

**APPROVED MINUTES
SUNNYVALE CITY COUNCIL
TUESDAY, JUNE 10, 2008**

(Redevelopment Agency Meeting immediately following Council Meeting)

5 P.M. SPECIAL COUNCIL MEETING (Closed Session) – Conference with Labor Negotiators pursuant to Government Code §54987.6. Negotiator: Erwin Young, Director of Human Resources. Employee Organizations: Sunnyvale Employees Association (SEA), and Service Employees International Union (SEIU) Local 715 (part-time employees), and

Conference with Real Property Negotiators pursuant to Government Code §54956.8, Property: Fair Oaks Health Clinic site at Garland & Fair Oaks. Agency Negotiator: Amy Chan, City Manager. Negotiating parties: Patrick Love for the County of Santa Clara. Under Negotiation: price, terms of payment.

6:15 P.M. SPECIAL COUNCIL MEETING (Study Session) - Update of Water Resources Sub-Element

7:05 P.M. REGULAR MEETING

SALUTE TO THE FLAG

Mayor Spitaleri led the salute to the flag.

ROLL CALL

PRESENT:

Mayor Anthony Spitaleri
Vice Mayor Melinda Hamilton
Councilmember John Howe
Councilmember Otto Lee
Councilmember Ron Swegles
Councilmember Christopher Moylan
Councilmember David Whittum

ABSENT:

None

STAFF PRESENT:

City Manager Amy Chan
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Community Development Hanson Hom
Director of Libraries Deborah Barrow
Director of Finance Mary Bradley
Director of Public Works Marvin Rose
Finance Manager Grace Leung
Director of Finance Mary Bradley
Planning Officer Trudi Ryan
Superintendent of Field Services Jim Craig
Assistant to the Director of Parks and Recreation Cathy Merrill
Director of Parks and Recreation David Lewis
Director of Public Safety Don Johnson
City Clerk Gail Borkowski

Approved by Council as revised at the July 15, 2008 Council Meeting.

CLOSED SESSION REPORT

Vice Mayor Hamilton reported that City Council met in Closed Session earlier this evening regarding: Conference with Labor Negotiators pursuant to Government Code §54987.6. Negotiator: Erwin Young, Director of Human Resources. Employee Organizations: Sunnyvale Employees Association (SEA), and Service Employees International Union (SEIU) Local 715 (part-time employees).

Vice Mayor Hamilton reported direction was given, but no action was taken.

Vice Mayor Hamilton reported that City Council met in Closed Session earlier this evening regarding: Conference with Real Property Negotiators pursuant to Government Code §54956.8, Property: Fair Oaks Health Clinic site at Garland & Fair Oaks. Agency Negotiator: Amy Chan, City Manager. Negotiating parties: Patrick Love for the County of Santa Clara. Under Negotiation: price, terms of payment.

Vice Mayor Hamilton reported direction was given, but no action was taken.

SPECIAL ORDER OF THE DAY

Gay Pride Month Proclamation

PUBLIC ANNOUNCEMENTS

Councilmember Lee announced the upcoming Gay Pride Parade in San Jose.

Councilmember Lee announced upcoming events that will assist with earthquake disaster relief.

Vice Mayor Hamilton announced that the City is now webcasting the Council and Planning Commission meetings.

Jim Griffith announced Leadership Sunnyvale is holding an informational meeting for those interested in applying to the new class beginning October 2008.

CONSENT CALENDAR

Councilmember Whittum pulled Item I. G.

Vice Mayor Hamilton moved and Councilmember Howe seconded to approve the Consent Calendar with the exception of Item I.G.

VOTE: 7-0

1.A. Approval of Revised Draft Minutes of June 3, 2008

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

Approved by Council as revised at the July 15, 2008 Council Meeting.

Fiscal Items

- 1.C. RTC 08-184 List of Claims and Bills Approved for Payment by the City Manager – List No. 404**

Staff Recommendation: Council reviews the attached lists of bills.

- 1.D. RTC 08-188 Program 736 Public Records and City Elections Budget Overrun and Approval of Budget Modification No. 57**

Staff Recommendation: Council approves Budget Modification No. 57 to appropriate \$162,552 from the General Fund 20-Year Resource Allocation Plan Reserve to cover the overage in the Public Records and City Elections Program for FY 2007/08.

Personnel Items

- 1.E. RESOLUTION Amendment to the Salary Resolution – Military Reservist Extension of Benefits and Supplemental Salary
RTC 08-185**

Staff Recommendation: Council adopts a resolution to extend benefits and supplemental salary through June 30, 2009.

Other Items

- 1.F. RESOLUTION Sunnyvale Pledge and Resolution in Support of Manufacturer Responsibility (“Product Stewardship”) Approach to Reducing Local Government Costs for Disposal of Electronic Waste and Other Hazardous Wastes
RTC 08-164**

Staff Recommendation:

- Council authorizes the City Manager to sign the California Product Stewardship Council (CPSC) pledge of support;
- Council authorizes payment of \$2,000 for CPSC associate fees in FY 2008/09; and
- Council adopts the model CPSC product stewardship resolution.

- 1.G. RTC 08-163 Appointment of Representative to Silicon Valley Library System Advisory Board for the 2008-2010 Term**

Councilmember Whittum stated he abstained due to his interest in knowing whether the public had an opportunity to apply for this appointment. Director of Libraries Deborah Barrow explained that the process is that the Board of Library Trustees makes the nominations.

Public comments opened.

No speakers.

Public comments closed.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve

Approved by Council as revised at the July 15, 2008 Council Meeting.

Alternative 1: Council appoints the candidate Jim Griffith as nominated by the Board of Library Trustees.

VOTE: 6-0 (Councilmember Whittum abstained)

Vice Mayor Hamilton inquired as to why an abstention vote was cast.

Councilmember Whittum stated he abstained due to his request that the public have an opportunity to apply for this appointment.

Councilmember Howe verified with Director Barrow that the Board of Library Trustees made this appointment within an open public session and that the agenda for this meeting was advertised. Councilmember Howe explained to Councilmember Whittum that the Board of Library Trustees public session is how a member of the public could be involved in the process of this appointment.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Michael Rose spoke about his concerns over the following items: Rude comments make by Council and staff both to colleagues and the public; an insufficient opportunity for public input; the lack of funding for public work projects and parks, and the Mary Avenue extension.

Eric Huang spoke of recent violent acts at a rally in the Chinatown section of New York. Huang showed a video of the acts.

Arthur Schwartz stated he has not experienced any rude behavior from staff or Council as mentioned by the previous speaker. Schwartz spoke in support of the condition of the City sidewalks and the timeliness from staff in response to sidewalk concerns. Schwartz stated he does however agree with the other concerns expressed by the previous speaker.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 08-177 Board and Commission Appointments (Based on 2008 Summer Recruitment)

City Clerk Gail Borkowski presented the staff report.

Mayor Spitaleri announced each applicant by board or commission and called for a vote.

Arts Commission

Mayor Spitaleri announced one opening for the Arts Commission with a term ending June 30, 2012.

Approved by Council as revised at the July 15, 2008 Council Meeting.

