

DRAFT MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, JUNE 12, 2012, 7 PM

CALL TO ORDER

Vice Mayor Whittum called the meeting to order in the Council Chambers.

SALUTE TO THE FLAG

ROLL CALL

PRESENT:

Vice Mayor David Whittum
Councilmember Christopher Moylan
Councilmember Jim Griffith
Councilmember Pat Meyering
Councilmember Tara Martin-Milius
Councilmember Jim Davis

ABSENT:

Mayor Anthony (Tony) Spitaleri (Excused)

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
Interim City Attorney Michael Martello
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

CLOSED SESSION REPORT FOR JUNE 12, 2012

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

Vice Mayor Whittum reported Council met in closed session regarding Conference with Legal Counsel; direction was given, no action was taken.

SPECIAL ORDER OF THE DAY – Vice Mayor Whittum administered the Oath of Office to new and returning Board and Commission members.

PUBLIC ANNOUNCEMENTS

Councilmember Meyering announced the deadline for applications for vacancies on Boards and Commissions.

Vice Mayor Whittum announced the upcoming "Dinner at the Dump" fundraising event.

Vice Mayor Whittum announced the "Food for Kids" fundraising effort of Sunnyvale Rotary Foundation and Sunnyvale Elementary School District.

Former Mayor Melinda Hamilton, Chair of the Centennial Parade, provided an announcement regarding an extension of the deadline for applications for the Centennial Parade.

Jennifer Levine, Fairwood Explorer Program – Fairwood Elementary, provided information regarding the Fairwood Garden and recognized individuals and businesses that have contributed.

CONSENT CALENDAR

Councilmember Davis pulled Item 1.E and Councilmember Meyering pulled Items 1.A and 1.C from the Consent Calendar.

MOTION: Councilmember Griffith moved and Councilmember Martin-Milius seconded the motion to approve the Consent Calendar, with the exception of Items 1.A, 1.C and 1.E.

VOTE: 6 - 0 (Mayor Spitaleri absent)

Vice Mayor Whittum procedurally moved consideration of Items 1.A, 1.C and 1.E to the end of the meeting, in advance of the IGR reports.

1.A. MOTION Approval of Council Meeting Minutes of May 22, 2012

MOTION: Councilmember Meyering moved to amend page two of minutes, second paragraph from the bottom under Item 1.C, two lines: first line begins with the word "Mayor", second line begins with the word "conform"; amend to be factually objective to describe exactly what happened, to read: "Mr. Spitaleri interrupted Meyering repeatedly. Meyering continued speaking. Mr. Spitaleri recessed the proceeding."

Motion died for lack of a second.

MOTION: Councilmember Moylan moved and Councilmember Griffith seconded the motion to approve the Item 1.A as they stand now.

VOTE: 5 - 1 (Councilmember Meyering dissented, Mayor Spitaleri absent)

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 12-141 No. 608 - 610

Councilmember Meyering stated he is unable to support the item to approve \$6.4 million of taxpayers' money when his requests for copies of underlying bills is refused. He stated the normal procedure was followed the first time he requested bills in February and he complained that the City was paying for lawyers at a rate of \$450 an hour, after which he has been refused copies of the bills. He stated that it is risky for Council to vote in the blind to spend taxpayer money and there have been problems with improper use of taxpayer money in a nearby city.

MOTION: Vice Mayor Whittum Moylan moved and Councilmember Griffith seconded the motion to approve the Item 1.C.

Councilmember Griffith requested a point of order and stated the charter requires Council to approve the bills.

VOTE: 5 - 1 (Councilmember Meyering dissented, Mayor Spitaleri absent)

Councilmember Griffith requested in future, for the purpose of conforming with the charter, the action should be to approve the bills.

Councilmember Meyering requested his explanation of dissent be recorded in the minutes.

Contracts

- 1.D. MOTION Award of Contract for the Maintenance of Emergency and Non-emergency
RTC 12-135 Radio Communication Systems (F1105-64)

Staff Recommendation: Award a contract, in substantially the same form as the attached draft and in the amount of \$140,958 to Motorola, Inc. for maintenance of the City's emergency and non-emergency radio communications systems.

