

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, SEPTEMBER 14, 2010

CALL TO ORDER

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

SALUTE TO THE FLAG

Mayor Hamilton led the salute to the flag.

ROLL CALL

PRESENT:

Mayor Melinda Hamilton
Vice Mayor Christopher Moylan
Councilmember Otto Lee (by teleconference)
Councilmember Ron Swegles
Councilmember Anthony (Tony) Spitaleri
Councilmember David Whittum
Councilmember Jim Griffith

ABSENT:

None.

STAFF PRESENT:

City Manager Gary Luebbers
Assistant to City Manager Robert Walker
City Attorney David Kahn
Acting Director of Finance Grace Leung
Chief of Public Safety Don Johnson
Director of Public Works Marvin Rose
Director of Community Development Hanson Hom
City Clerk Kathleen Franco Simmons

CLOSED SESSION REPORT FOR SEPTEMBER 14, 2010

Closed Session pursuant to Government Code Section 54956.9(a) – Conference with Legal Counsel – Existing Litigation

Vice Mayor Moylan reported direction was given and no action was taken.

PUBLIC ANNOUNCEMENTS

Vice Mayor Moylan announced the upcoming Horizon 2035 Climate Action Plan Community Workshop.

Isabelle Long, Sunnyvale Chapter of Daughters of the American Revolution, announced Constitution Week.

CONSENT CALENDAR

Councilmember Whittum and Tap Merrick, a member of the public requested to pull Item 1.K. from the Consent Calendar.

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

VOTE: 7 - 0

- 1.A. MOTION Approval of Council Meeting Minutes of August 31, 2010
- 1.B. MOTION Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

- 1.C. MOTION List of Claims and Bills Approved for Payment by the City Manager – List
RTC 10-238 Nos. 520 and 521

Staff Recommendation: Review the attached lists of bills.

- 1.D. MOTION Approval of Budget Modification No. 5 to Appropriate \$59,500 in Urban
RTC 10-240 Area Security Initiative and AT&T Grant Funds

Staff Recommendation: Alternative 1: Approve Budget Modification No. 5 to appropriate federal UASI grant monies (\$34,500) and private grant monies from AT&T (\$25,000) for a total of \$59,500.

- 1.E. MOTION Approval of Budget Modification No. 6 to Appropriate Additional
RTC 10-242 Expenditures to the Streetlights Program for \$196,000 from a PG&E
Streetlights Audit

Staff Recommendation: Alternative 1: Approve Budget Modification No.6 to appropriate \$196,000 from the Budget Stabilization Fund to cover the expenditures related to the results of the PG&E audit of the City's streetlights and to fund additional electrical costs associated with the new street lights.

- 1.F. MOTION Approval of Budget Modification No. 8 for NOVA Workforce Services
RTC 10-239 Department and Authorization to Award Contracts Totaling \$2,728,216 to
SolarTech and Foothill-De Anza Community College District for Green
Innovation Challenge Grant

Staff Recommendation: Alternative 1: Approve Budget Modification No. 8.

Contracts

- 1.G. MOTION Award of Contract for the Purchase of Wireless Communications Services
RTC 10-241 (F1008-17)

Staff Recommendation: Award a one-year contract to Verizon Wireless, not-to-exceed budgeted amounts, in substantially the same form as the attached draft Purchase Order, based upon the State of California cooperative contract and delegate authority to the City Manager to exercise an option to extend the contract for two additional one-year periods, provided pricing and service remain acceptable to the City.

- 1.H. MOTION Award of Contract for Electric Golf Cart Rentals for the Sunnyvale Golf
RTC 10-243 Course (F1008-11)

Staff Recommendation: Award a three-year contract in an amount not to exceed \$191,322, to Yamaha Golf-Car Company for the lease of seventy-five electric golf carts.

Contracts: Sunnyvale Works!

