



**APPROVED MINUTES
CUPERTINO CITY COUNCIL
Tuesday, December 7, 2021**

SPECIAL MEETING

At 5:15 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. Absent: None. All Councilmembers teleconferenced for the meeting.

STUDY SESSION

1. Subject: Discuss public engagement strategies
Recommended Action: Discuss public engagement strategies

Written communications for this item included a staff presentation.

Interim City Manager Greg Larson gave a presentation.

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

Jennifer Griffin supported outreach, mailers, and more news notifications.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Paul moved and Moore seconded to direct staff to:

- 1) Have a Press Plan.

When Cupertino makes policy-oriented decisions, the public needs to be notified. Council needs to be informed of how our internal approach to communicating with the outside world is organized. Create a press plan, and communicate this plan to Council

and the public. It should include informing the public and working with our policymakers regarding who is receiving the communications, what mechanisms are used, and when;

2) Encourage and Foster High Quality of Writing.

When approaching our more critical issues, the quality of writing is critical. I have found myself over the years re-writing and in some cases outright writing the copy. I suggest that we recruit permanent staff support with demonstrated abilities and interest in evaluating complex issues and reflecting policy-based direction in a written medium. Part of the Press Plan should be to provide options for how to present a given issue through press releases and other forms of communication; and

3) Be Responsive to Council Decisions and Current Developments.

When significant decisions are made, there is often a public response. Responsiveness to rapidly-moving issues is critical when it comes to how we communicate our policy-based decisions. When training or hiring applicable staff, focus upon responsiveness generally, but especially pro-active and affirmative responses when issues are moving rapidly. The motion carried unanimously.

2. Subject: Information on Commissions and Committees in Cupertino and Other Cities
Recommended Action: Review analysis of commissions and committees in Cupertino and in other cities, and provide direction to staff

Written communications for this item included a staff presentation.

Interim City Manager Greg Larson gave a presentation.

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

Jennifer Griffin opposed consolidating the Environmental Review Committee (ERC) with the Planning Commission and supported creating a historical commission.

Lisa Warren was concerned about the Design Review Committee (DRC) frequency of meetings and supported review of the Committee scope.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Paul moved and Chao seconded to direct staff to take Council's feedback and prepare to bring the item back in a Commissions and Committees Workshop in mid First Quarter 2022. The motion carried unanimously.

ADJOURNMENT

At 6:40 p.m., Mayor Paul adjourned the Special City Council Meeting.

REGULAR MEETING

At 6:46 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: Recognition of Archana Panda for receiving the President's Lifetime Achievement Award from the AmeriCorps and the office of the President of the United States

Recommended Action: Recognize Archana Panda for receiving the President's Lifetime Achievement Award for her lifelong commitment to building a stronger nation through volunteer service

Mayor Paul recognized Archana Panda for receiving the President's Lifetime Achievement Award for her lifelong commitment to building a stronger nation through volunteer service.

2. Subject: Proclamation to Roger Lee upon his retirement and recognizing his dedicated service to the City of Cupertino

Recommended Action: Present proclamation to Roger Lee upon his retirement and recognizing his dedicated service to the City of Cupertino

Written communications for this item included an email to Council.

Mayor Paul opened the public comment period and the following people expressed congratulations to Roger Lee upon his retirement.

Peggy Griffin
Jennifer Griffin
Rhoda Fry

Mayor Paul closed the public comment period.

Councilmembers made comments and thanked Roger Lee for his service.

Mayor Paul presented the proclamation to Roger Lee upon his retirement and recognizing his dedicated service to the City of Cupertino.

ELECTION OF MAYOR AND VICE MAYOR

3. Subject: Councilmembers elect Mayor
Recommended Action: Make nominations and elect Mayor

Written communications for this item included emails to Council.

Councilmembers made comments.

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

Chao moved and Willey seconded to nominate Darcy Paul as Mayor. The motion carried with Wei abstaining.

4. Subject: Councilmembers elect Vice Mayor
Recommended Action: Make nominations and elect Vice Mayor

Written communications for this item included emails to Council.

Councilmembers made comments.

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

Peggy Griffin supported Liang Chao as Vice Mayor.

Mayor Paul closed the public comment period.

