



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, May 5, 2020**

SPECIAL CITY COUNCIL MEETING

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

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Darcy Paul, and Councilmembers Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

STUDY SESSION

1. Subject: Study Session on Small Cell Facilities within the Public Right of Way
Recommended Action: Conduct a study session on small cellular facilities in the public right of way, with a focus on City of Cupertino regulation of small cellular facilities and regulation of small cellular facilities by other cities in the region; provide any input.

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

Assistant Director of Public Works Chad Mosely gave a presentation.

Mayor Scharf opened public comment and the following people spoke.

Swetha Thota said the installation is 55' instead of the proposed 60' from their home and 20' from the yard where their children play, and she was concerned about the health effects. (Submitted written comments).

Alex Leupp, on behalf of Verizon, said wireless and wired networks are critical for work and social connectivity and there is a need to keep building the networks to increase resiliency.

Jennifer Griffin said a 20-day notice was better than a 14-day notice, and a robust discussion was necessary because of the sensitivity of the poles being installed in neighborhoods.

Kiran Thota said he was supportive of the technology but was concerned about noticing inaccuracies and about the proximity of the streetlight pole to his home.

Technology, Information, and Communication (TIC) Commissioner Raj Soundararajan (representing self) asked if emission monitoring of the equipment was required after installation.

Caller 1786 asked about updating the geographic information system (GIS) map with new cell tower installations, as well as reporting for 4G, 5G, and macro cell towers.

Marc Grabisch, on behalf of AT&T, said small cells in Cupertino have reasonable standards, boost network performance, offload capacity of macro cells, and free up network and call quality.

Third-Party Engineer William Hammett said the exposure levels of the facilities comply with the Federal Communications Commission (FCC) standard limits.

Pr Pr asked about other cities that had permitted the technology in residential neighborhoods and adopted policies, and said there were lawsuits against the technology.

Mayor Scharf closed public comment.

Councilmembers asked questions and made comments.

Shute, Mihaly & Weinberger Attorney Merlene Dehlinger answered questions from Council.

Council provided input to establish further clarification and guidelines for the permitting of small cells and to present the potential updates to Council.

Council recessed from 7:00 p.m. to 7:05 p.m.

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

At 7:00 p.m. Mayor Steven Scharf called the Regular City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Darcy Paul, and Councilmembers Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

CEREMONIAL MATTERS AND PRESENTATIONS

POSTPONEMENTS – None

ORAL COMMUNICATIONS

Union Representative Stanley Young, on behalf of the IFPTE Local 21, AFL-CIO, talked about reaching an agreement with the City for its members and being included in all future labor-related discussions.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) talked about conducting a neutral housing design survey for residents and was concerned about developers claiming exemptions from the General Plan.

Jennifer Griffin was concerned about new housing SB 902 which would allow 3- and 4-plex's on single family lots and the bill passing through legislation during a shortened session.

City Clerk Kirsten Squarcia read an email, on behalf of Phyllis Dickstein, regarding negotiating new proposals for the major development projects in Cupertino and including community input.

Luke Lang requested a legal opinion on whether the Westport project was entitled to density bonus waivers and if the Planning Commission would be interpreting incorrectly by approving.

Parks and Recreation Commissioner Sashi Begur (representing self) was concerned about a recent housing survey and defining the limits of changes to the General Plan. (Submitted written comments).

REPORTS BY COUNCIL AND STAFF (10 minutes)

1. Subject: City Manager update on COVID-19 response efforts
Recommended Action: Receive City Manager update on COVID-19 response efforts

Written communications for this item included an email to Council.

City Manager Deborah Feng gave an update.

Council received the City Manager update on COVID-19 response efforts.

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

Councilmembers highlighted the activities of their various committees.

