

**APPROVED MINUTES
SUNNYVALE CITY COUNCIL
TUESDAY, AUGUST 19, 2008**

5 P.M. SPECIAL COUNCIL MEETING (Study Session) - Supervisor Liz Kniss, District 5 Update

6 P.M. SPECIAL COUNCIL MEETING (Study Session) - Santa Clara Valley Transportation Authority (VTA) Governance Structure Issue.

7 P.M. COUNCIL MEETING

SALUTE TO THE FLAG

Mayor Spitaleri 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
Senior Assistant City Attorney Kathryn Berry
Director of Public Works Marvin Rose
Director of Community Development Hanson Hom
Assistant to the Director of Parks and Recreation Cathy Merrill
Public Safety Lieutenant McCloskey
Director of Public Safety Don Johnson
Intergovernmental Relations Manager Yvette Agredano
Senior Planner Steve Lynch
Planning Officer Trudi Ryan
Assistant Planner Mariya Hodge
City Clerk Gail Borkowski

SPECIAL ORDER OF THE DAY– Presentation by Jed Cyr, Board Member of the Mid-Peninsula Regional Open Space District to introduce their new district manager

CLOSED SESSION REPORTS

Vice Mayor Hamilton reported that Council met in closed session on August 4, 2008 pertaining to: Pursuant to Government Code Section 54957 – Public Employee Appointment, Title: City Manager

Vice Mayor Hamilton reported Council interviewed candidates for the City Manager position and will do a second round of interviews on August 25, 2008.

Vice Mayor Hamilton reported that Council met in closed session on August 5, 2008 pertaining to: Pursuant to Government Code Section 54957 – Public Employee Appointment, Title: City Manager

Vice Mayor Hamilton reported Council held a closed session discussion on August 5, 2008 regarding the candidates.

PUBLIC ANNOUNCEMENTS

Councilmember Howe announced that Sunnyvale public safety personnel have joined forces with other fire personnel from around the state in assisting with the numerous California fires.

Councilmember Howe recognized the new Sunnyvale Chamber of Commerce CEO, Paul Stewart. Stewart introduced himself and stated he is looking forward to working with the City.

Councilmember Lee announced that the City accepts applications for all boards and commissions on a continuous basis. Councilmember Lee announced the current openings on the City's boards and commissions.

Councilmember Howe requested approval by the city manager to have tonight's minutes include a copy of his comments regarding how the City assisted with the numerous California fires (Attachment A).

Arthur Schwartz, member of the Moffett Field Restoration Advisory Board, announced an upcoming public meeting to discuss the recent report from the U.S. Navy regarding Hangar 1 at Moffett Field. Schwartz stated comments will be accepted until September 13, 2008 regarding this report.

Josh Salans, Executive Director of Sustainable Community Gardens, announced that Full Circle Farms is open for business.

CONSENT CALENDAR

Councilmember Whittum pulled Item 1.L.

Vice Mayor Hamilton pulled Item 1.K.

Vice Mayor Hamilton moved and Councilmember Howe seconded to approve the Consent Calendar with the exception of Items 1.K and 1.L.

VOTE: 7-0

1.A. Approval of Draft Minutes of May 23, 2008

1.B. Approval of Revised Draft Minutes of July 15, 2008

1.C. Approval of Revised Draft Minutes of July 22, 2008

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

Fiscal Items

- 1.E. RTC 08-244 List of Claims and Bills Approved for Payment by the City Manager – Lists No. 411, 412, 413 & 414**

Staff Recommendation: Council reviews the attached lists of bills.

- 1.F. RTC 08-248 City of Sunnyvale Investment Report 2nd Quarter 2008**

Staff Recommendation: Council receives and files the investment report.

- 1.G. RTC 08-245 Approval of Participation in the Memorandum of Understanding Between the Sunnyvale Department of Public Safety and the City of San Jose for the Purpose of the Silicon Valley Internet Crimes Against Children Training Reimbursement Grant and Approval of Budget Modification No. 3**

Staff Recommendation:

- Council authorizes the Department of Public Safety to enter into the Memorandum of Understanding with the City of San Jose for the reimbursement of training costs incurred and approved by Silicon Valley Internet Crimes Against Children; and
- Council approves Budget Modification No. 3.

Contracts

- 1.H. RTC 08-249 Award of Contract for Public Works Project Management and Engineering Services (F0807-04)**

Staff Recommendation: Council awards a two-year contract, in substantially the same form as the attached draft and in an amount not-to-exceed \$300,000, to Associated Infrastructure Management Services (AIMS) Corporation for Public Works project management and engineering services.

- 1.I. RTC 08-247 Award of Contract for Citywide Copier Lease Program (F0807-02)**

Staff Recommendation:

- Award a four-year contract in an amount not to exceed \$145,000 annually for a total contract amount of \$580,000, to Ricoh, for the lease of Citywide Copiers, and
- Council delegates authority to the City Manager to exercise an option to extend the contract for two additional one-year periods, provided that pricing and service remain acceptable to the City.

- 1.J. RTC 08-250 Rejection of Bids for Public Safety Building Data Center Heating, Ventilating and Air Conditioning Improvements (F0706-101)**

Staff Recommendation: Council rejects all bids received in response to Invitation for Bids No. F0706-101 for the Public Safety Building Data Center Heating, Ventilating and Air Conditioning Improvements.

1.K. RTC 08–235 Agreement Between the City of Sunnyvale and Silicon Valley Leadership (Formerly Leadership Sunnyvale) to Provide Leadership Sunnyvale Training Program

Vice Mayor Hamilton explained that staff requested that this item be pulled because the noticing date was incorrect. Vice Mayor Hamilton explained that this item will be reposted with the continuance date of September 9, 2008.

Public comments opened at 7:23 p.m.

No speakers.

Public comments closed at 7:23 p.m.

MOTION: Vice Mayor Hamilton moved and Councilmember Howe seconded to continue this item to September 9, 2008, noting that the item will be re-posted.

VOTE: 7-0

Other Items

1.L. RTC 08–234 Approval of Final Map (Tract No. 9965, Trinity Park) – 42 Unit Single-Family Homes at the Northwest Corner of West Fremont Avenue and Pome Avenue by Classic Communities, Incorporated

Councilmember Whittum verified with Director of Public Works Marvin Rose that staff has reviewed this map and verified that it is in conformance with the tentative map. Director of Public Works Rose explained that Council is being asked to approve the final map, which is in conformance with the tentative map.

Councilmember Whittum questioned if the streets have sidewalks with curb cuts and Director of Community Development Hanson Hom stated he believes there are sidewalks on one side of the street. The final map conforms to what was approved by Council at the time the tentative map was considered.

Councilmember Whittum inquired if it is an Americans with Disabilities Act (ADA) standard not to have a sidewalk in front of a whole block of homes and Director of Community Development Hom stated it does not conflict with ADA requirements. Director of Community Development Hom explained that there is not any ADA requirement that requires sidewalks to be on both sides of a street.

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

- Council approves the final map for Tract No. 9965;
- Council authorizes the Mayor to sign the subdivision agreement upon: developer's signatures, submittal of improvement securities, payment of development fees, and submittal of other documents deemed necessary by the Director of Public Works, and
- Council directs the City Clerk to sign the City Clerk's Statement and the Certificate of Abandonment; and to forward the final map for recordation.

