



City of Sunnyvale

Meeting Minutes City Council

Tuesday, April 21, 2015

5:00 PM

Council Chambers, City Hall, 456 W. Olive
Ave., Sunnyvale, CA 94086

Special Meetings: Closed Session- 5 PM | Study Session- 5:30 PM | Regular Meeting- 7 PM

7 P.M. COUNCIL MEETING

CALL TO ORDER

Mayor Griffith called the meeting to order.

SALUTE TO THE FLAG

Mayor Griffith led the salute to the flag.

Mayor Griffith announced the meeting will be held in honor of long-time Sunnyvale resident Michelle Philips.

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 Council met in Closed Session held pursuant to California Government Code Section 54956.9: Conference with Legal Counsel - Anticipated Litigation; there is nothing to report.

SPECIAL ORDER OF THE DAY

[15-0382](#)

SPECIAL ORDER OF THE DAY - Serra Little League
Recognition

Mayor Griffith presented a Certificate of Congratulations to Serra Little League 9-10 All Stars Team Manager Mike Lee.

PUBLIC ANNOUNCEMENTS

Michael Goldman announced an event for the Sunnyvale Public Lands for Public Use initiative, and presented a PowerPoint presentation.

CONSENT CALENDAR

Councilmember Meyering requested to pull Items 1.A and 1.B, and requested a No vote be recorded on Item 1.G.

Councilmember Whittum stated his vote would not be a vote on Item 1.G as his home is within 500 feet of the Downtown Specific Plan.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve Items 1.C, 1.D, 1.E, 1.F and 1.G on the Consent Calendar, with a No vote registered by Councilmember Meyering on Item 1.G.

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

No: 0

1.A [15-0068](#) Approve City Council Meeting Minutes of April 7, 2015

Public Hearing opened at 11:16 p.m.

No speakers.

Public Hearing closed at 11:16 p.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Davis seconded the motion to approve the City Council Meeting Minutes of April 7, 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 [15-0399](#) Approve the List(s) of Claims and Bills Approved for Payment
by the City Manager

Public Hearing opened at 11:16 p.m.

No speakers.

Public Hearing closed at 11:16 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 [15-0313](#) Award of Contract for the Cooperative Purchase of Industrial
and Commercial Supplies (F15-82)

1) Award a one year contract to Grainger in substantially the same form as the draft blanket purchase order attached to the report and based upon the State of California Western States Contracting Alliance (WSCA) cooperative contract, not to exceed budgeted amounts; and 2) Authorize the City Manager to renew the contract for two additional one year periods provided that pricing and service remain acceptable to the City.

1.D [15-0357](#) Award of Bid No. PW15-15 for Pavement Rehabilitation 2015
and Finding of CEQA Categorical Exemption

1) Make a finding of CEQA categorical exemption pursuant to Class 1, Section 15301 (d) for rehabilitation of an existing public facility with negligible or no expansion of an existing use; 2) Award a contract, in substantially the same format as Attachment 2 to the report and in the amount of \$2,656,857, to O'Grady Paving, Inc. for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met; and 3) Approve a 10% construction contingency in the amount of \$265,686.

1.E [15-0346](#) Award of Contract for Lawrence Expressway Sanitary Sewer Rehabilitation Condition Assessment and Preliminary Design Report (F15-24)

1) Award a contract, in substantially the same format as Attachment 1 to the report and in the amount of \$426,000, to Waste Water Engineers, LLC, for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met; and 2) Approve a 10% design contingency in the amount of \$42,600.

1.F [15-0352](#) Award of Bid No. PW15-08 for Roof Replacement at Fire Station Nos. 1, 3, 4 and 6, and Finding of CEQA Categorical Exemption

1) Make a finding of CEQA categorical exemption pursuant to Class 1 Section 15301 (d) for the restoration or rehabilitation of deteriorated or damaged structures; 2) Award a contract, in substantially the same format as Attachment 2 to the report and in the amount of \$369,355 (base bid of \$280,290 and additive alternate of \$89,065) to Alcal Specialty Contracting, Inc. for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met; and 3) Approve a 10% construction contingency in the amount of \$36,936.

1.G [15-0433](#) Adopt Ordinance No. 3056-15 Amending the Sunnyvale Municipal Code to Allow the use of Tandem and Stacker Parking in Residential Districts

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to adopt Ordinance No. 3056-15. The motion carried by the following vote:

Yes: 5 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 1 - Councilmember Meyering

Recused: 1 - Councilmember Whittum

PUBLIC COMMENTS

Deborah Marks presented a PowerPoint presentation regarding Civic Center modernization and expressed opposition to consideration of a sale, lease or public-private partnership.

