



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, September 15, 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 without a 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 Proposed Revisions to the Permitting Guidelines for Small Cell Facilities within the Public Right-of-Way
Recommended Action: Conduct a study session on proposed revisions to the permitting guidelines for small cellular facilities in the public Right-of-Way and provide recommendations

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

Assistant Director of Public Works Chad Mosely gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin was concerned about the volume of applications received and equal distribution among the vendors and adding more poles.

Planning Commissioner Kitty Moore (representing self) supported dark sky model lighting and was concerned about the rear-yard setbacks for ADUs (Accessory Dwelling Units) with proximity to poles.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) was concerned about allowances for adding poles in proximity to ADUs in backyards.

Alex Leupp, on behalf of Verizon, said demand during the shelter-in-place has stressed the network and the new network will provide equal access and lower cost broadband.

Nori was concerned about the number of applications received from certain vendors, new 5G permit requirements, and City verification of testing measurements.

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) was concerned about evaluating site options, towers in backyards, and the basis for locating small cells by existing macro towers.

Mayor Scharf closed the public comment period.

Council provided a recommendation to create an online portal where residents can notify the City of their preferences for, or against, installation of small cell facilities in their immediate neighborhood.

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

At 7:10 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.

Scharf moved and Willey seconded to reorder the agenda to hear Item No. 1 before Oral Communications. The motion carried unanimously.

CEREMONIAL MATTERS AND PRESENTATIONS – None

POSTPONEMENTS - None**REPORTS BY COUNCIL AND STAFF (10 minutes)**

Council heard Item No. 1 before Oral Communications.

1. Subject: City Manager update on emergency response efforts
Recommended Action: Receive City Manager update on emergency response efforts

City Manager Deborah Feng gave updates on the state's revised COVID-19 tier system, Cupertino case statistics, and upcoming testing events; upcoming blood donation events, Parks & Recreation related reopening's and online class attendance; the County's COVID-19 concerns website at sccCOVIDconcerns.org, wildfires, heat events, air quality data website at www.airnow.gov; and homeless encampments.

Santa Clara County Office of Supportive Housing Acting Director Consuelo Hernandez addressed housing placement options for homeless encampments.

Council received the City Manager update on emergency response efforts.

ORAL COMMUNICATIONS

Rhoda Fry was concerned about slope instability at the Lehigh Permanente Quarry and the Permanente Creek Watershed, and health and safety. (Submitted written comments).

Jean Bedord was concerned about City funds used to support fees for litigation and legal actions and the length of City Council meetings. (Submitted written comments).

Lisa Warren addressed previous comments regarding closed sessions and late City Council meetings and talked about past decisions not relative to the current Council membership.

Jim Moore was concerned about the homeless encampment on north Wolfe Rd. and the logistics of moving the residents due to a notice to vacate the site.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) addressed previous comments about the current Council and legal fees.

Library Commissioner Liana Crabtree (representing self) was concerned about the residents being relocated from the Wolfe Road encampment and confirmed housing options for them.

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

Written communications for this item included written comments from Vice Mayor Paul.

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.

3. Subject: Approve the August 18 City Council minutes
Recommended Action: Approve the August 18 City Council minutes
4. Subject: Approve and authorize the City Manager to execute a Master Agreement between the City of Cupertino and Starbird Consulting, LLC to provide environmental consulting services on various Capital Improvement Program (CIP) projects
Recommended Action: Approve a Master Agreement between the City of Cupertino and Starbird Consulting, LLC and authorize the City Manager to execute a Master Agreement in the amount not-to-exceed \$400,000 for a term of three years with an option to extend for an additional period of up to two years
5. Subject: Temporary rent reductions for Coffee Society lease of library storefront space and for Blue Pheasant lease of restaurant space adjacent to the Blackberry Farm Golf Course to address hardships from COVID-19 impacts
Recommended Action: Authorize the City Manager to execute all documentation necessary to temporarily reduce rental payments by 50-percent (50%) for the Coffee Society and Blue Pheasant lessees during State and County mandated Shelter-in-Place orders and restrictions on indoor dining

Written Communications for this item included an email to Council.

STUDY SESSION

6. Subject: Study session regarding policy options to reduce secondhand smoke exposure in Cupertino

Recommended Action: Provide direction on policy options to reduce exposure to secondhand smoke, including in multi-unit housing

Written communications a presentation.

Santa Clara County consultant Leslie Zellers gave a presentation.

Councilmembers asked questions and made comments.

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

Carol Baker, on behalf of the American Cancer Society Action Network and the Santa Clara County Tobacco-Free Coalition, supported extending the ordinance beyond single family homes.

Mayor Scharf closed the public comment period.

Council provided direction to move forward with exploring all five options as presented.