VOTE: 7-0

1.M. RTC 08-233 Authorization to Accept Contract in the Amount of \$50,040 from Foothill-De Anza Community College District to Assist with Solar Installer Training Program

Staff Recommendation: Council, on behalf of the NOVA seven-city consortium, authorizes the acceptance of a contract from the Foothill-De Anza Community College District in the amount of \$50,040 for the coordination of internships for solar installer trainees.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Pamela Dunn, President of the Sunnyvale Employee Association (SEA), stated that a huge discrepancy exists between the employee units with respect to pay increases. Additionally, SEA employees do not receive cost of living increases. Dunn explained that the current proposal from the City has been rejected by SEA.

Rick Miller, SEA member, stated that over the last four years, over half of the benchmark salary positions of SEA employees have not received a salary increase. Miller stated a new contract is coming up and SEA has negotiated to the point where the negotiations may not pass the membership. Miller requested Council consider the comments being shared this evening when reviewing the contract.

Deborah Cordova, member of the bargaining team for SEIU Local 521, explained that the City's bargaining representatives have not negotiated with the union in good faith. Cordova requested Council's support to encourage the City's bargaining representatives to negotiate with the union in a fair manner.

Adam Berkam, chairman of the Morse Park Neighborhood Association, thanked City staff for their assistance with the recent Morse Park Neighborhood Association block party. Berkam stated the association would like to hold their block party in the future at the proposed Morse Park and urged Council to support building this park. Berkam announced an upcoming neighborhood meeting to discuss the park.

Lorraine Lanzabal, member of the Morse Park Association, spoke in support of the Morse Avenue Park and asked Council to assist with the funding for this park.

Councilmember Swegles inquired if this item is funded and City Manager Amy Chan responded that funding for this park is several years out. City Manager Chan stated she can return to Council with the exact year.

Arthur Schwartz, representing the Save the Hangar Committee, requested Council consider establishing a Hangar One Reuse Advisory Board in conjunction with the City of Mountain View to assist with what should be done with the hangar facility.

Denise DeLange announced an upcoming kid's night at the Full Circle Farm. DeLange announced that volunteer opportunities are available at the farm.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 08-246 Request by Council for Continuance of 2007-0346 Extension of Sustainable Building Requirements Beyond Moffett Park (Study Issue)

Director of Community Development Hom requested a continuance for this item to the August 26, 2008 Council meeting.

Public hearing opened at 7:40 p.m.

No speakers.

Public hearing closed at 7:40 p.m.

MOTION: Councilmember Moylan moved and Councilmember Swegles seconded to approve staff recommendation: Council continues this item to August 26, 2008.

VOTE: 7-0

3. RTC 08-238 Consider Options for Use of Raynor Activity Center (Study Issue)

Assistant to the Director of Parks and Recreation Cathy Merrill presented the staff report.

Vice Mayor Hamilton verified with Merrill that the current zoning is for a school site.

Vice Mayor Hamilton inquired if school sites are automatically considered as residential overlay or barring a school site, what would be the closest approximation for zoning. Director of Community Development Hom stated that the zoning would be primarily based on the surrounding zoning, but he would need to return to Council with the particular zoning use that the district would allow, other than a school site.

City Manager Chan explained that changing the zoning would not be automatic and would require a rezoning process. Vice Mayor Hamilton verified with City Manager Chan that Council has the ability to rezone the area to something that would be compatible with the existing uses after a public hearing has been held and public input has been taken.

Vice Mayor Hamilton verified with Merrill that the projected current value of the land is based on residential zoning. Merrill stated the property has not been formally appraised at this time. Vice Mayor Hamilton verified with Merrill that a formal appraisal would identify the property as being zoned residential; therefore, the value could be different than the value received from staff of 10.5 to 12 million dollars.

Councilmember Swegles verified with Merrill that the amount required to rehabilitate the structure was determined from the input received from staff in public works, engineering and facilities. Merrill explained that the cost is a rough estimate driven from previous projects. A formal evaluation has not been done at this time and is pending Council action.

Councilmember Swegles verified with Merrill that if the buildings were to be eliminated, it would cost the City \$72,000 to store all the items from the facility. Merrill stated that the City may not want to store the furniture at all depending on whether storing the furniture would be more costly than the furniture itself.

Councilmember Swegles questioned if the renovations were to occur, would it be done in stages or all at once. Merrill stated that the renovation process would depend on the intended use of the property. Councilmember Swegles verified with Merrill that if a renovation were approved, staff would review the option of allowing use of some of the areas during renovation, if at all possible, and then would return to Council with a recommendation.

Councilmember Swegles verified with Merrill that the City will not be renovating the entire park. Merrill explained that the Raynor Activity Center is the old school site that is located adjacent to Raynor Park. The area in discussion is the just the area that is comprised of the buildings and the sidewalk between them.

Councilmember Swegles verified with City Manager Chan that the Raynor Activity Center does not generate revenue and the cost to maintain the building has been substantial.

Councilmember Swegles verified with Merrill that staff is aware of the clogged storm drain at the center. Merrill stated that correcting this issue would require that the City facilities division locate funding to cover the cost of cleaning and reconstructing the storm drain. Merrill explained that at this time, the facilities division is waiting to move forward pending the outcome of this study. Merrill explained that the rough estimate to correct this drain is between \$20,000 to \$35,000, which includes digging up and realigning the storm drain.

Councilmember Moylan inquired if one of the buildings on the property were to be reconfigured into a branch library, could the other buildings be sold or leased out. Councilmember Moylan questioned whether a renovation could be done on an individual building basis or would the entire site need to be done all at once. Merrill responded that Council could provide direction as to the purpose for each building, keeping revenue and benefits to the overall community in mind.

Councilmember Lee inquired if Alternative 4 would be considered to be revenue neutral and Merrill stated revenues would vary greatly depending on the terms of the agreement; however, it is possible to achieve a cost neutral state or possibly receive additional revenue to the City if the buildings were leased at above market value.

Councilmember Swegles verified with Merrill that staff has not spent much time researching alternative sites for the groups currently operating within the buildings as staff is waiting on Council's decision this evening.

Councilmember Whittum verified with Merrill that the net present value of Alternative 4 depends on the renovation cost and the annual income generated from the use; however, it is possible that the renovation could actually allow for a net plus in terms of generating cash for the city depending on the agreement.

Councilmember Howe verified that the City owns the property and will be handling the leasing, given that the buildings are considered safe for use. Merrill stated several sections of the buildings are used primarily for storage because they are not in the best condition. Some buildings are completely unusable and that is why they are used for furniture storage.

Public hearing opened at 8:13 p.m.

Robert Obrey, chairman of the Arts Commission, stated the commission met with the Parks

and Recreation Commission to review the Raynor Activity Center staff report. Obrey stated the Arts Commission voted 4-0 in favor of Alternative 4, which states that Council would approve leasing the site for long-term use for one or more lessees, who would invest in the site to upgrade the structures to meet building codes, and that the current uses and users would remain in the facility. Obrey stated concerns were expressed by commission members that if the artist studio spaces were no longer available, the artists would have a difficult time finding similar affordable space within Sunnyvale.

