



City of Sunnyvale

Meeting Minutes City Council

Tuesday, October 27, 2015

5:00 PM

West Conference Room and Council
Chambers, City Hall, 456 W. Olive Ave.,
Sunnyvale, CA 94086

Special Meeting: Closed Session-5 PM | Regular Meeting-7 PM

7 P.M. COUNCIL MEETING

CALL TO ORDER

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

SALUTE TO THE FLAG

Mayor Griffith led the salute to the flag.

ROLL CALL

Present: 7 - Mayor Jim Griffith
Vice Mayor Tara Martin-Milius
Councilmember David Whittum
Councilmember Pat Meyering
Councilmember Jim Davis
Councilmember Glenn Hendricks
Councilmember Gustav Larsson

CLOSED SESSION REPORT

Vice Mayor Martin-Milius reported the Council met in Joint Closed Session with the Successor Agency to the Redevelopment Agency on October 20, 2015 pursuant to California Government Code Section 54956.9: Conference with Legal Counsel – Existing Litigation (Paragraph (1) of subdivision (d) of Section 54956.9) 1. Consolidated Cases: Successor Agency to the Redevelopment Agency of the City of Sunnyvale v. Matosantos, Case No. 34-2013-80001499; and Santa Clara County Office of Education v. Successor Agency, Case No. 34 -2013-80001627 2. Successor Agency to the Redevelopment Agency of the City of Sunnyvale v. Michael Cohen, Emily Harrison, et al., Case No. 34-2015-80002067; nothing to report.

Vice Mayor Martin-Milius reported the Council met in Joint Closed Session with the Successor Agency to the Redevelopment Agency on October 20, 2015 pursuant to

California Government Code Section 54956.8: Conference with Real Property Negotiators, Properties: Sunnyvale Town Center, Downtown Specific Plan Block 18 Agency negotiators: Successor Agency Executive Director/City Manager Deanna J. Santana Negotiating Parties: Wells Fargo Bank, NA Under negotiation: Terms of 2010 Amended Disposition and Development Agreement; nothing to report.

Vice Mayor Martin-Milius reported the Council met in Closed Session on October 27, 2015 pursuant to California Government Code Section 54957: Public Employee Appointment, Title: City Attorney; direction was given.

SPECIAL ORDER OF THE DAY

[15-0891](#) SPECIAL ORDER OF THE DAY - Santa Clara Valley Science and Engineering Fair 2015 Award Recipients

Mayor Griffith and Susan Lange, Santa Clara Valley Science and Engineering Fair Association Board, presented certificates of congratulations to the student winners of the 2015 Science and Engineering Fair Awards.

ORAL COMMUNICATIONS

Vice Mayor Martin-Milius announced Energize.inSunnyvale.com events.

Jeanine Stanek, Sunnyvale Heritage Museum, announced upcoming events of the museum.

Mark Pool spoke regarding a single-story combining district at Greenwood Manor.

Michael Goldman spoke regarding examples of Library buildings around the region and country and provided a PowerPoint presentation.

CONSENT CALENDAR

Councilmember Meyering pulled Consent Calendar Items 1.A, 1.B, 1.E, 1.F, and 1.G.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve Consent Calendar Items 1.C, 1.D, 1.H, and 1.I.

The motion carried by the following vote:

Yes: 7 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Meyering
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 0

1.A [15-0822](#) Approve City Council Meeting Minutes of October 13, 2015

Public Hearing opened at 10:53 p.m.

No speakers.

Public Hearing closed at 10:53 p.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Hendricks seconded the motion to approve the City Council Meeting Minutes of October 13, 2015 as submitted.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.B [15-0942](#) Approve the List(s) of Claims and Bills Approved for Payment by the City Manager

Public Hearing opened at 10:54 p.m.

No speakers.

Public Hearing closed at 10:54 p.m.

MOTION: Councilmember Davis moved and Vice Mayor Martin-Milius seconded the motion to approve the list(s) of claims and bills.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.C [15-0197](#) Approve Loan and Regulatory Agreements with MP Morse Court Associates, LP for a Loan of \$1 Million in Housing Mitigation Funds to Rehabilitate Morse Court Apartments

Find that the project is exempt from CEQA pursuant to Guideline 15301(d) and approve the Agreements with MP Morse Court Associates, LP in substantially the form provided in Attachments 1 and 2 to the report, and authorize the City Manager to execute the Agreements in final form as approved by the City Attorney.

1.D [15-0868](#) Award of Contract for Seven Police Interceptor Utility Vehicles for Patrol Use (F16-17)

Award a contract in the amount of \$205,599 (\$189,061 plus sales tax in the amount of \$16,538), in substantially the same form as the draft purchase order attached to the report, to Serramonte Ford of Colma for seven police Interceptor utility vehicles.

1.E [15-0911](#) Award of Contract for Removal of Overgrown Vegetation from the Oxidation Ponds and Levee Areas at the Water Pollution Control Plant (F16-23)

Public Hearing opened at 10:59 p.m.

No speakers.

