

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, MARCH 3, 2009

6 P.M. SPECIAL COUNCIL MEETING (Closed Session) - Closed Session pursuant to Section 54956.8 – Conference with Real Property Negotiator Property: Sunnyvale Town Center Negotiating Parties: Gary Luebbers, Agency Director; Peter Pau and Catherine Minor, Sunnyvale Mixed Use LLC Under Negotiation: Terms of ARDDOPA

7 P.M. COUNCIL MEETING

SALUTE TO THE FLAG

Mayor Spitaleri led the salute to the flag.

ROLL CALL

PRESENT:

Mayor Anthony Spitaleri
Vice Mayor Christopher Moylan
Councilmember John Howe
Councilmember Ron Swegles
Councilmember Melinda Hamilton
Councilmember David Whittum
Councilmember Dean J. Chu

ABSENT:

None

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Community Development Hanson Hom
Director of Finance Mary Bradley
Interim City Clerk Katherine Bradshaw Chappellear

CLOSED SESSION REPORT FOR MARCH 3, 2009

Closed session pursuant to Section 54956.8 – Conference with Real Property Negotiator: Property: Sunnyvale Town Center; Negotiating Parties: Gary Luebbers, Agency Director; Peter Pau and Catherine Minor, Sunnyvale Mixed Use LLC; Under Negotiation: Terms of ARDDOPA

Vice Mayor Moylan reported that direction was given but action was not taken.

SPECIAL ORDER OF THE DAY – Certificate of Congratulations for NetApp

SPECIAL ORDER OF THE DAY – Proclamation Recognizing Arbor Day

PUBLIC ANNOUNCEMENTS

Mayor Spitaleri announced the Superior Court of the State of California is seeking volunteers to serve on the 2009-2010 Civil Grand Jury. The Civil Grand Jury is the County's investigatory body and part of the judicial branch of government. Grand jury service requires a significant amount of

time but offers a unique volunteer opportunity. Individuals interested in applying should call (408) 882-2721, or visit the Superior Court Web site at www.sccsuperiorcourt.org/jury. The deadline for applications is March 5, 2009.

Councilmember Swegles noted an AARP meeting will be held March 4, 2009, 1:30 p.m., at the Sunnyvale Senior Center. Program will discuss scams that target senior citizens.

CONSENT CALENDAR

Councilmember Chu removed Item 1.A from the Consent Calendar to abstain, since he was not in attendance at the meeting.

MOTION: Vice Mayor Moylan moved, and Councilmember Swegles seconded, to approve the Consent Calendar with the exception of Item 1.A.

VOTE: 7-0

1.A. Approval of Council Meeting Minutes of December 9, 2008

MOTION: Councilmember Howe moved, and Vice Mayor Moylan seconded, to approve Consent Calendar Item 1.A.

VOTE: 6-0 (Chu abstained)

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

Fiscal Items

1.C. RTC 09-059 List of Claims and Bills Approved for Payment by the City Manager – List No. 442

Staff Recommendation: Council reviews the attached lists of bills.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None

PUBLIC COMMENTS

Josh Martin discussed the proposed expansion of the Palo Alto Medical Foundation (PAMF) on Old San Francisco Road. Martin stated the residents do not support the project in its current form and repeatedly attempted to contact PAMF to set up a meeting. Martin stated residents were concerned about the preferential re-zoning, increased traffic and pollution, pedestrian safety, and size of the parking structure.

Jeff Jones agreed the PAMF medical facility upgrade is long overdue. However, he expressed concern that the plan is exactly the same proposal submitted more than a year ago. At that time, PAMF was aware more than 50 residents signed a petition objecting to the project's size and scope, but PAMF chose not to make any changes. Jones said PAMF sent letters in December to several neighbors stating they planned to schedule a neighborhood meeting, but, to date, a meeting has not materialized. Jones noted concerns about child safety, parking issues and

negative traffic impacts on the community. Jones provided Council with a detailed report outlining inaccuracies in the Environmental Impact Report (EIR).

Arthur Schwartz stated he had a private meeting several months ago with Dr. Richard Slavin, CEO of Palo Alto Medical Foundation, and urged Dr. Slavin to reduce the size and scope of the facility. Schwartz pointed out he likes the clinic and the services they provide, but they shouldn't be imposing themselves on the neighborhood.

PUBLIC HEARINGS/GENERAL BUSINESS

2. **ORDINANCE** **2008-1245 - Mid-Peninsula Housing Coalition [Applicant], County of Santa Clara [Owner], City of Sunnyvale [Lessee]: Applications for 2.6 acre site located at 660 S. Fair Oaks Avenue (Santa Clara County Clinic) in an R-4 (High Density Residential) Zoning District (APN: 211-02-021, 022 and 023):**
- **Rezone from R-4 (High Density Residential) to R-4/PD (High Density Residential /Planned Development);**
 - **Special Development Permit to allow the development of 124 senior housing units with underground parking**

Principal Planner Gerri Caruso presented the staff report.

