



**DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, December 15, 2020**

SPECIAL MEETING

At 5:30 p.m. Mayor Darcy Paul called the Special City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

ORDINANCES AND ACTION ITEMS

1. Subject: Santa Clara County Community Plan to End Homelessness 2020-25
Recommended Action: Adopt Resolution No. 20-140 endorsing the Santa Clara County Community Plan to End Homelessness 2020-25.

Written communications for this item included a staff presentation.

Santa Clara County Office of Supportive Housing Continuum of Care Manager Kathryn Kaminski gave a presentation.

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

Jennifer Griffin supported the Santa Clara County Community Plan to End Homelessness 2020-25 and assistance for the residents at the Stevens Creek Boulevard and Highway 280 encampment.

Library Commissioner Liana Crabtree (representing self) supported the Santa Clara County Community Plan to End Homelessness 2020-25 and increasing mobile hygiene services.

Mayor Paul closed the public comment period.

Paul moved and Willey seconded to adopt Resolution No. 20-140 endorsing the Santa Clara County Community Plan to End Homelessness 2020-25. The motion carried unanimously.

ADJOURNMENT

REGULAR MEETING

At 6:48 p.m. Mayor Darcy Paul called the Regular City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

Mayor Paul presented City Council meeting procedural requirements including the order and time limits of agenda items. (Submitted written comments).

CEREMONIAL MATTERS AND PRESENTATIONS - None

POSTPONEMENTS

1. Subject: Consider continuing Item No. 11 Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design to January 19.
Recommended Action: Consider a motion to continue Item No. 11 Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design to January 19.

Written Communications for this item included an email to Council.

Housing Commissioner Connie Cunningham (representing self) opposed postponing the Bird-Safe Design Ordinance. (Submitted written comments).

Shani Kleinhaus, on behalf of the Santa Clara Valley Audubon Society, opposed postponing the Bird-Safe Design Ordinance.

Dashiell Leeds, on behalf of the Sierra Club Loma Prieta Chapter, opposed postponing the Bird-Safe Design Ordinance.

Rose Grymes and Peter Friedland supported Dark Sky and Bird-Safe Design and opposed postponing the Bird-Safe Design Ordinance.

Lisa Warren supported Dark Sky and Bird-Safe Design and opposed postponing the Bird-Safe Design Ordinance.

Robert Hirt supported Dark Sky and Bird-Safe Design and opposed postponing the Bird-Safe Design Ordinance.

Joe Spaulding supported prioritizing homelessness study efforts and postponing Bird-Safe Design efforts indefinitely.

Jill Halloran supported Dark Sky and Bird-Safe Design and opposed postponing the Bird-Safe Design Ordinance.

Linda Ruthruff opposed postponing the Bird-Safe Design Ordinance.

Paul moved and Willey seconded to continue Item No. 11 Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design to January 19.

Paul withdrew his motion.

Willey moved and Wei seconded to separate Dark Sky and Bird-Safe Design and hear Bird-Safe Design; and postpone Dark Sky until January 19 but receive the Dark Sky updates since the last meeting.

Chao made a substitute motion to hear both Dark Sky and Bird-Safe Design. There was no second and the motion was not considered.

Willey's motion carried with Moore voting no.

2. Subject: Amending the Fiscal Year 2020-21 Fee Schedule to establish updated fees for the Community Gardens. This item has been continued to January 19.

3. Subject: Approving City of Cupertino 2020 Transportation Impact Fee Nexus Study Update, increasing the Transportation Impact Fees, and amending Schedule B of the 2020-21 Fee Schedule to incorporate the increased fees. This item has been continued to January 19.
4. Subject: Municipal Code Amendments to update existing Mobile Vending regulations, including but not limited to regulations in Chapter 5.48, and potential conforming edits to other chapters in the Municipal Code, including in Titles 5, 11, 13 and 19. Application No(s): MCA-2020-004; Applicant(s): City of Cupertino; Location: citywide. This item has been continued to January 19.

ORAL COMMUNICATIONS

Jennifer Griffin was concerned about money backers for Sacramento bills intended to increase high-density housing that are being reintroduced for approval after several years.

Rhoda Fry talked was concerned about Lehigh Cement Plant and the two quarries in Cupertino regarding air pollution reduction and regulation. (Submitted written comments).

