



**APPROVED MINUTES  
CUPERTINO CITY COUNCIL  
Tuesday, February 5, 2019**

**SPECIAL CITY COUNCIL MEETING**

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

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

**CLOSED SESSION**

Council went into closed session and reconvened in open session at 6:45 p.m. in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue for the Regular Meeting.

In open session, Mayor Scharf reported out from the January 25, 2019 closed session regarding two items.

The following individuals spoke in open session before Council went into closed session:

Kitty Moore (Cupertino resident)  
Jim Moore (Cupertino resident) – ceded time to Bern Steves  
Susan Moore (Cupertino resident) – ceded time to Bern Steves  
Caryl Gorska (Cupertino resident) – ceded time to Bern Steves  
Lisa Warren (Cupertino resident) – ceded time to Bern Steves  
Bern Steves (Cupertino resident) on behalf of Friends of Better Cupertino  
Liana Crabtree (Cupertino resident)

1. Subject: Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(2); Re: Anticipated Litigation/Significant Exposure to Litigation

Mayor Scharf reported that Council discussed a threat of litigation received in connection with the SB 35 lawsuit; no reportable action was taken.

2. Subject: Conference with Legal Counsel pursuant to Government Code section

54956.9(d)(1); Re: Pending Litigation; Friends of Better Cupertino, et al. v. City of Cupertino; Santa Clara County Superior Court, Case No. 18CV330190 (SB 35 Vallco Project)

Mayor Scharf reported that Council met to discuss with legal counsel this pending litigation, when discussion would prejudice the City Council if done in public; gave direction to legal counsel; no reportable action was taken.

Mayor Scharf also reported out from the February 5, 2019 closed session that was heard at 5:30 p.m. regarding two items:

1. Subject: Conference with Real Property Negotiators (Government Code Section 54956.8); Property: Cupertino Municipal Water System; Agency Negotiator: Timm Borden; Negotiating Parties: City of Cupertino and San Jose Water Company; Under Negotiation: Price Terms for City Leased Asset

Mayor Scharf reported that the closed session was related to the City's lease with the San Jose Water Company for the Cupertino Municipal Water System; gave direction to staff concerning the lease negotiations; no reportable action was taken.

2. Subject: Conference with Legal Counsel - Anticipated Litigation: Significant Exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9

Mayor Scharf reported that the closed session was related to the City's lease with the San Jose Water Company for the Cupertino Municipal Water System; gave direction to staff concerning the lease negotiations; no reportable action was taken.

## **REGULAR MEETING**

### **PLEDGE OF ALLEGIANCE**

At 6:45 p.m. Mayor Steven Scharf called the Regular City Council meeting in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue and led the Pledge of Allegiance.

### **ROLL CALL**

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

### **CEREMONIAL MATTERS AND PRESENTATIONS**

1. Subject: Recognition of Fine Arts Commission Emerging Artists and Young Artists.  
Recommended Action: Present awards to winners

Fine Arts Commission Chair Janki Chokshi spoke and read aloud the award winners.

Mayor Scharf presented the awards to Fine Arts Commission Emerging Artists and Young Artists winners.

2. Subject: Presentation from the Toyokawa Sister City Committee regarding recent delegation

Recommended Action: Receive Presentation from the Toyokawa Sister City Committee regarding recent delegation

Alyyssa Sakkas Toyokawa Sister Cities Committee President introduced Steve Sulgit Vice President of Festival Operations who presented a video.

Council received the presentation from the Toyokawa Sister City Committee regarding their recent delegation.

#### **POSTPONEMENTS - None**

#### **ORAL COMMUNICATIONS**

Byron Rovegno (Cupertino resident), on behalf of Walk Bike Cupertino, talked about the Regnart Trail, potential usage for students and support for the trail.

Dennis Whittacker (Cupertino resident) talked about the intersections being blocked at De Anza Blvd/Pacifica and other intersections and adding signs and lights.

Janet Van Zoehren talked about agenda Item #15 Regional Housing Needs Allocation (RHNA) subregion, affordable housing and data, and farming out housing to other regions.

Lisa Warren talked about the Foothill-De Anza Community College Board meeting action item to pause programming at Flint Center beyond June 30 and a pending assessment report.

Rhoda Fry talked about the Jan. 31 cease and desist letter sent from City Manager Timm Borden to the County regarding traffic, land use, and water quality.

Justine Garcia (Cupertino resident), Kennedy Middle School student and U14 soccer player, talked about opening field hours on Sundays.

A Cupertino resident from Finch Avenue talked about a citation letter that she received from Code Enforcement.