Paul moved and Willey seconded to nominate Liang Chao as Vice Mayor. The motion carried unanimously.

OATH OF OFFICE

5. Subject: Oath of Office for Mayor
 Recommended Action: Conduct Oath of Office for Mayor

City Clerk Kirsten Squarcia conducted the Oath of Office for newly elected Mayor Darcy Paul.

6. Subject: Oath of Office for Vice Mayor
 Recommended Action: Conduct Oath of Office for Vice Mayor

City Clerk Kirsten Squarcia conducted the Oath of Office for newly elected Vice Mayor Liang Chao.

COMMENTS BY NEW MAYOR AND VICE MAYOR

7. Subject: Comments by Vice Mayor
 Recommended Action: Receive Comments by Vice Mayor

Council received comments by new Vice Mayor Liang Chao.

8. Subject: Comments by Mayor
 Recommended Action: Receive Comments by Mayor

Council received comments by new Mayor Darcy Paul.

COMMENTS BY COUNCILMEMBERS AND PUBLIC

9. Subject: Comments by Councilmembers
 Recommended Action: Comments by Councilmembers

Councilmembers made comments.

10. Subject: Comments by the Public
 Recommended Action: Receive Comments by the Public

Mayor Paul opened the public comment period and the following people offered congratulations for newly appointed Mayor Darcy Paul and Vice Mayor Liang Chao.

County Supervisor Joe Simitian
Victoria, on behalf of the Office of Assemblymember Evan Low
Jennifer Griffin

Lisa Warren

Rick Kitson, on behalf of the Cupertino Chamber of Commerce

Clare Varesio, Cupertino Library Community Librarian, on behalf of the Santa Clara County Library District

Mayor Paul closed the public comment period.

Council received public comments.

POSTPONEMENTS AND ORDERS OF THE DAY - None

ORAL COMMUNICATIONS

Jennifer Griffin supported the preservation of the Graves House in West San Jose by either moving it to Kelly Park or turning it into a historic structure.

Jen H supported newly elected Mayor Paul and Vice Mayor Chao and was concerned about a requested building permit for their residential lot and requested investigating the matter.

Rhoda Fry noted an upcoming Midpen Board meeting agenda item regarding Lehigh and provided Reclamation Plan and Steven Creek Quarry updates.

Tracy K opposed the Cupertino Union School District (CUSD) Board's recent decision to close schools. (Submitted written comments).

Lisa Warren was concerned about the lack of Design Review Committee (DRC) meetings and whether certain past projects should've been considered by DRC.

Poonam, on behalf of Amy Pang, opposed the CUSD Board's decision to close schools and supported a traffic study. (Submitted written comments).

REPORTS BY COUNCIL AND STAFF (10 minutes)

Council heard Reports by Council and Staff Items 11 through 13 after the Consent Calendar.

11. 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.

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

Councilmembers highlighted the activities of their various committees.

13. Subject: City Manager update
Recommended Action: Receive City Manager update on emergency response efforts and other City business

Interim City Manager Greg Larson reported on upcoming City events; COVID-19 case rates, testing, and Santa Clara County's Tier Risk Level status; and provided an update on the Vallco Town Center SB 35 Project.

Council received the City Manager updates on emergency response efforts and other City business.

CONSENT CALENDAR (Items 14-28)

Wei moved and Willey seconded to approve the items on the Consent Calendar except for Item Nos. 19 and 21 which were pulled for discussion. Ayes: Paul, Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: None.

14. Subject: Approve the November 16 City Council minutes
Recommended Action: Approve the November 16 City Council minutes
15. Subject: Approve the November 18 City Council minutes
Recommended Action: Approve the November 18 City Council minutes
16. Subject: Set hearing date on January 18, 2022 to declare a public nuisance (from weeds) and to consider objections for proposed removal; declare properties as having potential fire hazards from weeds or other potential nuisances for the Cupertino Weed Abatement Program
Recommended Action: Adopt Resolution No. 21-112 declaring properties as having potential fire hazards from weeds or other potential nuisances; and set hearing on January 18, 2022 to declare a public nuisance and to consider objections for proposed removal

