



City of Sunnyvale

Meeting Minutes - Draft

City Council

Tuesday, December 13, 2022

6:00 PM

Virtual and Council Chambers, City Hall,
456 W. Olive Ave., Sunnyvale, CA 94086

**Special Meeting: Closed Session - 6 PM | Regular Meeting - 7 PM | Special Meeting of
Successor Agency to the Redevelopment Agency - 7 PM | Joint Meeting with Sunnyvale
Financing Authority - 7 PM**

6 P.M. SPECIAL COUNCIL MEETING (Closed Session)

Call to Order

Pursuant to Government Code Subdivision 54953(e), Councilmembers had the opportunity to participate in the meeting telephonically; pursuant to state law, the City Council made the necessary findings by adopting Resolution No. 1089-21, reaffirmed on November 29, 2022.

Vice Mayor Cisneros called the meeting to order at 6:02 p.m. in the Council Chambers.

Roll Call

Present: 7 - Mayor Larry Klein
Vice Mayor Alysia Cisneros
Councilmember Gustav Larsson
Councilmember Glenn Hendricks
Councilmember Russ Melton
Councilmember Omar Din
Councilmember Anthony (Tony) Spitaleri

Public Comment

Public Comment opened at 6:04 p.m.

No speakers.

Public Comment closed at 6:04 p.m.

Convene to Closed Session

City Council convened to closed session at 6:04 p.m. in the West Conference Room.

A [22-1113](#) Closed Session Held Pursuant to Paragraph (1) of Subdivision
(d) of California Government Code Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL-EXISTING
LITIGATION Name of Case: People of the State of California
ex. rel. City of Sunnyvale v. Ke Zhou, et. al., Santa Clara
County, et. al., Santa Clara County Superior Court, Case No.
22CV40374

B [22-0828](#) Closed Session held pursuant to California Government Code
Section 54956.9: CONFERENCE WITH LEGAL
COUNSEL-EXISTING LITIGATION (Paragraph (1) of
subdivision (d) of Section 54956.9) Name of case: San
Francisco Baykeeper v. City of Sunnyvale, U.S. Dist. Of
California, Case No.: 5:20-CV-00824-EJD

Adjourn Special Meeting

Vice Mayor Cisneros adjourned the meeting at 7:18 p.m.

7 P.M. COUNCIL MEETING

CALL TO ORDER

Pursuant to Government Code Subdivision 54953(e), Councilmembers had the opportunity to participate in the meeting telephonically; pursuant to state law, the City Council made the necessary findings by adopting Resolution No. 1089-21, reaffirmed on November 29, 2022.

Mayor Klein called the meeting to order at 7:20 p.m. in the Council Chambers.

SALUTE TO THE FLAG

Mayor Klein led the salute to the United States flag.

ROLL CALL

Present: 7 - Mayor Larry Klein
Vice Mayor Alysa Cisneros
Councilmember Gustav Larsson
Councilmember Glenn Hendricks
Councilmember Russ Melton
Councilmember Omar Din
Councilmember Anthony (Tony) Spitaleri

CLOSED SESSION REPORT

Vice Mayor Cisneros reported that Council met in Closed Session Held Pursuant to Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9:

Conference with Legal Counsel Existing Litigation Name of Case: People of the State of California ex. rel. City of Sunnyvale v. Ke Zhou, et. al., Santa Clara County, et. al., Santa Clara County Superior Court, Case No. 22CV40374; nothing to report.

Vice Mayor Cisneros reported that Council met in Closed Session held pursuant to California Government Code Section 54956.9: Conference with Legal Counsel-Existing Litigation (Paragraph (1) of Subdivision (d) of Section 54956.9) Name of case: San Francisco Bay Keeper v. City of Sunnyvale, U.S. Dist. of California, Case No.: 5:20-CV-00824-EJD; nothing to report.

ORAL COMMUNICATIONS

No speakers.

CONSENT CALENDAR

Public Comment opened at 7:25 p.m.

No speakers.

Public Comment closed at 7:25p.m.

