

DRAFT MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, NOVEMBER 9, 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
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
Deputy Chief of Public Safety Mark Stivers
Director of Public Works Marvin Rose
Planning Officer Trudi Ryan
City Clerk Kathleen Franco Simmons

CLOSED SESSION REPORT FOR NOVEMBER 9, 2010

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

Mayor Hamilton reported direction was given and no action was taken.

CLOSED SESSION REPORT FOR NOVEMBER 9, 2010

Closed Session pursuant to Government Code Section 54957 – Public Employee Performance Evaluations

Mayor Hamilton reported no direction was given and no action was taken.

**Pending Council Approval*

PUBLIC ANNOUNCEMENTS

Jim Davis, Chair, Sunnyvale Pet Parade, thanked Council and staff for their participation in the event and provided a video presentation.

CONSENT CALENDAR

Mayor Hamilton pulled Item 1.F and 1.K from the Consent Calendar.

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

VOTE: 7 - 0

- 1.A. MOTION Approval of Council Meeting Minutes of October 26, 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 10-298 No. 528 & 529

Staff Recommendation: Review the attached lists of bills.

- 1.D. RESOLUTION Resolution Amending the FY 2010/2011 Fee Schedule for Public Safety
RTC 10-307 Parking Penalties

Staff Recommendation: Alternative 1: Adopt the Resolution amending the Fee Schedule for Public Safety Parking Penalties.

- 1.E. MOTION Approval of Budget Modification No. 17 to Appropriate Additional Funding
RTC 10-301 for Orchard Gardens Neighborhood Traffic Calming Project

Staff Recommendation: Approve Budget Modification No. 17 for additional funding for construction of the Orchard Gardens Neighborhood Traffic Calming project, which will be awarded under the City Manager's award authority.

Contracts

- 1.F. MOTION Third Amendment to an Existing Contract with Associated Infrastructure
RTC 10-308 Management Services Corporation (AIMS) for Project Management
Services (F1010-40)

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to reschedule this item to November 16, 2010.

VOTE: 7 – 0

Contracts: Sunnyvale Works!

- 1.G. MOTION Award of Sunnyvale Works! Contract for Peer Review of the WPCP
RTC 10-306 Strategic Infrastructure Plan and Approval of Budget Modification No. 16
(F1010-35)

Staff Recommendation: Award a contract to CH2M Hill in an amount not to exceed \$124,532 for the Peer Review of the Water Pollution Control Plant Strategic Infrastructure Plan (SIP); approve a project contingency in the amount of \$12,453; and approve Budget Modification No. 16 to provide funding for this project.

- 1.H. MOTION Award of Sunnyvale Works! Contract (RFP No. F0905-97) for Energy
RTC 10-311 Efficient Streetlight Conversion

Staff Recommendation: Award a contract in an amount not-to-exceed \$1,142,065, to Team Econolite Traffic Engineering and Maintenance, Inc., for completion of the energy efficient streetlight conversion project.

Other Items

- 1.I. MOTION City of Sunnyvale 2010 Conflict of Interest Code Biennial Review and
RTC 10-293 Amendment

Staff Recommendation: Alternative 1: Adopt the proposed amending the City's Conflict of Interest Code, as submitted.

- 1.J. ORDINANCE Adoption of Ordinance No. 2929-10 Amend Section 10.26.050
NO. 2929-10 (Issuance Of Permits) of Chapter 10.26 (Preferential Parking on Residential Streets) of Title 10 (Vehicles and Traffic) of the Sunnyvale Municipal Code

Staff Recommendation: Approve second reading of Ordinance No. 2929-10.

- 1.K. MOTION Approval of Revised Council Policy 7.1.5, Donations, Contributions,
RTC 10-297 and Sponsorships

Mayor Hamilton requested consideration of changing the grant amount from \$1,500 to \$5,000.

Public hearing opened at 7:07 p.m.

No speakers.

