



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, July 7, 2020**

SPECIAL CITY COUNCIL MEETING

At 5:32 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 regarding General Plan Amendment Authorization Procedure adopted by the City Council in September 2015 by Resolution No. 15-078 (see Attachment A) ("GPA Authorization Procedure").

Recommended Action: That the City Council receive this report and provide direction on any next steps regarding the GPA Authorization Procedure.

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

Director of Community Development Ben Fu gave a presentation.

Councilmembers asked questions and made comments

Council provided the following comments.

- Modify the current process
- Allow one application window per year
- Allow applicant to come back in 6 months, if denied
- Review process should go through the Planning Commission first
- Require additional materials for General Plan Amendment authorization including impacts on traffic, schools, and the community

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

Peggy Griffin said the process allows for negotiation, but projects seem unchangeable after approval, and to explore getting community benefits another way.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) said the process was flawed and burdensome for staff and concerned residents who attend the meetings.

Lisa Warren was concerned about the rules being applied properly and making decisions based on negotiated deals, and supported a hybrid solution.

Jennifer Griffin was supportive of keeping residents involved in the discussion but she was concerned about using the term “community benefits.”

Planning Commissioner Kitty Moore talked about the need for a policy with parameters for the Planning Commission to make recommendations.

City Clerk Kirsten Squarcia read an email on behalf of J.R. Fruen regarding transparency in the General Plan amendment process, Council control, and community benefits.

Mayor Scharf closed the public comment period.

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

At 6:55 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 - None

POSTPONEMENTS - None

ORAL COMMUNICATIONS

Peggy Griffin talked about the Westport project requiring a third-party analysis for the necessity of a Below Market Rate distribution requirement waiver. (She submitted written comments).

Lisa Warren talked about her email to Council supporting Councilmember Chao's questions and comments to clarify the budget process on June 16. (She submitted written comments).

Larry Mattheakis spoke about the current short-term rental ordinance and the short-term rental on Sunrise Drive, and the numerous incidents of criminal activity by tenants.

Marcia Elmer talked about the timeline of criminal activity at the short-term rental on Sunrise Drive and was concerned about her personal safety.

Alexia Tang talked about suspicious activity occurring at the short-term rental on Sunrise Drive, revoking the short term lease permit, and safety concerns.

Alice talked about the arrests and other criminal incidents at the short-term rental on Sunrise Drive, safety concerns, and costs related to property damage.

Ray Chong spoke about continuing incidents at Sunrise Drive, reports to the authorities, and accountability.

Gregg Mahurin talked about the criminal history for the Airbnb at 20570 Sunrise Drive and the owner not living at the address.

Gregg Popovich said the requirements to build Accessory Dwelling Units (ADUs) in Cupertino exceeds those in other cities, including additional costs for engineering tests and surveys.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) asked the Council to address the residents' concerns for the short-term rental on Sunrise Drive.

Diana Argabrite talked about grant funding for the De Anza Euphrat museum and talked about past exhibitions and upcoming online classes.

Planning Commissioner Kitty Moore (representing self) was concerned about the complaints for 20570 Sunrise Drive and the soil testing requirement for ADUs.

Larry Dean, on behalf of Walk-Bike Cupertino, talked about bicycle-pedestrian projects for McClellan Road Phase II, Regnart Creek Trail, and Linda Vista Trail. (He submitted written comments).

Taghi Saadati talked about funding for existing walk-bike projects in the City and continuing funding for resident safety.

Sean Krepp talked about a timeline of criminal activity at the short-term rental at 20570 Sunrise Drive and was concerned about future safety for residents.

City Manager Deborah Feng and Captain Ricardo Urena gave an update on the short-term rental activity at 20570 Sunrise Drive.

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

City Manager Deborah Feng gave a report on shelter-in-place variance updates, the number of Cupertino cases, and upcoming testing dates.

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

2. Subject: Presentation on Civic Center Parking Analysis and Recommendations
Recommended Action: Provide input on the recommended actions to reduce parking demand and to increase and manage parking supply at the Civic Center

Director of Public Works Roger Lee gave a presentation.