Lee Allen

VOTE: 0-0 (Councilmembers Moylan, Howe, Lee, Mayor Spitaleri, Vice Mayor Hamilton, Councilmembers Swegles and Whittum abstained)

Joshua Amberg

VOTE: 0-0 (Councilmembers Moylan, Howe, Lee, Mayor Spitaleri, Vice Mayor Hamilton, Councilmembers Swegles and Whittum abstained)
Amitabh Bihari

VOTE: 1-0 (Councilmembers Moylan, Howe, Lee, Mayor Spitaleri, Vice Mayor Hamilton and Councilmember Swegles abstained)

Marshal Morse

VOTE: 1-0 (Councilmembers Moylan, Howe, Lee, Mayor Spitaleri, Vice Mayor Hamilton and Councilmember Swegles abstained)

Robert Obrey

VOTE: 7-0

City Clerk Borkowski announced Robert Obrey has been appointed to the Arts Commission with a term ending on June 30, 2012.

Councilmember Moylan stated Council previously discussed flipping some of the boards and commissions around in order to allow Council the ability to vote on an applicant's first choice if they had applied to serve on more than one board or commission. Councilmember Moylan stated that this system would make it easier for Council to know the applicant's first choice. Mayor Spitaleri stated he will follow the staff report and will take the boards and commissions in alphabetic order as listed.

Bicycle and Pedestrian Advisory Commission (Category 1)

Mayor Spitaleri announced two openings for the Bicycle and Pedestrian Advisory Commission with terms ending June 30, 2012.

Nathaniel Chittenden

VOTE: 1-0 (Councilmembers Moylan, Howe, Lee, Mayor Spitaleri, Vice Mayor Hamilton and Councilmember Swegles abstained)

Ralph Durham

VOTE: 4-0 (Councilmembers Howe, Lee and Mayor Spitaleri abstained)

Andrea Stawitcke

VOTE: 6-0 (Councilmember Whittum abstained)

Approved by Council as revised at the July 15, 2008 Council Meeting.

Patrick Walz

VOTE: 4-0 (Mayor Spitaleri, Vice Mayor Hamilton and Councilmember Swegles abstained)

City Clerk Borkowski announced a tie exists between Ralph Durham and Patrick Walz.

Ralph Durham

VOTE: 3-0 (Councilmembers Howe, Lee, Mayor Spitaleri and Councilmember Whittum abstained)

Patrick Walz

VOTE: 4-0 (Councilmember Howe, Vice Mayor Hamilton and Councilmember Swegles abstained)

City Clerk Borkowski announced Andrea Stawitcke and Patrick Walz have been appointed to the Bicycle and Pedestrian Advisory Commission (Category 1) with terms ending on June 30, 2012.

Bicycle and Pedestrian Advisory Commission (Category 2)

Mayor Spitaleri announced one opening for the Bicycle and Pedestrian Advisory Commission with a term ending June 30, 2012.

Carl Bergholm

VOTE: 0-0 (Councilmembers Moylan, Howe, Lee, Mayor Spitaleri, Vice Mayor Hamilton, Councilmembers Swegles and Whittum abstained)

Ralph Durham

VOTE: 6-0 (Councilmember Howe abstained)

City Clerk Borkowski announced Ralph Durham has been appointed to Bicycle and Pedestrian Advisory Commission (Category 2) with a term ending on June 30, 2012.

MOTION: Councilmember Whittum moved and Councilmember Moylan seconded to consider the Heritage Preservation Commission as the next appointments.

Councilmember Howe offered a friendly amendment to have the Planning Commission come before the Personnel Board.

Friendly amendment accepted.

Restated MOTION: Councilmember Whittum moved and Councilmember Moylan seconded to consider the Heritage Preservation Commission as the next appointment, before Board of Library Trustees and to vote on the Planning Commission applicants before the Personnel Board.

VOTE: 7-0

Approved by Council as revised at the July 15, 2008 Council Meeting.

Heritage Preservation Commission

Mayor Spitaleri announced two openings for the Heritage Preservation Commission with a term ending June 30, 2012.

Frenchie Marsolais

VOTE: 6-0 (Mayor Spitaleri abstained)

Mayor Spitaleri stated he did not realize there were two vacancies and requested to change his vote.

Councilmember Howe offered to make a motion to reconsider; however, Mayor Spitaleri requested Council revote.

REVOTE: 7-0

David Squellati

VOTE: 7-0

City Clerk Borkowski announced Frenchie Marsolais and David Squellati have been appointed to the Heritage Preservation Commission with terms ending on June 30, 2012.

Board of Library Trustees

Mayor Spitaleri announced one opening for the Board of Library Trustees with a term ending June 30, 2012.

James Griffith

VOTE: 6-0 (Councilmember Whittum abstained)

City Clerk Borkowski announced James Griffith has been appointed to the Board of Library Trustees with a term ending on June 30, 2012. City Clerk Borkowski announced one vacancy remains on this board.

Child Care Advisory Board

Mayor Spitaleri announced two openings for the Child Care Advisory Board-Related Field Representative category, with terms ending June 30, 2012.

Lisa Taiz

VOTE: 7-0

City Clerk Borkowski announced Lisa Taiz has been appointed to the Child Care Advisory Board-Related Field Representative with a term ending on June 30, 2012. City Clerk Borkowski announced one vacancy remains on this board.

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Housing and Human Services Commission

Mayor Spitaleri announced two openings for the Housing and Human Services Commission with terms ending June 30, 2012.

Pat Plant

VOTE: 7-0

Demi Yezgi

VOTE: 7-0

City Clerk Borkowski announced Pat Plant and Demi Yezgi have been appointed to the Housing and Human Services Commission with terms ending on June 30, 2012.

Parks and Recreation Commission

Mayor Spitaleri announced one opening for the Parks and Recreation Commission with a term ending June 30, 2012.

Amitabh Bihari

VOTE: 1-0 (Councilmembers Moylan, Howe, Lee, Mayor Spitaleri, Vice Mayor Hamilton and Councilmember Swegles abstained).

Howard Chuck

VOTE: 7-0

City Clerk Borkowski announced Howard Chuck has been appointed to the Parks and Recreation Commission with a term ending on June 30, 2012.

Personnel Board

Mayor Spitaleri announced one opening for the Personnel Board with a term ending June 30, 2012.

Stephanie Saprai

VOTE: 7-0

City Clerk Borkowski announced Stephanie Saprai has been appointed to the Personnel Board with a term ending on June 30, 2012.

Planning Commission

Mayor Spitaleri announced two openings for the Planning Commission with terms ending June 30, 2012.

John Cordes

VOTE: 1-0 (Councilmembers Moylan, Howe, Mayor Spitaleri, Vice Mayor Hamilton, Councilmembers Swegles and Whittum abstained)

Ashok Dhar

VOTE: 0-0 (Councilmembers Moylan, Howe, Lee, Mayor Spitaleri, Vice Mayor Hamilton, Councilmembers Swegles and Whittum abstained)

Monica Draganowski-Davis

VOTE: 3-0 (Councilmembers Moylan, Howe, Mayor Spitaleri, Councilmember Swegles abstained)

Darab Ghaffary

VOTE: 2-0 (Councilmembers Moylan, Howe, Mayor Spitaleri, Vice Mayor Hamilton and Councilmember Swegles abstained)

Glenn Hendricks

VOTE: 2-0 (Councilmembers Moylan, Howe, Lee, Swegles and Whittum abstained)

Dianne McKenna

VOTE: 6-0 (Mayor Spitaleri abstained)

Nick Travis

VOTE: 5-0 (Vice Mayor Hamilton and Councilmember Whittum abstained)

City Clerk Borkowski announced Dianne McKenna and Nick Travis have been appointed to the Planning Commission with terms ending on June 30, 2012.

