



**DRAFT MINUTES  
CUPERTINO CITY COUNCIL  
Tuesday, October 1, 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**

Written communications for closed session item(s) included emails to Council.

1. Subject: Conference with Legal Counsel pursuant to Government Code section 54956.9(d)(1); Re: Pending Litigation; Vallco Property Owner LLC v. City of Cupertino; Santa Clara County Superior Court, Case No. 19CV355457 (Vallco General Plan and Zoning Amendments)

In open session, Mayor Scharf announced that with respect to this item, Vice Mayor Chao did not attend the discussions out of an abundance of caution due to the proximity of her home to the property line of the Vallco site. The rest of the Council discussed with legal counsel this pending litigation for which discussion in open session would prejudice the City in the litigation.

The Council gave its approval to the City Attorney to defend the lawsuit filed by Vallco Property Owner LLC, which challenges the City's August 20<sup>th</sup> and September 3<sup>rd</sup> adoption of General Plan and Zoning amendments for the Vallco Shopping District Special Area.

This action was taken by the following vote:

Ayes: Scharf, Paul, Sinks and Willey

Noes: None

Abstain: None

Recused: Chao

2. Subject: Conference with Legal Counsel - Anticipated Litigation. Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2): One potential case (Public Storage).

In open session, Mayor Scharf announced that the Council discussed with legal counsel a threat of litigation received from attorneys for the applicant of the recently approved Public Storage project regarding imposition of fees. No reportable action was taken.

3. Subject: Conference with Legal Counsel - Anticipated Litigation; Initiation of litigation pursuant to Government Code Section 54956.9(d)(4): One potential case.

In open session, Mayor Scharf announced that the Council discussed with legal counsel an invitation to sign on to the Cities and Counties Amicus Brief prepared by the City of Los Angeles and Los Angeles County in litigation to protect the children of immigrants currently pending in the U.S. Supreme Court.

The Council gave its approval to the City Attorney to enter into the litigation, Department of Homeland Sec. v. Regents of the University of California, by signing on to the Cities and Counties Amicus Brief amicus brief, which to opposes the termination of the Deferred Action for Childhood Arrivals ("DACA") program.

This action was taken by the following vote:

Ayes: Scharf, Chao, Pual, Sinks, and Willey

Noes: None

Abstain: None

## **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: Proclamations recognizing October as National Breast Cancer Awareness Month.  
Recommended Action: Present proclamations recognizing October as National Breast Cancer Awareness Month.

Mayor Scharf presented a proclamation to Executive Director Rina Bello from Bay Area Cancer Connections.

## **POSTPONEMENTS – None**

## **ORAL COMMUNICATIONS**

Tim McRae (San Jose resident) on behalf of Silicon Valley Leadership Group talked about the upcoming 15<sup>th</sup> Annual Applied Materials Annual Turkey Trot to be held on Thanksgiving Day (provided written comments).

Jennifer Griffin talked housing concerns in Portland, OR.

Dolly Sandoval (Cupertino resident) thanked Council for its positive vote on Regnart Creek Trail and talked about Planning Commissioner Ray Wang's comments on NextDoor.

Rick Kitson (Cupertino resident) on behalf of the Cupertino Chamber of Commerce talked about the upcoming Diwali Festival on October 12 from 11 a.m. – 6 p.m. at Memorial Park.

Rhoda Fry (Cupertino resident) talked about letters from organizations regarding the Lehigh Expansion Plan (provided written comments).

Jean Bedord (Cupertino resident) talked about various concerns regarding Council and Commission members, and issues in the community (provided written comments).

Kitty Moore talked about the Environmental Review Committee (ERC) scope of work and adding public relations items to the Council agenda.

