



**DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, June 16, 2020**

REGULAR CITY COUNCIL MEETING

At 6:46 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.

In open session, Mayor Scharf reported out from the closed session held at 5:30 p.m. on Tuesday, June 16, 2020 regarding one item.

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

Written communications for this item included an email to Council.

In open session, Mayor Scharf announced that Council continued the evaluation of the City Attorney begun on June 5th. No reportable action was taken.

CEREMONIAL MATTERS AND PRESENTATIONS – None

POSTPONEMENTS – None

ORAL COMMUNICATIONS

Housing Commissioner Connie Cunningham (representing self) talked about equal housing rights and approving the Westport housing project. (Distributed written comments).

Anjali Kauser, on behalf of the Cupertino Chamber of Commerce, talked about assisting the Cupertino Together program for senior residents. (Distributed written comments).

Jennifer Griffin talked about funding for high-density housing bills including increased heights for churches and building triplexes on suburban lots.

Revathy Narasimhan supported paving public trails and prioritizing trails in neighborhoods and funding Regnart Creek Trail. (Distributed written comments).

Jim Moore was concerned about vacating the easements for the loop road at Vallco and the Wolfe Road bridge, and about the facility provisions at the homeless encampment near the Highway 280 entrance. (Distributed written comments).

Sue Moore ceded time to Jim Moore

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) was supportive of the upcoming community forum on policing.

Planning Commissioner Catherine Moore (representing self) was concerned about vacating the loop road easements at Vallco and approval of a tentative map.

Thomas Burns was concerned about radiofrequency emissions from the cell tower at City Hall and talked about a petition in favor of moving it to a non-residential area.

City Clerk Kirsten Squarcia read an email on behalf of Jj Huang requesting leniency for a code violation related to construction on her property.

Emma Shearin talked about people using basketball courts at parks and continuing to section off the courts during the temporary closures.

REPORTS BY COUNCIL AND STAFF (10 minutes)

1. 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 on virus testing and the homeless population and showed a slide.

Councilmembers asked questions and made comments.

Mayor Scharf opened the public comment period and the following people spoke:

Jennifer Griffin said Student Resources Officers (SROs) provide vital work with youth and she was concerned about removing the officers from schools.

Lisa Warren talked about the COVID-19 testing at Creekside Park and SROs providing student safety and staff support.

Peggy Griffin was supportive of City Manager's COVID-19 update and keeping it as an agenda item going forward.

Mayor Scharf closed the public comment period.

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

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

Councilmembers highlighted the activities of their various committees.

Housing Commissioner Connie Cunningham (representing self) supported promoting equitable treatment, housing at Westport Cupertino, and the Regnart Creek Trail project. (Distributed written comments).

CONSENT CALENDAR

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

3. Subject: Approve the May 19 City Council minutes
Recommended Action: Approve the May 19 City Council minutes
4. Subject: Approve the May 26 City Council minutes
Recommended Action: Approve the May 26 City Council minutes
5. Subject: Approve the June 2 City Council minutes
Recommended Action: Approve the June 2 City Council minutes

