

**APPROVED MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, MARCH 10, 2009**

**5 P.M. SPECIAL COUNCIL MEETING (Study Session)** - 2009/14 Housing Sub-element Update  
Joint Session with Housing and Human Services Commission and Planning Commission

**6:30 P.M. SPECIAL COUNCIL MEETING (Study Session)** - Intergovernmental Relations Update:  
National League of Cities Congressional City Conference Information

**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 Christopher Moylan  
Councilmember John Howe  
Councilmember Ron Swegles  
Councilmember Melinda Hamilton  
Councilmember David Whittum

**ABSENT:**

Councilmember Dean J. Chu (excused)

**STAFF PRESENT:**

City Manager Gary Luebbers  
Assistant City Manager Robert Walker  
City Attorney David Kahn  
Director of Community Development Hanson Hom  
Director of Finance Mary Bradley  
Interim City Clerk Katherine Bradshaw Chappelle

**SPECIAL ORDER OF THE DAY** – Fire Safety Poster Contest Awards Presentation – Public  
Safety Deputy Chief Kelly Fitzgerald and Neighborhood Resource Officer Brad Militano

**PUBLIC ANNOUNCEMENTS**

Councilmember Howe announced a Crab Feed, April 3, 2009, 5 p.m., at De Anza College  
benefiting the Fremont Union High School District Education Foundation with 100 percent of the  
proceeds going to the five high schools in the district.

**CONSENT CALENDAR**

Councilmember Howe removed Items 1.D. and 1.G. from the Consent Calendar.

Member of the public removed Item 1.E. from the Consent Calendar.

MOTION: Vice Mayor Moylan moved, and Councilmember Hamilton seconded, to approve the  
Consent Calendar, with the exceptions of Items 1.D., 1.E. and 1.G.

VOTE: 6-0 (Councilmember Chu absent)

*\*Approved by Council on April 21, 2009*

**1.A. Approval of Council Meeting Minutes of December 16, 2008**

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

**Fiscal Items**

**1.C. RTC 09-067 List of Claims and Bills Approved for Payment by the City Manager – List No. 443**

Staff Recommendation: Council reviews the attached lists of bills.

**1.D. RTC 09-069** Approval of a HOME Investment Partnership Act (HOME) Loan Agreement for \$200,000 between the City and Maitri, a California nonprofit corporation, for property acquisition to provide transitional housing for survivors of domestic violence.

Councilmember Howe asked staff if the four-plex property's \$1,762,000 acquisition costs were not fully utilized, how would the funds be redistributed among the various jurisdictions.

Housing Officer Suzanne Ise explained the items listed are known costs that are itemized in the estimated settlement statement currently in escrow. The only item having a potential variance would be relocation costs. However, the escrow instructions direct the escrow officer to place the \$200,000 in an escrow account and if for some reason it were not needed, it would be returned to the jurisdictions on a pro-rata basis.

Public comment opened at 7:16 p.m.

No speakers

Public comment closed at 7:16 p.m.

MOTION: Councilmember Howe moved, and Vice Mayor Moylan seconded, to approve staff recommendation: Alternative No.1 – Council approves the attached HOME Loan Agreement with Maitri.

VOTE: 6-0 (Councilmember Chu absent)

**1.E. RTC 09-071 Transmittal of FY 2006/2007 Performance Results Audit for Program 118-Pavement Operations**

Public comment opened at 7:17 p.m.

Arthur Schwartz disagreed with the audit findings and indicated it did not take into account the poor quality and lack of longevity of slurry sealing. Schwartz suggested more efficient alternative paving methods.

Public comment closed at 7:20 p.m.

Councilmember Hamilton asked staff what process was used to continually evaluate paving methodologies.

Director of Finance Mary Bradley stated this was only a performance audit for the results that were reported in the budgetary and management process.

Director of Public Works Marvin Rose restated this was a performance audit of the reported results and not an audit of the methods for completing the work. Director Rose stated this activity is characterized by evolving and changing technology, which the City closely monitors. He noted that recycling materials are cost-prohibitive, since they cost considerably more than new pavement.

Director Rose affirmed that slurry seal is Sunnyvale's most predominant method for street rehabilitation because it is most cost-effective and lasts five to eight years.

MOTION: Councilmember Swegles moved, and Councilmember Whittum seconded, to approve staff recommendation: Alternative No. 1 – Council receives the audit report and concurs with management's acceptance of recommendations.