Nick Kuwada, County of Santa Clara Division of Equity and Social Justice Program Manager supported the City's strong self-response rate to ensure an accurate 2020 Census count for necessary Federal funding.

Brent Bardsley supported issuing a commendation to the Cupertino Library staff for providing services to residents during COVID-19 and the California wildfires.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) was concerned about the number of proposed small cell installations in Cupertino and compared to other cities.

Venkat Ranganathan was concerned about the proposed small cell site installation near his home and potential health effects and requested discussion at a future Council meeting.

Peter Chu was concerned about the number of proposed 5G small cell sites and supported provisional permits and guidelines for minimum setbacks and distances between cells.

Lisa Warren supported future agenda items on action against housing bills, R1 improvements for privacy and balconies, and parkland distribution based on resident population.

Rose Grymes supported issuing a commendation to Cupertino Library staff.

Tianheng Tu was concerned about the proposed 5G small cell site installation in proximity to residences and potential health effects.

Rajul Pandit was concerned about the proposed small cell site installation near homes and supported 100' setbacks and Council prioritizing the matter.

Raj Sayana was concerned about small cell site installations in neighborhoods, the number of proposed installations, and potential health effects, and requested Council action.

Peggy Griffin supported Peter Chu's comments about proposed small cells, prioritizing installations in business areas, and requested a future agenda item on the matter.

REPORTS BY COUNCIL AND STAFF (10 minutes)

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

City Manager Deborah Feng reported on the State's COVID-19 tier guidelines and Santa Clara County travel order, County and Cupertino case counts, testing opportunities, and vaccine information; and Parks and Recreation activities; and homeless encampments.

Council received the City Manager update on emergency response efforts.

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

Councilmembers highlighted the activities of their various committees.

Council recessed from 8:24 p.m. to 8:30 p.m.

CONSENT CALENDAR

Wiley moved and Wei seconded to approve the items on the Consent Calendar except for Item No. 7 which was pulled for discussion. Ayes: Paul, Chao, Moore, Wei, and Wiley. Noes: None. Abstain: None. Absent: None.

7. Subject: Approve the December 1 City Council minutes
Recommended Action: Approve the December 1 City Council minutes

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

Brent Bardsley was unable to call in for the December 1 meeting and supported deferring the weed abatement program during the COVID-19 pandemic.

Mayor Paul closed the public comment period.

Willey moved and Chao seconded to approve the December 1 City Council minutes. The motion carried unanimously with Moore abstaining.

8. Subject: Approve the December 3 City Council minutes
Recommended Action: Approve the December 3 City Council minutes
9. Subject: Appointment of Council Committee assignments_
Recommended Action: Approve Council Committee assignments
10. Subject: Authorize negotiation and execution of a Measure B funding agreement for design of Junipero Serra Trail, Central segment.
Recommended Action: Authorize the City Manager to negotiate and execute a grant funding agreement with Valley Transportation Authority, accepting \$460,000 in Measure B funds for the design of the Junipero Serra Trail, Central segment, and increase the project budget by \$460,000.

SECOND READING OF ORDINANCES

PUBLIC HEARINGS

11. Subject: Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design. (Application No. MCA-2019-003 and MCA-2019-004; Applicant: City of Cupertino; Location: City-wide)
Recommended Action: That the City Council:
 1. Find the proposed actions are exempt from CEQA; and,
 2. Conduct the first reading of Ordinance No. 20-2217 "An Ordinance of the City Council of the City of Cupertino Amending City Code to Add Chapter 19.102: Glass and Lighting Standards and to Amend Chapter 19.08 Definitions, Chapter 19.40 Residential Hillside (RHS) Zones, Chapter 19.60 General Commercial (GC) Zones, Chapter 19.72 Light Industrial (ML) and Industrial Park (MP) Zones, and Chapter 19.124 Parking Regulations to Implement Bird-Safe and Dark Sky Policies." (Attachment A)

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

Senior Planner Erick Serrano and Planning Manager Piu Ghosh gave a presentation.

Councilmembers asked questions and made comments.

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

Rhoda Fry supported removing the exceptions made for affordable housing units. (Submitted written comments).

Shani Kleinhaus, on behalf of the Santa Clara Valley Audubon Society, supported adoption of the Bird Safe Design Ordinance and minor language modifications, if necessary.