Councilmember Swegles verified with Obrey that neither the commission nor the public members attending the meeting addressed the fact that the artists may not have the funds to lease their current spaces if Alternative 4 was approved. Obrey stated if Council approves this alternative, the artists' ability to lease spaces would need to be further investigated.

Councilmember Moylan verified with a commission member in the audience that six artists use space at the center as studios. Councilmember Moylan questioned if the artists pay rent and Obrey stated he is not aware whether they pay rent or not.

Jim Colvin, chairman of the Parks and Recreation Commission, verified that the commission held a joint meeting with the Arts Commission regarding Raynor Park. During that meeting, members of the public expressed concerns over items such as the possibility of converting to high density housing, the overall loss of this facility to the neighborhood, and the loss of the services which are provided by the day care center and the gymnastics club. Colvin stated the Parks and Recreation Commission voted five to zero in favor of Alternative 4. Colvin explained that the intent of the commission in approving Alternative 4 was to have the lease(s) completed within a reasonable amount of time.

Councilmember Swegles inquired as to whether the Parks and Recreation Commission considered the non-profit status of the artists. Colvin stated there could be some generosity from the major lessee, which would allow the non-profit artists studios to continue. Colvin stated Council will hear more about this from the speakers.

Jim Griffith, chairman of the Library Board of Trustees, stated the board discussed this issue and on the basis that this item was well beyond the purview of the board, the members took no position on the alternatives. The board did recommend that the City make every reasonable effort to provide facilities for the Friends of the Library and Western Philatelic Library if they are displaced.

Griffith spoke about the benefits that the Friends of the Library and Western Philatelic Library offer to the community.

Vice Mayor Hamilton inquired about the specifics of the Board of Library Trustee's discussion. Griffith stated that one resident who attended their meeting specifically told board members that this decision was not within the library board's area of concern. Griffith stated that the resident was correct in that the board is not involved with issues about the arts. Griffith stated in his opinion the board was concerned about the City giving up land, and in general the board would have been most receptive to leasing the property due to the cost and availability of land. Griffith stated again that this was just his opinion on what the board would have been receptive to had they made a recommendation.

Brian Mason, a commercial real estate broker, stated that Council and others do not have enough information to make a good decision at this time. Mason stated this area is an asset that will continue to grow in value for the City, so there is no reason to sell this property.

Mason explained that there are several ways to lease this property. One way is to lease the property in an "as is" state and any tenant leasing the property would be required to take on the capital improvements and repairs that would be needed in order to operate their business at that location. Mason stated the manner in which the leasing is structured can be evaluated for a cost neutral status.

Councilmember Swegles inquired about retrofitting the building and Mason explained that per a few general contractors' reports, the cost to retrofit the buildings would be around \$100 a square foot.

Councilmember Lee verified with Senior Assistant City Attorney Kathryn Berry that a master lease would work best, because all the sub-tenants could come in at the same time, thereby allowing for all the improvements to be done at once, but that that process would require a lot of capital. There are many different ways to structure leases for different uses and for varying obligations of the lessee(s).

Councilmember Howe had a discussion with Mason about the process of evaluating a tenant as to their ability to pay for expenses, and about the validity of the current uses at this facility.

Councilmember Howe stated the basis of his questioning is an attempt to identify whether the individuals or community groups who lease the spaces would have the ability to fund a retrofit along with the ongoing maintenance costs. Councilmember Howe verified that Mason is suggesting Council does not have enough information to make that determination currently.

Councilmember Howe verified with Mason that he recommends Council create a group to study this area further and come back to Council with more factual data such as market studies, bids from contractors, and appraisals.

Councilmember Howe inquired as to what would be Mason's best guess as to the length of time it would take the City to obtain a return on the retrofit expense. Mason explained that owners of an asset usually do not get a return on their money for four or five years.

City Manager Chan explained that Council's decision this evening is to choose the one option that Councilmembers would like staff to explore further and then return to Council. It is not appropriate for Council to enter into negotiations at this point.

Councilmember Whittum stated that it appears that Mason is optimistic that he could produce a master lease, which would cover all the current terms and users, even though four of the units collect \$580 a month for artists. Mason explained that the City would already be ahead \$100,000 by requiring that the tenant(s) assume the maintenance and repairs of their space. Mason stated although he does not know what the other tenants pay in rent, he does believe that a master lease would benefit the City and community, and could be a positive cash flow for the City. Mason stated he would not personally use an asset as a storage space if it had the ability to bring in revenue,

Councilmember Whittum verified with Mason he had two contractors look at the site and their proposals were one-third of the proposed cost of \$9 million.

Councilmember Swegles verified with City Manager Chan that staff consults with professionals consistently; however, staff would welcome assistance from community

volunteers who would like to provide the City with additional information.

City Manager Chan stated the parameters of this item are really based on what type of work needs to be done. Director of Parks and Recreation David Lewis added that as part of preparing the staff report, staff consulted with engineers, property management professionals, and used information from a previous study regarding condition of the building. Director of Parks and Recreation Lewis stated that many of the buildings at this site still have asbestos and structural issues.

Councilmember Swegles explained to Mason that the information received from his resources could be passed on to staff and possibly included in the staff report.

Diane Ammon, president of Sunnyvale Gymnastics Club, stated they use one building in the Raynor Activity Center as a gym and would like to continue using the space. Ammon spoke about how valuable the club is to the community and to the students who participate in gymnastics.

David Krimsley spoke about the benefit of the Raynor Center and the My Dream Academy Child Care Center. Krimsley urged Council to vote against any motion that would result in rezoning the property for anything other than an education or community center.

Anita Spiro, board member for the Sunnyvale Gymnastics Club, spoke in support of the Raynor Activity Center and the gymnastics center.

Demetrios Triantafyllou, board member for Raynor Park Neighborhood Association, stated a number of Raynor Park tenants and members of the neighborhood held a joint meeting to discuss options for the Raynor Park Activity Center. The group unanimously supported Option 3 to keep the current usage and expand the recreational use of the Raynor Center. Triantafyllou stated it is essential to rent out this property at competitive market rates and the existing non-revenue services should be minimized or eliminated. Triantafyllou explained that this facility should maintain its value, which may require long-term leases with the required renovations spread out over a number of years.

James Sauer, Director of the Western Philatelic Library, spoke about the benefit to Sunnyvale residents from having the Western Philatelic Library in the community and urged Council to retain the Raynor facility.

Ikko Fushiki, president of My Dream Academy Child Care Center, talked about the benefits of the child care center to the community. Fushiki spoke of concerns over the staff report such as the extremely high estimate for the cost of refurbishing the buildings. Fushiki stated the staff report mentions low usage of Raynor Center; however, he has repeatedly asked the City to lease buildings 2 and 3, but the City denies his request and continues to use those buildings as storage areas. The staff recommendation to sell the property does not address the main issue, which is the use of Raynor Center; instead it leaves the property open to the possibility of high-density housing being built as reflected by the revenue figures expected from the sale of this property.