MOTION: Vice Mayor Cisneros moved and Councilmember Din seconded the motion to approve agenda items 1.A through 1.I.

Councilmember Hendricks registered a no vote on agenda item 1.I.

The motion carried with the following vote:

Yes: 7 - Mayor Klein
Vice Mayor Cisneros
Councilmember Larsson
Councilmember Hendricks
Councilmember Melton
Councilmember Din
Councilmember Spitaleri

No: 0

1.A [22-0193](#) Approve the List(s) of Claims and Bills Approved for Payment by the City Manager

Approve the list(s) of claims and bills.

1.B [22-1094](#) Receive and File the FY 2021/22 Annual Status Report on Receipt and Use of Development Impact Fees and Adopt a Resolution Approving Findings Regarding Unspent Impact

Fees and Find that the Action is Exempt from the California Environmental Quality Act (CEQA) Pursuant to Section 15378(b)(4) of the CEQA Guidelines

Receive and file FY 2021/22 Annual Status Report on receipt and use of development impact fees; Adopt a Resolution making findings regarding unspent impact fees as required by the Mitigation Fee Act (California Government Code Section 66000 et seq.); and Find that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(4) of the CEQA Guidelines.

1.C [22-1014](#) Reject All Bids Received for the Playground Equipment Replacement 2022 Project (PW23-08)

Reject all bids received in response to Invitation for Bids PW23-08 Playground Equipment Replacement 2022 Project.

1.D [22-1082](#) Reject the Sole Bid Received for Asphaltic Materials and Pavement Reinforcement Fabric (F23-024)

Reject the sole bid received from Granite Construction, Inc. in response to Invitation for Bids F23-024 for Asphaltic Materials and Pavement Reinforcement Fabric.

1.E [22-1069](#) Award of Contract to Redgwick Construction Co. in the amount of \$2,777,172.20 for Active Transportation Program - Safe Routes to School, Find that this Action is Exempt under the California Environmental Quality Act (CEQA) Under Section 15301(c) of the CEQA Guidelines, and Approval of Budget Modification No.9 in the Amount of \$1,207,428 (PW23-05)

Take the following actions:

- Award a contract in substantially the same form as Attachment 2 to the report in the amount of \$2,777,172 to Redgwick Construction Co.;
- Approve a 10% construction contingency in the amount of \$277,717;
- Authorize the City Manager to execute the contract when all necessary conditions have been met;
- Make a finding of a categorical exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c); and
- Approve Budget Modification No. 9 in the amount of \$1,207,428.

1.F [22-1118](#) Appoint Christine Berdiansky to the NOVA Workforce Board
Appoint Christine Berdiansky to the NOVA Workforce Board.

- 1.G** [22-1137](#) Reconsider and Affirm Resolution No. 1089-21; and Make Findings Pursuant to Government Code Section 54953(e) (AB 361) to Continue Virtual Public Meetings for the City Council and Boards, Commissions and Council Subcommittees During the COVID-19 State of Emergency

Affirm Resolution 1089-21; and make findings pursuant to Government Code Section 54953(e) (AB 361) to continue virtual public meetings for the City Council and Boards, Commissions and Council Subcommittees during the COVID-19 State of Emergency:

1. The City Council hereby finds that the state of emergency conditions related to COVID-19, as set forth in Resolution No. 1154-22 adopted on November 1, 2022 and incorporated herein by reference, are on-going;
2. The City Council finds that there is a need to continue teleconferencing for public meetings without posting the teleconferencing locations on the agenda and without requiring the teleconference locations to be accessible to the public during the current Governor-proclaimed COVID-19 state of emergency; and
3. The City Council finds that the state of emergency continues to directly impact the ability of members of the City Council, Council Standing Committees, and City Boards and Commissions to meet safely in person.

- 1.H** [22-1140](#) Adopt a Resolution Extending the City's Declaration of Local Emergency for COVID-19

Adopt a Resolution extending the City Manager/Director of Emergency Services' Proclamation of Existence of a Local Emergency (COVID-19).

