

**APPROVED MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, DECEMBER 3, 2013, 7 P.M.**

**CALL TO ORDER**

Mayor Spitaleri called the meeting to order in the Council Chambers.

**SALUTE TO THE FLAG**

Mayor Spitaleri led the salute to the flag.

**ROLL CALL**

**PRESENT:**

Mayor Anthony (Tony) Spitaleri  
Vice Mayor Jim Griffith  
Councilmember Christopher Moylan  
Councilmember David Whittum  
Councilmember Pat Meyering  
Councilmember Tara Martin-Milius  
Councilmember Jim Davis

**ABSENT:**

None

**STAFF PRESENT:**

City Manager Gary Luebbers  
City Attorney Joan Borger  
Assistant City Manager Robert Walker  
Assistant Director of Finance Tim Kirby  
Chief of Public Safety Frank Grgurina  
Director of Public Works Kent Steffens  
Director of Community Development Hanson Hom  
City Clerk Kathleen Franco Simmons

**CLOSED SESSION REPORT FOR DECEMBER 3, 2013**

Vice Mayor Griffith reported Council met in Closed Session Pursuant to Government Code 54957 - Public Employee Appointment - City Manager; nothing to report.

**PUBLIC ANNOUNCEMENTS**

Vice Mayor Griffith announced an upcoming board and commission application deadline.

Denise DeLange announced the upcoming Sunnyvale Community Services Auction.

Mayor Spitaleri announced Item 3 will be heard before Item 2.

*\*Approved by Council 12/17/2013*

**CONSENT CALENDAR**

Councilmember Meyering pulled Item 1.D.

Councilmember Whittum stated his vote would be a recusal on Item 1.B. as his home may be within 500 feet of Evelyn Avenue.

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Consent Calendar with the exception of Item 1.D.

VOTE: 7 – 0

Council considered pulled Consent Calendar Item 1.D. following Item 6.

1.A. Approval of Information/Action Items – Council Directions to Staff

**Contract Items**

1.B. RTC 13-289 Award of Bid No. PW14-01 for Improvements to Downtown Parking Lots – Evelyn Avenue and Frances Street and Finding of CEQA Categorical Exemption

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to award a contract in substantially the same format as the draft attached to the report and in the amount of \$119,786 to American Asphalt Repair and Resurfacing Co., Inc. for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met; approve a 10% construction contingency in the amount of \$11,979; and make a finding that the project is categorically exempt from CEQA pursuant to Class 1, Section 15301(c) and (d).

VOTE: 6 - 0 (Councilmember Whittum recused)

1.C. RTC 13-287 Authorization to Amend an Existing Contract with Union Bank for Banking Services

Staff Recommendation: Approve an amendment to extend the contract for banking services for a three-year term to expire on December 31, 2016.

**Personnel**

1.D. RTC 13-282 Amendment to the Schedule of Pay of the Salary Resolution: Salary Adjustment for Pay Plan Category C (applies to Classified Public Safety Officers and Lieutenants) and Pay Plan Category D/E (Applies to Public Safety Captains and Public Safety Deputy Chiefs)

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to amend Pay Plan Category C and D/E of the Schedule of Pay of the Salary Resolution to reflect the new pay rates, effective retroactive to July 7, 2013.

VOTE: 6 – 1 (Councilmember Meyering dissented)



Nitin Bahadur spoke in opposition to the joint use agreement for Raynor Park Open Space with Stratford School.

Antony Sargent spoke in opposition to the joint use agreement.

Bill Martinusen spoke in opposition to the joint use agreement in its current form.

Kevin Kelly, former President and current Board member of Sunnyvale Metro Little League, spoke regarding the impacts of the joint use agreement on the League and requested joint discussions with Sunnyvale Metro Little League and the other organizations that are current users of the park.

Rebecca Brown, current President of Sunnyvale Metro Little League, spoke in opposition to the joint use agreement.

Mei-Ling Stefan spoke in opposition to the joint use agreement and funding the Lakewood Branch Library with proceeds from the sale of Raynor Activity Center.

Holly Lofgren spoke in opposition to the joint use agreement and requested a new RFP be issued with clarity regarding any joint use of the park.

Leigh Zerboni spoke in opposition to the joint use agreement.

Rupert Brauch spoke in opposition to the joint use agreement.

Margaret Noë, Regional Commissioner for Sunnyvale AYSO, spoke regarding the soccer organization and recommended against the joint use agreement with Stratford.

Elizabeth Sosa, Laurelwood Preschool Board President and Laurelwood Elementary PTA Chairperson, spoke in opposition to the joint use agreement.

