

DRAFT MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, JUNE 11, 2013, 7 PM

CALL TO ORDER

Mayor Spitaleri called the meeting to order in the Council Chambers.

SALUTE TO THE FLAG

Lakewood School Color Guard 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 Public Works Kent Steffens
Director of Environmental Services John Stufflebean
City Clerk Kathleen Franco Simmons

CLOSED SESSION REPORT FOR JUNE 11, 2013

Closed Session pursuant to Government Code Section 54956.8 - Conference with Real Property Negotiators

Vice Mayor Griffith reported a Closed Session was held pursuant to Government Code Section 54956.8 – Conference with Real Property Negotiators; staff was directed to commence negotiations with Stratford School.

PUBLIC ANNOUNCEMENTS

Laura Dominguez Chan announced a meeting of the Lakewood Village Neighborhood Association regarding preserving green space at Lakewood Park.

Anu Ganguly announced an upcoming meeting of the Democratic Club of Sunnyvale.

Misuk Park, Arts Commissioner speaking as an individual, announced the Library Summer Reading Program and spoke regarding the importance of reading.

Laura Babcock, Director of Heritage Park Museum, announced an upcoming event to highlight Sunnyvale authors.

Nancy Smith, President of Rotary Club of Sunnyvale, provided information about the association and announced an upcoming event.

CONSENT CALENDAR

Councilmember Meyering pulled Item 1.H and requested to record a No vote on Items 1.A, 1.D and 1.M.

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

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Consent Calendar with the exception of Items 1.H and 1.I.

VOTE: 7 - 0

Mayor Spitaleri announced the remaining Consent Calendar items would be heard at 10 p.m. if possible, otherwise they would be heard following the Public Hearing / General Business portion of the agenda.

1.A. Approval of Council Meeting Minutes of May 21, 2013

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Council Meeting Minutes of May 21, 2013.

VOTE: 6 – 1 (Councilmember Meyering dissented)

1.B. Approval of Special Council Meeting Minutes of May 23, 2013

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

Fiscal Items

- 1.D. RTC 13-142 List of Claims and Bills Approved for Payment by the City Manager – List Nos. 660, 661, and 662

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

VOTE: 6 – 1 (Councilmember Meyering dissented)

- 1.E. RTC 13-128 Approve Budget Modification No. 34 to Appropriate \$8,210 of Department of Homeland Security, State Homeland Security Grant Program Funds for Training

Staff Recommendation: Approve Budget Modification No. 34 to appropriate \$8,210 of Department of Homeland Security, State Homeland Security Grant Program Funds for Training to a new project, FFY 2011 SHSGP – Training.

- 1.F. RTC 13-134 Approve Budget Modification No. 43 to Appropriate \$4,455 of California Office of Traffic Safety Grant Funds from Santa Clara County Public Health Department for Bike Parties Safety/Enforcement

Staff Recommendation: Approve Budget Modification No. 43 to appropriate \$4,455 of California Office of Traffic Safety Grant Funds from Santa Clara County Public Health Department for Bike Parties Safety/Enforcement.

- 1.G. RTC 13-129 Approve Budget Modification No. 33 to Appropriate \$15,000 of Office of Traffic Safety Grant Funds for Sobriety Checkpoints

Staff Recommendation: Approve Budget Modification No. 33 appropriate Office of Traffic Safety Sobriety Checkpoint Grant funds in the amount of \$15,000 to a new project, 2012/2013 OTS Sobriety Checkpoints.

- 1.H. RTC 13-131 Appropriation of Utility Account Credit Balances to the Utility Bill Assistance Fund

Council considered this item at 10:35 p.m.

MOTION: Councilmember Meyering moved to direct the city manager to allocate the \$44,306.90 to the assistance fund for people on fixed incomes including seniors, people with medical problems, single parent families and military veterans.
Motion died for lack of second.

Public Hearing opened at 10:36 p.m.

Marie Bernard spoke in support of appropriation of utility account credit balances to the utility bill assistance fund.

Public Hearing closed at 10:40 p.m.