- 1.E. MOTION Authorization to Accept a Metropolitan Transportation Commission Grant,
RTC 12-143 Award of a Contract for Urban Planning for Phase 2 of the Lawrence
Station Area Plan (SAP) and Approval of Budget Modification No. 40
(F1111-32)

Public hearing opened at 8:44 p.m.

No speakers.

Public hearing closed at 8:44 p.m.

MOTION: Councilmember Davis moved and Vice Mayor Whittum seconded the motion to adopt Alternatives 1 and 3:

1. Authorize acceptance of a Metropolitan Transportation Commission (MTC) Station Area and Land Use Planning Grant in the amount of \$450,000
3. Authorize the City Manager to execute the Funding Agreement and approve Budget Modification No. 40 to appropriate grant funding received for the project.

VOTE: 6 – 0 (Mayor Spitaleri absent)

MOTION: Councilmember Moylan moved and Councilmember Griffith seconded the motion to approve Alternative 2: Award a contract, in substantially the same form as the attached draft and in the amount of \$349,978 to BMS Design Group to assist the Community Development Department to prepare Phase 2 of the Lawrence Station Area Plan (SAP), and authorize the City Manager to execute the contract when all the necessary conditions have been met.

VOTE: 3 - 3 (Councilmembers Meyering, Whittum and Davis dissented, Mayor Spitaleri absent)

Motion failed.

MOTION: Councilmember Griffith moved and Councilmember Moylan seconded the motion to continue this to the next meeting when Mayor Spitaleri can be present.

VOTE: 4 – 2 (Councilmembers Meyering and Davis dissented, Mayor Spitaleri absent)

Following action on this item, the regular order of the agenda was resumed at Reports on Intergovernmental Activities

MOTION Approval of Budget Modification No. 35 to Appropriate CARB Carl Moyer
RTC 12-137 Program Grant (13MOYFA1) Funding and Award of Contract to Purchase
Fire Pumper (F1109-16)

Staff Recommendation: It is recommended that Council:

1. Approve Budget Modification No. 35 to appropriate \$42,000 in grant funding to support the purchase of a fire pumper; and
2. Award a contract, in substantially the same form as the attached Draft Purchase Order in the amount of \$490,522, to KME Fire Apparatus for the fire pumper purchase; and
3. Approve a 2% contingency of \$9,810, to be used for minor modifications during the manufacturing process.

- 1.G. MOTION Award of Contract to Identify Alternatives for the Completion of the
RTC 12-138 Stevens Creek Corridor Public Bicycle/Pedestrian Trail for the Cities of
Sunnyvale, Cupertino, Los Altos and Mountain View (F1109-22) and
Approval of Budget Modification No. 37

Staff Recommendation: It is recommended that Council:

1. Award a contract, in substantially the same form as the attached draft and in the amount of \$141,090 to Jana Sokale Environmental Planning for consultant services to identify alternatives to complete a public multi-use bicycle/pedestrian trail for the Cities of Sunnyvale, Cupertino, Los Altos and Mountain View;

2. Approve a contract contingency in the amount of \$16,410; and
3. Approve Budget Modification No. 37 to appropriate additional Santa Clara Valley Transportation PRI grant funds in the amount of \$50,000.

Other Items

- 1.H. RESOLUTION Resolution – Federal Reclassification of Hendy Avenue
RTC 12-134

Staff Recommendation: Alternative 1: Review and approve the resolution supporting the Federal reclassification of Hendy Avenue from Kifer Road to Sunnyvale Avenue from urban local street to urban major collector.

- 1.I. MOTION Appointment to the Santa Clara Valley Transportation Authority (VTA)
RTC 12-139 Bicycle and Pedestrian Advisory Committee

Staff Recommendation: Alternative 1: City Council appoint David Simons to serve a two year term on the VTA BPAC.

PUBLIC COMMENTS

Arlene Goetze provided information regarding the toxicity of fluoride and provided written materials.

Misuk Park, speaking as a member of the public, spoke regarding creation of a Sunnyvale art museum in downtown Sunnyvale and reported she has registered the domain names of SunnyvaleArtMuseum.com and .org

Michael Goldman spoke regarding pension reform, recommended paying down unfunded liabilities and provided written materials.

PUBLIC HEARINGS/GENERAL BUSINESS

2. MOTION Public Hearing on FY 2012/2013 Budget and Resource Allocation Plan
RTC 12-148 and Establishment of Appropriations Limit

Budget and Accounting Manager Drew Corbett provided the staff report.

