

## RESPONSE TO COUNCIL QUESTIONS RE: 6/29/2021 CITY COUNCIL AGENDA

**Agenda Item #: 1G**

**Title:** Award a Contract to Innovative Interfaces, Inc. for Maintenance, Support and Hosting of Integrated Library System (ILS) Software and Add-on Modules (F21-055)

Council Question: This is offsite hosting for these Library services. Have they met their uptime goals? Have we done a security audit of Innovative?

Staff Response: Innovative provided 100% infrastructure uptime during the past year for all three Sunnyvale Public Library servers, and all goals were met. According to IT, they do not conduct a formal security audit for each Software as a Service (SaaS) or hosting vendor. Instead, they conduct a security review in which vendors present their security posture and infrastructure. Most, if not all vendors who provide SaaS or hosting services use either Amazon Web Services (AWS) or Microsoft Azure. Both have well established security protocols and regularly conduct their own audits as part of their services. As part the City's security review, IT reviews the vendors' Payment Card Industry Data Security Standard compliance and asks for proof. IT does conduct a comprehensive security audit every few years with a third-party vendor. This audit consists of penetration testing (which includes trying to access SaaS and hosted services), brute force attacks, application security, phishing attacks, and review of the City's network access protocol and policies.

**Agenda Item #: 2**

**Title:** Proposed Utility Rate Increases for FY 2021/22 Rates for Water, Wastewater, and Solid Waste Utilities for Services Provided to Customers Within and Outside City Boundaries; Finding of California Environmental Quality Act (CEQA) Exemption Pursuant to Public Resource Code Section 21080(b)(8) and CEQA Guidelines Section 15273

Council Question: In going through the attachments, I didn't see a reference to Moffett Field. Don't we provide sewage and/or water to the southern portion of the Moffett Field development site?

Staff Response: The only sewer service provided by the City currently to a Moffett Field customer is sewer service to NASA/Ames through a discharge flow meter. This service has and continues to be billed at the City's standard strength commercial sewer rate and follows the same terms and conditions of all commercial sewer customers.

**Agenda Item #: 3**

**Title:** Introduce an Ordinance Amending Chapter 19.67 (Below Market Rate Ownership Housing) of the Sunnyvale Municipal Code to Modify the Inclusionary Housing Program

Council Question: The ordinance (19.67.120) removes an annual report on BMRs in the City. Is this captured in any other yearly update document?

Staff Response: Yes, information related to the BMR program is provided to the Council annually via the City's Community Condition Indicators presented with the Budget and through the Annual Progress Report of the Housing Element every April. Staff noticed that the reporting requirement outlined in the previous ordinance was redundant.

Council Question: If a developer was going to pay the in-lieu fee (for fractional units OR... if Council approved a larger in-lieu percentage) , the Developer doesn't have to pay anything to the City until all units are sold, correct? Couldn't the city require that at least 50% (or some other percentage) of the estimated in-lieu fee be paid when construction starts, so that the city could utilize the in-lieu fee a lot sooner? Does staff have a suggestion of where this might go/wording in the ordinance?

Staff Response: Our in-lieu and fractional fees are required to be paid as each home in the development sells. Staff places a lien on each home in the development (a demand for payment) in escrow and as each home sells, the City receives the fees for that unit. Staff has found this to be an appreciated method of fee collection as it reduces the initial burden on developers since the majority of other fees are collected at building permit issuance. Establishing a new method can be beneficial; however, one concern with a portion of the fee due at building permit issuance is that should the market slow and sales prices drop, the required fee would then also be reduced as it is based off of sales price and we would be required to refund the developer for any overage in fees. Because of this, staff would not be able to utilize the fees sooner as we would need to hold all fees until the final unit is sold to ensure a refund won't be required and risk over allocating the BMR funds.

Council Question: Many cities have in-lieu requirements for project less than 8 units (either greater than 2 or greater than 4 units). Approximately how many projects  $\leq 8$  units have been built in the last 5 years? Does Staff have any reaction/suggestions for in-lieu fees (or housing mitigation fee) for smaller developments?

Staff Response: Since 2014, 7 projects have been approved with less than 10 units. Only four of those sites have been built, representing 19 newly constructed units (one site preserved an existing single-family home). Both approved and built projects ranged in size from 1-7 units. Average size of approved projects is 4.4 units and average size of built projects is 4.75 units. Staff did not study the addition of an in-lieu fee for smaller developments as the scope of the study did not include that provision. An additional fee on smaller developments can be seen as a barrier to the development of housing; the smaller developments tend to be more difficult in-fill sites.

Council Question: How does our in-lieu of 7% of final sale price compare in general to the a Square Foot charge of other cities? Do you have better comparison/examples for similar sized projects and what the resulting in lieu fees for similar projects in other cities?

