



City of Sunnyvale

Meeting Minutes - Draft City Council

Tuesday, March 28, 2017

5:00 PM

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

Special Meetings: Closed Sessions- 5 PM | Study Session- 6 PM | Regular Meeting- 7 PM

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

Vice Mayor Larsson announced the items for Closed Session and invited any member of the public to provide public comments before convening to Closed Session.

1 Call to Order in the West Conference Room

Vice Mayor Larsson called the meeting to order at 5:01 p.m.

2 Roll Call

Present: 7 - Mayor Glenn Hendricks
Vice Mayor Gustav Larsson
Councilmember Jim Griffith
Councilmember Larry Klein
Councilmember Nancy Smith
Councilmember Russ Melton
Councilmember Michael S. Goldman

3 Public Comment

No speakers.

4 Convene to Closed Session

[17-0069](#)

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: Howland v. City of Sunnyvale, Santa Clara County Superior Court Case #1-16-CV-301051

[17-0130](#)

Closed Session held pursuant to California Government Code Section 54957.6: CONFERENCE WITH LABOR

NEGOTIATORS

Agency designated representatives: Teri Silva, Director of Human Resources; Deanna J. Santana, City Manager
Employee organization: Sunnyvale Employee Association (SEA)

5 Adjourn Special Meeting

Vice Mayor Larsson adjourned the meeting at 6:20 p.m.

6 P.M. SPECIAL COUNCIL MEETING (Study Session)**1 Call to Order in the West Conference Room (Open to the Public)**

Vice Mayor Larsson called the meeting to order at 6:23 p.m.

2 Roll Call

Present: 7 - Mayor Glenn Hendricks
Vice Mayor Gustav Larsson
Councilmember Jim Griffith
Councilmember Larry Klein
Councilmember Nancy Smith
Councilmember Russ Melton
Councilmember Michael S. Goldman

3 Public Comment**4 Study Session**

[17-0315](#) Presentation and Update by Caltrain Staff on the Caltrain Modernization Program

5 Adjourn Special Meeting

Vice Mayor Larsson adjourned the meeting at 6:48 p.m.

7 P.M. COUNCIL MEETING**CALL TO ORDER**

Mayor Hendricks called the meeting to order.

SALUTE TO THE FLAG

Mayor Hendricks led the salute to the flag.

ROLL CALL

Present: 7 - Mayor Glenn Hendricks
Vice Mayor Gustav Larsson
Councilmember Jim Griffith
Councilmember Larry Klein
Councilmember Nancy Smith
Councilmember Russ Melton
Councilmember Michael S. Goldman

CLOSED SESSION REPORT

Vice Mayor Larsson reported the Council met in closed session 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: Howland v. City of Sunnyvale, Santa Clara County Superior Court Case #16 CV 301051; nothing to report.

Vice Mayor Larsson reported the Council met in closed session pursuant to California Government Code Section 54957.6: Conference with Labor Negotiators; Agency designated representatives: Teri Silva, Director of Human Resources; Deanna J. Santana, City Manager; Employee organization: Sunnyvale Employee Association (SEA); nothing to report.

SPECIAL ORDER OF THE DAY

[17-0324](#) SPECIAL ORDER OF THE DAY - Women's History Month

Mayor Hendricks presented a proclamation to Laura Brunetto, Branch Director of Maternal, Child, and Family Health at the Santa Clara County Department of Public Health, and Mary Werthman, President, Junior League of San Jose.

ORAL COMMUNICATIONS

Vice Mayor Larsson announced upcoming board and commission recruitment and an application deadline.

Vice Mayor Larsson announced applications are being accepted for neighborhood grants and community events grants.

Polly Bove, Superintendent and Graham Clark, Assistant Superintendent, Fremont Union High School District, provided an update on construction at Fremont High School and presented a PowerPoint presentation.

John Simontacchi, President, SEA, spoke regarding SEA negotiations and provided written materials.

Martin Schmidt, Sunnyvale Employees Association, spoke regarding SEA negotiations.