Michael Goldman spoke regarding Civic Center modernization alternatives and presented a PowerPoint presentation.

PUBLIC ANNOUNCEMENTS (Continued)

Councilmember Hendricks announced an upcoming Civic Center Community Workshop.

PUBLIC HEARINGS/GENERAL BUSINESS

- 2 [14-0027](#) Design Guidelines for mixed-use projects, known as the Toolkit for Mixed-use Developments; Find that the project is exempt under CEQA pursuant to Guidelines 15060(3) and 15378(b)(5) (Study Issue)

Principal Planner Andrew Miner presented the staff report.

Public Hearing opened at 8:31p.m.

Michael Goldman expressed support for maximum setbacks.

Public Hearing closed at 8:35 p.m.

MOTION: Councilmember Hendricks moved and Councilmember Davis seconded the motion to approve an Option 4 to continue this item, to take a look at some of the comments that were made from the two letters and take a look at the setbacks.

FRIENDLY AMENDMENT: Mayor Griffith offered an amendment to, rather than continue this item, revise the motion to direct staff to bring back as an agenda item in the future to a date uncertain whenever appropriate.
Councilmember Hendricks accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Meyering moved to amend the motion to require that the expression of intent that reads that the goal should be to maximize height along corridors especially at intersections be removed.
Councilmember Whittum seconded the amendment.
Councilmember Hendricks accepted the motion as a friendly amendment.

AMENDMENT: Councilmember Meyering moved to amend the motion to require that the expression of intent that there are areas of the city that contain opportunities for redevelopment on underutilized sites be removed.
Motion to amend died due to lack of a second.

The motion as amended 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 [15-0025](#) Review and Selection of the Murphy Park Public Art Project
Superintendent of Community Services Dan Wax presented the staff report.

Public Hearing opened at 8:53 p.m.

Michael Goldman expressed appreciation for the three proposals, the efforts at Murphy Park and the emphasis to increase art in the public arena.

Misuk Park, Chair of the Art Commission, presented the recommendation of the Art Commission in support of selection of the proposals for Scene #1 and Scene #2 by Peter Hazel and clarified the recommendation included in the report.

Peter Hazel, Artist, presented an example of the artwork and samples of the tiles.

Jeanine Stanek, speaking for the Historical Society volunteers, expressed support of inclusion of the history of Sunnyvale and California in the art piece.

Public Hearing closed at 9:28 p.m.

MOTION: Councilmember Davis moved and Councilmember Martin-Milius seconded the motion to approve Alternative 2, to select proposal #2 by Peter Hazel, along with the Art Commission's recommendation, and modified to include selection of Scene #1 (Wagon Train) and Scene #2 (Railroad Train) with the following conditions of approval: include reducing the scale of the railroad train; adding orchard imagery on the background to the right of the train; include an opportunity for Sunnyvale children to help with glazing the ceramic tiles; and make both panels of the mural a minimum of five feet tall.

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

Council recessed at 9:34 p.m.

Council reconvened at 9:47 p.m. with all Council present.

- 4 [15-0362](#) Consideration of Potential Elections Code Section 9212 Report from City Agencies on the Effect of the Proposed Initiative Ordinance to Amend the City of Sunnyvale's Municipal Code to Require Voter Approval for any Sale, Lease, Lease Extension, Lease Renewal, Land Swap, or Transfer of Property Owned, Leased, or Used by the City as a Public Park or Community Service Amenity

City Attorney Joan Borger presented the staff report.

Public Hearing opened at 9:57 p.m.

Michael Goodman spoke regarding the intent behind the initiative petition.

Deven Kelling requested clarification of the 9212 report with regard to advocating sale, lease, and lease extension.

Peter Cirigliano requested inclusion of the fiscal impacts of the ballot measure and future ballot measures.

Daniel Bremond spoke in support of preparation of a 9212 report.

Public Hearing closed at 10:05 p.m.

MOTION: Councilmember Davis moved and Councilmember Hendricks seconded the motion to direct staff to prepare a 9212 report in regards to the pending initiative, that it cover items 1 through 7 on the staff report (below), and the report does not come back to Council until after the period of time that the petitioners have to raise the signatures.

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.