## **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 Willey seconded to approve items on the Consent Calendar as presented except for item numbers 5 and 6 which were pulled for discussion. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

3. Subject: Approve the September 17 City Council minutes  
Recommended Action: Approve the September 17 City Council minutes
4. Subject: Approve the September 18 City Council minutes.  
Recommended Action: Approve the September 18 City Council minutes.
5. Subject: Update on required July 1, 2020 implementation of SB743 (Environmental quality: transit-oriented infill projects, judicial review streamlining for environmental leadership development projects) and FY 2019-20 budget adjustment request for consultant services to assist the City in the required transition from using Level of Services (LOS) to Vehicle Miles Traveled (VMT) as the measure of transportation impacts under CEQA  
Recommended Action: Adopt Resolution 19-116 amending the FY 2019-20 General Fund budget in the amount of \$173,400 for consultant services for the update on implementation of SB 743

Jennifer Griffin spoke on this item.

Senior Transit and Transportation Planner Chris Corrao and Assistant Director of Public Works Chad Mosely reviewed the staff report and answered questions from Council.

Sinks moved and Chao seconded to adopt Resolution 19-116 amending the FY 2019-20 General Fund budget in the amount of \$173,400 for consultant services for the update on implementation of SB 743. The motion carried unanimously.

6. Subject: Amend the Fiscal Year 2019-2020 City Work Program to add a new Financial Sustainability item to study and present options to City Council on potential changes to the Blackberry Farm Golf Course and extend the project completion date for the Use of Athletic Fields in Parks from June 2020 to June 2021, and approve budget modification #1920-064 to appropriate \$35,000 to fund the new work.

Recommended Action: Approve amendments to the Fiscal Year 2019-2020 City Work Program as proposed in Attachment A, adding Review and Present Options for Changes to the Blackberry Farm Golf Course project and extending the completion date for the Use of Athletic Fields in Parks project from June 2020 to June 2021, and approve budget modification #1920-064 to appropriate \$35,000 to fund the new work.

Written communications for this item included an email to Council.

Director of Parks and Recreation Jeff Milkes reviewed the staff report and answered questions from Council.

The following individuals spoke on this item:

Jennifer Griffin  
Kitty Moore  
Rhoda Fry

Paul moved and Scharf seconded to adjust the Community Livability page on the Council Work Program as reflected in Attachment A of the meeting materials to indicate that the estimated total staff hours of the item regarding to the use of athletic fields and parks be adjusted from 2000 to 1000 hours with direction given to staff regarding the timeline. Chao added a friendly amendment to also update the name of the department to Parks and Recreation Department. The motion carried with Sinks abstaining.

Direction was also given to staff not to delay the use of athletic fields item in the 2019/2020 Council work program and to provide the Council background and historical information on the golf course to continue the discussion in the January/February time frame.

7. Subject: Application for Alcohol Beverage License for CH Cupertino, LLC (dba Curry House), 10350 S. De Anza Boulevard

Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for CH Cupertino, LLC (dba Curry House), 10350 S. De Anza Boulevard

8. Subject: Application for Alcohol Beverage License for Zest Food, Inc (dba Zest Food), 10881 S. Blaney Avenue

Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Zest Food, Inc (dba Zest Food), 10881 S. Blaney Avenue

