

**DRAFT MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, DECEMBER 4, 2012**

**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 (by teleconference)  
Councilmember Jim Griffith  
Councilmember Pat Meyering  
Councilmember Tara Martin-Milius  
Councilmember Jim Davis

**ABSENT:**

None.

**STAFF PRESENT:**

City Manager Gary Luebbbers  
Assistant City Manager Robert Walker  
Interim City Attorney Michael Martello  
Director of Finance Grace Leung  
Director of Public Safety Frank Grgurina  
Director of Community Development Hanson Hom  
Director of Public Works Kent Steffens  
Director of Human Resources Teri Silva  
Director of Library and Community Services Lisa Rosenblum  
Superintendent of Parks and Golf Scott Morton  
City Clerk Kathleen Franco Simmons

**PUBLIC ANNOUNCEMENTS**

None.

**CONSENT CALENDAR**

Councilmember Meyering pulled Item 1.C.

*\*Pending Council approval*

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

VOTE: 7 - 0

- 1.A. Approval of Council Meeting Minutes of November 20, 2012
- 1.B. Approval of Information/Action Items – Council Directions to Staff

**Fiscal Items**

- 1.C. RTC 12-287 List of Claims and Bills Approved for Payment by the City Manager – List Nos. 634 and 635

Council took up consideration of this item following the Public Hearing / General Business portion of the meeting.

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

VOTE: 6 - 1 (Councilmember Meyering dissented)

- 1.D. RTC 12-285 Modify an Existing Contract for Temporary Agency Services for the Information Technology Department (F13-29)

Staff Recommendation: Approve a modification to the existing Blanket Purchase Order with Robert Half Technology by increasing the not-to-exceed value from \$40,400 to \$144,612.

- 1.E. RTC 12- 286 Approval of Budget Modification No. 22 to Appropriate California Department of Transportation Highway Safety Improvement Program Grants for Mathilda Avenue/Maude Avenue and Sunnyvale-Saratoga Road/ Fremont Avenue Projects

Staff Recommendation: Alternative 1: Approve Budget Modification No. 22 to appropriate California's Department of Transportation Highway and Safety Improvement Program grant and local matching funds to two new capital projects, Mathilda Avenue/Maude Avenue Safety Improvements and Sunnyvale-Saratoga Road/Fremont Avenue Safety Improvements.

- 1.F. RTC 12-290 Approval of Budget Modification No. 24 to Appropriate Transportation Impact Fee Funds for a City Participating Share in a Lawrence Expressway Grade Separation Study and to Authorize the City Manager to Execute Necessary Agreements

Staff Recommendation: Alternative 1: Approve Budget Modification No. 24 to appropriate \$125,000 of Transportation Impact Fee funds for a contribution to the Lawrence Expressway Grade Separations Study.

- 1.G. RTC 12-284 Approval of Budget Modification No. 25 to Shift Budgeted Funds for Computerized Transportation Model Update from FY 2015/16 to FY 2012/13

Staff Recommendation: Alternative 1: Approve Budget Modification No. 25 to move funds forward to FY 2012/13 for project 825530 Computerized Transportation Model Update.

- 1.H. RTC 12-288 Approve an Increase in the Construction Contingency for Morse Avenue Neighborhood Park Development – Remedial Soil Excavation

Staff Recommendation: Alternative 1: Approve an increase in the project contingency by \$300,000, from \$107,940 to \$407,940.

### **Personnel**

- 1.I. RTC 12-269 Approve an Amendment to the Schedule of Pay of the Salary Resolution: Pay Rate Adjustment for Pay Plan Category H (applies to Unclassified Recreation Classifications)

Staff Recommendation: Amend Section 2.500 (Pay Plan Category H) of the Schedule of Pay of the Salary Resolution to reflect the new pay rates, effective as soon as administratively possible after adoption of said amendment, and authorize the Community Services Division to implement the transition of unclassified temporary Recreation employees to the new pay structure.

### **Other**

- 1.J. ORDINANCE Adopt Ordinance No. 2983-12 Amending Certain Sections of Title 19 2983-12 (Zoning) of the Sunnyvale Municipal Code Relating to Conversion of Mobile Home Parks to Other Uses

Staff Recommendation: Adopt Ordinance No. 2983-12.

### **PUBLIC COMMENTS**

Andy Frazer presented a proposal for a study issue regarding civic openness in negotiations (C.O.I.N) and provided a PowerPoint presentation and written materials.

Vice Mayor Whittum sponsored and Councilmember Meyering co-sponsored the study issue.

Steve Hoffman spoke regarding public comment at City Council meetings and recommended a study issue to prohibit Councilmembers from voting on issues for which their sponsors benefit.