- 1.I** [22-1147](#) Adopt Ordinance No. 3204-22 to add Section 9.44.070 (Possession of Firearms on City Property), Section 9.44.080 (Carrying Concealed Firearms in Sensitive Places) and Section 9.44.090 (Severability) of Chapter 9.44 (Firearms) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code

Adopt Ordinance No. 3204-22 to add Section 9.44.070 (Possession of Firearms on City Property), Section 9.44.080 (Carrying Concealed Firearms in Sensitive Places) and Section 9.44.090 (Severability) of Chapter 9.44 (Firearms) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code.

The motion carried with the following vote:

Yes: 6 - Mayor Klein
Vice Mayor Cisneros
Councilmember Larsson
Councilmember Melton
Councilmember Din
Councilmember Spitaleri

No: 1 - Councilmember Hendricks

ADJOURNMENT TO SPECIAL MEETING OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

Mayor Klein adjourned the Council meeting to the special meeting of the Successor Agency to the Redevelopment Agency at 7:27 p.m.

7 P.M. (OR SOON THEREAFTER) SPECIAL MEETING OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

Call to Order

Agency Chair Klein called the meeting to order at 7:27 p.m.

Roll Call

Present: 7 - Agency Chair Larry Klein
Agency Vice Chair Alysa Cisneros
Agency Member Gustav Larsson
Agency Member Glenn Hendricks
Agency Member Russ Melton
Agency Member Omar Din
Agency Member Anthony (Tony) Spitaleri

Oral Communications

No speakers.

Consent Calendar

Public Comment opened at 7:29 p.m.

No speakers.

Public Comment closed at 7:29 p.m.

MOTION: Agency Vice Chair Cisneros moved and Agency Member Larsson seconded the motion to approve agenda item 2.A.

The motion carried with the following vote:

Yes: 7 - Agency Chair Klein
Agency Vice Chair Cisneros
Agency Member Larsson
Agency Member Hendricks
Agency Member Melton
Agency Member Din
Agency Member Spitaleri

No: 0

- 2.A** [22-1123](#) Approve the Fourth Amendment to Outside Counsel Services Agreement Between the Successor Agency to the Redevelopment Agency of the City of Sunnyvale and Goldfarb & Lipman and Approve Budget Modification No. 5 in the Amount of \$100,000

Authorize the Agency Counsel to execute a Fourth Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Goldfarb & Lipman to increase the not-to-exceed amount by \$100,000, for a new not-to-exceed contract amount of \$375,000 and extend the term of the agreement through December 2025.

ADJOURN SPECIAL SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY MEETING

Agency Chair Klein adjourned the meeting at 7:30 p.m.

ADJOURNMENT TO JOINT MEETING OF THE CITY COUNCIL AND SUNNYVALE FINANCING AUTHORITY

Mayor Klein adjourned the Council meeting to the Joint Meeting of the City Council and Sunnyvale Financing Authority at 7:30 p.m.

7 P.M. (OR SOON THEREAFTER) JOINT MEETING OF THE CITY COUNCIL AND SUNNYVALE FINANCING AUTHORITY

Call to Order

Pursuant to Government Code Subdivision 54953(e), Authority Members / Councilmembers had the opportunity to participate in the meeting telephonically; pursuant to state law, the City Council made the necessary findings by adopting Resolution No. 1089-21, reaffirmed on November 29, 2022 and the Financing Authority made the necessary findings by adopting Resolution No. 1105-22FA, reaffirmed on November 29, 2022.

Authority Chair / Mayor Klein called the Sunnyvale Financing Authority meeting to

order at 7:31 p.m.

Roll Call

Present: 7 - Authority Chair / Mayor Larry Klein
Authority Vice Chair / Vice Mayor Alysa Cisneros
Authority Member / Councilmember Gustav Larsson
Authority Member / Councilmember Glenn Hendricks
Authority Member / Councilmember Russ Melton
Authority Member / Councilmember Omar Din
Authority Member / Councilmember Anthony (Tony) Spitaleri

Oral Communications

No speakers.

Consent Calendar

Public Comment opened at 7:34 p.m.

No speakers.

