

DRAFT MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, AUGUST 28, 2012, 7 PM

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

PUBLIC ANNOUNCEMENTS

Vice Mayor Whittum announced recruitment for the Stevens Creek Trail Joint Four Cities Feasibility Study Citizens Working Group and an application deadline.

Kris Stadleman, Director of NOVA Workforce Services, announced and provided new collateral materials regarding rapid response efforts.

Terry Fowler announced an upcoming presentation on ballot propositions by the League of Women Voters at the Democratic Club of Sunnyvale.

**Pending Council approval*

CONSENT CALENDAR

Councilmember Meyering pulled Items 1.A, 1.C and 1.H 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.A, 1.C and 1.H.

VOTE: 7 - 0

Mayor Spitaleri requested that in order to take up Item 1.C., the List of Claims and Bills Approved for Payment by the City Manager, a second would be required.

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

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.

VOTE: 6 – 1 (Councilmember Meyering dissented)

Mayor Spitaleri announced Items 1.A and 1.H would be handled following Public Hearings / General Business.

1.A. MOTION Approval of Council Meeting Minutes of August 14, 2012

MOTION: Councilmember Meyering moved and Councilmember Griffith seconded the motion to amend the minutes on page 6, second paragraph, to read that the content of the motion was that there are basis for the comparison of police officer and fire department salaries in comparing with military police, private security workers and the example cited was at Chevron.

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 12-201 Nos. 620-621

Staff Recommendation: Approve the lists of bills.

1.D. MOTION Approval of Budget Modification No. 4 to Appropriate LED Street Light
RTC 12-195 Rebate Towards Additional Energy-Efficient Street Light Conversions

Staff Recommendation: Alternative 1: Approve Budget Modification No. 4 to appropriate the PG&E Rebate to the Energy Efficient Street Light Conversion Project.

- 1.E. MOTION Amend Council Fiscal Policy to Provide Authority for City Manager
RTC 12-196 and Designees to Waive Fees, Fines, Penalties, and Interest Under
Specific Circumstances
Staff Recommendation: Alternative 1: Adopt revised Council Fiscal Policy as presented in
Attachment A.

Contracts

- 1.F. MOTION Award of Contract for Engineering, Design and Environmental Services for
RTC 12-205 the Fair Oaks Overhead Bridge Rehabilitation Project (F1109-15)

Staff Recommendation: Award a contract in the amount of \$2,183,344 to Biggs Cardosa
& Associates, Inc. (BCA), for the subject project, and authorize the City Manager to
execute the contract when all necessary conditions have been met; and approve a 10%
design contingency in the amount of \$218,334.

- 1.G. MOTION Award of Contract for Mobile Video Audio Recording (MVAR) System
RTC 12-200 Upgrade for Public Safety Patrol Vehicles (F13-01)

Staff Recommendation: Award a contract in the amount of \$207,995, excluding taxes, to
L3 Communications Mobile Vision, Inc. for a Digital Mobile Video Audio Recording
(MVAR) System Upgrade.

Staff Contact: Pete Gonda, (408) 730-7418

Other Items

- 1.H. ORDINANCE Adoption of Ordinance No. 2976-12 Amending Certain Chapters and
2976-12 Sections of Title 1 (General Provisions) and Title 19 (Zoning) of the
Sunnyvale Municipal Code Pertaining to Below Market Rate Housing
Requirements

MOTION: Councilmember Moylan moved and Councilmember Griffith seconded the motion
to approve the second reading of Ordinance No. 2976-12.

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.I. ORDINANCE Adoption of Ordinance No. 2977-12 Repealing Chapter 19.52 (Required
2977-12 Artwork in Private Developments) and Adding Chapter 19.52 (Art in Private
Development) of Title 19 (Zoning) of the Sunnyvale Municipal Code

Staff Recommendation: Approve the second reading of Ordinance No. 2977-12.

- 1.J. MOTION City of Sunnyvale 2012 Conflict of Interest Code Biennial Notice
RTC 12-206

Staff Recommendation: Alternative 1: Review the Conflict of Interest Code Biennial Notice
(Attachment A) pursuant to state law and direct staff to return to Council within 90 days a
resolution amending the Conflict of Interest Code to include proposed revisions to
designated City positions as submitted (Attachment B).