### **PUBLIC HEARINGS/GENERAL BUSINESS**

2. RTC 12-280 Discussion and Possible Action on Request for Proposals for a License to Operate Public Swim Programs at Fremont High School Pool

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

Public hearing opened at 7:29 p.m.

Henry Alexander, Acting Chair, Parks and Recreation Commission, provided information regarding the recommendations of the commission, including: 1. Remove mandate for non-summer open swim hours and leave to the discretion of the pool operator to best meet the needs of the community as they are at that time; 2. Summer Schedule Requirements. Six weeks is acceptable only if open swim is cancelled to offer swim meets for Sunnyvale Youth Swim Clubs that serve at least 60% of residents. 3. Add to definition of Swim Team – Program provider shall provide for a minimum of 8,000 lane hours for local youth swim teams of which all ‘teams’ shall have at least 60% resident members in their entire organization and either hold a Sunnyvale business license or a majority of board members are Sunnyvale residents.

Kathleen Meadows, member of the Friends of the Fremont Pool, spoke regarding the various groups which support the Fremont Pool and the value of the pool to youth and their families to spend quality time, develop water skills and become part of a team.

Valerie Armento, member of the Friends of the Fremont Pool, stated the importance of providing for a mix of swimming distance options including both short course and long course which should be reflected in the tables in Attachment A to the RFP.

Mark Pool, member of Friends of the Fremont the Pool, spoke regarding special event use of the pool.

Dr. Sheryl Sun, member of the Friends of the Fremont Pool, asked for an increase in minimum swim lanes from 6 to 8 during the weekend morning swim hours, especially from May 1 to mid-August.

Lisa Fischer-Colbrie spoke in support of Parks and Recreation Commission recommendation 1 and the importance of fewer mandates on programs and lane usage to allow the pool operator to maximize use of the pool.

Barbara Blank spoke regarding use of the pool for diving.

Margaret Copley, President, Sunnyvale Swim Club, expressed concerns regarding the commercial general liability section of the RFP and stated the increase in liability requirements will present a financial hardship for the swim club.

Steve O’Neill, member of Friends of the Fremont Pool, spoke regarding the requirements for a year-round open swim program and recommended an open summer swim program of 8 weeks and open swim on weekends for the 6 week period immediately prior to the summer program and for the 6 week period immediately after the summer program. O’Neill stated the importance of giving the pool operator flexibility due to possible conflicts with the high school and improved public outreach.

Brad Meacham, Head Coach, Sunnyvale Swim Club, spoke regarding a revision to page 16 of the RFP under the swim team section, to include “a local USA Swimming youth swim team.”

Eric Messner spoke regarding the importance of the Sunnyvale Swim Club to his family and the opportunities it provides the community.

Aditiya Agarwal, Meet Director, Sunnyvale Swim Club, spoke regarding the club's desire to sign a multi-year contract with the operator.

Ricky Silva, Pool Manager, California Sports Center, provided data regarding use of the pool by youth and adults, open public use and staffing during the school year.

Holly Lofgren summarized the recommendations of the Friends of the Fremont Pool which she stated they hoped were a compromise for the expansion of open swim and loosening up a number of the requirements of the contractor.

David Peterson, California Sports Center, provided information regarding the center and spoke in support of the staff recommendation as modified by the Parks and Recreation Commission and recommended an industry standard liability insurance requirement.

Public hearing closed at 8:48 p.m.

Councilmember Martin-Milius disclosed she met with Holly Lofgren.

MOTION: Councilmember Griffith moved and Councilmember Davis seconded the motion to approve Alternative 1: Approve the Request for Proposals document and authorize staff to move forward on this project; with the following proposed changes:

1. Incorporate the Parks and Recreation Commission recommendations 1 and 2.
2. Incorporate the Friends of the Fremont Pool recommendation to add language reflecting a mix of short course and long course scheduling without specifics.
3. Direct staff to meet with the Friends of the Fremont Pool to consider the balance of their revisions and incorporate them at their discretion and issue the RFP; and Take into consideration to whatever extent appropriate those conditions that are not incorporated when the actual proposals are reviewed, prior to approval of the contract.

FRIENDLY AMENDMENT: Councilmember Moylan proposed a friendly amendment to replace Parks and Recreation Commission recommendation 1 to eliminate the staff proposal to mandate more open swim hours with the Friends of the Fremont Pool recommendation to mandate more open swim hours but only from May through September.

Councilmember Griffith declined to accept the friendly amendment.

