

RESPONSE(S) TO COUNCIL QUESTION(S)
RE: 2/9/2016 AGENDA

Agenda Item #: 1.A

Title: Approve City Council Meeting Minutes of January 5, 2016

Question: In the 1/5 minutes, I believe there is a missing motion from Councilmember Whittum (unseconded) after the vote described in item 5.

Staff Response: The Clerk's office has researched this and found the comment to be accurate. A memo with revised draft Minutes for 1/5 has been prepared and will be provided by email separately. Hard-copies will be placed on the dais and in the public review binders at the Council meeting Tuesday, February 9.

Agenda Item #: 2

Title: Introduce an Ordinance Amending Chapter 9.28 (Regulation of Smoking) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code to Prohibit Smoking in All Outdoor Dining Areas, Near Doorways and Other Openings to Retail and Commercial Businesses, and in All Units and Common Areas of Multi-Family Residences

Question(s): 1. Would an ordinance governing multi-family units cause the City to require a clause in all new associations' CC&Rs? 2. I can understand prohibiting smoking inside multi-family units that share an HVAC system with other units, or in units that share a common hallway with other units. But if a complex doesn't have either of these, and smoking within the unit has no effect on other units or other residents, what's the "greater good" in prohibiting smoking inside people's own homes? 3. Could we restrict our ordinance to only those multi-family units that have either shared ventilation systems or common hallways?

Staff Response(s): 1. No. Units to which the ordinance applies would be required to abide by the Sunnyvale Municipal Code requirements regardless of CC&R provisions. 2. The only way to completely protect people from secondhand smoke exposure in multi-family housing units is to completely ban it. Secondhand smoke travels through more than just HVAC systems and hallways; it also travels through lighting fixtures, cracks in walls and shared walls, open windows, around plumbing, under doors, etc. Also, smoke can drift into nearby units when people smoke on balconies and patios, which are included in the definition of unit. A common complaint from those affected by secondhand smoke exposure in multi-family housing is that smoke drifts into their units from people smoking on balconies and patios nearby. 3. Yes, however, secondhand smoke exposure would not be completely eliminated, as explained in answer 2.

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Agenda Item #: 5

Title: Update and Possible Council Action on the Amended North County and West Valley Cities Proposal, and Funding Categories, as an Advocacy Position as Part of the Envision Silicon Valley Process

Question(s): 1. Have any other cities taken positions regarding the funding categories and proposal; and, if so, what are they? 2. Also, there is discussion about the possibility of a competing measure, being led by some representatives in Mountain View and Cupertino. 3. Does the noticing of this item allow us to provide direction regarding the City's position on a competing measure?

Staff Response(s): 1. Staff is aware of a number of cities that will be hearing a similar item and other cities that have already heard it such as Mountain View (support proposed allocation) and Los Gatos (did not support proposed allocation); however, staff does not have a full summary at this time. Staff is confirming the details, and actual vote, that the cities of Monte Sereno and Saratoga voted against. **2 and 3.** Staff is not aware of a proposed competing measure at this time.

Agenda Item #: 6

Title: Designate the Director of Public Works to Take Action on Final Maps and Offers of Dedication Stated on the Final Maps; Determine the Review Frequency of the Subject Delegation of Authority

Question(s): 1. What happens in a case where the final map is *not* substantially the same as the tentative map, both now and under the proposed ordinance? 2. If this change is approved, is there a Council appeal process if Council has a reason to disagree with the final map?

Staff Response(s): 1. Under both processes, when a final map is not in substantial compliance with the tentative map, it is not approved per section 66473 of the Subdivision Map Act which states, "A local agency shall disapprove a map for failure to meet or perform any of the requirements or conditions imposed by this division or local ordinance enacted pursuant thereto..." If a map is not substantially the same, the applicant is provided with comments to address the concerns. **2.** Generally an "interested party" may appeal, which in almost all cases would be the map applicant whose final map was disapproved by the director. Conceivably a Councilmember could appeal as an interested party if he/she disagreed with the director's ministerial review of the requirements of the final map.