- 1.K. RESOLUTION Resolution Affirming Adoption of a Local Hazard Mitigation Plan in
RTC 12-203 Cooperation with ABAG

Staff Recommendation: Alternative 1: Approve a Resolution of the Sunnyvale City Council Approving the Association of Bay Area Government (ABAG) Report "Taming Natural Disasters" as the City of Sunnyvale's Local Hazard Mitigation Plan.

PUBLIC COMMENTS

Michael Goldman spoke regarding the Sunnyvale Library and presented a PowerPoint presentation.

Michael Sabin spoke regarding CalPERS return on investments, unfunded liabilities, and the additional contribution needed for pension funding. Sabin presented a PowerPoint presentation.

Andy Frazer, one of founders of Sunnyvale Pension Reform, spoke regarding the goals of the pension reform group and the cost of unfunded liabilities.

Melinda Hamilton expressed appreciation to City departments and volunteers for their support of the Sunnyvale Centennial Celebration event.

Tap Merrick spoke regarding a meeting he had with PSOA President Lt. Tim Ahearn regarding public safety officer staffing and proposed a public safety fee on new housing to help pay for additional staff.

Crisand Giles, Executive Director, Building Industry Association of the Bay Area, spoke regarding settlement negotiations on the park fee litigation and provided written materials.

PUBLIC HEARINGS/GENERAL BUSINESS

2. MOTION 2012-7373: Application to Initiate a Specific Plan Amendment Study to
RTC 12-202 Change the Allowable Residential Density for 455-491 S. Mathilda
 Avenue in Block 14 of the Downtown Specific Plan to Allow up to 69
 Dwelling Units per Acre and to Eliminate the Requirement for a
 Frontage Road along Mathilda Avenue

Councilmember Meyering stated he would recuse himself from consideration of this matter as he has an arrangement with a tenant of the property for occasional use of a conference room to meet with Sunnyvale clients, and will speak as a member of the public. Meyering stepped down from the dais and took a seat in the audience.

Director of Community Development Hanson Hom provided the staff report.

Public hearing opened at 8:02 p.m.

Katia Kamangar, Applicant, Urban Housing Group, gave opening remarks.

Kelly Snider, Director of Development, Urban Housing Group, presented information regarding the request for Initiation of a General Plan Amendment and presented a PowerPoint presentation.

Peter Cirigliano spoke regarding Councilmember Meyering's recent letter to the Sunnyvale Sun.

Andy Frazer spoke regarding the application by the Urban Housing Group and requested rejection of Alternative 2.

Tap Merrick spoke regarding park dedication fees and encouraged fewer one bedroom apartments and more two-bedroom apartments. Merrick stated he would like to see the project stay within the City's plan.

Ray Johnson stated the Downtown Specific Plan should be implemented as written to take the politics out of the development process. Johnson stated the project should be remanded to staff with instructions to inform the applicant that there will be no change in residential density above the maximum allowed for the parcel and no further increases will be allowed.

Pat Meyering presented a slide showing the aerial views of the project area and stated Councilmembers who have a conflict of interest should recuse themselves.

Dan Hafeman spoke in support of the staff recommendation and the importance of making Mathilda more pedestrian and bicycle friendly in the downtown area. Hafeman stated the project is an opportunity to have a high density development that is considered a green building development.

Larry Alba requested consideration of children in this and other projects due to school overcrowding due to increased housing.

Kelly Snider, Applicant, provided information regarding the request for increased density and stated Mathilda warrants further study.

Public hearing closed at 8:44 p.m.

MOTION: Councilmember Moylan moved and Vice Mayor Whittum seconded the motion to approve Alternative 1: Authorize the initiation of the Specific Plan Amendment study to consider a change to the frontage road requirement for Mathilda Avenue between Washington Avenue and El Camino Real.

AMENDMENT: Mayor Spitaleri moved to amend and Councilmember Martin-Milius seconded the motion to amend the motion to include Alternative 2: Authorize the initiation of the Specific Plan Amendment study to consider a change in residential density from 87 maximum dwelling units to 110 dwelling units (approximately 69 d.u. per acre) for the subject parcel within DSP Block 14.

VOTE on AMENDMENT: 2 - 4 (Councilmember Griffith, Vice Mayor Whittum and Councilmembers Moylan and Davis dissented, Councilmember Meyering recused)
Motion failed.

