



**APPROVED MINUTES  
CUPERTINO CITY COUNCIL  
Tuesday, February 2, 2016**

**SPECIAL CITY COUNCIL MEETING**

**ROLL CALL**

At 5:30 p.m. Mayor Barry Chang called the Special City Council meeting to order in Cupertino City Hall Conference Room A, 10300 Torre Avenue.

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

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**

Council also met in a special closed session meeting at 5:15 p.m. regarding: Conference with Legal Counsel - Existing Litigation pursuant to paragraph (1) of subdivision (d) of Government Code Section 54956.9. Name of Case: City of Cupertino v. Siemens, et al.

Mayor Chang announced that Council gave direction to counsel.

1. Subject: Conference with Legal Counsel-Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9. Name of case: City of Saratoga; City of Cupertino; Town of Los Gatos v. California Department of Transportation, et al.

Mayor Chang announced that Council gave direction to counsel.

**ADJOURNMENT**

**REGULAR CITY COUNCIL MEETING**

**PLEDGE OF ALLEGIANCE**

At 6:45 p.m. Mayor Barry Chang 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 Barry Chang, Vice Mayor Savita Vaidhyanathan, and Council members Darcy Paul, Rod Sinks and Gilbert Wong. Absent: None.

## **CEREMONIAL MATTERS AND PRESENTATION**

1. Subject: Present Young Artist Awards to Saailey Palekar (Age 6-10), Kathy Liang (Age 11-14) and Maya Kapur (Age 15-18)  
Recommended Action: Present Young Artist Awards to Saailey Palekar (Age 6-10), Kathy Liang (Age 11-14) and Maya Kapur (Age 15-18)

Written communications for this item included a PowerPoint presentation.

Mayor Chang presented the Young Artist Awards to Saailey Palekar (Age 6-10), Kathy Liang (Age 11-14) and Maya Kapur (Age 15-18).

2. Subject: Presentation of "TacoCat" transportation video by students Derrick Lee and Jonathan Fung and first place monetary award  
Recommended Action: View video presentation and present first place monetary Award

Council viewed the video presentation and presented the first place monetary award to Derrick Lee and Jonathan Fung.

**POSTPONEMENTS** - None

## **ORAL COMMUNICATIONS**

Phyllis Dickstein talked about the Cupertino Citizens Growth Initiative petition and deferring any development until that process is complete.

Bob McKibbin on behalf of Concerned Citizens of Cupertino talked about the Initiative petition, putting a moratorium on all General Plan Amendments (GPA) until June and adopting the ordinance instead of sending it to a ballot vote.

Brooke Ezzat talked about the Initiative petition and gathering signatures.

Steven Scharf talked about the Initiative petition and the number of signatures gathered.

Cathy Helgersen talked about accountability of City officials and listening to residents.

Jon Willey talked about the Initiative petition and school crowding with new housing developments. He distributed written comments.

Liana Crabtree talked about where petition signatures could be gathered.

Joan Chin talked about the Initiative petition and setting up a commission regarding development proposals.

Peggy Griffin talked about putting the Initiative petition on the June ballot.

Danessa Techmanski talked about traffic and other environmental issues with the Valco development proposal.

Qin Pan talked about crowding in Cupertino schools.

Richard Bernhardt talked about crowding in schools, traffic and withholding any development decisions until the Initiative can be resolved.

Cathy Wang talked about the Initiative petition.

Ignatius Y Ding talked about traffic issues in the bay area and Council judiciary duty.

Dennis Whittaker talked about the Initiative petition and putting off any GPA decisions until that process is complete.

Liang-Fang Chao on behalf of Cupertino Citizens for Sensible Growth talked about the Initiative petition.

Yanping Zhao talked about overdevelopment of Cupertino.

Lisa Warren talked about the Initiative petition and Council member campaign promises.

Dang Ming Yao talked about the Initiative petition.

Larry Hendler talked about the Initiative petition and holding off on development until the Initiative process is finished.

## CONSENT CALENDAR

Wong moved and Sinks seconded to approve the items on the Consent Calendar as presented with the exception of item numbers 9 and 12 which were pulled for discussion. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

