

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, APRIL 9, 2013, 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 Jim Griffith
Councilmember Christopher Moylan
Councilmember David Whittum
Councilmember Pat Meyering
Councilmember Tara Martin-Milius
Councilmember Jim Davis

ABSENT:

None

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney Joan Borger
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 Library and Community Services Lisa Rosenblum
City Clerk Kathleen Franco Simmons

SPECIAL ORDER OF THE DAY – Tamon Norimoto, Pacific Gas & Electric Government Relations Representative, presented a Ceremonial Rebate Check in the amount of \$197,100 for a Light Emitting Diode (LED) Streetlight Conversion Project.

SPECIAL ORDER OF THE DAY – Mayor Spitaleri presented a proclamation for “National Library Week” to Director of Library and Community Services Lisa Rosenblum.

PUBLIC ANNOUNCEMENTS

Councilmember Davis announced an upcoming Board and Commission application deadline.

Councilmember Davis announced upcoming community meetings to discuss City dog parks and the availability of an online survey.

PRESENTATION – Mayor Spitaleri presented a proclamation for “Month of the Young Child” to IrisAnn Nelson, President of Sunnyvale Family Child Care Providers.

CONSENT CALENDAR

Councilmember Meyering pulled Items 1.A and 1.C and requested to record a no vote on Items 1.J, 1.K, and I.L.

Councilmember Whittum pulled Item 1.L, and recused himself from voting on the portions of Items 1.J and 1.K relating to Blocks 21 and 22 as his home is within 500 feet of Blocks 21 and 22.

Mayor Spitaleri recused himself from voting on the portion of Items 1.J and 1.K relating to Block 21 as his home is within 500 feet of Block 21.

A member of the public requested to pull Item 1.M.

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Consent Calendar with the exception of Items 1.A, 1.C, 1.L, and 1.M.

VOTE: 7 - 0

Mayor Spitaleri announced the remaining Consent Calendar items would be heard following the Public Hearing / General Business portion of the agenda.

1.A. Approval of Council Meeting Minutes of March 19, 2013

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Council Meeting Minutes of March 19, 2013 as submitted.

VOTE: 6 - 1 (Councilmember Meyering dissented)

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

Fiscal Items

1.C. RTC 13-082 List of Claims and Bills Approved for Payment by the City Manager – List Nos. 651 - 653

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

VOTE: 6 - 1 (Councilmember Meyering dissented)

- 1.D. RTC 13-071 Budget Modification No. 37 to Appropriate \$5,000 of LSTA Eureka! Leadership Grant Funds for Learning Together: An Interactive Program for Parents and Their School-aged Children

Staff Recommendation: Approve Budget Modification No. 37 to appropriate LSTA grant funds in the amount of \$5,000 to a new project, LSTA Learning Together.

Staff Contact: Lisa Rosenblum, (408) 730-7315

- 1.E. RTC 13-083 Approval, by a Separate Resolution, of an Amendment to the Water Service Agreement with the City and County of San Francisco

Staff Recommendation: Alternative 1: Approve the resolution approving an Amendment to the Water Supply Agreement with the City and County of San Francisco.

Staff Contact: Mansour Nasser, (408) 730-7578

Contracts

- 1.F. RTC 13-078 Award of Contract for Instructional Classes and Camps (F13-49)

Staff Recommendation: Award two year contracts to Kidz Love Soccer and Fun Tyme Sports Academy to provide instructional classes and camps in substantially the same form as the draft services agreements attached to the report; and delegate authority to the City Manager to renew the contracts for an additional one-year period, provided pricing and service remain acceptable to the City.

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

- 1.G. RTC 13-077 Award of Bid No. PW13-15 for Concrete Sidewalks, Curbs, Gutters and Driveway Approaches 2013

Staff Recommendation: Award a contract in the amount of \$646,293 to SpenCon Construction, 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% construction contingency in the amount of \$64,629.

