

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, JANUARY 10, 2012

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 Jim Griffith
Councilmember Otto Lee
Councilmember Christopher Moylan
Councilmember Anthony (Tony) Spitaleri
Councilmember David Whittum

ABSENT:

None.

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Finance Grace Leung
Chief of Public Safety Frank Grgurina
Director of Community Development Hanson Hom
Director of Public Works Kent Steffens
City Clerk Kathleen Franco Simmons

GENERAL BUSINESS:

Mayor Hamilton requested to move Item 1.E Adoption of Ordinance 2967-12 to be handled with the Consent Calendar in order to be consistent so that the same Council would be voting on both readings of the ordinance.

Councilmember Whittum requested to remove Item 1.E from the Consent Calendar.

MOTION: Vice Mayor Griffith moved and Councilmember Lee seconded the motion to approve the Consent Calendar consisting of Item 1.A Approval of the Council Meeting Minutes of December 13, 2011.

VOTE: 6 - 0

- 1.E. ORDINANCE Adoption of Ordinance 2967-12 Authorizing an Amendment to the Contract Between the City of Sunnyvale and the Board of Administration of the California Public Employees' Retirement System (To Provide Section 21363.1 (3% @ 55 Full Formula) For Local Safety Members)

Public Hearing opened at 7:09 p.m.

Patrick Meyering expressed opposition to increasing the salary and compensation at a time when the City budget is under significant pressure.

Public Hearing closed at 7:11 p.m.

MOTION: Councilmember Whittum moved and Vice Mayor Griffith seconded the motion to defer this item to the place it is located on the agenda.

VOTE: 2 – 4 (Councilmembers Lee, Spitaleri, Mayor Hamilton, and Councilmember Moylan dissented)
Motion failed.

MOTION: Vice Mayor Griffith moved and Councilmember Lee seconded the motion to approve the second reading of Ordinance No. 2967-12.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 5 – 0 (Councilmember Whittum abstained)

SPECIAL ORDER OF THE DAY

2. RESOLUTION Certification of 2011 Election Results - Council Seats 4, 5, 6, 7 and
RTC 12-001 Ballot Measures A and B

MOTION: Councilmember Moylan moved and Vice Mayor Griffith seconded the motion to adopt the Resolution Declaring Canvass of Returns and Results of the General Municipal Election held November 8, 2011.

VOTE: 6 – 0

SPECIAL ORDER OF THE DAY – Recognition of outgoing Councilmember Otto Lee and presentation in memory of Councilmember Ron Swegles

SPECIAL ORDER OF THE DAY – Recognition of outgoing Vice Mayor Jim Griffith and remarks

SPECIAL ORDER OF THE DAY – Recognition of outgoing Mayor Melinda Hamilton and remarks

SPECIAL ORDER OF THE DAY – Ceremonial Oath of Office for Council-Elect David Whittum – Seat 4, Pat Meyering - Seat 5, Jim Davis - Seat 6, and Tara Martin-Milius - Seat 7

The Oath of Office for David Whittum was administered by former Mayor Jim Roberts.
The Oath of Office for Pat Meyering was administered by Christine Mason.
The Oath of Office for Jim Davis was administered by his wife, Susan Davis.
The Oath of Office for Tara Martin-Milius was administered by former Mayor Patricia Castillo.

City Clerk Kathleen Franco Simmons presented a Certificate of Election to each newly elected Councilmember.

Council recessed at 8:12 p.m.

Council reconvened at 8:27 p.m. with Mayor Pro Tempore Griffith presiding.

ROLL CALL

PRESENT:

Mayor Pro Tem Jim Griffith
Councilmember Christopher Moylan
Councilmember Anthony (Tony) Spitaleri
Councilmember David Whittum
Councilmember Pat Meyering
Councilmember Tara Martin-Milius
Councilmember Jim Davis

ABSENT:

None.

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Finance Grace Leung
Chief of Public Safety Frank Grgurina
Director of Community Development Hanson Hom
Director of Public Works Kent Steffens
City Clerk Kathleen Franco Simmons

PUBLIC HEARINGS/GENERAL BUSINESS

3. MOTION Selection of Mayor for 2012 and 2013
RTC 12-002

City Clerk Kathleen Franco Simmons presented the staff report.

Public hearing opened at 8:29 p.m.

Michael Rose spoke in favor of nominating Councilmember Whittum for Mayor.
Terry Fowler spoke in favor of nominating Councilmember Griffith for Mayor.

