



APPROVED MINUTES  
CUPERTINO CITY COUNCIL  
Tuesday, May 21, 2019

SPECIAL CITY COUNCIL MEETING

At 5:09 p.m. Mayor Steven Scharf called the Special City Council meeting to order in Cupertino City Hall Conference Room A, 10300 Torre Avenue.

**ROLL CALL**

Present: Mayor Steven Scharf, Vice Mayor Liang Chao, and Councilmembers Darcy Paul, and Rod Sinks. Absent: Councilmember Jon Robert Willey.

**COMMISSION INTERVIEWS**

1. Subject: Conduct interviews and appoint one Housing Commission Financial Representative.

Recommended Action: Conduct interviews and appoint one Housing Commission Financial Representative to fill an unexpired term (counts as a full first term) ending on 1/30/22.

Council conducted interviews and did not appoint a Housing Commission Financial Representative (Ayes: Chao, Sinks, Noes: Scharf, Paul, Absent: Willey).

Council also directed staff to add an item to a future meeting to discuss removing the Financial Representative position from the Commission.

**CLOSED SESSION**

Council went into closed session in Cupertino City Hall Conference Room A, 10300 Torre Avenue and reconvened in open session at 6:45 p.m. in the Cupertino Community Hall Council Chambers, 10350 Torre Avenue.

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)

Before Council went into closed session, the following individuals spoke:

Bern Steves on behalf of Better Cupertino

Liana Crabtree (Cupertino resident) – ceded time to Bern Steves

Caryl Gorska (Cupertino resident) – ceded time to Bern Steves

James A. Moore (Cupertino resident) - ceded time to Bern Steves

Susan Moore (Cupertino resident) - ceded time to Bern Steves

Lisa Warren

In open session, Mayor Scharf reported that no reportable was taken.

### REGULAR CITY COUNCIL MEETING

#### PLEDGE OF ALLEGIANCE

At 6:54 p.m. Mayor Steven Scharf called the Regular City Council meeting to order 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: Presentations by Cupertino-Cupertino, Italy Sister City Committee adult and student delegations  
Recommended Action: Receive presentations by Cupertino-Cupertino, Italy Sister City Committee adult and student delegations

Cupertino Cupertino Sister Cities Association President Helene Davis and St. Joseph of Cupertino 8<sup>th</sup> grade teacher and chaperone Trisha Heissenbuttel spoke.

The students gave a brief presentation about their trip and answered questions from Council.

Council received the presentation by Cupertino-Cupertino, Italy Sister City Committee student delegation.

**POSTPONEMENTS - None****ORAL COMMUNICATIONS**

Scott Fitinghoff (Cupertino resident) talked about Regnart Creek Trail.

Will Shearin (Cupertino resident) talked about Regnart Creek Trail.

Lars Thomsen (Cupertino resident) talked about Regnart Creek Trail.

Seema Lindskog (Cupertino resident) talked about Regnart Creek Trail (distributed written comments).

Scott Ding (Cupertino resident) talked about Regnart Creek Trail.

Brent Bardsley (Cupertino resident) talked about the storm drain fee.

Richard Boyle (Cupertino resident) talked about Regnart Creek Trail.

Brenda Boyle (Cupertino resident) talked about Regnart Creek Trail.

Heather Dean (Cupertino resident) talked about Council actions and the length of Council meetings.

Lalitha Maruvada (Cupertino resident) talked about community gardens at McClellan Ranch.

Connie Erickson (Cupertino resident) talked about Regnart Creek Trail.

Linda Wyckoff (Cupertino resident) talked about Regnart Creek Trail.

Marcia Underwood (Cupertino resident) talked about Regnart Creek Trail.

Agnes Pommier (Cupertino resident) talked about Regnart Creek Trail.

Jean Pommier (Cupertino resident) talked about Regnart Creek Trail.

Anny Wang (Cupertino resident) talked about funding community gardens.

