

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

CALL TO ORDER

Mayor Hamilton called the meeting to order in Council Chambers.

SALUTE TO THE FLAG

Mayor Hamilton led the salute to the flag.

ROLL CALL

PRESENT:

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

ABSENT:

Councilmember Ron Swegles (excused)

STAFF PRESENT:

City Manager Gary Luebbers
Assistant to City Manager Robert Walker
City Attorney David Kahn
Budget Manager Drew Corbett
Director of Public Safety Don Johnson
Director of Public Works Marvin Rose
Director of Community Development Hanson Hom
City Clerk Kathleen Franco Simmons

SPECIAL ORDER OF THE DAY – Mayor Hamilton and Public Safety Chief Don Johnson made a presentation in recognition of Deputy Chief Mark Stivers.

SPECIAL ORDER OF THE DAY – Kathleen Franco Simmons administered the Oath of Office to new members of boards and commissions.

PUBLIC ANNOUNCEMENTS

Councilmember Griffith announced the deadline to receive applications for vacancies on City commissions.

Councilmember Griffith announced the extension of the deadline to receive applications for the Charter Review Committee.

CONSENT CALENDAR

MOTION: Vice Mayor Moylan moved and Councilmember Lee seconded the motion to approve the Consent Calendar.

VOTE: 6 - 0 (Councilmember Swegles absent)

- 1.A. MOTION Approval of Council Meeting Minutes of December 7, 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 10-338 No. 533

Staff Recommendation: Review the attached lists of bills.

- 1.D. MOTION FY 2009/2010 Annual Status Report on Receipt and Use of Development
RTC 10-327 Impact Fees

Staff Recommendation: Alternative 1: Accept the FY 2009/2010 Annual Status Report on Receipt and Use of Development Impact Fees.

Contracts

- 1.E. MOTION Award of a Design and Construction Support Services Contract for the
RTC 10-341 Landfill Gas Flare and Blowers Replacement Project (F0905-104)

Staff Recommendation: 1. Award a contract to Golder and Associates, Inc., in substantially the same form as the attached draft Consultant Services Agreement and in an amount not-to-exceed \$145,697 for design and construction support services for the Landfill Gas Flare, Blowers and Associated Equipment Replacement Project; and 2. Approve a 10% design contingency in the amount of \$14,570.

- 1.F. MOTION Award of Contract to Provide Children’s Dance Classes for the City’s
RTC 10-343 Recreation Program (F1011-52)

Staff Recommendation: 1. Award a two-year contract to Dance Force LLC, in substantially the same form as the attached draft and in an amount not to exceed \$90,000 per year, to provide children’s dance classes for the City’s Recreation Program; and 2. Delegate authority to the city manager to exercise an option to extend the contract for one additional year, provided that pricing and service remain acceptable to the City.

Other Items

- 1.G ORDINANCE Adoption of Ordinance No. 2945-10 Awarding Non-Exclusive
2945-10 Franchise to Air Products Manufacturing Corporation and Air
Products and Chemicals, Inc.

Staff Recommendation: Council approve second reading of Ordinance No. 2945-10

- 1.H. ORDINANCE Adoption of Ordinance No. 2946-10 Awarding Nonexclusive Franchise to A Orange Cab, Inc.
2946-10

Staff Recommendation: Council approve second reading of Ordinance No. 2946-10

- 1.I. RESOLUTION Approval of Resolution for the Installation of Traffic Signals at
RTC 10-325 Bernardo Avenue and Remington Drive, and Duane Avenue and
Britton Avenue

Staff Recommendation: Alternative 1: Approve the attached resolution to designate the intersections of Remington Drive and Bernardo Avenue, and Duane Avenue and Britton Avenue, for the installation of traffic signals.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

None.

PUBLIC HEARINGS/GENERAL BUSINESS

Mayor Hamilton announced due to the anticipated length of the first public hearing item, Items 3 and 4 would be taken out of order and handled before Item 2.

2. ORDINANCE 2010-7279 - Medical Marijuana Distribution Facilities (Study Issue)
RTC 10-339

This item was heard following Public Hearing Items 3 and 4.

Community Development Director Hanson Hom presented the staff report.

Mayor Hamilton asked those in support of an ordinance to allow distribution facilities to raise their hands.

Mayor Hamilton asked those in support of an ordinance to ban distribution facilities to raise their hands.

Public hearing opened at 8:21 p.m.

Jonathan Steigman spoke in support of allowing medical marijuana distribution facilities.

Robert Jones spoke in support of allowing medical marijuana distribution facilities.

