



**DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, March 5, 2019**

REGULAR CITY COUNCIL MEETING

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

Present: Mayor Steven Scharf, Councilmembers Darcy Paul, Rod Sinks, and Jon Robert Willey.
Absent: Vice Mayor Liang Chao.

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 - Anticipated Litigation. Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2): one potential case

Mayor Scharf reported that the Council discussed with legal counsel significant exposure to litigation against the City and no reportable action was taken.

RECESS

PLEDGE OF ALLEGIANCE

At 6:46 p.m. Mayor Steven Scharf 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 Steven Scharf, Vice Mayor Liang Chao, and Councilmembers Darcy Paul, Rod Sinks, and Jon Robert Willey. Absent: None.

CEREMONIAL MATTERS AND PRESENTATIONS

2. Subject: Proclamation proclaiming March as American Red Cross Month and presentation from the American Red Cross regarding local activities
Recommended Action: Present Proclamation proclaiming March as American Red Cross Month and receive presentation from the American Red Cross regarding local activities

Written communications for this item included a presentation.

Stuart Chesson from the Red Cross Silicon Valley Chapter gave a presentation regarding local activities.

Mayor Scharf presented the proclamation proclaiming March as American Red Cross Month.

3. Subject: City Attorney presentation on laws governing open meetings and conflicts of interest: the Brown Act and the Political Reform Act.
Recommended Action: Receive City Attorney presentation on laws governing open meetings and conflicts of interest: the Brown Act and the Political Reform Act.

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

Council received the City Attorney's presentation on laws governing open meetings and conflicts of interest: the Brown Act and the Political Reform Act.

POSTPONEMENTS - None

ORAL COMMUNICATIONS

Rhoda Fry talked about Lehigh Cement Plant.

Cathy Helgersen (Cupertino resident) talked about Lehigh Cement Plant (provided written comments).

Gary Wong (Cupertino resident) talked about the Regnart Creek Trail feasibility study (provided written comments).

Larry Dean (Cupertino resident), on behalf of Walk Bike Cupertino, talked about Bike Plan implementation and the Union Pacific Railroad Trail feasibility study.

Ramola Gokhale (Cupertino resident) talked about the Regnart Creek Trail feasibility study.

Jennifer Shearin (Cupertino resident) talked about the Regnart Creek Trail feasibility study.

Benaifer Dastoor & Hung Wei (Cupertino residents), on behalf of Fremont Union High School District (FUHS) Foundation, talked about the Foundation's Spring Fling 2019 Fundraiser.

Jean Bedord (Cupertino resident) talked about Council priorities of hiring a City Manager and senior staff, developing a housing strategy, and determining Capital Improvement Project (CIP) funding strategies.

Lisa Warren talked about Council's February 5 discussion to acquire the parcel adjacent to Sedgewick and eliminating the school's expansion possibilities.

Danessa Techmanski talked about the performance of current housing bills, affordable housing, housing/jobs imbalance, and office allocation to fund Below Market Rate (BMR) housing.

Janet Van Zoeren (Cupertino resident) talked about traffic safety improvements along McClellan Road and the railroad intersection near Bubba.

Jennifer Griffin talked about the number of incoming students for Cupertino High School from the adjacent San Jose Urban Villages and Vallco.

CONSENT CALENDAR

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

4. Subject: Approve the February 19 City Council minutes
Recommended Action: Approve the February 19 City Council minutes
5. Subject: Planning Commission's recommendation to select Kitty Moore as the Environmental Review Committee representative
Recommended Action: Accept the Planning Commission's recommendation to the Environmental Review Committee

SECOND READING OF ORDINANCES - None

ORDINANCES AND ACTION ITEMS

6. Subject: Approve the Mid-Year Financial Report and recommended budget adjustments for Fiscal Year 2018-19
Recommended Action: 1. Accept the City Manager's Mid-Year Financial Report for FY 2018-19
2. Approve Budget Modification 1819-043 for Mid-Year adjustments as described in the Mid-Year Financial Report
3. Adopt Resolution No. 19-021 approving Mid-Year budget adjustments

Written communications for this item included a staff presentation.

Director of Administrative Services Kristina Alfaro reviewed the staff report and presentation.

Ms. Alfaro introduced Finance Manager Zachary Korach who continued the presentation.

Mayor Scharf opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Scharf closed public comment.