Personnel Board (Employee-nominated seat)

Mayor Spitaleri announced one opening for the Personnel Board-Employee Nominated with a term ending June 30, 2012.

Glenn Hendricks

VOTE: 7-0

City Clerk Borkowski announced Glen Hendricks has been appointed to the Personnel Board with a term ending on June 30, 2012.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternatives 1 and 2:

Alternative 1: Council confirms appointments from the candidates listed in this report, specifying the terms for each candidate for the board/commission that has multiple seats

Approved by Council as revised at the July 15, 2008 Council Meeting.

and terms;

Alternative 2: Council directs staff to include the remaining vacancies in the City's continuous recruitment efforts and to submit for Council's consideration all eligible applications received by the deadline established for the next round of board and commission interviews scheduled for July 15, 2008.

VOTE: 7-0

3. RTC 08-189 Adoption of the FY 2008/2009 Budget, Master Fee Schedule, and Appropriations Limit

Finance Manager Grace Leung presented the staff report. Staff passed out copies of the Planning Commission meeting minutes which contained the commission's discussion on the City Manager's Recommended FY 2008/09 Budget and Resource Allocation Plan. Manager Leung explained that three actions are required to adopt the recommended budget. Council must consider and take action on the proposed fee changes; adopt the FY 2008/09 budget by June 20, 2008 by budget resolution; and adopt by resolution the FY 2008/09 appropriations limit.

Councilmember Whittum stated he would like to recommend approximately \$2.1 million in cuts and he also has some items worthy of consideration for funding. Councilmember Whittum passed out copies of his proposal.

Councilmember Swegles inquired if the fee schedule could be voted on separately. City Manager Amy Chan responded that Council is able to make separate motions on the fee schedule, appropriation limits and a final motion on the entire budget.

MOTION: Councilmember Swegles moved and Councilmember Howe seconded to pull the fee schedule from the staff recommendation and vote on it separately.

Vice Mayor Hamilton offered a friendly amendment to vote on the appropriations first, then the fee schedule, and lastly the budget.

Councilmember Swegles accepted the friendly amendment and stated he will change his motion.

Restated MOTION: Councilmember Swegles moved and Councilmember Howe seconded to approve the FY 2008/09 Appropriations Limit as presented in the staff report.

VOTE: 7-0

MOTION: Councilmember Whittum moved and Councilmember Moylan seconded to amend the fees to increase the traffic impact fees instead of 6 percent to 10 percent.

Councilmember Whittum stated staff explained that staff has identified that this increase will get the City even with costs.

Mayor Spitaleri questioned if anyone wanted to second an increase from 6 percent to 10 percent on the traffic fees. Councilmember Moylan stated he has seconded this item in

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order to understand the issue before voting on.

Councilmember Whittum explained that the staff report states that these fees are gauged on the construction cost index; however, the actual figure needed to compete with the City's actual cost requires a 10 percent increase. Councilmember Whittum stated development should pay its own way and the 10 percent increase is reasonable and would keep the City even with costs. Councilmember Whittum stated the fees are necessary to help maintain the City's infrastructure.

Vice Mayor Hamilton inquired as to why staff did not recommend increasing the fee to 10 percent. Director of Finance Mary Bradley explained that staff's rationale was to step up the increase and then add an additional 4 percent increase to the next fiscal year. Director Bradley explained this would be in addition to whatever is proposed for an increase to this fee next year.

Councilmember Moylan inquired how the fee relates to the City's policies of being competitive with other cities and covering costs. Director Bradley explained that the 6 percent increase does not cover the City's cost. Director of Public Works Marvin Rose explained that for a year or so, staff did not index the fee as they should have so the fee was a little behind. The issue involves getting the fee back to the construction cost index level and it is staff's recommendation to moderate the fee over the next two years. Councilmember Moylan verified that the staff recommendation recovers costs over a two year period.

Councilmember Moylan inquired as to how the City's fee compares to other cities. Director Rose stated the fees that cities charge varies widely. Director Rose explained that the City's traffic impact fee is based on need for infrastructure in very specific locations and projects.

Vice Mayor Hamilton stated she will abstain from voting on this motion because she needs more information on how the other fees might be altered and ultimately they might affect the budget.

VOTE: 1-4 (Councilmembers Moylan, Howe, Lee, and Mayor Spitaleri dissented. Vice Mayor Hamilton and Councilmember Swegles abstained)

MOTION FAILED.

Councilmember Swegles questioned if the fee increases were only for the golf courses. Director of Parks and Recreation David Lewis stated that the only fees set by Council are golf fees and all other park and recreation fees are set administratively.

Councilmember Swegles verified with City Manager Chan that the parks and recreation budget includes increases to revenues. City Manager Chan explained that the director of parks and recreation has a targeted budget, but has the flexibility to increase fees for classes as deemed appropriate.

Councilmember Swegles verified that revenue from Plaza del Sol has been listed in the budget at zero revenue because Council previously provided direction to waive the fees for two years.

Approved by Council as revised at the July 15, 2008 Council Meeting.

Councilmember Swegles explained he abstained from voting on the prior motion because he is not sure if cost recovery would be achieved within two years and he would like to know what other cities charge.

MOTION: Councilmember Swegles moved and Vice Mayor Hamilton seconded to approve the FY 2008/09 Fee Schedule as presented in the staff report.

VOTE: 7-0

Councilmember Moylan verified with staff that it is possible to suspend the ongoing funding of an item to cover a one-time expense, such as the shortfall for the funding of outside groups, and then reinstitute the ongoing funding the following fiscal year.

Councilmember Moylan verified with Planning Officer Ryan that the Council policy for boards and commissions encourages commissions to take advantage of trainings, specifically for Planning Commissioners to take advantage of the annual Planners Institute provided the funding is available.

Councilmember Moylan verified with Planning Officer Ryan that \$3,000 is currently budgeted for Planning Commissioners training. Councilmember Moylan verified with Planning Officer Ryan that \$10,000 would be adequate to allow each Planning Commissioner to attend the Planners Institute. Councilmember Moylan explained that the commission will be losing two commissioners who are ending their eight-years of service at the end of June 2008. Councilmember Moylan stated that this training is invaluable for the entire commission every year, but it is especially important this year.

Councilmember Whittum stated he has identified several funding cuts to items that do not directly impact the public in order to allow the City to fund needed services to the public.

MOTION: Councilmember Whittum moved to cut \$295,000 for the digital marquee from the budget.

Councilmember Lee suggested Councilmember Whittum list all the items he would like to cut as one motion in order to expedite the meeting.

Councilmember Moylan suggested Councilmember Whittum state the project priority, as determined by staff and the committee, when he identifies his recommended funding cuts. Councilmember Whittum explained he does not have the priority list available.

Mayor Spitaleri requested Councilmember Whittum list his reason for suggesting that an item be cut from funding.

Councilmember Whittum explained that the City is short of parks and park amenities and a digital marquee is not a high priority item. Councilmember Whittum explained that the City should look at ways to save money.

Mayor Spitaleri called for a second. Councilmember Whittum identified that a second was not received.

MOTION FAILED for lack of a second.

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MOTION: Councilmember Whittum moved to cut \$730,000 for the electronic records management project.

Councilmember Swegles offered a friendly amendment to cut \$100,000 from the project; thereby, reducing the budget amount to \$630,000.

Vice Mayor Hamilton asked staff if a \$100,000 cut from this project would impact the ability to perform the project because she assumed the total cost is a package deal.

