

**APPROVED MINUTES  
SUNNYVALE CITY COUNCIL MEETING  
TUESDAY, MARCH 4, 2008**

**4 P.M. SPECIAL COUNCIL MEETING (Study Session)** - Presentation by Executive Search Firms Regarding Recruitment Process for New City Manager

**7 P.M. REGULAR MEETING**

**SPECIAL ORDER OF THE DAY**

Lakewood Color Guard

**SALUTE TO THE FLAG**

Lakewood Color Guard led the salute to the flag.

**ROLL CALL**

**PRESENT:**

Mayor Anthony Spitaleri  
Vice Mayor Melinda Hamilton  
Councilmember John Howe  
Councilmember Otto Lee  
Councilmember Ron Swegles  
Councilmember Christopher Moylan  
Councilmember David Whittum

**ABSENT:**

None

**STAFF PRESENT:**

City Manager Amy Chan  
Assistant City Manager Robert Walker  
City Attorney David Kahn  
Director of Community Development Hanson Hom  
Urban Landscape Supervisor Leonard Dunn  
City Clerk Gail Borkowski

**SPECIAL ORDER OF THE DAY**

Arbor Day Proclamation

**PUBLIC ANNOUNCEMENTS**

Councilmember Whittum announced the City's continuous board and commission recruitment.

**CONSENT CALENDAR**

City Attorney David Kahn requested to pull Item 1.G.

Councilmember Swegles requested to pull Item 1.F.

Councilmember Howe requested to pull Item 1.E.

A member of the audience requested to pull Item 1.D.

MOTION: Vice Mayor Hamilton moved and Councilmember Howe seconded to approve the consent calendar with the exception of Items 1.D., 1.E., 1.F., and 1.G.

VOTE: 7-0

**1.A. Approval of Revised Draft Minutes of February 26, 2008**

**1.B. Approval of Information/Action Items – Council Directions to Staff**

**Fiscal Items**

**1.C. RTC 08–066 List of Claims and Bills Approved for Payment by the City Manager – List No. 390**

Staff Recommendation: Council reviews the attached list of bills.

**1.D. RTC 08–069 Notice of Intent to Apply for, Accept, and Appropriate a Grant in the Amount of \$33,000 from the California Department of Forestry and Fire Protection (CAL FIRE) to Implement the Urban Forestry Management Plan and Budget Modification No. 40**

Public comments opened at 7:11 p.m.

Harriet Rowe stated she pulled this item as she wanted to know if the management plan applied to the urban forest in the City and the City's tree plan.

Urban Landscape Supervisor Leonard Dunn stated this item is an urban forestry grant administered through the State of California Department of Forestry and it does cover the City's urban forest.

Public comments closed at 7:13 p.m.

MOTION: Vice Mayor Hamilton moved and Councilmember Howe seconded to approve staff recommendation:

- Council adopts the Resolution of Support and authorizes staff to apply for the CAL FIRE Grant.
- Council authorizes acceptance of the grant if awarded, Budget Modification No. 40, and appropriates funds to a special two-year project to implement the Urban Forestry Management Plan.

VOTE: 7-0

**Contract Items**

**1.E. RTC 08-070 Authorization to Modify an Existing Contract for Engineering Design and Construction Support Services for the Replacement of the Materials Recovery System at the SMaRT Station (F0701-65)**

City Manager Amy Chan stated she requested that this item be pulled as there is a typographical error on the agenda; however, the staff report was correct. City Manager Chan stated the second bullet item under the staff recommendation should state that Council approves a provision for optional services in the amount of \$20,000, not \$200,000 as listed on the agenda.

Public comments opened at 7:14 p.m.

No speakers.

Public comments closed at 7:14 p.m.

MOTION: Councilmember Howe moved and Vice Mayor Hamilton seconded to approve Alternatives 1 and 2 noting error on the agenda to be corrected from \$200,000 to \$20,000 for optional services. Also noting that the amount was correctly identified in staff report and no corrections are needed for the staff report:

Alternative 1: Council authorizes the requested modifications to an existing contract with URS Corporation, in substantially the same form as the attached draft Second Amendment to the Consultant Services Agreement and in an amount not to exceed \$364,078 for engineering design and construction support services for the replacement of the Materials Recovery System at the SMaRT Station, and

Alternative 2: Council approves a provision for optional services in the amount of \$20,000.