Raghuveer Kumarakrishnan (Cupertino resident) talked about Regnart Creek Trail.

Casper Wu (Cupertino resident) talked about Regnart Creek Trail.

Mary Mack (Cupertino resident) talked about Regnart Creek Trail.

David Lau (Cupertino resident) ceded time to Mary Mack.

Fari Aberg (Cupertino resident) ceded time to Mary Mack.

Beth Knedel (Cupertino resident) talked about bike safety and Regnart Creek Trail.

Gary Wong (Cupertino resident) representing the Campo De Lozano Home Owners Association talked about Regnart Creek Trail (distributed written comments).

Stella Hong (Cupertino resident) ceded time to Gary Wong.

Jennifer Griffin talked about housing and Accessory Dwelling Unit (ADU) bills coming out of Sacramento.

Jane Wang (Cupertino resident) talked about violations and fines for a structure in her backyard.

Ilango Ganga (Cupertino resident) talked about Regnart Creek Trail and feasibility study.

Tony Fong (Cupertino resident) talked about Regnart Creek Trail.

Jeonghee Yi (Cupertino resident) talked about Regnart Creek Trail.

John Liu talked about Regnart Creek Trail.

**CONSENT CALENDAR**

Paul moved and Sinks seconded to approve the items on the Consent Calendar as presented with the exception of item number 16 which was pulled for discussion. Ayes: Scharf, Chao, Paul, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

2. Subject: Approve the April 16 City Council minutes (continued from May 7)  
Recommended Action: Approve the April 16 City Council minutes
3. Subject: Approve the April 30 City Council minutes  
Recommended Action: Approve the April 30 City Council minutes
4. Subject: Approve the May 7 City Council minutes  
Recommended Action: Approve the May 7 City Council minutes
5. Subject: Late submittal of three Teen Commission applicants letter of recommendation  
Recommended Action: Waive late submittal of three Teen Commission applicants letter of recommendation and direct staff to accept the applications
6. Subject: Accept Accounts Payable for the period ending February 01, 2019  
Recommended Action: Adopt Resolution No. 19-049 accepting Accounts Payable for the period ending February 01, 2019
7. Subject: Accept Accounts Payable for the period ending February 08, 2019  
Recommended Action: Adopt Resolution No. 19-050 accepting Accounts Payable for the period ending February 08, 2019
8. Subject: Accept Accounts Payable for the period ending February 15, 2019  
Recommended Action: Adopt Resolution No. 19-051 accepting Accounts Payable for the period ending February 15, 2019
9. Subject: Accept Accounts Payable for the period ending February 22, 2019  
Recommended Action: Adopt Resolution No. 19-052 accepting Accounts Payable for the period ending February 22, 2019
10. Subject: Accept Accounts Payable for the period ending March 1, 2019  
Recommended Action: Adopt Resolution No. 19-053 accepting Accounts Payable for the period ending March 1, 2019
11. Subject: Accept Accounts Payable for the period ending March 08, 2019

Recommended Action: Adopt Resolution No. 19-054 accepting Accounts Payable for the period ending March 08, 2019

12. Subject: Treasurer's Investment Report for period ending March 31, 2019  
Recommended Action: Accept Treasurer's Investment Report for period ending March 31, 2019 and provide recommendations as necessary and appropriate.
13. Subject: Annual adoption of City Investment Policy  
Recommended Action: Adopt Resolution No. 19-055 accepting the City Investment Policy
14. Subject: Annual adoption of Other Post-Employment Benefits ("OPEB") Trust Investment Policy.  
Recommended Action: Adopt Resolution No. 19-056 accepting the City Investment Policy for the OPEB Trust.
15. Subject: Declare properties as having potential fire hazards from brush for the Cupertino Brush Abatement Program (Wildland-Urban Interface Fire Area), and set hearing date to declare a public nuisance and for objections to proposed removal.  
Recommended Action: Adopt Resolution No. 19-057 declaring properties as having potential fire hazards from brush and setting a hearing on June 18, 2019 to declare a public nuisance and for objections to proposed removal.
16. Subject: Resolution Authorizing Allocation of Transportation Development Act (TDA) Article 3 Funding in Response to a Call for Projects for the City's "Guarantee" Share of the TDA Article 3 Fiscal Year 2019-2020 Program  
Recommended Action: Adopt Resolution No. 19-058, A Resolution of the Cupertino City Council Approving the Request to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2019/2020 Transportation Development Act Article 3 Pedestrian and Bicycle Project Funding.