Assistant City Manager Robert Walker stated the electronic records management project is a package deal and there is not a way to cut \$100,000 from this project. Assistant City Manager Walker explained that this is a very basic plan which does not include offsite storage items.

Councilmember Swegles stated he thought the expense would be spread out over twenty years. Director of Finance Bradley explained the \$730,000 is the initial capital cost and then there would also be annual operating maintenance fee of approximately \$69,000.

City Manager Chan explained that Councilmember Whittum's motion was to completely eliminate the electronic records management project.

Councilmember Howe called for a point of order as there is a motion on the floor which has not been seconded. Councilmember Howe stated unless the motion is seconded, the item should not be discussed.

Mayor Spitaleri called for a second. No second received.

MOTION FAILED for lack of a second.

MOTION: Councilmember Whittum moved to cut the proposed budgeted amount of \$928,000 for the automated book handling at the library from the budget.

Vice Mayor Hamilton requested Councilmember Whittum explain his rationale in suggesting this cut since this item is projected to save the City approximately two million over the course of 20 years. Councilmember Whittum responded that the break even point is nine years and the internal rate of return is 9.6 percent; therefore, the City will not break even unless the equipment lasts over nine years.

Mayor Spitaleri confirmed with staff that the fees being recommended for cuts by Councilmember Whittum are all first year costs.

Mayor Spitaleri called for a second. No second received.

MOTION FAILED for lack of a second.

MOTION: Councilmember Whittum moved to cut the proposed budgeted amount of \$29,000 for the resident satisfaction survey from the budget.

Mayor Spitaleri called for a second. No second received.

Approved by Council as revised at the July 15, 2008 Council Meeting.

MOTION FAILED for lack of a second.

MOTION: Councilmember Whittum moved to cut the proposed budgeted amount of \$8,000 for Leadership Sunnyvale.

Mayor Spitaleri called for a second. No second received.

MOTION FAILED for lack of a second.

MOTION: Councilmember Whittum moved to cut the proposed budgeted amount of \$75,000 for a Sustainability Coordinator.

Mayor Spitaleri called for a second. No second received.

MOTION FAILED for lack of a second.

MOTION: Councilmember Whittum moved to cut the proposed budgeted amount of \$105,000 for the Mayor's State of the City Address.

Mayor Spitaleri called for a second. No second received.

MOTION FAILED for lack of a second.

MOTION: Councilmember Moylan moved and Councilmember Lee seconded to:

- Reduce the cost of the Mayor's State of the City from \$106,000 to \$75,000.
- Delay the Liquidambar eradication program for one year for a savings of \$50,000.

Total savings are \$81,000.

In exchange for the proposed savings from the reductions totaling \$81,000, Council to fund the following items (even exchange in funding):

- \$53,000 to outside funding groups.
- \$7,000 to allow all Planning Commissioners to attend training in 2008/09 with this funding approval for one year only.
- Restore funding to Project Sentinel and Junior Achievement in the amount of \$21,000.

Councilmember Moylan identified that the proposed cuts affect some of the lowest identified priority items; however, they would be applied to some of the higher priority items which are currently not being funded.

A discussion ensued between Assistant City Manager Walker and Vice Mayor Hamilton regarding specifics of the State of the City Address.

City Manager Chan explained that the mayor's State of the City Address budget includes staffing costs.

Mayor Spitaleri inquired whether there is a budget line item in the Parks and Recreation budget for the mayor's State of the City Address. Assistant City Manager Walker responded that the State of the City is not part of the Parks and Recreation budget. There has always

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been a budgeted line item for the Fourth of July; however, that is not part of the State of the City event.

Mayor Spitaleri expressed concern over cutting staff time from the budget for the State of the City event. Councilmember Moylan explained that the staff report identified the cost of this event could be reduced. Councilmember Moylan stated that the proposed amount of \$75,000 should be enough for all expenses including staff time which is estimated at \$30,000 to \$40,000. Mayor Spitaleri explained that this year, the event has been changed and the cost will be reduced.

Councilmember Moylan clarified that his motion includes the upcoming year only; however, it would be his intention that this training is factored into the budget each year.

Councilmember Swegles verified with staff that the Santa Clara Valley Blind Center is on the CDBG outside funding groups list for \$5,000 in funding, which would be approved should Councilmember Moylan's motion pass.

VOTE: 6-1 (Councilmember Howe dissented).

Councilmember Whittum stated he regrets that Council has agreed to fund items that do not directly serve the residents of the City and also cut items that would directly serve the residents.

MOTION: Councilmember Howe moved and Councilmember Lee seconded to approve the balance of the FY 2008/09 Recommended Budget as presented in the staff report.

Mayor Spitaleri verified with Director Bradley \$20,000 has been allocated from the City's General Fund for the museum's operating expenses, based on expenditures of \$5,000 a year for utilities. City Manager Chan added that Council could make a motion to use the funds for a different purpose; however, it would be important to discuss this with members of the museum board. Vice Mayor Hamilton verified with Director Bradley that the contract the City has with the museum states that the City will pay the museum's utilities for a given amount of time. Vice Mayor Hamilton verified if the museum is given \$20,000 for a different purpose, then the City would still need to cover the museum's utilities as stated in the contract. Vice Mayor Hamilton explained to Mayor Spitaleri that Council could reallocate those funds if the museum members agreed. Vice Mayor Hamilton suggested Council not discuss this item further until discussions with the museum occur. Mayor Spitaleri agreed.

Councilmember Whittum stated he opposes the motion because the proposed budget will allocate 25 percent of the City's reserves. Councilmember Whittum stated the City's budget is balanced on using funds meant for building parks. Councilmember Whittum explained that the precepts of the City's General Plan state that when a capital facility is built, funding shall be set aside for maintenance and rehabilitation, and that funding shall not be taken from another source such as the park fund. Councilmember Whittum stated it is important to make some small cuts in the budget and he is also concerned with over 10 million being set aside for the employee benefits fund.

Director Bradley explained the General Fund reserve does fluctuate primarily because of contributions to the retiree trust. The full funding of that liability has been included in this budget. Directory Bradley explained that the General Fund reserve does go up and down

based on the economic cycles, but it does stay fairly level. Director Bradley explained that the park dedication is in a separate fund and in the recent fiscal sub-element, a policy was approved that states the City will use park dedication first to fund existing park infrastructure and then to add new capital.

Vice Mayor Hamilton spoke in favor of the motion and the City's budget process. Vice Mayor Hamilton stated she disagreed with Councilmember Whittum's statement that Council approves things that do not directly benefit the community. Vice Mayor Hamilton stated she is confident this is a good budget and thanked staff for their hard work.

Councilmember Howe spoke in favor of the budget and thanked City Manager Chan and staff for their work on the budget.

Councilmember Lee thanked staff for their work on the budget. Councilmember Lee spoke in support of the budget and in support of reserving funding for retiree benefit obligations.

Councilmember Swegles stated he would prefer that the funding stay in place for the State of the City event as it is a benefit for the community. Councilmember Swegles thanked staff and the city manager for their work on the budget.

Councilmember Moylan thanked Mayor Spitaleri, Vice Mayor Hamilton and Councilmember Whittum for their work on prioritizing the budget items. Councilmember Moylan stated the budget process was improved this year and has been made more efficient through the work of staff and the subcommittee.