VOTE: 7-0

**Other Items**

**1.F. RTC 08-068 Ratification of Council Intergovernmental Committee Appointments**

Councilmember Swegles stated he pulled this item in order to congratulate Councilmember Moylan who was appointed to the National League of Cities - Transportation Infrastructure and Service Policy and Advocacy Committee.

Public comments opened at 7:15 p.m.

No speakers.

Public comments closed at 7:15 p.m.

MOTION: Councilmember Swegles moved and Councilmember Howe seconded to approve Alternative 1: Council ratifies the appointment of Councilmember Moylan to the National League of Cities - Transportation, Infrastructure and Services (TIS) Policy and Advocacy Committee.

VOTE: 7-0

**1.G. ORDINANCE Adoption of Ordinance No. 2867-08 to Rezone Certain Property Located at 495 Central Avenue from R-0 (Low Density Residential) to R-1.5/PD (Low-Medium Density Residential/Planned Development) Zoning District**

City Attorney David Kahn advised Council that an inadvertent error was made when submitting the ordinance title to the city clerk for the agenda. Therefore, the ordinance title listed on the agenda does not match the actual ordinance that is included in the packet. City Attorney Kahn stated this item will need to be continued it was noticed with an incorrect ordinance title. City Attorney Kahn stated the item needs to be re-noticed for the next Council meeting which is scheduled for March 18, 2008.

Public comments opened at 7:16 p.m.

No speakers.

Public comments closed at 7:16 p.m.

MOTION: Councilmember Howe moved and Vice Mayor Hamilton seconded to continue consideration of Council approval of the second reading of Ordinance No. 2867-08 adding Chapter 9.45 (Special Event Permits) and Chapter 9.47 (Extraordinary Public Safety Service Liability) to Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code Pertaining to Special Events to the next Council meeting scheduled for March 18, 2008.

VOTE: 7-0

**STAFF RESPONSES TO PRIOR PUBLIC COMMENTS**

None.

## **PUBLIC COMMENTS**

Geoffrey Porter, Santa Clara resident, spoke about his concerns over a planned development (Santa Clara Square) at El Camino Real & Halford Avenue. Porter stated he wanted to share his concerns with Council as this development will also affect Sunnyvale residents. Porter's concerns include the height of the planned buildings; the high number of condominiums for the area; the inadequate amount of parking spaces, and traffic concerns.

Councilmember Howe stated he assumes Porter is also speaking to the Santa Clara City Council about his concerns. Councilmember Howe explained that Council has been kept informed by Sunnyvale staff as to what is happening with this project and Council has the opportunity to comment on the Environmental Impact Report (EIR). Councilmember Howe explained to Porter that during tonight's meeting he will request the mayor schedule a meeting with the Santa Clara City Council regarding this project.

Vice Mayor Hamilton thanked Porter for his comments and asked him to share his comments on the upcoming Santa Clara Planning Commission meeting regarding this project. Porter stated the Planning Commission meeting will be held on March 12, 2008 at 7 p.m. at the Santa Clara City Hall. Porter stated the Santa Clara City Council meeting at which this item will be discussed is scheduled for April 15, 2008.

Councilmember Moylan disclosed that he is sponsoring a study issue related to coordinating zoning between cities that are on Sunnyvale's border. Councilmember Moylan stated Vice Mayor Hamilton is co-sponsoring this study issue.

Caren Kalogrides expressed concerns over the Santa Clara Square complex in Santa Clara and is looking for Council to support resident concerns. Kalogrides stated the EIR does not appear to contain accurate information on the impact of this development to the parking, schools, and parks.

Councilmember Swegles inquired about the classification of Halford Street and City Manager Chan stated she is not familiar with that street and would need to get back to Council.

City Manager Chan updated Council and members of the public on this project. City Manager Chan stated several weeks ago members of the public appeared before Council asking the City to pay attention to this project and the impact it will have on the surrounding Sunnyvale neighborhood. City Manager Chan explained that, per her suggestion, City staff worked with Santa Clara staff to host a community meeting to provide information to the City's residents.