Public Comment closed at 7:34 p.m.

MOTION: Authority Chair Cisneros moved and Authority Member Din seconded the motion to approve agenda item 3.A through 3.B.

The motion carried with the following vote:

Yes: 7 - Authority Chair Klein
Authority Vice Chair Cisneros
Authority Member Larsson
Authority Member Hendricks
Authority Member Melton
Authority Member Din
Authority Member Spitaleri

No: 0

3.A [22-1138](#) Approve Sunnyvale Financing Authority Meeting Minutes of November 29, 2022

Approve the Sunnyvale Financing Authority Meeting Minutes of November 29, 2022 as submitted.

3.B [22-1139](#) Reconsider and Affirm Resolution No. 1105-22FA; and Make Findings Pursuant to Government Code Section 54953(e) (AB

361) to Continue Virtual Public Meetings for the Sunnyvale
Financing Authority During the COVID-19 State of Emergency

Affirm Resolution 1105-22FA; and make findings pursuant to Government Code Section 54953(e) (AB 361) to continue virtual public meetings for the Financing Authority during the COVID-19 State of Emergency:

1. The Financing Authority Board has found and determined that the state of emergency conditions related to COVID-19, as set forth in City of Sunnyvale Resolution No. 1154-22 adopted on November 1, 2022, and incorporated herein by reference, are on-going;
2. The Financing Authority Board finds that there is a need to continue teleconferencing for public meetings without posting the teleconferencing locations on the agenda and without requiring the teleconference locations to be accessible to the public during the current Governor-proclaimed COVID-19 state of emergency; and
3. The Financing Authority Board finds that the state of emergency continues to directly impact the ability of members of the Financing Authority to meet safely in person.

PUBLIC HEARINGS/GENERAL BUSINESS

- 4 [22-0746](#) Receive and File the FY 2021/22 Budgetary Year-End Financial Report, Annual Comprehensive Financial Report (ACFR), the Sunnyvale Financing Authority Financial Report, Agreed Upon Procedure Reports, and the Report to the City Council Issued by the Independent Auditors, and Approve Budget Modification No. 8 in the Amount of \$21,845,844

Director of Finance Tim Kirby and Benjamin Lau, Partner, MGO provided the staff report and presentation.

Public Hearing opened at 8:39 p.m.

No speakers.

Public Hearing closed at 8:39 p.m.

City Council

MOTION: Councilmember Hendricks moved and Councilmember Melton seconded the motion to approve Alternative 1. Receive and file the FY 2021/22 Budgetary Year-End Financial Report, Annual Comprehensive Financial Report (ACFR), and the Report to the City Council issued by the Independent Auditors; and Approve Budget Modification No. 8 in the amount of \$21,845,844.

The motion carried with the following vote:

Yes: 7 - Mayor Klein
Vice Mayor Cisneros
Councilmember Larsson
Councilmember Hendricks
Councilmember Melton
Councilmember Din
Councilmember Spitaleri

No: 0

Sunnyvale Financing Authority

MOTION: Authority Member Melton moved and Authority Member Larsson seconded the motion to approve Alternative 3: Receive and file the FY 2021/22 Sunnyvale Financing Authority Financial Report.

The motion carried with the following vote:

Yes: 7 - Authority Chair Klein
Authority Vice Chair Cisneros
Authority Member Larsson
Authority Member Hendricks
Authority Member Melton
Authority Member Din
Authority Member Spitaleri

No: 0

ADJOURN JOINT CITY COUNCIL AND SUNNYVALE FINANCING AUTHORITY MEETING

Chair / Mayor Klein adjourned the meeting at 8:50 p.m.

RECONVENE TO CITY COUNCIL MEETING

City Council took a recess at 8:50 p.m. and Mayor Klein reconvened the City Council meeting at 9:01 p.m. with all Councilmembers present.

PUBLIC HEARINGS/GENERAL BUSINESS

- 5** [22-1124](#) Consider Request from Second Harvest of Silicon Valley for Forgiveness of Community Development Block Grant (CDBG) Loan

Housing Officer Jenny Carloni provided the staff report.