Vice Mayor Moylan asked staff if the number of parking spaces derived from parking requirements for the clinic were based on how many spaces the apartments would use.

Principal Planner Caruso stated the City had to meet the County's parking requirement, which dictated the size of the parking structure.

Director of Community Development Hanson Hom elaborated there were extensive ground lease negotiations with the county in determining the suitable site area for the senior housing project and location of the parking garage.

Councilmember Whittum ~~mentioned~~ **verified with Principal Planner Caruso** there were specific technical problems associated with moving the parking garage to Fair Oaks Avenue; the underground parking would interfere with the utilities underneath the street and the structure itself would interfere with **use of the** easement.

Matthew Franklin, President of Mid-Peninsula Housing Coalition (applicant), stated the nonprofit organization's goals were to provide safe, decent, affordable housing for individuals with low and moderate incomes. Franklin stated he intended to closely partner with the City and residents on a long-term basis.

Public hearing opened at 7:35 p.m.

Lloyd Finch emphasized the neighborhood is not opposed to senior housing; instead, the issue is the eye sore of the four-story parking garage and the noise and pollution created daily by hundreds of cars.

Finch stated it did not make sense to put a parking structure so close to a residential area. Understanding the extra costs, Finch suggested an underground parking garage would be a better alternative having less negative impact on the surrounding neighborhood.

Councilmember Swegles explained it would cost \$1.2 million dollars for two below-ground parking levels, and it might be hard to find that much additional funding under these difficult economic conditions.

Benjamin Glickman, Cherrywood condominium resident, questioned the City's coordination with the county and wanted more community input and involvement in the development process. Glickman said Garland Avenue has already been significantly impacted by clinic traffic which will be exacerbated by the parking structure and senior housing. Additionally, Glickman noted the negative aesthetics of the parking garage and cited there is no other location in the City where such a parking structure is located immediately adjacent to a residential neighborhood.

Councilmember Whittum asked Glickman why he would prefer the five-story senior facility over the four-story parking structure.

Glickman stated his preference was due to aesthetics and the unruliness of the vehicle noise and pollution.

Councilmember Howe verified with staff that Sunnyvale's noticing requirements include all owners and tenants within 300 feet of the affected area.

Public Hearing closed at 8:08 p.m.

Matthew Franklin said he was committed to working with the community, and invited the neighborhood to form a committee to comment on the parking structure landscaping. Franklin also stated he was committed to attending their monthly meetings to update the neighborhood on progress and construction coordination.

Councilmember Moylan clarified the county was the leveraging factor, and their decisions are ultimately the driving force for the design.

Director Hom stated the County was very supportive of the project, but the County Housing Authority was a major project financier with the Section 8 vouchers.

MOTION: Councilmember Swegles moved, and Councilmember Howe seconded, to approve staff recommendation: Alternative No. 1 – Council adopts the Mitigated Negative Declaration and introduces an ordinance to rezone and approves the Special Development Permit with conditions. Additionally, Council requires the county garage to be partially submerged with enhanced landscaping and architecture.

Councilmember Swegles stated the need for this type of housing is critical to the City. Councilmember Swegles explained he deals with senior residents on an on-going basis and many are leaving Sunnyvale because they cannot find affordable housing.

Councilmember Chu requested a friendly amendment to modify the parking garage to mitigate vehicle noise and pollution and then take the plans back to the planning department for approval.

Councilmember Swegles did not accept the friendly amendment, stating he believed the developer was already working with the residents to alleviate some of the parking issues.

Councilmember Hamilton stated she supported the motion and agreed there was a dire need for senior housing in Sunnyvale. Councilmember Hamilton noted her appreciation of the willingness of the Planning Commission, staff, and the developer to meet with the county to address these issues. Councilmember Hamilton explained the plan was not perfect; however, many compromises had been made.

Councilmember Whittum agreed with the goals of meeting senior housing needs; however, he opposed the motion, stating he did not believe the project was well-designed in relation to its surroundings. Councilmember Whittum suggested returning this item for further review.

VOTE: 6-1 (Councilmember Whittum dissented)

3. RTC 09-065 Approval of a Disposition & Development Agreement Between the City and Mid-Peninsula Housing Coalition Regarding Assignment of a Ground Lease and Development of 124 Units of Affordable Senior Housing at 660 S. Fair Oaks Avenue

Housing Officer Suzanne Ise presented the staff report.

Councilmember Whittum questioned the eligibility of HOME or other such funding for the necessary pedestrian access and possible parking solutions that supported the project amenities.

Housing Officer Ise stated there may be some funding available, but she didn't have the specifics. Housing Officer Ise noted Proposition 1C, a recently passed state bond measure, possible open-space grants, Parks and Recreation grants, and the Infill Housing Grant as possible sources.