Housing Commissioner Connie Cunningham (representing self) supported adoption of the Bird Safe Design Ordinance. (Submitted written comments).

Dashiell Leeds, on behalf of the Sierra Club Loma Prieta Chapter, supported adoption of the Bird Safe Design Ordinance and minor language modifications, if necessary.

Rose Grymes supported adoption of the Bird Safe Design Ordinance and minor language modifications, if necessary.

Jill Halloran supported adoption of the Bird Safe Design Ordinance.

Linda Ruthruff, on behalf of The California Native Plant Society (CNPS), supported adoption of the Bird Safe Design Ordinance.

Joe Spaulding opposed adoption of the Bird Safe Design Ordinance and supported prioritizing helping people displaced from their homes.

Mayor Paul closed the public hearing.

Wiley moved and Chao seconded to conduct the first reading of the Alternative Draft Bird-Safe Only Ordinance of Attachment D; and that the City Clerk read the title of Ordinance No. 20-2219 by title only and that the City Clerk's reading would constitute the first reading thereof.

Chao made a friendly amendment to include the following modifications. (Willey and Chao accepted the friendly amendment).

19.102.030 Bird-safe Development Requirements

B. Fenestration and Glass Requirements

2. Standard Compliance Treatments: Glass treatments must ~~be visible to all bird species~~, have high color contrast with the glass, and be applied to the outermost glass.

4. Exemptions: The following are exempted from subsection 19.102.030(B):

~~c. Residential development in R1 zoning districts outside of Bird Sensitive Areas; and~~

~~d. 100% affordable housing developments.~~

Willey made a friendly amendment to exclude window replacements on existing structures. (Chao did not accept the friendly amendment).

Chao made an amended motion to exempt window replacements up to a height of 15' for residential development in R1 zoning districts. There was no support for Chao's amended motion, and it was not considered.

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2219: "An Ordinance of the City Council of the City of Cupertino Amending City Code to Add Chapter 19.102: Bird Safe Development Standards and to Amend Chapter 19.08 Definitions to Implement Bird-Safe Regulations."

Willey's motion carried with Moore voting no.

Final motion summary:

Willey moved and Chao seconded to conduct the first reading of the Alternative Draft Bird-Safe Only Ordinance of Attachment D as modified by Chao; and that the City Clerk read the title of Ordinance No. 20-2219 by title only and that the City Clerk's reading would constitute the first reading thereof.

Chao's modifications:

19.102.030 Bird-safe Development Requirements

B. Fenestration and Glass Requirements

2. Standard Compliance Treatments: Glass treatments must ~~be visible to all bird species~~, have high color contrast with the glass, and be applied to the outermost glass.

4. Exemptions: The following are exempted from subsection 19.102.030(B):

~~c. Residential development in R1 zoning districts outside of Bird Sensitive Areas; and~~

~~d. 100% affordable housing developments.~~

Ayes: Paul, Chao, Wei, and Willey. Noes: Moore. Abstain: None. Absent: None.

12. Subject: Adoption of a housing program to incentivize development of affordable housing by allowing for density bonuses up to 40 percent and initiating a zoning code amendment to include the program in the City's density bonus ordinance. (Application No. CP-2020-004; Applicant: City of Cupertino; Location: Citywide)
Recommended Action: Adopt Resolution No. 20-141 (Attachment A) adopting a housing program to incentivize development of affordable housing by allowing for density bonuses up to 40 percent and initiating a zoning code amendment to include the program in the City's density bonus ordinance.

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

Community Development Ben Fu introduced the item.

Housing Manager Piu Ghosh gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin was concerned about money backers for AB 2345 and poorly written housing bills and supported postponing the bill until next year.

Victoria Fierce, on behalf of California Renters Legal Advocacy and Education Fund (CaRLA), opposed adoption of the resolution to bypass state law and state density bonus.

Housing Commissioner Connie Cunningham (representing self) opposed adoption of the resolution and supported working with AB 2345 and the Housing Commission.

Kelsey Banes, on behalf of Peninsula for Everyone, opposed adoption of the resolution and supported working within state housing regulations.

Joe Spaulding opposed adoption of the resolution and supported alternative housing policies.