Andy Frazer recommended requiring contractors to install photovoltaic panels in construction of new office and new residential buildings.

Michael Gonzales requested the City divest in fossil fuels and pressure CalPERS to divest in fossil fuels.

Christine Pepin, Citizens Climate Lobby, requested Council endorse a carbon fee and dividend proposal and that the issue added as an agenda item at a future meeting, and provided written materials.

Mayor Hendricks stated the remaining speakers will be heard at the end of the meeting.

CONSENT CALENDAR

Mayor Hendricks pulled Item 1.G.

Councilmember Griffith stated he would recuse himself from voting on Item 1.H as he owns property within 500 feet of some of the affected areas.

Councilmember Goldman requested to pull Item 1.I.

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to approve Items 1.A, 1.B, 1.C, 1.D, 1.E, 1.F and 1.H.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to approve Items 1.J, 1.K and 1.L.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

1.A [17-0270](#) Approve City Council Meeting Minutes of March 7, 2017

Approve the City Council Meeting Minutes of March 7, 2017 as submitted.

1.B [17-0172](#) Approve the List(s) of Claims and Bills Approved for Payment
by the City Manager

Approve the list(s) of claims and bills.

1.C [16-1065](#) Award of Contract for an Enterprise Asset Management
System for the Water Pollution Control Plant (F16-98)

1) Award a contract not to exceed \$633,961 to The Arcanum Group to implement a comprehensive Enterprise Asset Management System (EAMS), in substantially the same form as Attachment 1 to the report and authorize the City Manager to execute the contract, and 2) approve a 10% implementation contingency in the amount of \$36,505.

1.D [16-1124](#) Amend an Existing Contract for Janitorial Services (F17-014)

Authorize the City Manager to execute an Amendment to an existing six year agreement with Sunnyvale Building Maintenance for janitorial services to increase the not to exceed value from \$2,093,473 to \$2,200,974 and to increase the contract amount if operationally necessary and subject to budget appropriation control limits.

1.E [17-0271](#) Amend an Existing Contract for Program Management and
Related Services for the Sunnyvale Clean Water Program
(F17-096)

Authorize the City Manager to 1) execute an amendment to an existing contract, in substantially the same form as Attachment 1 to the report, with CDM Smith, increasing the total not to exceed contract value from \$8,646,807 to \$20,456,039 and extending the term of the agreement for three years, through March 31, 2020,

and 2) approve a 5% contract contingency on the additional core Program Management Services in the amount of \$490,462.

1.F [17-0142](#) Award of Bid No. PW17-19 for the Green Pavement Marking and Rectangular Rapid Flashing Beacon (RRFB) System Installation, Finding of California Environmental Quality Act (CEQA) Categorical Exemption, and Approval of Budget Modification No. 35 in the Amount of \$32,889

1) Make a finding of a California Environmental Quality Act (CEQA) categorical exemption pursuant to CEQA Guidelines Section 15301 for minor alterations of existing highways and streets, bicycle and pedestrian trails involving negligible or no expansion of use beyond that which presently exists; 2) Award a contract in substantially the same form as Attachment 2 to the report and in the amount of \$127,970 to Chrisp Company and authorize the City Manager to execute the contract when all necessary conditions have been met, 3) Approve a 10% construction contingency in the amount of \$12,797, and 4) Approve Budget Modification No. 35 in the amount of \$32,889 to provide additional project funding.

1.G [17-0161](#) Annual Review and Approval of City's Code of Ethics and Conduct for Elected and Appointed Officials

Mayor Hendricks provided comments.

Public Hearing opened at 7:33 p.m.

No speakers.

Public Hearing closed at 7:33 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to review and approve the 2017 Code of Ethics and Conduct for Elected and Appointed Officials with no changes from the 2016 Code as set forth in Attachment 1 of the report.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

- 1.H** [17-0263](#) Approve Fifth Amendment to the Fair Oaks Business Park Covenants, Conditions and Restrictions to Allow Residential Development at 1023 Fair Oaks Avenue

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to authorize the City Manager to sign the Fifth Amendment to the Fair Oaks Business Park Covenants, Conditions, and Restrictions to allow residential development on assessor parcels No. 110-14-169.