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

- 1.H. RTC 13-079 Award of Bid No. PW13-14 for Water Line Replacement 2012-2013 Phase 2

Staff Recommendation: Award a contract in the amount of \$1,593,000, to K.J. Woods Construction, 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% construction contingency in the amount of \$159,300.

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

Other Items

- 1.I. RTC 13-065 Approval of Proposed Amendments to the League of California Cities Bylaws

Staff Recommendation: Alternative 1: Approve the proposed amendments to the League bylaws as presented in the Proposed Resolution:

- a. Amendment of article VI, section 2 relating to submission of resolutions to the League's General Assembly.
- b. Addition of article VII, section 16 relating to the League Board vote threshold for taking positions on statewide ballot measures.

Staff Contact: Yvette Blackford, (408) 730-7475

- 1.J. ORDINANCE 2992-13 Adopt Ordinance No. 2992-13 Amending Chapter 19.28 and Related Sections of the Sunnyvale Municipal Code to Establish Blocks 21, 22 And 23 in the Downtown Specific Plan District

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to adopt Ordinance No. 2992-13.

As to Block 21:

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

As to Block 22:

VOTE: 5 – 1 – 1 (Councilmember Meyering dissented, Councilmember Whittum recused)

As to Block 23:

VOTE: 4 – 2 (Councilmembers Meyering and Whittum dissented)

- 1.K. ORDINANCE 2993-13 Adopt Ordinance No. 2993-13 Amending the Downtown Specific Plan, Zoning Districts Map, to Establish New Zoning Districts for Blocks 21, 22 and 23

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to adopt Ordinance No. 2993-13.

As to Block 21:

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

As to Block 22:

VOTE: 5 – 1 – 1 (Councilmember Meyering dissented, Councilmember Whittum recused)

As to Block 23:

VOTE: 4 – 2 (Councilmembers Meyering and Whittum dissented)

- 1.L. ORDINANCE Adopt Ordinance No. 2994-13 Amending the Precise Zoning Plan, Zoning Districts Map, to Rezone Certain Property Located at 470 Marshall Avenue from C-4 (Commercial Service) to Medium Density Residential/ Planned Development (R-3/PD)

MOTION: Councilmember Whittum moved and Councilmember Moylan seconded the motion to adopt Ordinance No. 2994-13.

VOTE: 6 - 1 (Councilmember Meyering dissented)

- 1.M. RTC 13-072 Adoption of a Resolution Vacating Two Existing Public Utility Easements at 662 Garland Avenue

Public hearing opened at 10:38 p.m.

Kevin Jackson, Bicycle and Pedestrian Advisory Commission member speaking for himself, stated concern regarding any impact on a future trail in that location.

Public hearing closed at 10:39 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to Alternative 1: Adopt the resolution vacating two existing Public Utility Easements at 662 Garland Avenue and authorize the City Clerk to cause a certified copy of the resolution to be recorded with the county recorder's office.

VOTE: 7 - 0

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

PUBLIC COMMENTS

Michael Goldman spoke regarding solutions for the civic center such as renting office space for City staff and provided a PowerPoint presentation.

Councilmember Meyering asked Mayor Spitaleri if he is able to put this matter on the next Council meeting agenda to get information as to how much additional square footage is needed so that the staff has adequate space and for council discussion whether or not rental verses other options are available.

No direction was provided.

Peggy Kitting, Fair Oaks Mobile Home Lodge resident, spoke regarding alleged retaliation by the park owner against one homeowner relating to an order to remove pets the family has had with prior approval from management since before Victoria bought the park in 2007. Kitting requested the City to assist Fair Oaks and provided information relating to the authority of the City to file public nuisance abatement actions against the park owner and to request the State transfer responsibility for enforcement within mobile home parks.

Councilmember Meyering asked Mayor Spitaleri if he is able to put this matter on the next Council meeting agenda to hold a public hearing on the best way to proceed on whether or not to set a date for revocation of Victoria Companys' business license.

Councilmember Whittum seconded the motion to place the item on the agenda.