CONSENT CALENDAR

Paul moved and Scharf seconded to approve the items on the Consent Calendar with the exception of item number 5 which was pulled for discussion. Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

3. Subject: Approve the April 22 City Council minutes
Recommended Action: Approve the April 22 City Council minutes
4. Subject: Public Works Week Proclamation
Recommended Action: Approve Public Works Week Proclamation
5. Subject: Set a voluntary limit at \$30,000 for campaign expenditures for the November 3, 2020 City Council election.
Recommended Action: Adopt Resolution No. 20-041 setting a voluntary campaign expenditure limit of \$30,000 for the November 3, 2020 City Council election.

Willey moved and Scharf seconded to adopt Resolution No. 20-041 setting a voluntary campaign expenditure limit of \$30,000 for the November 3, 2020 City Council election. The motion carried unanimously.

Council added a future agenda item to discuss implementing a City website tool for publishing campaign finance data (Willey/Scharf/Chao).

6. Subject: Authorization of a Second Amendment to the 2015 Contractual Janitorial Service Agreement to extend agreement up to six months due to the impacts of COVID-19
Recommended Action: Approve the Second Amendment of the 2015 Contractual Janitorial Service Agreement, Project No. 2015-23 with IMPEC Group, Inc., to extend the term of the agreement up to six months due to the impacts of COVID-19
7. Subject: Reject all bids received for the 2019 Fog Seal Project, (Project No. 2019-104)
Recommended Action: 1. Receive report on bids for the 2019 Fog Seal Project; and
2. Authorize the Director of Public Works to reject all bids for the 2019 Fog Seal Project
8. Subject: Accept offer of dedication and waiver of future reimbursement at 20860 McClellan Road related to the McClellan Road Separated Bikeways-Phase 2 Project
Recommended Action: Adopt Resolution No. 20-042 (Attachment A) accepting the Offer of Dedication and Waiver of Future Reimbursement from the property owner at 20860 McClellan Road for the construction of the McClellan Road Separated Bikeways-Phase 2 Project

SECOND READING OF ORDINANCES

PUBLIC HEARINGS

9. Subject: Municipal Code Amendments to Title 1, including but not limited to, Chapter 1.04 (General Provisions), Chapter 1.08 (Right of Entry for Inspection), Chapter 1.09 (Nuisance Abatement), 1.10 (Administrative Citations, Fines, and Penalties), and Chapter 1.12 (General Penalty), for language clarifications, process efficiency, compliance with State Law, and internal consistency pursuant to the FY 2019-2020 Work Program project item titled "Penalties for Violations of Conditions of Approval and Code Enforcement Best Practices." (Application No. MCA-2020-001; Applicant: City of Cupertino; Location: City-wide)
Recommended Action: That the City Council:
 1. Find that the proposed actions are exempt from CEQA; and
 2. Conduct the first reading of Ordinance No. 20-2203: "An Ordinance of the City Council of the City of Cupertino amending Chapter 1.04 (Chapter 1.08 (Right of Entry for Inspection), Chapter 1.09 (Nuisance Abatement), 1.10 (Administrative Citations, Fines, and Penalties), and Chapter 1.12 (General Penalty) to improve process efficiency by adopting Best Practices, readability and internal consistency." (Attachment A)

Written Communications for this item included a staff presentation.

Senior Code Enforcement Officer Phillip Willkomm gave a presentation.

Deputy City Attorney Laura Beaton answered questions from Council.

Mayor Scharf opened the public hearing and, seeing no speakers, closed the public hearing.

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2203: "An Ordinance of the City Council of the City of Cupertino amending Chapter 1.04 (Chapter 1.08 (Right of Entry for Inspection), Chapter 1.09 (Nuisance Abatement), 1.10 (Administrative Citations, Fines, and Penalties), and Chapter 1.12 (General Penalty) to improve process efficiency by adopting Best Practices, readability and internal consistency."

Willey moved and Sinks seconded to:

1. Find that the proposed actions are exempt from CEQA; and
2. To read the title of Ordinance No. 20-2203 by title only and that the City Clerk's reading would constitute the first reading thereof.

Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

Council recessed from 8:58 p.m. to 9:02 p.m.