Public hearing closed at 7:07 p.m.

MOTION: Councilmember Griffith moved and Councilmember Spitaleri seconded the motion to approve Alternative 2: Approve the policy with substitute revisions, changing the \$1,500 limit to \$5,000.

VOTE: 7 - 0

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Robert Schwiesow stated he purchased a home through the BMR program and as Director of the HOA has found inconsistencies with the building plans and inquired about the policy and process for City inspections. City Manager Luebbers stated staff will get back to him with a response.

PUBLIC HEARINGS/GENERAL BUSINESS

2. MOTION 2010-7108 - Verizon Wireless [Applicant] Pacific Gas and Electric Co.
RTC 10-292 [Owner]: Appeal by the applicant of a decision of the Planning
Commission for a Use Permit to allow colocation of a fourth wireless
telecommunications carrier to add nine antennas on an existing lattice
tower and associated ground equipment, including an emergency back-
up generator on a site located at 757 Lois Ave. (Negative Declaration)
(APN: 198-25-010)

Planning Officer Trudi Ryan presented the staff report.

Karen McPherson, on behalf of Verizon Wireless, stated Verizon Wireless intends to be a good neighbor and will work with staff on a plan that will work for everyone.

Public hearing opened at 7:34 p.m.

Terry Short stated support for the staff recommendations and that his wife's comments were provided by e-mail.

Mae Dacair spoke regarding corporate social responsibility to the community.

Bernard Chen stated it is important Council consider upholding the standards of maintenance of public properties.

Mei-Ling Stefan spoke regarding upholding the conditions of cell tower use permits.

Karen McPherson, on behalf of Verizon Wireless, clarified the towers are PG&E transmission towers; they are requesting this additional use to help prevent additional towers in the community.

Public hearing closed at 7:41 p.m.

MOTION: Councilmember Griffith moved and Vice Mayor Moylan seconded the motion to approve Alternative 3: Grant the appeal and approve the Use Permit with modified conditions to the Planning Commission Conditions of Approval, with modification that the operation of the diesel engine during testing cycles not occur outside the window of 9 a.m. to 7 p.m.

FRIENDLY AMENDMENT: Councilmember Lee moved a friendly amendment to add a condition directing staff to come back to Council with a report regarding the landscaping plan, noise issues, decibel levels at the property line, four months after the building permit approval.

Councilmember Griffith accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Whittum moved a friendly amendment to require improvement of the esthetic of the cinder block structures, for example by screening. Councilmember Griffith stated the condition could be changed to read "so as to improve the appearance of the site including, as one area of concern, the appearance and visibility of the cinder blocks."

Councilmember Griffith accepted the friendly amendment.

VOTE: 7 - 0

3. ORDINANCES Introduction of Ordinance and Setting a Date for a Public Hearing on
RTC 10-294 Adoption by Reference of the California Building Codes

Planning Officer Trudi Ryan presented the staff report.

Public hearing opened at 7:53 p.m.

Tap Merrick suggested requiring storage areas in garages in new construction.

Public hearing closed at 7:55 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Lee seconded the motion to approve Alternative 1: Introduce the proposed 12 ordinances (Attachments C-1 to C-12) and set a public hearing for November 16, 2010.

City Clerk Kathleen Franco Simmons read the ordinance titles.

VOTE: 7 - 0

4. RESOLUTION 2010 California Fire Code with Amendments and Standards for High-Rise
ORDINANCE Buildings
RTC 10-299

Deputy Chief of Public Safety Mark Stivers and Lieutenant Jeff Schlesinger presented the staff report.

Public hearing opened at 8:11 p.m.

Jay Pawlek, Taylor Morrison, stated he submitted a letter today; he supports the desire for public safety but expressed concern regarding the change in height requirement.

Robert Schwiesow spoke in favor of widening driveways.

Public hearing closed at 8:17 p.m.

