



**DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, September 17, 2019**

SPECIAL CITY COUNCIL MEETING

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

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Liang Chao, and Councilmembers Darcy Paul, Rod Sinks, and Jon Robert Willey. Absent: None.

CLOSED SESSION

1. Subject: Public Employee Performance Evaluation (Gov't Code Section 54957). Title: City Attorney.

Mayor Scharf reported that Council met in closed session and there was no reportable action.

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

At 6:45 p.m. Mayor Steven Scharf called the Regular 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 Steven Scharf, Vice Mayor Liang Chao, and Councilmembers Darcy Paul,

Rod Sinks, and Jon Robert Willey. Absent: None.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Present award to Cupertino resident Vishnu Athrey from Saint Andrews Episcopal School for winning the Qalaxia Build_your_ BOT contest (continued from September 3)

Recommended Action: Present award to Cupertino resident Vishnu Athrey from Saint Andrews Episcopal School for winning the Qalaxia Build_your_ BOT contest.

Mayor Scharf presented an award to Cupertino resident Vishnu Athrey from Saint Andrews Episcopal School for winning the Qalaxia Build_your_ BOT contest.

POSTPONEMENTS – None

ORAL COMMUNICATIONS

Dolly Sandoval talked about Planning Commission Chair Ray Wang being a public servant and serving the public good, and asked Council to re-consider the appointment.

REPORTS BY COUNCIL AND STAFF (10 minutes)

2. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

CONSENT CALENDAR

Paul moved and Scharf seconded to approve items 3 through 7 on the Consent Calendar as presented except for item number 8 which was pulled for discussion. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

3. Subject: Approve the September 3 City Council minutes
Recommended Action: Approve the September 3 City Council minutes
4. Subject: Application for Alcohol Beverage License for I&P Runway, LLC (dba Ippudo Ramen), 19540 Vallco Parkway, Suite #130

Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for I&P Runway, LLC (dba Ippudo Ramen), 19540 Vallco Parkway, Suite #130

5. Subject: Application for Alcohol Beverage License for Stak Partners, LLC (dba El Greco Grill), 20080 Stevens Creek Boulevard, Suite #104

Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Stak Partners, LLC (dba El Greco Grill), 20080 Stevens Creek Boulevard, Suite #104

6. Subject: Application for Alcohol Beverage License for Little Dipper Cupertino, LLC (dba Little Dipper Shabu Shabu), 20588 Stevens Creek Boulevard

Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Little Dipper Cupertino, LLC (dba Little Dipper Shabu Shabu), 20588 Stevens Creek Boulevard

7. Subject: Application for Alcohol Beverage License for Ramen United, Inc. (dba Afuri Ramen & Dumpling), 20803 Stevens Creek Boulevard, Suite #110

Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Ramen United, Inc. (dba Afuri Ramen & Dumpling), 20803 Stevens Creek Boulevard, Suite #110

8. Subject: Approve option to use design-build procurement for qualifying projects and establish a corresponding conflict-of-interest limitation pursuant to Public Contract Code section 22160 et seq.

Recommended Action: Adopt Resolution No. 19-114 approving the use of design-build project delivery pursuant to Public Contract Code section 22160 et seq., and establish a corresponding conflict-of-interest limitation pursuant to Public Contract Code section 22162.

Written communications for this item included a presentation.

Staff answered questions from Council.

Sinks moved and Scharf seconded to Adopt Resolution No. 19-114 approving the use of design-build project delivery pursuant to Public Contract Code section 22160 et seq., and establish a corresponding conflict-of-interest limitation pursuant to Public Contract Code section 22162.b. The motion carried with Willey voting no.

SECOND READING OF ORDINANCES - None

ORDINANCES AND ACTION ITEMS

9. Subject: Receive information report and presentation on Regnart Creek Trail 65% design and revised estimated costs; consideration of various trail improvement options (some of which also include on-street bicycle improvements) and alternative trail alignments to the proposed trail (on-street Alternatives 4 and 5); and, if design of the proposed trail continues, consider an increase to the design and environmental budget.