Kristin Brennan spoke regarding Sunnyvale Alliance use of Raynor Park for youth sports practice and requested rejection of the joint use agreement.

Heather Chen spoke in opposition to the joint use agreement.

Teresa Wiegman requested a new RFP process with a cost-benefit analysis.

Steve Sarette spoke regarding his disappointment in the City for setting up a situation where one neighborhood was pitted against another.

Peter Cirigliano spoke in support of the proposal for the joint use agreement.

Henry Alexander, Chair of the Parks and Recreation and Board Member of Raynor Park Neighborhood Association speaking for himself, spoke regarding the impact of the joint use agreement on the use of Raynor Park and requested a delay in the decision and that it be sent to the Parks and Recreation Commission for review prior to Council action.

Sean Thornton spoke in opposition to the joint use agreement.

Clay Stringham, representing Stratford School, provided information regarding the school's intent to be good neighbors, the investment to be made in the buildings, and stated the school has no summer activity afterschool programs.

Preeti Sharma provided information and written materials regarding a petition in opposition to the joint use agreement.

Denise DeLange spoke in opposition to the joint use agreement.

Philip Johnson requested the agreement be rejected and that public use of the park be retained.

Claudia Patzan requested the park be shared fairly with families for leisure use.

Vincent Wu urged rejection of the joint use agreement.

Jean Batryn spoke in support of re-opening the RFP process and in opposition to the joint use agreement.

Eleanor Hansen suggested the school consider the sense of anger from the community and reconsider.

Tap Merrick spoke regarding the proposed basketball court location and loss of space for baseball fields for youth sports organizations.

Jill Shanmugasundaram, Chair of Board of Library Trustees, expressed support for the funding of the branch library with the sale of Raynor Activity Center.

Cyrus Fakhari recommended repairing the school and retaining it for use as a public school.

Preeti Ray spoke in opposition to the joint use agreement and the funding of a branch library at the expense of Raynor Park.

Daniel Bremond, speaking for himself, requested approval of the joint use agreement.

Martin Landzaat spoke in opposition to the joint use agreement and recommended having the Parks and Recreation Commission review it.

Bill Boiko spoke in opposition to the joint use agreement and the sale of Raynor Activity Center.

Public Hearing closed at 10:45 p.m.

**MOTION:** Vice Mayor Griffith moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Authorize the City Manager to execute the Joint Use Agreement between the City of Sunnyvale and Stratford School, Inc. for the use of Raynor Park.

**SUBSTITUTE MOTION:** Councilmember Whittum moved and Councilmember Davis seconded the motion to send staff back to reconsider the joint use agreement, including consideration of knocking something off the price if they'd like to give up the terms of the joint use agreement.

VOTE on SUBSTITUTE MOTION: 3 – 4 (Vice Mayor Griffith, Mayor Spitaleri, and Councilmembers Moylan and Martin-Milius dissented)  
Motion failed.

AMENDMENT: Councilmember Whittum moved to amend the motion and Councilmember Davis seconded the motion that the joint use agreement as approved should limit priority use of areas one and two by Stratford to 9 a.m. to 3 p.m. on Santa Clara Unified School District days.

VOTE on AMENDMENT: 3 - 4 (Vice Mayor Griffith, Mayor Spitaleri, and Councilmembers Moylan and Martin-Milius dissented)  
Motion failed.

AMENDMENT: Councilmember Whittum moved to amend the motion and Councilmember Meyering seconded the motion that the joint use agreement be approved subject to the input and modifications regarding the basketball court as determined and reviewed by the Parks and Recreation Commission in consultation with staff.

VOTE on AMENDMENT: 3 - 4 (Vice Mayor Griffith, Mayor Spitaleri, and Councilmembers Moylan and Martin-Milius dissented)  
Motion failed.

FRIENDLY AMENDMENT: Vice Mayor Griffith offered a friendly amendment to the original motion to say that the use permit for the basketball court should additionally go to the Parks and Recreation Commission.

VOTE on MAIN MOTION: 4 – 3 (Councilmembers Meyering, Whittum and Davis dissented)

Council recessed at 11:43 p.m.

Council reconvened at 11:58 p.m. with all Councilmembers present.

Vice Mayor Griffith suggested Council consider the remaining items in the following order: Item 4, Item 6, and then Item 5.

MOTION: Councilmember Moylan moved and Vice Mayor Griffith seconded the motion to continue with the meeting.

VOTE: 5 – 2 (Councilmembers Meyering and Whittum dissented)

MOTION: Councilmember Whittum moved to continue Item 6 to the next meeting.  
Motion died for lack of a second.