Councilmember Howe verified with Fushiki that 160 children attend the academy and about 50 percent live in Sunnyvale.

Councilmember Swegles disclosed that he previously met with representatives from My Dream Academy, the Gymnastics Club, the Western Philatelic Library and residents from

Raynor Park and Birdland communities.

Vice Mayor Hamilton verified Fushiki might be interested in purchasing the site.

Vice Mayor Hamilton explained to Fushiki that the site is zoned as a public school presently and she would not think that her fellow Councilmembers would approve zoning the site as high-density zoning, because it would not be compatible with neighborhood uses.

Councilmember Swegles verified with Fushiki that if he were to purchase the property, he would accommodate the other uses on the property.

Councilmember Whittum explained that the reason several speakers have commented on possible high-density housing is due to the staff report identifying expected revenue of \$12 million, which would come from selling the property for a higher use such as high-density housing.

Denise DeLange read a letter to Council from the executive director of the Euphrat Museum of Art who was not able to obtain the meeting. The speaker expressed her support of the Raynor Activity Center continuing to be a home for artists and other community activities.

Roger Skinner, volunteer with the Western Philatelic Library, stated the staff report is not very effective in assisting with a decision on how to proceed with the site. Skinner recommended Council obtain additional details and information prior to making a decision on how to proceed. Skinner noted there is a steel fixture in the parking lot at the center and if the property were to be sold, the staff report does not identify how the City would dispose of this item. Skinner stated the City is wasting money by storing furniture in some of the buildings. The City should have allowed My Dream Academy to lease the building and renovate the playground. Skinner stated there is another steel structure between building six and seven and suggested that staff identify the purpose of that structure.

Flo Oy Wong, art advocate, spoke against the staff recommendation to sell Raynor Park Activity Center. Wong explained that without the center the artists will not have a studio space.

Councilmember Whittum disclosed he met with Flo Oy Wong and Ms. Rice.

Audrey Wong, grants program manager for Arts Council Silicon Valley, spoke in support of the arts to the community. Wong identified Council's decision as a vision for Sunnyvale and requested that should Council approve selling the Raynor property, that the City provide similar artist studios elsewhere in the City.

Eleanor Hansen stated Council should expect to have to spend money on their investment by doing maintenance. Hansen stated members of the public have valid concerns about the possibility of high-density housing being built at the Raynor Activity Center based on Council's previous track record in approving high-density housing.

Ian Prickett stated the Raynor site is portrayed in the staff report as being worth \$10.5 million to \$12 million, which is an amount that could only be generated from high-density or regular density housing. Prickett identified errors in the staff report such as the fact that there is significantly less open space available than what was included in staff's calculations. Prickett stated that the Raynor Park site was bought with money from the general fund and any money received from the sale of that site would need to go back into

the general fund, and not for a new park. Prickett spoke in support of the Sunnyvale Gymnastics Club and stated that it is a unique facility within Sunnyvale.

Jian Chen, director of New Concepts Chinese School, spoke in support of the Raynor Activity Center and Option 3 and stated she is against a master lease.

Councilmember Whittum clarified Chen is interested in leasing one or two of the buildings at the Raynor Center for a multi-purpose use.

Councilmember Lee disclosed his daughter was a former student of the New Concepts Chinese School and he had a brief discussion with Chen.

Tap Merrick submitted copies of his written comments to Council. Merrick stated concerns over high-density developments within the City. Merrick stated the City should maintain and renovate their storage space at the Raynor Activity Center. Merrick stated the Raynor Center parking lot is needed as it services the park and therefore, the storm drain issue needs to be addressed whether the site is sold or not. Merrick acknowledged the positive work of the mayor in attempting to share resources and working with other cities.

Werner Gans stated Council should ask themselves how selling this property would affect the community as they make their decisions on whether to sell or lease the Raynor property. Gans stated he agrees with the previous speakers that sales revenue located in the staff report reflects a price that would be obtained from high-density housing.

Public hearing closed at 9:35 p.m.

Vice Mayor Hamilton verified with Director of Parks and Recreation Lewis that My Dream Academy and the Chinese School are the only parties who have let it be known that they may be interested in purchasing the property. Staff has not gone out seeking buyers.

Vice Mayor Hamilton inquired about the ability to sell school-zoned property to a private party. Senior Assistant City Attorney Berry explained that the deeds would need to be reviewed to see if any restrictions exist, but who is eligible for ownership is not really the question, rather the question revolves around what the zoning is for the area. Community Development Director Hom clarified that the Raynor Center is currently zoned for public facilities, which is not exclusively limited to schools, and would allow other public uses such as City facilities, public agencies and other public uses.

Vice Mayor Hamilton stated that selling the Raynor property might be the right thing to do as the City should not be involved in being a landlord. Vice Mayor Hamilton stated the staff report is missing some information and Council may want to postpone a decision until additional information is obtained including the value of the land.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternative 4, Option 3: Council approves to lease the Raynor Activity Center site for long-term use by one or more lessees and stipulates that the lessee(s) invest in the site to upgrade the building structures to meet applicable building codes **with**

- Council directs staff to return to Council with options.
- The goal is to be revenue neutral or positive, and should include renovations and maintenance.
- The goal of intended use(s) is to serve Sunnyvale residents as the primary objective.

- Use of site to support goal #1 and goal #2.
- Explore branch library possibility to include all specialty books already existing on the site.

Vice Mayor Hamilton inquired as to what happens if staff cannot find a way to make the center either cash neutral or positive. Councilmember Howe explained that staff shall then return to Council for consideration of subsidizing the center or pursue another direction with the site.

Councilmember Howe explained that if staff feels they are not able to make the center cash position or neutral, they should return to Council.

Councilmember Whittum offered a friendly amendment to have staff consider an option that would maintain the present uses and users of the center.

Councilmember Howe explained that maintaining present uses and users of the center could potentially affect the ability to make the site revenue neutral. Councilmember Whittum stated that his amendment did not require staff to keep the users, rather to consider them as one of the options they explore. Councilmember Howe stated staff would automatically consider present use and users; however, if the current users could not lead to revenue neutral or revenue positive, then staff would need to look at other uses of that site.

Friendly amendment not accepted.

Councilmember Whittum inquired whether Councilmember Howe is recommending that the request for proposal (RFP) process be used for potential users. Councilmember Howe stated he assumes that staff would do that, but he did not want to direct staff at that level.

Councilmember Whittum inquired what Councilmember Howe meant by revenue neutral. Councilmember Howe stated his goal is not to use funds from the General Fund or the Parks and Recreation fund to maintain this site.

Vice Mayor Hamilton requested a friendly amendment to direct staff that any future staff reports, which have valuation of the property, are based on the current zoning, not potential future zoning.

Councilmember Howe stated Option 3 is not looking into selling the property. If staff is not able to find an option that will make the site revenue neutral, then it will be up to Council to make the decision what to do with the site at that time.

Vice Mayor Hamilton stated her concern is that the values included in the staff report are not based on the current situation and reflect valuation of high-density housing. Not included in the staff report was the fact that to receive that type of value for the center would require an entire rezoning of the site. This omission in the report has created confusion within the community.

