

RESPONSE TO COUNCIL QUESTIONS RE: 3/28/17 CITY COUNCIL AGENDA

Agenda Item #: 1.B.

Title: Approve the List(s) of Claims and Bills Approved for Payment by the City Manager

Council Question: Please provide a brief background on the following two transactions with large negative amounts: (a) -\$303,692.86 from Specialty Solid Waste & Recycling Inc; and (b) -\$222,627.71 from Bay Counties Waste Services. The presentation of a negative number indicates the amount is not a disbursement, bill, claim, payment or the like. Why is the City Council being asked to approve these two items on this agenda item?

Staff Response: The City pays Specialty Solid Waste and Recycling monthly for the collection of garbage and recyclables city-wide, and Bay Counties Waste Services (the parent company of Specialty) for operation of the SMaRT Station net of any revenues. The negative transactions represent the revenues to the City and for the SMaRT station the Cities of Sunnyvale, Mountain View and Palo Alto. The report did not capture the total payment from which these revenues are being deducted. Staff is reviewing the report to rectify this issue.

In the case of the Specialty payment, the total monthly payment was \$1,359,853.16 (\$1,663,546.02 in expenses less \$303,692.86 in revenue). The revenue represents the franchise fee paid by Specialty to the City and revenues that Specialty remits to the City for pre-paid construction debris box business conducted directly from its office. The Bay Counties monthly payment totaled \$565,804.54 (\$1,091,432.25 in expenses less \$222,627.71 in revenue). The revenue represents the three cities' share of revenues from SMaRT Station recyclables.

Agenda Item #: 1.H.

Title: Approve Fifth Amendment to the Fair Oaks Business Park Covenants, Conditions and Restrictions to Allow Residential Development at 1023 Fair Oaks Avenue

Council Question: Briefly, how did we get to the point where the City is a partner in the Fair Oaks Business Park?

Staff Response: In 1975, the original owner of Fair Oaks Industrial Park (FOBP) placed CC&Rs on the properties they owned as a planned industrial park. In 1990, the City bought parcels that totaled 5.45 acres within this business park (Seven Seas Park), which had the CC&Rs recorded against the property restricting residential development.

Council Questions: What does it mean that the City is a "partner" in the FOBP?

Staff Response: The City owns property within the business park (Seven Seas Park) and per the CC&Rs, 75% of the remaining owners have to consent to the modification thereof.

Council Question: Briefly, what rights or obligations, if any, are conferred upon the City by this partnership?

Staff Response: Obligations of being included to terminate, extend, modify or otherwise amend the CC&Rs.

Council Question: Under what legal form does this partnership exist?

Staff Response: CC&Rs were recorded against all properties owned by original owner and they are still active in the business park.

Council Question: As is used on Page 1 of the Staff Report, what is an "industrial zone"?

Staff Response: The CC&Rs describe it as "any industrial operation and use" that will be "performed or carried out entirely within a building." It then describes uses that are not permitted including "residential use of any type."

Council Question: Does this have anything to do with the City's Zoning Code?

Staff Response: No.

Council Question: Can Staff speculate or infer as to the original rationale that the 1975 CC&Rs specifically restricted residential development?

Staff Response: We speculate that the original owner wanted to restrict the type of development allowed in this area for future owners "to enhance and protect the value of the surrounding land owned by them."

Council Question: Would this restriction have been required by the City as a Condition of Approval for the creation of the FOBP/industrial zone?

Staff Response: It is unlikely that the City required this private restriction. Staff is unaware as the original owners placed this CC&Rs prior to the City purchasing the property.

Council Question: What is the current zoning of this property?

Staff Response: The property is zoned M-S/ITR/R-3/PD.

Council Question: Is agreeing to the CC&Rs change allowing an ultimate rezone of the property?

Staff Response: This is Industrial to Residential (ITR) zoning and a similar General Plan designation.