- 1.I. MOTION Award of Sunnyvale Works! Bid No. F1007-01 for Pavement
RTC 10-244 Rehabilitation/Resurfacing 2012

Staff Recommendation: Award a contract, in substantially the same form as the attached draft and in the amount of \$386,753 to Interstate Grading and Paving, Inc. for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met; and approve a construction contingency in the amount of \$38,675.

- 1.J. MOTION Authorization to Modify an Existing Sunnyvale Works! Design Contract
RTC 10-247 for the Sodium Bisulfite System at the Water Pollution Control Plant and
Approval of Budget Modification No. 7 (F1009-23)

Staff Recommendation: Modify an existing contract, in substantially the same form as the attached Second Amendment to RMC Water & Environment, to increase the contract value by \$12,980 to a total not-to-exceed amount of \$112,930; approve a contract contingency in the amount of \$1,020; and approve Budget Modification No. 7 to provide additional funding for this project.

Other Items

- 1.K. MOTION Response to Santa Clara County Civil Grand Jury Report, *Sunnyvale*
RTC 10-237 *City Council Actions Lack Transparency*

Public hearing opened at 7:14 p.m.

Tap Merrick spoke regarding the interim Councilmember selection process.

Public hearing closed at 7:15 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to approve Alternative 1: Approve the City's response to the Santa Clara County Civil Grand Jury report as presented in Attachment A with a modification on page 2 of Attachment A, under "City Response" where it says: "Disagree with the finding" remove the next two paragraphs.

VOTE: 3 - 4 (Mayor Hamilton, Councilmembers Griffith, Whittum, and Spitaleri dissented)
Motion failed.

MOTION: Councilmember Griffith moved and Councilmember Spitaleri seconded the motion to approve Alternative 1: Approve the City's response to the Santa Clara County Civil Grand Jury report as presented in Attachment A.

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

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Werner Gans expressed concerns regarding traffic safety in the Birdland neighborhood.

James Marken questioned why a tree removal permit and fee is required for the removal of a tree on his property and provided copies of a photo of the tree.

Tap Merrick expressed concerns regarding traffic safety in the Birdland neighborhood and provided written materials.

Wendy Bradford asked Council to reconsider fee waivers for adult recreation classes; spoke regarding the need for an ordinance regarding smoking in residential rental properties; and expressed concerns regarding impacts to air quality due to leaf blowers.

John Lustig spoke in favor of medical marijuana dispensaries and addressed issues presented at the study session.

PUBLIC HEARINGS/GENERAL BUSINESS

2. MOTION Community Event Grant Funding Recommendations
 RTC 10-234

Assistant City Manager Robert Walker presented the staff report.

Public hearing opened at 7:40 p.m.

No speakers.

Public hearing closed at 7:40 p.m.

MOTION: Councilmember Swegles moved and Vice Mayor Moylan seconded the motion to approve Alternatives 1 and 3: Approve grant funding recommendations as proposed by staff and establish a Council sub-committee to review grant applications and allocate grant funding in the future.

VOTE: 7 - 0

MOTION: Vice Mayor Moylan moved and Councilmember Whittum seconded the motion to appoint the committee tonight.

VOTE: 4 – 3 (Councilmembers Griffith, Councilmember Lee and Mayor Hamilton dissented)

Councilmember Spitaleri, Councilmember Swegles, Councilmember Whittum, Vice Mayor Moylan and Mayor Hamilton volunteered to serve on the committee. Councilmember Whittum deferred.

MOTION: Councilmember Griffith moved and Councilmember Spitaleri seconded the motion to appoint Councilmember Swegles, Mayor Hamilton and Councilmember Spitaleri based on random numbers generated using *www.random.org* to the committee.

VOTE: 4 – 3 (Councilmembers Swegles, Councilmember Whittum and Vice Mayor Moylan dissented)

3. MOTION Board and Commission Appointments Process and Resolution of
RTC 10-249 Administrative Questions/Concerns (Council Policy 7.2.19, Sections 2.D
and 2.J)

Assistant City Manager Robert Walker presented the staff report.