Council took up consideration of Item 4 at this time.

3. RTC 13-283 Discussion and Possible Action on related applications for a 55.39 acre office complex with six new eight-story office buildings, a two story amenities building, surface parking, two parking structures and associated landscape improvements at 1152 Bordeaux Avenue in a MP-I and MP-TOD Zoning District (APNs: 110-25-037, 038; 110-27-017, 023, 031, 032; 100-35-007, 008, 009): Certification of Final Subsequent Environmental Impact Report, Adoption of Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations to consider development of an approximately 1.8 million square foot office development; Amendment to the Moffett Park Specific Plan for eight parcels from Moffett Park Industrial to Moffett Park Transit Oriented Development and associated text changes; Introduction of an Ordinance to Rezone Eight Parcels From MP-I to MP-TOD; Major Moffett Park Design Review to allow the development of an approximately 1.8 million square foot office development; and Introduction of an Ordinance for a Development Agreement between City of Sunnyvale and Jay Paul Company (Moffett Place, LLC)

Council considered this item prior to Item 2.

Director of Community Development Hanson Hom presented the staff report and indicated staff suggests expanding the mitigation measure for the noise coordinator to have the person serve as a general construction coordinator to not only address noise impacts, but to address all related construction impacts and to require the developer to be proactive in notifying neighbors in advance of upcoming construction activity.

Councilmember Whittum disclosed he met with representatives of Jay Paul Company.

Public Hearing opened at 7:43 p.m.

Applicant Jay Paul provided information regarding the project and the benefits to the community, on-site amenities center for tenants, and design for the protection of birds.

Tom Gellman, DES Architects, spoke regarding the architectural elements and site plan and provided a PowerPoint presentation.

Andy Frazer spoke regarding the amenities per square foot of office space and suggested the City may have room to negotiate bigger amenities.

Kerry Haywood, Executive Director of the Moffett Park Business Group, spoke in support of Jay Paul's Moffett Place project.

Eleanor Hansen spoke regarding the need for aggressive TDM.

Shani Kleinhaus, Environmental Advocate, Santa Clara Valley Audubon Society, expressed concerns regarding the bird-safe design of the proposed project.

Martin Landzaat expressed concerns regarding traffic impacts.

Applicant Jay Paul provided additional comments regarding the project.

Public Hearing closed at 8:31 p.m.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to approve Alternatives 1, 3, 5, 7 and 9: 1) Adopt a resolution certifying the SEIR, adopting the Statements of Overriding Consideration, and adopting the Mitigation Monitoring and Reporting Program as contained in the Attachment L to the report; 3) Adopt a resolution to amend the Moffett Park Specific Plan to change the Land Use Designation from Moffett Park Industrial to Moffett Park Transit Oriented Development for eight parcels and associated text amendments including siting criteria for MP-TOD based on any portion of the parcel within ¼ mile of a LRT station, as contained in the Findings in Attachment C and Resolution in Attachment M to the report; 5) Introduce an ordinance to Rezone eight parcels within the Moffett Park Specific Plan Area from MP-I (Moffett Park Industrial) to MP-TOD (Moffett Park Transit Oriented Development) as contained in the Findings in Attachment D and Draft Ordinance in Attachment N to the report; 7) Approve the Major Moffett Park Design Review as indicated in the Site and Architectural Plans in Attachment H and T to the report, Findings of Approval in Attachment E to the report and Conditions of Approval in Attachment G to the report (includes Planning Commission Condition of Approval); and 9) Introduce an ordinance to enter into a Development Agreement between the City of Sunnyvale and Jay Paul Company as contained in findings for approval in Attachment F and Draft Ordinance in Attachment O to the report.

AMENDMENT: Councilmember Whittum moved to amend and Councilmember Meyering seconded the motion that the shuttle be a condition of approval at 75% occupancy subject to Community Development Department review at 5 years.

VOTE on AMENDMENT: 4 - 3 (Vice Mayor Griffith, Mayor Spitaleri and Councilmember Davis dissented)  
Motion carried.

AMENDMENT: Councilmember Whittum moved to amend and Councilmember Meyering seconded the motion that a condition of approval be the bus shelter and pad at Mathilda which they've already agreed to be a condition of approval.

VOTE on AMENDMENT: 2 – 5 (Vice Mayor Griffith, Mayor Spitaleri ,Councilmembers Moylan, Martin-Milius and Davis dissented)  
Motion failed.

