

**APPROVED MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, SEPTEMBER 24, 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 (by teleconference)

**ABSENT:**

None

**STAFF PRESENT:**

City Manager Gary Luebbers  
City Attorney Joan Borger  
Assistant City Manager Robert Walker  
Director of Finance Grace Leung  
Director of Public Safety Frank Grgurina  
Director of Public Works Kent Steffens  
Director of Environmental Services John Stufflebean  
Director of Community Development Hanson Hom  
City Clerk Kathleen Franco Simmons

**PUBLIC ANNOUNCEMENTS**

Dan Hafeman announced an upcoming candidate forum on housing, transportation and environmental sustainability.

Councilmember Meyering announced an upcoming board and commission application deadline.

**CONSENT CALENDAR**

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

*\*Approved by Council 10/8/2013*

Councilmember Whittum stated his vote on the Consent Calendar would not be a vote on Item 1.G as his home is within 500 feet of the area.

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 and 1.E.

VOTE: 7 - 0

Council considered the pulled Consent Calendar items following Item 6.

1.A. Approval of Council Meeting Minutes of September 10, 2013

MOTION: Councilmember Meyering moved to amend the minutes to include on page 2, Item 1.A, "Councilmember Meyering stated that when the agenda item came up for payment of the City bills, he was prevented from getting a copy of the bill."  
Motion died for lack of a second.

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Council Meeting Minutes of September 10, 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 13-224 List of Claims and Bills Approved for Payment by the City Manager – List Nos. 676 and 677

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 13-227 Approve Budget Modification No. 13 to Appropriate \$17,500 of California Office of Traffic Safety Grant Funds for Sobriety Checkpoints and Associated Equipment

Staff Recommendation: Approve Budget Modification No. 13 to appropriate \$17,500 of California Office of Traffic Safety grant funds for two sobriety checkpoints and associated equipment to a new project, FY 2013/14 OTS Sobriety Checkpoints.

1.E. RTC 13-223 Approval of Budget Modification No. 11 to Appropriate Additional Funds for Project 828910: Sunnyvale Avenue/Old San Francisco Road Left Turn Project

MOTION: Councilmember Meyering moved and Councilmember Moylan seconded the motion to approve Budget Modification No. 11 to Appropriate Additional Funds for Project 828910: Sunnyvale Avenue/Old San Francisco Road Left Turn Project.

VOTE: 7 – 0

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

**Contracts**

- 1.F. RTC 13-225 Award of Contract for Cisco Equipment to Upgrade the City Network Infrastructure (F14-02)

Staff Recommendation: Award a contract in the amount of \$384,808 to New Tech Solutions, in substantially the same form as the draft purchase order attached to the report, to furnish Cisco switches, related network components, and first year warranty coverage, as required by the Information Technology Department.

**Other**

- 1.G. RTC 13-222 Approval of a Resolution of Support for Safe Routes to Transit Program Funding

Councilmember Whittum stated his vote on the Consent Calendar would not be a vote on Item 1.G as his home is within 500 feet of the area.

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the resolution of support for safe routes to transit grant program funding.

VOTE: 6 - 0 (Councilmember Whittum recused)

- 1.H. RTC 13-230 Approve Budget Modification No. 12 to Appropriate \$31,320 of Department of Homeland Security, State Homeland Security Grant Program Funds for Equipment

Staff Recommendation: Approve Budget Modification No. 12 to Appropriate \$31,320 of Department of Homeland Security, State Homeland Security Grant Program Funds for Training to a New Project, FFY 2012 SHSGP – Equipment – Specialized Tactical Emergency Vehicle.

**PUBLIC COMMENTS**

Helen Polkes expressed concerns regarding the approval of the installation of the traffic light at the intersection of Bernardo and Remington.

Dan Bui requested consideration of restricting second hand smoke in residential areas.

Dan Hafeman spoke regarding bicycle safety with regard to separated bike lanes. Hafeman suggested reduced street parking as an alternative.

Holly Lofgren spoke regarding the Butcher's Corner property and regarding pollster phone calls.

Michael Goldman spoke regarding cyber fraud.

Steve Hoffman spoke regarding public comments, bicycle safety and unresolved ethical issues.

Misuk Park spoke regarding the continued public comments relating to the registration of domain names by a candidate and the importance of focusing on issues.

Tap Merrick stated he sees the issue raised by the previous speaker as a legal issue and is pursuing the necessary steps to address it.

**PUBLIC HEARINGS/GENERAL BUSINESS**

2. RTC 13-228 Discussion and Possible Action to Introduce an Ordinance to Regulate Payday Lending Establishments (Study Issue)

Planning Officer Trudi Ryan presented the staff report.