Mayor Spitaleri spoke of the benefits of prioritizing items for the budget and spoke in favor of keeping the ranking process and refining it as needed. Mayor Spitaleri thanked his colleagues, the city manager, and staff for their work on the budget.

VOTE: 6-1 (Councilmember Whittum dissented)

Mayor Spitaleri called for a recess at 9:07 p.m.

Mayor Spitaleri reconvened the Council meeting at 9:19 p.m.

4. **ORDINANCE** **2007-0463 – Michael Kirkish [Applicant/Owner]: Application for**
RTC 08–182 **related proposals on three parcels totaling 46,212 square feet**
 located at 408 Flora Vista Avenue, 421 South Bayview Avenue and
 420 Flora Vista Avenue (near East Iowa Avenue) in R-2 (Low Medium
 Density Residential) and R-0 (Low Density Residential) Zoning
 Districts. (Mitigated Negative Declaration)
- **Tentative Map to subdivide three lots to nine lots,**
 - **Rezone from R-0 (Low Density Residential) and R-2 (Low Medium Density Residential) to R-1.5 (Low-Medium-Density Residential) and R-2 Zoning Districts,**
 - **Special Development Permit to allow six new single family homes.**

Planning Officer Trudi Ryan presented the staff report.

Approved by Council as revised at the July 15, 2008 Council Meeting.

Councilmember Howe verified with Planning Officer Ryan that the staff and Planning Commission recommendations are the same; however, the applicant is requesting something slightly different.

Councilmember Howe verified with Planning Officer Ryan that one of the conditions of approval requires that this project moves forward in a timely manner, so as not to cause blight within the City.

Planning Officer Ryan explained the first phase of this project would not entail the removal of any existing housing and that the first three homes along Bayview would be built as part of this phase. The remaining three homes would be completed in the second phase. Councilmember Howe stated he would be concerned if the project was not executed and completed within a normal time table for construction.

Councilmember Swegles verified with Planning Officer Ryan that the Planning Commission recommended one 11-foot driveway shared between two homes; however the applicant is requesting individual 10-foot driveways as dedicated use for each of those homes.

Vice Mayor Hamilton verified with Planning Officer Ryan that staff supports single family homes on smaller lots because they are more in style with the existing development within the neighborhood. Planning Officer Ryan explained that most of the lots in that neighborhood are substandard in size and width for the zoning district in that area.

Vice Mayor Hamilton questioned why staff is recommending shared driveways. Planning Officer Ryan explained that the original shared driveway design allows for the homes to observe setbacks and save room on the narrower lots. Planning Officer Ryan explained that because garages are located at the rear of the homes, this project has the ability to have shared driveways. Planning Officer Ryan explained that more paving is required when a garage is located at the back of the home; however, the Planning Commission approved the design because the amount of paving could be reduced by using shared driveways and by using a more permeable paving. Staff and the Planning Commission felt that reduced paving with the shared driveways was more in keeping with environmental goals.

Vice Mayor Hamilton verified that the back wall of each garage has been proposed to constitute the fence line on the lot.

Councilmember Whittum verified with Planning Officer Ryan that the staff report has an error and that the deviation from code on solar shading is no longer an issue because of the width of the lots.

Councilmember Whittum inquired about deficient parking and Planning Officer Ryan explained that the existing duplex does not meet the current code requirement of two parking spaces and two driveway spaces per unit. Planning Officer Ryan explained that the property has also been increased in size since the Planning Commission review based on the Planning Commission action. Therefore, sometime in the future the applicant may be able to provide more than the minimum that the Planning Commission requested, which were four uncovered spaces.

Councilmember Whittum verified that the side setback for the garage is three feet from the side property line and the side setback on the house is seven feet with exception of where

the stairwell encroaches into the second story side setback.

Councilmember Whittum verified with Planning Officer Ryan that five units could be built on an R-2 lot.

Public hearing opened at 9:41 p.m.

Mike Kirkish, representing the applicants, the Kirkish family, spoke about the history of the property and the benefits of the proposed project at this site. Kirkish explained the applicants are in favor of the Planning Commission recommendation with the exception of shared driveways. Kirkish stated the applicants support Alternative 2 in the staff report, which allows for a total of five driveways on Bayview, one driveway for each lot. Kirkish explained that their project is being done in phases due to his elderly father and their desire to allow him to live in his home as long as possible.

Vice Mayor Hamilton stated she supports dedicated driveways. Vice Mayor Hamilton inquired if any green sustainable elements were included in the project. Kirkish referred the question to his architect who explained that building a home fully green is very expensive. The architect explained that many of the items that are required in Title 24 of the building code already implement many green elements such as building requirements for double pane windows.

Councilmember Swegles stated he also supports individual driveways.

Councilmember Swegles verified with Planning Officer Ryan that Kirkish would have up to seven years to proceed with the second phase of his project. Kirkish explained that he does not have a set time as to when the second phase would begin because his elderly father is still living in the home.

Councilmember Whittum verified with the architect that the houses all have 20 foot setbacks and that the front porches are the only encroachment into the setback area.

Councilmember Whittum verified with Planning Officer Ryan that the normal setback for a garage is 10 feet for single story; however, this project has a zero setback for the garages. Councilmember Whittum inquired why Kirkish is not respecting the 10 foot setback for the garages. The project architect explained that there would not be enough distance to allow for a third car on the side.

Public hearing closed at 9:55 p.m.

MOTION: Councilmember Moylan moved and Councilmember Howe seconded to approve Alternative 1:

Council adopts the Negative Declaration; introduces an ordinance to rezone 421 S. Bayview Avenue, 408 and 420 Flora Vista Avenue from R-2 and R-0 to R-2/PD and 1.5/PD; approves the Vesting Tentative Map for lots 1-9 (excepting lot 6); approves the Special Development Permit for five new single family homes on lots 1-5 and with attached conditions, all as recommended by the Planning Commission.

Vice Mayor Hamilton offered a friendly amendment to approve individual instead of shared driveways.

Approved by Council as revised at the July 15, 2008 Council Meeting.

Councilmember Moylan explained that Vice Mayor Hamilton is recommending Alternative 2 and he would like to see if his motion passes first. Vice Mayor Hamilton withdrew her friendly amendment.

Vice Mayor Hamilton explained she will be voting against the motion because she is in favor of individual driveways. Vice Mayor Hamilton explained that the neighbors are supportive of this project having individual driveways because they are consistent with the look of the neighborhood.

Councilmember Howe verified with Planning Officer Ryan that the Planning Commission discussed both the shared and individual driveways and recommended shared driveways.

Councilmember Swegles stated he supports individual driveways. Councilmember Swegles stated the fact that individual driveways will reduce the landscaping in the front yards is a positive feature that will reduce water use. Councilmember Swegles stated individual driveways blend with the neighborhood.

Councilmember Whittum explained he supports individual driveways and favors the additional parking space they offer to the residents.

Councilmember Moylan stated nothing provided to Council states that the neighbors object to the shared driveway concept. Additionally, none of the neighbors came before Council and spoke in support of individual driveways.

Councilmember Lee identified that the Planning Commission minutes mentioned two speakers who expressed their opposition to shared driveways for this project.

Councilmember Whittum verified with Planning Officer Ryan that the neighbors who spoke at the Planning Commission meeting would prefer wider or individual driveways.

Vice Mayor Hamilton referred to a letter from the applicant which stated that during the community outreach meeting for this project, the neighbors stated their opposition to shared driveways. Vice Mayor Hamilton stated it is her understanding that the applicant changed the driveways to individual in response to concerns of the neighborhood.