City Manager Chan explained that staff is preparing a response to the final EIR and will attend the Santa Clara Planning Commission meeting to present that information. City Manager Chan stated staff will be specific regarding their suggested mitigations in an effort to minimize impacts to Sunnyvale residents. City Manager Chan stated she is hopeful that Santa Clara Planning Commission will consider the City's suggestions. City Manager Chan

stated City staff will attend the Santa Clara City Council meeting in April. City Manager Chan stated both staff and Council's voices will be heard by the City of Santa Clara as to the impacts that this project will have on the Sunnyvale community. City Manager Chan stated staff will present items to Council for their consideration within the next few days.

Councilmember Swegles stated he would appreciate knowing if Halford is a City street and if so, whether there are any possibilities for traffic calming. City Manager Chan stated staff will get back to Council regarding the street and their specific strategies for this project.

Vice Mayor Hamilton responded to Kalogrides' comments on what Sunnyvale residents can do about their concerns. Vice Mayor Hamilton encouraged Kalogrides to make sure the concerned residents attend both the Santa Clara Planning Commission and Council meetings in which the dates were identified by the previous speaker (Porter). Vice Mayor Hamilton stated it would be important to challenge the EIR with the questions that Kalogrides has mentioned.

Councilmember Whittum stated that if Kalogrides feels there has been any violation of City of Santa Clara's General Plan, then she should put that in writing to the City of Santa Clara City Council. Councilmember Whittum stated if Kalogrides feels that significant impacts have not been identified or that they were incorrectly determined as having a significant impact, she should also put that in writing to the City of Santa Clara City Council. Councilmember Whittum stated that the California Environmental Quality Act (CEQA) is all about significant impacts. Councilmember Whittum explained to Kalogrides that if the Santa Clara City Council approves the EIR, any chance for comments will be gone as that is the final EIR.

Eric Huang announced the 2008 Olympics and Torch Relay is coming to the bay area. Huang stated concerns over China detaining specific citizens of their country from attending this year's Olympics. Huang spoke of the Human Rights Torch Relay (HRTR) and urged Council to participate in this relay that will be held in the Bay Area on April 5, 2008.

City Attorney Kahn stated he would like to follow up on the City of Santa Clara's project. City Attorney Kahn stated the final EIR can be viewed at the City of Santa Clara City Hall or via a web link on the Web site.

City Clerk Gail Borkowski stated that she would like to speak on consent item G. City Clerk Borkowski explained that the item listed on the agenda is not the same item contained in Council's packet. City Clerk Borkowski stated she wished to clarify that the item being continued is the ordinance contained in Council's packet and not the item as listed on the agenda.

**PUBLIC HEARINGS/GENERAL BUSINESS**

**2. ORDINANCE Ordinance Amending Sections of the Municipal Code Title II, RTC 08-071 Chapter 2.10, Allowing Use of the Internet as an Option for Publishing City Council Meeting Agendas, Digests of Actions, Ordinances and Legal Notices**

City Clerk Borkowski presented the staff report. City Clerk Borkowski stated the adoption of this amendment to the ordinance is consistent with voter approved Measure K.

Councilmember Swegles stated not everyone has access to the Internet, especially seniors and not publishing in the newspaper would be of concern to this segment of the community. Councilmember Swegles questioned whether the concern over those without Internet capabilities had been taken into consideration.

Assistant City Manager Robert Walker stated staff acknowledges that concern and therefore, staff has begun a six-month pilot program. Assistant City Manager Walker stated the decision to post on the Internet or in the newspaper is an administrative procedure contained within the city manager's domain. Assistant City Manager Walker stated the action before Council is strictly to make sure the ordinance supports the charter as the charter supersedes the ordinance.

Councilmember Swegles stated he wanted to make sure that citizens without Web access were considered and Assistant City Manager Walker stated concerns will be monitored during the pilot process.

Councilmember Moylan stated that it is clear in the staff report that providing the option of not posting in the newspaper needs Council adoption in order to follow what was approved by the voters during the election; however, it does not require that Council eliminate publishing in the newspaper, rather that is an option available. Councilmember Moylan stated staff contends that this is purely an operational issue; however, he does not agree and suggests that Council weigh in on this issue. Councilmember Moylan stated that the option needs to be available as approved by voters, but if Council has an opinion on not advertising in the newspaper, then Council should weigh in on that independently.

