



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, June 2, 2020

SPECIAL CITY COUNCIL MEETING

At 5:30 p.m. Mayor Steven Scharf called the Special 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.

STUDY SESSION

1. Subject: Study Session on the Capital Improvement Program (CIP): Review of Funded FY19-20 Projects Recommended to Defer One-Year and Projects Proposed for FY20-21
Recommended Action: Receive the report on funded projects recommended to defer for one-year and projects proposed for FY20-21 and provide comments

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

Director of Public Works Roger Lee, CIP Manager Michael Zimmerman, Park Restoration and Improvement Manager Gail Seeds, and Transportation Manager David Stillman gave a presentation.

Councilmembers asked questions and made comments

Mayor Scharf opened public comment and the following people spoke.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) talked about preserving funding for emergencies and a budget for a plan to address homelessness.

Lisa Warren said to categorize all City projects as essential or non-essential, and to protect the \$8 million in funds that is designated for the Lawrence-Mitty site.

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) talked about the Bike Boulevard deferment as a top priority for school safety and helping sustainability.

Jeonghee Yi talked about mitigating noise and safety concerns for Regnart Creek Trail including nightly gate closures and addressing homelessness.

Benaifer Dastoor talked about mitigating privacy and security concerns for residents on Regnart Creek Trail and costs for consultants on development projects.

City Clerk Kirsten Squarcia read an email on behalf of Suraj Dalvi regarding working with residents to mitigate safety and noise concerns for the Regnart Creek Trail project.

Mayor Scharf closed public comment.

Council received the report on funded projects recommended to defer for one-year and projects proposed for FY20-21 and provided the following comments.

- Address use of the Blackberry Farm swimming pool beyond 100 days a year and move on with the Sievert property
- Concerns over the costs for project studies
- Allocate more funds for noise mitigation for the Regnart Creek Trail project
- Provide determination for prioritization of projects being delayed and provide the individual amounts for the 34 projects on the CIP list annually
- Staff is the conduit for residents reaching-out to the City, and should keep a record of citizen concerns and issues, and the City's response.
- What is the fuel source for the Quinlan Community Center (QCC) Emergency Generator; consider diesel EG or alternative fuel.

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

At 6:53 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.

CEREMONIAL MATTERS AND PRESENTATIONS - None**POSTPONEMENTS**

1. Subject: Development proposal to demolish a 71,250 square foot retail center (The Oaks), remove and replace 74 protected trees, and construct a mixed-used development consisting of 294 housing units (88 Rowhouse/Townhomes, 206 senior apartments, of which include 48 senior affordable apartments and 27 memory care units) and 20,000 square feet of commercial space. The applicant is requesting a Heart of the City Exception for retail frontage along Stevens Creek Boulevard. The applicant is also requesting a density bonus and density bonus waivers for height, building plane, and below market rate housing dispersion. An Environmental Impact Report is proposed. Application No(s): DP-2018-05, ASA-2018-05, TM-2018-03, TR-2018-22, U-2019-03, EXC-2019-03 (EA-2018-04); Applicant(s): Mark Tersini (KT Urban); Location: 21267 Stevens Creek Boulevard APN #326-27-042, -043. This item has been continued to a date uncertain and will be re-noticed.

In open session, Mayor Scharf reported out from the closed session held on Friday, May 29, 2020 regarding one item.

Written Communications for this item included emails to Council.

The following people made public comments before Council went into closed session.

City Clerk Kirsten Squarcia read an email on behalf of JR Fruen

Lisa Warren

Bern Steves

Library Commissioner Liana Crabtree (representing self) ceded time to Bern Steves

Luke Liang

Jim Moore

Peggy Griffin

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 (2019 Vallco General Plan and Zoning Amendments)

Mayor Scharf reported Council discussed with legal counsel this pending litigation for which discussion in open session would prejudice the City in the litigation.

No reportable action was taken.

Councilmember Chao did not attend the discussions because she has recused herself from this litigation out of an abundance of caution due to the proximity of her home to the property line of the Vallco site.

ORAL COMMUNICATIONS

Santa Clara County Sheriff's Office Captain Rich Urena talked about the planned assembly to take place in front of the Sheriff's office on Saturday, June 6, and ensuring community safety while allowing people to peacefully assemble.

Housing Commissioner Connie Cunningham (representing self) talked about an article on homelessness and developing a plan for unhoused residents. (Provided written comments).