VOTE: 2-5 (Councilmember Lee, Mayor Spitaleri, Vice Mayor Hamilton, Councilmembers Swegles and Whittum dissented)

MOTION FAILED

MOTION: Councilmember Lee moved and Vice Mayor Hamilton seconded to approve Alternative 2:

Council adopts the Negative Declaration; introduces an ordinance to rezone 421 S. Bayview Avenue, 408 and 420 Flora Vista Avenue from R-2 and R-0 to R-2/PD and 1.5/PD; approves the Vesting Tentative Map for lots 1-9 (excepting lot 6); approves the Special Development Permit for five new single family homes on lots 1-5 and with attached conditions, all as recommended by the Planning Commission

with

independent driveways for the units on Bayview Ave. (and delete Conditions of Approval

Approved by Council as revised at the July 15, 2008 Council Meeting.

3.A. and 10.A).

VOTE: 7-0

City Clerk Gail Borkowski read the title of the ordinance into the record.

5. RTC 08–181 Municipal Code 13.16 CITY TREES Policy Review – Sustainability of Large Trees Species, Update of Official Street Tree List and Review of Tree Replacement Policy – Study Issue

Superintendent of Field Services Jim Craig presented the staff report.

Councilmember Swegles verified with Superintendent Craig that this review strictly is in regards to street trees; whereas, the urban forestry management plan would look at all aspects of trees in the City.

Public hearing opened at 10:10 p.m.

Denise DeLange stated there were errors in the staff report. DeLange stated the staff report neglected to list the results of the community input and did not mention the use of any native species trees. DeLange stated she asked her gardener to review the list of approved trees and only three trees on the list are native species trees. DeLange stated it is important to plant street trees that will be sustainable and to look at native species trees for that purpose.

Councilmember Moylan asked DeLange to explain how she defines native species trees and sustainable trees, which would be drought tolerant type trees. DeLange stated native species trees are native to central California and those are identified by the U.S. Department of Agriculture. DeLange stated drought tolerant is a separate issue and the City needs to look at both issues. DeLange stated what she meant by sustainability was to have trees that will sustain native wildlife and the environment.

Public Hearing closed at 10:14 p.m.

Councilmember Whittum requested staff respond to DeLange's comments. Director of Public Works Rose explained that the trees in Sunnyvale are quite mature and staff must work with what is currently in place. Additionally, some streets have a theme to the type of tree that is planted, such as all oak trees. Replacement trees are kept within the same theme in order to keep the canopy the same. Director Rose explained that there are many reasons why native trees will not make good street trees such as their size and drought tolerance.

Councilmember Whittum verified that the community input received was not pertinent to the street tree policy and therefore, was not added to the report. However, staff did respond to the concerns that were raised by the community members.

Councilmember Lee verified with Director Rose that staff does add drought tolerant trees to the recommended list when feasible.

Councilmember Howe verified with Superintendent Craig that staff sought public input for

Approved by Council as revised at the July 15, 2008 Council Meeting.

this report through the two community meetings that the City held and approximately 50 community members attended.

MOTION: Councilmember Swegles moved and Councilmember Howe seconded to approve Alternative 1:

Council supports the continued specification of large species trees, in most cases, as City street trees, and the necessary specifications of right-of-way, planting area and building set-back to provide for the continued use of large species, with the understanding that certain conditions of some zoning applications may restrict the use of large species trees, in which case an appropriate species may be specified for such special application; and that no changes be made to the Official Street Tree List at this time; and that no other tree species be added to the approved tree removal list.

VOTE: 7-0

6. RTC 08-190 Review Housing Mitigation Fee Adjustment to Update Nexus Study and Recommend Adjustment to Fee

Trudi Ryan presented the staff report.

Councilmember Howe verified with Planning Officer Ryan that one existing project could be a possible exception to the fee as it may be carried forward after July 1, 2008.

Public hearing opened at 10:27 p.m.

No speakers.

Public hearing closed at 10:27 p.m.

MOTION: Councilmember Swegles moved and Councilmember Howe seconded to approve Alternative 1, 3 and 6:

Alternative 1: Council adopts a Resolution setting the Housing Mitigation Fee for FY 2008-09 at \$8.95 (new fee would be effective 60 days after adoption – August 9, 2008).

Alternative 3: Council directs staff to use the Consumer Price Index (CPI) to index the fee in future years.

Alternative 6: Council allows projects approved prior to July 1, 2008 to pay housing mitigation at the \$8.00 rate through December 31, 2008, and requires all future payments to be at the fee in place at the time of payment.

with projects with a completed application date by June 10, 2008 will be included in the group to allow for a variance.

Councilmember Moylan verified with Planning Officer Ryan that staff plans to bring forward a study issue on the Housing Mitigation Fee next year for Council's selection and ranking. This study issue would examine whether a Housing Mitigation Fee should apply to projects and perhaps also the entire floor area ratio (FAR), not just everything that is above the minimum. Councilmember Moylan questioned if this fee were to be approved, would Council have the ability to reduce the fee based on the fact that the fee would apply to more projects and therefore produce similar income as currently received. Planning Officer Ryan explained that if staff were to conduct a study on this fee, Council would be able to select from any combination of factors.

Approved by Council as revised at the July 15, 2008 Council Meeting.

VOTE: 7-0

7. RTC 08-170 08-170 Consider Public Use of the Hendy Iron Man Museum for a Cultural Amenity Walkable from Downtown (Study Issue)

Assistant to the Director of Parks and Recreation Cathy Merrill presented the staff report.

Public hearing opened at 10:35 p.m.

Tara Martin-Milius, Vice Chair of the Arts Commission, stated the commission voted unanimously to approve the staff recommendation. Martin-Milius stated the commission liked the idea, but could not get behind some of the details.

Councilmember Moylan verified with Martin-Milius that the commission understood the idea of this project was to have a wonderful local museum with a history of the area that would be walkable from downtown.

Councilmember Moylan verified with Martin-Milius that the commission did not find a group that wanted to take the lead on this project and also that it would create additional staffing needs. Martin-Milius stated another concern of the commission was the fact that although Northrop Grumman offered a space on their campus for this facility, they made it clear their offer would be pending final approval from their corporate headquarters. Additionally, some members of the commission were concerned about the lack of appropriate walkways over the railroad tracks from downtown to the museum and were also concerned about the transitory nature of the existing facility.

Dick Oliver, Parks and Recreation Commission member stated the commission voted unanimously in favor of the staff recommendation.

Councilmember Moylan explained that the idea was to save some museums from going out of businesses. Oliver stated that six art organizations were contacted by the Parks and Recreation Department when Northrop Grumman offered a facility; however, only two organizations were slightly interested in committing funds for reconditioning the space in order for it to be suitable for a museum.

Councilmember Moylan verified with Oliver that the Parks and Recreation Commission did not see any benefit to the City and that this museum should move forward only if one or more organizations had enough funding to support it.

Jim Griffith, Chair of the Board of Library Trustees, recommended the Western Philatelic Club be contacted to see if they would be interested in renting a space to set up a display of their relics prior to closing out this possibility for a museum.

Public hearing closed at 10:49 p.m.

Councilmember Swegles verified with Assistant to the Director Merrill that if funding was found, staff would contact Northrop Grumman to obtain a firm commitment on the feasibility of using the space adjacent to existing museum along with identifying a group to operate the space.