VOTE: 5 - 2 (Councilmembers Moylan and Martin-Milius dissented)

Clarissa Hoffman spoke regarding ethics in politics and provided comments recommending that Councilmembers should not vote on matters that will benefit people and organizations who have donated money to them.

Councilmember Meyering requested Mayor Spitaleri put this matter on the next Council meeting agenda.

Mayor Spitaleri declined.

Steve Hoffman spoke regarding a semi-annual Form 460 filed by a Councilmember and requested Council put an item on the agenda to discuss or study the matter of acceptance of contributions from developers.

Councilmember Meyering sponsored a study issue on whether or not Councilmembers should be required by City law to recuse themselves from voting on issues sponsored by an individual or organization that has contributed to their campaign.

Councilmember Whittum seconded.

Mayor Spitaleri stated the issue was already voted upon as a study issue.

Lawrence Alba spoke regarding campaign donations and requested rules be adopted to disallow City employees and their unions from contributing to any campaign for a seat on the City Council and to disallow real estate developers from contributing to a candidate's election campaign. Alba requested that any Councilmember who has accepted any campaign donations from employees, labor unions and real estate developers be required to recuse themselves from voting on matters regarding employees, labor unions and real estate developers.

Councilmember Meyering sponsored a study issue that when a proposal is made the report to Council include information about all Councilmembers who are going to vote on that particular proposal as to whether or not they accepted donations from the individual or firm making the proposal.

Councilmember Whittum co-sponsored the study issue.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 13-074 Discussion and Possible Approval of Sale of City-Owned Homes Located at 239, 263, and 279 Jackson Street to Habitat for Humanity East Bay/Silicon Valley for Rehabilitation and Resale to Lower Income First-Time Home Buyers, and Approval of Budget Modification No. 38

Housing Officer Suzanne Ise provided the staff report and provided information received Friday regarding a revised proposal from Habitat to purchase only two homes.

Public hearing opened at 8:18 p.m.

Alyssa Thonberg, Habitat for Humanity, provided a presentation regarding the proposal.

Ralph Babcock spoke in support of the proposal by Habitat for Humanity.

Susie Q spoke in support of Habitat for Humanity.

Tracy Lauth, Board of Directors, Habitat for Humanity, spoke regarding the organization.

Tap Merrick spoke regarding the need to add more park space downtown.

Jeanne Yeager spoke in support of Habitat for Humanity and in support of accessibility for the disabled.

Marie Bernard, Executive Director, Sunnyvale Community Services, spoke in support of Habitat for Humanity.

Steve Hoffman spoke in favor of retaining the properties for park space.

Larry Alba spoke in opposition to selling the properties and in favor of using them for park space.

Roger Burney spoke in support of offering Habitat for Humanity better housing opportunities and offering the citizens better park opportunities.

Dennis Moreno spoke in opposition to selling the properties and in support of retaining the properties as rentals until the other properties have been acquired for Murphy Park.

Sara Sebastian, resident, expressed disappointment at the revised plan regarding 263 Jackson Street.

Public hearing closed at 8:58 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve Alternative 2 which is approval of Alternative 1 with modifications, to: A. Conditionally approve sale of the city-owned homes on Jackson Street to Habitat under the terms provided in Attachment B, and authorize the City Manager to execute all legal documents required to sell the properties consistent with the term sheet, and in a final form to be approved by the City Attorney, once Habitat has met all conditions; and B. Approve Budget Modification No. 38 to transfer \$1.31 million from Housing Mitigation Fund reserves to the Park Dedication Fund to serve as a bridge loan to Habitat to purchase the homes located at 239, 263, and 279 Jackson Street, and to appropriate \$10,000 from the Housing Mitigation Fund to fund closing costs. The modifications are to direct staff to conditionally approve the sale of only 239 and 279 Jackson Street with the appropriate funding modifications as indicated for the \$400,000 dropping to the new number.

