CALL TO ORDER

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

SALUTE TO THE FLAG

Mayor Spitaleri led the salute to the flag.

ROLL CALL

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

ABSENT: None.

STAFF PRESENT: City Manager Gary Luebbers
Assistant City Manager Robert Walker
Interim City Attorney Michael Martello
Chief of Public Safety Frank Grgurina
Director of Community Development Hanson Hom
Director of Public Works Kent Steffens
Budget Manager Drew Corbett
City Clerk Kathleen Franco Simmons

CLOSED SESSION REPORTS FOR JUNE 26, 2012

Closed Session pursuant to Government Code Section 54957.6 – Conference with Labor Negotiator

Vice Mayor Whittum reported Council met in closed session on June 26 pursuant to Government Code Section 54957.6 - Conference with Labor Negotiator; no direction was given; no action was taken.

Closed Session pursuant to Government Code Section 54957.6 – Conference with Labor Negotiator

*Approved by Council 7/31/2012
Vice Mayor Whittum reported Council met in closed session on June 26 pursuant to Government Code Section 54957.6 - Conference with Labor Negotiator; direction was given; no action was taken.

Closed Session pursuant to Government Code Section 54957.6 – Public Employee Performance Evaluation

Vice Mayor Whittum reported Council met in closed session on June 26 pursuant to Government Code Section 54957.6 – Public Employee Performance Evaluation; no direction was given; no action was taken.

Closed Session pursuant to Government Code Section 54956.95 – Conference with Legal Counsel – Initiation of Litigation

Vice Mayor Whittum reported Council met in closed session pursuant to Government Code Section 54956.95 - Conference with Legal Counsel; direction was given; no action was taken.

CLOSED SESSION REPORT FOR JULY 17, 2012

Closed Session pursuant to Government Code Section 54954.5(e) and 54957 – Public Employment

Vice Mayor Whittum reported Council met in closed session pursuant to Government Code Section 54954.5(e) - Public Employment; direction was given; no action was taken.

PUBLIC ANNOUNCEMENTS

Councilmember Martin-Milius announced recruitment and an application deadline for openings on City boards and commissions.

PRESENTATION – John Zoglin, Chairman, El Camino Hospital Board of Directors, provided a presentation regarding the El Camino Hospital District.

CONSENT CALENDAR

Councilmember Meyering pulled Item 1.C from the Consent Calendar.

Vice Mayor Whittum announced his vote would not be on Item 1.F. as his home is within 500 feet of the parking district.

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

VOTE:  7 - 0

Mayor Spitaleri announced Item 1.C would be handled at the end of the agenda prior to Councilmember Reports on Activities from Intergovernmental Reports on Activities from Intergovernmental Committee Assignments.

1.A. MOTION Approval of Council Meeting Minutes of June 19, 2012
1.B. MOTION Approval of Information/Action Items – Council Directions to Staff
Fiscal Items

1.C. MOTION RTC 12-173

List of Claims and Bills Approved for Payment by the City Manager – List Nos. 612-615

This item was handled following Item 7.

Councilmember Meyering requested his explanation of dissent be recorded in the minutes. Meyering stated he is not able to vote on approving payment of bills using taxpayer money when his request for underlying bills is refused.

Interim City Attorney Michael Martello requested to remove from the list of bills line items 100238145, 100238146 and 100238227.

MOTION: Vice Mayor Whittum moved and Councilmember Griffith seconded the motion to approve the lists of bills.

VOTE: 6 – 1 (Councilmember Meyering dissented)

Following action on this item, Council resumed the regular order of the agenda at Councilmember Reports on Activities from Intergovernmental Committee Assignments.

1.D. MOTION RTC 12-166

Authorization for the City Manager to Execute the Agreement Between the City of Sunnyvale and the City of Cupertino for Industrial Wastewater Treatment Services in Rancho Rinconada

Staff Recommendation: Authorize the City Manager to execute the agreement.

1.E. MOTION RTC 12-170

Approval of Budget Modification No. 5 to Appropriate Additional Local Funds for Project 828910 Sunnyvale Avenue/Old San Francisco Road Left Turn Project

Staff Recommendation: Alternative 1: Approve Budget Modification No. 5 to provide additional funds for the Sunnyvale Avenue/Old San Francisco Road Left Turn Project.

1.F. RESOLUTION RTC 12-165

Adoption of a Resolution of Intention to Levy and Collect Assessment for the Downtown Parking Maintenance District for Fiscal Year (FY) 2012/13, and Set the Date for a Public Hearing


Contracts

1.G. MOTION RTC 12-161

Approval of a Cooperative Agreement with the City of Santa Clara for Replacement of the Old Mountain View-Alviso Road Bridge over Calabazas Creek and Authorization for the City Manager to Execute the Agreement

Staff Recommendation: Alternative 1: Approve the cooperative agreement with the City of Santa Clara for the Old Mountain View-Alviso Road Bridge over Calabazas Creek and authorize the City Manager to execute the agreement.
1.H. MOTION
RTC 12-169
Award of Contract for the Design of Baylands No. 2 Storm Drainage Pump Station Rehabilitation (F1105-63)

Staff Recommendation: Award a contract in the amount of $316,093 to Schaaf & Wheeler Consulting Civil Engineers for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met; and approve a 10% design contingency in the amount of $31,609.

