



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, July 7, 2015**

SPECIAL CITY COUNCIL MEETING

ROLL CALL

At 3:00 p.m. Mayor Rod Sinks called the Special City Council meeting to order in Cupertino City Hall Conference Room A, 10300 Torre Avenue.

Present: Mayor Rod Sinks, Vice Mayor Barry Chang, and Council members Darcy Paul Savita Vaidhyanathan, and Gilbert Wong. Absent: None.

At 3:00 p.m. Council went into closed session and reconvened in open session at 6:45 p.m. in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue.

CLOSED SESSION

1. Subject: Conference with Legal Counsel - Anticipated Litigation: Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Gov't Code Section 54956.9 - One case

Mayor Sinks announced that Council obtained a briefing and gave direction to staff. No action was taken.

2. Subject: Conference with legal counsel - Anticipated litigation: Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Gov't Code Section 54956.9- One case

Mayor Sinks announced that Council obtained a briefing and gave direction to staff. No action was taken.

3. Subject: Conference with Legal Counsel-Anticipated Litigation. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Gov't Code Section 54956.9: One case

Mayor Sinks announced that Council obtained a briefing and gave direction to staff. No action was taken.

4. Subject: Conference with Real Property Negotiators (Gov't Code Section 54956.8)-Property: Cupertino Municipal Water System. Agency negotiator: Timm Borden. Negotiating parties: City of Cupertino and San Jose Water Company. Under negotiation: Terms for City leased asset

Mayor Sinks announced that Council obtained a briefing and gave direction to staff. No action was taken.

5. Subject: Conference with Legal Counsel-Existing Litigation pursuant to paragraph (1) of subdivision (d) of Gov't code Section 54956.9). Name of Case: City of Saratoga; City of Cupertino; Town of Los Gatos v. California Department of Transportation, et al., Case No. 115CV281214

Mayor Sinks announced that Council obtained a briefing from outside counsel and staff and gave direction. No action was taken.

6. Subject: Public Employment (Gov't Code Section 54957) - Title: City Attorney

Mayor Sinks announced that Council obtained a briefing from the recruiter and gave direction.

ADJOURNMENT

At 6:35 p.m. Mayor Sinks adjourned the Special City Council meeting to the Regular City Council meeting beginning at 6:45 p.m.

REGULAR CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

At 6:45 p.m. Mayor Rod Sinks called the Regular City Council meeting to order in Cupertino Community Hall Council Chambers, 10350 Torre Avenue and led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Rod Sinks, Vice Mayor Barry Chang, and Council members Darcy Paul, Savita Vaidhyanathan, and Gilbert Wong. Absent: None.

CEREMONIAL MATTERS AND PRESENTATION

1. Subject: Present proclamations celebrating participants of the City's Green Business Challenge
Recommended Action: Present proclamations

Mayor Sinks presented the proclamations to the City's Green Businesses.

POSTPONEMENTS - None

ORAL COMMUNICATIONS

Capt. Rick Sung from the Sheriff's office introduced Lt. Robert Durr at the West Valley Station.

Annie Ho, Chair of the Cupertino Library Commission talked about the latest news from the Cupertino Library. She distributed her PowerPoint slides.

Rob Chansler from the San Francisco Shakespeare Festival invited everyone to attend Free Shakespeare in the Park at Memorial Park beginning on July 18.

Gayathri Kanth, Cupertino Librarian, Gayathri Dandu, Teen Advisory Board member, and Nancy Howe, Director of the Santa Clara County Library District and member of the Urban Libraries Council talked about programs for teens at the Cupertino Library.

Cathy Helgersen talked about issues with pollution from the Lehigh Cement Plant.

CONSENT CALENDAR

Wong moved and Vaidhyanathan seconded to approve the items on the Consent Calendar as presented with the exception of item numbers 4, 6, and 8 which were pulled for discussion. Ayes: Sinks, Chang, Paul, Vaidhyanathan, and Wong. Noes: None. Abstain: None. Absent: None.