VOTE: 4 - 3 (Councilmembers Meyering, Whittum and Davis dissented)

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to approve Alternative 3 to direct the sale of the 263 Jackson Street property through the standard surplus property sale method.

AMENDMENT: Councilmember Whittum moved and Councilmember Meyering seconded the motion to not go forward with the sale pending review of a relocation plan by Council at a subsequent meeting.

VOTE on AMENDMENT: 7 - 0

VOTE on MAIN MOTION as AMENDED: 2 - 5 (Councilmember Meyering, Councilmember Whittum, Vice Mayor Griffith, Mayor Spitaleri and Councilmember Martin-Milius dissented) Motion failed.

MOTION: Vice Mayor Griffith moved and Councilmember Martin-Milius seconded the motion to direct staff to pursue the sale of 263 Jackson Street to Habitat for Humanity at a time at which they are capable of doing so, or other low income housing provider that may be identified by staff at the earliest convenience while simultaneously pursuing options for potential re-location and/or assistance with getting the current occupant approved as perhaps one of the Habitat for Humanity purchasers.

VOTE: 4 - 3 (Councilmembers Meyering, Whittum, and Davis dissented)

3. RTC 13-075 Discussion and Possible Action Regarding Approval of the Downtown Sunnyvale Business Improvement District (BID) Annual Report for Fiscal Year 2012/2013; Adoption of Resolution of Intention to Reauthorize the BID for Fiscal Year 2013/2014; Public Meeting Regarding Proposed Expansion of Zone C of the BID; Resolution of Intention Setting Public Hearing to Consider Proposed Expansion

Councilmember Whittum stated his personal residence is within 500 feet of the district, recused himself and left the room.

Mayor Spitaleri recused himself for the same reason and left the room.

Economic Development Manager Connie Verceles provided the staff report.

Public Hearing was opened at 9:49 p.m.

Dennis Moreno requested confirmation that there is no connection between this expansion and the expansion of the parking district.

Public Hearing closed at 9:50 p.m.

Councilmember Martin-Milius disclosed that she met with Joel Wyrick of the Sunnyvale Downtown Association.

MOTION: Councilmember Moylan moved and Councilmember Martin-Milius seconded the motion to approve Alternatives 1 and 2: 1) Approve the BID's request to process an amendment to the BID boundaries, adopt the Resolution of Intention, and schedule a public hearing for May 21, 2013, and 2) Approve the Fiscal Year 2012/2013 BID Annual Report, adopt the Resolution of Intention, and schedule a public hearing for May 21, 2013 to reauthorize the Business Improvement District for Fiscal Year 2013/2014.

VOTE: 4 – 1 – 2 (Councilmember Meyering dissented, Councilmember Whittum and Mayor Spitaleri recused)
Motion carried.

4. RTC 13-058 Discussion and Possible Action Regarding Consideration of Southbound Mathilda Avenue Space Allocation Study

Director of Public Works Kent Steffens provided the staff report.

Public Hearing was opened at 9:57 p.m.

No speakers.

Public Hearing closed at 9:57 p.m.

MOTION: Councilmember Moylan moved and Councilmember Whittum seconded the motion to approve Alternative 1: Direct staff to allocate street space on Mathilda Avenue in order to provide three travel lanes, bike lanes and right turn lanes at the Indio Avenue and California Avenue intersections.

VOTE: 7 - 0

5. RTC 13-059 Discussion and Possible Action Regarding Consideration of Wildwood Avenue Space Allocation Study

Director of Public Works Kent Steffens provided the staff report.

Public Hearing was opened at 10:05 p.m.

No speakers.

Public Hearing closed at 10:05 p.m.

MOTION: Councilmember Moylan moved and Councilmember Whittum seconded the motion to approve Alternative 1: Direct staff to allocate street space on Wildwood Avenue in order to provide one bike lane in each direction with no on-street parking, and consider the installation of directional signage at the Wildwood Avenue/Bridgewood Avenue intersection.