6. Subject: Resolution calling for a consolidated General Municipal Election on Nov. 3, 2020, to fill two City Council seats.
Recommended Action: Adopt Resolution No. 20-072 calling a General Municipal Election on Nov. 3, 2020, to fill two City Council seats.
7. Subject: Accept Accounts Payable for the period ending March 02, 2020
Recommended Action: Adopt Resolution No. 20-073 accepting Accounts Payable for the period ending March 02, 2020
8. Subject: Accept Accounts Payable for the period ending March 09, 2020
Recommended Action: Adopt Resolution No. 20-074 accepting Accounts Payable for the period ending March 09, 2020
9. Subject: Accept Accounts Payable for the period ending March 16, 2020
Recommended Action: Adopt Resolution No. 20-075 accepting Accounts Payable for the period ending March 16, 2020
10. Subject: Accept Accounts Payable for the period ending March 23, 2020
Recommended Action: Adopt Resolution No. 20-076 accepting Accounts Payable for the period ending March 23, 2020
11. Subject: Accept Accounts Payable for the period ending March 30, 2020
Recommended Action: Adopt Resolution No. 20-077 accepting Accounts Payable for the period ending March 30, 2020
12. Subject: Accept Accounts Payable for the period ending April 06, 2020
Recommended Action: Adopt Resolution No. 20-078 accepting Accounts Payable for the period ending April 06, 2020
13. Subject: Accept Accounts Payable for the period ending April 13, 2020
Recommended Action: Adopt Resolution No. 20-079 accepting Accounts Payable for the period ending April 13, 2020
14. Subject: Accept Accounts Payable for the period ending April 20, 2020
Recommended Action: Adopt Resolution No. 20-080 accepting Accounts Payable for the period ending April 20, 2020
15. Subject: Accept Accounts Payable for the period ending April 27, 2020
Recommended Action: Adopt Resolution No. 20-081 accepting Accounts Payable for the period ending April 27, 2020

16. Subject: Amended Resolution 20-045 accepting Accounts Payable for the period ending November 04, 2019 and accepting date correction of November 4, 2019 for Accounts Payable ending date (previously adopted on May 19).
Recommended Action: Adopt Amended Resolution 20-045 accepting Accounts Payable for the period ending November 04, 2019 and accepting date correction of November 4, 2019 for Accounts Payable ending date.
17. Subject: Department of Housing and Community Development (HCD) Local Early Action Planning (LEAP) Grants Program Application
Recommended Action: Adopt Resolution No. 20-082 authorizing application for, and receipt of, LEAP Grant Program Funds
18. Subject: Authorization to extend the 2015 Contractual Crossing Guard Services Agreement, (Second Amendment) by one year due to the impacts of COVID-19.
Recommended Action: Approve the Second Amendment of the 2015 Contractual Crossing Guard Services Agreement, Project No. 2015-25 with All City Management Services, Inc. (ACMS), to extend the term of the agreement by one year due to the impacts of COVID-19

SECOND READING OF ORDINANCES

19. Subject: 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: Conduct the second reading and enact 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 comments and, seeing no speakers, closed public comments.

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."

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.

Paul moved and Scharf seconded to enact Ordinance No. 20-2205. Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

PUBLIC HEARINGS

20. Subject: Brush Abatement Program hearing to consider objections to proposed removal of brush and order abatement of the public nuisance and potential fire hazard pursuant to Cupertino Municipal Code (Section 16.40.320) regarding Defensible space (brush) and Resolution No. 20-044.

Recommended Action: 1. Conduct Brush Abatement Program hearing to note objections of property owners having their name on the list of properties that have been non-compliant in removing brush; and

2. Adopt Resolution No. 20-083 ordering abatement of public nuisance and potential fire hazard pursuant to Cupertino Municipal Code (Section 16.40.320) regarding Defensible space (brush) and Resolution No. 20-044.

Written Communications for this item included a staff presentation.

City Clerk Kirsten Squarcia gave a presentation.

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

Councilmembers asked questions and made comments.

Sr. Deputy Fire Marshal Curtis Ruel answered questions.

Sinks moved and Scharf seconded to:

1. Conduct Brush Abatement Program hearing to note objections of property owners having their name on the list of properties that have been non-compliant in removing brush; and

2. Adopt Resolution No. 20-083 ordering abatement of public nuisance and potential fire hazard pursuant to Cupertino Municipal Code (Section 16.40.320) regarding Defensible space (brush) and Resolution No. 20-044 as amended with 11680 Regnart Canyon Dr. being removed from the list for compliance. The motion carried unanimously.

Council recessed from 8:33 p.m. to 8:38 p.m.

21. Subject: Public hearing to consider and approve the Capital Improvement Plan (CIP); and the Recommended Budget for Fiscal Year (FY) 2020-21; and the Adoption of the Recommended Budget; and Establishment of the Appropriation Limit, and related actions; or take other action to approve interim expenditures.