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

Councilmembers asked questions and made comments.

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

Peggy Griffin supported preserving Library Field, slanted parking spaces, a one-way entrance, and bicycle storage security. (She distributed written comments).

Jean Bedord supported better library usage data and bicycle lockers.

Library Commissioner Qin Pan (representing self) supported more analysis on Eaton school parking.

Jennifer Griffin supported moving library book return to another location to free up parking spaces.

Lisa Warren supported designating Library Field as a city park and a one-way entry on the Library Field side to enable more parking.

Mayor Scharf closed the public comment period.

Council authorized the below physical and transportation design management programs with a two-year cost not to exceed \$498,200. It was understood that due to the current shelter in place and how/when employees would report to work in the future that implementation of these measures would not be immediate and when implementation did occur, it would be strategic and incremental depending on conditions.

- Convert one Rodrigues Avenue parking space into motorcycle parking
- Move pick-up/drop-off and 4-minute book return stalls to Torre Ave
- Provide option for eligible employees to telecommute
- Continue the guaranteed ride home program (initiated August 2019 – Grant Funding has been received)
- Designate carpool spaces
- Add secure bicycle parking close to ~~City Hall~~ Library entrance
- Create Healthy Families program to encourage families to bike/walk to the Library
- Education on Transportation Demand Management (TDM) (See Note)
- Continue to provide commuter checks to employees to encourage biking, walking, carpooling and transit ridership
- Provide a free shuttle/bus from local schools to the library after school
- Parking cash-out for employees (\$5/day)
- Restrict all 4-hour regular parking on-site and on-street to 2 hours or less (cost could be offset by citations)
- Add valet parking for large events

Council recessed from 9:06 p.m. to 9:10 pm.

3. Subject: Report on Committee assignments

Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

CONSENT CALENDAR

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

4. Subject: Approve the June 5, 2020, City Council minutes
Recommended Action: Approve the June 5 City Council minutes
5. Subject: Approve the June 16 City Council minutes
Recommended Action: Approve the June 16 City Council minutes
6. Subject: Application for Alcohol Beverage License for Hans, Inc (dba Spice Klub), 10310 S. De Anza Boulevard
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Hans, Inc (dba Spice Klub), 10310 S. De Anza Boulevard
7. Subject: Accept Offer of Dedication and Waiver of Future Reimbursement from the property owner at 20820 McClellan Place related to the McClellan Road Separated Bikeways-Phase 2 Project
Recommended Action: Adopt Resolution No. 20-088 (Attachment A) accepting the Offer of Dedication and Waiver of Future Reimbursement from the property owner at 20820 McClellan Place for the construction of the McClellan Road Separated Bikeways-Phase 2 Project

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS

8. Subject: Municipal Code Amendments to regulate Short-Term Rental activity in the City. A new Chapter 5.08 (Short Term Rental Activity) is proposed and amendments are proposed to Chapter 3.12 (Transient Occupancy Tax), Chapter 19.08 (Definitions), Chapter 19.12 (Administration), Chapter 19.20 (Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones) and Chapter 19.120 (Home Occupations), of the Cupertino Municipal Code. Application No(s): MCA-2018-02; Applicant(s): City of Cupertino; Location: Citywide

Recommended Action: That the City Council:

- a. Find the proposed actions exempt from CEQA; and,
- b. Conduct the first reading of Ordinance No. 20-2200: "An Ordinance of the City Council of the City of Cupertino amending Title 3, Revenue and Finance: Chapter 3.12 (Transient Occupancy Tax), Revenue and Finance, amending Title 5, Business License and Regulations: Chapter 5.08 (Short-Term Rental Activity), amending specified chapters of Title 19, Zoning, of the Cupertino Municipal Code Chapter 19.08 (Definitions), Chapter 19.12 (Administration), Chapter 19.20 (Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones) and Chapter 19.120 (Home Occupations), to regulate Short-Term Rental uses in residential zoning districts.

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

Senior Planner Erick Serrano gave a presentation.