City Manager Chan stated Councilmember Moylan is correct in that Council may weigh in on operational issues. City Manager Chan stated the issue is a matter of cost savings. City Manager Chan explained that it is Council prerogative to appropriate additional funds in order to support publishing in the newspaper so that the border community may be reached.

Vice Mayor Hamilton confirmed that hard copies of the agenda are posted at seven locations within City Hall, the senior center, the library, public safety lobby and the community center.

Vice Mayor Hamilton confirmed with the city clerk that hard copies of whatever has been posted in the newspaper could be made available along with the agenda at the seven posting locations.

Councilmember Whittum inquired if the Fair Political Practices Commission (FPPC) Consolidated Campaign Disclosure Form (460) will be placed online as a result of this amendment to Municipal Code Title 2, Chapter 2.10. City Clerk Borkowski stated that section references a legal election related advertisement that is published in the newspaper on the Saturday before an election. City Clerk Borkowski stated that ad lists those who have contributed more than \$100 to a candidate's campaign as listed on the FPPC 460 form.

Councilmember Whittum inquired when staff would stop publishing in the newspaper. Assistant City Manager Walker answered that given the action by the passing of the charter amendment which allowed this option, staff has piloted this change since the passage of the charter and it is ongoing currently. Assistant City Manager Walker stated there have not been any comments from the public since this change went into effect. Assistant City Manager Walker explained that the ordinance simply supports the charter.

Public hearing opened at 7:48 p.m.

Werner Gans stated he is not aware of other cities in the Bay Area that advertise these documents in the paper. Gans identified that the agenda and digest of actions have not been advertised for the past four months and no comments have been received from the public and Council did not take notice. Gans stated not publishing these items in the newspaper makes a lot of sense and saves money. Gans compared those who do not have access to the Internet to those who do not get the newspaper. Same concern exists. Gans urged Council to approve this item as it is a sensible thing to do.

Public hearing closed at 7:49 p.m.

MOTION: Vice Mayor Hamilton moved and Councilmember Howe seconded to approve staff recommendation: Council adopts the ordinance amending Municipal Code Title 2, Chapter 2.10, Publication of Legal Notices, to include the option of Internet publication of agendas and the digest of actions, legal notices and ordinances as permitted by law.

City Clerk Borkowski read the title of the ordinance into the record.

VOTE: 7-0

Councilmember Howe encouraged Council to hold a joint meeting with Santa Clara City Council to discuss common issue items including Kaiser Hospital Access; Santa Clara Square, and trees and solar shading. Councilmember Howe

requested that the meeting be held prior to the final adoption of Santa Clara Square.

Councilmember Swegles stated he would second such a motion.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve providing direction to the mayor and the city manager to affect a joint meeting between Council and the City Council of Santa Clara to discuss common items including (but not limited to) Santa Clara Square; Kaiser Hospital Access, and tree shading of solar panels. Meeting to take place prior to completion of any final action by Santa Clara City Council with regard to the Santa Clara Square project.

City Manager Chan stated the final meeting of the Santa Clara Council regarding the Santa Clara Square will be on April 15, 2008. Scheduling this meeting will be challenging given coordinating the schedule of both City Council's and City Manager Chan asked for further direction such as the minimum number of councilmembers needed to be in attendance.

Councilmember Howe clarified that the meeting would be held with as many councilmembers as possible but does not need to receive 100 percent attendance. Councilmember Howe suggested that Mayor Spitaleri look into the possibility of the Santa Clara Council postponing their April 15 decision until after the joint meeting so they can receive input from Sunnyvale City Council.

Vice Mayor Hamilton stated Council does not have a meeting on April 15 and suggested Council attend the April 15, 2008 Santa Clara Council meeting. Vice Mayor Hamilton stated she is not comfortable asking City of Santa Clara councilmembers to rearrange their calendar.

Mayor Spitaleri stated there are three items that Councilmember Howe included in the meeting with City of Santa Clara. Mayor Spitaleri stated Council would need to identify which item of the three that they planned to discuss with Santa Clara Council and a public hearing would also need to be held ahead of time.

Vice Mayor Hamilton agreed and suggested placing it on the agenda before April 15, 2008 for discussion and then formulating an official Council position. Council would then determine who would go to the Santa Clara Council meeting on April 15, 2008 to represent Council's official position.

