



**DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, February 16, 2021**

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.

STUDY SESSION

1. Subject: Study Session to compare standards for mixed-use developments and high density residential guidelines with other cities.
Recommended Action: Receive presentation and provide any input to Staff

Written communications for this item included a staff presentation.

Associate Planner Jeff Tsumura gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin supported the discussion and looking at the differences between cities and was concerned about the Steven's Creek Urban Village plan.

Peggy Griffin supported studying what mixed-use designs work and specifying a minimum and maximum floor area ratio (FAR). (Submitted written comments).

Lisa Warren supported being different from San Jose, studying required density, and was concerned about the Steven's Creek Urban Village plan.

Mayor Paul closed the public comment period.

Council received the presentation and provided the following comments.

- Need community outreach and resident engagement
- Encourage developments to be all-inclusive projects with units for all income and age levels
- Make sure future standards are within the confines of law and address the uniqueness of our city
- Need setback standards for streets and slope standards and shadow study for all developments next to residential development
- Other cities have minimum average unit size, need standards for leasable commercial units of certain size that meet needs of Cupertino (e.g. grocery stores, pharmacies etc.)
- Look at each development separately to see where housing is needed and best fits, what kind of store goes with which development
- There is a need for infrastructure such as sewer capacity and water
- Need for infrastructure to support good quality transit, walkability and bikeability
- Need a low carbon footprint and look at how can we travel efficiently and cover a larger distance than the last mile, within a reasonable amount of time

ADJOURNMENT

REGULAR MEETING

At 6:45 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.

In open session, Mayor Paul reported out from the Special Closed Session Meeting held on February 9, 2021:

Written Communications for this item included a Statement Regarding In-House City Attorney Search.

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

Council evaluated the structure and economic efficiency of current contract City Attorney services.

Mayor Paul read a statement regarding the City's search for an in-house City Attorney.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Certificates of Appreciation to the Cupertino Citizen Corps for their response and support of the COVID-19 Test Sites
Recommended Action: Present Certificates of Appreciation to the Cupertino Citizen Corps for their response and support of the COVID-19 Test Sites

Leigh Stevens accepted the Certificates of Appreciation on behalf of the Cupertino Citizen Corps.

Mayor Paul presented the Certificates of Appreciation to the Cupertino Citizen Corps for their response and support of the COVID-19 Test Sites.

POSTPONEMENTS - None

ORAL COMMUNICATIONS

John Ennals supported a City Council endorsement regarding how the nation can address the climate change emergency. (Submitted written comments).

Dan Marshall supported the City Council endorsing a national climate policy with a carbon free and dividend solution. (Submitted written comments).

Jennifer Griffin was concerned about retaining local control and high-density housing bills being introduced in Sacramento, Washington, and Oregon.

Anjali Kausar, on behalf of the Cupertino Chamber of Commerce, discussed the upcoming Lunar New Year Luncheon including recognition of the Bridge Award winners.

Caller 0432 was concerned about a proposed Verizon 5G small cell site in proximity to her home and any mental health risks.

Peggy Griffin supported advertising future small cell site locations, increased setbacks and distances between sites, and provisional permits. (Submitted written comments).

William W. was concerned about a proposed Verizon small cell site location in proximity to his home including health concerns and regulation.

Housing Commissioner Connie Cunningham (representing self) discussed bird migration through Cupertino and supported Dark Sky regulations. (Submitted written comments).

James Lin was concerned about a proposed Verizon small cell site in the Three Oaks Park area.

Shani Kleinhaus, on behalf of the Santa Clara Valley Audubon Society opposed harmful lights impacting bird migration. (Submitted written comments).

Lisa Warren discussed a book written by Patrick Condon "Slick City" and said she would provide a copy to be used at City Hall.

Karis Lee was concerned about a proposed Verizon 5G small cell site and follow-up from the City to address this concern.

Victor Nee was concerned about a proposed Verizon 5G small cell site in proximity to his home including the effects on health and home values.

Jerry Lu was concerned about a proposed Verizon 5G small cell site in the Three Oaks Park area including the health effects for children.

REPORTS BY COUNCIL AND STAFF (10 minutes)

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

City Manager Deborah Feng reported on COVID-19 vaccine information, testing opportunities, and County and Cupertino case counts; and homeless encampments.

Council received the City Manager update on emergency response efforts.

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

Councilmembers highlighted the activities of their various committees.