Council Question: Does staff have an opinion of removing the last retail (restaurant) location in the immediate business park, while the area has had a large increase in multifamily residential projects?

Staff Response: As there are commercially zoned properties at Tasman and Fair Oaks, staff finds that there is sufficient commercially zoned property in the area.

Council Question: What noticing went out concerning this proposed CC&R change?

Staff Response: The only noticing related to the CC&R change was the issuance of the RTC.

Agenda Item #: 1.L.

Title: Authorize the Issuance of a Purchase Order for Five Police Interceptor Utility Vehicles for Patrol Use (F17-085)

Council Question: To the extent it would be preferable to keep the \$11,730 of sales tax in Sunnyvale, does Staff know why Sunnyvale Ford did not participate in the bidding process? In a situation such as this (e.g. fleet purchases), is it possible to encourage local bidders?

Staff Response: Sunnyvale Ford does not typically provide a bid on City fleet procurements and hasn't for some time. Staff has directly reached out to them in the past, however, has not had an affirmative result. Staff contacted them today to inquire and they indicated they were very busy. Sunnyvale Municipal Code section 2.08.200 does provide a 1% local pricing preference, which staff shared with them as part of the follow-up call. FY 11/12 is the last time Sunnyvale Ford bid on vehicles, and even with the 1% preference they were not the low bidder.

Agenda Item #: 2

Title: Approve Study Issue Presentation Dates for Studies Recommended for Study in 2017 and Approve the Recommended Actions as Identified in the Fiscal Impact of this Report

DPS 17-01: (Marijuana R&D)

Council Question: The city is already evaluating Marijuana growing in relationship to the state law. Could this issue be part of that effort? (What is timing?)

Staff Response: DPS is working with the City Attorney's Office in drafting an ordinance to update our existing medical marijuana ordinance to include recreational marijuana. As discussed at the November 2016 Study Session, the updated ordinance will ban all commercial, retail, cultivation, and manufacturing, of recreational marijuana. We are also working on creating passive rules to regulate personal indoor cultivation of marijuana (up to six plants) and banning all outdoor cultivation. It is anticipated the new draft ordinance will be completed in June.

The marijuana R&D study issue will require more extensive research from DPS, but mostly from CDD, as Proposition 64 is silent on marijuana R&D businesses, and it will also require land use changes and the development of the appropriate permit. As the request focuses on land use, it is important to acknowledge the workload of CDD and staffing conditions. The recommendation in the Report, establishes an inventory of 12 Study Issues, of which 8 require that CDD lead or support to completion. As an example, of the current year 7 Study Issues proposed for implementation, CDD must have a lead or support role in 5 of the 7 to ensure completion. Of the Study Issues that were carried forward from last year, 3 are CDD's. Lastly, please see Attachment 3 of the Report regarding the "Operational Commentary" provided where staff shares upcoming staffing shortages resulting in two planned staff leaves of absence later this year. These planned leaves will significantly impact CDD capacity and require more "hands on" work from the Director and Planning Officer in an already high volume department.

Council Question: From the Staff estimate, there was No Cost to study this item. So... not sure why it couldn't be added to the list? What is the cost if we decided to outsource the item?

Staff Response: While the cost of the study may be minimal by itself, there are significant workload impacts that have recently surfaced that draw from available capacity. In the above response, the workload and staffing conditions that CDD faces are outlined (more extensively in Attachment 3) and they are significant when evaluated against the daily operational workload and addition of Study Issues (e.g., Housing and Downtown Parking). However, similar staffing capacity and operation priorities exist for DPS. For example, a number of administrative process improvements have surfaced that continue to require our attention to ensure risk management where DPS must provide key support (e.g., proper procedures and screening for 3rd part contract services and volunteer management) and, separately, but of high priority is modernizing the DPS Internal Affairs process. On top these developments, through recent service emergencies and facility equipment failures, the City must urgently fix several deficiencies in our emergency equipment and preparedness (e.g., generators, transmitters, back up 911 system, and service redundancies), which require upgrading the Department's critical infrastructure such as the Alternate Public Safety Answering Point (9-1-1 Call Center) and the Emergency Operations Center (EOC).