9. Subject: Application for Alcohol Beverage License for Supparod FC, Inc. (dba Pineapple Thai), 19369 Stevens Creek Boulevard, Suite #120  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Supparod FC, Inc. (dba Pineapple Thai), 19369 Stevens Creek Boulevard, Suite #120
10. Subject: Application for Alcohol Beverage License for Savory Kitchen, LLC (dba Savory Kitchen), 20530 Stevens Creek Boulevard  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Savory Kitchen, LLC (dba Savory Kitchen), 20530 Stevens Creek Boulevard
11. Subject: Accept Accounts Payable for the period ending June 07, 2019  
Recommended Action: Adopt Resolution No. 19-117 accepting Accounts Payable for the period ending June 07, 2019
12. Subject: Accept Accounts Payable for the period ending June 14, 2019  
Recommended Action: Adopt Resolution No. 19-118 accepting Accounts Payable for the period ending June 14, 2019
13. Subject: Accept Accounts Payable for the period ending June 21, 2019  
Recommended Action: Adopt Resolution No. 19-119 accepting Accounts Payable for the period ending June 21, 2019
14. Subject: Accept Accounts Payable for the period ending June 28, 2019  
Recommended Action: Adopt Resolution No. 19-120 accepting Accounts Payable for the period ending June 28, 2019
15. Subject: Accept Accounts Payable for the period ending July 05, 2019  
Recommended Action: Adopt Resolution No. 19-121 accepting Accounts Payable for the period ending July 05, 2019
16. Subject: Accept Accounts Payable for the period ending July 12, 2019  
Recommended Action: Adopt Resolution No. 19-122 accepting Accounts Payable for the period ending July 12, 2019
17. Subject: Accept Accounts Payable for the period ending July 19, 2019  
Recommended Action: Adopt Resolution No. 19-123 accepting Accounts Payable for the period ending July 19, 2019

18. Subject: Accept Accounts Payable for the period ending July 26, 2019

Recommended Action: Adopt Resolution No. 19-124 accepting Accounts Payable for the period ending July 26, 2019

19. Subject: Accept Accounts Payable for the period ending August 02, 2019

Recommended Action: Adopt Resolution No. 19-125 accepting Accounts Payable for the period ending August 02, 2019

Council recessed from 8:39 p.m. to 8:48 p.m.

**SECOND READING OF ORDINANCES – None**

## **ORDINANCES AND ACTION ITEMS**

20. Subject: Subject Consider possible options regarding formation of a Santa Clara County Regional Housing Needs Allocation (RHNA) subregion allowing the City the option of trading allocation of housing needs among participating entities.

Recommended Action: That the City Council: 1. Review the attached memo from the Cities Association of Santa Clara County regarding RHNA subregion formation (Attachment A) and 2. Determine which of the 4 options identified in the memo (RHNA Light, RHNA All-In, Planning Collaborative, Do Nothing) the Council wishes to proceed with, about formation of the Santa Clara County RHNA Subregion

Written communications for this item included a presentation.

Director of Community Development Ben Fu introduced the item and Planning Manager Piu Ghosh reviewed the presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Jennifer Griffin  
Kitty Moore

Mayor Scharf closed public comment.

Sinks moved and Chao seconded to choose the Planning Collaborative option as identified in the agenda packet materials. The motion carried unanimously.

**PUBLIC HEARINGS – None**

**STUDY SESSION**

**21. Subject:** Study Session regarding status of the Objective Standards Update to General Plan and Zoning Ordinance FY-2019-2020 Work Program Item (Application No.: CP-2019-03; Applicant: City of Cupertino; Location: City-wide), provide direction to staff (continued from 9/18/19).

**Recommended Action:** That the City Council receive this report, staff presentation, and public comment, and provide direction to staff.

Written communications for this item included a presentation.

Director of Community Development Ben Fu reviewed the presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Jennifer Griffin

Kitty Moore

Mayor Scharf closed public comment.

Council continued the study session to October 15 with the following direction:

- Create one combined document with items discussed by individual councilmembers from 9/18/19 study session, and Attachments A, B and C
- As the Planning Commission evaluates the General Plan Annual report, they can identify the objectivity of policies and strategies
- Present the Department of Housing and Community Development (HCD) forms to the Planning Commission prior to presentation to the City Council

**ORAL COMMUNICATIONS - CONTINUED (As necessary)****COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS**

Councilmembers highlighted the activities of their various community events.

Look at the Environmental Review Committee (ERC) scope and make up to see if there is a functional need to include the review of projects or to consider topics that affect local legislation which are currently outside of the ERC's scope and purview and to amendments to the Cupertino Municipal Code to reflect the additional scope (Paul/Scharf).

**ADJOURNMENT**



At 11:15 p.m., Mayor Scharf adjourned the meeting.

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Grace Schmidt, City Clerk