VOTE: 7 – 0

6. RTC 13-084 Discussion and Possible Actions to Implement the Amended Onizuka Redevelopment Plan: 1) Quitclaim Deeds from the Air Force for the Fire Station Expansion and Homeless Housing Sites; 2) Initiation of Election of Off-Site Accommodation for the Homeless Housing Program at the Armory Site at 620 East Maude Avenue; Budget Modification No. 40 to Appropriate \$50,000 from the General Fund's Budget Stabilization Fund to a new project, Onizuka Site Transition Plan

Director of Community Development Hanson Hom provided the staff report.

Public Hearing was opened at 10:11 p.m.

No speakers.

Public Hearing closed at 10:11 p.m.

MOTION: Councilmember Martin-Milius moved and Councilmember Davis seconded the motion to approve Alternatives 1, 2, and 3: 1) Authorize the City Manager to execute the quitclaim deeds from the Air Force for the fire station expansion site and homeless housing site with allowance for minor clarifications if needed; 2) Initiate the election of the Off-Site Accommodation in accordance with the Amended Legally Binding Agreement to transfer the homeless housing program from the Onizuka site to the Armory site, and approve in form the Election Notice, and 3) Approve Budget Modification No. 40 to appropriate \$50,000 from the Budget Stabilization Fund to a new project, Onizuka Site Transition Plan.

VOTE: 6 – 1 (Councilmember Meyering dissented)

Councilmember Whittum requested discussion of a possible site for a homeless housing shelter be added to the study session.

7. RTC 13-073 Follow up on Study Issue CDD 12-11 [Consider Adding Criminal Background Checks to Below Market Rate (BMR) Program Qualifications] for Further Consideration and Direction

City Attorney Joan Borger provided the staff report.

Public Hearing was opened at 10:17 p.m.

No speakers.

Public Hearing closed at 10:17 p.m.

MOTION: Councilmember Davis moved and Councilmember Moylan seconded the motion to allow for criminal background checks for crimes of violence and drug use to the BMR program.

FRIENDLY AMENDMENT: Councilmember Meyering offered a friendly amendment to make this a one-year pilot project and review the results at the conclusion of that time. Councilmember Davis declined to accept the friendly amendment and stated he would consider a pilot of a longer period of time.

AMENDMENT: Councilmember Meyering moved to amend the motion to make this a one-year pilot project.
Motion died for lack of a second.

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

Following action on Item 7, Council considered Consent Calendar Items 1.A, 1.C, 1.L and 1.M.

Following action on Consent Calendar Item 1.M, 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 reported on the formation of a new County body, the Operational Area Council.

Councilmember Davis reported a meeting of the League of California Cities Public Safety Policy Committee.

Councilmember Davis reported on an appeal he and Director Hom made to the ABAG Board regarding RHNA numbers in which they were successful in reducing the numbers.

Councilmember Martin-Milius reported recent meetings of the League of California Cities Environmental Quality Policy Committee, the Stevens Creek Trail Four Cities Working Group and the Santa Clara Valley Water District.

Councilmember Whittum reported a meeting of the VTA Board.

Mayor Spitaleri reported a meeting of the League of California Cities Employee Relations Committee.

NON-AGENDA ITEMS & COMMENTS

Vice Mayor Griffith reported on the recent worldwide police tweet-a-thon.

Vice Mayor Griffith reported on a collaborative buying opportunity to invest in LED lighting and requested staff prepare information for Council to include as a budget supplement at this year's budget hearing.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Joint Study Session Summary of March 19, 2013 – Armory Site Affordable Housing Project
- Draft Minutes of the Heritage Preservation Commission Meeting of March 6, 2013
- Draft Minutes of the Parks and Recreation Commission Meeting March 13, 2013
- Draft Minutes of the Arts Commission Meeting of March 20, 2013
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting of March 21, 2013

ADJOURNMENT

Mayor Spitaleri adjourned the meeting at 10:50 p.m.

Kathleen Franco Simmons
City Clerk