Recommended Action: Receive information report and presentation on Regnart Creek Trail 65% design and revised estimated costs; trail improvement options, and Alternatives 4 and 5 to the proposed trail; and if Council continues to move forward with design of the proposed trail: 1. Provide direction to staff regarding completion of design with a preferred trail improvement option A, B, C, D, E, or F; and 2. Adopt draft Resolution 19-115 amending the FY 2019/20 Capital Improvement Program budget to increase the budget to perform design and environmental clearance services from \$538,000 to \$813,000.

Written communications for this item included emails to Council, a staff presentation, Vice Mayor Chao's presentation, amended staff report, attachments H, I, and G, and a resident handout.

Director of Public Works Roger Lee reviewed the staff report.

City Manager Deborah Feng introduced the trail improvement Options.

Staff answered questions from Council.

Mayor Scharf opened public comment and the following individuals spoke:

Rikhil Konduru (Cupertino resident) - trail is for bikes and recreational use, faster access to schools.

Mahesh Vegiraju (Cupertino resident) on behalf of Tino Bike Club - safe for walking and biking, less accidents, and no worry of traffic.

Lawrence Fan (Cupertino resident) on behalf of Tino Bike Club - provides serviceability, safety, and leisure.

Student read statement on behalf of Indira Abyankar (Cupertino resident) – stopped biking to school because of congestion, trail would provide safe pathway and encourage biking.

Juliet Shearin (Cupertino resident) – improve walking and biking to Cupertino High, from City Center and to Wilson Park neighborhoods.

Kelly Tung (Cupertino resident) – would encourage students to commute by biking or walking, safely, to/from library and parks.

Winfred Lin (Cupertino resident) - grants can help funding for construction like for Stevens Creek Corridor.

Samil Lindskog (Cupertino resident) - will help students going to Cupertino High, benefits pleasure hikes.

Purva Marfatia (Cupertino resident) - provides safer and direct route to school, traffic is bad on the way to and around school.

Prachi Marfatia (Cupertino resident) - will help for walking and biking to school safety, not having to be dropped off by a car, reducing traffic.

Michael Gachet (Cupertino residents) – would benefit kids commuting to school, traveling through neighborhood safely.

Chrissy Harris (Cupertino resident) – likes the trail and being in nature.

Ari Harris (Cupertino resident) - rides bike to school, for bikers and people walking dogs.

Mrs. Harris – would help with mobility, ease of traveling back and forth, benefits those who can't afford vehicles, less risk traveling off roads.

Katie Lee (Cupertino resident) - get around and get to school on time, go to library and not cross a big street, reduces carbon emissions.

Calvin Anderson (Cupertino resident) - walks to library, efficient walking trail, benefits students who go to library, takes cars off the road.

Arnav Gokhale (Cupertino resident) - good exercise for kids and walks with family without road noise and traffic.

Student on behalf of Tino Bike Club – students can use for commuting, cities should make it easier for students and provide safety and from cars.

Tim Oey - professional cyclist, biked across U.S. on save kids ride, protects kids from being hit by cars and helps environment.

Brock Carpenter (Cupertino resident) – residents want more trails, trail is away from cars and slope driveways, helps people to get outside.

Soren Spies (San Jose resident) - Apple employee, bikes to work, kids can use, will improve bike transportation network, sustainable and human focused.

Brenda and Rick Boyle (Cupertino residents) - concrete wall cost, social media accusations, make better use of the funds, petition of opposition.

Nick Garcia (Cupertino resident) – costs too much, narrow and limited access, on-street approach instead, look at other options.

Beth Garcia (Cupertino resident) – distressed over path opening behind her house, narrow, leave Wilson Park alone.

Lynda Wyckoff (Cupertino resident) - petition of opposition, bike path injury liability, danger of path intersecting public path, spend funds in problem areas.

Peggy Jewett (Cupertino resident) - gaps in plan, look at Alternatives 4 and 5, supports complete streets for all types of traffic, owns part of road and would be liable.

Luis Buhler (Cupertino resident) - existing trail on public land, access for many residents versus benefitting a few, choose a cost-efficient solution.

Kati Laihia (Cupertino resident) - people need to be forced to change the traffic pattern, not a safety or privacy issue, make this separate trail.

J.R. Fruen (Cupertino resident) –will make pedestrian access to City amenities better, safer and more enjoyable, provide improvements to bike-ped infrastructure.