### CONSENT CALENDAR

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

3. Subject: Approve the January 15 City Council minutes  
Recommended Action: Approve the January 15 City Council minutes
4. Subject: Accept Accounts Payable for the period ending November 02, 2018  
Recommended Action: Adopt Resolution No. 19-013 accepting Accounts Payable for the period ending November 02, 2018
5. Subject: Accept Accounts Payable for the period ending November 09, 2018  
Recommended Action: Adopt Resolution No. 19-014 accepting Accounts Payable for the period ending November 09, 2018
6. Subject: Accept Accounts Payable for the period ending November 16, 2018  
Recommended Action: Adopt Resolution No. 19-015 accepting Accounts Payable for the period ending November 16, 2018
7. Subject: Accept Accounts Payable for the period ending November 23, 2018  
Recommended Action: Adopt Resolution No. 19-016 accepting Accounts Payable for the period ending November 23, 2018
8. Subject: Accept Accounts Payable for the period ending November 30, 2018  
Recommended Action: Adopt Resolution No. 19-017 accepting Accounts Payable for the period ending November 30, 2018
9. Subject: Annual adoption of Pension Trust Investment Policy  
Recommended Action: Adopt Resolution No. 19-018 accepting the City Investment Policy for the Pension Trust
10. Subject: Treasurer's Investment Report for Quarter Ending December 31, 2018  
Recommended Action: Accept the Treasurer's Investment Report for Quarter Ending December 31, 2018

### SECOND READING OF ORDINANCES

- 11.** Subject: Second reading and enactment of an ordinance to amend regulations in Title 2, Administration and Personnel of the Municipal Code Chapter 2.80, to allow up to five (5) members for the Fine Arts Commission.  
Recommended Action: Conduct the second reading and enact Ordinance No. 19-2182: "An Ordinance of the City Council of the City of Cupertino amending regulations in Title 2, Administration and Personnel of the Municipal Code, Chapter 2.80, to allow up to five (5) members for the Fine Arts Commission"

Deputy City Clerk Kirsten Squarcia read the title of Ordinance No. 19-2182: "An Ordinance of the City Council of the City of Cupertino amending regulations in Title 2, Administration and Personnel of the Municipal Code, Chapter 2.80, to allow up to five (5) members for the Fine Arts Commission"

Paul moved and Sinks seconded to read Ordinance No. 19-2182 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

Paul moved and Sinks seconded to enact Ordinance No. 19-2182. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

**PUBLIC HEARINGS - None**

## **ORDINANCES AND ACTION ITEMS**

- 12.** Subject: Approval of a Legal Services Contract for City Attorney Services with Shute Mihaly and Weinberger.  
Recommended Action: 1. Authorize the City Manager to execute an agreement with Shute Mihaly and Weinberger for City Attorney Services in the amount of \$600,000 annually.  
2. Approve Budget Modification Number 1819-038 reducing the Administration-City Attorney budget by \$770,889.

Director of Administrative Services Kristina Alfaro reviewed the staff report.

Staff answered questions from Council.

City Manager Timm Borden announced that the City Attorney's office and legal services will move to City Hall.

New City Attorney Heather Minner introduced herself.

Sinks moved and Paul seconded to 1. Authorize the City Manager to execute an agreement with Shute Mihaly and Weinberger for City Attorney Services in the amount of \$600,000 annually; and

2. Approve Budget Modification Number 1819-038 reducing the Administration-City Attorney budget by \$770,889. The motion carried unanimously.

13. Subject: Order the abatement of a public nuisance (weeds) pursuant to provisions of Ordinance No. 724 and Resolution No. 18-111 (Continued from January 15)  
Recommended Action: Note objections and adopt Resolution 19-019 ordering abatement of a public nuisance (weeds) pursuant to provisions of Ordinance No. 724 and Resolution No. 18-111

Deputy City Clerk Kirsten Squarcia reviewed the staff report.

Santa Clara County Weed Abatement Program Manager Moe Kumre answered questions from Council.

Mayor Scharf opened public comment and the following individuals spoke:

Brent G. Bardsley (Cupertino resident)  
Joan Thompson (Cupertino resident)  
Venkatesh  
Geoff Paulsen

Mayor Scharf closed public comment.

Wiley moved and Chao seconded to adopt Resolution 19-019 ordering the abatement of a public nuisance (weeds) pursuant to provisions of Ordinance No. 724 and Resolution No. 18-111 with the amendment to remove the three properties (of those speakers who objected) from the list and adopt the balance of the list, and directed staff to request the County re-inspect the properties in late spring. The motion carried unanimously.

Council recessed from 8:47 p.m. to 8:54 p.m.

Councilmember Paul left the dais at 8:47 p.m.

## STUDY SESSION

14. Subject: Draft Citywide Parks and Recreation System Master Plan  
Recommended Action: Accept presentation on the Draft Citywide Parks and

Recreation System Master Plan ("Master Plan") and provide direction regarding desired revisions.

Written communications for this item included emails to Council, additional public input, hard copies of maps, and a staff presentation.

Director of Recreation and Community Services Jeff Milkes reviewed the staff report and introduced Park Improvement Manager Gail Seeds and consultant Cindy Mendoza, Senior Project Manager of MIG.

The consultant and Ms. Seeds gave a presentation.

Staff answered questions from Council.