Councilmember Howe stated staff should be able to come back with current zoning and future zoning as well. Councilmember Howe stated selling the property is not included in the motion at this time and personally he would prefer the City retain this property.

Friendly amendment not accepted.

Councilmember Swegles thanked staff for their efforts, and the board and commission representatives and members of the public who spoke on this issue.

Councilmember Lee stated he is not in favor of selling this property and the current motion offers the opportunity to preserve a valuable asset for future public use. Councilmember Lee stated he supports the motion.

Vice Mayor Hamilton stated she will support the motion. Vice Mayor Hamilton stated her prior comments reflected her attempt to explore a way to structure a sale that would preserve the uses currently in place, but also would provide the funding that would allow for the City to fund an area that is desperately in need of park. Vice Mayor Hamilton stated she was attempting to find a way to obtain a double win for the City, but she also supports Councilmember Howe's alternative approach.

Councilmember Whittum stated he will support the motion, even though he does not feel that reaching revenue neutral or revenue positive is as important, but it appears it is possible to achieve that based on the discussions. Councilmember Whittum explained that this center is working well within this neighborhood. Councilmember Whittum stated that the City does need to address the City items that are stored at this location.

Mayor Spitaleri stated that he supports the motion. Mayor Spitaleri expressed concern that the buildings do need to be repaired and upgraded. Mayor Spitaleri stated the best situation would be to keep the current tenants in place and work out agreements with the current tenants for improvements.

Councilmember Howe thanked staff for their work on the report.

Restated MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternative 4, Option 3: Council approves to lease the Raynor Activity Center site for long-term use by one or more lessees and stipulates that the lessee(s) invest in the site to upgrade the building structures to meet applicable building codes

with

- Council directs staff to return to Council with options.
- The goal is to be revenue neutral or positive, and should include renovations and maintenance.
- The goal of intended use(s) is to serve Sunnyvale residents as primary objective.
- Use of site to support goal #1 and goal #2
- Explore branch library possibility to include all specialty books already existing on the site.

and

- Council directs staff to return to Council if they find it's not possible to make the site revenue neutral or cash positive. Council would then decide to subsidize the center or do something else with the site.

VOTE: 7-0

Mayor Spitaleri called for a ten minute recess and upon reconvening; Council will next address Item 7 on the agenda.

7. RTC 08-236 Municipal Code Revision Chapter 5.36 – Taxicabs (Study Issue)

(Portion of tape deleted during staff report.)

Public Safety Lieutenant McCloskey presented the staff report.

Vice Mayor Hamilton verified with Senior Assistant City Attorney Berry that the City pays for each ballot item placed on the ballot and the cost varies as to whether the City is doing a municipal election or needs to hold a special election.

Vice Mayor Hamilton inquired if there is a cost difference between having an item on the ballot with other charter amendments versus Councilmember elections. Senior Assistant City Attorney Berry stated costs savings are achieved when there is a combined ballot. Vice Mayor Hamilton responded that her question is whether there would be a cost difference between Council placing this item on the ballot with next year's municipal election or whether savings would be achieved if Council waited until the next set of Charter Review Amendments is placed on the ballot. City Manager Chan explained that the cost is less expensive when there are additional ballots items and also combining with the municipal election is less expensive than a stand alone election.

Vice Mayor Hamilton inquired as to the cost of bringing taxicab franchises before Council each year, including staff time to do the staff report. Director of Public Safety Don Johnson stated the cost of the group of five to seven franchises in the City is approximately five to seven thousand dollars per year.

Public hearing opened at 10:16 p.m.

No speakers.

Public hearing closed at 10:16 p.m.

MOTION: Councilmember Lee moved and Councilmember Swegles seconded to approve Alternative 1: Council makes no change to the Sunnyvale City Charter, Article XVI, or Sunnyvale Municipal Code Section 5.36 at this time, and instead directs staff to raise the issue for consideration during a future Charter Revision.

VOTE: 7-0

8. RTC 08-217 Designation of Voting Delegate and Alternates for 2008 League of California Cities Annual Conference

Intergovernmental Relations Manager Yvette Agredano presented the staff report.

Public hearing opened at 10:17 p.m.

No speakers.

Public hearing closed at 10:17 p.m.

MOTION: Councilmember Swegles moved and Councilmember Howe seconded to approve Alternative 1: Council designates one voting delegate, and up to two voting delegate alternates: Mayor Spitaleri as the City's delegate, Vice Mayor Hamilton as the first alternate, and Councilmember Moylan as the second alternate at the 2008 League of California Cities Annual Conference.

Councilmember Moylan stated he is not able to attend the conference as previously scheduled due to work commitments and therefore, he would not be able to serve as an alternate.

Councilmember Swegles restated his motion to include Councilmember Lee in place of Councilmember Moylan.

Restated MOTION: Councilmember Swegles moved and Councilmember Howe seconded to approve Alternative 1: Council designates one voting delegate, and up to two voting delegate alternates: Mayor Spitaleri as the City's delegate, Vice Mayor Hamilton as the first alternate, and Councilmember Lee as the second alternate at the 2008 League of California Cities Annual Conference.

VOTE: 7-0

4. **RTC 08-194** **2008-0245 – Sheri DeCaire/Mission Bay Works [Applicant] Peter Van Dyck [Owner]: Appeal by the Applicant of a decision of the Planning Commission denying an application for a Use permit to allow a vocational school for property located at 230 Commercial St. (near e. Arques Ave.) in an M-S (Industrial & Service) Zoning District. (Mitigated Negative Declaration) (APN: 205-35-007)**

Senior Planner Steve Lynch presented the staff report.

Councilmember Whittum verified with Senior Planner Lynch that there is one property owner that objects to this use and has submitted a letter. Other objections were received by staff verbally or through email.

Councilmember Whittum questioned if the reason that Applied Materials is objecting to having anyone nearby is because they want to release hazardous materials into the atmosphere and having another business nearby makes that difficult. Senior Planner Lynch stated Applied Materials is allowed to emit a certain portion of materials into the air, as are many businesses in Sunnyvale; however, the larger issue surrounds having a school next to their site in the event that an accidental release occurred. Other concerns involve state restrictions and insurance requirements.

Councilmember Whittum verified with Senior Planner Lynch that approximately 25 to 30 percent of the buildings on Commercial Street are empty.

Councilmember Whittum verified with Senior Planner Lynch that the appellant's intended use is allowed with a use permit in the zoning for the area.

Councilmember Whittum inquired if occupancy of this site, as opposed to the site being vacant, would make the finding of maintaining an attractive business community. Planning Officer Trudi Ryan explained that Council has some breadth in terms of making a finding and may rely on any of the City's goals or policies; however, it is necessary to make the finding for one of the two findings listed on page 3 and 4 of Attachment A, in order to approve a use permit.

Councilmember Whittum inquired if Applied Materials is required to release hazardous chemicals into the atmosphere and Senior Planner Lynch explained that they are only permitted to release a certain portion as a part of their manufacturing process. There is no

requirement for this action.