Councilmembers asked questions and made comments.

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

Larry Mattheakis requested resolution for the current situation on Sunrise Drive and supported owner-occupied regulations and enforcement for the various platforms.

Jennifer Griffin supported penalties and enforcement for multiple Sheriff's visits, responsible oversight, and tougher regulations.

Alice talked about the cost evaluations of proposed ordinance and supported passing on City costs associated with Sheriff's calls to the owner.

Lisa Warren was concerned about the reports on the Sunrise Drive short-term rental and supported an owner-occupied requirement.

Bobby Truong supported an owner-occupied requirement, boosting other City codes in addition to short term rental, and an owner guidebook.

Peggy Griffin supported a fines system consisting of one warning and then a violation, an owner-occupied requirement, and limiting rentals to approved platforms.

Mayor Scharf closed the public hearing.

Chao moved and Willey seconded to:

Amend the City Code Title 3, Revenue and Finance: Chapter 3.12 (Transient Occupancy Tax), Revenue and Finance, amending Title 5, Business License and Regulations: Chapter 5.08 (Short-Term Rental Activity), amending specified chapters of Title 19, Zoning, of the Cupertino Municipal Code Chapter 19.08 (Definitions), Chapter 19.12 (Administration), Chapter 19.20 (Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones) and Chapter 19.120 (Home Occupations), to regulate Short-Term Rental uses in residential zoning districts."

Chao amended her motion and Scharf seconded to activate the effective date of the ordinance by January 1, 2021.

Paul made a friendly amendment to:

- a. Find the proposed actions exempt from CEQA. (Chao accepted the friendly amendment).

Paul made a second friendly amendment to:

- b. Read Ordinance No. 20-2200 by title only and that the City Clerk's reading would constitute the first reading thereof. (Chao accepted the second friendly amendment).

The main motion carried as amended to Section 13 with the effective date and the language as amended by Chao. The ordinance shall take effect 30 days after adoption as provided by Government Code Section 36937; however, the ordinance shall not become operative until January 1, 2021, and the City or its designee will not begin to enforce the provisions and penalties of the ordinance until that date.

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

9. Subject: Approve renewal of the following fees:

1. Continue to charge existing (1992) Storm Drainage Service Charge, to be collected on the property tax bills for each parcel, at the following rates which include no increase in rates for FY 2020-2021: \$12/single family parcel, \$144/acre for commercial/apartments/industrial parcels, \$36/acre for unimproved parcels; and
2. Continue to charge the 2019 Clean Water and Storm Protection Fee calculated for each parcel and collected on property tax bills or billed directly for any parcels that cannot be collected on County tax bills, for FY 2020-2021 at the rates shown in the table below with no increase in rates

Recommended Action: 1. Adopt Resolution No. 20-089 (Attachment A) approving the renewal and collection of the 1992 storm drain fee with no increase in rates for fiscal year 2020-2021; and
2. Adopt Resolution No. 20-090 (Attachment B) approving the renewal and collection of the 2019 Clean Water and Storm Protection Fee with no increase in rates for fiscal year 2020-2021; and
3. Assign the Audit Committee the task of reviewing externally audited findings regarding the Nonpoint Source Program on an annual basis

Written Communications for this item included a staff presentation.

Director of Public Works Roger Lee reviewed the staff report.

Councilmembers asked questions and made comments.

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

Paul moved and Sinks seconded to:

1. Adopt Resolution No. 20-089 approving the renewal and collection of the 1992 storm drain fee with no increase in rates for fiscal year 2020-2021; and
2. Adopt Resolution No. 20-090 approving the renewal and collection of the 2019 Clean Water and Storm Protection Fee with no increase in rates for fiscal year 2020-2021; and
3. Assign the Audit Committee the task of reviewing externally audited findings regarding the Nonpoint Source Program on an annual basis.

The motion carried unanimously.