VOTE: 6-0 (Councilmember Chu absent)

### **Contracts**

**1.F. RTC 09- 072 Authorization to Modify an Existing Contract for Diesel Fuel (F0802-54)**

Staff Recommendation: Council authorizes modification of an existing contract with SC Fuels, in substantially the same form as the attached draft change order, by extending the contract end date to June 30, 2009, and increasing the not-to-exceed amount from \$300,000 to \$410,000 for the purchase of unleaded gasoline for City vehicles.

### **Other**

**1.G. RTC 09-062 New Council Policy for "Roles and Responsibilities of Mayor, Vice Mayor and Councilmembers"**

Councilmember Howe stated he would like to see each and every role and responsibility delineated to explicitly state its origin. He elaborated each item should specify whether it's a policy derived from the City Charter, or if not from the Charter, state it could be changed by a majority vote of Council. Additionally, Councilmember Howe stated he would like each line item to reference its date of adoption.

Councilmember Hamilton verified that most items were pulled verbatim from the Code of Ethics and Conduct, with Council adopting them tonight.

Public comment opened at 7:27 p.m.

No speakers

Public comment closed at 7:27 p.m.

Assistant City Manager Robert Walker stated on February 3, Council essentially directed staff to create this Councilmember policy to assist new Councilmembers and the public in understanding the roles of Council. Items are verbatim from the Code of Ethics and Conduct, unless otherwise noted.

MOTION: Councilmember Howe moved to include a notation next to each line item stating: origin; adoption date; if it is a Charter item, and if not, state it could be changed by a majority vote of Council.

Motion failed due to lack of a second.

MOTION: Vice Mayor Moylan moved, and Councilmember Howe seconded, to approve staff recommendation: Alternative No.1 – Council approves the policy titled “Roles and Responsibilities of the Mayor, Vice Mayor and Councilmembers” as depicted by Attachment A. This action would be consistent with Council’s February 3, 2009, direction regarding RTC 09-036.

**With:**

**Adding:** one clarifying statement at the beginning – except where noted, everything came from the Code of Ethics; either from the older version of the Code of Ethics, or established as a policy tonight, and can be changed by a majority vote of Council.

VOTE: 6-0 (Councilmember Chu absent)

**STAFF RESPONSES TO PRIOR PUBLIC COMMENTS**

None

**PUBLIC COMMENTS**

Mary Adamson addressed the Palo Alto Medical Foundation (PAMF) project and mentioned the vast increase in size from the old facility to this proposal. She expressed concern over the three-fold parking space increase and what impact that may have on neighborhood traffic. Adamson questioned the re-zoning and stated the community would like PAMF to re-design the project in keeping with a smaller neighborhood clinic.

Councilmember Howe asked her residential proximity to the medical clinic. Councilmember Howe verified the noticing requirements, the meetings she attended, and that she did receive the Draft Environmental Impact Report (DEIR).

Kevin Shives, a member of Citizens Against Re-Zoning (CARZ), voiced concerns about the facility’s size and associated problems with: traffic, parking, noise, shading, night lighting, pedestrian safety and general aesthetics. He noted the facility’s proposed 50-foot height and four-story parking garage is more than twice the size of the current clinic.

Shives stated CARZ is not opposed to a clinic in their neighborhood, however they contend PAMF needs to re-size the facility to fit its surroundings.

Jeff Jones referenced a neighborhood petition signed by 50 people expressing concern the facility was too large and will generate too much traffic. Jones contended PAMF submitted the same plan several times without listening to or addressing neighborhood concerns.

Jones provided Council with an e-mail string showing his correspondence with PAMF. He noted his frustration in trying to coordinate a neighborhood meeting with PAMF, and despite his efforts to coordinate meetings with PAMF for a couple of months, there has been no response.

Jones stated he had met with the Planning Department every week for the past four to five weeks to discuss a variety of issues. City Staff indicated they could not bring PAMF to the table; instead, PAMF has to come of their own volition.

Arthur Schwartz said he met with Dr. Richard Slavin, CEO of PAMF, a few months ago to address neighborhood concerns and to suggest possible modifications. Schwartz acknowledged the beauty of the PAMF facility in Mountain View, likening it to a grand hotel lobby, but deemed the facility is excessively over-sized for a medical clinic. Schwartz encouraged a total re-thinking of the Sunnyvale project on a much smaller scale.

Councilmember Howe requested this discussion be added to the agenda of the next Council meeting to determine if Council should hold a community hearing, should the Planning Commission solicit comments from the community and how could the City or City Council facilitate a meeting between the immediate neighbors and PAMF.