4. Subject: Cupertino Union School District (CUSD) collaboration discussion update
Recommended Action: Receive Cupertino Union School District (CUSD) collaboration discussion update

City Manager Deborah Feng gave a Cupertino Union School District (CUSD) collaboration discussion update.

5. Subject: FY 2020-21 Interim Budget and Key Projects Update
Recommended Action: Accept City Manager's Interim Budget and Key Projects Report

Written communications for this item included a staff presentation.

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

Council accepted the City Manager's Interim Budget and Key Projects Report.

CONSENT CALENDAR

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

6. Subject: Approve the January 25 City Council minutes
Recommended Action: Approve the January 25 City Council minutes

7. Subject: Approve the January 26 City Council minutes
Recommended Action: Approve the January 26 City Council minutes

8. Subject: Approve the February 2 City Council minutes
Recommended Action: Approve the February 2 City Council minutes

9. Subject: Accept Accounts Payable for the period ending December 07, 2020
Recommended Action: Adopt Resolution No. 21-012 accepting Accounts Payable for the period ending December 07, 2020

10. Subject: Accept Accounts Payable for the period ending December 14, 2020
Recommended Action: Adopt Resolution No. 21-013 accepting Accounts Payable for the period ending December 14, 2020
11. Subject: Accept Accounts Payable for the period ending December 23, 2020
Recommended Action: Adopt Resolution No. 21-014 accepting Accounts Payable for the period ending December 23, 2020
12. Subject: Treasurer's Investment Report for period ending December 31, 2020
Recommended Action: Accept staff report and provide recommendations.
13. Subject: Planning Commission's recommendation to select R 'Ray' Wang as the Environmental Review Committee representative
Recommended Action: Accept the Planning Commission's recommendation to the Environmental Review Committee

SECOND READING OF ORDINANCES

14. Subject: Consider and act on Ordinance No. 21-2220 adopting Municipal Code Amendments to update existing Mobile Vending regulations, including conforming edits to Titles 5 and 13 in the Municipal Code, for new regulations of Sidewalk Vending in compliance with SB 946. Application No(s): MCA-2020-004; Applicant(s): City of Cupertino; Location: citywide.
Recommended Action: Conduct the second reading and enact Ordinance No. 21-2220: "An Ordinance of the City Council of the City of Cupertino amending Chapter 5.04, Business Licenses Generally, Chapter 5.20, Solicitors, Chapter 5.48, Mobile Vendors, and Chapter 13.04, Parks" to:
 - A. Find that the proposed actions are exempt from CEQA;
 - B. Adopt regulations to allow sidewalk vending in compliance with SB 946; and
 - C. Find that the restrictions and requirements contained in the regulations are directly related to objective health, safety, and/or public welfare concerns

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

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2220: "An Ordinance of the City Council of the City of Cupertino amending Chapter 5.04, Business Licenses Generally, Chapter 5.20, Solicitors, Chapter 5.48, Mobile Vendors, and Chapter 13.04, Parks"

Chao moved and Willey seconded to conduct the second reading of Ordinance No. 21-2220 by title only and that the City Clerk's reading would constitute the second reading thereof; and to enact Ordinance No. 20-2220. Ayes: Paul, Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: None.

15. Subject: Consider and act on Ordinance No. 21-2222: "An Ordinance of the City Council of the City of Cupertino Adding Chapter 2.100 ("Regulation of Lobbying Activities") to Title 2 ("Administration and Personnel") of the Cupertino Municipal Code"

Recommended Action: Conduct the second reading and enact Ordinance No. 21-2222: "An Ordinance of the City Council of the City of Cupertino Adding Chapter 2.100 ("Regulation of Lobbying Activities") to Title 2 ("Administration and Personnel") of the Cupertino Municipal Code," which includes a finding that adoption of the ordinance is exempt from the California Environmental Quality Act.

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

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2222: "An Ordinance of the City Council of the City of Cupertino Adding Chapter 2.100 ("Regulation of Lobbying Activities") to Title 2 ("Administration and Personnel") of the Cupertino Municipal Code."

Wei moved and Willey seconded to conduct the second reading of Ordinance No. 21-2222 by title only and that the City Clerk's reading would constitute the second reading thereof; and to enact Ordinance No. 20-2222. Ayes: Paul, Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: None.