1.I. MOTION
RTC 12-171
Award of Contract for Engineering Design and Construction Support Services for Waterline Replacements 2012-13 Phase 2 (F1106-70)

Staff Recommendation: Award a contract in the amount of $323,450 to HydroScience Engineers, 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 10% design contingency in the amount of $32,345.

1.J. MOTION
RTC 12-168
Approval to Increase Contract Contingency in Conjunction with the Caterpillar Engines Overhaul (F1106-71)

Staff Recommendation: Increase the contingency awarded on this project from $28,993 to $64,844 an increase of $35,851.

1.K. MOTION
RTC 12-174
Award of Contract for Pavement Rehabilitation at Various Locations (F1106-66)

Staff Recommendation: Award a contract in the amount of $2,309,785, to Top Grade Construction, Inc. for the subject project and authorize the City Manager to execute the contract when all necessary conditions have been met; and approve a 15% construction contingency in the amount of $346,468.

Other Items

1.L. MOTION
RTC 12-160
Adoption of a Local Hazard Mitigation Plan in Cooperation with the Association of Bay Area Governments

Staff Recommendation: Alternative 1: Accept the Sunnyvale Annex to the Santa Clara County, CA Annex to the 2010 Association of Bay Area Local Governments (ABAG) Hazard Mitigation Plan.

PUBLIC COMMENTS

Arlene Goetze spoke regarding fluoridation in water, requested notification of parents of babies that they should not use fluoridated water in formula, and provided written materials.

Michael Goldman spoke regarding the CalPERS announcement that returns were 1% last year, and proposed the City get out of CalPERS.
PUBLIC HEARINGS/GENERAL BUSINESS

2. MOTION
RTC 12-163
2012-7373 - Application to Initiate a General Plan Amendment study to
change the Land Use Designation for 520 E. Weddell Drive from
Industrial to Residential Very High Density

Councilmember Griffith reported he has discussed the issue with the City Attorney and has
determined he does not have a conflict of interest.

Vice Mayor Whittum, Councilmember Davis, Councilmember Martin-Milius and Mayor
Spitaleri disclosed they met individually with the applicant.

Director of Community Development Hanson Hom provided the staff report.

Public hearing opened at 7:51 p.m.

Applicant, Jason Check, Director, Raintree Partners provided information regarding the
proposal.

Public hearing closed at 8:03 p.m.

MOTION: Councilmember Meyering moved to continue discussion of this matter for four
weeks to the Council meeting that is already scheduled to allow for input by the residents.
Motion died for lack of second.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion
to approve Alternative 2: Authorize the initiation of the General Plan Amendment study to
consider a change from Industrial to Residential with a narrower range of densities
described in Alternative 1, and to consider a change to match the other property at 550 to
M-S ITR at the exact same density.

MOTION to AMEND: Vice Mayor Whittum moved and Councilmember Griffith seconded
the motion that the motion be amended to reflect Alternative 1.

Councilmember Meyering requested his explanation of dissent be recorded in the minutes.
Meyering stated it is telling that nobody from the public was here to comment on this when
thousands of people live much closer than the Tasman Light Rail Station to this location. He
stated that he has talked to a lot of residents in that area and he is certain they will be
opposing this type of housing density. Meyering stated the owner of the property new it was
industrial when they purchased it, and it is currently operating successful, profitable
businesses and employing 80 Sunnyvale residents.

VOTE on AMENDMENT: 4 - 3 (Councilmembers Meyering, Moylan, and Davis dissented)

VOTE on AMENDED MAIN MOTION: 4 - 3 (Councilmembers Meyering, Moylan, and Davis
dissent)
3. ORDINANCES

Adoption of the following ordinances:

A. Ordinance No. 2973-12 Amending the Precise Zoning Plan, Zoning Districts Map, to Rezone Certain Properties Located at 505, 595, and 599 North Mathilda Avenue From M-S 70% FAR (Industrial and Service 70% Floor Area Ratio) to M-S 100% FAR (Industrial and Service 100% Floor Area Ratio) Zoning District

B. Ordinance No. 2974-12 Amending the Precise Zoning Plan, Zoning Districts Map, to Rezone Certain Properties Located at 683 West Maude Avenue and 510 North Pastoria Avenue From M-S 55% FAR (Industrial and Service 55% Floor Area Ratio) to M-S 100% FAR (Industrial and Service 100% Floor Area Ratio) Zoning District

C. Ordinance No. 2975-12 Amending Chapter 19.32 of Title 19 (Zoning) of the Sunnyvale Municipal Code Relating to Building Height and Floor Area Ratio Standards for Industrial Futures Intensification Sites

Interim City Attorney Michael Martello provided the staff report and Director of Community Development Hanson Hom provided additional information.

Councilmember Meyering recused himself and left the dais.

Public hearing opened at 8:29 p.m.

No speakers.

Public hearing closed at 8:29 p.m.

