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### **REPORT TO COUNCIL**

#### **SUBJECT**

Introduce an ordinance amending Sunnyvale Municipal Code (SMC) Chapter 2.07 to add special requirements for approval of certain sale and lease agreements involving publicly accessible recreation and city service (PARCS) properties, and adopt a Resolution approving the list of PARCS properties subject to the requirements of the amended SMC Chapter 2.07

#### **BACKGROUND**

In November 2016, a citizen initiative (Measure M) that would have required 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 failed by a narrow margin. The motivation and stated intent behind the initiative was to preserve public parks, open spaces, and community amenities for public use at a time when some members of the public perceived the City was under increasing pressure to repurpose public lands, and that a check on such pressure could be requiring a vote of the public before such transactions could take place. The Council directed an independent third party study of the initiative pursuant to Elections Code section 9212, which indicated that significant operational and cost impacts were likely to occur if the initiative passed. Other concerns identified by the study included the large number of transactions that could possibly be subject to separate public votes, potential election costs, and potential delays associated with public vote requirements.

In the months following the initiative vote, the City Council affirmed its intent to retain all Civic Center property as part of the Civic Center Modernization project. Additional acres of parkland have been added to the City in recent years, with additional acreage anticipated as pending development proposals come to fruition. As a part of the initial reflection post Measure M, resources were set aside in the FY 2017/18 budget for possible consideration of the City placing its own initiative on a future ballot.

Before spending further public resources, the City Manager, with the assistance of Public Works, have drafted an amendment to the City's existing ordinance governing sales and leases of real property owned by the City. The existing ordinance, Sunnyvale Municipal Code (SMC) Chapter 2.07, has been in service many years and provides a clear and direct administrative process guiding when real property transactions can be made administratively, and when they are required to be voted upon by the City Council.

The attached amendments to SMC Chapter 2.07 propose enhanced approval requirements for certain City owned recreational real property defined in the ordinance as "publicly accessible recreation and city service" property ("PARCS" property). The provisions of the proposed ordinance include Council adoption of a specific list of PARCS properties, and a super majority vote requirement (5 Councilmembers) for certain land transactions impacting PARCS properties.

## **EXISTING POLICY**

SMC Chapter 2.07 currently contains the following approval requirements for transactions involving City property: City Council approval is required for sales or leases totaling more than \$75,000, except where the lease results in revenue to the city and is for a period less than or equal to fifty-five years. The City Manager may approve sales or leases totaling \$75,000 or less, or leases resulting in revenue for a fifty-five-year period or less.

## **ENVIRONMENTAL REVIEW**

Amending SMC Chapter 2.07 does not constitute a “project” with the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

## **DISCUSSION**

Staff has brought forward the proposed ordinance amendment in the interest of providing an administrative process that addresses the Council and community interest in ensuring that the community’s investment in current and future public parks, open spaces and community recreational amenities are preserved, while avoiding the costly election process and prolonged transactional timeframes associated with making individual real property transactions subject to a public vote.

At a joint study session of the Sunnyvale City Council and Parks and Recreation Commission, held May 22, 2018, staff presented the broad outline of a proposed amendment to SMC Chapter 2.07, and displayed a city-wide map upon which the proposed PARCS parcels were displayed along with all other known properties to which the City of Sunnyvale currently has fee title. Because of the discussion at that meeting, the initial list of properties to be included under the PARCS designation has been modified to include open space areas at El Camino and Wolfe (a triangular area), and two small urban plots located at the end of E. Washington Ave located alongside Evelyn Ave., and all Civic Center parcels. A list of all properties, which identifies current use, is attached to the Resolution (Attachment 3). The list and public notice and City Manager authority provisions were modified in response to Council comments at the study session.