MOTION: Councilmember Whittum moved and Councilmember Martin-Milius seconded the motion to authorize the City Manager to appropriate up to \$10,000 per year to the Utility Bill Assistance Fund to provide assistance to low income utility billing customers.

VOTE: 6 -1 (Councilmember Meyering dissented)

Contracts

- 1.I. RTC 13-138 Award of Contract for Design of the Orchard Gardens Park Expansion (F13-44)

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to award a contract, in substantially the same format as the draft attached to the report and in the amount of \$156,960 to Harris Design 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% design contingency in the amount of \$15,696.

VOTE: 7 - 0

Following action on Item 1.I, Council considered Public Hearing/General Business Item 7.

Other Items

- 1.J. RTC 13-135 Adopt the Resolution Calling a General Municipal Election for November 5, 2013 for the Election of Councilmembers for Seat Numbers 1, 2 and 3; Requesting Consolidation with Other Legislative Districts within the County and Requesting County Services

Staff Recommendation: Adopt the Resolution Calling a General Municipal Election for November 5, 2013 for the Election of Councilmembers for Seat Numbers 1, 2 and 3; Requesting Consolidation with Other Legislative Districts within the County and Requesting County Services.

- 1.K. RTC 13-136 Approval of the Renewed Agreement on the Roles and Responsibilities Between the NOVA Workforce Board and the Sunnyvale City Council Serving as the Chief Local Elected Official

Staff Recommendation: Approve the renewed Agreement on the Roles and Responsibilities Between the NOVA Workforce Board and the Sunnyvale City Council that extends the period of agreement until June 30, 2018.

- 1.L. RTC 13-137 Approval of NOVA Five-Year Local Strategic Workforce Plan

Staff Recommendation: Approve the NOVA Five-Year Local Strategic Workforce Plan.

Liz Brockman spoke regarding the importance of the expansion to accommodate the growing student population.

Debbie McFarland spoke regarding the need to expand Cupertino Middle School to accommodate current and future students.

Anand Arunachalam spoke regarding the importance of the expansion of Cupertino Middle School to accommodate the increased student population.

Dawn Ying spoke regarding the inadequacy of the current school space and the need for modernization of the school.

Public Hearing closed at 8:24 p.m.

MOTION: Councilmember Moylan moved and Councilmember Meyering seconded the motion to, as soon as the City receives a detailed site plan modification, put it on an agenda for a public hearing and vote.

Rick Hausman, Chief Business Officer, Cupertino Union School District, provided additional information regarding the proposed project.

VOTE: 2 – 5 (Councilmember Whittum, Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Martin-Milius and Davis dissented)
Motion failed.

MOTION: Councilmember Davis moved and Councilmember Whittum seconded the motion to rescind the actions of the City Council from May 21 regarding the Cupertino Union School District's property at Cupertino Middle School.

RESTATED MOTION: Councilmember Davis moved and Councilmember Whittum seconded the motion to rescind the actions of the City Council from May 21 regarding the Cupertino Union School District's property at Cupertino Middle School and to direct the city manager to negotiate with the Cupertino Union School District regarding a new contract for green spaces and to allow them to start their building process that they had proposed at the district with the understanding that they will be putting a green bumper space on Helena and allowing us to work with them on building some more amenities there.

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

Public comment at 8:57 p.m.

Omar Garcia spoke regarding the opportunity he was given to paint a mural in the City of Sunnyvale at the corner of Taylor Avenue and Fair Oaks and expressed disappointment that it had been painted over.

3. RTC 13-133 Board and Commission Appointments

Planning Commission (1 vacancy)

1 Term to 6/30/2017

Miller, Robert

VOTE: 1 – 0 – 6 (Councilmember Meyering, Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan, Martin-Milius and Davis abstained)

Olevson, Ken

VOTE: 7 – 0

City Clerk Kathleen Franco Simmons announced Ken Olevson has been appointed to the Planning Commission for a term expiring June 30, 2017.