(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

Councilmembers requested the report include the following:

- Cover what may be construed as a lease, including joint use agreements, agreements to operate a swim or tennis center, SMaRT Station contract;
- Discuss whether public access is a factor in properties used for city government administration; what the ordinance means by “city government administration” and whether it regulates the ability of the public to access a particular facility, such as the Corp Yard;
- Include the extent to which the city would incur additional election costs as a result of this;
- Include the extent to which the measure would change the City’s ability to acquire access to land it does not already have access to, possibly even breaking it down by usages; the City’s ability to acquire land through swaps, or leases, access to open space, access to recreational facilities, and so on;
- Analyze all aspects of the initiative; address everything that is in the initiative and how that might affect our government;
- The lands the City has now; how the possible lands the City would acquire would be affected; the leasing arrangements portion of the initiative;
- In addition to City-owned property, how would it would apply to school district property owned by the school district for which the City has a joint use agreement, water district property, privately owned land, such as public open space on a project, any private property that the City might have leased;
- The effect of the phrase that says “any land owned, leased, or used by the City” as relates to the beginning of this ordinance or anytime thereafter; address the concern that it doesn’t put an ending period on that time, for instance, ten years later someone could say a parcel was once used for a public purpose, therefore the act still applies;
- Include lease modifications or sub-leases and whether that would need to return to the voters;
- Address whether it is possible to combine multiple items on a single ballot measure either in a special election or a general election;
- The potential timing of elections, if the City doesn’t go to a special election for any future items, when elections typically occur and when measures could be put on the ballot;
- Include specifically the kind of trades that the City was able to do to get the Armory done;

- Include whether there might be anything that might affect the Community Choice Energy agreements;
- Include the impact of access the City has in joint agreements with Mountain View for use of the Stevens Creek Trail or other governmental agencies for which the City has easements, access or joint use agreements, or conservation agreements;
- Include the affect the initiative would have on Sunnyvale land valuations if decisions on sales are based on election timing instead of market conditions
- Potential fiscal impact on the City if potential leases or swaps likewise are determined based on election times rather than market factors;
- The effect on negotiating community benefits;
- The potential effect on daycares located in park buildings and effect on community gardens;
- Effect on City financing options such as certificates of participation or bonds, for example, would bond ratings be affected by risk and uncertainty of having to go to the voters and the delay;
- The inadequacy of the description in the initiative in terms of what land is and isn't covered, the City's ability to interpret which transactions do and do not qualify under the initiative and the extent to which the City would have to assume by default that a particular transaction would qualify rather than not.

FRIENDLY AMENDMENT: Councilmember Whittum suggested that if there is a certain date for the certified initiative to be considered, that the draft report be provided at least a week or ten days in advance.

Councilmember Davis declined to accept the friendly amendment.

AMENDMENT: Councilmember Whittum moved to amend the motion and Councilmember Meyering seconded to direct staff to make a best effort to have the report out ten days in advance of the Council decision. The motion to amend failed by the following vote:

Yes: 2 - Councilmember Whittum
Councilmember Meyering

No: 5 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

AMENDMENT: Councilmember Meyering moved to amend the motion to indicate that no work should start on the preparation of the report until the proponents of this measure turn in signatures.

Motion died due to lack of a second.

The main motion carried by the following vote:

Yes: 5 - Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson

No: 2 - Councilmember Whittum
Councilmember Meyering

5 [15-0401](#) Consider Revisions to Council Policy 7.2.19: Boards and Commissions

Councilmember Hendricks provided a report.

Public Hearing opened at 10:56 p.m.

No speakers.

Public Hearing closed at 10:56

MOTION: Councilmember Meyering moved to table this item until the revisions to the bylaws are run by each one of the Sunnyvale boards and commissions and they have a public hearing and we hear what their report is.

Motion died due to lack of a second.

MOTION: Councilmember Hendricks moved and Councilmember Whittum seconded the motion to approve the recommendations of the Council subcommittee on board and commission bylaws as presented, with the following amendment of the language suggested for Section 2.H (III) Quorums on CP 7.2.19 page 11 where, instead of saying "...when the board or commission was created..." reference to the appropriate section in the bylaws, Section 2.A (I) through (VIII).

Councilmember Whittum requested that the revisions to the bylaws be brought to each of the boards and commissions as an Information item on their agenda if there is no objection from staff.

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

6 [15-0070](#) City Legislative Advocacy Position to Increase Disclosure
Statement Requirements for Political Advertisements

Mayor Griffith provided a report.