Staff answered questions from Council.

Sinks moved and Scharf seconded to 1. Accept the City Manager's Mid-Year Financial Report for FY 2018-19; and

2. Approve Budget Modification 1819-043 for Mid-Year adjustments as described in the Mid-Year Financial Report with the exception of additional staffing for the Senior Center to be brought back for the proposed budget and justified with performance metrics; and
3. Adopt Resolution No. 19-021 approving Mid-Year budget adjustments. The motion carried unanimously.

Council recessed from 9:23 to 9:33 p.m.

Mayor Scharf reordered agenda Item Nos. 7 & 8 to hear Item No. 8 first.

8. Subject: Jollyman Park Unfenced Dog Off-Leash Area (DOLA) Trial
Recommended Action: Receive presentation from trial project supporters and provide staff with direction on whether to include the development of a six-month trial of a

Dog Off-Leash Area (DOLA) at Jollyman Park on the City Council draft work program for 2019-20.

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

Recreation and Community Services Director Jeff Milkes reviewed the staff report and introduced resident Sameer Raheja who gave a presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Deepa Mahendrakar (Cupertino resident), on behalf of Jollyman Dog Group
Joanne, on behalf of Jollyman Dog Group
Rohan Parikh (Cupertino resident), on behalf of Jollyman Dog Group
Geetanjali V. Joshi (Cupertino resident), on behalf of Jollyman Dog Group
John Shelchuk, on behalf of Jollyman Dog Group
Xiaoyu Wang (Cupertino resident), on behalf of Jollyman Dog Group
Rusha, on behalf of Jollyman Dog Group
Ajay Athavale (Cupertino resident), on behalf of Jollyman Dog Group
Kiran Kavoori (Cupertino resident), on behalf of Jollyman Dog Group
Vinutha D Rao (Cupertino resident), on behalf of Jollyman DOLA
Manjaya Hegde, on behalf of DOLA
Debashish Painala Rao (Cupertino resident), on behalf of Jollyman DOLA
Gail Marzoif (Cupertino resident), on behalf of Jollyman Dog Group
Giridnar Malavali (Cupertino resident), on behalf of Jollyman Dog Group
Jyothi Sargur (Cupertino resident), on behalf of Jollyman Dog Group
Sarat Khilmani (Cupertino resident), on behalf of Jollyman Dog Group
Vidya Damle (Cupertino resident), on behalf of Jollyman Dog Group
Vineet Gupta (Cupertino resident), on behalf of Jollyman Offleash Dog Park
Carol Stanek (Cupertino resident)

Mayor Scharf closed public comment.

Staff and the presenter answered questions from Council.

Council received the presentation from trial project supporters and directed staff to include the development of a six-month trial of a Dog Off-Leash Area (DOLA) at Jollyman Park on the City Council draft work program for 2019-20. Council also provided comments to staff regarding the following areas:

- Oversight/regulation/code enforcement (Willy, Paul, Chao)
- Adequate and appropriate signage (Willey, Paul)
- Playground/child safety (Willey, Paul)

- Boundaries/fencing (Paul, Chao)
- Outreach/noticing of another hearing before trial begins (Sinks, Scharf)

7. Subject: Consider approving the 2019 Clean Water and Storm Protection Fee Report; discussion and consideration of a Resolution declaring the intention to initiate a proceeding to obtain approval of the City's proposed 2019 Clean Water and Storm Protection Fee, which is a property-related fee, approving a fee report, and calling a hearing to consider all protests; discussion and consideration of a Resolution adopting ballot procedures for the 2019 City's Clean Water and Storm Protection Fee.

Recommended Action: 1. Receive and approve the Fee Report for the 2019 Clean Water and Storm Protection Fee; and

2. Adopt Resolution No. 19-022 Initiating a Proceeding to Obtain Approval of the City of Cupertino's 2019 Clean Water and Storm Protection Fee, a property-related fee conforming to Article XIII D, Section 6 of the State Constitution; and

3. Adopt Resolution No. 19-023 Adopting Ballot Procedures for the City of Cupertino 2019 Clean Water and Storm Protection Fee; and

4. Call for a Public Hearing, tentatively scheduled for May 7, 2019, to receive input from the public about the proposed 2019 Clean Water and Storm Protection Fee, and to determine whether there is a majority protest to the proposed fee.