Staff Response: Staff analyzed a recent development that obtained Council approval in 2019 to pay an in-lieu fee. Based on the development size and the total anticipated fee (which has started to be received by the City in 2021), the fee equates to approximately \$65/square foot. This amount would decrease in a lower market, and increase in a high market as we are currently in. Attachment 5 of the RTC outlines all other fees in neighboring jurisdictions; for example, in San Jose, a flat fee is charged per unit whereas Mountain View has a square footage fee of \$56.24/sq.ft. for most residential developments and a fee of \$129/sq.ft. for townhome style developments. When analyzing our fees, staff identified the 7% fee as appropriate for Sunnyvale.

**Agenda Item #: 7**

**Title:** Adoption of Emergency Ordinance of the City of Sunnyvale to Temporarily Suspend Evictions for Nonpayment of Rent by Residential Tenants Impacted by the COVID-19 Emergency Effective From July 1, 2021 Through September 30, 2021

Council Question: Based upon the Eviction Moratorium that the State Legislature is approving on Monday, is action still required by Council on this?

Staff Response: If the State adopts an eviction moratorium, then this item can be removed from the Agenda. Staff is monitoring the adoption and signing of this Bill by the Governor and will have a recommendation for Council about whether to remove the item by the start of the Council meeting.

**Agenda Item #: 9**

**Title:** Appoint Applicants to the Redistricting Commission

Council Question: The default selection process described by staff on June 17, at the end of the interviews, differs in an important way from the default process outlined in tonight's staff report. Both processes start with an initial Council vote on all applicants, but they use the result of that vote in very different ways. The June 17 process uses the initial vote to select a pool for Council to sort through; the ranking of the applicants (number of affirmative votes) is one data point for Council to consider but does not by itself determine who is appointed. The flexible "sorting through" step makes sense considering other broad goals in the Municipal Code such as having one to two members per district (SMC 2.31.030(a)) and members that "as a group, reasonably reflect the diversity of the city" (SMC 2.31.030(c)(2)). But the process in tonight's staff report restricts each step to applicants with the most affirmative votes, with only a limited number of tie-breaking votes. This process has less flexibility, making it harder to achieve the balance called for in the Municipal Code. What led staff to change their approach to mirroring the standard board and commission appointment process, and change it in a way that is less aligned with the Municipal Code's other goals?

Some procedural suggestions:

- Share a screen that shows appointments thus far in real time. This will help everyone keep track of progress.
- Have a way to make tentative appointments so that Council can shuffle appointments without going through a removal process. When trying to balance multiple factors, an imbalance sometimes doesn't become apparent until a slate is nearly filled out.

Staff Response: Staff plan to follow [Municipal Code Chapter 2.31 Redistricting](#) to guide the selection process of Redistricting Commissioners. When asked about the appointment process during the May 17 commission interviews, staff stated that it was our intention to mirror the process used for other commissions and described it from memory. With further review, staff has described below the process that applies if unmodified by Council.

The report to council cites language from [Council Policy 7.2.19: Board and Commissions](#). This policy states in part, *"Individual Candidate Votes: The Mayor will announce by board or commission each vacancy including its term, and then will read each applicant's name. Council will vote on each*

*applicant. The candidate receiving the most affirmative votes and at least four affirmative votes will be appointed. Should no candidate receive at least four affirmative votes, the vacancy will remain. The process is repeated for each board or commission.”*

As applied to the Redistricting Commission appointment process (unless the appointment process is modified by Council), after voting for all candidates from District 1 the candidate with the most affirmative votes will be appointed as the commissioner for District 1. Districts 2– 6 will follow one by one in numerical order. The appointment of the seventh commissioner and all alternates would be done via Council motion after the results of the appointments to Districts 1 – 6 are known.

The Redistricting Ordinance does not require that a commissioner be appointed from each of the six districts. If the voting process above were used and no candidate received at least four votes during the initial round of voting, no applicant from that district would be appointed and that vacancy would be filled by Council motion. Section 2.31.030 of the Redistricting Ordinance states, *“The city council will use its best efforts to make appointments that achieve the goal of having at least one and not more than two members per district on the redistricting commission, based on residency at the time of application, and at least one but not more than two alternates per district. However, these numbers are not required if a majority of councilmembers agree to a different composition that achieves the other standards described in this section.”*

Staff will share a screen showing vote tallies in real time. Commissioners will be listed by district, then by name. After the initial round of voting, any applicants receiving less than four votes will be removed from the list. Staff will re-sort the list to show candidates by district, then by highest to lowest affirmative votes. The Mayor will then ask Council for motions.

Council has the discretion to approve a different appointment process under the municipal code.