Jennifer Griffin was concerned about the advent of big housing bills including SB 902 taking over residents' properties and SB 899 allowing churches to be built upwards.

Bicycle Pedestrian Commissioner Commissioner Muni Madhhipatla (representing self) talked about legalities for the Oaks as well as sensitivity training and zero tolerance policies for the police.

Nirdas talked about a planned George Floyd injustice protest and asked about the City's position on his death, the associated protests, and what action the City may take for police safety.

Gary Wong, on behalf of Campo de Lozano Homeowners Association, talked about addressing homelessness and safety concerns for Regnart Creek Trail residents.

Megha Ilango talked about racial injustice, putting out a statement of solidarity against systemic racism, and conscious funding for the current police contract.

Jehannaz Dastoor talked about oppression and violence towards Black people, police brutality, and the City releasing a statement of solidarity.

Sharvani Jha asked the City to release a statement of solidarity with the Black community and talked about Cupertino's large Asian population.

Peggy Griffin talked about an article on homelessness, providing access to bathrooms and water, and to making room for these necessities in the area near Highway 280.

Anita Ilango talked about raising awareness about the Black Lives matter cause, increasing police accountability. She asked the City to release a statement of solidarity.

Lisa Warren talked about fixing the funding formula for Cupertino Union School District, designating Library Field as a City park, and continuing online fitness classes after COVID-19.

Scharf moved and Sinks seconded to reorder agenda to hear Council reports ahead of Reports by Council and Staff. The motion carried unanimously.

Councilmembers gave statements about the death of George Floyd and discussed the related protests scheduled for Saturday.

Council provided the following direction to staff.

- Propose a safer alternative location for the scheduled protest on Saturday
- Add to a future agenda a resolution stating the City's commitment of solidarity against racial injustices
- Add to a future agenda a study session to learn about the Sheriff's use of force training and policies

The following people provided public comments.

Planning Commissioner Kitty Moore (representing self) talked about the planned protests and finding a larger and safer area to uphold their freedom of speech.

Sheriff's Captain Ricardo Urena answered questions about crowd control and addressed concerns for the planned protest.

Megha Ilango talked about making a call to action and examining the Santa Clara Police Department contract to ensure account accountability and safer protocols.

Suzanne Ranney was concerned about police protection for the businesses adjacent to the planned protest location.

Jehannaz Dastoor talked about discrimination against the African American community and solidarity against police brutality and systemic racism.

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 a report.

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

3. Subject: Report on Committee assignments_
Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

CONSENT CALENDAR

Sinks 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.

4. Subject: Accept Accounts Payable for the period ending January 06, 2020
Recommended Action: Adopt Resolution No. 20-059 accepting Accounts Payable for the period ending January 06, 2020
5. Subject: Accept Accounts Payable for the period ending January 13, 2020
Recommended Action: Adopt Resolution No. 20-060 accepting Accounts Payable for the period ending January 13, 2020
6. Subject: Accept Accounts Payable for the period ending January 21, 2020
Recommended Action: Adopt Resolution No. 20-061 accepting Accounts Payable for the period ending January 21, 2020
7. Subject: Accept Accounts Payable for the period ending January 27, 2020
Recommended Action: Adopt Resolution No. 20-062 accepting Accounts Payable for the period ending January 27, 2020

