

CITY COUNCIL MINUTES

City of Campbell, 70 N. First St., Campbell, California



REGULAR MEETING OF THE CAMPBELL CITY COUNCIL

Tuesday, January 21, 2020 7:30 p.m.

City Hall Council Chamber – 70 N. First Street

The City Council Regular Meeting will be teleconferenced pursuant to Government Code Section 54953(b)(3) with Mayor Susan M. Landry from the location at the Capital Hilton, Business Center, 16th & K Streets, NW, Washington, DC 20036. The teleconference location shall be accessible to the public for the open session portion of the meeting pursuant to Government Code Section 54953(b)(3).

This City Council meeting was duly noticed pursuant to open meeting requirements of the Ralph M. Brown Act (G.C. Section 54956).

This meeting was recorded and can be viewed in its entirety at www.cityofcampbell.com/agendacenter.

CALL TO ORDER

The City Council of the City of Campbell convened this day in the regular meeting place, the City Hall Council Chamber, 70 N. First St., Campbell, California.

ROLL CALL

Attendee Name	Title	Status
Susan M. Landry	Mayor	Remote
Elizabeth 'Liz' Gibbons	Vice Mayor	Present
Rich Waterman	Councilmember	Present
Anne Bybee	Councilmember	Present
Paul Resnikoff	Councilmember	Present

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice Mayor Gibbons.

SPECIAL PRESENTATIONS AND PROCLAMATIONS

There were no special presentations or proclamations.

COMMUNICATIONS AND PETITIONS

There were no communications or petitions.

ORAL REQUESTS

Carol Hoffman, Civic Improvement Commission Chair, spoke about the Beautification Grant Program and encouraged more people to apply before the January 31 deadline.

COUNCIL ANNOUNCEMENTS

The City Council Measure O RFP Ad Hoc Committee has been working with staff to refine the draft RFPs for design consultant services. The proposed drafts were anticipated to be considered by the City Council at tonight's meeting. However, the draft RFP's are still being finalized and it is now anticipated that the Council will consider authorizing the issuance of the RFP's at the February 4 meeting.

Santa Clara County residents are urged to apply for service on the Civil Grand Jury. For more information, please contact the Santa Clara County Superior Court at www.CGJ@scscourt.org.

Bike to the Future is here. Bike to the Future is a scholarship competition run by Silicon Valley Clean Energy in which high school students design and build an electric bike to compete in challenges testing efficiency, innovation, and design. For more information, or to sign up online, please visit www.SVCleanenergy.org.

The Civic Improvement Commission is currently accepting applications for the Beautification Grant Program. Applications will be accepted through January 31. For more information, please visit www.campbellca.gov.

The City of Campbell's Youth Job Fair is scheduled for Friday, January 31, from 3:30 p.m. to 5:00 p.m. at the Campbell Community Center in the Orchard City Banquet Hall. High school juniors 16 and older are invited to attend. For more information, please visit www.campbellca.gov.

The 43rd annual Valentine Fun Run is scheduled for 9:00 a.m. Saturday, February 8, at Campbell Park. The deadline to pre-register for this event is Friday, January 31. For more information, please visit www.campbellca.gov.

Celebrate Campbell's rich heritage at the Early Settlers Day event at the Orchard City Banquet Hall, on Monday, February 17, at noon. Pre-registration is required and lunch will be served. For more information, please contact Dan Furtado at (408) 378-3506.

The AARP Foundation is providing free income tax assistance from February 4 through April 14 at the Community Center's Adult Center. This service is available for low to moderate-income adults and families ages 18+. For more information, please visit www.campbellca.gov.

The City of San Jose is partnering with the National Council on Aging to offer the Aging Mastery Program for Caregivers. This 12-week program is designed to educate caregivers about the impacts of caregiving and provide tools to stay healthy. There are

limited spots available. For more information, please visit www.sjregistration.com.