Public Hearing opened at 9:25 p.m.

Tracy Weatherby, Vice President, Strategy and Advocacy, Second Harvest of Silicon Valley, spoke to the services Second Harvest provides to the Sunnyvale area.

Leslie Bacho, Chief Executive Officer, Second Harvest of Silicon Valley, communicated their support for the loan forgiveness being considered and how Second Harvest needs financial support to continue providing necessary community services.

Marie Bernard, Executive Director, Sunnyvale Community Services, shared how Second Harvest of Silicon Valley provides significant support to Sunnyvale Community Services and support for the City forgiving the outstanding loan.

Rich Parenteau spoke to the important community services Second Harvest of Silicon Valley provides.

Public Hearing closed at 9:34 p.m.

MOTION: Councilmember Hendricks moved and Vice Mayor Cisneros seconded the motion to not approve the CDBG loan forgiveness request, do not require immediate repayment of the CDGB loan, and direct staff to return in January with an agenda item providing Second Harvest of Silicon Valley a grant from the Council Service Level Set Aside with a stipulation to repay their outstanding CDGB loan with the grant.

The motion carried with the following vote:

Yes: 7 - Mayor Klein
Vice Mayor Cisneros
Councilmember Larsson
Councilmember Hendricks
Councilmember Melton
Councilmember Din
Councilmember Spitaleri

No: 0

6 [22-1133](#) Introduce an Ordinance to Amend Chapter 19.50 of Title 19 of the Sunnyvale Municipal Code to Allow Modifications of Legal

Non-Conforming Single-Family and Two-Family Dwelling
Uses in Non-Residential Zoning Districts (Study Issue 21-01)
and Find that the Action is Exempt from the California
Environmental Quality Act Pursuant to Guidelines Section
15061(b)(3) (Planning File Number 2022-7591)

Associate Planner Drew Taplin provided the staff report and presentation.

Public Hearing opened at 9:58 p.m.

No speakers.

Public Hearing closed at 9:58 p.m.

MOTION: Councilmember Larsson moved and Councilmember Din seconded the motion to approve Alternative 1: Alternative 1: Introduce an Ordinance (Attachment 3 to the report) to amend Chapter 19.50 (Nonconforming Buildings and Uses) of Title 19 (Zoning) of the Sunnyvale Municipal Code to allow modifications of legal non-conforming single-family and two-family dwelling uses in non-residential zoning districts and find that the project is exempt from the California Environmental Quality Act pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).

City Clerk David Carnahan read the Ordinance title into the record.

The motion carried with the following vote:

Yes: 7 - Mayor Klein
Vice Mayor Cisneros
Councilmember Larsson
Councilmember Hendricks
Councilmember Melton
Councilmember Din
Councilmember Spitaleri

No: 0

- 7 [22-1134](#) Adopt Two (2) Urgency Interim Ordinances and Introduce Three (3) Ordinances Amending Titles 16 (Buildings and Construction) and 19 (Zoning) of the Sunnyvale Municipal Code Related to new State Legislation on Accessory Dwelling Units, Parking Minimums, and Large Family Child Care Homes and Find that the Action is Exempt from the California Environmental Quality Act Pursuant to CEQA Guidelines Sections 15061(b)(3), 15378(b)(5), Public Resources Codes Section 21080.17 and Health & Safety Code Section

1597.45(d) (Planning File Number 2022-7711)

Principal Planner Amber Blizinski provided the staff report and presentation.

Public Hearing opened at 10:29 p.m.

No speakers.

Public Hearing closed at 10:29 p.m.