Public Hearing opened at 7:50 p.m.

Almaz Negash, Managing Director, Step Up Silicon Valley, spoke in support of the proposal and suggested a raise in wages.

Ana Rosa Camacho, Income Program Specialist, United Way Silicon Valley, spoke regarding someone who had bad experiences with payday loans.

Steve Preminger, Director of Community Builders, urged Council to adopt the Planning Commission recommendation.

Wendy Ho, United Way Silicon Valley, spoke in support of the ordinance.

Donna Beres, representing Our Daily Bread and St. Vincent de Paul, expressed concerns regarding payday lenders and spoke in support of the recommendation.

Yen Dang, representing the District Attorney Jeff Rosen, spoke in support of the recommendation.

Melissa Morris, attorney with the Law Foundation of Silicon Valley, spoke in opposition to payday lending and in support of the recommendation.

Liana Molina, California Reinvestment Coalition, provided information regarding other options for people who use payday loans and spoke in support of the ordinance.

Tap Merrick suggested consideration of disincentives to payday loans to help people get out of debt.

Dixie Larsen expressed concerns regarding the number of payday lenders in the City, spoke in support of the Planning Commission recommendation and suggested offering education and other options to payday lending such and financial counseling.

Maria Buenrostro provided written materials to demonstrate receipts of payday loans and spoke in support of the ordinance.

Sofia Garcia, Director of Government Affairs, Advance America, member of Community Financial Services Association of America (CFSA), spoke in opposition to placing a cap on licensed, regulated payday lending businesses.

Vanessa Lugo, Government Affairs Director, Check in to Cash, a payday lender in Sunnyvale and member of CSFA, provided information regarding payday loans and spoke in opposition to placing a cap on payday lending stores.

Steve Hoffman spoke regarding a Planning Commission recommendation to remove the requirement for uniformed security guards and asked that requirement be restored.

Bob Shackelford spoke regarding government policy making the issue worse and encouraged looking at the core issue.

Marie Bernard, Sunnyvale Community Services, spoke regarding services, resources and assistance provided by the organization and spoke in support of the ordinance.

Public Hearing closed at 8:41 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Introduce an ordinance in accordance with the Planning Commission recommendation with a definition for payday lending establishments, distance requirements, modifications to the use tables, operational standards for new payday lending establishments and a cap of six payday lending establishments (Option A and Attachment B to the report).

FRIENDLY AMENDMENT: Councilmember Meyering offered a friendly amendment to include the operational requirement of a uniformed security guard. Vice Mayor Griffith declined to accept the friendly amendment.

AMENDMENT: Councilmember Meyering moved to amend the motion to include the operational requirement of a uniformed security guard. Motion died for lack of second.

AMENDMENT: Councilmember Whittum moved to amend the motion and Councilmember Meyering seconded the motion to include the requirement of a non-uniformed security guard.

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

AMENDMENT: Councilmember Moylan moved to amend the motion and Councilmember Whittum seconded the motion to remove the cap on the number of payday lending establishments.

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

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE ON MAIN MOTION: 6 - 1 (Councilmember Whittum dissented)

3. Discussion and Possible Action to Direct Staff to Initiate Revision of the City Sign Code (19.44.190) Regarding Temporary Non-Commercial Signs, Including Campaign Election Signs

Principal Planner Andy Miner presented the staff report.

Public Hearing opened at 9:11 p.m.

Steve Sarrette spoke in support of allowing signs in the right-of-way in front of residential property.

Steve Hoffman spoke in opposition to changing the sign ordinance.

Tap Merrick spoke in support of allowing signs in the parkway.

Public Hearing closed at 9:19 p.m.

MOTION: Councilmember Moylan moved and Vice Mayor Griffith seconded the motion to direct staff to develop a modification to the existing ordinance that non-commercial signs may be erected on private property but not on City property.

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

4. RTC 13-226 Discussion and Possible Action to Adopt the Mitigated Negative Declaration for the Wolfe Road Recycled Water Project and approve the Cost Share Agreement with the Santa Clara Valley Water District (District) for the Engineering Design of the Wolfe Road Recycled Water Project

Vice Mayor Griffith stated this item relates to his employer, recused himself and left the room.

Director of Environmental Services John Stufflebean presented the staff report.

Public Hearing opened at 9:39 p.m.

No speakers.

Public Hearing closed at 9:39 p.m.

MOTION: Councilmember Moylan moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Adopt the Mitigated Negative Declaration for the Wolfe Road Recycled Water Project and approve the Cost Share Agreement with the District for the engineering design of the Wolfe Road Recycled Water Project.