Public Hearing opened at 8:38 p.m.

Matthew Franklin, President of Mid-Peninsula Housing Coalition (Applicant), stated the Coalition was comfortable with the terms articulated in the Deposition and Development Agreement (DDA), and was well-positioned to leverage those other financing sources.

Councilmember Chu asked staff if any stimulus monies would be available to help fund these low-income projects.

Housing Officer Ise stated there was an allocation within the stimulus program for additional HOME funds on a federal basis specifically for projects that apply for federal low-income housing tax credits this year and next year. Theoretically, this project may qualify, but there was little detail about how the HOME funds would be distributed.

Public Hearing closed at 8:44 p.m.

MOTION: Councilmember Chu moved, and Councilmember Swegles seconded, to approve staff recommendation: Alternative No. 1 – Council approves the attached Deposition and Development Agreement (DDA) with Mid-Peninsula Housing Coalition and Alternative No. 3 – Council directs staff to include an additional \$200,000 in HOME funds for this project in the Draft FY 2009/10 Action Plan, to be considered by Council in May 2009

with:

direct staff to seek any stimulus monies to further enhance the project.

FORMAL AMENDMENT: Councilmember Whittum moved, and Councilmember Swegles seconded, to amend the motion to include: delegation to the city manager for any required financing documents; require the \$200,000 HOME funds be used to lower the parking garage, and direct staff to look at funding for pedestrian and parking improvements connected with the project.

VOTE: 6-1 (Councilmember Howe dissented)

VOTE ON ORIGINAL MOTION: 7-0

4. RTC 09-063 Procedure for Selecting Directors of the Santa Clara Valley Transportation Authority Board

Director of Public Works Marvin Rose presented the staff report.

Councilmember Chu noted he was a former Chair of the Valley Transportation Authority (VTA) Board and provided background information.

Councilmember Whittum raised concerns about the December of every odd year member selection and nominee qualifications. Councilmember Whittum noted there seemed to be a tendency or a bias to exclude newly-elected councilmembers.

Councilmember Howe confirmed the current process by which the mayor makes an appointment and Council ratifies the appointment. Based on the new proposal, Council would direct the Policy Advisory Committee (PAC) member whom to vote for.

Councilmember Hamilton echoed Councilmember Whittum's concerns stating, under the new selection process, no one currently on Council would qualify.

Councilmember Moylan disagreed with Councilmember Hamilton's assertion and explained the rationale behind the process.

Councilmember Moylan stated that having "short-timers" had contributed to some bad decisions, and this method was devised to keep board members for longer periods of time. Additionally, the idea was to reduce the parochialism of the decisions and do what is best for VTA as a whole, not necessarily for one city.

Councilmember Moylan declared it was absolutely true the proposed qualifications do indeed discriminate against first-time councilmembers. Unless the newly-elected individual had some other expertise deemed valuable by the other transit cities, they would not have enough experience to represent those cities on the VTA board. Councilmember Moylan gave examples of newly-appointed councilmembers and stated it would take years of institutional knowledge before they could be expected to take the lead or make correct transit decisions.

Councilmember Chu commented the qualifications should be recommendations, not requirements, and stated he believed Sunnyvale's mayor, ratified by Council, should make the board member selection.

Councilmember Moylan reiterated the proposed process does not take any authority away from Council. Councilmember Moylan addressed a variety of specific voting processes and how Council would determine their candidate.

Public Hearing opened: 9:18 p.m.

No speakers.

Public Hearing closed: 9:18 p.m.

Councilmember Whittum opposed the staff recommendation, stating he disagreed with the necessary experience qualification.

MOTION: Councilmember Swegles moved, and Vice Mayor Moylan seconded, to approve staff recommendation: Alternative No. 1 – Council approves the procedure for selecting directors of the Valley Transportation Authority Board of Directors

with:

added stipulation that the mayor and Council give direction to the Sunnyvale representative regarding elections.

Councilmember Howe suggested a friendly amendment, stating the qualifications are recommendations and not mandatory.

Councilmember Swegles did not accept the friendly amendment, but understood the reasoning for broadening the eligibility. However, from past PAC experience, Councilmember Swegles considered the qualification requirements necessary.

Councilmember Hamilton opposed the motion, stating the restrictions limit potential board nominees.

Councilmember Whittum stated the voice of the voter should be heard and opposed the qualification measure.

FORMAL AMENDMENT: Councilmember Whittum moved, and Councilmember Howe seconded, to amend the motion to make the qualifications recommendations – not requirements.

FORMAL AMENDMENT TO THE AMENDMENT: Councilmember Chu moved, and Councilmember Whittum seconded, to amend the amendment to change the qualification criteria by removing the one year minimum service requirement.