Jean Bedord (Cupertino resident) - land owned by tax payers, make available to all, retirement community close by, identify outside funding.

Jano Banks (Cupertino resident) – resident along trail, worked with City to find solutions on first trail, a lot of plans still left in 35%, work together.

Deepah Mahendraker (Cupertino resident) – be creative about using what land we have, for kids to bike and walk and enjoy.

Lars Thompson - owns Trailhead Cyclery, mangled bikes come into shop regularly from riding on street, driving in Cupertino is not A+.

Bill Rankin (Cupertino resident) - in favor of trails, allows children, seniors, and adults to get somewhere without a car.

Mathew Widmann –sharing road with students gets dangerous with congestion, would like to use as part of Cupertino morning commute.

Rick Austin (San Jose resident) - creeks are made for trails, has increased home value in Los Gatos, would allow walks in nature.

Council recessed from 9:43 p.m. to 9:53 p.m.

Ashok Natesan (Cupertino resident) – would help people with adequate walking infrastructure, narrowness doesn't matter, can see nature.

Anne Ng (Cupertino resident) – district keeps vegetation out of channel, hardly any vegetation, City plan will add vegetation, enhance corridor.

Helen Wiant (Cupertino resident) – will enhance life in City by reducing traffic, safer route, green space, and nature for wellbeing.

Kevin Lu (Cupertino resident) – few students will use, kids intentionally misled, arguments similar 20 years ago, projects ahead of trail, all for public audit.

Sana Tchernov (Cupertino resident) - knows safety and it is misleading kids, three heritage trees will be ruined, creek is home to birds and frogs.

Julia Miyakawa (Cupertino resident) – environmental group recommendations on creeks and protecting corridor habitats from trail developments.

John Liu (Cupertino resident) - construction should be extended to Alternates 4 or 5 to connect, will add congestion, existing trail begging for usage.

Stella (Cupertino resident) - not a good trail selection, four houses on Lozano very close and deviates from guidelines.

Craig Fisk (San Jose resident) – hikes, bikes, and walks in Cupertino, good branding for the City, makes sense to put in as designed.

Freda Xu (Cupertino resident) – trail has view of her bathroom window, will increase liability insurance, prefers Alternative 4 and 5.

Jean Pommier (Cupertino resident) - fence improvement on Lozano/De Palma is a lie, district asked for no fencing, De Palma is private land, set aside funding for legal action.

Bill Rassieur (Cupertino resident) - heard good things but downside for those on Lozano and De Palma, goes across front lawn, liabilities.

Raghuveer Kumarakrishnan (Cupertino resident) - better to have Alternatives 4 and 5, safer for bike lanes and community, cost will go up.

Alan Takahashi (Cupertino resident) – public benefit for community gathering place, infrastructure is key element and built for long-term.

Teresa Olson (Cupertino resident) - people can be outdoors, walk dogs or practice Tai Chi, option B would be wheelchair and stroller friendly.

Sarika Batra (Cupertino resident) - amazing city and why not improve, always naysayers when there is a vision, look beyond.

Richard Lowenthal (Cupertino resident) - option A to mitigate privacy and security, people want places to walk, is public land and public deserves access.

Ramola Gokhale (Cupertino resident) - need safe bike routes, opportunity to create walking path, funding opportunities from outside.

Pete Heller (Cupertino resident) - interacting with vehicles on road hinders safety, move beyond fear, put protective trail, change people's mindset.

Celia House (Cupertino resident) - streets not for a child and dodging vehicles, convenient, safe, usable bike access to Library and City Hall.

Eben Haber (Cupertino resident) - being able to get off the roadway is hugely valuable, please do best to work it out.

Geoff Paulsen (Cupertino resident) - look forward/look ahead, people buying less cars, seeing change in infrastructure, and supporting alternative transit.

Helene Davis (Cupertino resident) - connection to riparian lands and open spaces, listen to community, staff can mitigate issues with neighbors, think long-term.

Frankie Law (Cupertino resident) – has four houses at the end of De Palma, plan goes right in front of his house, choose Alternative 4.

Geoff Hall (San Jose resident) - will bike the route, good for kids, practical way to add biking or walking in city designed around cars.

Lani Honma (Sunnyvale resident) - house by trailhead allowed biking to school safely, increased home value, off-street trail to protect students.