VOTE: 6 - 0 (Vice Mayor Griffith recused)

Following action on this item, Vice Mayor Griffith returned to the room and took his seat at the dais.

5. RTC 13-229 Discussion and Possible Action to Take Positions on Local Ballot Measures for the November 5, 2013 Election

Senior Management Analyst Yvette Blackford presented the staff report.

Public Hearing opened at 9:41 p.m.

Steve Sarrette urged a no vote on Measure C.

Bob Shackelford spoke regarding the ammunition tracking requirement relating to Measure C and asked the Council if they are comfortable with potential privacy violations and potential related litigation.

William M. Wiese, Jr., Calguns Foundation, asked that Council not endorse Measure C.

Mike S. requested Council take a position in opposition to Measure C.

Eric Fisher, Owner of US Firearms Company, requested Council take a No position on Measure C.

Kirk Vartan requested Council take a No position on Measure C.

William McMurray spoke in opposition to Measure C.

Forrest Jadicke encouraged Council to take a No position on Measure C.

Public Hearing closed at 10:04 p.m.

MOTION: Councilmember Whittum moved to adopt an oppose position on Measure C. Motion died for lack of a second.

MOTION: Councilmember Moylan moved and Councilmember Martin-Milius seconded the motion to adopt a support position on Measure A.

VOTE: 1 – 6 (Mayor Spitaleri, Vice Mayor Griffith, Councilmembers Meyering, Whittum, Martin-Milius and Davis dissented)  
Motion failed.

MOTION: Vice Mayor Griffith moved and Mayor Spitaleri/Councilmember Whittum seconded the motion to take no position on Measure A, support Measure B, and take no position on Measure C.

Councilmember Martin-Milius called for the vote at 10:17 p.m.

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

MOTION: Vice Mayor Griffith moved and Councilmember Whittum seconded the motion to take a support position on Measure G.

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

MOTION: Councilmember Moylan moved to change the definition of City business to “all matters directly related to quality of life of citizens of Sunnyvale.”  
Motion died for lack of a second.

6. Discussion and Possible Action to Ratify Appointment of Councilmember Jim Davis to Santa Clara County Emergency Operational Area Committee

Senior Management Analyst Yvette Blackford presented the staff report.

Public Hearing opened at 10:23 p.m.

No speakers.

Public Hearing closed at 10:23 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to ratify the appointment of Councilmember Jim Davis to Santa Clara County Emergency Operation Area Committee.

VOTE: 5 – 0 – 2 (Councilmembers Meyering and Davis abstained)

Following action on Item 6, Council took up and considered the pulled Consent Calendar items.

**COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS**

Councilmember Whittum stated staff has circulated the El Camino Real BRT Project status update.

Councilmember Martin-Milius reported participation in an environmental policy review in Sacramento.

**NON-AGENDA ITEMS & COMMENTS**

Vice Mayor Griffith recommended the Study Session Summary for the Joint Study Session with the Planning Commission on September 10, 2013 be modified to reflect that Commissioners Hendricks and Larsson were recused.

Councilmember Whittum reported that resident meetings were held over the weekend by Mr. Vidovich and Mr. Butcher.

MOTION: Councilmember Whittum moved and Councilmember Meyering seconded the motion to put on an upcoming agenda the DEIR for the project at Moffett.

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

Councilmember Davis reported his attendance at the VTA Policy Advisory Committee, the Mountain View Challenge Team, the Best of the West competition, the Sunnyvale Tennis Club Annual Picnic, Mid-Peninsula Founders' Day, the National League of Cities Large Cities Council,

a Silicon Valley Prosperity Committee meeting, the League of California Cities Conference, a Town Hall Health Seminar, and the National League of Cities Public Safety Steering Committee in Savannah, Georgia.

Councilmember Whittum suggested a study issue on second hand smoke in multiple units. Councilmember Martin-Milius co-sponsored the study issue.

**INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- RTC 13-221 Board/Commission Resignation (Information Only)
- Joint Study Session Summary of September 10, 2013 - Discuss General Plan and Zoning of the "Butcher" Property at El Camino Real / Wolfe Road /Fremont Avenue
- Draft Minutes of the Board of Library Trustees Meeting of September 9, 2013
- Draft Minutes of the Arts Commission Special Meeting of August 21, 2013
- Minutes of the Sustainability Commission Meeting of August 19, 2013

**ADJOURNMENT**

Mayor Spitaleri adjourned the meeting at 10:40 p.m.

\_\_\_\_\_  
Kathleen Franco Simmons, City Clerk

\_\_\_\_\_  
Date