Mayor Scharf opened public comment and the following individuals spoke:

Geoff Paulsen and Kitty Moore (Cupertino residents)

Jennifer Griffin

Gerhard Eschelbeck (Cupertino resident)

Joan Chin (Cupertino resident)

Peggy Griffin (Cupertino resident)

Dashiell Leeds, on behalf of Santa Clara Valley Audubon Society

Rhoda Fry

Minna (Cupertino resident)

Mayor Scharf closed public comment.

Councilmember Paul returned to the dais at 9:44 p.m. just before the last speaker.

Council accepted the presentation on the Draft Citywide Parks and Recreation System Master Plan ("Master Plan") and provided the following direction regarding desired revisions:

- No support for additional data gathering or additional surveys, and directed staff to finalize the Master Plan using the existing information (Paul Sinks, Scharf).
- Requested mapping related to densities (population density of areas of the City relative to the park acreage) and follow-up on possible existing map, and more objective definition of what makes up a park (Paul, Chao).
- Recommendation to include site page for individual parks in the Master Plan with basic parks information, current conditions and facilities the city owns (Chao, Paul).
- Directed staff to emphasize Community Gardens in the plan, including satellite

- gardens in individual parks (Scharf, Chao, Paul).
- Recommendation to look into park expansion possibility for Library Field, such as undergrounding adjacent parking (Scharf, Paul).
  - Directed staff to emphasize partnerships with CUSD, FUHSD, and De Anza for usage (unanimous).
  - Recommendation to support pollinator plantings (Chao, Paul).
  - Recommendation to reexamine field use policy (Willey, Paul).
  - Recommendation to emphasize access to Blackberry Farm which should be a priority as the City purchased the property on Byrne at the entrance to the park (Sinks).
  - Recommendation to emphasize outdoor adult exercise equipment (Chao, Scharf).
  - Recommendation to explore acquiring or gaining use of the parcel adjacent to Sedgwick Elementary School (Scharf, Sinks).
  - Directed staff to explore performing arts space availability at existing venues (Paul, Sinks, Chao).

## **ORDINANCES AND ACTION ITEMS – Continued**

Council recessed from 11:17 p.m. to 11:29 p.m.

15. Subject: Possible Formation of a Santa Clara County Regional Housing Needs Allocation (RHNA) subregion allowing the City the option of trading allocation of housing needs among participating entities (continued from January 15).  
Recommended Action: That the City Council
1. Review the by-laws proposed for the RHNA subregion and
  2. Adopt Resolution No. 19-009 authorizing the City Manager to discuss the formation of a Santa Clara County RHNA subregion and develop a work plan, budget and schedule of actions leading to the formation of a countywide RHNA subregion.

Written communications for this item included a staff presentation.

Principal Planner Piu Ghosh reviewed the staff report.

Mayor Scharf opened public comment and the following individuals spoke:

Janet Van Zoeren (Cupertino resident) spoke under Oral Communications on this item.  
Jennifer Griffin  
Jean Bedord

Mayor Scharf closed public comment.

Staff answered questions from Council.



The Vice Mayor commented that she suggests revising the proposed by-laws to be like San Mateo County's which require consensus for final adoption and allocation as opposed to the Santa Clara County's proposed RHNA subregion by-laws that require a majority vote and consent of the individual cities impacted by the change to the RHNA allocations. Staff indicated that the comments will be relayed to the Cities Association for its consideration.

Council 1. Reviewed the by-laws proposed for the RHNA subregion; and

Sinks moved and Chao seconded to 2. Adopt Resolution No. 19-009 authorizing the City Manager to discuss the formation of a Santa Clara County RHNA subregion and develop a work plan, budget and schedule of actions leading to the formation of a countywide RHNA subregion. The motion carried unanimously.

16. Subject: Adopt a resolution to approve the Junipero Serra Trail Feasibility Study  
Recommended Action: Adopt Resolution No. 19-020 to approve the Junipero Serra Trail Feasibility Study

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

Acting Director of Public Works Roger Lee reviewed the staff report.

David Stillman Transportation Manager gave a presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Kitty Moore (Cupertino resident)

Jennifer Griffin

Peggy Griffin (Cupertino resident)

Jennifer Shearin (Cupertino resident), on behalf of herself and the Bicycle Pedestrian Commission

Mayor Scharf closed public comment.

Staff answered questions from Council.

Sinks moved and Willey seconded to Adopt Resolution No. 19-020 to approve the Junipero Serra Trail Feasibility Study. The motion carried unanimously.

## **REPORTS BY COUNCIL AND STAFF**

17. Subject: Report on Committee assignments and general comments

Recommended Action: Report on Committee assignments and general comments

Councilmembers highlighted the activities of their committees and various community events.

Councilmember Paul and Vice Mayor Chao requested study sessions regarding policy issues, educational sessions and upcoming legislation, including SB50, SB 35 and CASA bills.

## **ADJOURNMENT**

At 1:24 a.m. on Wednesday, February 6, 2019, Mayor Scharf adjourned the meeting.

/s/Kirsten Squarcia

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Kirsten Squarcia, Deputy City Clerk