The proposed amendments to Chapter 2.07 include the following key features:

- Designating property by resolution as PARCS property if it is city-owned property acquired or dedicated, or used at the time of adoption of this ordinance, as a public park, recreational open space, including tennis center, library, swimming pool, community center, performing arts venue, garden, golf course, and all Civic Center properties. Properties not subject to PARCS designation are: (1) not owned by the city, such as properties owned by other public or private entities and used by the city pursuant to an agreement with the owner, (2) acquired by the city for a specific project or purpose involving the future conveyance of such property to a third party for other than a public use; or (3) owned by the city but not acquired, dedicated, or used for the public recreational purposes described.
- The City Council is the awarding authority for all sales or leases of PARCS property where the sales price or lease cost exceeds a total of seventy-five thousand dollars.
- The City Manager has awarding authority for sales or leases of PARCS property where the sales price or lease cost is seventy-five thousand dollars or less, or where the lease results in

revenue to the City and is for a period of five years or less (reduced from 55 years).

- Requires a super majority vote of the Council (5 votes) to approve a sale or lease of PARCS property, or to remove a property from the PARCS list.
- Public hearings for amendments to the PARCS list and for leases and sales of PARCS property subject to Council approval.
- Notice for the public hearings to be published in the newspaper not less than 15 days prior to the hearing, and mailed notice to residents within a 2000-foot radius of an impacted PARCS property.

As an alternative to Council adoption of the proposed amendments to Chapter 2.07, the Council could also choose to place the proposed amendments on the November 2018 ballot as a council initiative. The key difference between adopting the amendments through council approval versus voter approval is that if the ordinance is approved by voters, voter approval would then be required to amend or repeal the same provisions—a more lengthy and complicated process than council approval, which would require a public hearing and two readings.

During the May 22 Joint Study Session of the City Council and the Parks and Recreation Commission, the City Attorney was asked to provide a list of other actions that require a supermajority vote by the City Council. The following is a list of such actions:

1. SMC section 19.98.210: 2/3 vote for adoption of zoning urgency ordinances.
2. SMC sections 14.25.250 and 14.25.440: 4/5 vote to overrule majority protests for levy of benefit assessments and maintenance districts.
3. SMC section 13.12.040: 4/5 vote to adopt resolution overruling sidewalk construction protests.
4. SMC sections 14.04.510 and 14.04.520: 4/5 vote to adopt resolution relating to sale of property with delinquent liens or ordering work by force account.
5. SMC section 15.04.120: 4/5 vote to adopt resolution approving undergrounding of overhead electrical utilities.

### **FISCAL IMPACT**

The proposed ordinance amendments alter the administrative process for approval of certain land use transactions. If adopted, that process is not expected to add additional cost to the management of real property.

There would be no additional cost if the Council adopts the proposed amendments by ordinance. If the Council chooses to submit the proposed ordinance for voter approval, the Santa Clara Registrar of Voters estimates costs of approximately \$101,000 for a November 2018 ballot measure.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **ALTERNATIVES**

1. Introduce an ordinance amending SMC Chapter 2.07 to add special requirements for approval of certain sale and lease agreements involving publicly accessible recreation and city service (PARCS)

properties, and adopt a Resolution approving the list of PARCS properties subject to the requirements of amended SMC Chapter 2.07.

2. Direct staff to return with actions necessary to place a ballot measure amending SMC Chapter 2.07 on the November 2018 ballot, and adopt the resolution approving the list of PARCS properties, to be effective if voters approve the amendments to SMC Chapter 2.07 in November 2018.
3. Provide other direction to staff.

### **STAFF RECOMMENDATION**

Alternative 1: Introduce an ordinance amending Sunnyvale Municipal Code (SMC) Chapter 2.07 to add special requirements for approval of certain sale and lease agreements involving publicly accessible recreation and city service (PARCS) properties, and adopt a Resolution approving the list of PARCS properties subject to the requirements of the amended SMC Chapter 2.07.

The amended ordinance represents an immediate administrative step the City can take to provide greater protections for PARCS properties. The amended ordinance includes a clearly defined list of properties, and the ability to easily add properties as new park land is added. This action on the part of the City can be taken without incurring the additional administrative burden or the cost of individual elections for each property.

Prepared by: Jane Chambers, Interim Deputy City Manager

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. Ordinance of the City Council of the City of Sunnyvale Amending Chapter 2.07 of Title 2 (Administration and Personnel) of the Sunnyvale Municipal Code relating to Purchase, Sale or Lease of Real Property
2. Resolution approving list of PARCS properties subject to Sunnyvale Municipal Code Chapter 2.07 (as amended).
3. Map designating all PARCS properties and locations