VOTE ON AMENDMENT TO THE AMENDMENT: 4-3 (Councilmember Swegles, Vice Mayor Moylan and Mayor Spitaleri dissented)

VOTE ON AMENDMENT: 4-3 (Councilmembers Swegles, Hamilton and Vice Mayor Moylan dissented)

FORMAL AMENDMENT: Councilmember Whittum moved, and Councilmember Hamilton seconded, to amend the amended motion to remove the following from the Report to Council (RTC), Attachment A of the proposed procedure for appointment to the VTA:

In order to satisfy the enabling legislation's requirement that "the appointing powers shall appoint individuals who have expertise, experience, or knowledge relative to transportation issues," each nominee must meet at least one of the following criteria:

- At least one year's service on the Transit District Board (the VTA Board or the County Board of Supervisors prior to 1994).
- At least one year's service on a policy advisory committee that reports directly to the Transit District Board (the Policy Advisory Committee, the Citizens' Advisory Committee, or the former County Transportation Commission).
- Any other transportation policy credential that has been approved in advance by the majority of the other Group 2 cities as meeting the intent of the experience requirement.

VOTE ON THE AMENDMENT TO THE AMENDED MOTION: 3-4
(Councilmembers Swegles and Chu, Vice Mayor Moylan and Mayor Spitaleri dissented)

MOTION FAILED.

VOTE ON THE AMENDED MOTION: 5-2 (Councilmember Whittum and Vice Mayor Moylan dissented)

Vice Mayor Moylan stated he will bring Council's view to the next VTA meeting, however, he emphasized the original text goes before six cities and only needs a majority vote for approval – not unanimity. Vice Mayor Moylan stated it is unlikely another city will have the exact same changes as those adopted by Sunnyvale and doubted the likelihood of its approval.

**5. ORDINANCE Amendment to Sunnyvale Municipal Code Chapter 5.36 (Taxicabs)
RTC 09-056 Related to Taxicab Franchises**

Management Analyst Heather Tannehill presented the staff report.

Councilmember Howe clarified Council currently regulates taxicab fares, but this Municipal Code amendment proposes taxicab fare self-regulation with the taxicab franchisees submitting rate schedules to the Department of Public Safety (DPS).

Mayor Spitaleri asked if the unauthorized taxicab complaint investigation process also applies to limousine services.

Management Analyst Tannehill stated the City of Sunnyvale currently does not regulate limousine services.

Mayor Spitaleri asked City Attorney David Kahn if the City could regulate limousine services.

City Attorney Kahn was unsure of the state regulations on limousine services and would require more time to look into the matter.

Public Hearing opened at 9:57 p.m.

Peter Cirigliano expressed concern about the potential lack of taxicab competition within Sunnyvale and the possibility of unnecessarily high taxi rates due to fare deregulation. Cirigliano suggested various permitting solutions that could alleviate his concerns.

Public Hearing closed at 10:00 p.m.

MOTION: Councilmember Howe moved, and Councilmember Hamilton seconded, to approve staff recommendation: Alternative No. 1 – Council adopts the proposed ordinance amending Chapter 5.36

with direction to DPS to update Council (three years or less) regarding the status of the ordinance and its impact on fares.

Councilmember Swegles opposed the motion and described a previous exorbitant taxi fare experience, even with the City's restrictions in place. Councilmember Swegles questioned the impact on future fares without restrictions.

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

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Swegles attended a meeting with the Council on Aging, Monday, March 9, with the main emphasis on their budget reductions. Councilmember Swegles noted the paraplegic transit is having ongoing financial problems and is looking for additional funding.

NON-AGENDA ITEMS AND COMMENTS

Council: Councilmember Howe asked staff to assist residents in coordinating meetings at a City facility, citing an earlier example of a resident and the Palo Alto Medical Foundation.

Councilmember Whittum requested a determination on the date (March 10 or March 24) for a study session regarding high speed rail.

Councilmember Swegles noted the left turn barriers were not in place at the Kaiser Medical Facility, and inquired if there was a reason for the barrier removal.

City Manager Gary Luebbers explained the Kaiser Left Hand Turn Study Issue will be before Council in July or August, and no decision had been made. City Manager Luebbers stated he would determine the reasons behind the barrier removal.

Staff: None

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 09-060 Boards and Commissions Quarterly Attendance Report (Fall 2008) – Information Only
- RTC 09-061 Board and Commission Resignations – Information Only
- Draft Minutes of Parks and Recreation Commission Meeting of February 11, 2009
- Study Session Summary – Overview of Proposed 124 Unit Senior Housing Project at 660 S. Fair Oaks Avenue of February 24, 2009

ADJOURNMENT

Mayor Spitaleri adjourned the Council meeting at 10:14 p.m.

Katherine Bradshaw Chappellear
Interim City Clerk

Date