CONSENT CALENDAR

Vice Mayor Gibbons asked if any Councilmember or anyone in the audience wished to remove any item from the Consent Calendar.

The Consent Calendar was considered as follows:

1. **Minutes of City Council Regular Meeting of December 17, 2019**
Recommended Action: Approve the regular meeting minutes of December 17, 2019.

This action approves the regular meeting minutes of December 17, 2019, with a correction on page eight to change the word delegate to dignitary.

2. **Approving Bills and Claims**
Recommended Action: Approve the bills and claims in the amount of \$2,861,335.58.

This action approves the bills and claims in the amount of \$2,861,335.58 as follows: bills and claims checks dated December 9, 2019, in the amount of \$183,553.74; payroll checks dated December 12, 2019, in the amount of \$84,860.37; bills and claims checks dated December 16, 2019, in the amount of \$441,695.19; bills and claims checks dated December 23, 2019, in the amount of \$1,909,518.49; payroll checks dated December 26, 2019, in the amount of \$73,695.11; and bills and claims checks dated January 6, 2020, in the amount of \$168,012.68.

3. **Memorandum of Understanding Between the County of Santa Clara and the City of Campbell for Crime Laboratory Major Case Work (Resolution/Roll Call Vote)**

Recommended Action: That the City Council adopt a resolution authorizing the City Manager to execute the Memorandum of Understanding regarding services provided by the Santa Clara County Crime Lab related to the investigation and prosecution of criminal cases, authorize the City Manager to execute future amendments and/or agreements, and to authorize staff to incorporate the program's annual expenses into the appropriate fiscal year's budget.

Resolution 12547 authorizes the City Manager to execute the Memorandum of Understanding regarding services provided by the Santa Clara County Crime Lab related to the investigation and prosecution of criminal cases, authorizes the City Manager to execute future amendments and/or agreements, and authorizes staff to incorporate the program's annual expenses into the appropriate fiscal year's budget.

M/S: Resnikoff/Bybee - that the City Council approve the consent calendar

with a correction to item one, page eight of the minutes, to change the word delegate to dignitary. Motion was adopted by the following roll call vote:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Resnikoff
SECONDER:	Bybee
AYES:	Landry, Gibbons, Waterman, Bybee, Resnikoff

PUBLIC HEARINGS AND INTRODUCTION OF ORDINANCES

4. **Public Hearing – Resolution Directing the Community Development Director to Proceed with Abatement of Hazardous Vegetation (Resolution/Roll Call Vote)**

Recommended Action: That the City Council adopt a resolution directing the Community Development Director to proceed with the abatement of hazardous vegetation by the Santa Clara County Agricultural Commissioner’s Office.

This is the time and place for a public hearing to direct the Community Development Director to proceed with the abatement of hazardous vegetation by the Santa Clara County Agricultural Commissioner’s office.

Senior Planner Fama presented the staff report dated January 21, 2020.

Vice Mayor Gibbons declared the public hearing open and asked if there was anyone in the audience wishing to be heard.

There being no one wishing to be heard, Vice Mayor Gibbons closed the public hearing.

M/S: Resnikoff/Waterman - that the City Council adopt Resolution 12548 directing the Community Development Director to proceed with the abatement of hazardous vegetation by the Santa Clara County Agricultural Commissioner’s Office. The motion was adopted by the following roll call vote:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Resnikoff
SECONDER:	Waterman
AYES:	Landry, Gibbons, Waterman, Bybee, Resnikoff

5. **Appeal of Massage Establishment Permit Revocation – Bascom Massage Located at 3495 S. Bascom Avenue, Campbell, California (Resolution/Roll Call Vote)**

Recommended Action: That the City Council adopt a resolution that rejects the appeal of the revocation of the Massage Establishment Permit for Bascom

Massage and its owner Peiran Xu.

This is the time and place for a public hearing to hear an appeal of a massage establishment permit revocation for Bascom Massage located at 3495 S. Bascom Avenue, Campbell, California.

