



**DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, April 21, 2020**

REGULAR CITY COUNCIL MEETING

At 6:15 p.m. Mayor Steven Scharf called the Regular City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

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

CLOSED SESSION

Council went into closed session at 6:15 p.m. and reconvened in open session at 6:45 p.m. This was a teleconference meeting with no physical location.

Before Council went into closed session, Mayor Scharf opened public comment and, seeing no speakers, closed public comment.

1. Subject: Conference with Legal Counsel - Anticipated Litigation; (Government Code Section 54956.9(d)): Possible Initiation of Litigation (Government Code Section 54956.9(d)(4)) (1 matter).

In open session, Mayor Scharf announced that Council confirmed approval to initiate litigation by joining a coalition of cities and counties by a unanimous vote of all councilmembers.

RECESS

OPEN SESSION

At 6:45 p.m. Mayor Steven Scharf reconvened the Regular City Council meeting. This was a teleconference meeting with no physical location.

ROLL CALL

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

CEREMONIAL MATTERS AND PRESENTATIONS - None**POSTPONEMENTS – None****ORAL COMMUNICATIONS**

Housing Commissioner Connie Cunningham (representing herself), requested donations to West Valley Community Services (WVCS), to continue paying for usual services during the closures, and purchase gift cards to support small businesses.

Mihai Beffa said the numbers for Coronavirus deaths are small compared to the total deaths this year and requested reopening the Sports Center, and the social separation on the tennis courts was adequate.

REPORTS BY COUNCIL AND STAFF (10 minutes)

2. Subject: City Manager update on COVID-19 response efforts
Recommended Action: Receive City Manager update on COVID-19 response efforts

City Manager Deborah Feng gave an update.

City Attorney Heather Minner provided an overview on the City's authority to ease shelter-in-place restrictions and open local businesses.

Councilmembers made comments and asked questions.

City Clerk Kirsten Squarcia read an email on behalf of Lynda Wyckoff, concerning issues with the teleconference pre-registration protocol for the recent Environmental Review Committee (ERC) meeting.

Council received the City Manager update on COVID-19 response efforts.

3. Subject: Report on Homeless
Recommended Action: Receive the Report on Homeless

Assistant Director of Community Development/Building Official Albert Salvador gave a report.

Housing Manager Kerri Heusler and Santa Clara County Sheriff's Office Captain Rich Urena answered questions from Council.

Lisa Warren, said the encampment visits should also include collecting census data and for the City to conduct outreach to residents for completing the census survey, and to use City employees needing essential hours.

Housing Commissioner Connie Cunningham (representing herself) was concerned about the City doing homeless sweeps when prior discussions were about mitigating COVID-19 and health issues.

Planning Commissioner Kitty Moore (representing herself), asked about the kinds of items that were causing individuals to not follow the rules established by the shelters.

Councilmembers asked questions and made comments.

Council received the report on homeless.

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

5. Subject: Approve the March 31 City Council minutes.
Recommended Action: Approve the March 31 City Council minutes.
6. Subject: Approve the April 7 City Council minutes
Recommended Action: Approve the April 7 City Council minutes

7. Subject: Proclaiming May 2020 as “Keep it Clean Santa Clara County” Month
Recommended Action: Proclaim May 2020 as “Keep it Clean Santa Clara County” Month

SECOND READING OF ORDINANCES

8. Subject: Second reading of a Development Agreement for a new 155-room 7-story hotel (24-hour operations) with underground parking, event meeting rooms, a ground floor restaurant with separate bar and a rooftop lounge with separate bar by demolishing a commercial building with an area of 8,323 sq. ft. (Application No: DA-2018-01; Applicant(s): John Vidovich (De Anza Properties); Location: 10931 N De Anza Blvd.; APN #326-10-061)
Recommended Action: That the City Council conduct a second reading and enact Ordinance No. 20-2195: “An Ordinance of the City Council of the City of Cupertino Approving a Development Agreement for the Development of a New 7-Story, 155 Room Hotel and Associated Site and Landscaping Improvements Located at 10931 N. De Anza Blvd. (APN #326-10-061)”

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2195: “An Ordinance of the City Council of the City of Cupertino Approving a Development Agreement for the Development of a New 7-Story, 155 Room Hotel and Associated Site and Landscaping Improvements Located at 10931 N. De Anza Blvd. (APN #326-10-061).”

Paul moved and Sinks seconded to enact Ordinance No. 20-2195.

Paul amended his motion and Sinks seconded to include that the City Clerk’s reading by title only would constitute the second reading thereof.

Ayes: Scharf, Paul, Chao, and Sinks. Noes: Willey. Abstain: None. Absent: None. Recuse: None.

PUBLIC HEARINGS

9. Subject: Consider an appeal of the Planning Commission's approval of a Minor Residential Permit to allow a second-story balcony. (Application: RM-2017-39; Applicant: Francis Kun (Tsai residence); Project Location: 21865 San Fernando Avenue; A.P.N.: 357-15-043; Appellant(s): Shayjan Huang and Eric and Cindy Fang).
Recommended Action: That the City Council Adopt Resolution No. 20-036 denying the appeal and upholding the Planning Commission’s decision to approve the application, in accordance with the draft resolution (see Attachment A).