2. Subject: Approve the June 16 City Council minutes
Recommended Action: Approve the minutes
3. Subject: SB 321 (Beall)
Recommended Action: Adopt the Legislative Committee position of support on State Bill 321 (Beall)

4. Subject: Amendment to the professional services contract with 4Leaf, Inc., for inspection services for the Apple Campus 2 project
Recommended Action: 1. Approve Amendment #1 and Scope of Services and Compensation for the Apple Campus 2 project inspection services and; 2. Authorize the City Manager to execute Amendment #1 with 4 Leaf, Inc., adding \$933,712 to the original contract of \$9,431,390, for a total amount not to exceed \$10,365,102

Mayor Sinks recused himself and stepped down from the dais. Vice Mayor Chang took over as Chair.

Cathy Helgerson spoke on this item.

Staff answered questions from Council.

Wong moved and Vaidhyanathan seconded to approve Amendment #1 and Scope of Services and Compensation for the Apple Campus 2 project inspection services and; 2. Authorize the City Manager to execute Amendment #1 with 4 Leaf, Inc., adding \$933,712 to the original contract of \$9,431,390, for a total amount not to exceed \$10,365,102. The motion carried with Sinks recusing.

Mayor Sinks returned to the dais.

5. Subject: Application for Alcoholic Beverage License for The Counter, 20080 Stevens Creek Boulevard, Suite 100
Recommended Action: Recommend approval of the Alcoholic Beverage License to the California Department of Alcoholic Beverage Control for The Counter, 20080 Stevens Creek Boulevard, Suite 100
6. Subject: 2015 Contractual Crossing Guard Services (rebid) - Project No. 2015-25, authority to award contract
Recommended Action: Staff recommends Council adopt Resolution 15-058 to take the following actions: 1. Authorize the City Manager to negotiate and execute a crossing guard services contract to include a 25% contingency if the lowest responsive bid is within the established budget and there are no unresolved bid protests; and 2. Authorize the City Manager to negotiate and execute an agreement with Cupertino Unified School District and/or Fremont Union Unified School District seeking partial or full reimbursement of additional crossing guard services if it is determined that

expenses should be shared; and Amend approved FY 15/16 Operating Budget by an additional amount of \$60,000 for crossing guard services

Staff answered questions from Council and noted to remove the typo "Unified" from the resolution wording to read "Cupertino Union School District and/or Fremont Union High School District." Staff will give information to Council in Items of Interest regarding the 12 existing locations and any new locations determined after the engineering study is complete.

Wong moved and Chang seconded to authorize the City Manager to negotiate and execute a crossing guard services contract to include a 25% contingency if the lowest responsive bid is within the established budget and there are no unresolved bid protests; and 2. Authorize the City Manager to negotiate and execute an agreement with Cupertino Union School District and/or Fremont Union School District seeking partial or full reimbursement of additional crossing guard services if it is determined that expenses should be shared; and Amend approved FY 15/16 Operating Budget by an additional amount of \$60,000 for crossing guard services. The motion carried unanimously.

7. Subject: Approve the Grant of Easement to PG&E for existing and proposed PG&E facilities
Recommended Action: 1. Make a finding that the proposed Grant of Easement for existing and proposed PG&E facilities is exempt from CEQA review pursuant to 14 Cal.Code Regs Sections 15301, 15303(d) and 15061(b)(3); and 2. Adopt Resolution No. 15-059 granting an easement to PG&E
8. Subject: 2015 Reconstruction of Curbs, Gutters and Sidewalks, Project No. 2015-26
Recommended Action: Authorize the City Manager to award a contract to J.J.R. Construction, Inc., in the amount of \$664,156.75 and approve a construction contingency of \$66,400, for a total of \$730,556.75

Cathy Helgersen and Michael McNutt spoke on this item.

Staff answered questions from Council.

Wong moved and Chang seconded to authorize the City Manager to award a contract to J.J.R. Construction, Inc., in the amount of \$664,156.75 and approve a construction contingency of \$66,400, for a total of \$730,556.75. The motion carried unanimously.

