

DRAFT MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, OCTOBER 8, 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
City Attorney Joan Borger
Assistant City Manager Robert Walker
Director of Finance Grace Leung
Director of Public Safety Frank Grgurina
Director of Community Development Hanson Hom
Director of Public Works Kent Steffens
City Clerk Kathleen Franco Simmons

CLOSED SESSION REPORTS

Vice Chair Griffith reported Council met in closed session pursuant to Government Code Section 54957.6: Conference with Labor Negotiators; Employee Organization: Sunnyvale Employees Association and there is nothing to report.

Vice Chair Griffith reported Council met in closed session pursuant to Government Code Section 54956.9(a): Conference with Legal Counsel - Existing Litigation; Name of case: San Francisco Baykeeper v. City of Sunnyvale et. al., U.S. District Court Case No. 5:13-CV-02425-HRL and there is nothing to report.

**Pending Council Approval*

SPECIAL ORDER OF THE DAY – Mayor Spitaleri presented a proclamation for National Arts and Humanities Month to Director of Libraries and Community Services Lisa Rosenblum and Arts Commission Chair Misuk Park.

SPECIAL ORDER OF THE DAY – Awards were presented to the winners of the Annual Fire Safety Poster Contest.

PUBLIC ANNOUNCEMENTS

Councilmember Davis announced the upcoming Sunnyvale Citywide Disaster Drill.

Bobbe Smirni announced Breast Cancer Awareness month and an upcoming education program, and submitted written materials.

Councilmember Davis announced the annual Department of Public Safety Pancake Breakfast.

CONSENT CALENDAR

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

Councilmember Whittum stated his vote would be a no vote on Item 1.H.

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

VOTE: 7 - 0

Council considered the pulled Consent Calendar items following continued Public Comments.

1.A. Approval of Council Meeting Minutes of September 24, 2013

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Council Meeting Minutes of September 24, 2013.

VOTE: 6 - 1 (Councilmember Meyering dissented)

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

Fiscal Items

1.C. RTC 13-234 Lists of Claims and Bills Approved for Payment by the City Manager – List Nos. 678 and 679

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 13-237 Approve Budget Modification No. 15 to Appropriate \$20,000 of California Juvenile Justice Crime Prevention Act Grant Funds from Santa Clara County Probation Office for Safe Summer Activities

Staff Recommendation: Approve Budget Modification No. 15 to Appropriate \$20,000 of California Juvenile Justice Crime Prevention Act Grant Funds to a new project, FY 2013/2014 Safe Summer Activities Grant.

- 1.E. RTC 13-235 Approve Budget Modification No. 14 to Appropriate \$21,126 of Department of Homeland Security, State Homeland Security Grant Program Funds for 2013 Urban Shield

Staff Recommendation: Approve Budget Modification No. 14 to Appropriate \$21,126 of Department of Homeland Security, State Homeland Security Grant Program Funds to a New Project, 2013 Urban Shield.

Contracts

- 1.F. RTC 13-231 Reject Bid for Electric Golf Cart Rentals for the Sunnyvale Golf Course and Amend/Extend Current Contract (F14-06)

Staff Recommendation: Reject the one bid received in response to Invitation for Bids F14-06 for electric golf cart rentals; and approve an amendment to the current contract with Yamaha Golf-Car Company by increasing the total not-to-exceed value from \$193,822 to \$206,056 and by extending the expiration date to January 31, 2014.

- 1.G. RTC 13-233 Award of Contract for Design and Construction Support Services for Pavement Rehabilitation 2014 (F14-01)

Staff Recommendation: Award a contract in an amount of \$331,540, to CSG Consultants, 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% design contingency in the amount of \$33,154.

Other

- 1.H. Ordinance No. 3002-13 Adopt Ordinance No. 3002-13 to Amend Certain Sections of Title 19 (Zoning) of the Sunnyvale Municipal Code Relating to Payday Lending Establishments

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to adopt Ordinance No. 3002-13.

VOTE: 6 - 1 (Councilmember Whittum dissented)

PUBLIC COMMENTS

Arlene Goetze spoke regarding health and safety concerns at the Las Palmas dog park and requested the dog park be relocated.

Linda Sell requested Council put on the October 22 agenda the topic of joining the Midpeninsula Regional Open Space District Amicus Brief in support of Bay Area for Clean Environment and presented written materials.

MOTION: Councilmember Meyering moved and Councilmember Whittum seconded the motion to place on the agenda of the next Council meeting, October 22, a discussion about the quarry blasting and the impact of that, and the litigation on the residents of Sunnyvale.

MOTION: Councilmember Whittum moved and Councilmember Moylan seconded the motion to table the motion to the end of the meeting.

Mayor Spitaleri ruled the item is tabled to the end of the meeting.