AMENDMENT: Councilmember Whittum moved to amend and Councilmember Meyering seconded the motion to add as a condition of approval that there be automatic shades at night much like the approval at PAMF.

VOTE on AMENDMENT: 2 – 5 (Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan, Martin-Milius and Davis dissented)  
Motion failed.

AMENDMENT: Councilmember Whittum moved to amend and Councilmember Meyering seconded the motion that words be stricken in the mitigation measure for 4.3-4(a) where it says: "...the proposed building design incorporates design features for bird safe buildings..." to strike the following phrase where it says: "... so long as they do not conflict with the project objective of constructing an energy efficient building design to meet LEED Gold certification."

VOTE on AMENDMENT: 3 – 4 (Vice Mayor Griffith, Mayor Spitaleri and Councilmembers Moylan and Davis dissented)  
Motion failed.

AMENDMENT: Councilmember Whittum moved to amend and Councilmember Meyering seconded the motion that the project should take responsibility for mitigating the view shed impacts in Orchard Gardens neighborhood out to about 2,000 feet.

VOTE on AMENDMENT: 2 – 5 (Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan, Martin-Milius and Davis dissented)  
Motion failed.

AMENDMENT: Councilmember Whittum moved to amend and Councilmember Meyering seconded the motion to require set aside of a construction impact fund of \$100,000 to be coordinated between staff and the noise disturbance coordinator such that if the noise disturbance coordinator sees that there are clear issues being created, whether it is dust, noise, air, a frail elderly person or Section 8 housing where they need to be relocated, there are some resources there to make that happen, and if it is not necessary, the funds can be returned to the developer.

VOTE on AMENDMENT: 2 – 5 (Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan, Martin-Milius and Davis dissented)  
Motion failed.

City Clerk Kathleen Franco Simmons read the ordinance titles.

VOTE on MAIN MOTION: 5 – 2 (Councilmembers Meyering and Whittum dissented)  
Motion carried.

Following action on this item, Council took up and considered Item 2.

4. RTC 13-291 Discussion and Possible Action Regarding Las Palmas Dog Park Location

Superintendent of Parks and Golf Scott Morton presented the staff report.

Public Hearing opened at 12:12 a.m.

Henry Alexander, Chair of the Parks and Recreation Commission, presented the recommendation and the minority views of the Commission.

Arlene Goetze spoke in support of shortening the dog park and creating a barrier for the health of neighboring children, and placing a fence around the children's sand.

David Bartholomew spoke in favor of improvements to the dog park.

Tracy Tripp spoke regarding the options originally presented and stated that had the suggestion to shorten the park been presented, the option selected might have been different.

David Jones spoke in support of the staff recommendation.

Phil Smith spoke in support of the staff recommendation and against shortening the park.

Public Hearing closed at 12:28 a.m.

MOTION: Vice Mayor Griffith moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Confirm Council action from July 23, 2013 with RTC 13-178, including approval of Budget Modification No. 2 to appropriate \$100,000 from the Park Dedication Fund in FY 2013/14, and proceed with improvements to Las Palmas Dog Park in its existing location, including the addition of natural grass and a separate area for small dogs, maintaining the current location of Las Palmas Dog Park.

FRIENDLY AMENDMENT: Councilmember Whittum offered a friendly amendment to authorize staff to come back for a budgetary approval on Consent if it is well beyond the expected \$20,000 range to look into the cost of an effective acoustic fence to help out the residents near this proposal.

Vice Mayor Griffith accepted the friendly amendment conditioned on whether staff thinks it is appropriate.

Councilmember Whittum accepted the modification to the friendly amendment.

Vice Mayor Griffith accepted the revised friendly amendment.

AMENDMENT: Councilmember Meyering moved to amend and Councilmember Whittum seconded the motion to have the dog park boundaries remain the same area as far as the square footage but have the boundary on the north end moved and on the west end moved so the size remains the same but it is moved as far away from the residences as possible.

VOTE on AMENDMENT: 3 – 4 (Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan and Martin-Milius dissented)  
Motion failed.

VOTE on MAIN MOTION: 4 – 3 (Councilmembers Meyering, Whittum and Moylan dissented)  
Motion carried.

Following action on this item, Council took up and considered Item 6.

5. RTC 13-290      2012-7112 Discussion and Possible Action to Introduce an Ordinance to Amend Regulations for Telecommunications Facilities in the Public Right-of-Way (Study Issue)

Principal Planner Andrew Miner presented the staff report.

Public Hearing opened at 1:31 a.m.

No speakers.

Public Hearing closed at 1:31 a.m.