FORMAL AMENDMENT: Councilmember Moylan moved and Vice Mayor Whittum seconded the amendment to replace Parks and Recreation Commission recommendation 1 with the Friends of the Fremont Pool recommendation to mandate more open swim hours but only from May through September.

VOTE on AMENDMENT: 4 - 3 (Councilmembers Griffith, Davis and Martin-Milius dissented)

FRIENDLY AMENDMENT: Vice Mayor Whittum asked that the typo on page 15 where it says under "Masters Swim - Program Provider shall provide a minimum of 2,500 lane hours of instructional lessons per year" be corrected to strike the text: "of instructional lessons per year."

Councilmember Griffith accepted the friendly amendment.

VOTE on MAIN MOTION as AMENDED: 7 - 0

Mayor Spitaleri called for a recess at 9:17 p.m.

Council reconvened at 9:27 p.m. with all members present.

3. RTC 12-278 Discussion and Possible Actions Regarding 2012-7531 – Classic Communities, Inc. / District Advisory Board Northern California Church of the Nazarene: Applications for a 2.3-acre project located at 636 West Fremont Avenue in the R-1 and R-2/PD Zoning Districts (APNs: 323-07-041 and 323-07-042):
- Introduce an ordinance to REZONE the site from a mix of R-1 (low density residential) and R-2/PD (low-medium density residential) zoning to a mix of R-0/PD (low density residential) and R-2/PD zoning;
  - MITIGATED NEGATIVE DECLARATION;
  - SPECIAL DEVELOPMENT PERMIT to allow the development of eighteen new single-family homes;
  - VESTING TENTATIVE MAP to allow subdivision of one lot into eighteen single-family lots and one common lot

MOTION: Councilmember Meyering moved that Councilmembers who accepted money from the developer recuse themselves.

Motion died for lack of a second.

Planning Officer Trudi Ryan provided the staff report.

Scott Ward, Classic Communities, applicant, requested support of the Planning Commission recommendation and staff recommendation and provided additional information regarding the project.

Public hearing opened at 9:47 p.m.

Cynthia Markiewicz expressed concerns regarding parking and the impact of the density on quality of life. She stated concerns regarding whether it is legal or ethical for Council who have accepted funds from the developer to vote on the project.

Patrick Grant expressed gratitude for the outreach regarding the project.

Steve Hoffman expressed remarks regarding Councilmembers who do not recuse themselves from voting on an issue that directly benefits people from whom they've received contributions.

Public hearing closed at 9:54 p.m.

Applicant Scott Ward responded to comments and questions.

MOTION: Councilmember Griffith moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Adopt the Mitigated Negative Declaration; introduce an Ordinance to Rezone 636 West Fremont Avenue from a mix of R-1 and R-2/PD zoning to a mix of R-0/PD and R-2/PD zoning; and approve the Vesting Tentative Map and Special Development Permit with conditions.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 6 - 1 (Councilmember Meyering dissented)

4. RTC 12-279 Discussion and Possible Action Regarding Comprehensive School Traffic Study (Study Issue)

Traffic and Transportation Manager Jack Witthaus provided the staff report.

Public hearing opened at 10:22 p.m.

Andy Frazer spoke in support of the intent of the recommendations in the school traffic study and provided comments in support of pavement lighted crosswalks. Frazer expressed concerns regarding the inability to implement the crosswalk improvements due to employee compensation costs.

Steve Hoffman spoke regarding the dangers to pedestrians walking on a sidewalk across private property driveways.

Public hearing closed at 10:26 p.m.

MOTION: Councilmember Davis moved and Vice Mayor seconded the motion to approve Alternative 1: Accept the Comprehensive School Traffic Study and direct staff to implement the study results.

FRIENDLY AMENDMENT: Councilmember Moylan offered a friendly amendment to include consideration of the possibility if appropriate, of using all red signalizations for certain intersections and consider using high pedestrian density as a possible criterion for a 15 miles per hour speed limit.

Councilmember Davis accepted the friendly amendment.

VOTE: 7 - 0

5. RTC 12-291 Discussion and Possible Action Regarding Downtown Parking and Maintenance Management Program (Study Issue)

Vice Mayor Whittum disclosed his home is within 500 feet of the project, recused himself and left the room.

Mayor Spitaleri recused himself for the same reason, turned the meeting over to Councilmember Griffith to facilitate, and left the room.

Director of Public Works Kent Steffens provided the staff report.

Public hearing opened at 10:45 p.m.

Kevin Jackson, Bicycle and Pedestrian Advisory Commission member speaking for himself, spoke regarding the importance of appropriate pricing of parking.

Public hearing closed at 10:48 p.m.

