

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, MAY 7, 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 Environmental Services John Stufflebean
City Clerk Kathleen Franco Simmons

CLOSED SESSION REPORT FOR MAY 7, 2013

Closed Session pursuant to Government Code Section 54957 – Public Employee Performance Evaluation – City Attorney

Vice Mayor Griffith reported a Closed Session was held pursuant to Government Code Section 54957 – Public Employee Performance Evaluation – City Attorney; nothing to report.

SPECIAL ORDER OF THE DAY – Mayor Spitaleri presented a proclamation for Municipal Clerks Week to City Clerk Kathleen Franco Simmons and Deputy City Clerk Lisa Natusch.

SPECIAL ORDER OF THE DAY – Mayor Spitaleri presented a proclamation for Foster Care Month to Sonya Stamper, MSW, County of Santa Clara Department of Family and Children's Services.

SPECIAL ORDER OF THE DAY – Mayor Spitaleri and Director of Public Safety Frank Grgurina presented the annual Department of Public Safety Awards.

PUBLIC ANNOUNCEMENTS

Councilmember Meyering spoke regarding objections to a letter from Mayor Spitaleri to the League of California Cities.

PRESENTATION – Rick Hausman, Chief Business Officer, Cupertino Union School District, provided a presentation regarding the Cupertino Middle School Proposed Open Space Master Plan Revision.

CONSENT CALENDAR

Councilmember Davis pulled Item 1.I.

Councilmember Meyering pulled Items 1.A, 1.D, 1.E and 1.K.

Councilmember Moylan stated he would recuse himself from voting on Item I.I as he is currently an employee of Foothill-De Anza Community College District.

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Consent Calendar with the exception of Items 1.A, 1.D, 1.E, 1.I and 1.K.

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 April 30, 2013

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Council Meeting Minutes of April 30, 2013.

VOTE: 6 – 1 (Councilmember Meyering dissented)

1.B. Approval of Council/Redevelopment Successor Agency Minutes of April 30, 2013

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

Fiscal Items

- 1.D. RTC 13-104 List of Claims and Bills Approved for Payment by the City Manager – List No. 657

MOTION: Councilmember Davis moved and Councilmember Moylan seconded the motion to approve the lists of bills.

VOTE: 6 – 1 (Councilmember Meyering dissented)

- 1.E. RTC 13-105 Consideration of Budget Modification No. 32 to Appropriate \$357,000 Measure B Vehicle Registration Fee Intelligent Transportation Program Grants for Four Projects at Various Locations

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve Budget Modification No. 32 to appropriate VTA Measure B Vehicle Registration Fee Intelligent Transportation Program grants to four new capital projects.

VOTE: 7 - 0

- 1.F. RTC 13-103 Adopt a Resolution Authorizing the Filing of Fiscal Year 2013/14 Transportation Development Act Article 3 Applications for Pedestrian and Bicycle Projects

Staff Recommendation: Adopt the resolution authorizing the filing of project applications with the VTA and MTC for allocation of \$27,000 of Transportation Development Act funds for FY 2013/14 for a Remington Drive/Manet Drive Intersection Pedestrian Improvement Project, and requesting banking of remaining funds to FY 2014/15 for consideration of use for One Bay Area Grant matching funds. Also authorize the filing of a Bicycle Expenditure Program competitive grant for \$346,790 for a Mary Avenue Bike Lanes project.

Contracts

- 1.G. RTC 13-109 Award of Contract for an Asphalt Paving Machine for Street Patching and Repair (F13-46)

Staff Recommendation: Award a contract in the amount of \$123,540, in substantially the same form as the draft purchase order attached to the report, to Nixon Egli Equipment for one asphalt paving machine.

- 1.H. RTC 13-106 Award of Contract for Six Pickup Trucks (F13-50)

Staff Recommendation: Award a contract in the amount of \$118,775, in substantially the same form as the draft purchase order attached to the report, to Towne Ford Sales for six pickup trucks.

Other Items

- 1.I. RTC 13-076 Memorandum of Agreement for Building Demolition on Onizuka Site with Foothill-DeAnza Community College District

Councilmember Moylan recused himself and left the room.

MOTION: Councilmember Whittum moved and Vice Mayor Griffith seconded the motion to authorize the City Manager to execute the Memorandum of Agreement with the Foothill-DeAnza Community College District for demolishing the buildings on the City's Onizuka property with allowance for minor clarifications if needed.

VOTE: 4 - 2 (Councilmembers Meyering and Davis dissented, Councilmember Moylan recused)

Following action on Item 1.I, Councilmember Moylan returned to the room and took his seat at the dais.

- 1.J. RTC 13-110 Adoption of a Resolution Authorizing the City Manager or His Designee to Execute an Easement Deed on a City-owned Public Parking Lot Located at South Frances Street and East Evelyn Avenue

Staff Recommendation: Adopt the resolution authorizing the City Manager or his designee to execute an Easement Deed over the City-owned public parking lot located at South Frances Street and East Evelyn Avenue; and, authorize the City Clerk to cause a certified copy of the resolution and the Utility Easement Deed to be recorded with the Santa Clara County Recorder's Office.