MOTION: Vice Mayor Whittum moved and Councilmember Griffith seconded the motion to approve the second reading of Ordinance Nos. 2973-12, 2974-12 and 2975-12.

VOTE: 5 - 1 (Councilmember Moylan dissented, Councilmember Meyering recused)

City Clerk Kathleen Franco Simmons read the ordinance titles.

Councilmember Meyering returned to the room and took his seat at the dais.

4. Council Subcommittee Recommendations Regarding the Community Event Grant and Neighborhood Grant Distributions

Councilmember Tara Martin-Milius provided the Council report.

Public hearing opened at 8:35 p.m.

No speakers.

Public hearing closed at 8:35 p.m.
MOTION: Councilmember Davis moved and Councilmember Griffith seconded the motion to approve the recommendation of the Council Subcommittee on Community Event Grant and Neighborhood Grant Distributions.

VOTE: 7 - 0

5. ORDINANCE 2972-12
Adoption of Ordinance No. 2972-12 Amending Chapter 10.56 (Bicycles) of Title 10 (Vehicles and Traffic) of the Sunnyvale Municipal Code Relating to Bicyclists

Public hearing opened at 8:36 p.m.

No speakers.

Public hearing closed at 8:36 p.m.

MOTION: Vice Mayor Whittum moved and Councilmember Griffith seconded the motion to approve the second reading of Ordinance No. 2972-12.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 6 - 1 (Councilmember Davis dissented)

6. MOTION RTC 12-172
Consider Adding Criminal Background Checks to Below Market Rate (BMR) Program Qualification Process (Study Issue)

Director of Community Development Hanson Hom provided the staff report.

Public hearing opened at 9:08 p.m.

Bill Hawkes spoke in support of background checks and provided written materials including recommendations for Council action.

Public hearing closed at 9:15 p.m.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to authorize the City Attorney to approach the State to ask for permission for the City to use the Department of Justice for background information to certify eligibility for the City’s BMR program.

VOTE: 4 - 3 (Councilmember Meyering, Councilmember Griffith and Mayor Spitaleri dissented)

7. MOTION RTC 12-162
Public Hearing to Cause Charges for Non-Payment of Administrative Citations to be Placed on the FY 2012/2013 County of Santa Clara Property Tax Roll

Budget Manager Drew Corbett provided the staff report and reported revisions the totals in Attachment A.

Public hearing opened at 9:45 p.m.
Sabin Head stated he would like to pay the assessment, provided information on the reasons for his late payment, and requested omission of the penalty.

Public hearing closed at 9:57 p.m.

MOTION: Councilmember Meyering moved that from Attachment A, Exhibit A, remove the four line items that address Mr. Head, advise the Finance Department to accept the payment and exercise their discretion after discussion with Mr. Head concerning these 120% penalties. Vice Mayor Whittum seconded the motion for discussion, subject to inquiring with staff what the Council’s discretion is in this matter.

RESTATED MOTION: Councilmember Meyering rephrased the motion to remove these four items from Exhibit A, Attachment A and address Mr. Head that he has to bring in $1,300 no later than 5 p.m. on Friday and that if that takes place, the Council will take up a motion to waive the penalties at the next meeting.

FRIENDLY AMENDMENT: Councilmember Griffith offered an amendment to waive the penalties, uphold the fee provided it is paid by Friday, to put it on the property tax roll if it is not paid by Friday, and for all the balance to go on the roll anyway.

RESTATED FRIENDLY AMENDMENT: Councilmember Griffith moved to approve the schedule as written by Finance, provided that staff is directed to remove those four items in total from Mr. Head’s property if he pays $1,300 by Friday 5 p.m. Councilmember Meyering declined to accept the friendly amendment.

FORMAL AMENDMENT: Councilmember Griffith moved to amend the motion and Vice Mayor Whittum seconded to approve the schedule (Alternative 1) as written by Finance, provided that staff is directed to remove those four items in total from Mr. Head’s property if he pays $1,300 by Friday at 5 p.m.

VOTE on AMENDMENT: 6 - 1 (Councilmember Meyering dissented)

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

Following action on Item 7, Council considered Consent Calendar Item 1.C.

Following action on Item 1.C., Council resumed the regular order of the agenda at Councilmember Reports on Activities from Intergovernmental Committee Assignments.

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Griffith reported on a meeting of the Recycling and Waste Reduction Commission.

Councilmember Moylan provided an update regarding the United States Patent Office.

Vice Mayor Whittum provided an update regarding the United States Patent Office and presented letters of support.

City Manager Luebbers provided an update regarding the United States Patent Office.
Vice Mayor Whittum reported a new hard-copy brochure on the proposed Apple campus.

NON-AGENDA ITEMS & COMMENTS
None.

INFORMATION ONLY REPORTS/ITEMS
• Tentative Council Meeting Agenda Calendar
• Draft Minutes of the Sustainability Commission Meeting of June 18, 2012

ADJOURNMENT
Councilmember Tara Martin-Milius closed the meeting in memory of Daniel Lee Martin.

Mayor Spitaleri adjourned the meeting at 10:30 p.m.

Kathleen Franco Simmons Date
City Clerk