Sustainability Commission (1 vacancy – Category 1)

1 Term to 6/30/2017

Cordes, John – Category 1

VOTE: 1 – 0 – 6 (Councilmember Meyering, Councilmember Whittum, Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Martin-Milius and Davis abstained)

Frazer, Andy – Category 1

VOTE: 3 – 0 – 4 (Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan and Martin-Milius abstained)

Lauth, James – Category 1

VOTE: 1 – 0 – 6 (Councilmember Meyering, Councilmember Whittum, Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan and Martin-Milius abstained)

Paton, Bruce – Category 1

VOTE: 6 – 0 – 1 (Councilmember Meyering abstained)

Vaughn, Marla – Category 1

VOTE: 0 – 0 – 7 (Councilmember Meyering, Councilmember Whittum, Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan, Martin-Milius and Davis abstained)

City Clerk Kathleen Franco Simmons announced Bruce Paton and has been appointed to the Sustainability Commission, Category 1 for a term expiring June 30, 2017.

4. RTC 13-141 Annual Public Hearing on FY 2013/14 Budget and Resource Allocation Plan and Establishment of Appropriations Limit

Assistant Director of Finance Drew Corbett presented the staff report.

Public Hearing opened at 9:10 p.m.

Andy Frazer spoke regarding the projected General Fund tax revenue annual compound rate and the annual compound rate of growth for compensation for General Fund employees.

Marie Bernard spoke regarding funding for residents with housing mitigation issues.

Public Hearing closed at 9:14 p.m.

5. RTC 13-140 Public Hearing – Annual Review of Fees and Charges for FY 2013/2014

Assistant Director of Finance Drew Corbett presented the staff report.

Public Hearing opened at 9:18 p.m.

Leah Lane spoke in opposition to the increase in dog license fees for unaltered dogs and suggested a \$60 fee for unaltered dogs, a \$20 fee for spayed and neutered dogs, and a substantial increase in fines for unlicensed dogs.

Steve Hoffman spoke regarding a disparity in the fees for annual fire inspections fees for small “mom and pop” units in contrast with large density units.

Public Hearing closed at 9:25 p.m.

MOTION: Councilmember Whittum moved and Vice Mayor Griffith seconded the motion to guide staff to reduce the unneutered dog fee from \$100 down to \$60.

FRIENDLY AMENDMENT: Councilmember Martin-Milius offered a friendly amendment to consider making the fee \$75.

Councilmember Whittum accepted the friendly amendment in part, and revised the recommended fee to \$70.

VOTE: 6 - 1 (Councilmember Moylan dissented)

6. RTC 13-132 Discussion and Possible Action on Proposed FY 2013/14 Rates for Water, Wastewater, and Solid Waste Utilities for Services Provided to Customers Within and Outside City Boundaries

Utility Billing Manager Tim Kirby and Director of Environmental Services John Stufflean presented the staff report.

Public Hearing opened at 9:41 p.m.

Peggy Kitting spoke in opposition to the rate increases due to significant rent increases in the mobile home park and expressed concerns regarding aging natural gas lines maintained by park owners.

Roger Williams, Freeman Williams, independent CPA firm for Specialty Solid Waste & Recycling, spoke regarding the auditing and filing services provided to the company.

Jerry Nabhan, General Manager for Specialty Solid Waste & Recycling, spoke regarding the Council’s action on April 30, and provided information regarding contributions he and his wife made to campaigns and their support and involvement in City services and local organizations.

Michael Flores spoke in opposition to the tiered rate system as he feels it penalizes gardeners, and recommended transparency with the garbage service and careful inspection of the details.

David Wessel provided information on the contract with Bay Counties and disputed allegations a conflict of interest occurred under California law.

Shane Jacksteit expressed concerns regarding the political climate of the election year and urged maturity in engaging in appropriate discussion.

Diane Gleason spoke in support of the resolution of the issues with Bay Counties and in support of the proposed rate increase and water conservation.

Steve Hoffman spoke regarding the solid waste contract and the importance of disclosure of receipt of campaign contributions at the time the vote took place. Hoffman requested a reversal of the censure of Councilmember Meyering and an apology be given.