9. Subject: Authority to award construction contract for Sports Center-West Court Renovations and Improvements, Project No. 2012-9151
Recommended Action: 1. Authorize the City Manager to award a construction contract in an amount not to exceed the appropriated project budget limits, to the lowest responsive bidder if there are no unresolved bid protests; and 2. Authorize a construction contingency budget of 10% of the construction contract amount to address unforeseen conditions discovered during construction
10. Subject: Authority to award construction contract McClellan Ranch Pedestrian, Parking, Landscape Improvement, Project No. 2015-01
Recommended Action: 1. Authorize the City Manager to award a construction contract in an amount not to exceed the appropriated project budget limits, to the lowest responsive bidder if there are no unresolved bid protests; and 2. Authorize a construction contingency budget of 15% of the construction contract amount to address unforeseen conditions discovered during construction

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS

11. Subject: Civic Center Master Plan
Recommended Action: Staff recommends that the City Council take the following actions: a. Receive the presentation of the Civic Center Master Plan; and then b. Consider the Initial Study/Mitigated Negative Declaration and adopt the Mitigated Negative Declaration; and then c. Adopt Resolution No. 15-060 approving the Civic Center Master Plan; and d. Provide direction to staff on next steps toward implementation of the Civic Center Master Plan

Written communications for this item included emails to Council, a document regarding designing for seismic resilience, and staff PowerPoint presentations.

Director of Public Works Timm Borden reviewed the staff report and introduced the item via a PowerPoint presentation.

Demetri Loukas, Project Manager with David J. Powers and Associates continued the presentation and talked about the environmental analysis review.

Geeti Silwal, Associate Principal from Perkins + Will continued the presentation and talked about the Master Plan details.

Gerry Tierney, Associate Principal from Perkins + Will, Leo Panian, Principal from Tipping Mar, and Marco Alves, Senior Associate from PAE Engineers continued the presentation and talked about the existing City Hall assessment.

Ms. Silwal continued the presentation on the Master Plan.

Staff and consultants (including Gordon Beveridge, Principal from TBD Consultants) answered questions from Council.

Mayor Sinks opened the public hearing and the following individuals spoke:

Jim Oberhofer, Emergency Coordinator for CARES (Cupertino Amateur Radio Emergency Service)

Rochelle Gutmann

Cathy Helgersen

Jerry Liu

Frank Geefay

Jill Halloran

Jennifer Griffin

Ann Stevenson on behalf of the Cupertino Library Commission

Fred Gutmann

Myrna Ehrlich

Darrel Lum

Mayor Sinks closed the public hearing.

Staff answered questions from Council and Council deliberated.

a. Council received the presentation of the Civic Center Master Plan.

b. Wong moved and Sinks seconded to consider the Initial Study/Mitigated Negative Declaration and adopted a Mitigated Negative Declaration. The motion carried with Chang and Paul voting no.

c. Wong moved and Sinks seconded to adopt Resolution No. 15-060 approving the Civic Center Master Plan Option D – A new City Hall building at 40,000 gross square feet, 118-space underground parking; a library expansion including option 4 “perch”

addition, and no additional surface parking at Library field. The motion carried with Chang and Paul voting no.

d. Council provided the following direction to staff on next steps toward implementation of the Civic Center Master Plan: Bring back a Conceptual Plan by late November/early December, 2015 and tighten the numbers overall on site improvements; construction will occur in a single phase and temporary parking and staging is okay at Library field during construction.

Council recessed from 11:39 p.m. to 11:50 p.m.

ORDINANCES AND ACTION ITEMS

12. Subject: An ordinance amending Title 2 of the Cupertino Municipal Code to add Chapter 2.94 establishing the Sustainability Commission, amendment to the FY 15/16 Operating Budget for funds to cover Commission expenses and authorization of the appropriation of those funds

Recommended Action:

- a. Conduct the first reading of Ordinance No. 15-2132: "An Ordinance of the City of Cupertino amending Title 2 of the Cupertino Municipal Code to Add Chapter 2.94 establishing the Sustainability Commission ;" and
- b. Amend the Approved FY 15/16 Operating Budget by \$7,500 to cover Sustainability Commission expenses and authorize appropriation of those funds.

Written communications for this item included a staff PowerPoint presentation.