Written communications for this item included emails to Council.

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

Mayor Scharf opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Scharf closed public comment.

Staff answered questions from Council.

Sinks moved and Scharf seconded to adopt Resolution No. 19-058, A Resolution of the Cupertino City Council Approving the Request to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2019/2020 Transportation Development Act Article 3 Pedestrian and Bicycle Project Funding. The motion carried unanimously.

17. Subject: Recology Cupertino's request for payment of \$8,791 to cover additional costs to process commercial organic materials collected in calendar year 2018  
Recommended Action: Authorize a payment of \$8,791 to Recology Cupertino from the Resource Recovery fund 520-81-801 to cover costs to process an additional 292 tons of commercial organic materials collected over that which was collected in calendar year 2017

## SECOND READING OF ORDINANCES

18. Subject: Second reading of Ordinance No. 19-2184 repealing Ordinance No. 18-2179 which approved a Development Agreement for Vallco Town Center  
Recommended Action: Conduct the second reading and enact Ordinance No 19-2184: "An Ordinance of the City Council of the City of Cupertino repealing Ordinance No. 18-2179 which approved a Development Agreement by and between the City of Cupertino and Vallco Property Owner LLC for the Development of Vallco Town Center." Note: The first reading was conducted on 5/7/19 and there were no changes to the ordinance.

Written communications for this item included emails to Council.

Mayor Scharf opened public comment and the following individuals spoke:

Jean Bedord (Cupertino resident)  
Jennifer Griffin

Mayor Scharf closed public comment.

Deputy City Clerk Kirsten Squarcia read the title of the ordinance.

Paul moved and Scharf seconded to read Ordinance No. 19-2184 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Scharf, Chao, Paul, and Willey. Noes: Sinks. Abstain: None. Absent: None.

Paul moved and Scharf seconded to enact Ordinance No. 19-2184. Ayes: Scharf, Chao, Paul, and Willey. Noes: Sinks. Abstain: None. Absent: None.

**PUBLIC HEARINGS - None****ORDINANCES AND ACTION ITEMS**

19. Subject: Provide direction to Santa Clara County Department of Agriculture Weed Abatement Program staff on two non-compliant parcels removed from the Weed Abatement Program in Cupertino on February 5, 2019.

Recommended Action: Provide direction to Santa Clara County Department of Agriculture Weed Abatement Program staff on two non-compliant private parcels which were removed from the Cupertino Weed Abatement Program on February 5, 2019, and choose from one of the following options: a.) Take no action and wait another year; or b.) Order the parcels to be added to the Weed Abatement Program but do not seek abatement until next year; or c.) Adopt Resolution No. 19-059 declaring weeds a nuisance and setting a supplemental hearing to order abatement on June 18, allowing for the parcels to be added to Weed Abatement Program and providing for re-inspection, abatement, and recovery of County costs of abatement.

Deputy City Clerk Kirsten Squarcia reviewed the staff report.

Mayor Scharf opened public comment and the following individual spoke:

Brent Bardsley (Cupertino resident)

Mayor Scharf closed public comment.