17. Subject: Consider adopting a resolution authorizing the City to participate in two proposed settlements to resolve lawsuits that seek to hold certain opioid pharmaceutical supply chain participants accountable for the damage caused by their misfeasance, nonfeasance, and malfeasance
Recommended Action: That the City Council adopt Resolution No. 21-113 authorizing the City Attorney to complete and execute the Settlement Participation Forms to authorize the City of Cupertino's participation in the Distributor and Janssen Settlements, and to take such further actions as necessary to ensure that the City receives settlement proceeds allocated to it under the Distributor and Janssen Allocations Agreements
18. Subject: Consider OPEB and Pension Section 115 Trust Investment Policy Adoption
Recommended Action: Consider adopting Resolution No. 21-114 and No. 21-115 approving OPEB and Pension Section 115 Trust Investment Policies
19. Subject: Consider the Mitigation Fee Act, the Annual and Five-Year Report for Fiscal Year (FY) 2020/2021
Recommended Action: 1. Accept the Annual and Five-Year Review of the City of Cupertino's Development Impact Fees (Government Code Section 66000 et seq.); and 2. Adopt Resolution No. 21-116 entitled "A Resolution of the Cupertino City Council Approving the Annual and Five-Year Development Impact Fee Report for Fiscal Year (FY) Ending June 30 and Making Required Findings"

Written Communications for this item included an email to Council.

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

Peggy Griffin supported further discussion of the item.

Mayor Paul closed the public comment period.

Assistant Director of Public Works/City Engineer Chad Mosely reviewed the staff report.

Councilmembers asked questions and made comments.

Moore moved and Chao seconded to table this item until the December 21 City Council meeting. The motion carried unanimously.

20. Subject: Consider authorizing execution of a Custodial Services Contract for Citywide Custodial Services
Recommended Action: Authorize the City Manager to execute the Custodial Services Contract between the City of Cupertino and IMPEC Group Inc. (IMPEC) to provide custodial services at various City facilities for three years, at an annual amount not-to-exceed \$1,062,364.61; and if performance is satisfactory, followed by up to two additional years of service at an annual amount adjusted by the Consumer Price Index (CPI)
21. Subject: Consider authorization to execute a Design Professional Services Agreement between the City of Cupertino and MIG, Inc., for the All-Inclusive Playground at Jollyman Park
Recommended Action: 1. Authorize the City Manager to execute a Design Professional Services Agreement between the City and MIG, Inc. (MIG) to provide design services for the All-Inclusive Playground (AIPG) at Jollyman Park in the amount of \$389,511; and
2. Authorize the Director of Public Works to execute any necessary services or change orders, up to a contingency amount of \$77,900, for a total appropriation of \$467,411

Written Communications for this item included an email to Council.

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

Peggy Griffin supported emphasizing accessibility for the disabled of all ages.

Mayor Paul closed the public comment period.

Capital Improvement Programs Manager Susan Michael reviewed the staff report.

Councilmembers asked questions and made comments.

Paul moved and Wei seconded to:

1. Authorize the City Manager to execute a Design Professional Services Agreement between the City and MIG, Inc. (MIG) to provide design services for the All-Inclusive Playground (AIPG) at Jollyman Park in the amount of \$389,511; and
 2. Authorize the Director of Public Works to execute any necessary services or change orders, up to a contingency amount of \$77,900, for a total appropriation of \$467,411
- The motion carried unanimously.

Council recessed from 8:55 p.m. to 9:02 p.m.