8. Subject: Accept Accounts Payable for the period ending February 03, 2020
Recommended Action: Adopt Resolution No. 20-063 accepting Accounts Payable for the period ending February 03, 2020
9. Subject: Accept Accounts Payable for the period ending February 10, 2020_
Recommended Action: Adopt Resolution No. 20-064 accepting Accounts Payable for the period ending February 10, 2020
10. Subject: Accept Accounts Payable for the period ending February 18, 2020_
Recommended Action: Adopt Resolution No. 20-065 accepting Accounts Payable for the period ending February 18, 2020
11. Subject: Accept Accounts Payable for the period ending February 24, 2020_
Recommended Action: Adopt Resolution No. 20-066 accepting Accounts Payable for the period ending February 24, 2020
12. Subject: Substantial Amendments to the FY 2019-20 Annual Action Plan, FY 2015-20 Consolidated Plan, and Citizen Participation Plan to provide funding for the COVID-19 Small Business Relief Grant Program, which is an eligible Department of Housing and Urban Development (HUD) activity in response to COVID-19
Recommended Action: Adopt Resolution No. 20-067 approving the Substantial Amendments to the FY 2019-20 Annual Action Plan, FY 2015-20 Consolidated Plan, and Citizen Participation Plan to provide funding for the COVID-19 Small Business Relief Grant Program, which is an eligible HUD activity in response to COVID-19
13. Subject: 2020-25 CDBG Consolidated Plan and the FY 2020-21 CDBG Annual Action Plan
Recommended Action: Conduct the public hearing; and
1) Adopt Resolution No. 20-068 approving the 2020-25 CDBG Consolidated Plan and the FY 2020-21 CDBG Annual Action Plan
14. Subject: Authorize the City Manager to negotiate and execute a lease agreement with the Santa Clara Valley Audubon Society for the property known as the McClellan Ranch House located at 22221 McClellan Road, Cupertino, CA 95014
Recommended Action: Authorize the City Manager to negotiate and execute a lease agreement with the Santa Clara Valley Audubon Society for the property known as the McClellan Ranch House for the period July 1, 2020 to June 30, 2025, with an option to renew for five additional one-year terms

15. Subject: Authorize the City Manager to negotiate and execute a lease agreement with the Friends of Stevens Creek Trail for the property known as the McClellan Ranch House located at 22221 McClellan Road, Cupertino, CA 95014
Recommended Action: Authorize the City Manager to negotiate and execute a lease agreement with Friends of Stevens Creek Trail for the property known as the McClellan Ranch House for the period July 1, 2020 to June 30, 2025, with an option to renew for five additional one-year terms
16. Subject: Adopt Resolution rescinding Resolution 20-033 and adopting an updated list of FY 2020-21 projects proposed to receive funding from the Road Maintenance and Rehabilitation Account (RMRA), created by Senate Bill 1 (SB 1)
Recommended Action: Adopt Resolution No. 20-069 rescinding Resolution 20-033 and adopting an updated list of projects to receive funding from the RMRA, created by SB 1

SECOND READING OF ORDINANCES

PUBLIC HEARINGS

ORDINANCES AND ACTION ITEMS

17. Subject: Update Fiscal Year 2020-21 City Work Program
Recommended Action: Review proposed amendments to the FY 2020-21 City Work Program, provide any input, and adopt updated FY 2020-21 City Work Program

Written communications for this item included a staff presentation.

City Manager Deborah Feng gave a presentation.

Mayor Scharf opened public comment and, seeing no public comment, closed public comment.

Councilmembers asked questions and made comments.

Council made the following modifications to the FY 2020-21 City Work Program:

- Development Accountability – add accountability in project approval process
- Work in elements of Heart of the City into the General Plan Update item

Additionally, Council directed staff to ensure the Housing Survey item was thought out, scoped, and brought back with potential tradeoffs.

Scharf moved and Sinks seconded to adopt updated FY 2020-21 City Work Program. The motion carried with Willey voting no.

Council recessed from 9:53 p.m. to 10:00 p.m.

18. Subject: Tax Measure Polling and Strategy for November 2020 ballot
Recommended Action: 1. Provide direction to move forward with a polling and strategy firm to explore transient occupancy tax (TOT) measure for the November 2020 ballot:
2. Approve a budget adjustment of \$55,000 to retain polling and strategy firm.

Council unanimously consented to table this item (Sinks absent).

19. Subject: Resolution rescinding City Manager designation as City employee/official to attend closed sessions of the City Council and keep closed session minutes and reaffirming the City Clerk as the designated closed session minute keeper; Municipal Code Amendment to Cupertino Municipal Code Section 2.20.010 (Recordkeeping Duties-Closed Sessions) of Chapter 2.20 (City Clerk) To Title 2 (Administration and Personnel) to clarify limited access to closed session minutes.
Recommended Action: 1. Adopt Resolution No. 20-070 rescinding Resolution No. 20-014 thereby removing the designation of the City Manager as the City employee/officer to attend City Council closed sessions and keep minutes and confirming the City Clerk as the Designated employee/officer to attend city council closed sessions and keep minutes.
2. Conduct the first reading of Ordinance No. 20-2205: "An Ordinance of the City Council of the City of Cupertino Amending City Code Section 2.20.010 (Recordkeeping Duties-Closed Sessions) of Chapter 2.20 (City Clerk) To Title 2 (Administration and Personnel) to Clarify Limited Access to Closed Session Minutes."