City Clerk Wood swore in all testifying parties.

Police Sergeant White presented the staff report dated January 21, 2020.

Vice Mayor Gibbons declared the public hearing open and asked if there was anyone in the audience wishing to be heard.

James Cai, appellant's attorney, presented his case on behalf of his client Peiran Xu, owner of Bascom Massage.

Campbell resident requested to speak on this item.

City Clerk Wood swore him in to allow him to testify.

Campbell resident stated concerns with the business and agrees with the staff's recommendation to revoke the massage establishment.

James Cai, appellant's attorney, gave closing remarks in response to concerns brought up by the previous speaker and spoke about the establishment.

There being no one else wishing to speak, Vice Mayor Gibbons closed the public hearing.

After discussion, **M/S: Resnikoff/Waterman - that the City Council adopt Resolution 12549 rejecting the appeal of the revocation of the Massage Establishment Permit for Bascom Massage and its owner Peiran Xu. The motion was adopted by the following roll call vote:**

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Resnikoff
SECONDER:	Waterman
AYES:	Landry, Gibbons, Waterman, Bybee, Resnikoff

- 6. Public Hearing to Consider the Appeals of Herb Weinman, Catherine Clock, and Mary Broxon, Appealing the Planning Commission Approval of a Conditional Use Permit with Site and Architectural Review, Tree Removal Permit, and Environmental Review to Allow Construction of a 4,554 Square Foot Fast-Food Restaurant with an 84-Seat Interior Dining Area, a 16-Seat Outdoor Dining Area, a 19-Vehicle Drive-Through Lane with Outdoor Activities (Drive-Up Window), and Associated Site, Lighting, Parking, Refuse Collection, and Landscaping Improvements (PLN2018-206); a Tree**

Removal Permit to Allow Removal of Protected On-Site Trees (PLN2018-207); and Adoption of a Mitigated Negative Declaration (PLN2018-206), for Property Located at 2060 S. Bascom Avenue in the C-2 (General Commercial) Zoning District (Resolutions/Roll Call Vote)

Recommended Action: That the City Council deny the appeals, thereby upholding the Planning Commission's decision to approve the project, subject to the following Resolutions and Conditions of Approval: resolution adopting a Mitigated Negative Declaration; resolution approving a Conditional Use Permit with Site and Architectural Review to allow construction of a 4,554 square-foot fast-food restaurant with an 84-seat interior dining area, a 16-seat outdoor dining area, a 19-vehicle drive-through lane with outdoor activities (drive-up window), and associated site, lighting, parking, refuse collection, and landscaping improvements (PLN2018-206); and resolution approving a Tree Removal Permit to allow removal of protected on-site trees (PLN2018-207).

This is the time and place for a public hearing to consider the appeals of Herb Weinman, Catherine Clock, and Mary Broxon, appealing the Planning Commission approval of a Conditional Use Permit with Site and Architectural Review, Tree Removal Permit, and environmental review to allow construction of a 4,554 square foot fast-food restaurant with an 84-seat interior dining area, a 16-seat outdoor dining area, a 19-vehicle drive-through lane with outdoor activities (Drive-Up Window), and associated site, lighting, parking, refuse collection, and landscaping improvements (PLN2018-206); a Tree Removal Permit to allow removal of protected on-site trees (PLN2018-207); and adoption of a Mitigated Negative Declaration (PLN2018-206), for property located at 2060 S. Bascom Avenue in the C-2(General Commercial) Zoning District.

Community Development Director Kermoyan presented the staff report dated January 21, 2020.

Public Works Director Capurso gave a brief presentation on the traffic impact analysis.

Council asked questions relating to traffic.

Mark Spencer, Principal Transportation Engineer for W-Trans, and primary author of the traffic impact analysis for the proposed project provided clarification on the calculations for the analysis.

Vice Mayor Gibbons declared the public hearing open and called up appellants Catherine Clock and Mary Broxon for their five-minute opening statement.