Jason Xu spoke in opposition to medical marijuana distribution facilities in Sunnyvale.

Jim Davis spoke regarding medical marijuana regulations.

Walter McIntyre spoke in opposition to allowing medical marijuana distribution facilities.

Jessica Chant introduced a video by Dr. Stewart Bell.

Ron Kirkish, Californians for a Drug Free Youth, spoke regarding the schizophrenic effects of marijuana use.

Catherine Rode spoke for herself and two other residents in opposition to medical marijuana distribution facilities and the difficulty of regulating dispensaries.

Daniel Serri spoke in support of allowing operation of dispensaries with proper oversight.

Alesha Boyd, Sunnyvale Cooperative Association, spoke regarding the association's previous application for a legally permitted facility and in support of allowing medical marijuana distribution facilities.

Sarah Broadbent spoke in opposition to allowing medical marijuana distribution facilities in Sunnyvale.

Nicole Reed spoke in opposition to allowing marijuana cooperatives in Sunnyvale citing the increasing use of marijuana by youth and statistics on the risk of developing schizophrenia.

George Bell spoke in opposition to allowing marijuana distribution facilities in Sunnyvale citing statistics from the Associated Press on physicians who prescribe medical marijuana, licensing dispensaries, and health risks and provided written materials.

Steve Hurst spoke regarding non-profits making a profit.

Dana Davis spoke regarding medical marijuana advertising in local media.

Patrick Goggin, attorney, spoke regarding the issue of whether or not to regulate distribution facilities.

Craig Litwin, employee at CannBe, spoke regarding bringing control through regulation.

Dixie Larsen expressed opposition to marijuana distribution facilities in the City.

Vicki Garlow spoke on behalf of her husband Rich in favor of Alternative 1.

Bob McKee spoke in opposition to marijuana distribution facilities in Sunnyvale.

Kaylene Eyring stated just say no to drugs.

Carol Eyring spoke on behalf of herself and 16 other residents in opposition to marijuana cooperatives and collectives in Sunnyvale.

Stan Hendryx spoke regarding Sunnyvale's ranking as a safest city and urged adoption of the staff recommendation to prohibit distribution facilities in Sunnyvale.

Patti Evans stated her strong opposition to medical marijuana facilities in Sunnyvale and read from one of over 20 emails from other residents.

Nirmaljit Dhami spoke in opposition to allowing marijuana distribution facilities citing risk

factors and ease of access.

Paula Robinson, Assistant Principal, Homestead High School, expressed concerns regarding the impacts a dispensary or collective would have on students.

Lauren Vazquez, director of the Silicon Valley Chapter of Americans for Safe Access, spoke in favor of allowing collectives and cooperatives to provide for safe access.

Graham Clark, Principal, Homestead High School, spoke regarding discipline issues related to drug use by youth.

Soma McCandless, West Valley School Site Council Chairperson, spoke in opposition to marijuana distribution facilities in Sunnyvale citing development of children's brains and concerns regarding neighborhood businesses.

Yijie Li spoke on behalf of his wife and family and stated strong opposition to marijuana distribution facilities in Sunnyvale.

Susan Van Den Broeke spoke in opposition to collectives and distribution centers and read an Associated Press article for the record.

Paul Stewart, Executive Director, Medicinal Cannabis Collective Coalition, urged adoption of the Planning Commission's recommendation with a caveat to allow more than one collective in the first year the adopted ordinance is in existence, and reject the ban.

James Anthony, former City of Oakland City attorney, spoke regarding moving from a moratorium to regulation and control of dispensaries.

Kerry Haywood, Moffett Park Business and Transportation Association, speaking on behalf of the member businesses, spoke in opposition to distribution facilities in the Moffett Park area and strongly urged consideration of Alternative 1.

Amy McKee spoke regarding the impacts of addiction to marijuana on her family and stated her opposition to increasing access of marijuana to young people.

Lesley Carter spoke in support of safe access in Sunnyvale for residents who are severely disabled.

Jon Lustig spoke in support of medical marijuana.

Mei-Ling Stefan spoke in support of the staff recommendation and a study issue on how to stop abuse of marijuana among youth.

Patrick Grant spoke regarding a ban on distribution facilities and read a statement posted on the internet by Councilmember Swegles.

Brian David, Executive Director of Shoreline Wellness Collective, stated the collective intends to dispense medical marijuana and recommended Alternative 2.

Todd Eyring provided written materials titled, "Marijuana: Profit Not Compassion" and read excerpts highlighting large sums of money earned by marijuana distributors.