The motion carried by the following vote:

Yes: 6 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

Recused: 1 - Councilmember Griffith

- 1.I** [17-0220](#) Award of Bid No. PW17-09 for the Roof Replacement for Fire Station #2 Re-Bid, Determination of Bid Non-responsiveness and Waiver of Minor Bid Irregularity, and Finding of California Environmental Quality Act (CEQA) Categorical Exemption

Public Hearing opened at 7:37 p.m.

No speakers.

Public Hearing closed at 7:37 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to 1) Make a finding of California Environmental Quality Act (CEQA) categorical exemption pursuant to CEQA Guidelines Section 15301(d) for the restoration or rehabilitation of deteriorated or damaged structures; 2) make a determination to waive the minor bid irregularity for Roofing & Solar Construction Inc. and award a contract in substantially the same form as Attachment 2 to the report and in the amount of \$172,000 to Roofing & Solar Construction Inc. and authorize the City Manager to execute the contract when all necessary conditions have been met; 3) approve a 15% construction contingency in the amount of \$25,800; and 4) make a determination that the bid received from MP Roofing is non-responsive.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

1.J [17-0361](#) Award a Contract to Install a Replacement Conveyor Belt at the SMaRT Station (F17-076), Make a Determination of Bid Non-responsiveness and Make Finding of CEQA Categorical Exemption

1) Make a finding of California Environmental Quality Act (CEQA) Categorical Exemption pursuant to CEQA Guidelines Section 15301 for maintenance or repair of existing facilities involving negligible or no expansion of use beyond which presently exists; 2) award a contract in the amount of \$106,743 to D.W. Nicholson Corporation, in substantially the same form as attachment 2 to the report, and authorize the City Manager to execute the contract when all necessary conditions have been met; 3) approve a 10% contract contingency in the amount of \$10,674; and 4) make a determination of non-responsiveness for the bid submitted by Titus Maintenance and Installation Services, Inc.

1.K [17-0269](#) Ratify Intergovernmental Assignment Appointments: Mayor Hendricks to the Measure A (2016 Housing Bond) Independent Citizen's Oversight Committee and Councilmember Melton to the Local Agency Formation Commission (LAFCO)

Ratify Intergovernmental Assignment Appointments: Mayor Hendricks to the Measure A (2016 Housing Bond) Independent Citizen's Oversight Committee; and Councilmember Melton to the Local Agency Formation Commission (LAFCO).

1.L [17-0296](#) Authorize the Issuance of a Purchase Order for Five Police Interceptor Utility Vehicles for Patrol Use (F17-085)

Authorize the issuance of a Purchase Order in the amount of \$149,774 (including tire fees and sales tax), in substantially the same form as Attachment 1 to the report, to Towne Ford Sales of Redwood City for five Police Interceptor Utility Vehicles.

PUBLIC HEARINGS/GENERAL BUSINESS

- 2 [17-0156](#) 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

City Manager Deanna Santana provided the staff report. Director of Community Development Trudi Ryan, Director of Public Works Manuel Pineda, Senior Management Analyst Yvette Blackford, and City Attorney John Nagel provided additional information.

Public Hearing opened at 8:08 p.m.

Jennifer Ong, AEssence, offered to finance and conduct the study of DPS 17-01.

Rebecca Armendariz, SEIU, spoke regarding the wage theft study issue and urged Council to adopt an ordinance.

Don Veith spoke in support of the wage theft study issue.

Ruth Silver Taube, Worker's Rights Clinic, Santa Clara University School of Law, spoke regarding wage theft and recommended enacting a policy similar to the City of San Jose.

David Wessel requested Council consider a wage theft ordinance that revokes permits of businesses that have wage theft judgements against them.