Catherine Clock stated that they would have Dave Pogue speak for their five minutes.

Dave Pogue, Campbell resident gave a slide presentation on traffic issues with an existing Chick-fil-A restaurant, spoke about concerns with queuing, and stated

that the site is not appropriate for this use.

Herb Weinman, appellant, spoke about issues with the drive-through near residential and commented on concerns with the increase of trash and traffic in the neighborhood.

Miriam Montesinos, attorney with Pelosi Law Group, representing Chick-fil-A, commented on two legal factors for Council consideration; stating that only the operation can be considered, not the operator; and that there needs to be substantial evidence that the Planning Commission erred in making their decision.

Patrick Ahrens, representative from Assemblymember Evan Low's office, spoke in opposition of the project on behalf of Assemblymember Evan Low, stating concerns with traffic, noise, emissions, and the social-cultural history of the business.

Kevin Lee, representative from Santa Clara County Supervisor Dave Cortese's office, spoke on behalf of Supervisor Dave Cortese stating concerns with traffic, queuing, and requested that the Council oppose this project.

David Ronca, Campbell resident, spoke in support of Chick-fil-A and commented positively on the business.

Maria Smith, Campbell resident, spoke about the Dry Creek Neighborhood Association and the lack of follow-up with the Chick-fil-A representatives in regards to meetings.

William Seelig, Campbell resident, spoke about using Denny's restaurant for toastmaster meetings, commented on concerns with traffic, and stated that he is against this project.

Howard Applegate, Campbell resident, showed a video of traffic at an existing Chick-fil-A and commented on traffic concerns.

Joelle Lambert, Campbell resident, commented on concerns with traffic in neighborhoods and requested that Council deny the proposal.

Annie Pogue, Campbell resident, commented on traffic on Bascom Avenue and stated concerns with suggested mitigations.

Diego Certa, Campbell resident, commented on impacts Chick-fil-A could have on the community, spoke about Denny's wanting to stay in their current location, and stated concerns with drive-through businesses.

Bryson Santaguida, Campbell resident, commented on several findings and stated that this project does not meet the mandatory findings for approval.

John Nourse, San Jose resident, spoke about gross sales for Chick-fil-A and stated several reasons this project should be denied.

Devika Sagar, current franchisee of the Denny's restaurant, stated that they plan on staying at the location and commented on the groups that meet at Denny's on a regular basis.

Jean Lund, Campbell resident, commented on concerns with traffic and neighborhood integrity and asked that Council vote no on this proposal.

Mark Broxon, Campbell resident, commented on issues with Chick-fil-A and urged Council to turn down this project.

Maria Matteis, Campbell resident, commented on the efforts of the community group supporting the appeal and asked Council to vote to uphold the appeal.

Arthur Low, Sunnyvale resident, spoke against the Chick-fil-A being in the location where Denny's is currently, and commented on being a patron of Denny's for the past 15 years.

Patrick Murphy, Campbell resident, spoke about parking and traffic concerns and submitted his comments for the record.

Kevin Makley, Campbell resident, stated that he is in opposition of the Chick-fil-A and commented on the letters submitted from Supervisor Dave Cortese and Assemblymember Evan Low.

Joe Hernandez, Campbell resident, former Planning Commissioner, and former City Councilmember, commented on the use, stating that this use is not consistent with the General Plan and it is not the right business for the site.

Will Wong, North San Jose Chick-fil-A owner, spoke about the business and a leadership development intern program he started to help aspiring entrepreneurs.

John Lewis, Campbell resident, spoke about traffic and safety concerns in the neighborhood near the proposed project.

Diane Zimmerman, Campbell resident, spoke about being a patron of the Denny's restaurant and would like the Denny's to stay in its current location.

Sergio Lopez, Campbell resident, commented on the Denny's restaurant being a good community partner and stated that he is opposing the project.

Matt Dapoleto, Campbell resident, commented on Chick-fil-A and stated that he is against this project.