Approved by Council as revised at the July 15, 2008 Council Meeting.

Councilmember Swegles verified with Assistant to the Director Merrill that the available space is approximately 800 to 1,000 square feet, which would need some renovation including adding air conditioning to the facility.

Councilmember Moylan explained that a cultural amenity within walking distance of a City's downtown is an important aspect of revitalizing a downtown area. Councilmember Moylan stated one goal of this study was to find a way to assist the below critical mass museums who have a bleak outlook without some type of consolidation. Councilmember Moylan noted that another positive aspect of this project would be that if this space was rented out it could be a revenue source for Northrop Grumman. This project could be an appealing situation for all involved. Councilmember Moylan explained that it was always assumed that the City would have to take the lead on this project.

MOTION: Vice Mayor Hamilton moved and Councilmember Howe seconded to approve Alternative 3:

- Council directs staff to conclude this study and send a letter of appreciation to the representatives from Northrop Grumman for their offer of space and the time they had committed to assist with this study; and
- Council directs staff to send a letter to the local museums and artist associations to express appreciation for their participation in the study.

Vice Mayor Hamilton stated she is not in favor of the City running a historical museum. Vice Mayor Hamilton stated if the local arts organizations are not interested in taking the lead on this project, then it is not the responsibility of the City to assume this project. Vice Mayor Hamilton stated she disagrees that this museum is within walking distance of downtown. Vice Mayor Hamilton identified that this space is too small for the needs of the Western Philatelic Club. Vice Mayor Hamilton stated she agrees that the downtown needs a cultural amenity; however, this is not the right project.

Councilmember Swegles stated he will not support the motion because he would like to allow the Western Philatelic Club the opportunity to explore this possibility.

Councilmember Moylan stated he was the originator of the study issue and he prefers Alternative 2 because the goal is to attract enough people downtown to have something like this museum pay for itself. Councilmember Moylan stated there are many grants available. Councilmember Moylan stated the related capital project request for the new or renovated facility included in Alternative 2 should be ranked as priority four for next years Council's study issue ranking process.

Councilmember Whittum stated he opposes the motion. Councilmember Whittum stated that several times during this discussion it was mentioned that the museum is not pedestrian friendly. Councilmember Whittum stated in response to those comments that it is part of the City's job to make the area pedestrian accessible and that should definitely not be an objection to this project.

Councilmember Howe verified with City Manager Chan that roughly \$4 million is currently being subsidized from the general fund into the parks and recreation fund. This project would expand that subsidy and Councilmember Howe pointed out that two of the commissions have opposed this expansion as they see other priorities for funding.

Approved by Council as revised at the July 15, 2008 Council Meeting.

Mayor Spitaleri stated he supports the motion because there are many issues involved in order to make a museum work at this location and at this time, a museum is not feasible.

Councilmember Moylan explained that if the City steps in to help a group, they can facilitate that group doing the rest on its own and the historical society is a good example. They obtained City property and then they went out and obtained grant money on their own, which is the same type of arrangement Council could do for these other groups.

Councilmember Whittum stated corporate support can have interesting effects and it would be worth seeing what Northrop Grumman headquarters would have to say about this project.

VOTE: 3-4 (Councilmembers Moylan, Lee, Swegles and Whittum dissented)

MOTION FAILS

MOTION: Councilmember Moylan and Councilmember Swegles moved to approve Alternative 2:

Council directs staff to work with officials from Northrop Grumman and interested community leaders and organizations to select a specific site on the Northrop Grumman Campus and return to Council with a proposed agreement with Northrop Grumman for the use of space and a related capital project request for the new or renovated facility. The project request will include a description of the types of programs to be offered in the new facility and include detailed operational and maintenance costs for Council's consideration; **with**

- Council suggests that the capital project request be assigned priority 4 – (Enhance City's health and vitality) and put in the capital project for next year's funding consideration;
- Council requests staff check into the Western Philatelic Club, as mentioned by the member of the public. Staff to contact the Western Philatelic Club to see if they would be interested in renting a space, and
- Pursue all grant funding for a project of this nature.

Vice Mayor Hamilton inquired if Councilmember Moylan is proposing that money for this project come out of the City's general fund. Councilmember Moylan stated he is proposing that this will be one of next year's capital projects to be ranked by Council at that point.

Vice Mayor Hamilton stated she will be opposing the motion because this would take general fund money and the City already has over \$444 million in unfunded projects. Vice Mayor Hamilton stated the City should not be taking the lead on this project.

Councilmember Whittum stated Community Development Block Grant (CDBG) funds might be able to be used instead of general funds. City Manager Chan explained that CDBG funds would be for low or very low income households and attendance at the museum would be limited to those who meet that criterion.

Councilmember Whittum stated aspects of the project would qualify for the CDBG funds such as pedestrian scale improvements and where aspects of the project involve those

types of improvements, CDBG funds would be available.

City Manager Chan asked the director of parks and recreation to comment of the use of park dedication fees as a possible funding source. Director Lewis explained that park dedication funds can be used for capital projects and development when the City owns the land or has a minimum 25-year lease from the land owner. In this case, Northrop Grumman has stated that if they received approval from their headquarters, they would want the lease structured in such a way that they would reserve the right to take the land back at a moment's notice. Given the nature of Northrop Grumman's business, they need the flexibility to put their land back into use when needed and this would rule out using park dedication funds because a 25-year lease is unlikely.

VOTE: 4-3 (Councilmember Howe, Mayor Spitaleri, and Vice Mayor Hamilton dissented)

8. RTC 08-178 Adoption of the Revised Seismic Safety and Safety Sub-element of the Community Development Element (Study Issue)

Director of Public Safety Don Johnson presented the staff report.

Public hearing opened at 11:19 p.m.

No speakers.

Public hearing closed at 11:19 p.m.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternative 1: Council adopts by resolution, the revised Seismic Safety and Safety Sub-element of the Community Development Element as presented.

Councilmember Moylan offered a friendly amendment to add an additional key function titled 5.4 (on page 89) to accelerate the undergrounding of utilities as much as fiscally feasible using Rule 20A funds.

Friendly amendment accepted.

Restated MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternative 1: Council adopts by Resolution, the Revised Seismic Safety and Safety Sub-element of the Community Development Element as presented.

with

add an additional key function 5.4 (page 89) to accelerate the undergrounding of utilities as often as possible using Rule 20A funds.

VOTE: 7-0

9. RTC 08-186 Adopt Candidate Assessment and Interview Process for New Sunnyvale City Manager as Recommended by the City Council Subcommittee

Director of Human Resources Erwin Young presented the staff report.

Approved by Council as revised at the July 15, 2008 Council Meeting.

Vice Mayor Hamilton explained that the Council subcommittee recommended that if a panel has less than five people, that panel will be combined with another panel to make a total of eight panelists.

Councilmember Swegles verified with Vice Mayor Hamilton that Council will have its own panel, which was not mentioned in the staff report.

Councilmember Swegles stated it might be beneficial to have Council broken up among the other panels instead of sitting as one panel. Councilmember Swegles explained that would allow Council to hear what types of questions are being asked by the other committees. Vice Mayor Hamilton explained that idea was discussed but it was decided that all Councilmembers should have the same view of each candidate and the best way to achieve that would be to have Council as its own panel. Vice Mayor Hamilton explained that each panel will have a moderator who will share with Council the results of each panel and Council will also have access to the written comments from each panelist.