VOTE on MAIN MOTION: 5 - 1 (Councilmember Davis dissented, Councilmember Meyering recused)

MOTION: Vice Mayor Whittum moved and Councilmember Davis seconded the motion to put on an upcoming agenda a discussion of commercial zoning at the site.

VOTE: 2 - 4 (Councilmember Griffith, Mayor Spitaleri, Councilmembers Moylan and Martin-Milius dissented, Councilmember Meyering recused)
Motion failed.

Following action on this item, Councilmember Meyering returned to the dais and took his seat.

3. MOTION 2012-7034: Appeal of a Decision of the Planning Commission Approval
RTC 12-193 (on Appeal) of a Variance from SMC 19.46.060(a)(5) to Allow Partial
Conversion of a Garage to Living Space. The conversion results in one
covered parking space where two are required in an R-0 (Low Density
Residential) zoning district located at 317 Hiddenlake Drive (APN: 110-
21-046).

Planning Officer Trudi Ryan provided the staff report.

Public hearing opened at 9:31 p.m.

Jay Krusemark, Applicant, provided information regarding the garage conversion, other homes in the neighborhood which have garage conversions and the availability of street parking.

Gustav Larsson, Chair, Planning Commission, reported the commission voted 4 – 2 and stated the commission proposed a study issue for off-street parking requirements for single-family homes and to limit the duration of the variance to as long as the homeowner owns the property.

Applicant Jay Krusemark provided additional information regarding the garage conversion.

Public hearing closed at 10:14 p.m.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to approve Alternative 1: Grant the appeal and deny the decision of the Planning Commission to approve the Variance.

Councilmember Meyering requested his explanation of dissent be included in the minutes. Meyering stated the zoning provisions were designed to promote neighborhood quality of life, Sunnyvale has ignored that in certain neighborhoods and has allowed the restrictions to be routinely ignored. He stated the worst precedent imaginable is to allow someone to leave an anonymous phone message and claim that there is a zoning violation without any indication of what the value is. Meyering stated we don't want to set a precedent by having a tool available if there is a dispute between neighbors for them to use the City mechanism to try and retaliate against a neighbor. Meyering stated an alternative approach can be taken to defer enforcement on this and see how it plays out.

VOTE: 6 - 1 (Councilmember Meyering dissented)

4. RESOLUTION Determine Process for the Sale of City-Owned Residential Properties
RTC 12-199 Adjacent to Murphy Park Located at 239, 263 and 279 Jackson Street

Director of Public Works Kent Steffens provided the staff report.

Public hearing opened at 10:32 p.m.

Sara Sebastian provided information regarding the conditions of the property for which she has been a tenant for the past five years and expressed concern about where the current renters would go if the properties are sold.

Andy Frazer expressed concerns regarding sale of a property to purchase another property and requested Council oppose the staff recommendation.

Deborah Marks spoke in support of keeping the three properties to see a future extension of the park or set aside some of the money from the sale for planting other trees in the city at another time.

Jennifer Simmons, Habitat for Humanity, provided information regarding the program.

Tap Merrick provided written materials and stated this is a perfect place to safeguard acreage for parks.

Larry Alba asked that the City postpone selling the properties because they were originally purchased to make additions to Murphy Park.

Thomas Dwyer asked that the properties not be sold because they were purchased to expand the park.

Debbi Headley, resident of Jackson street, spoke in support of not expanding the park and keeping single-family homes in the neighborhood.

Janice Cerda spoke regarding health and safety hazards of the properties rented by the City.

Public hearing closed at 11:07 p.m.

Mayor Spitaleri reopened the public hearing at 11:09 p.m.

John Livacich spoke regarding health and safety issues at the park and stated keeping the homes in limbo is not helping the area.

Robert Reid spoke regarding the need for parks near downtown and stated a park extension and a small parking lot is needed and exhorted the Council to take the long view.

Public hearing closed at 11:15 p.m.

MOTION: Councilmember Moylan moved and Councilmember Griffith seconded the motion to approve Alternative 2: City Council to direct staff to begin negotiations for sale of the Jackson Street properties for public purpose with Habitat for Humanity, an affordable housing agency; and, to bring the Habitat proposal to acquire and rehabilitate these homes for resale to lower income home buyers to Council for consideration as soon as possible, adding that should include provisions for relocation for current tenants who are not successful in acquiring the property and the one-time revenue gain be realized in the Park Dedication Fund for other park and open space priorities.