SECOND READING OF ORDINANCES

7. Subject: Second reading of Ordinance No. 20-2200 Municipal Code Amendments to regulate Short-Term Rental activity in the City and other minor clarification edits in Title 19. (Application No(s): MCA-2018-02; Applicant (s): City of Cupertino; Location: Citywide)

Recommended Action: Conduct the second reading and enact Ordinance No. 20-2200: "An Ordinance of the City Council of the City of Cupertino Amending Title 3, Revenue and Finance: Chapter 3.12 (Transient Occupancy Tax), Revenue and Finance, Amending Title 5, Business License and Regulations: Chapter 5.08 (Short-Term Rental Activity), Amending specified chapters of Title 19, Zoning, of the Cupertino Municipal Code Chapter 19.08 (Definitions), Chapter 19.12 (Administration), and Chapter 19.120 (Home Occupations), to regulate Short-Term Rental uses in Residential Zoning Districts."

Written communications for the item included an email to Council.

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

City Clerk Kirsten Squarcia read an email on behalf of Jennifer Griffin to publicly provide the contact information for the compliance monitoring service.

Mayor Scharf closed the public comment period.

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2200: "An Ordinance of the City Council of the City of Cupertino Amending Title 3, Revenue and Finance: Chapter 3.12 (Transient Occupancy Tax), Revenue and Finance, Amending Title 5, Business License and Regulations: Chapter 5.08 (Short-Term Rental Activity), Amending specified chapters of Title 19, Zoning, of the Cupertino Municipal Code Chapter 19.08 (Definitions), Chapter 19.12 (Administration), and Chapter 19.120 (Home Occupations), to regulate Short-Term Rental uses in Residential Zoning Districts."

Paul moved and Scharf seconded to read the title of Ordinance No. 20-2200 by title only and that the City Clerk's reading would constitute the second reading thereof.

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

Paul moved and Scharf seconded to enact Ordinance No. 20-2200.

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

PUBLIC HEARINGS

8. Subject: Consider amending the Fiscal Year 2020-21 Fee Schedule to establish a new fee for Short-Term Rental Registration

Recommended Action: Adopt Resolution No. 20-113 (Attachment A) amending the Fiscal Year 2020-21 Fee Schedule to establish a new fee for Short-Term Rental Registration

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

Councilmembers asked questions and made comments.

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

Jennifer Griffin asked about TOT (Transient Occupancy Tax) collections on hotels for short term rentals and ADUs (Accessory Dwelling Units). (Submitted written comments).

Mayor Scharf closed the public hearing period.

Paul moved and Sinks seconded to adopt Resolution No. 20-113 amending the Fiscal Year 2020-21 Fee Schedule to establish a new fee for Short-Term Rental Registration as amended to adopt an initial fee of \$200 per year and a recital to subsidize associated costs from the City's General Fund for cost recovery; and directed staff to use reactive code enforcement. The motion carried unanimously.

Council recessed from 9:36 p.m. to 9:42 p.m.

ORDINANCES AND ACTION ITEMS

9. Subject: Consideration of installing a rainbow crosswalk or intersection on City streets and other alternatives

Recommended Action: Receive report on the consideration of installing a rainbow crosswalk or intersection on City streets or alternative locations and provide input

Written communications for the item included an email to Council and a staff presentation.

Transportation Manager David Stillman gave a presentation.

Councilmembers asked questions and made comments.

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

Drew Lloyd, on behalf of the Bay Area Municipal Elections Committee (BAYMEC), supported installation of rainbow crosswalk. (Submitted written comments).

Pat Tietgens supported making a difference, sending a message to community, and a crosswalk installation at Stevens Creek and Finch.

Lisa Warren supported a location in the city center and discussing other options.

Justin, on behalf of Cupertino Association of Youth LGBTQ+ (CAYLA), supported a crosswalk at Cupertino High School and exploring legal and safety concerns.

J.R. Fruen supported a rainbow crosswalk with the Traverse City coloration to address the MTC's (Metropolitan Transportation Commission) safety standards.

Sophie supported a rainbow crosswalk for diversity and inclusion, a location at Civic Center, and exploring safety studies.

Mayor Scharf closed the public comment period.

Sinks moved and Willey seconded to approve a crosswalk with a Traverse City, Michigan pattern on the east side of Finch across Stevens Creek Boulevard. The motion carried with Chao voting no.

Paul moved and Chao seconded to form a task force to explore further LGBTQ diversity options in the city and provide recommendations and outreach support. The motion carried unanimously.

10. Subject: Authorizing the sale and delivery of 2020A Certificates of Participation ("Certificates") to refinance outstanding Certificates of Participation (2012 Refinancing Project) ("2012 Certificates" or "Refunded Certificates") for debt service savings and authorizing related documents and actions.

Recommended Action: Adopt Resolution No. 20-114 of the City Council of the City of Cupertino authorizing the sale and delivery of 2020A Certificates of Participation in a principal amount not to exceed \$27 million, authorizing execution and delivery of certain documents relating thereto, and directing certain actions in connection therewith.

Written communications for the item included a staff presentation.

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

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) asked about the calculation of interest rates.

Mayor Scharf closed the public comment period.

Paul moved and Sinks seconded to Adopt Resolution No. 20-114 of the City Council of the City of Cupertino authorizing the sale and delivery of 2020A Certificates of Participation in a principal amount not to exceed \$27 million, authorizing execution and delivery of certain documents relating thereto, and directing certain actions in connection therewith. The motion carried unanimously.