Elly Matsumura spoke in support of the wage theft issue.

Mike Serrone, Sunnyvale Democratic Club, spoke in support of the wage theft study issue and in support of looking at the San Jose ordinance.

Joan Goddard, representing 9to5, spoke in support of the wage theft issue.

Michael Tayag, representing the Filipino Association of Workers and Immigrants and the Santa Clara County Wage Theft Coalition, spoke in support of the wage theft study issue.

Forest Peterson spoke in support of the wage theft issue.

Dolores Medeiros, on behalf of the Wage Theft Coalition, spoke in support of the wage theft study issue.

Public Hearing closed at 8:31 p.m.

MOTION: Councilmember Melton moved and Councilmember Klein seconded the motion to approve Alternatives 1, 2, and 4:

1. Approve the Proposed Presentation Dates for the 2017 Council ranked Study Issues in Priority Categories A and B, as noted in Attachment 1 to the report.
2. Authorize the City Manager to initiate work on the studies in Priority Category C, as noted in Attachment 1 to the report, within existing capacity, and based on timing and availability of staff capacity; otherwise, carry these issues forward for City Council consideration in the next Study Issue cycle.
4. Approve the cost to study and refer the following Priority Category A and B Study Issues to the FY 2017/2018 Recommended Budget:
 - a. OCM 16-02 Consider Adoption of a Wage Theft Ordinance
 - b. FIN 17-01 Evaluation of New Revenue Strategies to Fund New and Increasing Service Demands and/or Unfunded Capital Investments
 - c. CDD 17-09 2017 Housing Strategy
 - d. CDD 11-02 Downtown Development Policies for Parking;and in addition, to encourage staff to be receptive to a conversation with AEssence to further the dialogue per what their CEO stated tonight.

FRIENDLY AMENDMENT: Councilmember Smith asked if the makers of the motion would consider removing the additional statement.
Councilmember Melton accepted the friendly amendment.
Councilmember Klein accepted the friendly amendment.

The motion as amended by friendly amendment carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

Council recessed at 8:53 p.m.

Council reconvened at 9:03 p.m. with all Councilmembers present.

- 3** [17-0302](#) 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)

Principal Planner Amber Blizinski provided the staff report. Director of Community Development Ryan provided additional information.

Public Hearing opened at 9:21 p.m.

No speakers.

Public Hearing closed at 9:21 p.m.

MOTION: Councilmember Melton moved and Vice Mayor Larsson seconded the motion to approve Alternative 1: Introduce an Ordinance to amend Section 19.38.040 (Storage Space for Multi Family Residential) regarding size, location, configuration, exception process and applicability and make associated amendments to Section 19.12.100 ("I") of Chapter 19.12 (Definitions) and Section 19.90.030 (Procedures) of Chapter 19.90 (Special Development Permits) of the Sunnyvale Municipal Code, and find these actions are exempt from CEQA.

City Clerk Kathleen Franco Simmons read the ordinance title.

The motion carried by the following vote:

Yes: 6 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton

No: 1 - Councilmember Goldman

- 4 [17-0303](#) Proposed Project: PEERY PARK PLAN REVIEW PERMIT to construct a 207,620-square foot, four-story corporate/research and development (R&D) office building and a 7-level, partially underground parking structure with attached ground floor retail of up to 4,000 square feet on a 4.4-acre site resulting in a total of 110% FAR. The project includes outdoor dining/recreation areas and a pedestrian/bicycle path for public use.
File #: 2015-7256
Location: 520 Almanor Avenue (APNs 165-43-016, -017 and

-018)

Applicant / Owner: Lane Partners, LLC / Pace Properties
Environmental Review: The project is exempt from additional California Environmental Quality Act (CEQA) review per CEQA Guidelines section 15168(c)(2) and (4) and Public Resources Code Section 21094(c). The project is within the scope of the Peery Park Specific Plan Program EIR as no new environmental impacts are anticipated and no new mitigation measures are required.