3.     Subject: Approve the January 12 City Council minutes  
          Recommended Action: Approve the minutes
4.     Subject: Approve the January 19 City Council minutes  
          Recommended Action: Approve the minutes
5.     Subject: Approve the January 25 (commission interviews) City Council minutes  
          Recommended Action: Approve the minutes
6.     Subject: Approve the January 26 (commission interviews) City Council minutes  
          Recommended Action: Approve the minutes
7.     Subject: Accept Accounts Payable for the period ending December 18, 2015  
          Recommended Action: Adopt Resolution No. 16-011 accepting Accounts Payable for the period ending December 18, 2015
8.     Subject: Accept Accounts Payable for the period ending December 30, 2015  
          Recommended Action: Adopt Resolution No. 16-012 accepting Accounts Payable for the period ending December 30, 2015
9.     Subject: Letter Agreement between The Irvine Company, LLC, a California limited liability company and the City of Cupertino, a municipal corporation agreeing to an advance contribution of \$200,000 to be used for the I-280/Wolfe Road Interchange Improvement Project and to be credited against Irvine Company's \$7,000,000 future contribution that is currently contemplated as a Development Agreement item for their proposed development for the Hamptons Apartment Project at 19500 Pruneridge Avenue

Recommended Action: 1) Authorize the City Manager to execute an agreement with the Irvine Company, LLC to accept an advance contribution of \$200,000 to be used for the I-280/Wolfe Road Interchange Project 2) Amend approved FY 15/16 Operating Budget by an additional expense amount of \$1,200,000 for I-280/Wolfe Road Interchange Project budget 3) Amend approved FY 15/16 Operating Budget by an additional revenue amount of \$1,200,000 for I-280/Wolfe Road Interchange Project budget

Jennifer Griffin asked questions regarding this item.

Staff answered questions from Council.

Sinks moved and Chang seconded to 1) Authorize the City Manager to execute an agreement with the Irvine Company, LLC to accept an advance contribution of \$200,000 to be used for the I-280/Wolfe Road Interchange Project 2) Amend approved FY 15/16 Operating Budget by an additional expense amount of \$1,200,000 for I-280/Wolfe Road Interchange Project budget 3) Amend approved FY 15/16 Operating Budget by an additional revenue amount of \$1,200,000 for I-280/Wolfe Road Interchange Project budget. The motion carried unanimously.

10. Subject: Bubbs, Elm & McClellan Storm Drain/Sanitary Sewer Improvement Project - Increase Contingency Authorization  
Recommended Action: Authorize an increase in the construction contingency amount by an additional \$32,000 with funds from the current appropriated project budget
11. Subject: Discontinue headline translations  
Recommended Action: Discontinue headline translations and redirect the funds to other budget priorities
12. Subject: Transportation Tax Measure Allocations  
Recommended Action: Approve advocacy direction to City representatives regarding the proposed Santa Clara County sales tax, including general funding levels within expenditure categories, as developed in coordination with other North County and West Valley cities

Written communications for this item included a letter from County Supervisor S. Joseph Simitian and emails to Council.

The following individuals spoke on this item:

Jennifer Griffin

Chris O'Connor on behalf of Silicon Valley Leadership Group

Jason Lungaard on behalf of Apple

Steven Scharf

Kent Vincent

Cathy Helgersen

Richard Bernhardt

Cheriel Jensen

Greg Schaffer

Staff answered questions from Council.

Sinks moved and Wong seconded to approve advocacy direction to City representatives regarding the proposed Santa Clara County sales tax, including general funding levels within expenditure categories, as developed in coordination with other North County and West Valley cities. Council also gave direction to Council member Sinks to go back to the West Valley and North County mayors to clarify the \$500 million for congestion relief/transit/mode shift; with \$250 million allocated towards the Route 85 Corridor and \$250 million allocated toward the North County. Council also directed staff to come back at the next Council meeting with a request for authority to spend \$20,000-\$30,000 on a transportation poll. The motion carried unanimously.

## SECOND READING OF ORDINANCES

13. Subject: Second Reading of Ordinance amending the Cupertino Municipal Code to prohibit marijuana cultivation, dispensaries, and deliveries and commercial cannabis activities within the City of Cupertino. (Application No. MCA-2015-01; Location: City-wide; Applicant: City of Cupertino)

Recommended Action: Conduct the second reading and adopt Ordinance No. 16-2140: "An Ordinance of the City Council of the City of Cupertino Amending Section 19.08.030 and adding Chapter 19.98 of Title 19 of the Cupertino Municipal Code Regarding Medical Marijuana Dispensaries, Marijuana Cultivation Facilities, Commercial Cannabis Activities, and Medical Marijuana Deliveries"

Written communications for this item included a desk item showing minor edits to the ordinance.

Cathy Helgersen spoke on this item urging Council to adopt the ordinance.

City Clerk Grace Schmidt read the title of the ordinance and the minor edits to the ordinance.