Public Hearing closed at 10:59 p.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to 1) Award a contract, in substantially the same form as the draft contract attached to the report in the amount not to exceed \$244,740 to Aquatic Environments, Inc. for the Removal of Overgrown Vegetation from Oxidation Ponds at the WPCP; and 2) approve a 10% contract contingency in the amount of \$24,474.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

- 1.F** [15-0925](#) Award of Bid No. PW16-05 for Traffic Signal Reconstruction at Mathilda/Olive Avenues, Make a Finding of CEQA Categorical Exemption, and Approve Budget Modification No. 10 to appropriate \$85,000 in grant funding

Public Hearing opened at 10:59 p.m.

No speakers.

Public Hearing closed at 10:59 p.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to 1) Make a finding of CEQA categorical exemption pursuant to Class 1 Section 15301(a) for existing facilities; 2) approve Budget Modification No. 10 to provide project funding; 3) award a contract, in substantially the same format as Attachment 2 to the report and in the amount of \$547,532 to Tennyson Electric Inc.; and 4) approve a 10% construction contingency in the amount of \$54,532.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

- 1.G** [15-0927](#) Award Bid No. PW16-04 for Concrete Sidewalk, Curb, Gutter and Driveway Approaches, Approve Budget Modification No. 11 in the Amount of \$210,919 and Make Finding of CEQA Categorical Exemption

Public Hearing opened at 10:59 p.m.

No speakers.

Public Hearing closed at 10:59 p.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to 1) Make a finding of CEQA categorical exemption pursuant to Class 1 Section 15301(c) for existing facilities; 2) approve Budget Modification No. 11 to provide project funding; 3) award a contract, in substantially the same format as Attachment 2 to the report and in the amount of \$2,016,879 to JJR Construction Inc.; and 4) approve a 10% construction contingency in the amount of \$201,688.

The motion carried by the following vote:

Yes: 6 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

1.H [15-0932](#) Appoint New Member to the NOVA Workforce Board

Appoint Mr. Lionel de Maine to the NOVA Workforce Board.

1.I [15-0926](#) Receive and File the City of Sunnyvale Investment Report -
3rd Quarter 2015

Receive and file the City of Sunnyvale FY 2015/16 Period 3 investment report 3rd Quarter 2015.

PUBLIC HEARINGS/GENERAL BUSINESS

2 [15-0971](#) REQUEST FOR CONTINUATION to November 10, 2015
File #: 2015-7259
Location: 423 E. Maude Ave. (APN: 204-21-006)
Zoning: R-3 (Medium Density Residential)
Proposed Project: Call for Review by the City Council of a
decision by the Planning Commission approving related
applications on a 0.59-acre site:
DESIGN REVIEW to allow 11 townhome units;
VESTING TENTATIVE MAP to subdivide one lot into 11 lots
plus one common lot, and
VARIANCE to allow an average front yard setback along
Maude Ave. of 18 feet 10 inches, where 20 feet average is
required.
Applicant / Owner: Classic Communities / Robert Alonso
Trustee

Environmental Review: Mitigated Negative Declaration

Director of Community Development Hanson Hom provided a brief report.

Public Hearing opened at 7:25 p.m.

No speakers.

Public Hearing closed at 7:25 p.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Davis seconded the motion to continue this item to November 10, 2015.

The motion carried by the following vote:

Yes: 7 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Meyering
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 0

- 3** [15-0757](#) Introduce an Ordinance to Amend Various Sections of the Sunnyvale Municipal Code Title 19 (Zoning) Related to Child Care Facilities (CDD 15-11); Approve Guidelines for Commercial Child Care; and Finding of CEQA Exemption Pursuant to CEQA Guideline 15061(b)(3). (Planning File: 2015-7149) (Continued from August 25, 2015)

Principal Planner Andrew Miner provided the staff report. Director of Community Development Hanson Hom and City Attorney Joan Berger provided additional information.

Public Hearing opened at 8:30 p.m.

No speakers.

Public Hearing closed at 8:30 p.m.

MOTION: Councilmember Hendricks moved and Vice Mayor Martin-Milius seconded the motion to approve Alternatives 1, 2 and 3: 1) Find that the project is exempt from CEQA under Guideline 15061(b)(3); 2) Introduce an ordinance (Attachment 3) to amend Chapters 19.12, 19.18, 19.20, 19.22, 19.24, 19.29 and 19.98 of Title 19 of the Sunnyvale Municipal Code to consolidate business sponsored child care facilities into one category and remove the upper limit on the

number of children allowed at these child care facilities; require a Use Permit (UP) for business sponsored child care facilities in industrial zoning districts and a Special Development Permit (SDP) in the Moffett Park Specific Plan area; and require a Miscellaneous Plan Permit (MPP) for commercial child care facilities with 30 children or fewer in commercial, office and public facilities zoning districts (excludes residential districts); and 3) Approve the Guidelines for Commercial Child Care Centers; with a modification to change the on-site language, that the employee must be an employee of the company and that employee's work location must be inside the City of Sunnyvale.

