

DRAFT MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, DECEMBER 10, 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 Works Kent Steffens
Director of Community Development Hanson Hom
Director of Environmental Services John Stufflebean
Director of Human Resources Teri Silva
Deputy Chief Steve Drewnainy
City Clerk Kathleen Franco Simmons

CLOSED SESSION REPORTS FOR DECEMBER 10, 2013

Pursuant to Government Code 54957 - Public Employee Performance Evaluation: City Attorney

Vice Mayor Griffith reported Council met in Closed Session pursuant to Government Code 54957 Public Employee Performance Evaluation: City Attorney. He reported this was her annual review, Council is very pleased with her performance in her first year with the City of Sunnyvale as the City Attorney, and an item will be placed on the agenda for next week regarding City Attorney compensation.

**Pending Council Approval*

Pursuant to Government Code 54957 - Public Employee Performance Appointment: Interim City Manager

Vice Mayor Griffith reported Council met pursuant to Government Code 54957 Public Employee Performance Appointment: Interim City Manager; nothing to report.

PUBLIC ANNOUNCEMENTS

None.

CONSENT CALENDAR

Councilmember Meyering pulled Items 1.A and 1.C. and requested to record a No vote on Items 1.D, 1.E and 1.F.

Councilmember Whittum stated his vote on the Consent Calendar would be a No vote on Items 1.D and 1.E.

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 Item 7.

1.A. Approval of Council Meeting Minutes of November 26, 2013

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve the Council Meeting Minutes of November 26, 2013.

VOTE: 6 – 1 (Councilmember Meyering dissented)

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

Fiscal

1.C. RTC 13-298 List of Claims and Bills Approved for Payment by the City Manager – List Nos. 687 and 688

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

VOTE: 6 – 1 (Councilmember Meyering dissented)

Other

1.D. ORDINANCE NO. 3029-13 Adopt Ordinance 3029-13 to Amend the Precise Zoning Plan, Zoning Districts Map, to Rezone Certain Properties Located in the Moffett Park Specific Area From MP-I (Moffett Park-General Industrial) to MP-TOD (Moffett Park-Transit Oriented Development) Zoning District

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to adopt Ordinance No. 3029-13.

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

- 1.E. ORDINANCE NO. 3030-13 Adopt Ordinance 3030-13 to Approve and Adopt a Development Agreement Between Moffett Place LLC and the City of Sunnyvale Related to the Development of Property Commonly Known as the Moffett Place Campus

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to adopt Ordinance No. 3030-13.

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

- 1.F. ORDINANCE NO. 3031-13 Adopt Ordinance 3031-13 to Amend Certain Sections of the Sunnyvale Municipal Code Relating to Wireless Telecommunications Facilities

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to adopt Ordinance No. 3031-13.

VOTE: 6 - 1 (Councilmembers Meyering dissented)

PUBLIC COMMENTS

Denise DeLange provided written materials and requested a study issue to enter into an Open Space Agreement with the Santa Clara Unified School District for the maintenance and management of public and group use of the sports fields, tennis courts, and other adjoining publicly accessible areas for Peterson Middle School, Braly Elementary School and Ponderosa Elementary School when not being used by the school where an agreement is not already in place.

Councilmember Moylan sponsored and Councilmember Meyering co-sponsored a study issue to look into the possibility of joint use agreements with any Santa Clara School District fields that are in the City of Sunnyvale for which there is no current agreement in place.

Amy Wright spoke on behalf of the Sunnyvale Community Players and requested a future agenda item for consideration of a new contract with the group.

Arlene Goetze, advocate for no toxins for children and dogs, spoke regarding conditions experienced by a prominent neighbor of the dog park, and provided written materials.

Glenn Hendricks expressed appreciation to City Manager Gary Luebbbers for his service to the City.

Mayor Spitaleri and Former Mayor Melinda Hamilton presented a plaque in appreciation to City Manager Gary Luebbbers.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 13-303 Discussion and Possible Action to Receive and File the FY 2012/13 Budgetary Year-End Financial Report, Comprehensive Annual Financial Report, and Sunnyvale Financing Authority Financial Report; and Discussion and Potential Action for Columbia Neighborhood Center Expansion Project and Budget Modification No. 21

Assistant Director of Finance Tim Kirby presented the staff report. David Bullock, Partner with MGO Certified Public Accountants, presented the auditors' report.

Public Hearing opened at 7:37 p.m.

No speakers.