Deborah Marks spoke regarding nodes along El Camino, design standards and landscaping and presented a PowerPoint presentation.

Michael Goldman spoke regarding cyber fraud and presented a PowerPoint presentation.

Councilmember Davis requested the violations be referred to the District Attorney's office to see if there has been an actual violation.

Mayor Spitaleri stated the resident can refer the issue to the District Attorney if he feels there has been a violation.

Mayor Spitaleri announced Public Comments would continue after the general business portion of the agenda.

MOTION: Councilmember Meyering moved to extend Public Comments by 15 minutes.

Mayor Spitaleri ruled it is at the Mayor's discretion.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 13-236 Request for Continuation of Discussion and Possible Action on a Specific Plan Amendment to Consider Elimination of the Required Residential Frontage Road along the West Side of S. Mathilda Avenue for Blocks 14, 15 and 16 of the Downtown Specific Plan (between Washington Avenue and Olive Avenue)

Director of Community Development Hanson Hom presented the staff report.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to continue the item to October 22, 2013 to allow time for the Bicycle and Pedestrian Advisory Commission to consider this item at their meeting on October 17, 2013.

VOTE: 6 - 0 (Councilmember Meyering abstained)

3. City Manager Recruitment Update by Avery Associates

Paul Kimura, Principal, Avery Associates, presented a report.

MOTION: Councilmember Meyering moved to delete the paragraph regarding salary, delete the benefits and deferred compensation, delete the paragraph that the city manager has to interact with and have positive engagement with the development community, delete the requirement that all applicants should have municipal management experience and add a bullet point regarding restoring the neglected infrastructure of transportation, law enforcement and parks.

Motion died for lack of a second.

4. RTC 13-240 Discussion and Possible Action on Adoption of Resolutions to Approve the Annexation of Two Island Areas Located within the City of Sunnyvale Urban Service Area but Currently under the County of Santa Clara's Jurisdiction (Central Expressway and Butcher's Corner), and a Finding of Categorical Exemption Under the California Environmental Quality Act

Director of Community Development Hanson Hom presented the staff report.

Councilmember Whittum disclosed he attended two community meetings and visited the site.

Public Hearing opened at 8:21 p.m.

John Vidovich, property owner, requested a delay in annexation to allow time to work with the neighborhood and requested Council make commercial optional and not required.

Steve Smith reiterated the points presented by John Vidovich.

Art Kushner expressed concerns regarding traffic congestion, school overcrowding and lack of compatibility with the surrounding neighborhood, and recommended postponing annexation.

Ed Cramer spoke in support of postponement of the annexation and optional commercial use.

Steve Sarette spoke in support of doing traffic studies and reducing the commercial FAR requirements, and recommended delaying annexation.

Holly Lofgren spoke in support of staff's recommendation to delay annexation and asked Council to direct staff to make non-residential optional.

Lenora Montoya-Heuchert, representing Ortega Park neighborhood, expressed concerns regarding traffic impacts in the area and at neighboring schools, and requested Council delay annexation and make non-residential optional for the property.

Dwight Davis spoke regarding the poor planning of LinkedIn, suggested 2,000 foot notification Citywide, and requested pictures of future buildings be put online.

Galen Davis stated agreement with earlier speakers regarding traffic impacts, the need for re-signalization, and impacts to school capacity. Davis stated he disagreed with earlier speakers with regard to commercial use of the property and spoke in support of commercial use with pedestrian infrastructure.

Mei-Ling Stefan urged Council to delay annexation until a study is done to revise the El Camino Real Precise Plan to include the option of removing the retail requirement at Butcher's Corner.

Ann Davis spoke in support of 2,000 foot notification Citywide with pictures of proposed projects and suggested Hexagon should be removed as the preferred vendor for traffic studies.

Don Haislet stated he doesn't believe the project applies to the El Camino Real Precise Plan, as Fremont is the road that would be impacted.

Tap Merrick suggested Council redo the node concept and suggested solving the traffic at El Camino and Fremont with a traffic circle.

Neil Citraro spoke regarding the difficulty of working with ECR zoning and spoke in support of adopting the policy and how to interpret the precise plan, and having applications reviewed on an individual basis.

Greg Malley spoke regarding the commercial requirement.

Steve Hoffman spoke regarding contributions by the developer to Council candidates and proposed \$500 contribution limits.

Public Hearing closed at 8:51 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Davis seconded the motion to approve Alternatives 1, 2 and 4: 1) Find that the project is categorically exempt from CEQA pursuant to guideline 15319(a); 2) Adopt the resolution to approve the annexation of the Central Expressway Island Area (SV01); and 4) Postpone the annexation of the Butcher's Corner Island Area.