Recommended Action:

1. Adopt Resolution No. 20-084 establishing an Operating Budget for FY 2020-21
 - a. Approve Community Funding Requests of \$34,000 as included in Attachment E
 - b. Approve budget adjustments as presented in Attachment E
 - c. Approve conversion from limited-term to permanent for Senior Management Analyst in Administrative Services Department
2. Adopt Resolution No. 20-085 establishing a Capital Improvement Program budget of \$2,186,750 for FY 2020-21.
 - a. Approve \$1,589,449 of transfers out from the Capital Reserve to fund the Capital Improvement Program budget in FY 2020-21 as noted below:
 - \$1,230,000 to Capital Improvement Projects Capital Projects Fund
 - \$50,000 to Blackberry Farm Golf Course Enterprise Fund
 - \$25,000 to Cupertino Sports Center Enterprise Fund
 - \$284,449 to Recreation Programs Enterprise Fund
 - b. Approve \$217,551 of transfers out of the General Fund to fund the Capital Improvement Program budget in FY 2020-21 as noted below:
 - \$217,551 of Public Safety Power Shutoff (PSPS) funds to Recreation Programs Enterprise Fund
3. Adopt Resolution No. 20-086 establishing an Appropriation Limit of \$109,062,934 for FY 2020-21

Written Communications for this item included a staff presentation, an amended Attachment F - Deer Hollow, amended Regnart Creek Trail (Privacy Fencing Improvements), and emails to Council.

Director of Administrative Services Kristina Alfaro and Finance Manager Zach Korach gave a presentation.

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

Public comments for Operating Budget:

Peggy Griffin supported open scoring for tier criteria and Deer Hollow Farm funding.

Planning Commissioner Catherine Moore (representing self) supported Deer Hollow Farm funding and asked about Public Works special projects.

Housing Commissioner Connie Cunningham (representing self) supported funding for the Santa Clara Audubon Society.

Orrin Mahoney supported clearer ranking for tiers and Cupertino Rotary funding.

Planning Commissioner David Fung (representing self), on behalf of Deer Hollow Farm, supported funding for Deer Hollow Farm.

Jennifer Furlong, on behalf of Cupertino Historical Society, supported Cupertino Historical Society funding.

Vanessa Talania, on behalf of Breathe California, supported Seniors Breathe Easy Program funding.

Henry Sang supported repurposing the existing oak trees for the Westport project.

Arjun Gupta, on behalf of Elevate the Future, supported Elevate the Future funding.

Josh Selo, on behalf of West Valley Community Services (WVCS), supported WVCS funding.

Lisa Warren asked about funding for the Silicon Valley Jewish Film Festival.

Public comments for Capital Improvement Program budget:

Housing Commissioner Connie Cunningham (representing self) supported human rights and housing funding solutions. (Distributed written comments).

Emma Shearin supported Regnart Creek Trail funding.

Suzanne Ranney supported Regnart Creek Trail alignment fencing funding.

Peggy Griffin supported funding for Regnart Creek Trail fencing and parkland equity, and street lighting for dark skies.

Jian He, on behalf of Walk-Bike Cupertino, supported Regnart Creek Trail and alignment fencing funding.

Paula Wallis supported Regnart Creek Trail funding.

Sami Laine supported Regnart Creek Trail and alignment fencing funding.

Suraj Dalvi talked about fencing options for Regnart Creek Trail. (Distributed written comments)

Bicycle Pedestrian Commissioner Erik Lindskog (representing self) supported Regnart Creek Trail funding.

Byron Rovegno supported Bike Ped Plan funding and prioritizing Bike Ped projects.

Helen Wiant supported Regnart Creek Trail funding.

Henry Sang, on behalf of the Cupertino Library Foundation, supported Library funding. (Distributed written comments).