22. Subject: Consider authorization to execute a Design Professional Services Agreement between the City of Cupertino and MIG, Inc. for the Lawrence-Mitty Park and Trail Master Plan
Recommended Action: 1. Authorize the City Manager to execute a Design Professional Services Agreement between the City and MIG, Inc. (MIG) to provide design services for the Lawrence-Mitty Master Plan in the amount of \$293,784; and
2. Authorize the Director of Public Works to execute any necessary services or change orders, up to a contingency amount of \$50,000, for a total appropriation of \$343,784
23. Subject: Consider a second amendment to Agreement 149, a Master Agreement between the City of Cupertino and CSG Consultants, Inc. for Consultant Construction Management services for various capital improvement projects
Recommended Action: Authorize the City Manager to execute the Second Amendment to Agreement 149, a Master Agreement between the City of Cupertino and CSG Consultants, Inc., increasing the appropriation by \$200,000 for a total appropriation of \$738,045
24. Subject: Consider donations from the Library Foundation for the Cupertino Library Expansion Project
Recommended Action: Authorize the City of Cupertino to accept all monetary donations from the Cupertino Library Foundation for the Library Expansion Project (Project No. 2020-03) in accordance with the City Donation Policy (Attachment A)
25. Subject: Application for Alcohol Beverage License for Chocobiscuits Inc (dba Cap't Loui), 19700 Vallco Parkway, Ste. 150
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Chocobiscuits Inc (dba Cap't Loui), 19700 Vallco Parkway, Ste. 150
26. Subject: Application for Alcohol Beverage License for Dough Zone NCA08 LLC (dba Dough Zone Dumpling House), 19600 Vallco Parkway, Ste. 130
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Dough Zone NCA08 LLC (dba Dough Zone Dumpling House), 19600 Vallco Parkway, Ste. 130
27. Subject: Application for Alcohol Beverage License for Hanlin Tea Room, Inc. (dba Hanlin Tea Room), 10271 Torre Avenue
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Hanlin Tea Room, Inc. (dba Hanlin Tea Room), 10271 Torre Avenue
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28. Subject: Application for Alcohol Beverage License for 20010 Partners LLC (dba Sweet Maple), 20010 Stevens Creek Boulevard
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for 20010 Partners LLC (dba Sweet Maple), 20010 Stevens Creek Blvd

SECOND READING OF ORDINANCES

29. Subject: Consider conducting a second reading of an ordinance to make minor and technical corrections to the Cupertino Municipal Code as follows: (1) enacting new Sections 2.36.085 and 2.74.075 and new Chapter 2.110; (2) amending Sections 1.12.010, 2.48.020, 2.60.050, 2.68.050, 2.74.040, 2.80.090, 2.86.070, 2.92.090, 3.23.060, 8.06.030, 14.04.125, 14.18.090, 16.52.043, 16.52.053, 18.04.020, 19.102.030, and 19.104.220 and Table 19.124.040; and (3) repealing Section 11.08.020
Recommended Action: That the City Council conduct the second reading and enact Ordinance No. 21-2234: "An Ordinance of the City Council of the City of Cupertino to update the Municipal Code to improve City operations and bring the Cupertino Municipal Code up to date by (1) enacting new Sections 2.36.085 and 2.74.075 and new Chapter 2.110; (2) amending Sections 1.12.010, 2.48.020, 2.60.050, 2.68.050, 2.74.040, 2.80.090, 2.86.070, 2.92.090, 3.23.060, 8.06.030, 14.04.125, 14.18.090, 16.52.043, 16.52.053, 18.04.020, 19.102.030, and 19.104.220 and Table 19.124.040; and (3) repealing section 11.08.020"

Written communications for this item included a Supplemental Staff Report Response to Council Inquiries and Amended Attachment A Draft Ordinance – Redline correcting typographical errors.

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

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2234: "An Ordinance of the City Council of the City of Cupertino to update the Municipal Code to improve City operations and bring the Cupertino Municipal Code up to date by (1) enacting new Sections 2.36.085 and 2.74.075 and new Chapter 2.110; (2) amending Sections 1.12.010, 2.48.020, 2.60.050, 2.68.050, 2.74.040, 2.80.090, 2.86.070, 2.92.090, 3.23.060, 8.06.030, 14.04.125, 14.18.090, 16.52.043, 16.52.053, 18.04.020, 19.102.030, and 19.104.220 and Table 19.124.040; and (3) repealing section 11.08.020."

Chao moved and Willey seconded to read Ordinance No. 21-2234 by title only, and that the City Clerk's reading constitutes the second reading thereof; and to enact the Ordinance No. 21-2234. Ayes: Moore, Wei, Willey, Chao, and Paul. Noes: None. Abstain: None. Absent: None.