FRIENDLY AMENDMENT: Councilmember Davis offered a friendly amendment that the Council find that the inclusion of commercial operations at Butcher's Corner is not mandatory.

Vice Mayor Griffith expanded the motion to add an additional alternative that Council direct staff that until such a time as this can be more thoroughly studied, any zoning of residential plus ECR does not require commercial.

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

Vice Mayor Griffith proposed a study issue to examine the commercial requirements or potentially lack thereof for properties zoned residential plus ECR. Councilmember Moylan co-sponsored the study issue.

5. RTC 13-238 Discussion and Possible Action to Find an Exemption under the California Environmental Quality Act and Introduce an Ordinance Addressing Development Review Procedures for Projects within the Peery Park District during Preparation of the Peery Park Specific Plan

Councilmember Meyering stated his residence is within 496 feet of the project, recused himself and left the dais.

Director of Community Development Hanson Hom presented the staff report.

Public Hearing opened at 9:17 p.m.

Dwight Davis spoke in support of putting a moratorium on Peery Park and in support of 2,000 foot notification for anything more than two stories.

Ann Davis spoke in support of putting a moratorium on the development of Peery Park until a plan is in place, a full environmental impact report and 2,000 foot notification Citywide, with pictures. Davis requested the Sunnyvale Sun be distributed Citywide.

John Cordes spoke in opposition to the exemption from CEQA.

Jim Quaderer spoke regarding the notification process and recommended earlier notification, expanded notification distance requirements, and consideration of residential views during winter.

Chiaki Quaderer spoke in opposition to staff's recommendation and supported a 2,000 foot notification distance. Quaderer spoke in opposition to exempting it from CEQA.

James Manidakos spoke regarding the notification process and distance, and encouraged a visual analysis of projects.

Tap Merrick spoke regarding noticing and suggested the City discontinue publishing public notices in the Sun and encouraged electronic noticing.

Pat Meyering spoke in opposition to exemption from CEQA.

Dan Miller spoke in support of staff's recommendation.

Mei-Ling Stefan spoke in support of a moratorium on development in Peery Park until there is a Peery Park Specific Plan.

Peter Larko, JP Napoli Companies, spoke in support of the staff recommendation.

Holly Lofgren expressed concerns regarding development in the City and spoke in support of a moratorium until a new Council and new city manager is on board.

Hadon Nash spoke regarding the impacts of the LinkedIn project on his residence and the neighborhood.

Eire Stewart, JD Napoli Companies, spoke in support of the staff recommendation.

Lisa Korff spoke in support of a moratorium to get more public input.

Public Hearing closed at 9:53 p.m.

MOTION: Councilmember Davis moved and Councilmember Moylan seconded the motion to approve Alternatives 1, 2 and 3: 1) Make a finding that the project is exempt from CEQA; 2) Introduce the ordinance to require Planning Commission recommendation and City Council action on Use Permits, Special Development Permits and specified Design Review applications in the Peery Park District; and 3) Direct staff to increase the mailing notification for projects located within the Peery Park District that require a public hearing specifying a minimum notification distance for 1 to 2 stories: 500 feet notification, 3 to 5 stories: 1,000 feet, and anything over 6 stories: 2,000 feet.

FRIENDLY AMENDMENT: Councilmember Whittum offered a friendly amendment that the noticing should be the following: 2,000 feet and the neighborhood mailing list for SNAIL, the same list that would be used by SNAIL neighborhood in distributing its newsletter; and that notices should depict, where judged appropriately by the staff, a perspective view. Councilmember Davis declined to accept the friendly amendment.

City Clerk Kathleen Franco Simmons read the ordinance title.

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

Council recessed at 10:16 p.m.

Council reconvened at 10:24 p.m. with all present.

6. RTC 13-239 Discussion and Possible Action Regarding Mary Avenue Street Space Allocation Study and Budget Modification No. 8 to Adopt a Mitigated Negative Declaration and Appropriate \$ 346,790 in Transportation Development Act Grant Funds and \$ 425,360 in Traffic Impact Fee Funds to Construct Bike Lanes on Mary Avenue between Fremont Avenue and Maude Avenue

Transportation and Traffic Manager Jack Witthaus presented the staff report.

Public Hearing opened at 10:36 p.m.

Kevin Jackson, Bicycle and Pedestrian Advisory Commission member speaking for himself, spoke in support of the staff and BPAC recommendation.

Galen Davis spoke in support of the recommendation.

Ralph Durham spoke in support of bike lanes on Mary and recommended a colored bike lane from Evelyn to Central.

John Cordes spoke in support of the staff recommendation and recommended a separated barrier in the section where on-street parking is removed and recommended colored bike lanes.

James Manidakos, Chair, Bicycle and Pedestrian Advisory Commission, provided the BPAC recommendations in unanimous support of the plan.