Councilmember Swegles stated councilmembers would receive a broader aspect of the applicant if they were to be a part of the other panels. Councilmember Swegles stated Council could then convene, discuss the candidates and look at input from the other panelists.

Mayor Spitaleri stated the subcommittee discussed concerns over the presence of councilmembers on the panel as that could possibly influence the decisions of the panelists. Mayor Spitaleri stated that it would be more straightforward to have Council be its own panel and allow the comments from the other panels to come back to Council.

Councilmember Swegles inquired if Council would commit any Brown Act violations if Council was part of the other panels or if they were their own panel. Director Young stated it is acceptable to hold a closed session for Council to conduct interviews for the city manager position.

Vice Mayor Hamilton explained that the subcommittee was concerned that councilmembers would not be working off the same information if they did not interview the candidates as a full council. Vice Mayor Hamilton stated that in order to give the candidates a fair chance, all of Council should have the same exposure to the candidates through the Council panel interview.

Councilmember Swegles stated he does not see the difference between Council sitting in on the panel interviews versus having a moderator share the same opinions with Council. If Council were to sit in on the interviews, Council would be able to have first hand opinions instead of hearing from a moderator.

Vice Mayor Hamilton explained that Council will be interviewing the candidates as part of the rotating interview panels on August 4, 2008. Council would not be able to sit in on the interviews, because at the same time the other panels will also be interviewing.

Councilmember Moylan explained that the difference between Council sitting in on the interviews versus a moderator returning to Council with opinions from the panel is that it is likely that some of the people sitting on the panels could be inhibited, resentful, or put off by

having Councilmembers looking over their shoulders during the interviews. Councilmember Moylan stated the subcommittee wanted the panels to freely ask their questions without the concern that Council was driving the discussion.

Councilmember Swegles explained that this is not a new process for Council to sit in on interviews. Councilmember Swegles explained that when Councilmembers were part of the panel in the past, Council did not dominate or take control of the interviews, but instead allowed everyone to ask their questions.

Councilmember Moylan explained that he was not suggesting that Councilmembers have dominated interviews; rather the subcommittee's concern was over the perception from the other panelists.

Councilmember Swegles explained that this has not been a problem in the past and he does not see a need to change the process.

Mayor Spitaleri explained that when Council sat on interviews for director positions, he provided input, but it was the city manager who had the final say on the selection. In this situation, it is Council who will be making the final selection so the process is different.

Mayor Spitaleri inquired if there is a deadline for those applying to serve on the interview panels. Director Young explained that staff will develop a process for receiving the applications and there will be a strict deadline.

Vice Mayor Hamilton explained that she would like to clarify the subcommittee's vision of the process in case any questions arise in the future. The process will include the following:

- A set deadline for applications to serve on one of the interview panels.
- Council will receive copies of all the applications and will have one week to check off their choices. Anyone who applies and receives at least three checkmarks from Councilmembers will be considered during the July 22, 2008 Council meeting.
- At the July 22 Council meeting, applicants receiving four or more votes will be eligible to serve on the interview panels.
- Councilmembers will have a maximum of eight votes.

Councilmember Swegles noted that Council was intermixed within the interview panels when the city attorney was hired. Councilmember Swegles explained he did not serve with the entire Council rather he was part of the group of employees from the public works department.

Vice Mayor Hamilton explained that the subcommittee recommended that the selection of those who will perform onsite visits of the finalist's place of employment should wait until the finalists are selected.

Public hearing opened at 11:38 p.m.

No speakers.

Public hearing closed at 11:38 p.m.

MOTION: Vice Mayor Hamilton moved and Councilmember Lee seconded to approve

Approved by Council as revised at the July 15, 2008 Council Meeting.

Alternative 1: Council approves the candidate assessment and interview process recommendations for the new city manager as developed by the City Council subcommittee.

Councilmember Whittum offered a friendly amendment to change the following section of the selection process as noted in ~~strikeout~~ and text identified by italic, highlighted and underlined: "Those applications receiving an affirmative assessment upon initial review by at least ~~three~~ two Councilmembers will be eligible for final panelist selection.

Vice Mayor Hamilton stated the initial recommendation was to have four affirmative votes. After discussion with the city attorney, the affirmative votes were reduced to three. During the July 22, 2008 Council meeting, finalists will need to receive at least four affirmative votes to proceed. Vice Mayor Hamilton explained that the initial assessment should require that at least three councilmembers offer affirmative assessments in order for the applicants to move forward to the final vote conducted on July 22, 2008, because the three votes will show an indication of Council support for that applicant.

Friendly amendment not accepted.

Councilmember Swegles offered a friendly amendment to integrate Councilmembers into other interview panels for the city manager candidates.

Vice Mayor Hamilton stated logistically that will not work as the panel of Councilmembers will be conducting interviews at the same time as other panels. Vice Mayor Hamilton explained that she is also concerned over the ability to obtain unsolicited feedback from the panels if Council is involved at the same level.

Friendly amendment not accepted.

Councilmember Whittum offered a friendly amendment to send a notice to designated neighborhood association contacts, specifically inviting them to apply. Vice Mayor Hamilton stated that is not necessary because neighborhood associations are one of the specific groups that were called out to receive a notice.

Director Young explained that the Communications Division will coordinate sending out the notice as they have an e-mail list for these groups.

Friendly amendment not accepted.

Councilmember Swegles stated he will not be supporting the motion. Councilmember Swegles stated Council would not be intimidating to the other panelists. Council would be able to have a better overall perspective of the candidates if they were allowed to sit in on the interviews as part of the other panels. Councilmember Swegles stated Council will miss a large amount of valuable input if they are not allowed to be a part of the interview panels.

VOTE: 5-2 (Councilmembers Swegles and Whittum dissented)

NON-AGENDA ITEMS & COMMENTS

COUNCIL: Councilmember Swegles stated he attended the Council on Aging meeting

Approved by Council as revised at the July 15, 2008 Council Meeting.

and was informed that the City of Sunnyvale has been approved to receive \$20,000 to assist with funding the position of care case manger.

Councilmember Swegles inquired that since the City has already approved the full funding of the position, would it be possible to use the \$20,000 from the Council on Aging to reinstitute funding for the Mayor's State of the City event.

City Manager Chan stated that the \$10,000 from the Council on Aging was already anticipated within the budget. Councilmember Swegles inquired if \$10,000 could go back to the Mayor's event. City Manager Chan stated that would require a separate motion. City Manager Chan explained that the mayor's event was already underway at the time Council moved to cut a portion of the funding for this event and at this point, staff is not aware of how much of a gap in funding may exist. City Manager Chan suggested that if staff identifies any funding gaps for this event, they will then bring that information to Council for their consideration at that time.

STAFF: None.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Draft minutes of the Arts and Parks & Recreation Commissions joint meeting of May 21, 2008
- Approved minutes of the Housing and Human Services Commission meeting of May 28, 2008
- RTC 08-183 Board and Commission Application Process
- Study Session Summary – Presentation of Background Report for the Economic Development Strategy of June 3, 2008
- Study Session Summary – Refuse Collection Rates Cost of Service Study and Update on ChoiceCollect Changes to Residential Collection Policies and Procedures of June 3, 2008

ADJOURNMENT TO REDEVELOPMENT AGENCY

Mayor Spitaleri adjourned the Council meeting at 11:46 p.m. to the Redevelopment Agency Meeting.

Gail T. Borkowski
City Clerk

Date: _____

Approved by Council as revised at the July 15, 2008 Council Meeting.