Monica Schwenke spoke in favor of Alternative 2 in support of safe access.

Dave Jones spoke in favor of Alternative 2 toward regulation.

Orlando Alverado spoke in favor of tighter regulation while allowing medical marijuana distribution facilities.

Public hearing closed at 10:36 p.m.

MOTION: Councilmember Spitaleri moved and Councilmember Whittum seconded the motion to approve Alternative 2 to support the Planning Commission Recommendation: direct staff to return with a draft ordinance in January 2011 that would further inform a decision on whether or not to allow MMDs. The draft ordinance should include new procedures, processes, regulations, and fees to allow MMDs in the City with direction on appropriate options (options listed in Attachment M plus Planning Commission recommended options).

VOTE: 2 - 4 (Vice Mayor Moylan, Councilmember Griffith, Councilmember Lee and Mayor Hamilton dissented, Councilmember Swegles absent)
Motion failed.

MOTION: Councilmember Griffith moved and Councilmember Lee seconded the motion to approve Alternative 1: Introduce an ordinance to prohibit medical marijuana distribution facilities in the City.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 4 - 2 (Councilmembers Spitaleri and Whittum dissented, Councilmember Swegles absent)

3. MOTION Agreement Renewal with Sustainable Community Gardens for Property
RTC 10-324 Located at 433 Charles Street

This item was heard prior to Public Hearing Item 2.

Assistant City Manager Robert Walker presented the staff report.

Public hearing opened at 7:22 p.m.

Robert Harms, representing the Parks and Recreation Commission, reported the commission unanimously agrees with the staff recommendation.

Rebecca Jepsen, Executive Director of Sustainable Community Gardens, reported highlights of the activities of the organization and provided written materials.

Dan Hafeman spoke in support of the Charles Street Gardens.

Eric Fulda, Garden Coordinator for Charles Street Gardens, spoke in support of renewing the agreement.

Bill Weaver spoke in support of renewing the agreement.

Public hearing closed at 7:32 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to approve Alternative 1: Approve renewal of the agreement with Sustainable Community Gardens for the operation and maintenance of the Charles Street Community Gardens for another five years consistent with Attachment A and authorize the city manager to enter into the agreement on behalf of the City.

VOTE: 6 - 0 (Councilmember Swegles absent)

4. MOTION 2010-7850 Request to Initiate a Study to Rename Capella Way to Charlie
RTC 10-340 Olson Way

This item was heard immediately following Public Hearing Item 3 and prior to Item 2.

Director of Community Development Hanson Hom presented the staff report.

Public hearing opened at 7:39 p.m.

Julia Miller, proponent, spoke in support of initiating a study to rename Capella Way to Charlie Olson Way.

Don Eagleston, President, Sunnyvale Chamber of Commerce, spoke in support of renaming Capella Way to Charlie Olson Way.

Connie Portele spoke in support of the initiation of a study to rename Capella Way to Charlie Olson Way and provided written materials.

Public hearing closed at 7:49 p.m.

MOTION: Councilmember Lee moved and Councilmember Griffith seconded the motion to initiate a study to rename "Capella Way" to "Charlie Olson Way".

FRIENDLY AMENDMENT: Councilmember Spitaleri moved to include in the study calling it Olson Way.

Councilmember Lee accepted the friendly amendment.

VOTE: 6 - 0 (Councilmember Swegles absent)

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Whittum proposed a study issue to pursue means of improving education for teens about drug use and what the City can do to work better with the school districts. Councilmember Spitaleri co-sponsored the study issue.

Councilmember Griffith reported a meeting of the County Recycling and Waste Reduction Commission in which a ban on polystyrene was discussed.

Councilmember Spitaleri announced he was reappointed to the League Employee Relations Committee.

Mayor Hamilton announced the Santa Clara County Cities Association City Selection Committee will consider three appointments at their upcoming meeting: Bay Area Conservation & Development Commission (BCDC), Council on Aging Advisory Board, and the Metropolitan Transportation Commission.

NON-AGENDA ITEMS & COMMENTS

- Council
- Staff

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 10-342 Follow-up to Council Study Issue (RTC 08-359): Parking Requirements for Medical Office Buildings (Information Only)
- Draft Heritage Preservation Commission Meeting Minutes of December 1, 2010

ADJOURNMENT

Mayor Hamilton and Vice Mayor Moylan adjourned the meeting in memory of Werner Gans at 11:29 p.m.

Kathleen Franco Simmons
City Clerk

Date