PUBLIC HEARINGS

16. Subject: Consider and act on the proposed modification to an existing Use Permit (U-2004-01) to amend the conditions of approval to allow 100% non-retail commercial uses where only 50% are allowed. Application No(s): M-2020-02; Applicant(s): Catherine Chen; Location: 20130 Stevens Creek Blvd. APN#: 369-56-001

Recommended Action: That, consistent with the Planning Commission recommendation, the City Council adopt Resolution No. 21-015 approving a Use Permit Modification to an existing Use Permit (project M-2020-002)

Written communications for this item included a staff presentation.

Senior Planner Gian Martire gave a presentation.

Councilmembers asked questions and made comments.

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

Peggy Griffin opposed the retail limitation of the initial conditional use permit and supported a minimum number of parking spaces.

Mayor Paul closed the public hearing.

Chao moved and Willey seconded to adopt Resolution No. 21-015 approving a Use Permit Modification to an existing Use Permit (project M-2020-002). The motion carried unanimously.

Council recessed from 8:54 p.m. to 9:00 p.m.

17. Subject: Consideration of a Municipal Code Amendment as part of the transition from Level of Service (LOS) to Vehicle Miles Traveled (VMT), for a determining transportation impacts under the California Environmental Quality Act (CEQA) as required by Senate Bill (SB) 743.

Recommended Action: That the City Council conduct the first reading of Ordinance No. 21-2223 "An Ordinance of the City Council of the City of Cupertino Adding Title 17 and Chapter 17.08 to the Cupertino Municipal Code, Replacing Level of Service (LOS) with Vehicle Miles Traveled (VMT) For Use in Transportation Analysis Pursuant to the California Environmental Quality Act (CEQA)" (Attachment A), as recommended by the Planning Commission on January 26, 2021 to:

1. Find the proposed actions exempt from CEQA;
2. Add to the Cupertino Municipal Code Title 17 (Environmental Regulations) and Chapter 17.08 (Vehicle Miles Traveled Standards), which establishes screening criteria, a 14.4% VMT reduction threshold, and screening criteria for local-serving retail, 100% affordable housing projects, and projects located within one-quarter mile of a High-Quality Transit Corridor, for purposes of CEQA analysis.

Written communications for this item included a staff presentation.

Senior Transportation Planner Chris Corrao gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin opposed eliminating Level of Service (LOS) as a tool to determine the impact of projects on intersections.

Peggy Griffin supported incorporating the language for LOS into the Cupertino Municipal Code to make it enforceable.

Mayor Paul closed the public hearing.

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2223 “An Ordinance of the City Council of the City of Cupertino Adding Title 17 and Chapter 17.08 to the Cupertino Municipal Code, Replacing Level of Service (LOS) with Vehicle Miles Traveled (VMT) For Use in Transportation Analysis Pursuant to the California Environmental Quality Act (CEQA)”

Wei moved and Chao seconded to conduct the first reading of Ordinance No. 21-2223 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.

18. Subject: Consider Resolution No. 21-016 approving correction to Building Fee Schedule D - Standard Commercial Foundation with Podium
Recommended Action: Adopt Resolution No. 21-016 approving correction to Building Fee Schedule D - Standard Commercial Foundation with Podium

Written communications for this item included a staff presentation.

Finance Manager Zach Korach gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin asked whether the correct Standard Commercial Foundation with Podium fees were applied to the Rose Bowl project.

Mayor Paul closed the public hearing.

Willey moved and Paul seconded to adopt Resolution No. 21-016 approving correction to Building Fee Schedule D - Standard Commercial Foundation with Podium. The motion carried unanimously.

ORDINANCES AND ACTION ITEMS – None

ORAL COMMUNICATIONS - CONTINUED (As necessary) – None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Councilmembers added the following future agenda items.

- Review the Vallco process for the tentative map and findings, polychlorinated biphenyl (PCB) investigation report, and status of the final map for Council approval (Moore/Willey)
- Review of the citywide Vehicle Miles Traveled (VMT) per capita value used in the General Plan environmental analysis, compared with the most recent citywide VMT estimate used for SB743 compliance. (Moore/Willey).
- Include a review of the City Manager's comprehensive list of proposed 5G small cell sites with the small cell study session scheduled for April 20 (Willey/Chao)
- Request that Verizon and other carriers make communications regarding cell sites available for public records requests (Chao/Willey)

ADJOURNMENT

At 10:17 p.m., Mayor Paul adjourned the meeting.

Kirsten Squarcia, City Clerk