Vice Mayor Hamilton stated the staff report mentions that there are other sites that the appellant's facility could locate and wondered what help staff offered to the organization to find alternate locations. Senior Planner Lynch stated staff has extended their assistance; however, at this time the appellant has not taken advantage of any assistance. The appellant may not have contacted staff for assistance, because they have been in escrow for the site on Commercial street. Staff is recommending that Council approve that the planning and economic development departments work with this organization to find another location.

Vice Mayor Hamilton questioned whether the site had been purchased and Senior Planner Lynch stated staff is not aware what state the transaction is in currently. Vice Mayor Hamilton stated it appears that the organization attempted to buy the building before they had the use permit. Planning Officer Ryan explained that it is not unusual for an applicant to offer to lease or offer to purchase a property that is dependent on obtaining a use permit.

Mayor Spitaleri stated the staff report talks about the release of chemicals into the atmosphere quite often and questioned if this company is releasing chemicals on a routine basis. Senior Planner Lynch stated they do not release on a routine basis.

Mayor Spitaleri verified that Planning Officer Ryan has offered to work with the organization to find suitable locations; however, they have not been interested in obtaining staff's assistance.

Vice Mayor Hamilton verified with Planning Officer Ryan that if Council approved the use permit, what other types of schools would be allowed. Planning Officer Ryan explained that the general use would be for an institution of higher learning serving the adult population. The specific use is deficient in parking; therefore, a condition of approval would require that transportation is provided. If another institution of higher learning wanted to take over, they would be required to limit the number of students and faculty because of the parking issue.

Vice Mayor Hamilton verified with Planning Officer Ryan that the current zoning could revert back to industrial use and the permit would expire.

Councilmember Whittum had a discussion with Senior Planner Lynch about the condition of approval regarding the addition of sidewalks.

Councilmember Whittum verified with Senior Planner Lynch that line 8.A. of Attachment B in the staff report should be struck in favor of 1.G.

Councilmember Swegles confirmed with Senior Planner Lynch that no new information has come about since the Planning Commission meeting.

Public hearing opened at 10:34 p.m.

Peter Cirigliano stated concern over spot zoning and incompatible uses.

Public hearing closed at 10:36 p.m.

MOTION: Councilmember Howe moved and Vice Mayor Hamilton seconded to approve Alternative 1: Council denies the appeal and upholds the decision of the Planning Commission; adopts the mitigated Negative Declaration and denies the use permit **with** Council encourages staff to work with Mission Bay Works owner to identify more suitable sites in Sunnyvale; Council makes the findings that the project is not compatible with the General Plan or with various parts of the Land Use and Transportation Element which states: limit the intrusion of incompatible uses in inappropriate development in the city neighborhoods, including industrial and commercial.

Vice Mayor Hamilton verified that the applicant was notified of the meeting. Senior Planner Lynch stated staff has attempted to contact the applicant over the past three or four days, but staff has not received any return calls. Director of Community Development Hom added that the date for this meeting was chosen for the applicant's convenience.

Councilmember Moylan stated this is really another example of an incompatible use affecting the existing business. When an educational institution moves within a 1,000 feet of an industrial operation, it can cripple the existing business because the company would be bound by the restrictions placed on businesses located within 1,000 feet of a school.

Councilmember Moylan stated he agreed with the findings included in the staff report.

Mayor Spitaleri stated he objects to threats from the current industrial use in this area and from the applicant's attorney.

VOTE: 6-1 (Councilmember Whittum dissented)

5. **RTC 08-251 2007-0764 – Consideration of Changes to Single-Family Home Development Standards and Accessory Utility Building Standards (Study Issue)**

Assistant Planner Mariya Hodge presented the staff report.

Councilmember Moylan discussed with staff the appeal process and who may have the opportunity to appeal. Director of Community Development Hom explained that someone may want to appeal a decision for a project for reasons other than their concerns over having a direct view of a structure.

Councilmember Moylan verified with Planning Officer Ryan that staff is suggesting that on narrower lots the total set back is reduced to 10 feet and to increase the setback for wider lots to eighteen feet, versus the current fifteen. Staff is not recommending a proportional set back.

Vice Mayor Hamilton verified that staff's opinion regarding the use of story poles and netting is that although some cities use both items to depict the mass of a structure being built, it does not really identify what the building will look like architecturally and can become unsightly. Vice Mayor Hamilton stated that the bulk of a building is the main concern and she would be in favor of the City adopting story poles. Planning Officer Ryan explained that staff is recommending alternative tools in place of story poles, such as streetscape and perspective illustrations in order to provide more information to interested parties.

Mayor Spitaleri verified with Assistant Planner Hodge that staff has placed a height

restriction on residential buildings, which does not affect the setback requirements, but does add to the floor area ratio calculations.

Mayor Spitaleri stated he is concerned that the City might be too restrictive. Planning Officer Ryan stated the issues for staff involve to what extent the existing character of neighborhood should be preserved versus to what extent reinvestment and improvements should be accommodated, and what is the proper balance between those two issues. Staff looked for a way to balance those issues and developed the proposed tools to allow the neighborhood more opportunity to see what is being proposed and if it would be desirable in their neighborhood.

Public hearing opened at 10:57 p.m.

Colleen Yamada stated she currently has submitted home plans to the City and those plans are going through the design review process. Yamada stated she would like to offer some thoughts on the study. Yamada stated twelve of the fifteen recommendations take property rights and freedom of expression away from homeowners. Yamada spoke about concerns over the proposed design techniques and the outreach to the community regarding this study. Yamada recommended developing an escalation process for neighborhood disagreements and minimizing the proposed regulations.

Ron Yamaguchi stated he may need to enlarge his home to accommodate family members as identified earlier by Mayor Spitaleri. Yamaguchi stated he is opposed to any further restrictions on building permits at this time.

Public hearing closed at 11:03 p.m.

Vice Mayor Hamilton verified with Assistant Planner Hodge that the design techniques are applicable to any design review that staff performs and currently the techniques would be applied to anything that adds twenty percent or more to a home or new construction. Staff's proposal is to require design review for any major or significant modification to the exterior.

MOTION: Councilmember Moylan moved and Vice Mayor Hamilton seconded to approve Alternative 2: Council adopts the Negative Declaration and modifies the tools and budget modification request included in Alternative 1 **with** adopt an alternative version of the side yard set back, Attachment H - page 5, to read as: minimum side yard set back, on either side, in any zone, for any lot width is seven percent of the lot width and minimum twenty percent combined.

Vice Mayor Hamilton offered a friendly amendment to add that story poles are required for second story additions in order to give the neighborhood an idea of the scale of the addition.

Councilmember Moylan verified with Planning Officer Ryan that staff is not in favor of story poles.

Councilmember Moylan declined the friendly amendment.

Vice Mayor Hamilton offered a friendly amendment to have the addition/remodel notices out in the yard increase in size with the title large enough that someone driving by could read it from the curb.

Councilmember Moylan accepted the friendly amendment.

Assistant Planner Hodge stated staff has already made that recommendation to require larger notice boards and Vice Mayor Hamilton explained that what she is specifying is that the title be readable from a car driving by the site.