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

Paul moved and Willey seconded to take no action and wait another year for the parcel at 10408 Menhart Lane; and adopted Resolution No. 19-059 declaring weeds a nuisance and setting a supplemental hearing to order abatement on June 18 allowing for the parcel at 11835 Upland Way be added to Weed Abatement Program list and providing for re-inspection, abatement, and recovery of County costs of abatement. The motion carried with Chao and Sinks voting no.

Council also directed staff to send a specific notice of hearing to the second parcel owner not present.

Council recessed from 10:02 p.m. to 10:12 p.m.

20. Subject: Approve the Third Quarter Financial Report and recommended budget adjustments for Fiscal Year 2018-19  
Recommended Action: 1. Accept the City Manager's Third Quarter Financial Report for FY 2018-19 2. Approve Budget Modification 1819-050 for Third Quarter adjustments as described in the Third Quarter Financial Report 3. Adopt a Resolution 19-060 approving Third Quarter budget adjustments

Written communications for this item included a presentation.

Finance Manager Zach Korach reviewed the presentation.

Staff answered questions from Council.

Paul moved and Willey seconded to 1. Accept the City Manager's Third Quarter Financial Report for FY 2018-19; and 2. Approve Budget Modification 1819-050 for Third Quarter adjustments as described in the Third Quarter Financial Report 3. Adopt Resolution 19-060 approving Third Quarter budget adjustments. The motion carried with Sinks voting no.

21. Subject: Adopt Resolution to approve the January 25, 2019 Final Draft Junipero Serra Trail Feasibility Study  
Recommended Action: Adopt Resolution No. 19-061 to approve the January 25, 2019 Final Draft Junipero Serra Trail Feasibility Study

Written communications for this item included a presentation, Draft Junipero Serra Trail Feasibility Study, and emails to Council.

Transportation Manager David Stillman reviewed the staff report and presentation.

Mayor Scharf opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Scharf closed public comment.

Staff answered questions from Council.

Sinks moved and Willey seconded to adopt Resolution No. 19-061 to approve the January 25, 2019 Final Draft Junipero Serra Trail Feasibility Study with the modification of language on page 26, first sentence of 3<sup>rd</sup> paragraph to say, "The steep drop-off adjacent to the trail edge is recommended to be mitigated with a guardrail". The motion carried unanimously.



22. Subject: Draft Citywide Parks and Recreation System Master Plan, request City Council feedback on opportunities and implementation sections of the plan.  
Recommended Action: Provide feedback on Chapters 4 and 5 and associated elements of the draft Citywide Parks and Recreation System Master Plan.

Written communications for this item included a presentation, Map D-3: Access to All Public Park Acreage within a 10-minute-walk, and emails to Council.

Director of Parks and Recreation Jeff Milkes introduced the item.

Park Improvement Manager Gail Seeds and MIG consultant Cindy Mendoza reviewed the presentation.

Mayor Scharf opened public comment and the following individuals spoke:

Anu (Cupertino resident)

Sophia Badillo (Cupertino resident)

S. Yeaton (Cupertino resident) - ceded time to Sophia Badillo

Nancy Boyle (Cupertino resident)

Jennifer Griffin

Mayor Scharf closed public comment.

Staff answered questions from Council.

Council provided feedback on Chapters 4 and 5 and associated elements of the draft Citywide Parks and Recreation System Master Plan.

Council comments included the following:

Chao: Include park maps in body of report; add community center pages; some park pages don't include the acreage; park pages should be alphabetized; need a map at the beginning of the section that includes the park pages; all recent improvements should be included for last 5 or 10 years; short-term recommendations for Jollyman Park do not match park page recommendations; Chapter 4 changes the wording from "recommendation" to "opportunities" but does not change the content and still focuses on major capital projects; may be better to separate sections to long term capital projects; separate into short term, long term and then major investments; Lawrence Mitty Park is not mentioned as an opportunity (Chao/Paul); did not include information on Stevens Creek Corridor; should introduce the corridor into the body of the plan; Blackberry Farm Golf course should not be