- 1.K. ORDINANCE 2996-13 Adoption of Ordinance 2996-13 Amending the Precise Zoning Plan, Zoning Districts Map, to Rezone Certain Property Located at 620 East Maude Avenue from M-S/ITR/R-3/PD (Industrial Service/Industrial to Residential/ Medium Density/Planned Development) to R-4/PD (High Density Residential/Planned Development) Zoning District

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to adopt Ordinance 2996-13.

VOTE: 6 - 1 (Councilmember Meyering dissented)

- 1.L. ORDINANCE 2997-13 Adoption of Ordinance 2997-13 Amending Chapter 2.24 of Title 2 (Administration and Personnel) of the Sunnyvale Municipal Code Related to Impasse Procedures in Labor Negotiations

Staff Recommendation: Adopt ordinance 2997-13.

PUBLIC COMMENTS

Peggy Kitting spoke regarding rent stabilization at mobile home parks and the need for a local rent stabilization ordinance.

Jeffrey Pawlan spoke in appreciation to the City for retaining the last satellite dish antenna at Onizuka for an educational project.

Tap Merrick recommended a re-bid of the contract for recycling discussed at the last Council meeting and stated the City needs to be above reproach on financial dealings.

Michael Goldman spoke regarding ethics and civility and provided a PowerPoint presentation.

Steve Hoffman spoke regarding alleged violations of ethics and the Standard Code of Parliamentary Procedure.

Andy Maloney spoke in support of Councilmember Meyering and recommended revising the Code of Ethics and Conduct.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 13-107 Discussion and Possible Actions on Housing and Urban Development (HUD) Action Plan for FY 2013-14

Housing Officer Suzanne Ise presented the staff report.

Public Hearing opened at 9:06 p.m.

Michelle Schroeder, Senior Adults Legal Assistance (SALA), spoke regarding the services provided by the agency.

Judy Whittier, Director of Community Resources for Bill Wilson Center, spoke regarding the youth and family counseling services provided by the organization.

Marie Bernard, Sunnyvale Community Services, spoke regarding the services and food provided to Sunnyvale residents by the agency.

Chris Richardson, Downtown Streets Team, provided information regarding the services provided by the organization.

Kyra Kazantzis, Law Foundation of Silicon Valley, provided information regarding housing legal assistance the program provides and provided written materials.

Anky van Deursen, Project Sentinel, spoke regarding landlord-tenant counseling services provided by the organization.

Ben Kong, EHC Lifebuilders, spoke regarding homeless assistance services provided by the organization.

Maritza Henry, Family & Children Services, spoke regarding services provided to at-risk youth and families at the Columbia Neighborhood Center.

Naomi Nakano-Matsumoto, Executive Director, West Valley Community Services, provided information regarding case management services provided to the homeless community.

Olivia Garcia, Field Ombudsman, Catholic Charities, spoke regarding assistance services provided to long-term care or assisted living clients.

Kelly Ramirez, Chief Development Officer, YWCA Silicon Valley, provided information regarding domestic violence support network program provided by the organization.

Kathleen King, Santa Clara Family Health Foundation, provided information regarding the children's health services the program provides.

Public Hearing closed at 9:37 p.m.

MOTION: Councilmember Whittum moved and Councilmember Moylan seconded the motion to approve 1: a) Approve the Action Plan for FY 2013-14 as shown in Attachment A to the report; b) Approve a total of \$100,000 in supplemental General funds for human services grants as shown in Attachment B to the report (selecting Option A); and c) Authorize the City Manager to issue conditional loan commitments of \$1.3 million in HOME funds to MidPen Housing and \$850,000 in HOME funds to Charities Housing for development of the Armory housing projects, in substantially the form provided in Attachments D and E to the report.

AMENDMENT: Mayor Spitaleri moved and Councilmember Davis seconded the motion to move \$900 from the Outreach & Escort to Senior Adults Legal Assistance.

VOTE on AMENDMENT: 4 - 3 (Councilmember Meyering, Vice Mayor Griffith and Councilmember Moylan dissented)

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

3. RTC 13-108 Award of Contract for the Water Pollution Control Plant Master Plan and Primary Treatment Facility Design (F13-27)

Director of Public Works Kent Steffens and Director of Environmental Services John Stufflebean presented the staff report.

Public Hearing opened at 10:25 p.m.

No speakers.

Public Hearing closed at 10:25 p.m.

MOTION: Councilmember Whittum moved and Councilmember Martin-Milius seconded the motion to award a contract, in substantially the same form as the draft attached to the report and in an amount not-to-exceed \$11,088,127 to Carollo Engineers, for the subject project, and authorize the City Manager to execute the contract when all necessary conditions have been met; approve an amount not-to-exceed \$1,351,514 for as-needed Treatment Process Design Alternatives and CEQA Support Services; approve a 10% contract contingency in the amount of \$1,243,964; and delegate authority to the City Manager to extend the end date of the contract in order to complete the work, provided there is sufficient budgeted funding.