Public Hearing closed at 7:37 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Davis seconded the motion to approve Alternative 1: Receive and file the Budgetary Year-End Financial Report, the Audited Comprehensive Annual Financial Report, the Report to the City Council Issued by the Independent Auditors, and the Sunnyvale Financing Authority Financial Report and Approve Budget Modification No. 21.

VOTE: 7 - 0

3. RTC 13-302 Discussion and Possible Action for the Selection of Interview Panel Members for the City Manager Selection Process

Director of Human Resources Teri Silva presented the staff report.

Public Hearing opened at 7:40 p.m.

No speakers.

Public Hearing closed at 7:40 p.m.

MOTION: Councilmember Meyering moved and Councilmember Whittum seconded the motion to proceed with each Councilmember appointing two members of the panel; each Councilmember appointing one member of the residential panel; each Councilmember appointing one member of the business panel.

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

Motion failed.

MOTION: Councilmember Whittum moved and Councilmember Moylan seconded the motion to include Henry Alexander III in the community member panel list.

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

Motion carried.

MOTION: Councilmember Whittum moved and Councilmember Meyering seconded the motion to add Prakash Giri to the community panel list.

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

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to add Landon Noll to the list.

VOTE: 7 - 0

MOTION: Councilmember Moylan moved and Councilmember Whittum seconded the motion to appoint the people who are on the panel list as just amended:

Business Leaders: Patricia Castillo, Howard Chuck, Robert Lawson, Joe Antuzzi, Don Eagleston, Kerry Haywood, John Howe

Community: Terry Fowler, Barbara Fukumoto, Melinda Hamilton, Russell Melton, Misuk Park Glenn Hendricks, Gustav Larsson, Henry Alexander III, Landon Noll

VOTE: 6 - 1 (Councilmember Meyering dissented)

4. RTC 13-301 Discussion and Possible Action on the Appointment and Compensation of an Interim City Manager and Salary Consideration

Director of Human Resources Teri Silva presented the staff report and described the process for filling an interim position which includes compensation at either 5% or the first step in the salary range, whichever is greater.

Public Hearing opened at 7:55 p.m.

No speakers.

Public Hearing closed at 7:55 p.m.

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to ask the Assistant City Manager to serve as Interim City Manager using the standard protocols as explained by the HR Director.

Assistant City Manager Robert Walker accepted the request.

VOTE: 7 - 0

5. RTC 13-296 Discussion and Possible Action to Introduce an Ordinance to Amend Sunnyvale Municipal Code Chapter 9.37 Related to Bingo Games

Director of Finance Grace Leung presented the staff report.

Public Hearing opened at 7:57 p.m.

No speakers.

Public Hearing closed at 7:57 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Introduce an ordinance to amend Sunnyvale Municipal Code Chapter 9.37.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 7 – 0

6. RTC 13-295 2013-7171 Discussion and Possible Action to Introduce an Ordinance to Amend Title 19 (Zoning) and a Resolution to Amend the Fee Schedule Regarding the General Plan Amendment Initiation Process (Study Issue)

Director of Community Development Hanson Hom presented the staff report.

Public Hearing opened at 8:13 p.m.

No speakers.

Public Hearing closed at 8:13 p.m.

MOTION: Councilmember Moylan moved and Vice Mayor Griffith seconded the motion to approve Alternatives 1 and 3: 1) Introduce the proposed ordinance in Attachment D to the report, which requires mailed public notification of GPI requests to owners of property within a minimum of 300 feet of the affected site, or within a larger radius if it would be advisable or required for a related development project; requires the Planning Commission to review and make a recommendation on the GPI request prior to the Council hearing; provides for the expiration of approved GPIs if a GPA application is not filed and deemed complete within two years; and prohibits the filing of a substantively similar GPI request for the same site (if applicable), as determined by the Director of Community Development, within two years of a denied GPI request. Additionally, include a similar two-year prohibition for denied rezoning applications; and 3) Adopt the resolution in Attachment F to the report to increase the General Plan Amendment Initiation fee by \$136 to account for the required 300-foot public noticing described in Alternative 1; and add expanded noticing fees at 500, 1,000 and 2,000 feet for projects requiring a larger radius of mailed notices.

FRIENDLY AMENDMENT: Councilmember Martin-Milius offered a friendly amendment on Alternative 1, relating to the language which prohibits the filing of a similar request within two years after a general plan initiation (GPI) request is denied, to include a requirement to provide information when it is brought back documenting the criteria, issues or conditions as to why it was rejected.

Councilmember Moylan accepted the friendly amendment.

Following discussion prior to the vote, Councilmember Martin-Milius withdrew the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Martin-Milius offered a friendly amendment on Alternative 3, relating to the budgetary allocation for expanded noticing fees at 500, 1,000 and 2,000 feet, to add automatic adjustment as postage rates increase so it doesn't have to come back to Council.