an immediate focus; page 85 mentions opportunities with schools but others not; certain schools and not others are listed to connect to certain areas; page 84 is confusing because they are not about new trails; on page 84, move last two bullets to new acquisition section; page 90 - Senior Center section is messy; Chapter 5 Early Action Initiatives - need to make clearer what makes up early action initiatives; trails are already in the Bike Master Plan and are out of place in a Parks Master Plan; need a description of the Stevens Creek Master Plan; we are spending money on planning projects when we don't have funds to implement the projects; the opportunities are not prioritized; current teen actions are summarized but not future ones; Chapter 5, includes short term actions that again is more planning without funds to implement; sequencing appendix has criteria but they have not been applied to prioritize the projects.

Willey: Like changes to Chapters 4 and 5; want more detail on projects that will be playing out within next 2, 3, and 5 years; look at location of community gardens; timeframes more of a working document and review on a yearly basis for follow through, updates, and popularity.

Paul: Chapter 4, page 84 - Change header "Saratoga Creek Trail" to "Saratoga Creek Trail and Lawrence-Mitty acquisition"; add language at the beginning of the first sentence to begin "Pursue acquisition of Lawrence-Mitty parcels on west side of Lawrence Expressway and consider..." (remainder of the sentence the same); page 86 - Under "Park Opportunities" - "Potential Locations/Opportunities", under the first bullet point, "New acquisitions especially in north and east Cupertino", put a sub-point: "- e.g., Lawrence-Mitty parcels on west side of Lawrence Expressway"; page 86 - Under "Trail Opportunities" - "Potential Locations/Opportunities", under the first bullet point, "New corridors as identified in City pedestrian, bicycle and transportation plans", add a comma and then add to the end of the sentence "including Lawrence-Mitty parcels on west side of Lawrence Expressway"; Chapter 5, page 102 - Under Community Gardens, edit first sentence to read, "Develop a community garden implementation plan that renovates in a timely manner the existing site at McClellan Ranch and identifies other suitable sites and priorities for implementation" (additional language underlined) (Paul/Sinks).

Scharf: Include something about expanding operating hours for Blackberry Farm; solve issues that don't allow it to be used year-round; Lawrence Mitty is great place for another dog park and community gardens; look at small pieces of land for adding to areas on the east side of town (like San Francisco does); appreciates Vice Mayor's comments (Scharf/Sinks).

Sinks: Have taken a lot of time on the Master Plan and put Stevens Creek Corridor on hold for it; time to codify the Plan, go through CEQA, and act on these improvements; make

some decisions about how to not lose so much money running the golf course (Chao/Scharf); supports Mayor's thought on extending the season at Blackberry Farm; supports looking opportunistically at parcels and investments on east side of town; supports Mayor Scharf's community gardens ideas; supports all of Councilmember Paul's and Mayor Scharf's comments.

Chao: Supports community gardens and small dog parks; concerned about prioritization of piloting elements and not really listed; don't think CIP is right place for setting priorities; the prioritization that occurs via a strategic plan should come back to Council for approval and comment (Chao/Scharf); have asked for population density maps showing number of people in area and amount of available parkland in an area (Chao/Scharf); will allow for objective standards and developers will pay more park fees or designate more parkland to build in deficient areas (Chao/Scharf); provide density data for community room space; can also be included in follow-up document for objective standards; use data to determine residential density/households per acre of parkland and indicate the results on a map (Sinks/Chao); use staff instead of consultant to avoid any further delay (Sinks/Scharf); maps should be integrated into the Plan like Palo Alto and Los Altos (Chao/Scharf).

23. Subject: Consideration of resolution to change the order of business for Regular City Council meetings.  
Recommended Action: Rescind Resolution No. 11-176 and adopt Resolution No. 19-062 to change the order of business for Regular City Council meetings.

Written communications for this item included an amended draft resolution and an email to Council.

Deputy City Clerk Kirsten Squarcia reviewed the staff report.