Mike Klein expressed support for asking questions in a professional manner and holding staff accountable to the citizens of Sunnyvale. Klein urged Council to remain focused on the City's business needs and make decisions for the good of the City.

Diana Williams spoke in opposition to water rate increases and urged consideration of the elderly who can't afford the increase and to those who want to grow gardens.

Jane L. Doman stated she was speaking on behalf of senior citizens and requested consideration of citizens who are 70 years and older who don't have big incomes and can't afford an increase in rates.

Public Hearing closed at 10:13 p.m.

MOTION: Councilmember Martin-Milius moved and Councilmember Moylan seconded the motion to adopt the resolution increasing water rates by 5%, wastewater rates by 6.5%, and solid waste rates by 4% for FY 2013/14.

VOTE: 6 - 1 (Councilmember Meyering dissented)

Council recessed at 10:21 p.m.

Council reconvened at 10:34 p.m. with all Councilmembers present.

Council considered Consent Calendar Item 1.H at 10:35 p.m.

7. RTC 13-139 Discussion and Possible Action to Address Golf and Tennis Operations Fund Deficits in Fiscal Year 2012/2013 and Approval of Budget Modification No. 42

Director of Public Works Kent Steffens presented the staff report.

Public Hearing opened at 10:49 p.m.

No speakers.

Public Hearing closed at 10:49 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Approve Budget Modification No. 42 in the amount of \$300,000 to cover projected deficits in the Golf and Tennis Operations Fund.

VOTE: 7 - 0

8. RTC 13-130 Adoption of a Resolution Calling a Special Election for November 5, 2013, to be Consolidated with the General Municipal Election for the Purpose of Submitting to the Voters a Measure to Amend the City Charter to Change General Municipal Elections from Odd-Numbered Years to Even-Numbered Years

City Attorney Joan Borger presented the staff report.

Public Hearing opened at 10:52 p.m.

Andy Frazer urged rejection of a ballot measure to switch to even-year elections.

Tap Merrick spoke in support of even-year elections and eliminating numbered seats.

Michael Goldman spoke in support of retaining odd-year elections and eliminating numbered seats.

Roger Riffenburgh spoke in opposition to changing to even-year elections.

Steve Hoffman spoke in support of retaining odd-year elections.

Public Hearing closed at 11:05 p.m.

MOTION: Councilmember Moylan moved and Councilmember Meyering seconded the motion to approve Alternative 2: Adopt a Resolution Calling a Special Municipal Election for the Purpose of Submitting to the Voters a Measure Concerning an Amendment to the City Charter to Change Elections from Odd Numbered Years to Even Numbered Years to be Placed on the Ballot at the Consolidated Election to be Held in the City of Sunnyvale on November 5, 2013, and providing that the first even numbered General Municipal Election will be held in 2014, and that councilmember terms will be reduced one-year or a one time basis, and the mayoral term commencing January 2014 shall be a one year term.

VOTE: 2 - 5 (Councilmember Whittum, Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Martin-Milius and Davis dissented)
Motion failed.

MOTION: Councilmember Meyering moved and Councilmember Moylan seconded the motion to approve Alternative 1: Adopt a Resolution Calling a Special Municipal Election for the Purpose of Submitting to the Voters a Measure Concerning an Amendment to the City Charter to Change Elections from Odd Numbered Years to Even Numbered Years to be Placed on the Ballot at the Consolidated Election to be Held in the City of Sunnyvale on November 5, 2013, and providing that the first even numbered General Municipal Election will be held in 2016, and that councilmember terms will be extended one-year on a one time basis, and the mayoral term commencing January 2016 shall be a one year term.

VOTE: 6 - 1 (Councilmember Davis dissented)

9. RTC 13-143 Discussion and Possible Action to Adopt a Resolution Calling a General Election for November 5, 2013, for the Purpose of Submitting to the Voters a Measure to Increase the Transient Occupancy Tax Rate from 9.5% to 10.5, to be Consolidated with the General Municipal Election

Director of Finance Grace Leung presented the staff report.

