



**DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, October 5, 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: Update on Housing Element Process and Housing Survey
Recommended Action: That the City Council receive the report and provide input to staff on public engagement and next steps for the Housing Element update.

Written Communications for this item included staff and consultant presentations and emails to Council.

Planning Manager Piu Gosh introduced the item.

Associate Planner Erika Poveda and Consultant Ande Flower of EMC Planning Group gave presentations.

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

Jennifer Griffin opposed the increased RHNA numbers and was concerned about new housing laws SB 9 and SB 10 impacting the Housing Element.

Kalisha Webster supported accessible affordable housing for people with developmental disabilities in Cupertino.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Council received the report and provided input to staff on public engagement and next steps for the Housing Element update.

ADJOURNMENT

At 6:40 p.m., Mayor Paul adjourned the Special City Council meeting.

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.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation recognizing Cupertino High School's 50th annual Tournament of Bands (TOB)
Recommended Action: Present proclamation recognizing Cupertino High School's 50th annual Tournament of Bands (TOB)

Planning Commission Vice Chair Steven Scharf received the proclamation.

Mayor Paul presented the proclamation recognizing Cupertino High School's 50th annual Tournament of Bands (TOB).

2. Subject: Proclamation recognizing October as Domestic Violence Awareness Month
Recommended Action: Present proclamation recognizing October as Domestic Violence Awareness Month

NextDoor Solutions Executive Director Esther Peralez-Dieckmann and WomenSV Advocate Masha Starostina received the proclamation.

Mayor Paul presented proclamation recognizing October as Domestic Violence Awareness Month.

POSTPONEMENTS AND ORDERS OF THE DAY

ORAL COMMUNICATIONS

Jennifer Griffin was concerned about alt-left groups in the Democratic Party, loss of local control, and supported the option to change party affiliation.

Call-In User_1 talked about an unpermitted structure in her backyard permit and court proceedings on the matter and supported different outside counsel.

REPORTS BY COUNCIL AND STAFF (10 minutes)

3. Subject: Brief reports on councilmember activities and brief announcements
Recommended Action: Receive brief reports on councilmember activities and brief announcements

Written communications for this item included Mayor Paul's letter requesting Governor's signature for AB 367 (Garcia) and Cupertino Mayor's Corner report October 5, 2021, and a student committee presentation advocating for AB 367.

Council received brief reports on councilmember activities and brief announcements.

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

Councilmembers highlighted the activities of their various committees.

5. Subject: City Manager update
Recommended Action: Receive City Manager updates on emergency response efforts and other City business

Interim City Manager Greg Larson reported on COVID-19 state and county case rates, testing locations, vaccination booster shots, and face covering requirements; and upcoming City events.

Council received the City Manager updates on emergency response efforts and other City business.

CONSENT CALENDAR (Items 6-8)

Moore 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 September 21 City Council minutes
Recommended Action: Approve the September 21 City Council minutes
7. Subject: Approve the September 28 City Council minutes
Recommended Action: Approve the September 28 City Council minutes
8. Subject: Consider adopting a resolution authorizing remote teleconference meetings of the legislative bodies of the City of Cupertino for the period October 5, 2021 through November 4, 2021 pursuant to Brown Act provisions
Recommended Action: Adopt Resolution No. 21-090 authorizing remote teleconference meetings of the legislative bodies of the City of Cupertino for the period October 5, 2021 through November 4, 2021 pursuant to Brown Act provisions

SECOND READING OF ORDINANCES - None**PUBLIC HEARINGS**

9. Subject: Consider an appeal of the Planning Commission's decision to uphold the Director of Community Development's approval of a Two-Story Permit to allow a new 2,992 square-foot two-story home with a 746 square-foot attached accessory dwelling unit and a Minor Residential Permit to allow a new 115 square-foot second-story balcony. (Application Nos.: R-2020-035, RM-2020-023; Applicant: Smart Lily, LLC.; Property Owners: Tariqul Khan and Chaman Hafiz; Appellants: Jitesh Vadhia and Chih-Lung Lin; Location: 1506 Primrose Way; APN # 366-15-018)
Recommended Action: That the City Council conduct a public hearing and adopt Resolution No. 21-091 for Application R-2020-035 (Attachment A) and Resolution No. 21-092 for Application RM-2020-023 (Attachment B) denying the appeal and upholding the Planning Commission's decision to uphold the Director's approval of the applications.

Written Communications for this item included a staff presentation and property owner presentation.

Planning Manager Piu Gosh introduced the item.

Associate Planner Erika Poveda gave a presentation.

Councilmembers asked questions and made comments.

Chih-Lung Lin (appellant) expressed privacy concerns and supported modifications.

Jitesh Vadhia (appellant) expressed privacy concerns and supported modifications.

Chaman Hafiz (property owner) gave a presentation addressing neighbor concerns.

Councilmembers asked questions and made comments.

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

Jennifer Griffin supported the homeowners for working with the City, story polls to settle issues, and was concerned about the 4' setback with the ADU.

Sadia Poddar supported approval of the applications.

Jonathan Melehan supported approval of the applications.

Mohammed Islam supported approval of the applications.

Riwan Ahmed supported approval of the applications.

Mayor Paul closed the public hearing.

Chao moved the staff recommendation with modifications to add frosted glass at the bottom for the rear second story windows and frosted windows up to 5' from the floor. There was no second and the item was not heard.