FRIENDLY AMENDMENT: Councilmember Whittum offered a friendly amendment regarding page 5 of Attachment 2, to guide that outdoor play times preferably be limited to 8 a.m. to 6 p.m. adjacent to residential uses. Councilmember Hendricks accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Whittum offered a friendly amendment that child care centers located at shopping centers should not be located where there would be outdoor activity space conflicts. Councilmember Hendricks accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Whittum offered a friendly amendment to add that child care centers should not be located on stand-alone properties inside nodes. Councilmember Hendricks accepted the friendly amendment.

AMENDMENT: Councilmember Whittum moved to amend the motion and Councilmember Meyering seconded to restore the strikethrough language on page 1 of Attachment 3, 19.12.040 "C" in paragraphs (2)(a) and (b) that states, "The location of the center shall be at least one thousand feet from another industrial property, or owners of industrial properties located within one thousand feet of the child care center must record an agreement not to use acutely hazardous materials as listed in the state's CalARP program."

The motion to amend failed by the following vote:

- Yes: 3** - Councilmember Whittum
Councilmember Meyering
Councilmember Davis
- No: 4** - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Hendricks
Councilmember Larsson

The main motion carried by the following vote:

- Yes:** 4 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Hendricks
Councilmember Larsson
- No:** 3 - Councilmember Whittum
Councilmember Meyering
Councilmember Davis

City Clerk Kathleen Franco Simmons read the ordinance title following the Closed Session Reports.

- 4 [15-0984](#) Reintroduce Ordinance Amending Chapter 9.41 (Massage Establishments and Massage Therapists) and Title 19 (Zoning) of the Sunnyvale Municipal Code and Adopt Revised Resolution Amending Fees, Rates and Charges Related to Massage Establishment Permits, Section 7.06 of the FY2015/16 Fee Schedule

Management Analyst Elaine Ketell provided the staff report. Director of Public Safety Frank Grgurina, City Attorney Joan Borger and Public Safety Captain Jeff Hunter provided additional information.

Public Hearing opened at 9:37 p.m.

Raymond Greer expressed concerns regarding the charge for sole proprietors and requested flexibility in the ordinance regarding the requirement that massage therapists must be State licensed by April 2016.

Nathania Apple requested that some of the undue burden regarding fees be taken off small businesses.

David Wessel spoke regarding the need for increased enforcement ability for the Department of Public Safety and expressed concern regarding the requirement for an interview with Public Safety, and provided a PowerPoint presentation.

Eileen Cavlan requested consideration of a sliding fee scale for certified therapists who are sole proprietors.

Stephen Maier spoke in support of sole proprietors and recommended restructuring the fee for sole providers and provided a PowerPoint presentation.

Dwight Christensen spoke regarding the significant hours and cost of training to obtain a California Massage Therapy Council certificate.

Anne Valta spoke in opposition to the fee.

Katie Anderson spoke in support of massage therapists in Sunnyvale.

Public Hearing closed at 10:11 p.m.

MOTION: Councilmember Davis moved and Councilmember Hendricks seconded the motion to approve reintroduce Ordinance Amending Chapter 9.41 (Massage Establishments and Massage Therapists) and Title 19 (Zoning) of the Sunnyvale Municipal Code and Adopt Revised Resolution Amending the City's Fees, Rates and Charges Resolution Pertaining to Adult Entertainment and Massage Establishment Licensing and Permitting Fees, and Superseding Resolution No. 717-15.

FRIENDLY AMENDMENT: Councilmember Hendricks offered a friendly amendment to replace the CAMTC certified sole proprietor Application Fee and Annual Renewal Fee of \$999 in Section D of the Fee Schedule with \$250. Councilmember Davis accepted the friendly amendment.

Councilmember Larsson confirmed with Councilmember Davis that the motion includes reorganizing the fee table to separate adult entertainment from massage establishments.

Following discussion, the friendly amendment was modified to: direct staff to add a new line to Section D of the fee schedule for CAMTC certified sole proprietors with an Application Fee and Annual Renewal Fee of \$250.

City Clerk Kathleen Franco Simmons read the ordinance title.

The motion carried by the following vote:

Yes: 7 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Whittum
Councilmember Meyering
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 0

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Davis reported he attended a meeting of the Emergency Operations Council in which the El Nino storms were discussed.

Vice Mayor Martin-Milius reported she attended a meeting regarding the Civic Center.

NON-AGENDA ITEMS & COMMENTS**-Council**

Councilmember Hendricks requested information regarding the monthly report from the County regarding the cold weather shelter.

Vice Mayor Martin-Milius reported she attended the Ellis School third grade student activity at City Hall, the Pancake Breakfast at Fire Station 2 and an award ceremony at Kumon.

Councilmember Larsson reported his attendance at the California Conference of the American Planning Association.

Mayor Griffith reported his attendance at the SNAP class graduation and announced the arrival of new fire trucks.

-City Manager

None.

INFORMATION ONLY REPORTS/ITEMS

[15-0384](#) Tentative Council Meeting Agenda Calendar

[15-0767](#) Information/Action Items

[15-0236](#) Board/Commission Meeting Minutes

ADJOURNMENT

Mayor Griffith adjourned the meeting at 11:07 p.m.