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Agenda Item #: 6

Title: Designate the Director of Public Works to Take Action on Final Maps and Offers of Dedication Stated on the Final Maps; Determine the Review Frequency of the Subject Delegation of Authority

Question(s): 1. Who may appeal a decision pursuant to proposed Section 18.20.270(d)? 2. Existing SMC Section 19.98.070 has detailed procedures for zoning appeals such as filing requirements, appeal stays action, withdrawal of appeal, etc. Would it be beneficial to provide similarly detailed procedures in Section 18.20.270?

Staff Response(s): 1. Generally an "interested party" may appeal, which in almost all cases would be the map applicant whose final map was disapproved by the director. 2. Section 19.98.070 deals with zoning appeals of discretionary planning permits under the Zoning Code, which is a different process than map approvals. Staff does not believe a similar section is beneficial for final maps, because final map approvals are governed by the Subdivision Map Act and are ministerial in nature as long as the final map is in compliance with the requirements and conditions of the vesting tentative map. In fact, the final map may only be denied if accompanied by a finding of a failure to meet or perform a specific condition or requirement at the time of approval of the tentative map. (See Gov. Code sec. 66473.)

Agenda Item #: 7

Title: Budget Modification No. 17 to Appropriate Funds to Add Staff Positions in the Departments of Community Development, Public Safety and Public Works for Development Review and Construction Inspection Services and for On-call Building Inspection and Fire Inspection services and Authority to Establish Contracts

Question(s): 1. If we give this additional authority to the City Manager, would the City Manager be able to approve funds beyond the Development Enterprise Fund for this purpose? 2. Also, how will Council be notified when the City Manager exercises this authority?

Staff Response(s): 1. Delegating the authority for the City Manager to award contracts in excess of \$100,000 is limited to the two project appropriations for Fire Prevention supplemental staffing and Building Inspection supplemental staffing and would not be available for purposes outside this specific need. The City Manager would use this authority to flexibly issue contracts to individual vendors based on the availability of temporary staffing resources, staying within the appropriations limit. For example, based on the services available from the vendors, the City Manager might award two