MOTION: Councilmember Moylan moved and Vice Mayor Griffith seconded the motion to approve Alternatives 1 and 2: 1) Adopt a resolution to establish the Guidelines for Wireless Facilities on Joint Poles in the Right-of-way; 2) Introduce an ordinance to amend the Zoning Code (Attachment C to the report) to regulate telecommunication facilities located in the right-of-way with the following permit requirements: a) Require a Design Review with public hearing for wireless applications that do not meet the Guidelines for Wireless Facilities on Joint Poles wireless facilities on utility or light poles located in Heritage Resource areas, within 300 feet of a Heritage Landmark or Resource adjacent to a park or school, or if the director determines that the facility creates a potentially significant visual impact on the surrounding area; b) Require a Design Review without a public hearing for any other pole facility other than that described in 2.a., and c) Require notification to property owners within 300 feet of the proposed location, and allow decisions to be appealed.

VOTE: 6 - 1 (Councilmember Meyering dissented)

City Clerk Kathleen Franco Simmons read the ordinance title.

Following action on Item 5, Council took up and considered pulled Consent Calendar Item 1.D.

6. RTC 13-288      2013-7171 Discussion and Possible Action on Appeals by a Councilmember and a Member of the Public of a Decision of the Planning Commission Approving an Application by Summerhill Apartment Communities for a Mitigated Negative Declaration, a Special Development Permit to Allow 105 Residential Dwelling Units with Underground Parking and a Vesting Tentative Map for Condominium Purposes located at 455 and 465-481 S. Mathilda Avenue (APN: 165-03-004 and 165-03-005) in the Downtown Specific Plan (DSP/Block 14)

Councilmember Meyering recused himself and left the dais.

Planning Officer Trudi Ryan presented the staff report.

Public Hearing opened at 12:52 a.m.

Eleanor Hansen spoke in opposition to approval of the application citing concerns regarding the look of the building and parking and traffic.

Pat Meyering spoke in opposition to the proposed use and expressed concerns regarding increased density and the impacts of traffic density.

Judith Burns, property owner, spoke in support of the proposed project.

Deborah Marks spoke regarding the removal of trees at the project site and requested saving more of the mature protected trees. Marks stated that if the trees are felled she hopes they can be used as timber or for furniture.

Jonathan Fearn, Director of Development, SummerHill Apartment Communities, and John Kosi, Steinberg Architects, provided a PowerPoint presentation regarding the proposed project.

Public Hearing closed at 1:21 a.m.

MOTION: Councilmember Moylan moved and Vice Mayor Griffith seconded the motion to approve Alternative 1: Deny the appeal and uphold the decision of the Planning Commission and adopt the Mitigated Negative Declaration and approve the Special Development Permit and Vesting Tentative Map with the conditions attached to the report.

VOTE: 4 - 2 (Councilmembers Whittum and Davis dissented, Councilmember Meyering recused)

Following action on Item 6, Councilmember Meyering returned and took his seat at the dais and Council took up and considered Item 5.

### **COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS**

None.

### **NON-AGENDA ITEMS & COMMENTS**

Holly Lofgren provided information regarding the 51% Sunnyvale resident priority use requirement for use of Fremont Pool.

Councilmember Davis reported his participation in the 5K Turkey Trot.

Councilmember Whittum proposed a study issue regarding a Charter amendment ballot measure to end numbered seats.

Councilmember Meyering co-sponsored the study issue.

Councilmember Whittum proposed a study issue to scope grade separations at Mary Avenue and Sunnyvale Avenue at the Caltrain crossings.

Councilmember Meyering co-sponsored the study issue.

Councilmember Whittum proposed a study issue regarding optimization of Wolfe Road for neighborhood and commuters by reconfiguration and signalization, a configuration like Lafayette in Santa Clara where they have signalization that allows commute lane use of the center lane on a 2+1 configuration.

Councilmember Meyering co-sponsored the study issue.

Councilmember Whittum proposed a budget issue to put City archives online.

Councilmember Meyering co-sponsored the study issue.

Councilmember Whittum proposed a budget issue for close captioning for City broadcasts.

Councilmember Meyering co-sponsored the study issue.

Vice Mayor Griffith proposed a budget issue for a bathroom facility near the south end of Las Palmas tennis courts.

**INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- RTC 13-284 Board/Commission Resignation (Information Only)
- Draft Minutes of the Arts Commission Meeting of November 20, 2013

**ADJOURNMENT**

Mayor Spitaleri adjourned the meeting at 1:38 a.m.

\_\_\_\_\_  
Kathleen Franco Simmons, City Clerk

\_\_\_\_\_  
Date