apple, Inc. in the amount of \$558,979 for increased police services in Cupertino for FY 2018-19; and 2. Approve an expenditure increase of \$558,979 in the Law Enforcement Division budget for 2,725 hours of additional police services from the Santa Clara County Sheriff's Office for a total FY 2018-19 contract amount of \$12,175,154 to \$12,734,133. The motion carried with Sinks recusing.

Vice Mayor Sinks returned to the dais.

## SECOND READING OF ORDINANCES

16. Subject: Second Reading of an Ordinance Designating Additional Preferential Parking Zones Ordinance on Noble Fir Court, Red Fir Court and White Fir Court  
Recommended Action: 1. Conduct the second reading of Ordinance No. 18-2176: "An Ordinance of the City Council of the City of Cupertino Amending Cupertino Municipal Code Section 11.27.145 Designating Additional Preferential Parking Zones to add Noble Fir Court, Red Fir Court and White Fir Court"; and 2. Enact the ordinance. Note: The first reading was conducted on August 21 and there were no changes to the ordinance. (This item will be continued to October 2)

Under Postponements, this item was continued to October 2.

## PUBLIC HEARINGS

17. Subject: Vallco Town Center Special Area: Specific Plan and associated amendments to the General Plan, Zoning Map, and Municipal Code, to establish and modify development standards, including heights, density, and residential, commercial, and office development allocations; CEQA environmental review of project impacts and mitigation; Development Agreement. The Specific Plan provides for two Tiers of development that include the following development allocations: Tier 1 - up to 2,034 residential units, up to 750,000 sq.ft. of office development, and minimum of 600,000 sq.ft. of commercial development; and Tier 2 - with community benefits, up to 2,923 residential units, up to 1.5 million sq.ft. sq.ft. of office development (with an additional 250,000 sq.ft. of office amenity space) and a minimum of 485,000 sq.ft. of commercial development which includes civic spaces. The Development Agreement provides community benefits, including a new City Hall (warm shell), a Performing Arts Center (warm shell), affordable housing to moderate income households, and financial and in-kind contributions toward local transportation improvements and public schools. Planning Commission recommendations are included in the report, and include a middle tier, between Tier 1 and Tier 2 development, with 2,923 residential units, reduced office allocation and a commensurate reduction in community benefits. (Application Number(s): GPA-2018-02, Z-2018-01, SPA-2017-01, MCA-2018-01, DA-2015-02 (EA-2017-05); Applicant(s): City of Cupertino (Specific Plan, General Plan Amendments, Zoning, Municipal Code Amendments and Environmental Review) and Vallco Property Owner, LLC (Development Agreement); Location: 10101 to 10333 North Wolfe Road; APN: 316-20-080, 316-20-081, 316-20-103, 316-20-107, 316-20-101, 316-20-105, 316-20-106, 316-20-104, 316-20-088, 316-20-092, 316-20-094, 316-20-099, 316-20-100, 316-20-095)  
Recommended Action: The Planning Commission recommends that the City Council conduct a hearing and 1. Adopt Draft Resolution No. 18-084, certifying the Final

Environmental Impact Report (FEIR), adopt CEQA findings, a Statement of Overriding Considerations and adopting and incorporating the mitigation measures into the Project, and adopting a Mitigation Monitoring and Reporting Program. 2. Adopt Draft Resolution No. 18-085, approving General Plan amendments required to implement the Specific Plan. 3. Adopt Draft Resolution No. 18-086, approving the proposed Vallco Town Center Specific Plan, and associated clarifying/supplemental language. 4. Conduct the first reading of Ordinance No. 18-2177: "An Ordinance of the City Council of the City of Cupertino Amending the Municipal Code to Allow Adoption and Implementation of Vallco Town Center Specific Plan." 5. Conduct the first reading of Ordinance No. 18-2178: "An Ordinance of the City Council of the City of Cupertino Rezoning the Parcels within the Vallco Special Area." 6. Conduct the first reading of Ordinance No. 18-2179: "Ordinance of the City Council of the City of Cupertino Approving a Development Agreement by and Between the City of Cupertino and Vallco Property Owner LLC for the Development of Vallco Town Center."

Written communications for this item included public comments, Opticos Design Vallco Special Area Specific Plan presentation, Vallco Specific Plan Environmental Impact Report presentation, Vallco Town Center Specific Plan presentation, School Impact report, Specific Plan errata, Development Agreement clarifications, and late comments memo.