MOTION REPHRASED: Councilmember Moylan rephrased the motion to include that if the City can't come to an agreement with Habitat for Humanity, then revert to Alternative 1: City Council declare by resolution the three City-owned parcels adjacent to Murphy Park located at 239, 263 and 279 Jackson Street as surplus property for sale; and the one-time revenue gain be realized in the Park Dedication Fund for other park and open space priorities.

VOTE: 4 - 3 (Councilmember Meyering, Vice Mayor Whittum and Councilmember Davis dissented)

5. MOTION League of California Cities Peninsula Division Election of Officers
RTC 12-197

Senior Management Analyst Yvette Blackford provided the staff report.

Public hearing opened at 11:36 p.m.

No speakers.

Public hearing closed at 11:36 p.m.

MOTION: Councilmember Moylan moved and Councilmember Griffith seconded the motion to vote for all of the unopposed candidates in each officer position and for Councilmember Davis for the At-large position.

President
Rich Garbarino, Mayor, South San Francisco

Vice President
Chuck Page, Mayor, Saratoga

Secretary-Treasurer
Kelly Fergusson, Council Member, Menlo Park

At-large (Santa Clara County)
Jim Davis, Councilmember, Sunnyvale

At-large (San Mateo County)
Michael Brownrigg, Council Member, Burlingame

VOTE: 7 - 0

6. MOTION City Positions on League of California Cities' 2012 Annual Resolutions
RTC 12-204

Senior Management Analyst Yvette Blackford provided the staff report.

Public hearing opened at 11:38 p.m.

Dan Hafeman addressed Resolution 4 regarding global warming and requested a vote to oppose Resolution 4.

Gerald Glaser, member of the Sustainability Commissioner speaking for himself, spoke in opposition to Resolution 4.

Public hearing closed at 11:43 p.m.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to take support positions on Resolutions 1, 2, and 5 and an oppose position on Resolution 4 consistent with the revised staff recommendation.

VOTE: 6 - 1 (Vice Mayor Whittum dissented)

Following action on Item 6, Council took up and considered Consent Calendar Items 1.A and 1.H.

Following action on Item 1.H., 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 a meeting of the Recycling and Waste Reduction Commission in which he was elected Chair.

NON-AGENDA ITEMS & COMMENTS

Councilmember Davis sponsored a study issue on naming streets to honor the five public safety officers who have died in the line of duty with their names being added to the street poles as new streets are created.

Councilmember Griffith co-sponsored the study issue.

City Manager Luebbers stated a study issue is not required and staff would handle the issue.

Councilmember Meyering reported the letter received from the VTA doesn't provide the suggestions that were made at the study session preceding the vote on BRT. Meyering requested staff send a letter back to VTA regarding suggestions made by Kevin Conley regarding ways to speed up traffic on Mathilda Avenue.

City Manager Luebbers stated staff will follow up the letter with a conversation with VTA.

Councilmember Moylan sponsored a study issue regarding an infrastructure reserve policy for City facilities.

Councilmember Spitaleri co-sponsored the study issue.

City Manager Luebbers stated a study issue is not required and staff would handle the issue.

Councilmember Martin-Milius sponsored a study issue regarding a program to look at eco-districts and incentives to move in the direction of zero waste, using waste to generate energy and decreasing the cost of energy and suggested Peery Park and Lawrence Station. Councilmember Griffith co-sponsored the study issue.

City Manager Luebbers reported the pension reform bill was released and stated staff will provide information on any potential impacts to the City.

Councilmember Griffith requested information regarding RDAs.

City Attorney Martello reported the comments made earlier by a representative from the BIA regarding ongoing litigation were inappropriate and he will respond in Closed Session.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Response from VTA Regarding Request for Improved North-South Traffic Flow on the Mathilda Avenue/Sunnyvale-Saratoga Road Corridor

ADJOURNMENT

Mayor Spitaleri closed the meeting in honor of U.S. Marine Corps Captain Matthew Manoukian.

Mayor Spitaleri adjourned the meeting at 11:59 p.m.