ORDINANCES AND ACTION ITEMS

10. Subject: Approving an Internal Audit Charter

Recommended Action: 1. Adopt Resolution No. 20-091 establishing an Internal Audit Function.
2. Conduct the first reading of Ordinance No. 20-2208: "An Ordinance of the City Council of the City of Cupertino Amending City Code Chapter 2.88: Audit Committee §100 Duties-Powers-Responsibilities."

Written communications for this item included a staff presentation.

Finance Manager Zach Korach gave a presentation.

Councilmembers asked questions and made comments.

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

Paul moved and Sinks seconded to:

1. Adopt Resolution No. 20-091 establishing an Internal Audit Function.

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2208: "An Ordinance of the City Council of the City of Cupertino Amending City Code Chapter 2.88: Audit Committee §100 Duties-Powers-Responsibilities."

Paul amended his motion and Sinks accepted the amendment to include:

2. Read the title of Ordinance No. 20-2208 by title only and that the City Clerk's reading would constitute the first reading thereof.

The motion carried as amended. Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

11. Subject: Adopt a resolution approving the purchase of the Lawrence-Mitty property, located along the westerly right-of-way of Lawrence Expressway between Calvert Drive and Bollinger Road (APNs 375-21-001 and 375-22-001), from the County of Santa Clara, in the amount of \$2,690,000, and authorizing the City Manager to execute all necessary documents and take all necessary steps to complete the acquisition of the property

Recommended Action: Adopt resolution No. 20-092, approving the purchase of the Lawrence-Mitty property, located along the westerly right-of-way of Lawrence Expressway between Calvert Drive and Bollinger Road (APNs 375-21-001 and 375-22-001), from the County of Santa Clara, in the amount of \$2,690,000, and authorizing the City Manager to execute all necessary documents and take all necessary steps to complete the acquisition of the property

Written communications for this item included an email to Council.

City Manager Deborah Feng reviewed the staff report.

Councilmembers asked questions and made comments.

Mayor Scharf opened the public comment period, and the following people spoke.

Dolly Sandoval supported the purchase of the Lawrence-Mitty property and the extension of Sterling Barnhardt Park in the eastern part of the City.

Jennifer Griffin supported the purchase of the Lawrence-Mitty property as an extension of the eastern parkland boundaries of the City.

Mayor Scharf closed the public comment period.

Paul moved and Scharf seconded to:

Adopt Resolution No. 20-092, approving the purchase of the Lawrence-Mitty property, located along the westerly right-of-way of Lawrence Expressway between Calvert Drive and Bollinger Road (APNs 375-21-001 and 375-22-001), from the County of Santa Clara, in the amount of \$2,690,000, and authorizing the City Manager to execute all necessary documents and take all necessary steps to complete the acquisition of the property.

The motion carried unanimously.

12. Subject: Ordinance adding Chapter 2.20.120 to the Cupertino Municipal Code requiring online or electronic filing of campaign statements; Update on City website tool for publishing campaign finance data.
- Recommended Action: 1. Receive update on City website tool for publishing campaign finance expenditures and contributions; and
2. Conduct the first reading of Ordinance No. 20-2209: "An Ordinance of the City Council of the of the City of Cupertino adding City Code Section 2.20.120 (Electronic Filing) to Title 2 (Administration and Personnel)" relating to electronic filing of campaign statements.

Written communications for this item included a staff presentation.

City Clerk Kirsten Squarcia gave a presentation.

Councilmembers asked questions and made comments.

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

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2209: "An Ordinance of the City Council of the City of Cupertino adding City Code Section 2.20.120 (Electronic Filing) to Title 2 (Administration and Personnel)" relating to electronic filing of campaign statements.

Paul moved and Scharf seconded to:

1. Receive update on City website tool for publishing campaign finance expenditures and contributions; and
2. Read the title of Ordinance No. 20-2209 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.

ORAL COMMUNICATIONS – CONTINUED – None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

- Added a future agenda item to discuss the Cities Association endorsement of the Schools and Communities First initiative (Sinks/Scharf)

ADJOURNMENT

At 12:03 a.m., Mayor Scharf adjourned the meeting.



Kirsten Squarcia, City Clerk