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

- 1) Direct staff to return to Council with a new capital project for the FY 13/14 Recommended Budget to install pay for parking systems in the North and South Mathilda Overpass Lots;
- 2) Direct staff to return to add new proposed parking rates and fees for Council consideration in the FY 13/14 Recommended Fee Schedule.

VOTE: 4 - 1 - 2 (Councilmember Meyering dissented, Vice Mayor Whittum and Mayor Spitaleri recused)

Following action on this item, Mayor Spitaleri and Vice Mayor Whittum returned to the room and took their seats at the dais.

6. RTC 12-289 Discussion and Possible Action Regarding Naming of New Park at 545 Santa Real Avenue

Superintendent of Parks and Golf Scott Morton provided the staff report.

Public hearing opened at 10:58 p.m.

Andy Frazer provided written materials and spoke regarding a City of Palo Alto proposal to sell naming rights to a playground.

Public hearing closed at 11 p.m.

MOTION: Councilmember Martin-Milius moved and Councilmember Moylan seconded the motion to proceed with naming the park using the same process used for naming Plaza del Sol, opening it up citywide.

FRIENDLY AMENDMENT: Councilmember Griffith offered a friendly amendment to remove from consideration "Fusion" and any names directly associated with the homeowners association located adjacent to the park. Councilmember Martin-Milius accepted the friendly amendment.

VOTE: 6 - 1 (Councilmember Meyering dissented)

7. RTC 12-282 Discussion and Possible Action on Naming of Streets or Public Facilities after Fallen Officers

Director of Community Development Hanson Hom provided the staff report.

Public hearing opened at 11:07 p.m.

Andy Frazer spoke in support of naming streets after fallen officers and recommended against naming fire stations after them.

Public hearing closed at 11:09 p.m.

MOTION: Councilmember Davis moved and Councilmember Meyering seconded the motion to direct staff to submit the names of Sunnyvale's five fallen public safety officers to relevant agencies for review, in adherence with Sunnyvale's Street Naming System, add these names to the City's list of possible street names and request each developer with a new street(s) to consider naming it after a fallen officer.

VOTE: 7 - 0

8. RTC 12-281 Introduce Ordinance to Amend Chapter 9.56 of the Sunnyvale Municipal Code (Solicitation)

City Attorney Joan Borger provided the staff report.

Public hearing opened at 11:21 p.m.

No speakers.

Public hearing closed at 11:21 p.m.

MOTION: Councilmember Martin-Milius moved and Vice Mayor Whittum seconded the motion to approve Alternative 1: Introduce an Ordinance to amend Chapter 9.56 of the Sunnyvale Municipal Code related to solicitation.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 6 - 1 (Councilmember Meyering dissented)

Following action on Item 8, Council took up and 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 Moylan stated he prepared a trip report regarding his attendance at the National League of Cities conference for distribution to Council.

Councilmember Griffith reminded Council of the upcoming Cities Association of Santa Clara County annual holiday dinner.

Councilmember Davis reported a League of California Cities Presidential appointment to the Public Safety Policy Committee.

### **NON-AGENDA ITEMS & COMMENTS**

Councilmember Griffith reported he represented the City at the Lakewood Village Annual Holiday Parade.

Vice Mayor Whittum proposed a study issue regarding a new dog park in Sunnyvale including siting and financing.

Councilmember Spitaleri co-sponsored the study issue.

Vice Mayor Whittum suggested a discussion of making Macon Road a public way, and a discussion regarding a cleanup of the municipal code in relation to mobile home and health officers.

Vice Mayor Whittum stated Item 1.F regarding grade separations on Lawrence is an important infrastructure improvement beneficial to providing access to Moffett Park.

Vice Mayor Whittum reported he met with the Vice Consulate of Japan and community members interested in having an exchange relationship with a city in Japan.

Councilmember Griffith proposed a study issue to develop a plan to address traffic and parking arising from the 49ers stadium.

Councilmember Davis co-sponsored the study issue.

Councilmember Meyering requested a list of proposed study issues and the upcoming deadline date.

#### **INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- Study Session Summary of November 20, 2012 – Discussion of Proposals for Retooling the Zoning Code
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission meeting of November 15, 2012
- Draft Minutes of the Parks and Recreation Commission meeting of November 14, 2012
- Draft Minutes of the Human and Human Services Commission meeting of November 14, 2012
- Draft Minutes of the Heritage Preservation Commission meeting of November 7, 2012

#### **ADJOURNMENT**

Councilmember Moylan closed the meeting in memory of his father, Robert Moylan.

Mayor Spitaleri adjourned the meeting at 11:32 p.m.