Written Communications for this item included presentations from staff, appellants, and homeowner.

The following people gave presentations.

- Associate Planner Erika Poveda
- Elizabeth Fang, on behalf of appellants Eric and Cindy Fang
- Appellant Jay Huang
- Homeowner David Tsai

Councilmembers asked questions and made comments.

Appellant Cindy Fang responded to comments.

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

Sinks moved and Scharf seconded to adopt Resolution No. 20-036 denying the appeal and upholding the Planning Commission's decision to approve the application.

After further discussion, Sinks withdrew his motion.

Wiley made a new motion and Chao seconded to adopt Resolution No. 20-036 denying the appeal and upholding the Planning Commission's decision to approve the application in accordance with the draft resolution, with the a revision to the second-story deck that, prior to building permit issuance, the plans shall be revised to indicate that the depth of the second-story deck shall not exceed 12' as measured from the second-story rear wall. The proposed width of the deck shall not be increased. The new motion carried unanimously.

Council recessed from 9:39 p.m. to 9:45 p.m.

- 10.** Subject: Fiscal Year (FY) 2020-21 Fee Schedule Update
Recommended Action: Adopt Resolution No. 20-037 Amending Below Market Rate Housing Mitigation Fees to adopt fee categories and amounts for self-storage and warehouse uses; and, Adopt Resolution No. 20-038 adopting FY 2020-21 Fee Schedules A, B, C, D, and E

Written Communications for this item included a presentation.

Finance Manager Zach Korach gave a presentation.

Mayor Scharf opened the public hearing and the following people spoke.

Peggy Griffin, asked if the Clean Water and Storm Protection fee would be increased.

Mayor Scharf closed the public hearing.

Councilmembers asked questions and made comments.

Scharf moved and Chao seconded to adopt Resolution No. 20-037 Amending Below Market Rate Housing Mitigation Fees to adopt fee categories and amounts for self-storage and warehouse uses; and, Adopt Resolution No. 20-038 adopting FY 2020-21 Fee Schedules A, B, C, D, and E. The motion carried unanimously.

ORDINANCES AND ACTION ITEMS

11. Subject: Authorization to execute a Fourth Amendment to Franchise Agreement including provisions to pursue sole negotiations for a new Franchise Agreement for solid waste collection services with Recology Cupertino; and, if negotiations are unsuccessful, an 18-month extension with a 5% increase on all rates effective February 1, 2021 and a 5% increase on all rates effective February 1, 2022 in order to allow time to identify another solid waste collector.

Recommended Action: 1. Authorization of the City Manager to execute a Fourth Amendment to Franchise Agreement with Recology Cupertino for solid waste collection services (Attachment A) with provisions including:

- 1) Pursue negotiation of a new 10-year agreement with Recology Cupertino; and
- 2) If negotiations are unsuccessful or are not completed by the end of the current Franchise Agreement term on January 31, 2021, an eighteen (18) month extension to the Franchise Agreement with no changes in service with a 5% special maximum rate adjustment effective February 1, 2021 followed by a second 5% special maximum rate adjustment effective February 1, 2022; and
2. Adopt Franchise Negotiations Communications Protocol (Attachment B); and
3. Adopt Resolution No. 20-039, a resolution to negotiate a new Franchise Agreement and define a bridge term that includes a special maximum rate adjustment (Attachment C).

Written communications for this item included a presentation.

Director of Public Works Roger Lee and Environmental Programs Manager Ursula Syrova gave a presentation.

Mayor Scharf opened public comment and the following people spoke.

Peggy Griffin asked Council to stop approving increases in utility fees since they add up for people without jobs and on fixed incomes, as well as for struggling businesses.

Mayor Scharf closed public comment.

Councilmembers made comments and asked questions.

Sinks moved and Scharf seconded to:

1. Authorize the City Manager to execute a Fourth Amendment to Franchise Agreement with Recology Cupertino for solid waste collection services with provisions including:
 - 3) Pursue negotiation of a new 10-year agreement with Recology Cupertino; and
 - 4) If negotiations are unsuccessful or are not completed by the end of the current Franchise Agreement term on January 31, 2021, an eighteen (18) month extension to the Franchise Agreement with no changes in service with a 5% special maximum rate adjustment effective February 1, 2021 followed by a second 5% special maximum rate adjustment effective February 1, 2022; and
 4. Adopt Franchise Negotiations Communications Protocol; and
 5. Adopt Resolution No. 20-039, a resolution to negotiate a new Franchise Agreement and define a bridge term that includes a special maximum rate adjustment.

The motion carried unanimously.

ORAL COMMUNICATIONS - CONTINUED (As necessary) - None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Council added the following agenda items:

- provide a fiscal impact analysis report of the entire response to COVID-19 at the April 28 special meeting (Chao/Willey)
- request allocation of federal funding for small business support and landlord rent forgiveness (Paul/Scharf)
- discuss a re-opening plan for businesses operating after the County's Shelter-in-Place at the May 5 regular meeting or thereafter (Chao/Scharf)
- discuss the City's position on development within the General Plan framework and General Plan amendment process regarding exceptions and waivers (Willey/Chao)

ADJOURNMENT

At 11:34 p.m., Mayor Scharf adjourned the meeting.

Kirsten Squarcia, City Clerk