PUBLIC HEARINGS

30. Subject: Consider modifications to the approved Westport Development project which include adjusting unit mix in the assisted living facility (Building 1) to 123 assisted living units and 35 memory care rooms, reclassification of approximately 8,000 square feet of public dining area to private dining, reducing the underground parking to reflect adjustments in uses, and reduction of massing on the top floor to accommodate a sixth floor aqua therapy pool; (Application No(s): M-2021-002, ASA-2021-007, EXC-2021-003; Applicant(s): Related California (Cascade Zak); Location: 21267 Stevens Creek Boulevard; APN #326-27-043)

Recommended Action: Consider the evidence presented and determine whether to adopt the following resolutions approving the proposed project modifications:

1. Resolution No. 21-117 approving the Heart of the City Exception (EXC-2021-003);
2. Resolution No. 21-118 approving the Modified Development Permit (M-2021-002); and
3. Resolution No. 21-119 approving the Architectural and Site Approval Permit (ASA-2021-007)

If the City Council wishes to deny the project, adopt the following resolution:

1. Resolution No. 20-120 denying Development Permit (M-2021-002), Architectural and Site Approval Permit (ASA-2021-002), and Heart of the City Exception (EXC-2021-003)

Written communications for this item included a staff presentation, Supplemental Staff Report Response to Council Inquiries, Amended Attachment A Draft Ordinance – Redline, and emails to Council.

Community Development Director Ben Fu introduced the item and Senior Planner Gian Martire gave a presentation.

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

Donna Austin supported approval of the proposed changes to the Westport and related Atria project.

Jennifer Griffin was concerned about the loss of retail on Steven Creek Boulevard and the parking and dining room changes.

Peggy Griffin opposed approval of the requested modifications to the Westport project.

Jean Bedord supported approval of the Westport / Atria project. (Submitted written comments).

Housing Commissioner Connie Cunningham (representing self) supported approval of the requested modifications to the Westport project.

Planning Commissioner Steven Scharf (representing self) was disappointed with the requested modifications for an already approved project.

Richard Adler supported approval of the Atria Westport project proposed changes. (Submitted written comments).

Mayor Paul closed the public hearing.

Councilmembers asked questions and made comments.

Matthew Witte, Senior Vice President, Acquisitions and Development at Related California, gave a presentation and answered questions.

Mark Tersini, Project Applicant and Senior Vice President at KT Urban Properties and Mark Alexander, Senior Vice President and Head of Development at Atria Senior Living, answered questions.

Wei moved and Chao seconded approval of the staff recommendation. Council did not vote on this motion.

Chao moved and Moore seconded a substitute motion to provide direction for the applicant to explore a modified proposal to place the dining facility at a different location in the building, so the ground retail portion is not modified from the approved project. Moore made a friendly amendment to explore the potential for one of the townhouses or rowhouses be affordable as a Below-Market-Rate (BMR) unit for-sale or for-rent, and the extension of the subterranean garage be explored, and come back for Council consideration at the December 21 City Council meeting. (Chao accepted the friendly amendment). The substitute motion carried with Wei voting no.

ORDINANCES AND ACTION ITEMS

31. Subject: Consider an Interim Ordinance to implement new state legislation (Senate Bill 9), that provides for ministerial approval of up to two units and/or a lot split in a residential single-family zone (Application No.: MCA-2021-005; Applicant: City of Cupertino; Location: Citywide in all residential single family zones)
Recommended Action: Conduct the first and only reading and enact Interim Ordinance No. 21-2235: "An Ordinance of the City Council of the City of Cupertino adding or Amending Cupertino Municipal Code Sections 18.20.170, 19.08.030, 19.12.030, 19.28.040, 19.28.110, 19.40.050, 19.40.060, 19.40.090, and 19.112.060 to adopt standards for ministerial approval of duplexes and lot splits in single-family residence districts".

Written communications for this item included a staff presentation, Supplemental Staff Report Response to Council Inquiries, and emails to Council.

Council consented to table this item until the December 21 City Council meeting.

ORAL COMMUNICATIONS - CONTINUED (As necessary) – None**COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS**

Council heard brief staff comments.

ADJOURNMENT

32. Subject: Adjourn in memory of City of Cupertino employee Edwin Gutierrez

At 12:16 a.m. on Wednesday, December 8, 2021, Mayor Paul adjourned the Regular City Council Meeting in memory of City of Cupertino employee Edwin Gutierrez.



Kirsten Squarcia, City Clerk