Councilmember Martin-Milius withdrew the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Davis offered a friendly amendment on Alternative 1, the first bullet, to change "300 feet" to "500 feet". Councilmember Moylan declined to accept the friendly amendment.

AMENDMENT: Councilmember Davis moved to amend and Councilmember Whittum seconded the motion to amend Alternative 1, bullet point 1, line 2, to change "300 feet" to "500 feet" and amend Alternative 3, to strike the "300-foot" public notice alternative.

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

City Clerk Kathleen Franco Simmons read the ordinance title.

Following discussion regarding the earlier friendly amendment, Councilmember Martin-Milius withdrew her friendly amendment.

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

MOTION: Councilmember Moylan moved and Councilmember Davis seconded the motion to approve an alternative to staff's Alternative 5, to replace Option 1, page 6 in the report, with Option 2, to require sequential review or separate review of general plan amendments and development applications.

VOTE: 4 - 3 (Vice Mayor Griffith, Mayor Spitaleri and Councilmember Martin-Milius dissented)
Motion carried.

MOTION: Councilmember Moylan moved and Councilmember Whittum seconded the motion to approve an alternative to staff Alternative 4, to replace Option 3, page 5 in the report, with Option 1, to review GPI requests on a quarterly basis.

VOTE: 4 - 3 (Vice Mayor Griffith, Mayor Spitaleri and Councilmember Martin-Milius dissented)
Motion carried.

7. RTC 13-300 Discussion and Possible Action to Approve a Second Amendment to the Agreement with Waste Management of California, Inc. for Long Term Disposal of Solid Waste

Director of Environmental Services Department John Stufflebean presented the staff report.

Public Hearing opened at 8:57 p.m.

No speakers.

Public Hearing closed at 8:57 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Authorize the City Manager to execute the Second Amendment to the Agreement between the City of Sunnyvale and Waste Management of California, Inc. for Long Term Disposal of Solid Waste.

VOTE: 7 - 0

Following action on Item 7, Council considered the pulled Consent Calendar items.

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Vice Mayor Griffith reported his attendance at a meeting of members of the Cities Association of Santa Clara County with Assemblymember Rich Gordon regarding realignment.

Councilmember Davis reported his attendance at a meeting of the Grand Boulevard Initiative Committee and the Christmas tree lighting in Downtown Sunnyvale.

NON-AGENDA ITEMS & COMMENTS

Councilmember Whittum proposed an informational item to follow-up on earlier public comments regarding the Sunnyvale Community Players.

Councilmember Moylan proposed a study issue relating to appeals to clarify and possibly redefine who is entitled to appeal land use decisions of the Director of Community Development, the Heritage Preservation Commission or the Planning Commission.

Mayor Spitaleri co-sponsored the study issue and requested to add looking at: 1- The appellant be charged on an hourly basis when an appeal is made, to recoup staff costs; 2- Council action on appeals is limited to the issue of the appeal; 3- When an appeal is made by a Councilmember, the Councilmember should be recused from the vote.

Vice Mayor Griffith co-sponsored the study issue and requested to also take the opportunity to look at having Councilmembers who file an appeal pay the fee.

Vice Mayor Griffith sponsored a study issue to look at ways to increase local hiring on major developments.

Mayor Spitaleri co-sponsored the study issue.

Mayor Spitaleri reported the Christmas tree lighting event and expressed appreciation to Councilmembers Davis and Moylan for their assistance, and to the Downtown Association for hosting the event.

Assistant City Manager Robert Walker requested clarification and received confirmation from Councilmember Moylan regarding the earlier sponsored study issue that it include tennis courts at Peterson Middle School.

Assistant City Manager Walker expressed his willingness and appreciation to Council for their confidence in appointing him to serve as Interim City Manager until a new City Manager is selected.

Mayor Spitaleri expressed appreciation to City Manager Gary Luebbers for his service and dedication to the City.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 13-297 Board/Commission Resignation (Information Only)
- Study Session Summary of November 26, 2013 – Discussion of 2014 Intergovernmental Assignments
- Draft Minutes of the November 6, 2013 Heritage Preservation Commission Meeting
- Draft Minutes of the Arts Commission Meeting of November 20, 2013
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting of November 21, 2013
- Study Session Summary of December 3, 2013 - 49ers Stadium Traffic, Parking and Security Plan Update

ADJOURNMENT

Mayor Spitaleri adjourned the meeting at 9:13 p.m.