- 10. Subject:** Fiscal Year (FY) 2020-21 Community Development Block Grant (CDBG) Program, Below Market Rate (BMR), Affordable Housing Fund (AHF), and General Fund Human Service Grants (HSG) Program funding allocations

Recommended Action: Conduct the public hearing; and

1. Adopt Resolution No. 20-043 recommending the FY 2020-21, 2021-22, and 2022-23 CDBG, BMR AHF, and HSG funding allocations
2. Approve implementation of three-year funding cycle for CDBG public service, BMR AHF public service, and HSG grants commencing in FY 2020-21.
3. Increase the General Fund allocation towards the HSG fund from \$100,000 to an annual amount of \$125,000 starting in FY 2020-21.
4. Authorize the City Manager to negotiate and execute FY 2020-21, 2021-22, and 2022-23 CDBG, BMR AHF, and HSG grant agreements.

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

Housing Manager Kerri Heusler gave a presentation.

Councilmembers made comments and asked questions.

Mayor Scharf opened the public hearing and, seeing no speakers, closed the public hearing.

Sinks moved and Willey seconded to:

1. Adopt Resolution No. 20-043 recommending the FY 2020-21, 2021-22, and 2022-23 CDBG, BMR AHF, and HSG funding allocations
2. Approve implementation of three-year funding cycle for CDBG public service, BMR AHF public service, and HSG grants commencing in FY 2020-21.
3. Increase the General Fund allocation towards the HSG fund from \$100,000 to an annual amount of \$125,000 starting in FY 2020-21.
4. Authorize the City Manager to negotiate and execute FY 2020-21, 2021-22, and 2022-23 CDBG, BMR AHF, and HSG grant agreements.

The motion carried unanimously.

ORDINANCES AND ACTION ITEMS

11. Subject: Ordinance extending the validity of Planning entitlements and permits issued by the Community Development Department; extending the time for City review and action on development applications in the event state law deadlines are extended; and temporarily suspending certain CEQA requirements as provided by Executive Order N-54-20.

Recommended Action: That the City Council:

- 1) Find the proposed action is exempt from CEQA; and
- 2) Conduct the only reading and enact Urgency Ordinance No. 20-2204: "An Urgency Ordinance of the City Council of the City of Cupertino Extending the Validity of Planning Entitlements and Permits Issued by the Community Development Department; Extending the Time for City Review and Action on Development Applications in the Event State Law Deadlines are Extended; and Temporarily Suspending Certain CEQA Requirements as Provided by Executive Order N-54-20"

Written Communications for this item included and an amended Attachment A – Draft Urgency Ordinance redline version and Attachment A – Draft Urgency Ordinance clean version.

Senior Planner Erick Serrano gave a presentation.

Councilmembers asked questions and made comments.

Planning Manager Piu Gosh answered questions from Council.

City Clerk Kirsten Squarcia read the title of Urgency Ordinance No. 20-2204: "An Urgency Ordinance of the City Council of the City of Cupertino Extending the Validity of Planning Entitlements and Permits Issued by the Community Development Department; Extending the Time for City Review and Action on Development Applications in the Event State Law Deadlines are Extended; and Temporarily Suspending Certain CEQA Requirements as

Provided by Executive Order N-54-20.”

Willey moved and Scharf seconded to:

1. Find that the proposed actions are exempt from CEQA; and
2. That redlines submitted in the amended Attachment A – Draft Urgency Ordinance would be incorporated; and
3. To read the title of Urgency Ordinance No. 20-2204 by title only and that the City Clerk’s reading would constitute the first and only reading thereof.

Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

Scharf moved and Willey seconded to enact Ordinance No. 20-2204. Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Council added the following future agenda items:

- Under Consent Calendar, consider implementing a City website tool for publishing campaign finance data (Willey/Scharf/Chao)
- Under Study Session, establish further clarification and guidelines for the permitting of small cells and to present the potential updates to Council (Chao/Willey/Scharf)

ADJOURNMENT

At 10:23 p.m., Mayor Scharf adjourned the meeting in memory of Susan Kwok.



Kirsten Squarcia, City Clerk