MOTION: Councilmember Swegles moved and Councilmember Lee seconded the motion to approve Alternative 1: Adopt the 2010 California Fire Code with amendments and the changes to the High Rise Ordinance and set a public hearing for adoption of these codes on November 16, 2010, with modification to add that if a project is currently being considered, use a grandfather clause. Councilmember Swegles modified the motion to the staff recommendation.

City Clerk Kathleen Franco Simmons read the ordinance titles.

VOTE: 7 - 0

5. MOTION Adoption of 2010-2011 Charter Review Committee, including Scope of
RTC 10-300 Authority and Appointment Procedures

City Attorney David Kahn presented the staff report.

Public hearing opened at 8:30 p.m.

Tap Merrick stated this has been done before and stated the current Council process is working and should be kept the way it is.

Public hearing closed at 8:32 p.m.

MOTION: Councilmember Spitaleri moved and Councilmember Swegles seconded the motion to approve Alternative 1: Direct that a 2010-2011 Charter Review Committee be created, and that the Committee should have the following characteristics:

- a. The Committee should be comprised of 11 members.
- b. Committee members will be selected through an open application process, Council interviews, and appointment based on the procedure for appointments to City boards and commissions.
- c. The Committee's Charter review authority is whether to change to a directly-elected Mayor, to propose Charter language if the City Council decides to place a Charter amendment for a directly-elected Mayor on the 2011 ballot, and to review and make a recommendation on the Charter provisions on Council compensation.
- d. The Committee must provide for public notice and opportunity for comment by the public, Councilmembers and Board and Commission members before making any recommendation.

Councilmember Spitaleri amended the motion to remove the Council interviews from paragraph b.

AMENDMENT: Councilmember Whittum moved an amendment and Councilmember Swegles seconded the motion to add back the interviews.

VOTE on AMENDMENT: 4 – 3 (Councilmember Griffith, Vice Mayor Moylan, and Mayor Hamilton dissented)

AMENDMENT: Councilmember Whittum moved an amendment to allow the Charter Review Committee the freedom to consider a Charter amendment to end numbered seats and a Charter amendment to look at even-year elections.

Motion died for lack of a second.

AMENDMENT: Councilmember Whittum moved an amendment and Mayor Hamilton seconded the motion to allow the committee to make a recommendation after consideration and if they choose to recommend not to go forward, to leave it at that.

VOTE on AMENDMENT: 3 - 4 (Councilmember Lee, Vice Mayor Moylan, Councilmembers Spitaleri and Swegles dissented)

VOTE on MAIN MOTION: 5 - 2 (Councilmembers Griffith and Whittum dissented)

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Swegles reported he will be attending the League of California Cities legal analysis of the election.

Mayor Hamilton announced she was elected to serve as President of the Santa Clara County Cities Association beginning in December.

NON-AGENDA ITEMS & COMMENTS

Councilmember Spitaleri thanked the city manager, Department of Public Safety and all City staff who helped put on the Sunnyvale Pet Parade.

Mayor Hamilton announced that Thursday is Veteran's Day.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 10-295 Board and Commission Resignation
- RTC 10-302 Opportunity for Council to appeal decisions of the Planning Commission of October 25, 2010 and the Zoning Administrator Hearing of October 27, 2010
- RTC 10-304 Special Development Permit #2009-0066 for Club La Ronda allowing the expansion of an existing restaurant with live entertainment (La Ronda Night Club) into an existing restaurant space for an additional 534 square feet located at 927 E. Duane Avenue (Information Only)
- Draft Bicycle and Pedestrian Advisory Commission Meeting Minutes of October 21, 2010
- Joint City Council, Planning Commission and Bicycle and Pedestrian Advisory Commission Study Session Summary of October 26, 2010 - Horizon 2035 – Land Use and Transportation Element and Climate Action Plan Status Report

ADJOURNMENT

Mayor Hamilton adjourned the meeting at 8:57 p.m.