Jeonghee Yi, supported Regnart Creek Trail fencing and safety funding.

Ramola supported Regnart Creek Trail funding.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) opposed a recent newsletter from Bike Walk Cupertino.

Jerry supported Regnart Creek Trail funding.

Kiran Varshneya, on behalf of Cupertino Library Foundation, supported Library funding. (Distributed written comments).

Hung Wei supported Regnart Creek Trail and alignment fencing funding.

Vji opposed the Regnart Creek Trail approval process and funding. (Distributed written comments).

Library Commissioner Qin Pan (representing self), on behalf of the Cupertino Library Foundation, supported Library funding (Distributed written comments).

J.R. Fruen supported Regnart Creek Trail funding.

Benaifer Dastoor supported privacy solutions along Regnart Creek Trail.

Jean Bedord supported the budget and funding for the aging population and Regnart Creek Trail.

Catherine Moore talked about a Regnart Creek Trail wall survey, Planning Commission review of the Capital Improvement Program, and supported the budget approval.

Coup d'Tino opposed Regnart Creek Trail funding and supported low income funding.

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) opposed the Regnart Creek Trail approval process and supported prioritizing projects.

City Clerk Kirsten Squarcia read and email on behalf of Sonali Kale and Jaydeep Marfatia supporting Regnart Creek Trail funding.

Mayor Scharf closed the public hearing.

Councilmembers asked questions and made comments.

Scharf moved and Sinks seconded to:

1. Adopt Resolution No. 20-084 establishing an Operating Budget for FY 2020-21
 - a. Approve Community Funding Requests of \$34,000 as included in Attachment E (**as amended to fund both Tier 1 and Tier 2**)
 - b. Approve budget adjustments as presented in Attachment E
 - c. Approve conversion from limited term to permanent for Senior Management Analyst in Administrative Services Department

Willey made a friendly amendment to move the Audubon Society to Tier 2 to receive the same grant amount as last year. There was no second and the item was not considered.

Chao made a substitute motion and Willey seconded to amend the Community Funding Requests to fund Tier 1 and Tier 2 and 50% of Tier 3. The substitute motion carried with Sinks and Scharf voting no.

Scharf's main motion was not voted on.

Final Motion:

Sinks moved and Scharf seconded to:

1. Adopt Resolution No. 20-084 establishing an Operating Budget for FY 2020-21
 - d. Approve Community Funding Requests **(as amended to fund Tier 1 and Tier 2 and half of Tier 3)** to \$90,000 as included in Attachment E
 - e. Approve budget adjustments as presented in Attachment E
 - f. Approve conversion from limited-term to permanent for Senior Management Analyst in Administrative Services Department
2. Adopt Resolution No. 20-085 establishing a Capital Improvement Program budget of \$2,207,000 for FY 2020-21 **as amended to add to the existing fencing budget of \$365,000 a Not-to-Exceed (NTE) amount of \$400,000 for a total of \$765,000 for the Regnart Creek Trail (Privacy Fencing Improvements).**
 - Approve \$1,989,449 of transfers out from the Capital Reserve to fund the Capital Improvement Program budget in FY 2020-21 **(as amended)** as noted below:
 - \$200,000 to Transportation Special Revenue Fund
 - **\$1,430,000** to Capital Improvement Projects Capital Projects Fund **(as amended)**.
 - \$50,000 to Blackberry Farm Golf Course Enterprise Fund
 - \$25,000 to Cupertino Sports Center Enterprise Fund
 - \$284,449 to Recreation Programs Enterprise Fund
 - Approve \$217,551 of transfers out of the General Fund to fund the Capital Improvement Program budget in FY 2020-21 as noted below:
 - \$217,551 of Public Safety Power Shutoff (PSPS) funds to Recreation Programs Enterprise Fund; and
3. Adopt Resolution No. 20-086 establishing an Appropriation Limit of \$109,062,934 for FY 2020-21.

Sinks' motion carried unanimously.