Jordan Grimes opposed adoption of the resolution and supported working within state law to produce affordable housing.

Mayor Paul closed the public hearing.

Chao moved and Willey seconded to:

Adopt Resolution No. 20-141 adopting a housing program to incentivize development of affordable housing by allowing for density bonuses up to 40 percent and initiating a zoning code amendment to include the program in the City's density bonus ordinance. The motion carried unanimously.

Council recessed from 11:10 p.m. to 11:13 p.m.

ORDINANCES AND ACTION ITEMS

13. Subject: Approval of a new 10-year franchise agreement with Recology Cupertino (Recology) related to recycling, organics, and solid waste collection, processing, and disposal effective February 1, 2021; adopt a maximum rate schedule for Rate Year 1 and percentage increases for Rate Years 2 and 3; authorize the use of Enterprise Funds to smooth and mitigate rates, approve an associated budget modification, and establish a minimum fund reserve; and amend Chapter 6.24 of the Cupertino Municipal Code to update provisions related to solid waste, recycling, and organics collection and disposal.

Recommended Action: 1. Adopt Resolution No. 20-142, (Attachment A) to:

a. Authorize the Mayor to execute a new 10-year franchise agreement with Recology for recycling, organics, and solid waste collection, recycling and organics processing services and transport for disposal (Attachment B);

b. Adopt a maximum rate schedule for Rate Year 1 and percentage increases for Rate Years 2 and 3, describing the maximum amounts Recology may charge customers for providing services pursuant to the franchise agreement (Attachment B, Exhibit G3);

c. Authorize establishment of a minimum reserve for the Resource Recovery Enterprise Fund 520-330 of \$500,000;

d. Authorize use of the Resource Recovery Enterprise Fund 520-330 to smooth and mitigate rate increases for the first three years of the agreement; and

e. Approve Budget Modification No. 2021-109 increasing appropriations in the Resource Recovery Enterprise Fund 520-330 in the amount of \$285,864.

2. Conduct the first reading of Ordinance No. 20-2218: "An ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Chapter 6.24 (Garbage, non-organic recycling and organic waste recycling collection and disposal)" (Attachment C).

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

Director of Public Works Roger Lee introduced the item.

Environmental Programs Manager Ursula Syrova and HF&H Consultants President Rob Hilton gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin supported the franchise agreement with Recology Cupertino.

Steven Scharf was concerned about the resource recovery enterprise fund increases and 24-gallon carts and supported a competitive bid process before contract approval.

Peggy Griffin was concerned about annual increases, incentives to reduce costs, and the cost of landfill disposal. (Submitted written comments).

Gilbert Wong supported the franchise agreement with Recology Cupertino.

Caller 8453 was concerned about rates rising and compounding annually and supported collections every alternate week.

Mayor Paul closed the public hearing.

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2218: "An Ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Chapter 6.24 (Garbage, non-organic recycling and organic waste recycling collection and disposal)"

Moore moved and Wei seconded to:

Adopt Resolution No. 20-142 to:

a. Authorize the Mayor to execute a new 10-year franchise agreement with Recology for recycling, organics, and solid waste collection, recycling and organics processing services and transport for disposal (Attachment B);

b. Adopt a maximum rate schedule for Rate Year 1 and percentage increases for Rate Years 2 and 3, describing the maximum amounts Recology may charge customers for providing services pursuant to the franchise agreement (Attachment B, Exhibit G3);

c. Authorize establishment of a minimum reserve for the Resource Recovery Enterprise Fund 520-330 of \$500,000;

d. Authorize use of the Resource Recovery Enterprise Fund 520-330 to smooth and mitigate rate increases for the first three years of the agreement; and

e. Approve Budget Modification No. 2021-109 increasing appropriations in the Resource Recovery Enterprise Fund 520-330 in the amount of \$285,864; and that the City Clerk read the title of Ordinance No. 20-2218 by title only and that the City Clerk's reading would constitute the first reading thereof.

Ayes: Paul, Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: None.

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

City Manager Deborah Feng provided an update on community funding grant opportunities.

Council added a future agenda item to issue a commendation to Cupertino Library staff (Moore, Chao, Paul).

ADJOURNMENT

At 12:49 a.m., Mayor Paul adjourned the meeting.

Kirsten Squarcia, City Clerk