Wei moved and Moore seconded the staff recommendation. Chao made a friendly amendment to plant privacy trees instead of privacy brush in the rear yard. Wei accepted the friendly amendment upon mutual agreement of the homeowner and appellants. Moore declined the friendly amendment, and the item was not voted on.

Final motion:

Chao moved and Paul seconded a substitute motion to adopt the staff recommendation with modifications to change the rear-yard privacy screening to privacy trees instead of privacy shrubs, to add privacy trees along the side-yard property lines for a distance of up to 10' from the rear property line, and to have the property owner work with the appellants to the extent that it becomes practicable. The substitute motion carried with Moore and Wei voting no.

Council recessed from 9:12 p.m. to 9:17 p.m.

10. Subject: Consider amendments to Cupertino Municipal Code Sections 19.56.030 (Table 19.56.030), 19.56.030F, 19.56.040, and Table 19.56.040A and the addition of Section 19.56.080 (Density Bonus Ordinance) to allow density bonuses and other incentives as provided by state law and a new Section 19.56.080 providing that the Density Bonus Ordinance will be interpreted consistent with state density bonus law. (Application No: MCA-2021-003; Applicant: City of Cupertino; Location: Citywide.)
- Recommended Action: That the City Council conduct the public hearing and conduct the first reading of Ordinance No. 21-2230: "An ordinance of the City Council of the City Cupertino amending Cupertino municipal code sections 19.56.030a (table 19.56.030), 19.56.030f, table 19.56.040a and adding section 19.56.080 (density bonus ordinance) to allow density bonuses and other incentives as provided by state law" (Attachment A) to:
1. Find the actions exempt from CEQA; and
 2. Adopt amendments to Cupertino Municipal Code Sections 19.56.030 (Table 19.56.030) 19.56.030F, and Table 19.56.040A to allow for density bonuses and other incentives as provided by state law; and to add a new Section 19.56.080 providing that the Density Bonus Ordinance will be interpreted consistent with state density bonus law.

Written Communications for this item included a staff presentation.

Planning Manager Piu Gosh gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin opposed poorly written housing bills allowing increase density and impacting Cupertino and loss of local control.

Jean Bedord supported adoption of the Density Bonus Ordinance amendment. (Submitted written comments).

Zacks, Freedman & Patterson Attorney Brian O'Neill, representing YIMBY Law, supported adoption of the Density Bonus Ordinance for consistency with State law.

Lisa Warren supported ensuring future amendments can be easily reversed if necessary and to comply with new laws.

Kalisha Webster supported inclusive services and community housing for people with developmental disabilities.

Mayor Paul closed the public comment period.

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2230: "An ordinance of the City Council of the City Cupertino amending Cupertino municipal code sections 19.56.030a (table 19.56.030), 19.56.030f, table 19.56.040a and adding section 19.56.080 (density bonus ordinance) to allow density bonuses and other incentives as provided by state law"

Moore moved and Wei seconded the staff recommendation; and to read Ordinance No. 21-2230 by title only, and that the City Clerk's reading constitutes the first reading thereof. Ayes: Moore, Wei, Willey, Chao, and Paul. Noes: None. Abstain: None. Absent: None.

ORDINANCES AND ACTION ITEMS

11. Subject: Consider Conducting a First Reading of an Ordinance Related to Municipal Code Amendments to Mandate Organic Waste Disposal Reduction and Edible Food Recovery, as Required by Senate Bill (SB) 1383 and its Implementing Regulations.
Recommended Action: Conduct the First Reading of Ordinance No. 21-2231: "An Ordinance of the City Council of the City of Cupertino Amending City Code to Repeal Section 6.24.037, Adopt a New Section 6.24.037, Adopt a New Section 6.24.038, and Amend Sections 6.24.010, 6.24.020, 6.24.060, 6.24.240, and 9.16.030, to Mandate Organic Waste Disposal Reduction" (Attachment A), which Includes a Finding that Adoption of the Ordinance is Exempt from the California Environmental Quality Act.

Written Communications for this item included a staff presentation.

Environmental Programs Manager Ursula Syrova gave a presentation.

Councilmembers asked questions and made comments.

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

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2231: "An Ordinance of the City Council of the City of Cupertino Amending City Code to Repeal Section 6.24.037, Adopt a New Section 6.24.037, Adopt a New Section 6.24.038, and Amend Sections 6.24.010, 6.24.020, 6.24.060, 6.24.240, and 9.16.030, to Mandate Organic Waste Disposal Reduction", which Includes a Finding that Adoption of the Ordinance is Exempt from the California Environmental Quality Act.

Wei moved and Chao seconded to read Ordinance No. 21-2231 by title only, and that the City Clerk's reading constitutes the first reading thereof. Ayes: Moore, Wei, Willey, Chao, and Paul. Noes: None. Abstain: None. Absent: None.

ORAL COMMUNICATIONS - CONTINUED (As necessary) - None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

- added a future agenda item to be heard in spring 2022 regarding adopting an ordinance requiring the safe storage of firearms (Wei/Paul/Willey)

Councilmembers made brief comments and discussed potential future Work Program items.

ADJOURNMENT

At 10:31 p.m., Mayor Paul adjourned the Regular City Council meeting

Kirsten Squarcia, City Clerk