Councilmember Howe verified with Councilmember Moylan that he is requesting to change the chart listed on page 5 of Attachment I. Councilmember Moylan explained that Attachment H, page 5 needs to be corrected, as he previously mentioned, because it provides the rationale for the set backs. Councilmember Moylan stated he is also requesting that Attachment I, page 5, be corrected to reflect a minimum set back of seven percent on either side with the minimum combined to be 20 percent. Councilmember Moylan explained he is attempting to make one standard which would apply to the entire City, and would assist in creating a home on the lot that was reasonable for the size of the site.

Councilmember Howe verified with Councilmember Moylan that his change applies to single-story set backs and inquired about the set backs for second-story home. Councilmember Moylan responded that the staff recommendation states that second-story set backs will be 80 percent of the first floor, which will alleviate the giant two-story flat walls that go from top to bottom on homes. Councilmember Moylan stated that should be sufficient to handle any issues with two-story homes.

Director of Community Development Hom explained that a seven percent set back will create a lot of non-conforming structures and suggested grandfathering in the existing structures prior to the effective date of this ordinance, so that those structures would not be considered non-conforming. Councilmember Moylan responded that it was his understanding that legal non-conforming was the professional term for grandfathering. Councilmember Moylan stated the intent of his motion was for new construction and he agrees with Director Hom's suggestion. Planning Officer Ryan clarified that any addition to a legal non-conforming site would need to meet the new standard; however, if the site is considered to be legal, then the old standard can be repeated for the addition. Planning Officer Ryan stated the ordinance should be clarified to reflect items that are grandfathered in as legal non-conforming. Planning Officer Ryan stated that she would suggest that staff return to Council with the percentage of non-conforming units and Council can make modifications at that time.

Councilmember Moylan stated he does not object to making the existing sites legal.

Councilmember Howe asked staff if Council were to approve Councilmember Moylan's motion, would straight walls on second-story homes be allowed. Planning Officer Ryan responded that straight walls could be a possibility depending on where the home was placed on the property. Planning Officer Ryan stated there is a code provision which states that a second-story needs to observe an additional three feet from whatever the minimum was on the first floor; therefore, it is possible that the wall could go straight up if the homeowner exceeded the minimum by three feet.

Councilmember Howe explained to Councilmember Moylan that he needs to address the possibility of straight walls on second-story homes in his motion. Councilmember Moylan responded that he will modify his motion to include that all second-story side set backs shall be defined with respect to the first-story location, rather than where the property

boundary is located. Councilmember Moylan stated staff can determine the set backs accordingly.

Planning Officer Ryan confirmed that Council is making a statement by this motion by not allowing certain styles of architecture, such as a colonial home which has straight walls. Councilmember Moylan responded that was correct and added that staff can make a small percentage for either side.

Vice Mayor Hamilton stated the four-foot minimum side set back seems reasonable whereas, using proportional set backs seems more confusing and can create very small side yards set backs. Vice Mayor Hamilton stated it did not make sense as to how value was being added when the houses are being squeezed onto a lot creating longer, narrower houses.

Councilmember Moylan explained that the idea is to standardize the set back requirements across the City. The proportional method is an easier process for the homeowner as they only need to know their lot width to calculate their set back requirements. Councilmember Moylan suggested that an amendment could be made identifying that the set backs must be seven percent or a minimum of four feet, whichever is larger.

Vice Mayor Hamilton offered a friendly amendment that the set backs must be seven percent or four feet, whichever is larger.

Friendly amendment accepted.

Councilmember Swegles stated he does not see a problem with a three-foot set back.

Councilmember Whittum stated he opposes the motion. Councilmember Whittum stated this item is not ready to move forward because many hours still need to be spent on refining this information into something that can be applied. Councilmember Whittum stated that currently staff does not have enough hours to enforce the existing code; therefore, the City should spend more time on enforcing existing codes, rather than add more restrictions.

Councilmember Whittum praised staff for their report and stated that this item may be appropriate in the future, but not now as the City has other priorities and this is a complicated issue. Councilmember Whittum spoke of missing sidewalks in new developments as one of the priorities that he is concerned over and views as a higher priority.

Councilmember Lee stated he will not support the motion as additional notification to the community is needed and because the regulations are too strong. Councilmember Lee stated that a little correction might be good, but what is being proposed is far too much.

Mayor Spitaleri stated he will also oppose the motion. Mayor Spitaleri stated he is concerned that single family homes are not being built in Sunnyvale; therefore, the option of moving to a larger home when a family expands or brings in older relatives is gone. The only option is to enlarge their current home. Mayor Spitaleri stated these regulations are too restrictive.

Councilmember Moylan stated the motion attempts to reduce the huge volume of

complaints the City receives regarding housing issues. Councilmember Moylan stated the main issue is that people feel the character of their neighborhood is being degraded by a project, but they are not finding out about it until it is too late to do anything. Councilmember Moylan stated this motion will increase the circumstances under which neighbors will have an opportunity to hear about a project in their neighborhood. Anyone with a reasonable project and without objections will be able to build it. Councilmember Moylan explained that not being able to enlarge a home in order to care for family is not a consequence of this motion. Residents are staying in their homes and enlarging them when they need more room, because they would be reassessed if they were to purchase a new larger home. Councilmember Moylan disagreed that there is a lack of concern from the public, rather it is because of the late hour this item is being discussed which has caused the low speaker turnout. Councilmember Moylan explained that the Planning Commission unanimously supported this issue. Councilmember Moylan stated this motion does not prevent anyone from doing anything, it just provides a higher level of review and it is reflective of the community values that Council has heard from the residents. Councilmember Moylan stated this is an attempt to respond to community concerns that Councilmembers have heard for years.

Vice Mayor Hamilton stated delaying this item does not make sense because the work has already been done and the issues and resident concerns should be dealt with now. Vice Mayor Hamilton stated these rules are meant to address older homes in the City.

Mayor Spitaleri stated if the issue is over noticing, that can be easily corrected, but this motion is about much more and places additional restrictions on development.

Restated MOTION: Councilmember Moylan moved and Vice Mayor Hamilton seconded to approve Alternative 2: Council adopts the Negative Declaration and modifies the tools and budget modification request included in Alternative 1

with

- Council adopts an alternative version of the side yard set back, Attachment H - page 5, to read as: minimum side yard set back, on either side, in any zone, for any lot width, is seven percent or four feet, whichever is larger, and a minimum of 20 percent combined;
- Notice titles shall be readable from a passing car, and
- Second-story setbacks need to be defined with respect to the first-story location rather than where the property boundary is located and staff can determine the set backs accordingly.

VOTE: 4-3 (Mayor Spitaleri and Councilmembers Lee and Whittum dissented)

MOTION: Vice Mayor Hamilton moved that story poles are required for second-story additions as part of the application.

Mayor Spitaleri announced the motion died for lack of a second.

Vice Mayor Hamilton proposed a study issue to collect e-mail addresses as part of the utility billing mailing. Those e-mails would be used for project notification purposes. Vice Mayor Hamilton stated having e-mail addresses tied to physical addresses could become valuable.

Mayor Spitaleri verified with the rest of Council that currently it only takes one Councilmember to support a study issue. Study issue accepted.