Assistant to the City Manager Erin Cooke reviewed the staff report via a PowerPoint presentation.

Staff answered questions from Council.

Jennifer Griffin spoke on this item.

City Clerk Grace Schmidt read the title of the ordinance.

- a. Paul moved and Wong seconded to read Ordinance No. 15-2132 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Sinks, Chang, Paul, Vaidhyanathan, and Wong. Noes: None. Abstain: None. Absent: None.

b. Paul moved and Chang seconded to amend the Approved FY 15/16 Operating Budget by \$7,500 to cover Sustainability Commission expenses and authorize appropriation of those funds. The motion carried unanimously.

Council agreed to recruit and make appointments in January along with the annual commission vacancies.

13. Subject: Response to Call for Projects for Valley Transportation Plan 2040 (VTP 2040)
Recommended Action: Staff recommends that Council take the following actions:
1) Receive staff presentation; and 2) Adopt Resolution No. 15-061 supporting the inclusion of a study of long-term mass transit solutions along the Highway 85 Corridor and the design and construction of near-term solutions; and 3) Provide direction on any additional transportation projects to submit for inclusion in the Santa Clara Valley Transportation Authority's (VTA) Valley Transportation Plan 2040

Written communications for this item included an amended resolution and Exhibit A, and a staff PowerPoint presentation.

Staff answered questions from Council.

Jennifer Griffin spoke on this item.

Council received the presentation and deliberated.

Wong moved and Vaidhyathan seconded to adopt Resolution No. 15-061 as amended supporting the inclusion of a study of long-term mass transit solutions along the Highway 85 Corridor and the design and construction of near-term solutions, and amended exhibit A as follows: removed language "Highway 85 Corridor" from the Proposed Project Name/Title and bullet no. 4 of the Proposed Project Description; increased the Project Cost to estimated \$800 million; gave the Mayor authority to negotiate proposal language with other cities on behalf of the Council and report back at a regular Council meeting; directed staff to agendize approval of the final proposal at the August 18 Council meeting.

Council also provided direction on any additional transportation projects to submit for inclusion in the Santa Clara Valley Transportation Authority's (VTA) Valley Transportation Plan 2040 and directed staff to explore a Cupertino specific VTP proposal for community shuttle service for seniors and students by the end of August. The motion carried unanimously.

REPORTS BY COUNCIL AND STAFF

14. Subject: Santa Clara County Creeks Coalition request for partnership on fish migration improvements along Stevens Creek
Recommended Action: Discuss City participation in a public-private partnership to improve Steelhead fish passage on Stevens Creek and provide direction to staff

Assistant to the City Manager Jaqui Guzman reviewed the staff report.

Staff answered questions from Council.

Wong moved and Sinks seconded to authorize the Mayor to send a letter to the Santa Clara Valley Water District encouraging them and the City Council of Mountain View to commit funding for the Moffett Boulevard fish passage project and to revisit the item at a future Council meeting for funding consideration. The motion carried unanimously.

15. Subject: Present Construction Project Update Report
Recommended Action: Receive Construction Update Report

Written communications for this item included a staff PowerPoint presentation.

Council did not hear this item.

16. Subject: Report on Committee assignments and general comments
Recommended Action: Report on Committee assignments and general comments

Council members highlighted the activities of their committees and various community events.

ADJOURNMENT

At 12:57 a.m. on Wednesday, July 8, Mayor Sinks adjourned the meeting to August 4. Note: The July 21 meeting has been cancelled.

/s/ Grace Schmidt

Grace Schmidt, City Clerk

Staff reports, backup materials, and items distributed at the City Council meeting are available for review at the City Clerk's Office, 777-3223, and also on the Internet at www.cupertino.org. Click on Agendas & Minutes, then click on the appropriate Packet.

Most Council meetings are shown live on Comcast Channel 26 and AT&T U-verse Channel 99 and are available at your convenience at www.cupertino.org. Click on Agendas & Minutes, and then click Archived Webcast. Videotapes are available at the Cupertino Library, or may be purchased from the Cupertino City Channel, 777-2364.