



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, July 20, 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 (5:32 p.m.). Absent: None. All Councilmembers teleconferenced for the meeting.

ORDINANCES AND ACTION ITEMS

1. Subject: Consider Blackberry Farm Golf Course Feasibility Study Options (includes options for minimal repairs, a renovated golf course, and returning the golf course to natural habitat); provide direction to staff.
Recommended Action: 1. Direct staff to update the study for minimal repairs to the golf course (Option 1) and to study returning the golf course to natural habitat (Option 3)
2. Approve Budget Modification Number 2122-148 to appropriate \$26,400 for these studies.

Written Communications for this item included a staff presentation, a list of Council meetings regarding the Stevens Creek Corridor Master Plan (2014)/Blackberry Farm Golf Course, and emails to Council.

Parks and Recreation Director Joanne Magrini gave a presentation.

Councilmembers asked questions and made comments.

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

Giulianna Pendleton, on behalf of the Santa Clara Valley Audubon Society, supported Option 3 (returning the golf course to natural habitat) and opposed Option 2 (a renovated golf course).

John Ennals opposed Option 3 and supported Option 2 and supported Option 1 (minimal repairs to the golf course) if Option 2 is not affordable.

Jennifer Griffin supported Option 1.

Jill Halloran supported Option 3 and supported Option 1 to a lesser degree.

Peggy Griffin supported Options 1 and 3 and opposed Option 2.

Housing Commissioner Connie Cunningham (representing self) supported Option 3 and supported Option 1 with less interest.

David McLeroy supported Option 1 with a preference for plastic piping in the ground for efficiency.

Susan Moore supported Option 1, said there were pros and cons for Options 2 and 3, and supported having a restaurant.

Rhoda Fry supported Options 1 or 3, said to consider old plans, and asked for clarity on the water rights.

Lisa Warren supported Option 1 over Option 3 but also supported more options and opposed Option 2.

Robert Hirt supported Option 1, opposed Option 2, and said Option 3 needed more options.

Mayor Paul closed the public comment period.

During discussion, Council provided direction to staff to examine ecological conscientiousness (specifically vegetation and water rights), obtain further cost estimates for improvements to the other associated properties (including pro shop, restaurant, and Stocklmeir property), provide a roadmap on the process going forward, conduct community outreach to gauge support on the facilities, check-in with Council at 6 months, and come back with a budget amendment (if necessary);

Chao moved and Wei seconded to:

1. Direct staff to update the study for minimal repairs to the golf course (Option 1) and to study returning the golf course to natural habitat (Option 3); and
2. Approve Budget Modification Number 2122-148 to appropriate \$26,400 for these studies.

The motion carried unanimously.

ADJOURNMENT

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 July as Parks and Recreation Month
Recommended Action: Present proclamation recognizing July as Parks and Recreation Month

Parks and Recreation Director Joanne Magrini received the proclamation.

Mayor Paul presented the proclamation recognizing July as Parks and Recreation Month.

2. Subject: Proclamation Acknowledging the Lowenthals for their Land Donation for the Stevens Creek Trail.
Recommended Action: Present Proclamation Acknowledging the Lowenthals for their Land Donation for the Stevens Creek Trail.

Richard Lowenthal received the proclamation.

Mayor Paul presented the proclamation acknowledging the Lowenthals for their land donation for the Stevens Creek Trail.

POSTPONEMENTS AND ORDERS OF THE DAY

Paul moved and Moore seconded to reorder the agenda to hear item 24 immediately after Postponements and Orders of the Day. The motion carried unanimously.

Council recessed from 6:54 p.m. to 7:00 p.m.

As noted under Postponements and Orders of the Day, Council heard agenda item 24 before Oral Communications.

ORAL COMMUNICATIONS

Charlene Lee was concerned about election fraud and her arrest record and police report.

Jennifer Griffin supported the Lowenthals land donation to the City and was concerned about AB 1401.

Call in User 1 was concerned a City citation and code violation regarding a structure that was built in her backyard and requested a permit.

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

Council received brief reports on councilmember activities and brief announcements.

4. Subject: City Manager update on emergency response efforts
Recommended Action: Receive City Manager update on emergency response efforts

Interim City Manager Greg Larson reported on COVID-19 case counts, vaccination rates, Delta variant rates, face covering recommendations and requirements, and vaccination and testing locations.