It would be unwise to not address these process improvements and emergency service deficiencies and, already, these new items will require capacity beyond what is available. There is no "additional" cost in the sense that consultants are not required, however, there are not sufficient staffing resources to take on the study this year. As indicated in the Report to Council, staff could potentially initiate studies in this category should there be a change in other staff time commitments. Outsourcing a study still requires staff resources to manage the project, which we do not have given the above priorities at this time.

DPW 17-12 (Evelyn Class 1 Trail)

Council Question: What is the expected project timing for the grade separation at Mary? Any vision for a trail along the corridor should be resolved before detailed planning goes into effect for grade separation.

Staff Response: The grade separation study for Mary and the railroad started this month and is expected to be completed in the next 12-16 months. A vision for the trail/separated bike facility would be behind the grade separation analysis. However, the grade separation will need to consider all of Evelyn and the railroad tracks so incorporating a trail/separated bike facility in the future would be feasible.

Council Question: There is a planned update to Sunnyvale's Bike Plan in the coming year, isn't trying to ascertain this possible East/West corridor change part of the plan?

Staff Response: As part of the upcoming budget, staff will recommend funding to update the Bike Master Plan. Staff will consider including language related to this option as the Master Plan scope is developed. Typically, Master Plans don't require a full feasibility analysis to be completed and include possible projects or options.

Council Question: Are there Measure B funds that could be requested to help fund this effort? (So... is the \$100K full cost, or grant funding available?)

Staff Response: This could be part of competitive funding for Measure B. However, it is expected that the preference for Measure B competitive funding will be for design and construction projects, not feasibility or conceptual analysis.

Council Question: Since it requires coordination with Mountain View, what is the process to move this forward from a strategic, long term vision standpoint?

Staff Response: The first step would be for both Cities to prioritize and identify funding for the conceptual analysis. Once that is completed a strategy and long-term vision can be developed. Mountain View City Council recently identified priority goals and their process is still underway. Per the City Manager, the City Council identified transportation as one of their priority goals, but specific projects for the next two years won't be reviewed until April 18. The Mountain View City Council is holding its first of two study sessions on its CIP this week. City staff is tracking these together to properly inform our respective City Councils of the status of each City to align action, if desired.

Agenda Item #: 3

Title: Storage Space for Multi-Family Residential: Introduce an Ordinance to Amend Section 19.12.130 ("L") of Chapter 19.12 (Definitions), Section 19.38.040 (Individual Lockable Storage Space) of Chapter 19.38 (Required Facilities) and Section 19.90.030 (Procedures) of Chapter 19.90 (Special Development Permits) of the Sunnyvale Municipal Code, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3)

Council Question: The proposed requirement change allows "the interior of the unit as extra storage area (excludes bedroom closet, linen closet and pantry)." Does that mean that all units (studio/1/2/3 bedroom) are required to have a bedroom closet, linen closet and pantry separate from 200-300 sq ft of storage? If the developer provides a single walk-in closet, would that suffice? What is Staff's opinion that providing only an interior storage will reduce the overall storage space that is being provided for these units? (as opposed to balcony or other locations on the premises).

Staff Response: No, it does not mean that all units need to provide linen closets and pantries in addition to bedroom closets. Bedroom closets are required by the building code. The zoning regulations address the need for storage space available for large items (e.g. seasonal clothing/gear, rarely-used household items, seasonal decorations, boxes, suitcases, etc.). Based on the floorplans of residential developments in the past 30 years, staff does not anticipate that overall less storage be provided (except, of course, for the smaller amount for small units that staff is recommending). Based on site planning considerations some developers may opt for the interior space, however, this is more costly to develop as the space needs to be conditioned (i.e. heat and air conditioning – if provided).