Senior Planner Catarina Kidd reviewed the staff report and presentation.

Consultant Daniel Parolek from Opticos Design made a presentation on the Specific Plan.

Judy Shandley from David J. Powers gave a presentation on the EIR (Environmental Impact Report).

Other consultants, Franziska Church from Fehr & Peers, Kristy Weis from David J. Powers, Richard Recht, Benjamin Sigman, and Stason Foster from Cornerstone were also available to answer questions regarding traffic, economics, and school impact. Consulting attorneys were also available to answer questions including Karen Murphy, Ellen Garber from Shute, Mihaly & Weinberger LLP, Eric Phillips from Goldfarb & Lipman LLP, Gerald Ramiza from Burke, and Williams & Sorensen LLP.

Reed Moulds from Sand Hill Property Company gave a presentation on the Vallco Specific Plan.

Staff and consultants answered questions from Council.

Council recessed from 7:50 p.m. to 8:02 p.m.

Staff and consultants answered questions from Council.

Mayor Paul opened the public hearing and the following individuals spoke:

Patrick Aherns (Cupertino resident) on behalf of Assembly Member Evan Low  
Carl Guardino on behalf of Silicon Valley Leadership Group  
Jean Bedord (Cupertino resident)  
Polly Bove (Mountain View resident) on behalf of Fremont Union High School District  
Craig Baker on behalf of Cupertino Union School District  
Martin Phipps (Cupertino resident) on behalf of J.R. Fruen  
Rich Parker (Cupertino resident) on behalf of Pete Heller  
Matt Regan (Pleasant Hill resident) on behalf of Bay Area Council  
Jean Cohen (San Jose resident) on behalf of UA Local 393  
Herbert Knoesel (Cupertino resident)  
Coop Rez (Cupertino resident) - distributed blank petitions  
Tessa Parish (Cupertino resident)  
Jan Stokley on behalf of Housing Choices  
Ganesh Sure (Cupertino resident)  
Tom Yetter on behalf of San Andreas Regional Center  
Craig Mizushima on behalf of Housing Trust of Silicon Valley  
David Mayer on behalf of Silicon Valley @home  
Leslie Corsiglia on behalf of Silicon Valley @home  
Al DiFrancesco (Cupertino resident)  
Dundee Maples (Cupertino resident)  
Jennifer Griffin  
Joan Chin (Cupertino resident)  
Kitty Moore  
Lusha Peng (Cupertino resident)  
Cathy Wang (Cupertino resident)  
Yuwen Su (Cupertino resident)  
Sumako Tobori (Cupertino resident)  
Andrew Walters on behalf of Cupertino Chamber of Commerce and Donna Austin  
Monica Chandra on behalf of West Valley Community Services (WVCS)  
Sujatha Venkatraman on behalf of WVCS

Council recessed from 11:05 p.m. to 11:15 p.m.

Thomas Maiello (Cupertino resident)  
John McGuigan (Cupertino resident)  
Marie Liu (Cupertino resident)

Richard Mehlinger  
Kent Vincent (Cupertino resident) - distributed written comments  
Amit Panditreo (Cupertino resident)  
Neil Struthers (San Jose resident) on behalf of IBEW/NECA  
Ping Wang  
Paula Davis (San Jose resident)  
Danessa Techmanski (Cupertino resident)  
Geoff Paulsen (Cupertino resident)  
Mark Mollineaux (Sunnyvale resident) on behalf of Sunnyvale Tenants Union  
Liang Chao (Cupertino resident)  
David Bini (San Jose resident) on behalf of the Building Trades Council  
Ignatius Ding (Cupertino resident)  
Joe Pereira (Cupertino resident)  
Keith Warner (Cupertino resident)  
Lisa Warren  
Lin Pan (Cupertino resident)  
Bob Stromberg on behalf of Destination = Home  
Edward Hirshfield (Cupertino resident)  
Ilker Erbil (Sunnyvale resident)  
Kris Campos (San Jose resident)  
David Wei (Cupertino resident) on behalf of OSF  
Kelsey Banes (Palo Alto resident)  
Michael Zhang (Cupertino resident)  
Mark Brodsky (Los Gatos resident)  
Lili Li  
Larry Hendleo (Cupertino resident)  
Jay Zhang (Cupertino resident)  
Catherine Chen  
Wenguang Wang (Santa Clara resident)  
Orrin Mahoney (Cupertino resident)  
Shanshan Liu  
Peggy Griffin (Cupertino resident)  
Kim James (Cupertino resident)  
Regina Thomas (Cupertino resident) on behalf of WVCS and Housing Choices  
Holly Lofgren (Sunnyvale resident)  
Yunjia Dai (Cupertino resident)  
Liana Crabtree (Cupertino resident)  
Michael Mar (Cupertino resident)

Mayor Paul closed the public hearing.