Public hearing opened at 7:36 p.m.

Jill Shanmugasundaram, Chair of Board of Library Trustees, spoke in support of the small increase in the Library's budget to restore the three hours of service cut in last year's budget and funds dedicated to increasing the Libraries materials acquisition.

Mike Sabin, Sunnyvale Pension Reform, speaking for himself, provided information regarding the unfunded liability of the pension plans over the next twenty years, provided written materials, and urged Council to make a forecast of the unfunded liability a regular part of the annual twenty-year budget.

Michelle Schroeder, representing Senior Adults Legal Assistance (SALA), provided information regarding the non-profit law office that provides free legal services to seniors through Sunnyvale Community Services and requested support for continued funding.

Debbie Owens, Board Member - Sunnyvale Community Services representing Director Marie Bernard, requested continued support for safety net services and extended an invitation to attend the upcoming Healthy Living Healthy Eating Fair.

Tap Merrick spoke regarding employees' payment of full employee contribution rate, measuring investment risk, and rate of returns. He suggested a simulation to give a range of expected results and the associated risks.

Sujatha Venkatraman, representing West Valley Community Services, spoke in support of continued funding of safety net services.

Wanda Hale, representing Long Term Care Ombudsmen Program, spoke in support of continued support of the program.

Public hearing closed at 7:50 p.m.

MOTION: Councilmember Martin-Milius moved and Councilmember Davis seconded the motion to approve the request from the Subcommittee for Neighborhood and Community Grant Funding for an increase of \$ 2,950 to bring the total up to \$19,075, to be appropriated from the \$100,000 discretionary fund in the budget.

Vice Mayor Whittum suggested the Council take a straw poll to determine who would support augmenting the \$2,950, subject to final confirmation of the final vote.

VOTE: 6 - 0 (Mayor Spitaleri absent)

MOTION: Councilmember Meyering proposed to reallocate \$12.6 million to fund the following recommendations by having the City Council, city manager, city attorney, and assistant city manager take a 50% pay cut:

1. Institute the DARE program at Sunnyvale Elementary School
2. Clear the backlog of fixing broken sidewalks and fix all new reports of broken sidewalks in the upcoming fiscal year starting July 1
3. Clear up the backlog of broken and deteriorated streets and take care of new reports of broken streets that occur during the upcoming fiscal year
4. Clear up the backlog of tree-trimming requests and take care of new tree-trimming requests during the upcoming fiscal year
5. Reopen the Library on Sunday evening as it was three years ago
6. Reopen without fee use of the Lakewood Swimming Pool
7. Restore the Proven People Job Match program at the Senior Center for people over 50 years of age

Vice Mayor Whittum confirmed there was no second on each of the proposals, and seconded the proposal regarding re-opening of Lakewood Pool for discussion.

VOTE: 3 - 3 (Councilmember Griffith, Moylan, Martin-Milius dissented, Mayor Spitaleri absent)

Motion failed.

3. MOTION Public Hearing – Annual Review of Fees and Charges for FY 2012/2013
RTC 12-145

Budget and Accounting Manager Drew Corbett provided the staff report.

Public hearing opened at 8:08 p.m.

No speakers.

Public hearing closed at 8:08 p.m.

No action was taken.

4. RESOLUTION Adoption of Proposed FY 2012/2013 Rates for Water, Wastewater, and
RTC 12-133 Solid Waste Utilities for Services Provided to Customers Within and
Outside City Boundaries

Utility Billing Manager Tim Kirby provided the staff report, reported that customers have been notified as per Prop 218 and stated the City has received 159 protests. Director of Environmental Services John Stufflebean also provided a report.

Public hearing opened at 8:13 p.m.

Speakers:

Diane Bracken stated the fee is not based against what consumers use. She stated she conserves water and pays 1/16th for the water coming in and 16 times for the water going out. She recommended charges for sewage treatment costs be pro-rated somewhat on the amount of water used, as do some other cities and as Sunnyvale does for commercial uses. She stated that it is not fair to the customers who conserve. Ms. Bracken also recommended for people who have reduced their solid wastes, to look into allowing for one garbage pickup every other week.

Public hearing closed at 8:17 p.m.

Public hearing reopened at 8:20 p.m.

