DRAFT MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, AUGUST 14, 2012, 7 P.M.

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
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 AUGUST 14, 2012

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

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

SPECIAL ORDER OF THE DAY – City Clerk Kathleen Franco Simmons administered the Oath of Office to one Personnel Board Member.

**Pending Council approval*

PUBLIC ANNOUNCEMENTS

Councilmember Griffith announced an extension of the deadline to submit applications for boards and commissions.

Councilmember Moylan announced his attendance at National Night Out festivities in which a neighborhood association held a ceremony and named a Neighbor of the Year.

CONSENT CALENDAR

Councilmember Meyering pulled Items 1.A., 1.C. and 1.I. from the Consent Calendar.

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

Councilmember Griffith announced his vote will represent a recusal on Item 1.H. due to a conflict of interest.

VOTE: 7 - 0

Mayor Spitaleri announced the items pulled for discussion would be handled following Public Hearings / General Business.

1.A. MOTION Approval of Council Meeting Minutes of July 31, 2012

MOTION: Councilmember Meyering moved to include in the minutes a description of all points of view that were expressed in the Council meeting that took place in the Library Program Room.
Motion died for lack of a second.

Councilmember Meyering requested his explanation of dissent be recorded in the minutes. Meyering stated the one page document that was prepared does not include any of the comments that were made about projects such as tearing down and rebuilding the entire civic center campus and selling property along the perimeter roads. Meyering stated all differing points of view should be included for a project of that magnitude.

MOTION: Vice Mayor Whittum moved and Councilmember Moylan seconded approval of the minutes of the Council meeting of July 31, 2012.

VOTE: 5 – 2 (Councilmembers Meyering and Davis dissented)

1.B. MOTION Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

1.C. MOTION RTC 12-190 List of Claims and Bills Approved for Payment by the City Manager – List Nos. 618-619

Councilmember Meyering requested his explanation of dissent be recorded in the minutes. Meyering stated he is not able to approve the request for payment of bills when his request for the underlying bills is refused.

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

VOTE: 6 – 1 (Councilmember Meyering dissented)

1.D. MOTION RTC 12-186 City of Sunnyvale Investment Report – 2nd Quarter 2012

Staff Recommendation: Receive and file the investment report.

1.E. MOTION RTC 12-192 Approval of Budget Modification No. 7 to Increase Construction Permitting Revenue by $933,760 and Appropriate it to Manage the Increased Construction Activity

Staff Recommendation: Approve Budget Modification No. 7 to project additional construction permitting revenue of $933,760 and to appropriate it to two new projects, a Building Permitting project and a Fire Prevention Construction-related Permitting project, in the amounts of $343,000 and $590,760, respectively, to manage the increased construction activity.

1.F. MOTION RTC 12-189 Approval of Budget Modification No. 8 to Reallocate Funding from the Recycled Water Interconnect Project to the WPCP Chlorine Conversion Project to fund Infrastructure Modifications for Simultaneous Production of Recycled Water at the Water Pollution Control Plant

Staff Recommendation: Alternative 1: Pursue the gaseous chlorine conversion project with the "Sunnyvale solution" for recycled water, with additional infrastructure modifications that would allow for simultaneous production of recycled water.

1.G. MOTION RTC 12-184 Authorize the City Manager to Execute Agreements and Documentation for Santa Clara Valley Transportation Authority (VTA) Transportation Fund for Clean Air Program Manager Grants for Mathilda Avenue and Wildwood Avenue Bicycle Lanes Projects and Approve Budget Modification No. 3

Staff Recommendation: Alternatives 1 and 2: Authorize the City Manager to execute required agreements and documentation and approve Budget Modification No. 3 to appropriate grant revenues in the amount of $104,000 from the Santa Clara VTA Transportation Fund for Clean Air Program Manager Fund, as well as the required 20% local match of $26,000 from dedicated local matching funds, to two new capital projects, Mathilda Avenue Bicycle Lanes California to Maude and Wildwood Avenue Bicycle Lanes.