Councilmember Whittum offered a friendly amendment to place Council discussion of this item on the agenda prior to April 15, 2008 along with a study session or meeting with the City of Santa Clara Council for the April 15 Council meeting if schedules can be accommodated. Councilmember Whittum seconded Councilmember Howe's suggestion that Santa Clara Council consider postponing a final decision.

Councilmember Howe stated there is a motion and second currently on the table. Councilmember Howe stated a second motion can be made to place this item on a specific agenda for Council discussion.

Councilmember Howe stated he will have a second motion himself dealing with the City of Cupertino; however, right now he wishes to take a vote on his current motion without the amendment.

Friendly amendment not accepted.

City Attorney Kahn stated if the meeting with Santa Clara Council occurs with less than a quorum of both groups, then it does not have to be noticed under the Brown Act. Should there be a quorum or more by either Sunnyvale or Santa Clara, there would be Brown Act noticing requirements. City Attorney Kahn stated it might be easier to have a meeting with less than a quorum from each City.

Councilmember Howe stated he would prefer not to exclude any councilmembers from this meeting and if noticing is required, it should be done.

Vice Mayor Hamilton inquired if the motion included asking Santa Clara County to rearrange their meeting calendar. Councilmember Howe stated the intent of the motion is to hold a meeting before April 15, 2008. Councilmember Howe stated the motion does not require all councilmembers attend, which may help in scheduling. If the meeting does not occur before April 15, 2008, then Council needs to send a message to the Santa Clara Council that this issue is important to the Sunnyvale City Council and that Council would like to meet with them before they make their final decision on this project. Councilmember Howe stated this request is not a mandate that Santa Clara Council meet with the Sunnyvale City Council.

Restated MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve providing direction to the mayor and the city manager to affect a joint meeting between Council and the City Council of Santa Clara to discuss common items including (but not limited to) Santa Clara Square, Kaiser Hospital access, and tree shading of solar panels. Meeting to take place prior to completion of any final action by Santa Clara City Council with regard to the Santa Clara Square project

**with**  
as many councilmembers as possible.

VOTE: 7-0

MOTION: Councilmember Howe moved and Vice Mayor Hamilton seconded to approve direction to the mayor and the city manager to schedule a joint meeting between Cupertino City Council and the Sunnyvale City Council to discuss Kaiser and neighborhood impacts of the parking around Ranch 99.

Vice Mayor Hamilton offered a friendly amendment to remove Ranch 99 out of the motion as the project is going through a total redesign.

Councilmember Howe stated the purpose of his motion is not to tell the City of Cupertino what to do at Ranch 99, rather is it to discuss the current traffic and parking problems in the area now.

Friendly amendment not accepted.

Councilmember Howe stated it is his intention that both Sunnyvale and Cupertino City Council's will talk about what can be done, in the spirit of cooperation, about issues that affect the city border lines.

Vice Mayor Hamilton stated she supports the motion and is asking that staff brief Council on the situation with Ranch 99 prior to any meeting with the Cupertino City Council.

Restated MOTION: Councilmember Howe moved and Vice Mayor Hamilton seconded to direct the mayor and city manager to schedule a joint meeting between Cupertino City Council and the Sunnyvale City Council. Meeting to be held in the spirit of cooperation, on issues affecting the city border lines including Kaiser and the traffic and parking impacts of Ranch 99.

### **NON-AGENDA ITEMS & COMMENTS**

**COUNCIL:** None.

**STAFF:** None.

### **INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting of February 21, 2008
- Study Session Summary – Council Security
- Study Session Summary – Equitable Adjustment to GreenTeam/Zanker Compensation Resulting from Materials Recovery Facility Construction Shutdown

### **ADJOURNMENT**

Mayor Spitaleri stated the meeting this evening will be adjourned in honor of Michael Fenner who had served the City as a dedicated volunteer at the Senior Center for many years.

Mayor Spitaleri called for a moment of silence in honor of Michael Fenner and then adjourned the meeting in his honor at 8:07 p.m. to the continued study session in the West Conference Room.

Gail T. Borkowski  
City Clerk

\_\_\_\_\_  
Date