Council received the City Manager update on emergency response efforts.

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

Councilmembers highlighted the activities of their various committees.

CONSENT CALENDAR (Items 6-20)

Willey moved and Wei seconded to approve the items on the Consent Calendar except for Item Nos. 6 and 20 which were pulled for discussion. Ayes: Paul, Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: None.

6. Subject: Approve the June 1 City Council minutes
Recommended Action: Approve the June 1 City Council minutes

Written Communications for this item included Amended Attachment A – Draft Minutes.

Wei moved and Willey seconded to apply the redline changes as outlined in Amended Attachment A – Draft Minutes and approve the minutes as amended. The motion carried unanimously.

7. Subject: Approve the June 4 City Council minutes
Recommended Action: Approve the June 4 City Council minutes
8. Subject: Approve the June 15 City Council minutes
Recommended Action: Approve the June 15 City Council minutes
9. Subject: Approve the June 18 City Council minutes
Recommended Action: Approve the June 18 City Council minutes

10. Subject: Consider Award of a Contract for Crossing Guard Services for a Term of Three Years with the Option to Extend for Two Additional Years.
Recommended Action: Authorize the City Manager to Award a Contract for Crossing Guard Services for a Term of Three Years with the Option to Extend for Two Additional Years in an Amount Not to Exceed the Appropriated Budget of \$435,185 to the Lowest Responsive Bidder if there Are no Unresolved Bid Protests.

Written Communications for this item included emails to Council.

11. Subject: Accept Accounts Payable for the period ending May 10, 2021
Recommended Action: Adopt Resolution No. 21-060 accepting Payable for the period ending May 10, 2021
12. Subject: Accept Accounts Payable for the period ending May 17, 2021
Recommended Action: Adopt Resolution No. 21-061 accepting Payable for the period ending May 17, 2021

13. Subject: Accept Accounts Payable for the period ending May 24, 2021
Recommended Action: Adopt Resolution No. 21-062 accepting Payable for the period ending May 24, 2021
14. Subject: Accept Accounts Payable for the period ending May 31, 2021
Recommended Action: Adopt Resolution No. 21-063 accepting Payable for the period ending May 31, 2021
15. Subject: Accept Accounts Payable for the period ending June 7, 2021
Recommended Action: Adopt Resolution No. 21-064 accepting Payable for the period ending June 7, 2021
16. Subject: Accept Accounts Payable for the period ending June 14, 2021
Recommended Action: Adopt Resolution No. 21-065 accepting Payable for the period ending June 14, 2021
17. Subject: Accept Accounts Payable for the period ending June 21, 2021
Recommended Action: Adopt Resolution No. 21-066 accepting Payable for the period ending June 21, 2021
18. Subject: Accept Accounts Payable for the period ending June 28, 2021
Recommended Action: Adopt Resolution No. 21-067 accepting Payable for the period ending June 28, 2021
19. Subject: Consideration of Award of Construction Contract for the 2021 Pavement Maintenance Phase 2 - Project No. 2021-106.
Recommended Action: Award a Construction Contract for 2021 Pavement Maintenance Phase 2 Project, Authorize the City Manager to Execute a Contract in the Amount of \$906,906.00 with Intermountain Slurry Seal, Inc., and Authorize the Director of Public Works to Execute any Necessary Change Orders, up to the Construction Contingency Amount of \$90,690.00, for a Total Authorized Contract Amount of \$997,596.00.
20. Subject: Consideration of Approval of a Contract Amendment with Nomad Transit, LLC (Via) to 1) Extend Via-Cupertino Shuttle Pilot Program by Extending the Contract Time; 2) Update Contract Language Due to California Assembly Bill (AB) 5, and Proposition 22; and 3) to Increase Driver Compensation.
Recommended Action: Approve a Contract Amendment with Nomad Transit, LLC (Via) (Attachment A) Extending the Contract End Date from August 20, 2021 to October 31, 2022, Including Revisions to Contract Language Pursuant to AB 5 and Proposition 22, and to Increase Driver Compensation.

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

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

Peggy Griffin said the ridership heat map did not include pickup locations for the Sunnyvale Caltrain station and Kaiser hospital.