Contracts

1.H. MOTION RTC 12-188 Award of Bid No. F1105-61 for Tasman-Fair Oaks Pedestrian and Bicycle Circulation Plan Improvements – Phase 2 and Approval of Budget Modification No. 9

Staff Recommendation: Award a contract in the amount of $210,141, to Golden Bay Construction, Inc., for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met; approve a 10% construction contingency in the amount of $21,014; and approve Budget Modification No. 9 to

appropriate additional funding for the project.

1.I. MOTION RTC 12-191 Award of Contract for Google Apps for Government Email and Calendaring Services (F1109-14)

MOTION: Councilmember Meyering moved to amend the contract to include a paragraph that prohibits Google from any type of monitoring or data mining or cross-referencing any email accounts on the Sunnyvale service with individual accounts.
Motion died for lack of a second.

MOTION: Councilmember Meyering moved to include an explicit requirement that the emails be retained for 5-year period.
Motion died for lack of a second.

MOTION: Vice Mayor Whittum moved and Councilmember Moylan seconded the motion to award a contract for a Google Apps for Government Email and Calendaring System in the amount of $106,505, to SADA Systems Inc.; approve a 10% contingency in the amount of $10,651; and authorize the City Manager to approve the purchase of additional individual Google Access and Use licenses if necessary.

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.

PUBLIC COMMENTS

Tap Merrick spoke regarding safety issues with Tasers and suggested that as a cost saving measure not every officer receive a Taser.

Laura Babcock announced the Centennial Celebration events on August 25 and 26, 2012.

PUBLIC HEARINGS/GENERAL BUSINESS

2. MOTION RTC 12-187 Review Effectiveness of Existing Art in Private Development In-Lieu Fee Option (Study Issue)

Director of Library and Community Services Lisa Rosenblum provided the staff report.

Public hearing opened at 7:27 p.m.

Kerry Haywood, Executive Director, Moffett Park Business Group, spoke in support of more flexibility for business or developer to choose the in-lieu fee, to leverage the in-lieu fees and funds to create appropriate public art in public art spaces and flexibility to incorporate public art in the landscape or architecture of the project. Haywood encouraged support of alternatives 1 and 3.

Misuk Park, Chair, Arts Commission, reported the commission voted 4 – 1 in favor of the program.

Public hearing closed at 7:35 p.m.

MOTION: Councilmember Griffith moved and Councilmember Martin-Milius seconded the motion to approve Alternatives 1, 2 and 3:

1. Allow developers and property owners the flexibility to choose without limitations whether to place public art on their development sites or to contribute to the City's Public Art Fund an in–lieu fee consistent with 1% of the construction valuation of covered projects. Approve amendments to Municipal Code 19.52 Art in Private Developments and Council Policy 6.4.3 - Art in Private Development.
2. Approve fee of an additional 1/10th of a percent (0.1%) of construction valuation of covered projects to be placed in a separate Art Maintenance Fund to provide resources for repair and maintenance of art purchased with in-lieu fees.
3. Approve amendments to Council Policy 6.4.4. Art in Public Construction and direct staff to:
   - Implement guidelines for deaccessioning artwork from the City's Permanent Art Collection;
   - Develop guidelines to further define the parameters under which the Public Art Funds can be used;
   - Direct staff to develop a Master Plan for Public Art to identify potential public art projects and prioritize public art locations for funding, and;
   - Change title of policy to *Art in Public Places.*

With the addition of bringing back a report to the City Council two years after the program is put into place on the progress of the program in terms of developer options and who has executed what.

FRIENDLY AMENDMENT: Councilmember Davis asked the maker of the motion to break the motion into component parts.
Councilmember Griffith declined to accept the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Moylan requested a friendly amendment to make the first bullet in Alternative 3 more explicit to specify that the guidelines would include Arts Commission review and Council sign-off.
Councilmember Griffith accepted the friendly amendment.

City Clerk Kathleen Franco Simmons read the ordinance title at 8:06 p.m.

VOTE: 6 - 1 (Councilmember Davis dissented)

3. MOTION RTC 12-183 — Proposed Response to Santa Clara County Civil Grand Jury Report, An Analysis of Pension and Other Post-Employment Benefits

Budget Manager Drew Corbett provided the staff report.

Public hearing opened at 7:49 p.m.

Tap Merrick spoke regarding findings five and seven and recommended changes.