6. **RTC 08-240** **2008-0407: The Martin Company [Applicant] TMG Santa Trinita LLC [Owner]: Application for a Use Permit on a 4.56 Acre Site for the Construction of a New 4-story Office Building Totaling 99,317 Square Feet Which Results in a 50% FAR (Floor Area Ratio). The Property is located at 384 Santa Trinita Avenue (at Kern Avenue) in an M-S (Industrial & Service) Zoning District (APN: 205-24-001)**

Planning Officer Trudi Ryan presented the staff report.

Councilmember Howe inquired if the office building is going to be Leadership in Energy and Environmental Design (LEED) certified and Planning Officer Ryan stated staff has included as a condition of approval that this project meet the LEED certified level and will include all design characteristics that one would find in a LEED certified building.

Councilmember Howe inquired if this is approved, how long does the applicant have to execute the project and Planning Officer Ryan stated the permit is good for two years with an opportunity for a one-year extension.

Councilmember Howe verified with Planning Officer Ryan that once work has commenced such as pouring a foundation, the permit has then been exercised, and there is not a specified time frame for completion of the project. Planning Officer Ryan stated there is a requirement through the building permit process to have the permit active and have inspections performed every six months. Councilmember Howe verified with Director of Community Development Hom that placing a time limit on construction can raise significant legal issues. Director of Community Development Hom stated staff can return to Council as to the legal issues involved with placing a time limit on construction when it has been substantially underway. Councilmember Howe stated he would like to receive that information and should a study issue be required, then he would be willing to sponsor that as needed. Director of Community Development Hom stated staff will need to confer with the city attorney as there are some significant legal issues involved.

Councilmember Whittum inquired if there will be three curb cuts for this project, one on each of the corners, and one on the west side of Santa Trinita Avenue. Planning Officer Ryan stated that it would not be typical for the project to put a curb cut on the other side of the street.

Councilmember Whittum inquired if the City has any intersections which have an unacceptable level of service under the general plan and would be impacted by this project. Councilmember Whittum inquired as to what threshold of significance is staff applying to the Negative Declaration. Planning Officer Ryan stated the thresholds are created by the Valley Transportation Authority, which directs staff as to when they need to do a more detailed traffic analysis based on total number of peak hour trips, or whether there is an impact to an intersection that is already operating at an unacceptable level. Planning Officer Ryan explained that the environmental analysis did not identify a significant impact based on those thresholds; therefore staff does not need to require any offsite improvements or modifications based on the kinds of traffic associated with this project.

Councilmember Lee verified with Planning Officer Ryan that staff has required that the applicant provide proof that they have achieved a rating of LEED Certified or better. Councilmember Lee verified with Planning Officer Ryan that staff is requiring 23 LEED

points, which are the minimum; however, staff could also require points for future tenant improvements. Councilmember Lee verified with Planning Officer Ryan that Council has the ability to increase the condition of approval and require a LEED Silver rating.

Public hearing opened at 11:47 p.m.

David Wright, representative from the Martin Group, spoke about the proposed project and the benefits it would bring to the City. Wright explained that they are hoping to achieve the Silver Category and explained that LEED certification is part of their program.

Councilmember Lee offered support to reach the LEED silver ranking and encouraged the developer to meet that goal.

Vice Mayor Hamilton inquired where the bike racks will be located. Sylvester Ramirez, project architect with Devcon, explained that there are two entrances and bike racks will be located at both sides of the two entrances.

Vice Mayor Hamilton inquired if the bike racks will be visible from the lobby and Ramirez stated the landscaping will screen them. Vice Mayor Hamilton suggested the landscaping not screen the racks in order to deter theft. Ramirez explained that the Class A bike racks will be bike lockers in which bikes will actually be inside an enclosure. Vice Mayor Hamilton stated it is the Class B racks that she is concerned about.

Councilmember Whittum inquired how the transit will be connected and inquired if Ramirez would consider it to be mutually acceptable to have an extra curb cut. Ramirez explained that the bus stop is in front of the site on Santa Trinita. Councilmember Whittum stated their business is located on the east side and the Ace Shuttle is on the west side so an extra curb cut would be needed on the west side of Santa Trinita. Ramirez stated it would be up to the City to list a requirement for a curb cut across the street and Councilmember Whittum responded that a curb cut appears to be acceptable to Ramirez.

Public hearing closed at 11:54 p.m.

MOTION: Councilmember Lee moved and Councilmember Howe seconded to approve Alternative 2: Council adopts the Negative Declaration and approves the use permit with modified conditions
with require a minimum of LEED silver certification.

Councilmember Lee commended the applicant for their exceptional project of Class A office space which is needed in Sunnyvale. Councilmember Lee explained that this project is in a great location and it is a wonderful example of green building design. Councilmember Lee stated he appreciates that the applicant is aiming for LEED gold with the minimum achievement of LEED silver.

Vice Mayor Hamilton offered a friendly amendment to require the applicant work with staff to ensure the bike racks are visible.

Friendly amendment accepted.

Restated MOTION: Councilmember Lee moved and Councilmember Howe seconded to approve Alternative 2: Council adopts the Negative Declaration and approves the use permit with modified conditions

with require a minimum of LEED silver certification, and require that the applicant work with City staff to ensure that the bike racks are visible.

VOTE: 7-0

NON-AGENDA ITEMS & COMMENTS

COUNCIL: Councilmember Swegles announced that his wife's birthday is on Thursday and he wished her a happy birthday.

Mayor Spitaleri stated city officials throughout the state are against proposals to borrow or steal local funds in order to balance the state budget. Mayor Spitaleri asked for the public's help in calling their state senator and assembly member to express their opinions. Mayor Spitaleri urged the community to oppose any attempts by the state to raid local revenues and requested that members of the public support for one of the two current proposals, which do not involve borrowing from local revenues in any way. Mayor Spitaleri explained that for the state to continue their borrowing practices will only make their budget situation worse.

STAFF: None.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Approved Minutes of the Child Care Advisory Board meeting of April 22, 2008
- Notification of Lack of Quorum at the Regularly Scheduled Child Care Advisory Board Meeting of April 22, 2008
- Draft Minutes of the Child Care Advisory Board Meeting of May 21, 2008
- Approved Minutes of the Housing and Human Services Commission meeting of June 25, 2008
- Draft Minutes of Parks and Recreation Commission Meeting of July 9, 2008
- Draft Minutes of Arts Commission Meeting of July 16, 2008
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission of July 17, 2008
- Notification of Lack of Quorum at the Regularly Scheduled Child Care Advisory Board Meeting of July 22, 2008
- Draft Minutes of the Housing and Human Services Commission of July 23, 2008
- Draft Minutes of the Board of Library Trustees Meeting of August 4, 2008
- Draft Minutes of the Heritage Preservation Commission Meeting of August 6, 2008
- Study Session Summary – Update on Latest Plans for Downtown Sunnyvale Project and discussion of possible amendments to the Amended and Restated Disposition and Development and Owner Participation Agreement (ARDDOPA) and Special Development Permits for the project, July 15, 2008
- RTC 08-237 Update on the City's Policies Pertaining to Moffett Federal Airfield (Information Only)

ADJOURNMENT: Mayor Spitaleri adjourned the Council meeting at 11:59 p.m.

Gail Borkowski
City Clerk

_____ Date