Lisa Nakamatsu (Cupertino resident) - trail will feed into Cupertino High with eventual largest population, huge impact on children, safety first.

Swapneel Mahajan (Cupertino resident) - lives by Creekside Park, will ease access of activities outside of school, fiscal responsibilities but think of safety.

Brooke Callahan (San Jose resident) - commutes to Cupertino everyday by bicycle, not safe even in bike lanes, way to get to the library.

Gary Wong (Cupertino resident) on behalf of Campo De Lozano HOA - from small trail to major project, no detailed budget, difficult for Council to make decision without detail, unsuitable.

Beth Knodell (Cupertino resident) – (as part of group) use residential streets to bike on, doesn't solve existing problems, no mapped collisions in Regnart Creek area, compromising on width, railings, exiting fences, on surface, consider depth as flood control ditch, mid-street crossings unprotected, no proposed crosswalks, has seen coyotes.

Benaifer Dastoor (Cupertino resident) – look at facts, width of creek, not safe at mid street crossings, not an off-street option because of exiting at sections, homes vulnerability to burglaries, investment in security cameras, other trails run in to miles, wider, with fence protection, and wider setbacks.

Ilango Ganga (Cupertino resident) – 65% plan options have degraded safety, privacy, not suitable for biking, unresolved issues, moving ramp, retaining curb right of way, bridge removal, privacy, easement, trail closures not reliable.

Yasuho Miyakawa (Cupertino resident) – school safety, problem areas of trail don't address any of bike safety issues, can still close the loop by using Alternatives 4 and 5, other projects in pipeline to use the money on.

Suraj Dalvi (Cupertino resident) ceded time to group.

Jeonghee Yi (Cupertino resident) ceded time to group.

Binaisha Dastoor (Cupertino resident) ceded time to group.

Dinyar Dastoor (Cupertino resident) – already spent money on design only, looks like bait and switch, this is our money, could've done 20 miles of safe streets.

Megha Ilango (Cupertino resident) - would be a nuisance because of trailhead, longer path to reach Blaney, small population to use trail, inherent safety risks.

Jian He – family bikes to work, adjacent to Blackberry Farm trails, helps kids make decision and autonomy, will create for eastside versus just westside.

Qin Pan (Cupertino resident) - house is walking distance to Regnart Trail, will not be open at all times, consider improving road before trail.

Anita Ilango (Cupertino resident) - sidewalks are uncrowded, felt safe going to school, didn't feel impacted by bikers, students like her wouldn't use trail.

Mary Mack (Cupertino resident) - kids won't find shortcut or path to school but high risk of getting assaulted.

Tony Fong (Cupertino resident) - streets by Regnart are safe, cost unknown, maintenance cost, more deserving projects, privacy/environment concerns.

Georgina Chang (San Jose resident) – Cupertino bike commuter, separate trail from the streets, on street options force confrontations between cars and cyclists.

Jim Davis (Cupertino resident) - addresses safe path to schools and library, experienced cyclists are uncomfortable in traffic, create a connected community.

Taghi Saadati (Cupertino resident) - much safer without cars, will use if there's a trail, daughter was in bike accident, approve trail Alternative 2.

Jim Walker (Cupertino resident) - pay forward, for the future, wife is afraid to use bike on streets, allows neighbor to cut across his property.

Revathy Narasimhan (Cupertino resident) – safety, keeps kids away from auto abuse with exclusive access, greater good, will make a difference for children.

Becky Smith (Cupertino resident) - used to bike to HP center but too dangerous and went back to car, safe bike routes critical where kids are biking.

Betsey Megas (Santa Clara resident) – connector trail, improve streets but also trail, runs along a creek, can be built thoughtfully and not ruin environment.

Kory Orver (Cupertino resident) - east side doesn't have off-street trail, spend money for trail but make all roads safe and then back to trail later.

Lori Cunningham - everyone better off with safe routes to schools for kids, opportunities for growth and independent riders, reduced traffic.

Jimmy Wang (Sunnyvale resident) - in favor off-street routes to connect east and west, safer and more relaxing way to ride instead of competing with traffic.

Joel Wolfe (Cupertino resident) - bike trail advocate, ability to enhance life in Cupertino and bike infrastructure, putting kids on trail is safer.