Wong moved and Sinks seconded to read Ordinance No. 16-2140 by title only and that the City Clerk's reading would constitute the second reading thereof with an amendment to include the minor edits as noted. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

Wong moved and sinks seconded to enact Ordinance No. 16-2140. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

14. Subject: An ordinance amending Sections 14.04.100 and 18.56.040 of the Cupertino municipal code to provide for a limited waiver of reimbursement requirements when a property owner dedicates right-of-way for a city street improvement or facility project. Recommended Action: Conduct the second reading and enact Ordinance No. 16-2141: "An Ordinance of the City Council of the City of Cupertino amending Sections 14.04.100 and 18.56.040 of the Cupertino Municipal Code to provide for a limited waiver of reimbursement requirements when a property owner dedicates right-of-way for a city street improvement or facility project," with an amendment directed by the City Council during the first reading of the ordinance amendment on January 19, 2016 to include a provision in the ordinance language such that the city council determines the percent of a waiver to offer for right of way acquisition for individual projects as they are approved during the CIP budget process, to facilitate the provision of sidewalks and street widening in certain areas where pedestrians and bicyclists are prevalent

Written communications for this item included an email to Council.

City Clerk Grace Schmidt read the title of the ordinance.

Wong moved and Paul seconded to read Ordinance No. 16-2141 by title only and that the City Clerk's reading would constitute the second reading thereof with an amendment to remove the highlighted portion on pages 3-4 regarding City Council approval of the percentage of waiver to offer at the time a capital project is approved. Ayes: Chang, Vaidhyanathan, Paul and Wong. Noes: Sinks. Abstain: None. Absent: None.

Wong moved and Paul seconded to enact Ordinance No. 16-2141. Ayes: Chang, Vaidhyathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

Council recessed from 9:31 p.m. to 9:41 p.m.

**PUBLIC HEARINGS** - None

## **ORDINANCES AND ACTION ITEMS**

15. Subject: Review and consider two development proposals (the Goodyear Tire and Oaks sites) submitted for consideration by the City Council to authorize the applicants to submit an application for General Plan Amendments and staff to commence environmental and project review. (Application No.(s): GPAAAuth-2015-01 & GPAAAuth-2015-02; Applicant: KT Urban, Mark Tersini and De Anza Ventures (Oaks shopping center); Location: 21255-21755 Stevens Creek Boulevard, 10931 N. De Anza Boulevard (Goodyear Tire); APN: 326-27-039, -040 and -041; 326-10-058)  
Recommended Action: Staff recommends that the City Council adopt Resolution No. 16-013 after determining which applications are authorized to move forward to apply for General Plan Amendments

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

Principal Planner Piu Ghosh reviewed the staff report via a PowerPoint presentation.

Property owner John Vidovich talked about the Goodyear Tire site proposal. He answered questions from Council.

Mark Tersini, Principal at KT Urban and owner of the Oaks Shopping Center, Beverly Bryant, community outreach, and Doug Yount, Principal at Applied Development Economics talked about the Oaks Shopping Center proposal via a PowerPoint presentation.

The following individuals spoke on the item:

Cathy Helgersen – opposed (distributed written comments)

Greg Schaffer– in favor

Kevin McClellan on behalf of Cupertino Chamber of Commerce – in favor of both projects



Art Cohen on behalf of Cupertino Chamber of Commerce and as an individual – in favor  
Richard Bernhardt – opposed  
Heather Dean – opposed  
Rhoda Fry – opposed  
Larry Hendler – opposed  
Scott Hughes – opposed  
Khyati – Mayor Chang read from speaker card – in favor of hotel at Goodyear site but opposed to Vallco and Oaks  
Kelly Lambert – in favor  
Xiaowen Wang – opposed  
Jon Willey – opposed (distributed written comments)  
Park Chamberlain – opposed  
Mark Santoro – in favor  
Penny Whittaker – opposed  
Dennis Whittaker – opposed  
Jennifer Griffin – opposed  
Don Krenn – in favor of Oaks  
Craig Hofstetter – in favor of Oaks  
Steve Elich – in favor of Oaks  
Lisa Warren – opposed  
Peggy Griffin – opposed  
Steven Scharf on behalf of Better Cupertino - opposed  
Liang-Fang Chao – opposed  
Luke Lang – opposed  
Joseph Ventimiglia – opposed  
Lee Chiang – in favor

Staff answered questions from Council.

Sinks moved and Vaidhyanathan seconded to adopt Resolution No. 16-013 denying authorization of prospective development proposals to proceed as General Plan Amendment applications. The motion carried with Chang voting no.

## REPORTS BY COUNCIL AND STAFF

16. Subject: Construction Project Updates  
Recommended Action: Receive updates

This item was not heard.

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

This item was not heard.

## ADJOURNMENT

At 12:49 a.m. on Wednesday, February 3, Mayor Chang adjourned the meeting.

\_\_\_\_\_/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](http://www.cupertino.org). Click on Agendas & Minutes, then click on the appropriate Packet.

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