Holly Lofgren spoke in favor of nominating Councilmember Chris Moylan for Mayor.

Kathleen Meadows spoke in favor of nominating Councilmember Chris Moylan for Mayor.

Peter Cirigliano spoke in favor of nominating Councilmember Chris Moylan for Mayor.

Public hearing closed at 8:40 p.m.

Mayor Pro Tempore Griffith provided information regarding notification from the Fair Political Practices Commission of a potential conflict with the mayoral election and requested that upon nomination, each nominee declare whether they will choose to waive the increased salary of the mayor's position, choose to take a risk with the FPPC, or choose to recuse themselves from the vote.

1st nomination: Councilmember Davis nominated Councilmember Anthony Spitaleri for Mayor for 2012 to 2014.

Councilmember Spitaleri accepted the nomination and stated that he signed the waiver.

2nd nomination: Councilmember Meyering nominated Councilmember Whittum for Mayor. Councilmember Whittum accepted the nomination and stated that he signed the waiver.

3rd nomination: Councilmember Whittum nominated Councilmember Griffith for Mayor. Councilmember Griffith accepted the nomination and stated that he submitted the waiver.

Mayor Pro Tem Griffith closed the nominations at 8:43 p.m.

Councilmember Spitaleri provided a Candidate Statement.

Councilmember Whittum provided a Candidate Statement.

Councilmember Griffith provided a Candidate Statement.

VOTE on 1st nomination - Councilmember Spitaleri: 3 – 2 – 2 (Councilmembers Meyering and Whittum dissented, Councilmembers Griffith and Moylan abstained)
Mayor Pro Tem Griffith announced that four votes were not achieved so the vote will continue with the next nominee.

VOTE on 2nd nomination - Councilmember Whittum: 3 – 1 – 3 (Councilmember Davis dissented, Councilmembers Spitaleri, Martin-Milius, and Griffith abstained)

VOTE on 3rd nomination - Councilmember Griffith: 1 – 2 – 4 (Councilmembers Meyering and Davis dissented, Councilmembers Spitaleri, Martin-Milius, Moylan and Whittum abstained)

Mayor Pro Tem Griffith declared that he was now eliminated from being further voted upon and a second round of voting would be held.

Councilmember Meyering proposed inquiring of Councilmember Moylan whether he would be willing to serve a one-year term as mayor until January 10, 2013, to be followed by a rotation of Councilmembers by seniority to serve as mayor.
Councilmember Moylan declined.

VOTE on 1st nomination - Councilmember Spitaleri: 4 – 1 – 2 (Councilmember Whittum dissented, Councilmembers Meyering and Moylan abstained)

Mayor Pro Tem Griffith declared Councilmember Spitaleri elected Mayor.

Mayor Spitaleri took the Mayor's seat and presided over the remainder of the meeting.

4. MOTION Selection of Vice Mayor for 2012
RTC 12-003

Public comment opened at 9:01 p.m.

No speakers.

Public comment closed at 9:01 p.m.

Councilmember Whittum nominated Councilmember Jim Griffith for Vice Mayor.

Councilmember Griffith declined to accept the nomination.

Councilmember Griffith nominated Councilmember David Whittum for Vice Mayor.

Councilmember Whittum accepted the nomination.

There being no further nominations for Vice Mayor, Mayor Spitaleri declared Councilmember Whittum elected as Vice Mayor.

PUBLIC ANNOUNCEMENTS

Andy Frazer expressed concerns of a recently formed organization named Sunnyvale Pension Reform and their goal of educating residents about the City's pension obligations. He requested the opportunity for the group to meet in informal discussions with the City Council and staff.

Richard Kolber announced an upcoming meeting of the Democratic Club of Sunnyvale.

Paul Negus spoke on behalf of a group of tenants regarding code violations and tenant abuse at an apartment complex, and requested Council review the case.

Juan Mejia spoke regarding concerns of health, safety, and building code violations and discrimination at the apartment complex.

CONSENT CALENDAR

Councilmember Meyering pulled Items 1.C and 1.F from the Consent Calendar.

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

VOTE: 7 - 0

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 12-007 No. 585

MOTION: Vice Mayor Whittum moved and Councilmember Moylan seconded the motion to approve review of the list of bills.

VOTE: 6 – 0 (Councilmember Meyering abstained)

Contracts

1.D. MOTION Award of Contract for Janitorial Services (F1110-24)
RTC 12-008

Staff Recommendation: Award a one year contract in an amount not to exceed \$316,816, to Sunnyvale Building Maintenance for janitorial services and approve a contract contingency in the amount of \$15,000 for extra and/or emergency services as necessary.