Mayor Scharf opened public comment and the following people spoke.

Planning Commissioner Kitty Moore (representing self) asked if there had been a lapse in minute-taking for closed sessions and member access for past meetings.

Mayor Scharf closed public comment.

1. Paul moved and Scharf seconded to adopt Resolution No. 20-070 rescinding Resolution No. 20-014 thereby removing the designation of the City Manager as the City employee/officer to attend City Council closed sessions and keep minutes and confirming the City Clerk as the Designated employee/officer to attend city council closed sessions and keep minutes. The motion carried unanimously.

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2205: "An Ordinance of the City Council of the City of Cupertino Amending City Code Section 2.20.010 (Recordkeeping Duties-Closed Sessions) of Chapter 2.20 (City Clerk) To Title 2 (Administration and Personnel) to Clarify Limited Access to Closed Session Minutes."

2. Paul moved and Scharf seconded to read the title of Ordinance No. 20-2205 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

20. Subject: Consideration of a City Council summer recess and cancellation of meeting(s).
Recommended Action: Consider a City Council summer recess and cancel meeting(s) or provide direction to staff.

Council unanimously consented to cancel the August 4 and September 1 City Council meetings.

21. Subject: Establishment of the Complete Streets Commission
Recommended Action: Conduct the first reading of Ordinance No. 20-2206: "An Ordinance of the City Council of the City of Cupertino amending Chapter 2.92 of the Cupertino Municipal Code to establish the Complete Streets Commission."

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

Transportation Manager David Stillman gave a presentation.

Mayor Scharf opened public comment and the following people spoke.

Peggy Griffin (opposed) was concerned about lack of data for the pros and cons, losing grant funding, adding more power and influence on the commission, and diversity.

Bicycle Pedestrian Commission Commissioner Muni Madhhipatla (representing self) supported the idea of expanding the scope of the commission but not the membership.

Planning Commissioner Kitty Moore (representing self) (opposed) was concerned about the proposal language and underutilizing the Planning Commission on these issues.

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) was concerned about expanding the scope instead of partnering with other commissions.

Jennifer Griffin (opposed) was concerned about changing the commission membership and name as well as any Metropolitan Transportation Commission (MTC) involvement.

Bicycle Pedestrian Commissioner Erik Lindskog (representing self) (supports) said a Complete Streets Commission could support livable and safer solutions for all.

Hung Wei (supports) said the Commission would expand citizen participation, reduce the carbon footprint, and monitor future transit needs.

Lisa Warren (opposed) was concerned about the need for more discussion and assigning more control to the existing commission; and to recruit for a new commission instead.

Planning Commissioner David Fung (representing self) (supports) said a Complete Streets group would balance bikes, pedestrians, auto-transport, land-use issue needs.

Bicycle Pedestrian Commissioner Jennifer Shearin (representing self) (supports) said the new commission would help facilitate the new focus of traffic management.

Seema Lindskog (supports) talked about the value of biking and solutions for a livable city including forward thinking for biking and walking.

Bicycle Pedestrian Commissioner Gerhard Eschelbeck (representing self) (opposed) talked about objectives and changes to current commission and diversity concerns.

City Clerk Kirsten Squarcia read an email on behalf of Linda Wyckoff regarding commission diversity and authority.

Mayor Scharf closed public comment.

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2206: "An Ordinance of the City Council of the City of Cupertino amending Chapter 2.92 of the Cupertino Municipal Code to establish the Complete Streets Commission."

Sinks moved and Scharf seconded to read the title of Ordinance No. 20-2206 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Scharf and Sinks. Noes: Paul, Chao, and Willey. None. Abstain: None. Absent: None.

The vote failed, and a second reading will not be scheduled.

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Under Council Comments, which was reordered to be heard after Oral Communications, Council added these future agenda items: 1) A study session to learn about the Sheriff's use of force training and policies and 2) A resolution stating the City's commitment of solidarity against racial injustices (Sinks/Scharf/Chao).

Another item added to a future agenda is to revisit establishing a transportation commission before the start of the annual commission recruitment cycle in September (Chao/Paul).

ADJOURNMENT

At 11:42 p.m., Mayor Scharf adjourned the meeting.