Per the vote earlier in the evening, the special meeting of the Cupertino City Council held on Tuesday, September 18, 2018 was adjourned to Wednesday, September 19, 2018 at 5:00 p.m. for purposes of continued hearing, consideration, deliberation, and decisions on all items listed as Item #17 on the September 18, 2018 City Council agenda. Subject: Vallco Town Center Special Area: Specific Plan and associate amendments to the General Plan, Zoning Map, and Municipal Code, to establish and modify development standards, including heights, density, and residential, commercial, and office development allocations; CEQA environmental review of project impacts and mitigation; Development Agreement. The public testimony portion of the hearing has been closed and remains closed. The meeting will be held in the Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California.

At 1:49 a.m. on Wednesday, September 19, Mayor Paul adjourned and continued the meeting as noted above.

Wednesday, September 19, 2018

### **CONTINUED SPECIAL MEETING FROM SEPTEMBER 18**

#### **PLEDGE OF ALLEGIANCE**

At 5:07 p.m. Mayor Darcy Paul called the Special City Council meeting to order 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.

#### **PUBLIC HEARINGS - Continued**

17. Subject: Vallco Town Center Special Area: Specific Plan and associated amendments to the General Plan, Zoning Map, and Municipal Code, to establish and modify development standards, including heights, density, and residential, commercial, and office development allocations; CEQA environmental review of project impacts and mitigation; Development Agreement. The Specific Plan provides for two Tiers of development that include the following development allocations: Tier 1 - up to 2,034 residential units, up to 750,000 sq.ft. of office development, and minimum of 600,000 sq.ft. of commercial development; and Tier 2 - with community benefits, up to 2,923 residential units, up to 1.5 million sq.ft. sq.ft. of office development (with an additional 250,000 sq.ft. of office amenity space) and a

minimum of 485,000 sq.ft. of commercial development which includes civic spaces. The Development Agreement provides community benefits, including a new City Hall (warm shell), a Performing Arts Center (warm shell), affordable housing to moderate income households, and financial and in-kind contributions toward local transportation improvements and public schools. Planning Commission recommendations are included in the report, and include a middle tier, between Tier 1 and Tier 2 development, with 2,923 residential units, reduced office allocation and a commensurate reduction in community benefits. (Application Number(s): GPA-2018-02, Z-2018-01, SPA-2017-01, MCA-2018-01, DA-2015-02 (EA-2017-05); Applicant(s): City of Cupertino (Specific Plan, General Plan Amendments, Zoning, Municipal Code Amendments and Environmental Review) and Vallco Property Owner, LLC (Development Agreement); Location: 10101 to 10333 North Wolfe Road; APN: 316-20-080, 316-20-081, 316-20-103, 316-20-107, 316-20-101, 316-20-105, 316-20-106, 316-20-104, 316-20-088, 316-20-092, 316-20-094, 316-20-099, 316-20-100, 316-20-095)

Recommended Action: The Planning Commission recommends that the City Council conduct a hearing and 1. Adopt Draft Resolution No. 18-084, certifying the Final Environmental Impact Report (FEIR), adopt CEQA findings, a Statement of Overriding Considerations and adopting and incorporating the mitigation measures into the Project, and adopting a Mitigation Monitoring and Reporting Program. 2. Adopt Draft Resolution No. 18-085, approving General Plan amendments required to implement the Specific Plan. 3. Adopt Draft Resolution No. 18-086, approving the proposed Vallco Town Center Specific Plan, and associated clarifying/supplemental language. 4. Conduct the first reading of Ordinance No. 18-2177: "An Ordinance of the City Council of the City of Cupertino Amending the Municipal Code to Allow Adoption and Implementation of Vallco Town Center Specific Plan." 5. Conduct the first reading of Ordinance No. 18-2178: "An Ordinance of the City Council of the City of Cupertino Rezoning the Parcels within the Vallco Special Area." 6. Conduct the first reading of Ordinance No. 18-2179: "Ordinance of the City Council of the City of Cupertino Approving a Development Agreement by and Between the City of Cupertino and Vallco Property Owner LLC for the Development of Vallco Town Center."