Public hearing opened at 8:01 p.m.

No speakers.

Public hearing closed at 8:01 p.m.

MOTION: Vice Mayor Moylan moved to approve Alternatives 5 and 6 to consider the Council subcommittee's recommendations regarding Sections 2.D and 2.J of Council Policy 7.2.19 and remove from Council Policy 7.2.19 the detailed description of how to address board and/or commission concerns with City operations or administrative matters; **with** some additional suggestions: adopt the subcommittee's recommendations regarding alternative language for 2.J; refer 2.D regarding the selection process back to the subcommittee with suggestions for the subcommittee to consider codifying the recent practice of having the votes on the appointments done in such an order that every applicant's first choice is considered before their second choice; and to consider adopting a policy whereby Council gets as many votes for a commission as there are vacancies. Motion died for lack of second.

MOTION: Councilmember Swegles moved and Councilmember Whittum seconded the motion to approve Alternative 1: Direct DPS staff to further study the issue and report back to Council in FY 11/12.

VOTE: 7 - 0

6. MOTION Consideration of Senator Alquist's Request to Waive Senior Center
RTC 10-246 Rental Fees for Women's Forum

Assistant City Manager Robert Walker presented the staff report.

Public hearing opened at 8:48 p.m.

No speakers.

Public hearing closed at 8:48 p.m.

MOTION: Councilmember Spitaleri moved and Councilmember Swegles seconded the motion to approve Alternative 1: approve Senator Alquist's request and waive the facility rental fees for the Women's Health Forum in February 2011 and 2012.

FRIENDLY AMENDMENT: Councilmember Griffith moved a friendly amendment to encourage Senator Alquist's office to take advantage in future years of the community grant program and possibly attempt funding for that in future years through that mechanism. Councilmember Spitaleri accepted the friendly amendment.

FORMAL AMENDMENT to MOTION: Councilmember Whittum moved and Councilmember Griffith seconded to amend the motion to grant the waiver for an allocation for the February 2011 event and refer the request for 2012 to the new community events grant review committee.

VOTE on FORMAL AMENDMENT: 6 - 1 (Councilmember Swegles dissented)

VOTE on MAIN MOTION: 6 - 1 (Councilmember Swegles dissented)

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Swegles reported the committee for resolutions opposes a resolution regarding Props 32 and 375; the City has taken a position and he will support the recommendations of staff and Council. Swegles reported the League board has taken a stand opposing Proposition 23 which is similar to the resolution.

Mayor Hamilton reported she will attend a meeting of Tax and Revenue Committee on behalf of the City.

Councilmember Griffith reported the Silicon Valley Leadership Group is strongly in favor of a position on AB 32 and SB 375. Councilmember Griffith suggested engaging the SVLG in lobbying regarding the League's position on those issues.

NON-AGENDA ITEMS & COMMENTS

Councilmember Spitaleri requested to place an item on the next agenda for discussion of the pet parade to solidify it as a partnership and co-sponsor of the event. Mayor Hamilton suggested the new community events grant funding review committee could look at dedicating event funding on a permanent, rotating basis.

Councilmember Spitaleri requested information regarding tree removal permits. Staff provided a response.

Councilmember Swegles announced he and his wife recently celebrated their 26th anniversary.

Councilmember Lee requested staff to ask PG&E to provide information regarding the location and condition of the natural gas pipelines in Sunnyvale. Staff provided a response.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 10-248 City Positions on League of California Cities' 2010 Annual Resolutions (Information Only)
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting of August 19, 2010
- Draft Minutes of the Housing and Human Services Commission Meeting of August 25, 2010
- RTC 10-235 Update #3 Regarding Morse Avenue Park Site Development (Information Only)
- Draft Minutes of the Parks and Recreation Commission Meeting of September 2, 2010

ADJOURNMENT

Mayor Hamilton adjourned the meeting at 9:07 p.m.

Kathleen Franco Simmons
City Clerk

Date