Other Items

1.E. ORDINANCE Adoption of Ordinance 2967-12 Authorizing an Amendment to the
2967-12 Contract Between the City of Sunnyvale and the Board of Administration of the California Public Employees' Retirement System (To Provide Section 21363.1 (3% @ 55 Full Formula) For Local Safety Members)

Staff Recommendation: Approve the second reading of Ordinance No. 2967-12.

1.F. RESOLUTION Intention of City to Serve as Successor Agency of the Redevelopment
RTC 12-012 Agency of the City of Sunnyvale and Election to Retain the Housing Assets and Functions Performed by the Redevelopment Agency of the City of Sunnyvale

MOTION: Vice Mayor Whittum moved and Councilmember Griffith seconded the motion to adopt a Resolution of the City of Sunnyvale to Express its Intent to Serve as the Successor Agency of the Redevelopment Agency of the City of Sunnyvale, Pursuant to Health and Safety Code Section 34171(J) and Section 34173, and to Elect to Retain the Housing Assets and Functions Previously Performed by the Redevelopment Agency of the City of Sunnyvale, Pursuant to Health and Safety Code Section 34176.

VOTE: 6 - 1 (Councilmember Meyering dissented)

Councilmember Meyering stated his reasoning for voting in dissent on the resolution is: the law does not provide an option for Sunnyvale to opt-in and participate as a successor agency; the law automatically makes Sunnyvale the successor agency and provides an option to opt-out; it is imprudent for Sunnyvale to use the opt-out option and claim it is being used to opt-in.

PUBLIC COMMENTS

None.

PUBLIC HEARINGS/GENERAL BUSINESS

5. MOTION Annual Public Hearing - Potential Council Study Issues and Budget Issues
RTC 12-005 for Calendar Year 2012

Assistant to the City Manager Coryn Campbell presented the staff report.

Vice Mayor Whittum proposed a study issue to add criminal background checks as conditions to the Below Market Rate ordinance.

Councilmember Davis seconded the proposed study issue.

Councilmember Meyering proposed a study issue to schedule elections for the City of Sunnyvale in even-numbered years to reduce election costs.

Vice Mayor Whittum seconded the proposed study issue.

Councilmember Meyering proposed a study issue to identify potential ways to provide non-fluoridated water to residents who state that they have that need.

No second.

Councilmember Meyering proposed to study a community shuttle bus running from the Moffett business park to a potential park and ride lot by Sunnyvale-Saratoga Road and 280.

Vice Mayor Whittum seconded the proposed study issue.

Councilmember Meyering proposed a study issue considering an ordinance prohibiting any city official from retaliating against a city volunteer for disclosing information concerning improper actions by the City or a city official or violations of state, federal law or City ordinance.

No second.

Councilmember Meyering proposed to study the viability of establishing a financial and economic-based sister city relationship to build the brand of Sunnyvale with regard to bringing in companies from overseas and advance the financial and economic needs of the city.

Councilmember Moylan seconded the proposed study issue.

Councilmember Meyering proposed a study to suspend the first year of business license tax for any new business moving into Sunnyvale.

No second.

Councilmember Meyering proposed a study issue to have an ordinance barring Councilmembers from voting on issues that are proposed or affecting individuals who contributed to their political campaign.
Vice Mayor Whittum seconded the proposed study issue.

Councilmember Meyering proposed a study issue to have a policy in the City of Sunnyvale where during a campaign, if an independent party sends out negative attack ads against one of the candidates in the election, the target of that negative campaign has the option to call for time in Council Chambers on camera for a discussion with any opponents to respond to negative, independent-party attack ad.
No second.

Councilmember Davis proposed a study issue involving the installation of stop sign at Lily and Henderson.
Councilmember Meyering seconded the proposed study issue.

City Manager Luebbers advised Council this is an operational item and could be handled without a study issue. Councilmember Davis conceded with handling the issue operationally.

Public hearing opened at 9:49 p.m.

Andy Frazier provided written materials on behalf of Michael Goldman who left earlier.

Kevin Jackson spoke in support of the two top-ranked study issues of the BPAC: DPW 12-01 Bicyclist Anti-Harassment Ordinance and DPW 12-02 Establishment of 15 Miles Per Hour School Zones and Flashing Warning Signs.

Tap Merrick spoke in support of a study issue to change to even-year elections and suggested study issues for the creation of an independent auditor general position that would report directly to the City Council. He also spoke in support of a study issue on a requirement for the registering of lobbyists.