Written communications for this item included Development Agreement clarifications.

Staff and consultants answered questions from Council.

Original motion: Sinks moved and Chang seconded to approve the staff recommendation including all desktop item inclusions.

Council recessed from 7:20 p.m. to 7:30 p.m.

Councilmembers deliberated.

Council recessed from 9:03 p.m. to 9:15 p.m.

Councilmembers continued to deliberate.

Paul moved and Scharf seconded to amend the motion to decrease the office allocation from 1.75 million to 750,000 square feet and strike the provision in the Development Agreement regarding any referendum or lawsuit or any action taken to challenge the Specific Plan proposal. The motion failed with Paul and Scharf voting yes, Sinks, Chang, and Vaidhyanathan voting no.

Paul moved and Scharf seconded to amend the motion to decrease the office allocation from 1.75 million to 900,000 square feet and strike the provision in the Development Agreement regarding any referendum or lawsuit or any action taken to challenge the Specific Plan proposal. The motion failed with Paul and Scharf voting yes, Sinks, Chang, and Vaidhyanathan voting no.

Paul moved and Scharf seconded to amend the motion to decrease the office allocation from 1.75 million to 1.25 million square feet and strike the provision in the Development Agreement regarding any referendum or lawsuit or any action taken to challenge the Specific Plan proposal. The motion failed with Paul and Scharf voting yes, Sinks, Chang, and Vaidhyanathan voting no.

The original motion was amended as follows:

Sinks moved and Chang seconded to adopt Draft Resolution No. 18-084, certifying the Final Environmental Impact Report (FEIR), adopting CEQA findings, a Statement of Overriding Considerations and adopting and incorporating the mitigation measures into the Project, and adopting a Mitigation Monitoring and Reporting Program, incorporating all supplemental text revisions provided as desk items into the Final EIR. The motion carried with Scharf voting no.

Sinks moved and Chang seconded to adopt Draft Resolution No. 18-085, approving General Plan amendments required to implement the Specific Plan. The motion carried with Paul and Scharf voting no.

Sinks moved and Chang seconded to adopt Draft Resolution No. 18-086, approving the proposed Vallco Town Center Specific Plan, and associated clarifying/supplemental

language including supplemental text errata presented as a desk item. The motion carried with Paul and Scharf voting no.

City Clerk Grace Schmidt read the title of Ordinance No. 18-2177: "An Ordinance of the City Council of the City of Cupertino Amending the Municipal Code to Allow Adoption and Implementation of Vallco Town Center Specific Plan."

Sinks moved and Chang seconded to read Ordinance No. 18-2177 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Sinks, Chang, Vaidhyanathan. Noes: Paul, Scharf. Abstain: None. Absent: None.

City Clerk Grace Schmidt read the title of Ordinance No. 18-2178: "An Ordinance of the City Council of the City of Cupertino Rezoning the Parcels within the Vallco Special Area."

Sinks moved and Chang seconded to read Ordinance No. 18-2178 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Sinks, Chang, Vaidhyanathan. Noes: Paul, Scharf. Abstain: None. Absent: None.

City Clerk Grace Schmidt read the title of Ordinance No. 18-2179: "Ordinance of the City Council of the City of Cupertino Approving a Development Agreement by and Between the City of Cupertino and Vallco Property Owner LLC for the Development of Vallco Town Center."

Sinks moved and Chang seconded to read Ordinance No. 18-2179 by title only and that the City Clerk's reading would constitute the first reading thereof including all text revisions presented as desk items on September 18 and 19 related to ELI (Extremely Low Income) units, Cupertino Union School District (CUSD) contributions and sanitary sewer changes. Ayes: Sinks, Chang, Vaidhyanathan. Noes: Paul, Scharf. Abstain: None. Absent: None.

## **ORDINANCES AND ACTION ITEMS - None**

## **REPORTS BY COUNCIL AND STAFF**

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

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

## **ADJOURNMENT**

At 10:35 p.m., Mayor Paul adjourned the meeting.

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Grace Schmidt, City Clerk