Dan Hafeman spoke in support of the project.

Public Hearing closed at 10:52 p.m.

MOTION: Councilmember Martin-Milius moved and Vice Mayor Griffith seconded the motion to approve Alternatives 1, 2 and 3: 1) Select from the concepts detailed in the report a street allocation concept for one or more specific roadway segments on Mary Avenue between Fremont Avenue and Maude Avenue; 2) Pursue a roadway design that provides continuous bike lanes on Mary Avenue between Fremont Avenue and Maude Avenue; and 3) Adopt the Mitigated Negative Declaration for construction of bicycle facilities on Mary Avenue between Fremont Avenue and Maude Avenue, and approve Budget Modification No. 8.

AMENDMENT: Councilmember Meyering moved to amend the motion to require that the bike lanes constructed on Mary Avenue be separated with a hard barrier from auto traffic. Motion died for lack of a second.

Councilmember Moylan confirmed with Councilmember Martin-Milius that the concepts selected in Alternative 1 in the motion are the concepts recommended by staff in the report.

FRIENDLY AMENDMENT: Councilmember Moylan proposed a friendly amendment to modify Segment 1 from Concept 3 to Concept 2.

Councilmember Martin-Milius declined to accept the friendly amendment.

VOTE: 4 - 3 (Councilmember Meyering, Mayor Spitaleri and Councilmember Moylan dissented)

PUBLIC COMMENTS (continued):

Tap Merrick spoke regarding the Campaign Ethics Guide and a PSOA publication.

Ann Davis expressed concerns regarding landscaping and trees near the LinkedIn site and suggested stop signs at Borregas Avenue at Duane.

Mei-Ling Stefan provided a PowerPoint presentation regarding the principles of the Grand Boulevard Initiative.

Dwight Davis asked the City to consider hiring a landscape architect to look at the City trees from LinkedIn into the SNAIL neighborhood.

John Cordes spoke regarding campaign tactics.

Barry Chang, Cupertino City Councilmember and Chairman and President of Bay Area for a Clean Environment, requested Council put on an agenda the issue of joining the amicus brief on the Lehigh plant.

Larry Alba spoke in support of joining the amicus brief relating to Lehigh.

Following continued Public Comments, Council considered the pulled Consent Calendar items.

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Davis reported his attendance at a meeting of the Council Subcommittee on Hiring a New City Manager, Plan Bay Area, the North County Cold Weather Shelter Committee, Stevens Creek Trail Working Group, a community meeting with Senator Hill, a meeting regarding Covered California, the National Republic of China Double Ten Commemoration, Fire Safety Poster luncheon.

Councilmember Martin-Milius reported her attendance at a meeting of the water district.

NON-AGENDA ITEMS & COMMENTS

Councilmember Whittum requested to bring back the motion that was tabled regarding the amicus brief.

MOTION: Councilmember Meyering moved and Councilmember Whittum seconded the motion to place on the agenda of the next Council meeting, October 22, a discussion about the quarry blasting and the impact of that, and the litigation on the residents of Sunnyvale.

VOTE: 3 – 4 (Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan and Davis dissented)

Councilmember Davis requested a resolution dealing with the condemnation of Congress for not taking action to keep the government running be placed on the agenda for the October 22 Council meeting.

Mayor Spitaleri stated the item would be placed on the agenda.

Councilmember Moylan sponsored a study issue regarding a better way of making a notification system for land use projects Citywide that would approximate line of sight and include consideration of whether the Sunnyvale Sun should remain the paper that we do the notifications through or whether we should switch to a different paper.
Councilmember Davis cosponsored the study issue.

Councilmember Moylan announced the Campaign Committee “Last Word” event.

Councilmember Whittum requested follow up information from staff regarding consideration of a landscape architect for City trees on Pine Avenue and Western SNAIL and regarding traffic on Borregas.

MOTION: Councilmember Martin-Milius moved and Councilmember Whittum seconded the motion to schedule a study session regarding the Amicus Brief on the Lehigh Plant.

VOTE: 3 – 4 (Vice Mayor Griffith, Mayor Spitaleri, Councilmembers Moylan and Davis dissented)

MOTION: Councilmember Meyering moved and Councilmember Whittum seconded the motion to send an official letter to the California Public Utilities Commission asking for all PG&E internal emails wherein they discuss the condition of gas pipelines in Sunnyvale.

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

Mayor Spitaleri his attendance at the Silicon Valley Business Journal Structures Awards in which the City of Sunnyvale received an award.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- 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 (Revised)
- Draft Minutes of the Sustainability Commission Meeting of September 16, 2013
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting of September 19, 2013

ADJOURNMENT

Mayor Spitaleri adjourned the meeting at 11:50 p.m.