Holly Lofgren stated concerns regarding unfunded liabilities and that she would like to see a two-tiered system with every bargaining unit and have the employees pay their full contribution.

Public hearing closed at 7:53 p.m.

MOTION: Councilmember Meyering moved to appoint a panel of Sunnyvale residents to prepare and provide Council with a response to the Grand Jury report and include it with the City's response.
Motion died for lack of second.

MOTION: Councilmember Meyering moved to amend the City's response to finding number one.
Motion died for lack of second.

MOTION: Councilmember Meyering moved to amend the City's response to recommendation number one to include that CalPERS offers an option a municipality can offer a 1.5% at 65 plus social security.
Motion died for lack of second.

MOTION: Councilmember Meyering moved to amend the City's response to recommendation 4.B. from "the City could consider and implement payment of past service cost" to "the City will consider and implement payment of past service cost."
Motion died for lack of second.

MOTION: Councilmember Meyering moved regarding recommendation number seven to make an official request of CalPERS to amend their programs to include a 401(k) hybrid plan and advocate to surrounding cities to join in that effort.
Motion died for lack of second.

MOTION: Councilmember Moylan moved to approve an amended version of the response where it is added in each relevant place in the City's response that Council has already supported State action in this regard.

Councilmember Griffith seconded the motion and suggested a friendly amendment that it be left to staff discretion to add it as they see appropriate.
Councilmember Moylan accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Griffith suggested a friendly amendment to give staff the discretion to either incorporate it or bring the response back for further review before it is due if they think that is appropriate.
Councilmember Moylan accepted the friendly amendment.

VOTE: 5 - 2 (Councilmember Meyering and Spitaleri dissented)

4. RESOLUTION RTC 12-194 — Consider a Resolution to Increase the City Council's Contribution to the Employee Rate for the California Public Employees' Retirement System and Amendment to the Salary Resolution

Director of Human Resources Teri Silva provided the staff report.

Public hearing opened at 8:03 p.m.

No speakers.

Public hearing closed at 8:03 p.m.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to approve Alternative 1: Consider a resolution to increase the City Council's contribution to the employee rate for the CalPERS retirement benefit and amendment to the Salary Resolution.

FRIENDLY AMENDMENT: Councilmember Meyering offered a friendly amendment to specify the start date as January 1, 2002.
Councilmember Moylan declined to accept the friendly amendment.

VOTE: 7 – 0

Following action on Item 4, Mayor Spitaleri requested the City Clerk to read the ordinance title from Item 2, which had inadvertently been overlooked. City Clerk Kathleen Franco Simmons read the ordinance title for Art in Private Developments.

At this time, Council took up and considered Consent Calendar Items 1.A, 1.C, and 1.I.

Following action on Item 1.I., 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 Whittum reported a meeting of the VTA Policy Advisory Committee.

Councilmember Davis reported a meeting of the Moffett Field Restoration Advisory Board.

Councilmember Moylan reported on a meeting with members of the United States Patent and Trademark Office.

NON-AGENDA ITEMS & COMMENTS

Councilmember Whittum made an informal request to receive more detailed information on the July 31 discussion on the Library issue.

Councilmember Whittum spoke regarding additional issues and concerns to be included in the City's planning over the next twenty years and provided written materials to Council.

Councilmember Davis reported he joined the Sunnyvale Lions Club to celebrate their 80th anniversary in the City of Sunnyvale.

Councilmember Moylan sponsored a study issue regarding the acquisition of the Mountain View property bounded by Route 85 and Stevens Creek.
Councilmember Griffith co-sponsored the study issue.

MOTION: Councilmember Meyering moved to ask ABAG for a revision to housing numbers included in a recent report or pursue an appeal.
No second was made; brief discussion was held.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar

- Study Session Summary of July 31, 2012 – City Council Joint Study Session with Board of Library Trustees – Future Library and Civic Center Facility Options
- Draft Minutes of the Arts Commission meeting of July 18, 2012
- Draft Minutes of the Sustainability Commission meeting of July 26, 2012
- Draft Minutes of the Heritage Preservation Commission meeting of August 1, 2012

ADJOURNMENT

Mayor Spitaleri adjourned the meeting at 8:31 p.m.