11. Subject: Presentation on the 2020 Blackberry Farm Entrance Road (Entrance Road) Improvements Feasibility Study Report and request that the City Council endorse an alternative to improve pedestrian and bicycle access to Blackberry Farm for environmental review

Recommended Action: Endorse an alternative to improve pedestrian and bicycle visitor access improvements to the Blackberry Farm Entrance Road for review under the California Environmental Quality Act

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

Park Restoration and Improvement Manager Gail Seeds gave a presentation.

Councilmembers asked questions and made comments.

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

Seema Lindskog supported a separated uphill and downhill path for bikers as recommended by the Bicycle Pedestrian Commission.

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) supported a separate shared-use path as recommended by the Bicycle Pedestrian Commission.

Bicycle Pedestrian Commissioner Erik Lindskog (representing self) supported a separate mixed-use path as recommended by the Bicycle Pedestrian Commission.

City Clerk Kirsten Squarcia read an email on behalf of JR Fruen supporting a modified Alternative B as recommended by the Bicycle-Pedestrian Commission.

Mayor Scharf closed the public comment period.

Sinks moved and Scharf seconded to endorse Alternatives A, B, and B as recommended by the Bicycle Pedestrian Commission to improve pedestrian and bicycle visitor access improvements to the Blackberry Farm Entrance Road for review under the California Environmental Quality Act.

Sinks amended his motion to endorse Alternative's B and B as recommended by the Bicycle Pedestrian Commission. (Scharf accepted the friendly amendment). The amended motion carried unanimously.

12. Subject: An Urgency Ordinance temporarily waiving permit fees for certain temporary commercial signs and banners.

Recommended Action: That the City Council:

1. Find that the proposed actions are exempt from CEQA; and,
2. Conduct the only reading and enact Urgency Ordinance No. 20-2211: "An Urgency Ordinance of the City Council of the City of Cupertino temporarily waiving permit fees for certain temporary commercial signs and banners."

Mayor Scharf recused himself from this item and left the meeting.

Written communications for the item included a staff presentation.

Economic Development Manager Angela Tsui gave a presentation.

Councilmembers asked questions and made comments.

Vice Mayor Paul opened the public comment period and the following people spoke.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) asked about the rationale for a discussion on the item of business.

Vice Mayor Paul closed the public comment period.

City Clerk Kirsten Squarcia read the title of Urgency Ordinance No. 20-2211: "An Urgency Ordinance of the City Council of the City of Cupertino temporarily waiving permit fees for certain temporary commercial signs and banners."

Paul moved and Chao seconded to read the title of Urgency Ordinance No. 20-2211 by title only and that the City Clerk's reading would constitute the only reading thereof.

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

Paul moved and Chao seconded to enact Urgency Ordinance No. 20-2211.

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

- 13.** Subject: An Emergency Order authorizing the outdoor operations of qualifying establishments (retail uses, personal care services uses, and gym and fitness facilities) pursuant to a Special Temporary Outdoor Operations Permit.

Recommended Action: Ratify the Emergency Order authorizing the outdoor operations of qualifying establishments (retail uses, personal care services uses, and gym and fitness facilities) pursuant to a Special Temporary Outdoor Operations Permit.

City Manager Deborah Feng reviewed the staff report.

Vice Mayor Paul opened the public comment period and the following people spoke.

Anajli Kauser, on behalf of the Chamber of Commerce, supported the emergency order to help local businesses.

Vice Mayor Paul closed the public comment period.

Paul moved and Chao seconded to ratify the Emergency Order authorizing the outdoor operations of qualifying establishments (retail uses, personal care services uses, and gym and fitness facilities) pursuant to a Special Temporary Outdoor Operations Permit. The motion carried unanimously (Scharf absent).

14. Subject: Resolution amending the City of Cupertino Conflict of Interest Code for officials and designated employees and requiring electronic filing of all Statements of Economic Interest (Form 700s); 2020 Local Agency Biennial Notice
Recommended Action: a.) Adopt Resolution No. 20-115 rescinding Resolution No. 18-092 and amending the City of Cupertino Conflict of Interest Code for officials and designated employees and requiring electronic filing of all Statements of Economic Interest; and b.) Authorize the City Manager to sign the required 2020 Local Agency Biennial Notice

Written communications for the item included a staff presentation.

City Clerk Kirsten Squarcia gave a presentation.

Vice Mayor Paul opened the public comment period and, seeing no speakers, closed the public comment period.

Paul moved and Sinks seconded to a.) Adopt Resolution No. 20-115 rescinding Resolution No. 18-092 and amending the City of Cupertino Conflict of Interest Code for officials and designated employees and requiring electronic filing of all Statements of Economic Interest; and b.) Authorize the City Manager to sign the required 2020 Local Agency Biennial Notice. The motion carried unanimously (Scharf absent).

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

- Added a future agenda item regarding homelessness and employment (Willey/Chao)

ADJOURNMENT

At 12:13 a.m., on Wednesday, September 16, Mayor Scharf adjourned the meeting. Note: A special meeting of the Cupertino Public Facilities Corporation followed the regular City Council meeting.

Kirsten Squarcia, City Clerk