Public Hearing opened at 11:05 p.m.

Richard Kolber provided information in support of AB 700 and requested Council endorsement.

Devon Kelling requested information on other positions that could be endorsed and guidelines.

Public Hearing closed at 11:11 p.m.

MOTION: Councilmember Whittum moved and Councilmember Larsson seconded the motion to direct staff to establish a City Legislative Position to Increase Disclosure Statement Requirements for Political Advertisements.

FRIENDLY AMENDMENT: Mayor Griffith offered a friendly amendment to specifically support AB 700.

Councilmember Whittum accepted the friendly amendment.

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

7 [15-0448](#) Ratification of Intergovernmental Assignment Appointment for Councilmember Jim Davis

Assistant City Manager Robert Walker provided the staff report.

Public Hearing opened at 11:13 p.m.

No speakers.

Public Hearing closed at 11:13 p.m.

MOTION: Councilmember Hendricks moved and Councilmember Larsson seconded the motion to ratify Councilmember Jim Davis to an ongoing term on the ABAG Hazardous Waste Management Facility Allocation Committee.

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

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Whittum reported his attendance at a meeting of the VTA Congestion Management Program Committee.

Vice Mayor Martin-Milius reported her attendance at meetings of the EQ Policy Committee, the Stevens Creek Trail Working Team and the Water Commission. Martin-Milius reported an upcoming Water Summit and her attendance at the Holocaust Remembrance.

Councilmember Davis reported he has been selected as Vice Chair of the VTA Policy Advisory Committee. Davis reported he attended the Silicon Interoperability Committee.

Mayor Griffith reported his attendance at a meeting of the Community Choice Energy Committee.

NON-AGENDA ITEMS & COMMENTS

-Council

Vice Mayor Martin-Milius expressed appreciation for the Street Teams.

Councilmember Whittum reported he met with residents in the vicinity of Fremont and 85.

Councilmember Whittum spoke regarding sites in the vicinity of the El Camino and Wolfe intersection, and expressed comments regarding site access restrictions of remnant parcels.

Councilmember Davis suggested a study issue to ask staff to analyze what it will take to raise the minimum wage to \$15 by 2018.

Councilmember Davis reported his attendance at the Housing Trust annual fundraising event, the opening of Zanotto's Market, the Capstone Conference on Regional Prosperity, the Cities Association meeting, the Senior Center volunteer recognition event, and that he presented a proclamation to the Armenian Community commemorating the genocide that was committed in 1915.

Councilmember Meyering spoke regarding information he had requested on the property at Wolfe and Fremont Avenue and requested a copy of the contract between Sunnyvale and PlaceWorks.

MOTION: Councilmember Meyering moved and Councilmember Whittum seconded the motion to request an agenda item in the next 30 days to consider whether or not to move forward with the Environmental Impact Report, and whether or not the Notice of Preparation actually contains factually valid elements.

Mayor Griffith ruled the motion out of order as it is substantially the same motion that was already made at the previous meeting and defeated, so it can't be made again by the proponents.

APPEAL: Councilmember Whittum appealed the ruling of the Chair, seconded by Councilmember Meyering.

Mayor Griffith called for the vote on whether or not the ruling was appropriate, with a yes vote indicating agreement with the Chair. The ruling of the Chair was sustained by the following vote:

- Yes: 5 -** Mayor Griffith
Vice Mayor Martin-Milius
Councilmember Davis
Councilmember Hendricks
Councilmember Larsson
- No: 2 -** Councilmember Whittum
Councilmember Meyering

-Council

Councilmember Larsson spoke regarding the Housing Trust fundraiser.

Councilmember Hendricks asked how soon an item will be on an agenda to discuss water.

Mayor Griffith conveyed that, aside from time-critical or budget items, coming back with water conservation is top priority.

City Manager Deanna Santana reported the water issue will be scheduled for May 12. Additionally, the Community Choice Energy presentation will be moved to June 9, and the formal action on Community Choice Energy will be rescheduled to a July date.

-City Manager

None.

INFORMATION ONLY REPORTS/ITEMS

- [15-0041](#) Tentative Council Meeting Agenda Calendar
- [15-0214](#) Information/Action Items
- [15-0397](#) Minimum Wage Regional Update (Information Only)
- [15-0069](#) Board/Commission Meeting Minutes

ADJOURNMENT

Mayor Griffith closed the meeting in honor of the memory of Michelle Philips.

Mayor Griffith adjourned the meeting at 11:49 p.m.