Mayor Paul closed the public comment period.

Senior Transit and Transportation Planner Chris Corrao gave a presentation.

Councilmembers asked questions and made comments.

Paul moved and Moore seconded to:

Approve a contract amendment with Nomad Transit, LLC (Via) extending the contract end date from August 20, 2021 to October 31, 2022, including revisions to contract language pursuant to AB 5 and Proposition 22, and to increase driver compensation; with staff direction to provide a presentation regarding relaunch status to Council approximately two months after the program launch.

The motion carried unanimously.

SECOND READING OF ORDINANCES

21. Subject: Consider and Act on Ordinance No. 21-2228: "An Ordinance of the City Council of the City of Cupertino Amending City Code Section 11.27.145, Designation of Preferential Parking Zones, to Add Serra Street (All Saturdays, Sundays, and Holidays, from 6 a.m. to 2 p.m.)"

Recommended Action: Conduct a Second Reading and Enact Ordinance No. 21-2228: "An Ordinance of the City Council of the City of Cupertino Amending City Code Section 11.27.145, Designation of Preferential Parking Zones, to Add Serra Street (All Saturdays, Sundays, and Holidays, from 6 a.m. to 2 p.m.)"

Councilmembers asked questions and made comments.

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

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2228: "An Ordinance of the City Council of the City of Cupertino Amending City Code Section 11.27.145, Designation of Preferential Parking Zones, to Add Serra Street (All Saturdays, Sundays, and Holidays, from 6 a.m. to 2 p.m.)"

Moore moved and Wei seconded to read Ordinance No. 21-2228 by title only, and that the City Clerk's reading constitutes the second reading thereof; and that Ordinance No. 21-2228 be enacted. Ayes: Moore, Wei, Willey, Chao, and Paul. Noes: None. Abstain: None. Absent: None.

PUBLIC HEARINGS

22. Subject: Hearing to approve lien assessment and collection of fees on private parcels resulting from abatement of public nuisance (weeds and/or brush) for the annual Weed and Brush Abatement Programs
Recommended Action: Conduct a hearing to consider objections from any property owners listed on the revised assessment report; and adopt Resolution No. 21-068 approving the lien assessment and collection of fees on private parcels for the annual Weed and Brush Abatement Programs to allow the County to recover the cost of abatement

Written Communications for this item included a staff presentation.

City Clerk Kirsten Squarcia gave a presentation.

Councilmembers asked questions and made comments.

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

Wen Wanling said that she complied with abatement and asked when her parcel would be removed from the program.

Mayor Paul closed the public hearing.

Moore moved and Wei seconded to adopt Resolution No. 21-068 approving the lien assessment and collection of fees on private parcels for the annual Weed and Brush Abatement Programs to allow the County to recover the cost of abatement. The motion carried unanimously.

23. Subject: Consideration of the Lease, Sale or City Operation of the Cupertino Municipal Water System and Provide Direction on These Options.

Recommended Action: 1. Conduct a Public Hearing to Consider Options for the Continued Operation of the Cupertino Municipal Water System; and
2. Adopt Resolution 21-069, Authorizing Initiation of the Public Utilities Code § 10061 Process to Approve a Future Long-term Lease of Real Property (Cupertino Municipal Water System) that May be Effective as Early as October 1, 2022 (Attachment A.)

Written communications for this item include a staff presentation and an email to Council.

Public Works Director Roger Lee gave a presentation.

Councilmembers asked questions and made comments.

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

Jean Bedord supported the staff recommendation and limiting the lease to 10 years.

John Ennals supported consideration of a City operated water company, changing the evaluation criteria to benefit those served, and considering other water retailers.

Peggy Griffin supported consideration of the water pipes and earthquake risks with the geology of Cupertino and specifying and verifying fulfillment of the lease terms.

Mayor Paul closed the public comment period.

Paul moved and Wei seconded to:

Adopt Resolution 21-069, Authorizing Initiation of the Public Utilities Code § 10061 Process to Approve a Future Long-term Lease of Real Property (Cupertino Municipal Water System) that May be Effective as Early as October 1, 2022; with staff direction to limit lease terms to either 10 or 12 years with a renewal option, bring back rate discussion prior to going out for requests for proposals and to follow-up as to what it would require for the City to manage the utility with in-house staff.