Written communications for this item included a staff presentation.

Acting Director of Public Works Roger Lee reviewed the staff report and presentation. Director Lee introduced SCI Consultant Jerry Bradshaw who continued the presentation.

Staff and the consultant answered questions from Council.

Mayor Scharf opened public comment, there were no speakers, and closed public comment.

Sinks moved and Scharf seconded to: 1. Receive and approve the Fee Report for the 2019 Clean Water and Storm Protection Fee; and

2. Adopt Resolution No. 19-022 Initiating a Proceeding to Obtain Approval of the City of Cupertino's 2019 Clean Water and Storm Protection Fee, a property-related fee conforming to Article XIII D, Section 6 of the State Constitution; and

3. Adopt Resolution No. 19-023 Adopting Ballot Procedures for the City of Cupertino 2019 Clean Water and Storm Protection Fee; and

4. Call for a Public Hearing, tentatively scheduled for May 7, 2019, to receive input from the public about the proposed 2019 Clean Water and Storm Protection Fee,

and to determine whether there is a majority protest to the proposed fee. The motion carried unanimously.

Council recessed from 12:10 to 12:18 am.

9. Subject: Cities Association of Santa Clara County Draft Housing Policy Statement
Recommended Action: Accept or Provide Comments to the Cities Association of Santa Clara County Draft Housing Policy Statement

Written communication for this item included, an email to Council, CASA Compact Legislation Table, and Cities Association Draft Housing Policy Statement.

Senior Housing Planner Kerri Heusler reviewed the staff report.
Staff answered questions from Council.

Mayor Scharf opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Scharf closed public comment.

Council provided comments on the Cities Association of Santa Clara County Draft Housing Policy Statement:

- Highlight acute jobs to housing imbalances and a deficient public transportation network as key factors exacerbating the affordable housing crisis.
- Any state initiative that will further exacerbate the jobs/housing imbalance is going down the wrong path.
- Specifically refer to an “affordable housing crisis” rather than a “housing crisis” given the acute need for more affordable housing—not more luxury housing.

Add policies:

- Balance the jobs to housing ratio across the region.
- Require cities to disclose existing jobs to housing ratio as part of annual housing reports and in relation to each project proposed.
- State action should promote efficacy and strive to improve and refine, rather than remove, the local entitlement process.
- Remove barriers to adequate school and park funding.
- Adopt a higher, regional employee head tax on businesses to help fund affordable housing.
- Strengthen and expand public transportation.

Support for certain statements:

- Agree with opposition to any effort to take away property taxes from cities to

- generate new funding for housing
- Support recommendation to have ABAG fulfill the role of administering new affordable housing funds and monitor housing production, rather than creating a new regional agency.

Clarify certain statements:

- “Removal of regulatory barriers to building new accessory dwelling units” and “thoughtful CEQA reform” are too broad.
- Do not support every “new funding sources dedicated to housing.”
- Do not favor new sales taxes because they are regressive.
- Oppose Governor Newsom’s funding package approach to the extent that it would tie transportation funding to housing production.
- Do not support all ideas included within the Compact.
- Clarify language within the introduction to work with the cities on the “ideas” contained within the Compact.

Reorganize and Strengthen the Statement:

- Could benefit from a comprehensive reorganization and framing of the issues once all comments are received.
- Structure to include an introduction, statement of intention, summary of actions cities in Santa Clara County have taken to address the housing shortage, statements of support for certain policy actions, statements in opposition of certain policy actions, and a conclusion.
- Add a discussion on how cities are already entitling their Regional Housing Needs Assessment (“RHNA”) requirements.
- Recognize that cities can capture the value of upzoning by requiring new housing, in ways that the state cannot.
- Funding for affordable housing should come before state efforts to upzone.

REPORTS BY COUNCIL AND STAFF

10. 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.

Directed staff to provide the following:

- A comparison of the changes in the draft Regnart Creek Trail Feasibility Study as mentioned in the table provided by the speaker under oral communications (Chao/Willey).
- To include information clarifying legal issues for the inclusive playground request for proposals requirements at the April 30 capital improvement study session

(Chao/Scharf)

ADJOURNMENT

At 1:52 a.m. on Wednesday, March 6, 2019, Mayor Scharf adjourned the meeting.

Kirsten Squarcia, Deputy City Clerk