Planning Officer Andrew Miner provided the staff report. Director of Community Development Ryan and Director of Public Works Pineda provided additional information.

Applicant Mark Murray, Lane Partners, provided information regarding the project. Architect Ted Korth, Korth Sunseri Hagey Architects, provided additional information.

Public Hearing opened at 10:32 p.m.

John Cordes, Bicycle and Pedestrian Advisory Commission member speaking for himself, provided comments regarding the appearance of the parking lot, solar panels, electric vehicle parking, the sight lines from the SNAIL neighborhood, potential impacts on over the air television antennas, open space, and the dedicated bike and pedestrian lane. Cordes requested approval of the project.

Applicant Mark Murray responded to additional Council questions.

Public Hearing closed at 10:38 p.m.

MOTION: Councilmember Melton moved and Vice Mayor Larsson seconded the motion to approve Alternative 2: Alternative 1 with modified conditions of approval: Make the required Findings to approve the CEQA determination that the project is within the scope of the Peery Park Specific Plan (PPSP) Environmental Impact Report (EIR) and no additional environmental review is required; and approve the Peery Park Plan Review Permit subject to the PPSP Mitigation Monitoring and Reporting Program in Attachment 7 and recommended conditions of approval set forth in Attachment 5; with a condition of approval modification with regards to solar, the requirement would be to implement solar on the parking garage within five years of the issuance of an occupancy permit.

FRIENDLY AMENDMENT: Vice Mayor Larsson offered a friendly amendment that

rather than saying on top of the parking garage, to offer the flexibility of either on the building or on the parking garage.

Councilmember Melton accepted the friendly amendment.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

- 5** [17-0287](#) Approve the 2016 Annual Progress Report on Implementation of the General Plan Housing Element

Director of Community Development Ryan provided the staff report.

Public Hearing opened at 10:44 p.m.

No speakers.

Public Hearing closed at 10:44 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to approve Alternative 1: Approve the Annual Progress Report on implementation of the Housing Element.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

ORAL COMMUNICATIONS CONTINUED (10:46 P.M.)

Zachary Kaufman provided comments regarding the Land Use and Transportation Element (LUTE) Environmental Impact Report (EIR).

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Melton reported his attendance at an Airport Land Use Commission meeting as an alternate.

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

Vice Mayor Larsson reported his attendance at the National League of Cities Conference in which he participated in meetings with the offices of Congressman Khanna, Congresswoman Eshoo, Senator Harris, NASA and the FAA.

Councilmember Klein reported his attendance at a roundtable discussion regarding State legislation on affordable housing.

Mayor Hendricks reported his attendance at a meeting with the FAA and stated minutes of that meeting will be posted on the Airplane Noise webpage.

-City Manager

City Manager Santana stated she will circulate a recent article in Tech Soup in which the Sunnyvale Library was featured. City Manager Santana noted the Information Only report in the agenda packet that summarizes the impacts of the President's proposed budget.

INFORMATION ONLY REPORTS/ITEMS

- [17-0176](#) Tentative Council Meeting Agenda Calendar
- [17-0169](#) Information/Action Items
- [17-0119](#) Notice of Public Works Director's Decision on Final Maps (Information Only)
- [17-0364](#) Update on the Impact of the President's Proposed Budget on City Programs and Services (Information Only)
- [17-0267](#) Study Session Summary of October 25, 2016 - Joint Meeting of City Council with Board and Commission Chairs and Vice Chairs to Review and Improve Overall Effectiveness of Commission Meetings
- [17-0286](#) Study Session Summary of January 31, 2017 - Land Use and

Transportation Element and Environmental Impact Report

[17-0335](#) Study Session Summary of February 28, 2017 - Mary Avenue Overcrossing - Environmental Impact Report

[17-0342](#) Study Session Summary of March 7, 2017 - Land Use and Transportation Element and Environmental Impact Report

[17-0087](#) Board/Commission Meeting Minutes

ADJOURNMENT

Mayor Hendricks adjourned the meeting at 10:55 p.m.