The motion carried unanimously.

ORDINANCES AND ACTION ITEMS

24. Subject: Consider Proposed Amendments to Appointed Employees Compensation Program to include City Attorney Classification and to Reflect Annual Salary Amount, and Consider Proposed First Amendment to Employment Agreement for the City Attorney Changing Appointment Date to July 20, 2021.

Recommended Action: 1. Adopt Resolution No. 21-070 amending the Appointed Employees' Compensation Program (Attachment B), and
2. Adopt Resolution No. 21-071 approving the First Amendment to City Attorney Employment Agreement (Attachment C); Authorize the Mayor to execute the First Amendment to Employment Agreement with the new City Attorney for the City of Cupertino (Attachment D).

Paul moved and Moore seconded to:

1. Adopt Resolution No. 21-070 amending the Appointed Employees' Compensation Program (Attachment B), and
3. Adopt Resolution No. 21-071 approving the First Amendment to City Attorney Employment Agreement (Attachment C); Authorize the Mayor to execute the First Amendment to Employment Agreement with the new City Attorney for the City of Cupertino (Attachment D).

The motion carried unanimously.

25. Subject: Consider increasing the current 0.75 Full-time Equivalent (FTE) Community Relations Coordinator (Block Leader Program) by 0.25 to make 1.0 Full-time Position
Recommended Action: Approve increasing the current 0.75 FTE Community Relations Coordinator (Block Leader Program) position by 0.25 and approve Budget Modification Number 2122-153 to appropriate \$38,352 for the 0.25 FTE addition.

Assistant to the City Manager Katy Nomura introduced the item.

Emergency Services Coordinator Tom Chin gave a presentation.

Councilmembers asked questions and made comments.

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

Peggy Griffin supported expanding the job description, new requirements for block leaders, and combining the Neighborhood Watch and Block Leader positions.

Mayor Paul closed the public comment period.

Motion 1. Wei moved and Paul seconded to approve increasing the current 0.75 FTE Community Relations Coordinator (Block Leader Program) position by 0.25 and approve Budget Modification Number 2122-153 to appropriate \$38,352 for the 0.25 FTE addition. The motion carried unanimously.

Wiley moved a substitute motion for the City Manager to evaluate the position and his staff and come back with an expanded job description that is focused on community engagement. There was no seconder, and the motion was not considered.

Motion 2. Chao moved and Wiley seconded to direct the City Manager to come back with a recommendation for a significantly enhanced community engagement and outreach program for the City. The motion carried with Moore voting no.

Council recessed from 11:02 p.m. to 11:08 p.m.

26. Subject: Receive Internal Audit Enterprise Risk Assessment and Consider Approving Internal Audit Plan for FY 2021-22
Recommended Action: 1. Receive Internal Audit Enterprise Risk Assessment
2. Approve the Internal Audit Plan for FY 2021-22

Written Communications for this item included a consultant presentation.

Moss Adams Partner Mark Steranka gave a presentation.

Councilmembers asked questions and made comments.

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

Peggy Griffin was concerned about contract invoice submittal and payment issues and requested tighter procedures. (Submitted written comments).

Mayor Paul closed the public comment period.

Moore moved and Wiley seconded to:

1. Receive Internal Audit Enterprise Risk Assessment; and
 2. Approve the Internal Audit Plan for FY 2021-22
- The motion carried unanimously.

27. Subject: Receive 2021 Drought Condition Information and Update on the City's Ongoing Water Conservation Measures for City Operations; Provide Input to Staff on Potential Further Water Conservation Measures.

Recommended Action: Receive the Staff Presentation on the County's Drought Conditions and Provide Any Input.

Written Communications for this item included a staff presentation and Updated Attachment D – California Water Service Rule 14.1 Restrictions.

Paul moved and Wei seconded to table this item to a special meeting on Thursday, July 22. The motion carried unanimously.

ORAL COMMUNICATIONS - CONTINUED (As necessary) - None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Council did not hear this item.

ADJOURNMENT

At 11:57 p.m., Mayor Paul adjourned the meeting.



Kirsten Squarcia, City Clerk