Wiley moved to delay agenda Item Nos. 22, 23, and 24 to the following Tuesday night. There was no second and the item was not considered.

Scharf moved and Sinks seconded to reorder the agenda to hear Item No. 24 before Item Nos. 22 and 24. The motion carried by unanimous consent.

ORDINANCES AND ACTION ITEMS

24. Subject: Potential nomination of the Bubb Road Special Area as a new locally nominated Priority Development Area (PDA) to accommodate future residential growth in Plan Bay Area 2050

Recommended Action: That the City Council determine whether or not to adopt Resolution No. 20-087 (Attachment A) to nominate the Bubb Road Special Area as a new locally nominated Priority Development Area (PDA) for inclusion in the Plan Bay Area 2050.

Written Communications for this item included a staff presentation.

Planning Manager Piu Ghosh and Goldfarb & Lipman Attorney Barbara Kautz gave a presentation.

Councilmembers asked questions and made comments.

Mayor Scharf opened the public comment period and the following people spoke:

Peggy Griffin requested further review and including other areas and outreach.

Jennifer Griffin was opposed.

Lisa Warren was opposed and requested community engagement.

Mayor Scharf closed the public comment period.

Scharf moved and Willey seconded to table item to nominate of the Bubb Road Special Area as a new locally nominated Priority Development Area (PDA) for inclusion in the Plan Bay Area 2050. The motion carried with Sinks voting no.

22. Subject: Cupertino Small Business Emergency Relief Grant Program.
Recommended Action: Approve Cupertino's proposed Small Business Emergency Relief Grant Program and authorize the City Manager to negotiate and execute an agreement with a selected program administrator.

Written Communications for this item included a staff presentation.

Economic Development Manager Angela Tsui gave a presentation.

Mayor Scharf opened the public comment period and the following people spoke.

Jennifer Griffin said there were many affected small business areas (supported).

Mayor Scharf closed the public comment period.

Councilmembers asked questions and made comments.

Councilmember Sinks left the meeting at 2:00 a.m.

Scharf moved and Chao seconded to approve Cupertino's proposed Small Business Emergency Relief Grant Program and authorize the City Manager to negotiate and execute an agreement with a selected program administrator as amended to include eligibility requirements that would ensure the business had been profitable prior to the pandemic, as well as require the business to have been operational for at least two years. The motion carried with Sinks absent.

23. Subject: Accept resignation of Bicycle Pedestrian Commission member Jennifer Shearin and direct staff to fill the unscheduled vacancy.
- Recommended Action: a) Accept resignation of Bicycle Pedestrian Commission member Jennifer Shearin; and choose one of the following options or provide direction to staff.
- b) Direct staff to fill the unscheduled vacancy in January 2021 concurrent with the annual recruitment for all commission and committee members' terms expiring in January, 2021; or
- c) Direct staff to initiate a special recruitment process and set the interview date for Tuesday, September 15th, 2020 beginning at 5:30pm; or
- d) Direct staff to initiate a special recruitment process and select a special meeting date to conduct the interviews.

Written Communications for this item included a staff presentation.

City Clerk Kirsten Squarcia reviewed the staff report.

Councilmembers asked questions and made comments.

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

Scharf moved and Willey seconded to:

- a) Accept the resignation of Bicycle Pedestrian Commission member Jennifer Shearin; and
- b) Direct staff to fill the unscheduled vacancy in January 2021 concurrent with the annual recruitment for all commission and committee members' terms expiring in January, 2021.

The motion carried with Sinks absent.

ORAL COMMUNICATIONS - CONTINUED (As necessary) - None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

- Directed staff to look into making a list of future agenda items publicly available (Chao/Scharf)

- Added a future study session to learn about the Weed and Brush Abatement Programs (Chao/Willey)

ADJOURNMENT

At 2:19 a.m. on Wednesday, June 17, 2020, Mayor Scharf adjourned the meeting.

Kirsten Squarcia, City Clerk