Mayor Scharf opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Scharf closed public comment.

Paul moved and Sinks seconded to rescind Resolution No. 11-176. The motion carried unanimously.

Paul moved and Scharf seconded to adopt Resolution No. 19-062 to change the order of business as noted below. The motion carried unanimously.

1. Pledge of Allegiance;
2. Roll Call;
3. Ceremonial Matters and Presentations;
4. Postponements;
5. Oral Communications;
6. Reports by Council and Staff (10 minutes);
7. Consent Calendar;
8. Second Reading of Ordinances;
9. Public Hearings;
10. Ordinances and Action Items;
11. Council and Staff Comments and Future Agenda Items;
12. Adjournment

#### REPORTS BY COUNCIL AND STAFF

24. Subject: Update Regarding SR 85 Policy Advisory Board and provide input regarding alternatives

Recommended Action: Receive update and provide comment

Written communications for this item included a presentation.

Senior Transit & Transportation Planner Chris Corrao reviewed the presentation.

Staff answered question from Council.

Mayor Scharf opened public comment and the following individual spoke:

Jennifer Griffin

Mayor Scharf closed public comment.

Council received the update regarding SR 85 Policy Advisory Board and provided comments on the alternatives.

- Supports a high-capacity, high-speed transit project along this corridor, concerned with the direction of the initial proposed alternatives, including the assumption from the Travel Market Analysis suggesting a low projected ridership due to demographics and land use patterns of the west valley.
- Corridor is congested mostly due to the lack of affordable housing near job centers, with growing employee commute times while employees continue to move further from job

centers in search of adequate housing. Demographics of the neighborhoods immediately surrounding SR 85 are less relevant, as a high-speed and convenient transit service will attract riders from a greater catchment area when it is time competitive.

- Two Metropolitan Transportation Commission (MTC) Communities of Concern are located in close proximity to this corridor, both near SR 85 and US 101 at its southern junction. Also, Morgan Hill and Gilroy are the fastest growing cities in Santa Clara County with the most building permits issued according to MTC data.
- While light rail may not be the best solution for this corridor, three of the proposed alternatives presented by VTA staff are for High Occupancy Vehicle (HOV) toll lanes or carpool lanes and are not transit project alternatives.

Council does not support the following:

1. Freeway widening for carpool or HOV lanes: adding vehicle capacity is not a long term solution and may lead to increased congestion in neighboring communities; and
2. Single Occupant Vehicle (SOV) drivers paying into HOV lanes: this is not equitable and given the demographics of Silicon Valley, SOV demand for HOV lanes is likely to quickly reach capacity; and
3. Numerous Stations: Far fewer stations are needed along the corridor to ensure fast service, 3-5 stations should be considered otherwise service will be slow and less desirable.

Council does support the following:

- A physically separated transit guideway for high-capacity transit vehicles, with travel speeds comparable to rail, not for use by public vehicles, with the exception of corporate shuttles which could pay a fee to use the guideway to subsidize a public transit service.
- Caltrain serves as a good local example of how a fast, high-capacity transit service, with peak hour travel patterns can generate a high ridership and high farebox recovery despite passing through lower density communities, and despite constrained parking facilities.
- A transit guideway service with complimentary scheduling to the Mountain View Caltrain station would make the system convenient for transit riders. A physically separated guideway could also serve as a testing ground for autonomous transit vehicles, which may be of interest to private entities in the region interested in testing this technology in a controlled environment. Autonomous vehicles could reduce operating costs of a public transit service significantly.

25. 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.

Council requested the following:

- Look at composition of Economic Development Committee (EDC) (Chao/Scharf)
- Look at adding a standing legislative updates item for Council meetings (Chao/Scharf)

## ADJOURNMENT

At 2:05 a.m. on Wednesday, May 22, Mayor Scharf adjourned the meeting.

  
Kirsten Squarcia, Deputy City Clerk