Public Hearing opened at 11:24 p.m.

No speakers.

Public Hearing closed at 11:24 p.m.

MOTION: Councilmember Whittum moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Adopt a Resolution calling for a General Election to be held on November 5, 2013, of a ballot measure to propose to the voters a 1% increase to the Transient Occupancy Tax effective January 1, 2014.

VOTE: 4 – 3 (Councilmembers Meyering, Moylan and Davis dissented)

10. Discussion and Possible Action on Consideration of a Ballot Measure to Raise the Minimum Wage in the City of Sunnyvale

Councilmember Davis presented a report.

Public Hearing opened at 11:35 p.m.

No speakers.

Public Hearing closed at 11:35 p.m.

MOTION: Councilmember Davis moved and Councilmember Meyering seconded the motion to direct the City Attorney to draft ballot language for the November 5, 2013 General Election to raise the minimum wage for workers in the City of Sunnyvale to \$10 per hour in January 2014, including language that will allow for cost of living increases tied to the consumer price index.

FRIENDLY AMENDMENT: Mayor Spitaleri offered a friendly amendment to make the effective date 2015.

Councilmember Davis accepted the friendly amendment.

VOTE: 3 - 4 (Councilmember Whittum, Vice Mayor Griffith, Councilmembers Moylan and Martin-Milius dissented)
Motion failed.

Vice Mayor Griffith sponsored a study issue to look at Sunnyvale implementing a minimum wage identical to the City of San Jose.

Councilmember Moylan co-sponsored the study issue.

MOTION: Councilmember Meyering moved and Councilmember Davis seconded the motion to direct the city attorney to prepare an ordinance raising the minimum wage in Sunnyvale to \$10 per hour effective October 1, 2014.

VOTE: 3 - 4 (Councilmember Whittum, Vice Mayor Griffith, Councilmembers Moylan and Martin-Milius dissented)
Motion failed.

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Martin-Milius reported a meeting of the Community Event Grant Distribution Subcommittee.

Councilmember Martin-Milius reported her attendance at a meeting of the Stevens Creek Trail Committee in which three new members were nominated for the Stevens Creek Trail Citizen's Advisory Working Group.

NON-AGENDA ITEMS & COMMENTS

Councilmember Whittum reported the Apple EIR is out and available on the web. City Manager Luebbers stated the response date for comments is July 23 and the issue will be put on the agenda for July 9.

MOTION: Councilmember Whittum moved that the Apple Campus EIR be reviewed by Council. Motion died for lack of second.

Councilmember Whittum reported the RFP is out for reuse of Hangar One. Whittum stated there could be more air traffic if a new use occurs and spoke regarding the importance of an adequate Noise Element.

Councilmember Whittum reported the recent news regarding the so-called "PRISM program" and the National Security Administration's activities with certain Silicon Valley companies.

MOTION: Councilmember Whittum moved to add an upcoming agenda item to consider a Legislative Advocacy Position reviewing support or non-support or opposition of things like PRISM patriot act or elements of the patriot act and issues relating to the fourth amendment. Motion died for lack of second.

MOTION: Councilmember Meyering moved and Councilmember Whittum seconded the motion that Council put on an upcoming agenda discussion about taking a Legislative Advocacy Position concerning the Federal PRISM program and the participation of Silicon Valley technology companies in that program.

VOTE: 3 – 4 (Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Martin-Milius and Davis dissented)
Motion failed.

MOTION: Councilmember Whittum moved and Vice Mayor Griffith seconded the motion to put the issue on the January Legislative Action Plan study for discussion.

VOTE: 6 – 1 (Councilmember Davis dissented)

Councilmember Moylan suggested consideration of the number of meetings and number of items on the agenda and spoke in support of having less public hearing items on an agenda and meeting more often.

Mayor Spitaleri reported the installation of a library book lending machine at Columbia Neighborhood Center.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Draft Minutes of the Arts Commission Meeting of May 15, 2013
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting of May 16, 2013

ADJOURNMENT

Mayor Spitaleri adjourned the meeting at 12:16 a.m.