Wayne Firsty, Campbell resident, spoke about the number of vehicle trips in

relation to peak hours.

Michael Denton, Milpitas resident, stated that he is a local organizational leader in his city and commented on the benefits Chick-fil-A has brought to his city and community.

George Tretyakov spoke about the Chick-fil-A representative's comments, stated that Denny's is a fixture in the community, and commented on Chick-fil-A's political history with the LGBTQ+ community.

JoElle Hernandez, Campbell resident, commented on concerns with traffic crossing over Bascom Avenue to turn onto Campbell Avenue and stated that the traffic study does not address this concern.

Gene Haun, Campbell resident, commented on traffic going on to the neighborhood streets and stated that he does not support this location for this business.

Audrey Kiehtreiber, Campbell resident and President of the San Tomas Area Community Coalition (STACC), spoke about concerns with parking and urged Council to consider the overall effects to the surrounding area.

Sahil Sagar, current employee of Denny's, spoke about Chick-fil-A, commented on working at Denny's, and asked Council to look at the impacts this project will have on the community.

Catherine Clock, appellant, commented on concerns with traffic and the impacts navigational apps will have on the neighborhood.

Mary Broxon, appellant, spoke about issues with the proposed project, stated several policies in the General Plan that the project does not follow, and asked that the Council vote to oppose the project.

Kim Moynier, Campbell resident, stated that she opposes the Chick-fil-A project and commented that there are several people in the audience that did not speak but are also opposed to the project.

Dave Pogue spoke on behalf of appellants Catherine Clock and Mary Broxon and provided closing remarks, recapping the concerns raised in regards to this project.

Miriam Montesinos, attorney with Pelosi Law Group, representing Chick-fil-A, provided closing remarks clarifying her previous statement, listed the changes made to the project by the applicant based on previous feedback, and encouraged Council to uphold the Planning Commission approval and deny the appeals.

There being no one else wishing to speak, Vice Mayor Gibbons closed the public hearing.

Vice Mayor Gibbons called for a brief recess.

Council reconvened at 10:55 p.m.

Council discussed concerns with the project related to traffic, queuing, and parking.

After further discussion, **M/S: Landry/Bybee - that the City Council continue this item with direction to staff to bring back a resolution with the appropriate findings to approve the appeal and deny the project to Council on February 18, 2020. The motion was adopted by the following roll call vote:**

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Landry
SECONDER:	Bybee
AYES:	Landry, Gibbons, Waterman, Bybee, Resnikoff

NEW BUSINESS

7. 2020 City Council Meeting Schedule (Resolution/Roll Call Vote)

Recommended Action: That the City Council adopt a resolution approving the 2020 City Council meeting schedule.

Mayor Landry requested that the August 4 meeting be moved to Monday, August 3, instead of canceling it; the November 3 meeting be moved to Monday, November 2; proposed two additional meetings, one on September 29 and one on June 30, and hold the January 5 meeting in 2021.

Vice Mayor Gibbons asked if anyone in the audience wished to speak on this item.

Steve Saunders, Campbell resident, submitted a speaker card indicating that he would like Study Session dates included on the calendar.

Council discussed the proposed changes.

After discussion, **M/S: Resnikoff/Waterman - that the City Council adopt Resolution 12550 approving the 2020 City Council meeting schedule with a change to move the November 3, 2020 meeting, to November 2, 2020. The motion was adopted by the following roll call vote:**

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Resnikoff

SECONDER: Waterman
AYES: Landry, Gibbons, Waterman, Bybee, Resnikoff

COUNCIL COMMITTEE REPORTS

8. **Council Committee Reports**

Recommended Action: Report on committee assignments and general comments.

This item was continued.

ADJOURN

Vice Mayor Gibbons adjourned the meeting at 11:55 p.m.

APPROVED:

ATTEST:

Susan M. Landry, Mayor

Wendy Wood, City Clerk