Neil McClintick (Cupertino resident) – on behalf of Cupertino for All, community support petition, more inclusive, get cars off road as quickly as possible.

Meenakshi Biyani (Cupertino resident) - Cupertino High to Library would be shorter and safer on trail, always looking for off road trails without having to drive.

Herb Knoesel (Cupertino resident) – trail is one-way, cars can't hit pedestrian or bicyclist, wife was hit by car on bike, outside funding will occur.

Jennifer Shearin (Cupertino resident) – consider walkers, bike paths on street are not protected, parking reduced by walkers/bikers, think long-term.

David Alessio (Cupertino resident) - opens public area for pedestrians and bikers, serves as nice place to walk, same issue happened with Linda Vista.

Will Shearin (Cupertino resident) – residents along creek have access to private park, make water road accessible to public as intended by district.

Seema Lindskog (Cupertino resident) - heard from large breadth of supporters including groups, only people living on trail speaking against.

Hung Wei (Cupertino resident) – listen to other side, want to teach students how to bike safely, is for all of Cupertino, for generations of students.

Kitty Moore (Cupertino resident) – Planning Commission found CIP inconsistent with General Plan Parklands, staff report says initial study will be completed, clarify if coming to ERC.

Dave Wyckoff (Cupertino resident) - those by trail in difficult spot, won't go away just because the 65% design is in, have gate but stays locked.

Brent – don't feel need for trail except Blaney to City Hall, monitor Tilson/Stern intersection.

Mayor Scharf closed public comment.

Council recessed from 1:07 a.m. to 1:13 a.m.

Staff answered questions from Council, made comments, and deliberated.

Paul moved to:

1. Direct staff to proceed with the trail improvement option D of the Regnart Creek Trail Design as described in attachment G of the materials associated with the agenda item 9; and
2. Allocate an additional \$300,000 in excess of the cost of the selected option for landscaping or fencing for homes adjoining the trail to address privacy concerns; and
3. Adopt draft Resolution 19-115 amending the FY 2019/20 Capital Improvement Program budget to increase the budget to perform design and environmental clearance services from \$538,000 to \$813,000; and
4. Allocate the amount of \$2,500,000 towards other on-street bicycle and pedestrian improvements utilizing statistically valid metrics for determination of optimal projects for maximizing safety in a cost-effective manner; and
5. Condition spending of any of the allocations within this motion upon the readiness of all of the projects covered herein to proceed, including compliance with statutory environmental review requirements.

After further discussion and staff clarification on the budget Paul modified his motion to remove items 4 and 5 effectively supporting Option D.

Paul further amended his motion to allocate \$150,000 instead of \$300,000.

Chao made a friendly amendment that staff implement Alternative 4 first. There was no second and no general consensus.

Final motion seconded by Scharf:

Council received the information report and presentation on Regnart Creek Trail 65% design and revised estimated costs; trail improvement options, and Alternatives 4 and 5 to the proposed trail; and

1. Directed staff to proceed with the trail improvement option D of the Regnart Creek Trail Design as described in attachment G of the materials associated with the agenda item 9; and
 2. Allocated an additional \$150,000 in excess of the cost of the selected option for landscaping or fencing for homes adjoining the trail to address privacy concerns; and
 3. Adopted draft Resolution 19-115 amending the FY 2019/20 Capital Improvement Program budget to increase the budget to perform design and environmental clearance services from \$538,000 to \$813,000;
- and including a request for allocation of the \$2.1 million base including Alternative 4 plus the extra \$150,000 as related for Item 2. The motion carried unanimously.

Council also directed staff to continue to work with the most impacted residents and the allocation distribution and come back to Council for approval of the plan specifics.

PUBLIC HEARINGS - None

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Councilmembers highlighted the activities of their various community events.

Added a staff status report in early November on the progress of projects in the Bike Plan (Chao/Paul).

Added Staff update on RHNA subregion at next meeting for guidance on upcoming Cities Association meeting (Sinks/Scharf).

Added to a future agenda an item to consider the content of the staff report for midyear CIP projects (Chao/Paul).

ADJOURNMENT

At 4:31 a.m. on Wednesday, September 18, Mayor Scharf adjourned the meeting.