MOTION: Councilmember Larsson moved and Vice Mayor Cisneros seconded the motion to approve Alternatives 1, 2 and 3:

- 1.a) Adopt an Urgency Interim Ordinance (Attachment 2 to this report) amending Title 19 (Zoning) of the Sunnyvale Municipal Code related to new state legislation on Accessory Dwelling Units;
- 1.b) Introduce the Ordinance (Attachment 3 to this report) amending Titles 16 (Building and Construction) and 19 (Zoning) of the Sunnyvale Municipal Code related to new state legislation on Accessory Dwelling Units; and
- 1.c) Find that these actions are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3), 15378(b)(5), Public Resources Codes Section 21080.17 and Health & Safety Code Section 1597.45(d).
- 2.a) Adopt an Urgency Interim Ordinance (Attachment 4 to this report) Amending Title 19 (Zoning) of the Sunnyvale Municipal Code related to new state legislation on Parking Minimums;
- 2.b) Introduce an Ordinance (Attachment 5 to this report) Amending Title 19 (Zoning) of the Sunnyvale Municipal Code related to new state legislation on Parking Minimums; and
- 2.c) Find that these actions are exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), 15378(b)(5), Public Resources Codes Section 21080.17 and Health & Safety Code Section 1597.45(d).
3. Introduce the Ordinance (Attachment 6 to this report) Amending Title 19 (Zoning) related to Large Family Child Care Homes and find that the action is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), 15378(b)(5), Public Resources Codes Section 21080.17 and Health & Safety Code Section 1597.45(d).

City Clerk David Carnahan read the Ordinance titles into the record.

The motion carried with the following vote:

Yes: 7 - Mayor Klein
Vice Mayor Cisneros
Councilmember Larsson
Councilmember Hendricks
Councilmember Melton
Councilmember Din
Councilmember Spitaleri

No: 0

- 8** [22-0857](#) Consider Amending the Employment Agreement between the City of Sunnyvale and City Manager Kent Steffens to Modify the City Manager Salary and/or Benefits, and Adopt A Resolution Amending the City's Salary Schedule to Increase the City Manager Salary Range

City Manager Kent Steffens stated agenda item 8 relates to his employment agreement, he recused himself due to this conflict of interest, and left the meeting at 10:32 p.m.

Director of Human Resources Tina Murphy provided the staff report.

Public Hearing opened at 10:38 p.m.

No speakers.

Public Hearing closed at 10:38 p.m.

MOTION: Councilmember Melton moved and Councilmember Larsson seconded the motion to approve Alternative 1: Adopt a Resolution amending the City's Salary Resolution to increase the City Manager's salary range; provide direction to increase the City Manager's salary by 6.0%, provide a one-time deferred compensation 457 Plan contribution of \$15,000, and add language that allows the City Manager to use Paid Time Off (PTO) to extend the retirement separation date within the payroll calendar year, as determined by the Mayor, effective December 25, 2022; and authorize the Mayor to approve a Fifth Amendment to the City Manager's Employment Agreement, in a form approved by the City Attorney consistent with the City Council's direction on salary and benefits.

The motion carried with the following vote:

Yes: 7 - Mayor Klein
Vice Mayor Cisneros
Councilmember Larsson
Councilmember Hendricks
Councilmember Melton
Councilmember Din
Councilmember Spitaleri

No: 0

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Hendricks reported the Valley Transportation Agency (VTA) Board of Directors initiated an independent investigation regarding the 2021 VTA rail yard shooting. The investigation report is available on the VTA website.

Councilmember Din reported on a recent VTA Policy Advisory Committee meeting, including a report on the use of VTA owned land for unhoused services.

NON-AGENDA ITEMS & COMMENTS

-Council

Councilmember Larsson shared suggestions regarding proper government official communication during Council, Board and Commission meetings and suggestions for updating Council Policy 7.4.12 - Council Appointments to Intergovernmental Agencies.

Councilmembers Hendricks and Melton shared additional thoughts regarding Council Policy 7.4.12.

Mayor Klein reported City successes in 2022 and wished the community happy holidays.

-City Manager

City Manager Kent Steffens announced 2023 will be another year of accomplishments for the City.

INFORMATION ONLY REPORTS/ITEMS

[22-0918](#) Tentative Council Meeting Agenda Calendar

[22-0922](#) Board/Commission Meeting Minutes

[22-1097](#) Information/Action Items

[22-1095](#) Local Appointments List - Maddy Act (Information Only)

ADJOURNMENT

Mayor Klein adjourned the meeting at 11:13 p.m.