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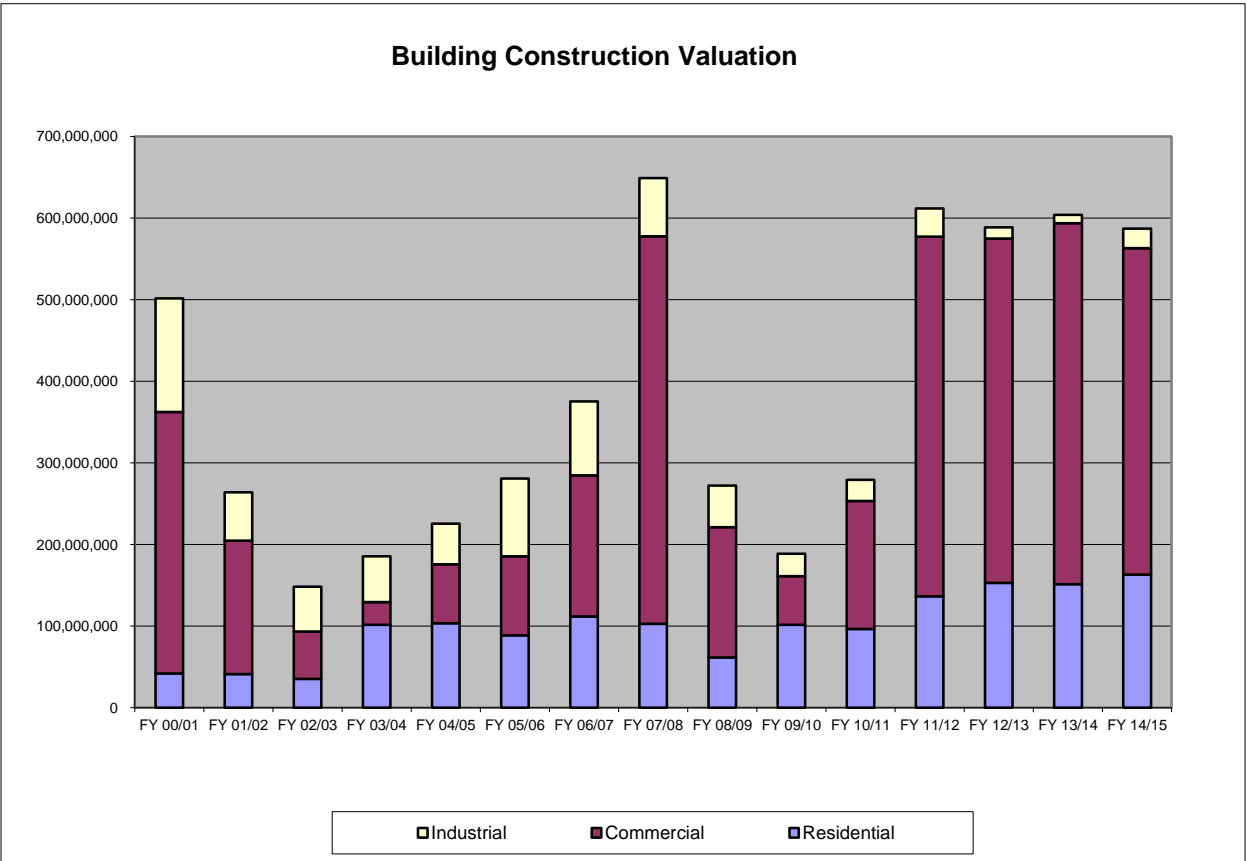
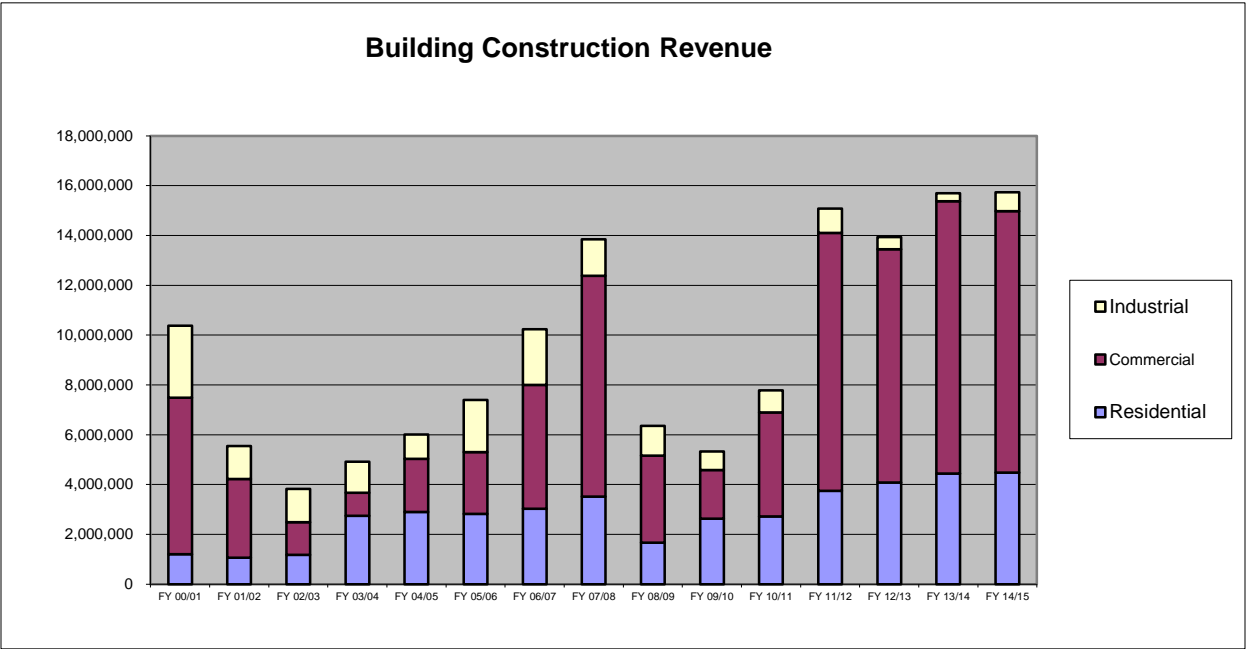
contracts for Building Inspection services, one for \$160,000 and another for \$65,000, staying under the total available budget of \$225,283. **2.** Consistent with how Council is notified when the City Manager applies for Intergovernmental Grants, Council will be notified via the Biweekly Report when this authority has been exercised.