VOTE: 7 - 0

4. RTC 13-101 Discussion and Possible Action to Amend Sunnyvale Municipal Code Chapters 1.04 and 1.05 Related to Criminal and Administrative Citations for Violations of the Municipal Code

City Attorney Joan Borger presented the staff report.

Public Hearing opened at 10:58 p.m.

No speakers.

Public Hearing closed at 10:58 p.m.

MOTION: Councilmember Martin-Milius moved and Councilmember Moylan seconded the motion to approve Alternative 1: Introduce an ordinance to amend Sunnyvale Municipal Code Section 1.04.010, 1.04.050, and 1.04.020.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 7 - 0

5. Discussion and Possible Action Against Councilmember Meyering Related to Violations of the Code of Ethical Conduct and Council Policy

Mayor Spitaleri read a proposed resolution of the City Council of the City of Sunnyvale Disapproving and Censuring Certain Behavior of Councilmember Patrick Meyering.

Public Hearing opened at 10:58 p.m.

Sandra Pacheco spoke in support of Councilmember Meyering, encouraged the Council to work together and spoke to the importance of recusing oneself.

Terry Fowler spoke in support of a return to civil discourse and adherence to the Code of Ethics and Conduct, and recommended censure of Councilmember Meyering.

Tap Merrick spoke regarding the proposed resolution of censure and opined that none are above reproach.

Andy Maloney spoke in support of Councilmember Meyering and suggested he is being blocked out similar to a citizen's group that opposed the downtown development plan ten years ago.

Mei-Ling Stefan spoke in support of Councilmember Meyering, recommended an independent assessment as to whether there has been misconduct, and urged Council to vote no on the resolution and consider a peacemaking subcommittee.

Andy Frazer spoke in support of Councilmember Davis' comments last week defending each Councilmember's right to speak and recommended conducting a Council retreat to resolve this issue instead of pursuing censure.

Ray Johnson spoke regarding the first amendment right to freedom of speech and expressed support for Councilmember Meyering.

Barbara Fukumoto requested Council work together as colleagues with staff, treat each other and staff with courtesy and respect, refrain from personal attacks on the integrity of other Councilmembers, refrain from shouting over the Mayor, exercise care in getting the facts right, and act with humility.

Larry Alba spoke in support of Councilmember Meyering and in opposition to the resolution to censure him.

Steve Hoffman spoke regarding allegations of unethical conduct and encouraged residents to voice their vote in the November election.

Public Hearing closed at 11:30 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Martin-Milius seconded the motion to adopt the resolution as presented with one change to strike the words "as Councilmember Meyering himself admits" from paragraph 7.

VOTE: 5 - 1 - 1 (Councilmember Whittum dissented, Councilmember Meyering abstained)

6. RTC 13-087 Discussion and Possible Action Regarding Appointment of Campaign Ethics Committee

Assistant City Manager Robert Walker presented the staff report.

Public Hearing opened at 12:05 p.m.

No speakers.

Public Hearing closed at 12:05 p.m.

MOTION: Councilmember Moylan moved to appoint an elections committee to oversee the final version of the campaign ethics guide and to run the one or two debates that typically supplement the one run by the League of Women Voters.
Motion died for lack of a second.

MOTION: Councilmember Whittum moved to approve Alternative 2: Do not appoint a subcommittee, but support staff's recommendation that they would provide information and logistical support to non-partisan moderators as in the past.
Motion died for lack of a second.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to form an elections committee whose major task is to run the last word event.

VOTE: 5 - 2 (Councilmembers Meyering and Whittum dissented)

Mayor Spitaleri stated Councilmembers Davis, Martin-Milius and Moylan would serve on the committee.

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Whittum reported his attendance at a meeting of the VTA Board.

Councilmember Moylan reported a quarterly meeting of the Emergency Preparedness Council.

Councilmember Whittum reported from the VTA meeting progress and more discussion on North/South corridor issues.

NON-AGENDA ITEMS & COMMENTS

MOTION: Councilmember Davis moved and Councilmember Whittum seconded the motion to schedule on an upcoming agenda discussion of a Transient Occupancy Tax ballot measure and ask staff to provide a full range of options.

VOTE: 5 - 2 (Councilmembers Meyering and Moylan dissented)

Mayor Spitaleri reported participation in a 5K Kids Walk.

City Manager Luebbers reported citizen engagement in spotting criminal behavior.

City Manager Luebbers spoke regarding the information requested earlier by a member of the public and his request to not engage staff.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Study Session Summary of April 30, 2013 - Discussion Regarding Possible Transient Occupancy Tax Ballot Measure
- Study Session Summary of April 23, 2013 - Mary Avenue Streetscape Allocation Study, Fremont Avenue to Maude Avenue
- Bicycle and Pedestrian Advisory Commission Draft Minutes of April 18, 2013
- Draft Minutes of the Arts Commission meeting of April 17, 2013

ADJOURNMENT

Mayor Spitaleri adjourned the meeting at 12:38 p.m.

Kathleen Franco Simmons
City Clerk