Liang Tang, stated his HOA has discussed the proposed rate increase, the community is small and has to pay for water in the public areas. He stated that in the economic situation, they try to save costs for homeowners. He questioned how the proposed rate increases were determined and whether there was any effort to negotiate wholesale rates or to look at reducing costs.

Public hearing closed at 8:23 p.m.

MOTION: Councilmember Griffith moved and Councilmember Moylan seconded the motion to approve Alternative 1: Adopt the resolution increasing water rates by 7%, wastewater rates by 5.5%, and solid waste rates by 4% for FY 2012/2013.

VOTE: 5 - 1 (Councilmember Meyering dissented, Mayor Spitaleri absent)

5. RESOLUTION Public Hearing to Cause Charges for Non-Payment of Utility Services to
RTC 12-136 be Placed on the FY 2012/2013 Tax Roll

Utility Billing Manager Tim Kirby provided the staff report and distributed a revised attachment.

Public hearing opened at 8:34 p.m.

No speakers.

Public hearing closed at 8:34 p.m.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to approve Alternative 1: Adopt the resolution causing charges for non-payment of utility services to be placed on the FY 2012/2013 Property Tax Roll as shown on the revised attachment.

VOTE: 6 - 0 (Mayor Spitaleri absent)

6. MOTION Appoint City Representative to Valley Transportation Authority (VTA) El
RTC 12-142 Camino Real Bus Rapid Transit Policy Advisory Board

Director of Public Works Kent Steffens provided the staff report.

Vice Mayor Whittum declared his interest in serving on this board.

Public hearing opened at 8:36 p.m.

No speakers.

Public hearing closed at 8:36 p.m.

MOTION: Councilmember Griffith moved and Councilmember Davis seconded the motion to appoint Vice Mayor Whittum to serve an intergovernmental assignment on the VTA El Camino Real Bus Rapid Transit Policy Advisory Board to serve until January, 2013.

VOTE: 6 - 0 (Vice Mayor Spitaleri absent)

At this time, Vice Mayor Whittum resumed consideration of Items 1. A, 1.C, and 1.E which were pulled from the Consent Calendar for separate discussion. Following action on each of these items, the regular order of the agenda was resumed at Reports on Intergovernmental Activities.

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Vice Mayor Whittum reported he has been serving as VTA Board Alternate since February and has served to date on every board meeting except one.

NON-AGENDA ITEMS & COMMENTS

Vice Mayor Whittum opened discussion on either the comments regarding fluoride or the comments regarding a Sunnyvale art museum.

Councilmember Griffith provided comments on the idea of a Sunnyvale art museum. He stated a discussion now would be pre-mature as there is an upcoming study issue regarding art in-lieu fees and suggest the discussion should be part of or subsequent to that.

Councilmember Meyering provided a suggestion to put a notice on the water bills indicating that consumers who have concerns about the use of fluoride with regard to infants or drinking, bathing and using it around the house should consult a website to determine for themselves whether or not that is the prudent course of action.

Vice Mayor Whittum reported he attended a 5th grade graduation ceremony at Cumberland Elementary.

Vice Mayor Whittum reported he attended the recent Fil-Am Association Fiesta.

Vice Mayor Whittum reported he attended the recent Gujurati Day Celebration.

Vice Mayor Whittum reported he recently visited the Zen Center, near Arques, across from the Fire Station.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 12-144 Board/Commission Resignation (Information Only)
- Joint Study Session Summary of May 8, 2012 Meeting with Planning Commission and Sustainability Commission - El Camino Real Bus Rapid Transit Project.
- Joint Study Session Summary of May 15, 2012 Meeting with Planning Commission - Discussion of Draft East Sunnyvale Precise Plan and Proposed General Plan Amendment and Rezoning
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting on May 17, 2012
- Draft Minutes of the Sustainability Commission Meeting of May 21, 2012
- Draft Minutes of the Housing and Human Services Commission Meeting on May 23, 2012
- Draft Minutes of the Joint Meeting of Parks and Recreation Commission and Arts Commission, May 23, 2012
- City Council Sub-Committee Meeting Summary of May 31, 2012 - Lawrence Station Area Plan Citizen Advisory Group

ADJOURNMENT

Vice Mayor Whittum adjourned the meeting at 8:58 p.m.