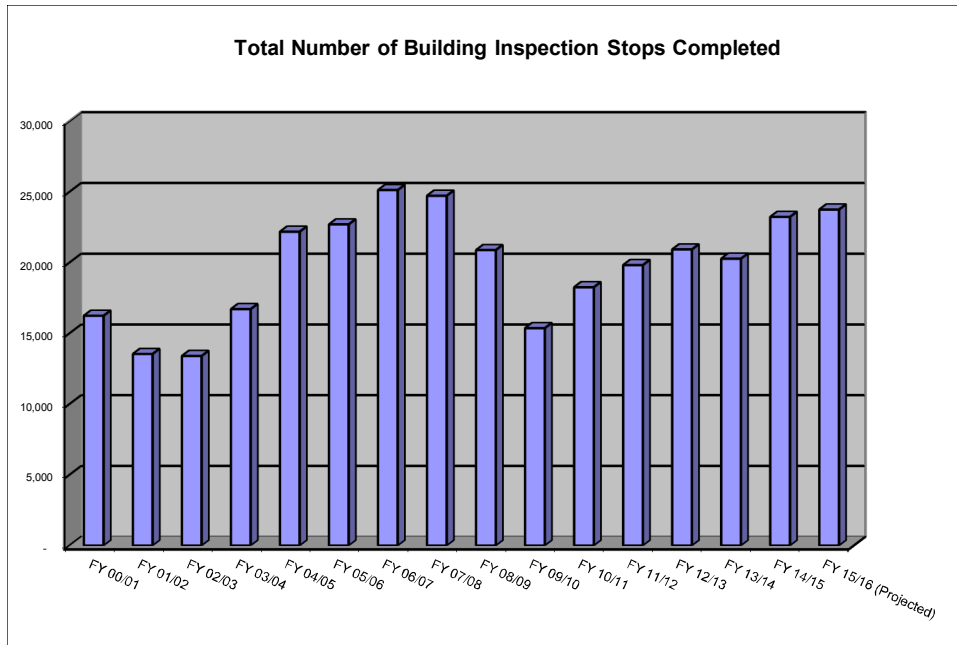
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Title: Budget Modification No. 17 to Appropriate Funds to Add Staff Positions in the Departments of Community Development, Public Safety and Public Works for Development Review and Construction Inspection Services and for On-call Building Inspection and Fire Inspection services, and Authority to Establish Contracts

Question(s): 1. How many building inspectors I/II, senior transportation engineers, and fire protection engineers do we have currently? The staff reports mentions there is currently only one PW construction inspector but doesn't have current counts for the other positions. 2. Is the delegation of authority in alternative 4 limited to Budget Mod 17 (\$350,000 and \$150,000 amounts), or would it extend to other positions and services throughout the City? 3. Page 2 of the staff report, top paragraph, mentions that Attachment 1 has trends for permits issued and inspections, but I don't see those in Attachment 1. Please forward that information if it is readily available. This is not critical for my decision but would be useful information generally.

Staff Response(s): 1. Currently, there are 6 full-time regular Building Inspectors I/II through the operating budget; through the supplemental Building Inspection Staffing project, there are currently two part-time inspectors. There are 3 Fire Protection Engineers in the operating budget. No other Fire Protection Engineers are currently working for the City, as the funds for supplemental staffing have been depleted; up to 4 part-time/contract engineers have worked at one time. In the Public Works Department, there are currently one Field Inspector and one Principal Transportation Engineer. **2.** Delegating the authority for the City Manager to award contracts in excess of \$100,000 is limited to Budget Modification No. 17, specifically the two project appropriations for Fire Prevention supplemental staffing and Building Inspection supplemental staffing. **3.** Additional information is attached.





*Inspections Stops from FY 12/13 - present are more complex and take more time than Inspection Stops during FY 09/10 - FY 11/12.