Andy Frazier spoke in support of study issues to change to even-numbered election years, elimination of numbered Council seats, and an ordinance to register lobbyists. He spoke in support of a proposed study issue to allow public input on budget discussions and contract negotiations prior to closed sessions, and to establish the position of auditor general.

Vice Mayor Whittum re-confirmed his proposals of December 6 to study ending numbered Council seats, registering lobbyists, and public input.
Councilmember Meyering seconded Vice Mayor Whittum's proposal to study ending numbered seats.
Councilmember Moylan requested inclusion of consideration of the effect and ability to do ranked-choice voting with the study issue.
Vice Mayor Whittum seconded the request.

Susannah Medley spoke in support of study issue DPW 12-02 to set school zones at 15 miles per hour.

MOTION: Vice Mayor Whittum moved and Councilmember Moylan seconded the motion to approve Mayor Spitaleri and Councilmembers Davis and Martin-Milius to serve on the Community Event Grant Distributions Committee.

VOTE: 7 - 0

Mayor Spitaleri withdrew from consideration for appointment to the LCC Peninsula Division, City Liaison position. Vice Mayor Whittum stated Councilmember Meyering has been nominated for the appointment.

MOTION: Vice Mayor Whittum moved and Councilmember Moylan seconded the motion to confirm the appointment of Councilmember Meyering as the LCC Peninsula Division, City Liaison.

VOTE: 7 - 0

Vice Mayor Whittum stated Councilmembers Meyering and Davis have been nominated to serve on the Moffett Field Restoration Advisory Board.
Councilmember Meyering withdrew his name from consideration for this Board.

MOTION: Vice Mayor Whittum moved and Councilmember Moylan seconded the motion to confirm the appointment of Councilmember Davis for the Moffett Field Restoration Advisory Board.

VOTE: 7 - 0

Councilmember Griffith re-confirmed his interest in serving on the Cities Association Legislative Action Committee if he is able to continue to serve on the Board of Directors.

MOTION: Councilmember Griffith moved and Councilmember Moylan seconded the motion to make the Cities Association Legislative Action Committee a Mayoral appointment.

VOTE: 7 - 0

7. MOTION 2012 Seating Arrangements for City Council
RTC 12-004

By consensus, and in order of seniority Council determined the seating arrangements for 2012 as follows:

- Vice Mayor Whittum selected to take the seat to the Mayor's right;
- Councilmember Moylan selected to remain in his current seat (to the left of the Mayor);
- Councilmember Griffith selected to take the seat to the right of the Vice Mayor;
- Councilmember Meyering selected to remain in the last seat to the right of the Mayor;
- Councilmember Martin-Milius selected to take the seat to the left of Councilmember Moylan;
- Councilmember Davis selected to remain in the last seat to the left of the Mayor.

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Griffith provided a report of a recent meeting of the Board of Library Trustees.

Vice Mayor Whittum provided a report of a recent meeting of the city group meeting of the Santa Clara Valley Transportation Authority (VTA) which he attended unofficially pending his appointment as a Board Alternate.

NON-AGENDA ITEMS & COMMENTS

MOTION: Councilmember Meyering moved to place four items on the next agenda as follows:

- 1- Have City Manager and staff suspend work on the Mary Avenue Bridge project;
- 2- Discussion and vote to drop lifetime health care benefits for City Councilmembers;
- 3- Pass a salary reduction of 50% for the seven Councilmember, City Manager, City Attorney, and Assistant City Manager;
- 4- Public discussion and vote about filing a lawsuit against the fourth developer of the downtown regent to collect the outstanding \$5 million penalty owed to Sunnyvale residents.

Motion died for lack of second.

Vice Mayor Whittum suggested updates on the status of Downtown and the status of Mary Avenue be scheduled as future agenda items for the benefit of new Councilmembers.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Study Session Summary of December 13, 2011 – Discussion of Upcoming Selection of 2012-2013 Mayor and 2012 Vice Mayor
- Revised Draft Minutes of Parks and Recreation Commission Meeting of November 9, 2011

ADJOURNMENT

Councilmember Davis closed the meeting in memory of VFW Post 2421 Life Member Charles R. Klugherz.

Mayor Spitaleri closed the meeting in honor of the memory of Mrs. Francesca Marie Pezzella.

Mayor Spitaleri adjourned the meeting at 10:40 p.m.

Kathleen Franco Simmons
City Clerk

Date