Mayor Spitaleri stated he did not believe it required a vote; therefore, he will place the item on the next Council meeting agenda.

City Manager Gary Luebbers noted as a result of the discussions over the past few weeks and neighborhood concerns, he has a meeting scheduled with Dr. Slavin on March 13, 2009.

Councilmember Howe said he recently met with Dr. Slavin to express his concerns and it appeared there was a wide gulf between PAMF and the community.

## **PUBLIC HEARINGS/GENERAL BUSINESS**

### **2. RTC 09-066 Consider Policy to Streamline Pursuit of Grant Funding (Study Issue)**

Assistant City Manager Robert Walker presented the staff report.

Public hearing opened at 7:51 p.m.

No speakers

Public hearing closed at 7:51 p.m.

MOTION: Vice Mayor Moylan moved, and Councilmember Swegles seconded, to approve staff recommendation: Combination of Alternative Nos. 3 and 4:  
No. 3 – Council requires notification of staff’s pursuit of grant monies. Council allows the city manager flexibility in choosing a communication method to satisfy that notification requirement. Council clarifies that staff is not required to procure Council approval prior to applying for grant monies; and  
No. 4 – Council treats grant monies in accordance with existing policy dealing with donations, contributions and sponsorships. Council establishes a dollar threshold up to which the city manager is allowed to accept grant monies without Council approval.

Vice Mayor Moylan spoke to the study issue, stating the intent was to streamline the grant application process. Vice Mayor Moylan stated grants for projects that are “shovel ready” are more likely to get funded.

Councilmember Swegles requested a friendly amendment to allow the city manager the flexibility to obtain or pursue grants he deems to be in the best interest of Sunnyvale without limitations, unless there are required matching funds exceeding \$100,000.

City Manager Luebbers reiterated that before all grants are accepted, the grant must come before Council for consideration and approval, regardless of matching or non-matching funds. This process is to expedite the grant application process. This policy gives the city manager authority to apply for grants of any dollar amount, including grants requiring matching funds less than \$100,000, while grants requiring matching funds more than \$100,000 need Council approval before submittal.

Vice Mayor Moylan accepted the friendly amendment.

Councilmember Hamilton confirmed with City Manager Luebbers staff will notify Council when a grant application was submitted and when it was accepted.

Councilmember Whittum opposed the motion, stating while he likes the idea of being more efficient and effective, he was concerned that, for example, if you were applying for a \$10,000,000 grant, in effect staff would be creating a policy action. Councilmember Whittum questioned the lack of Council input if the size of the grant would affect policy. He suggested a dollar limit as guidance. Councilmember Whittum reiterated when staff makes a decision to apply for particular grants, staff will be making value judgments and policy choices.

FORMAL AMENDMENT: Councilmember Whittum moved to require grant applications for more than \$500,000 be submitted to Council for review and approval before submittal of the grant application.

Amendment failed due to lack of second.

Councilmember Swegles explained his reasoning for grants without limits and cited the example of when a \$10,000,000 FEMA grant was available, but due to time constraints the City could not respond to the opportunity for funding. Councilmember Swegles stated he did not want to handcuff the city manager in future situations.

RESTATED MOTION: Vice Mayor Moylan moved, and Councilmember Swegles seconded, to approve staff recommendation: Combination of Alternative Nos. 3 and 4:  
No. 3 – Council requires notification of staff's pursuit of grant monies. Council allows the city manager flexibility in choosing a communication method to satisfy that notification requirement. Council clarifies that staff is not required to procure Council approval prior to applying for grant monies; and  
No. 4 – Council treats grant monies in accordance with existing policy dealing with donations, contributions and sponsorships.

**with:**

**Striking:** Council establishes a dollar threshold up to which the city manager is allowed to accept grant monies without Council approval.

**Adding:** Council gives the city manager authority to apply for grants of any dollar amount, including grants requiring matching funds less than \$100,000, while grants requiring matching funds more than \$100,000 need Council approval before submittal.

VOTE: 5-1(Councilmember Whittum dissented and Councilmember Chu absent)

3. **ORDINANCE No. 2892-09** **Adoption of Ordinance 2892-09 Amending the Precise Zoning Plan, Zoning Districts Map, to Rezone Certain Property Located At 660 S. Fair Oaks Avenue From R-4 (High Density Residential) to R-4/Pd (High Density Residential/ Planned Development) Zoning District**

City Attorney David Kahn presented the staff report

Public hearing opened at 8:04 p.m.

No speakers

Public hearing closed at 8:04 p.m.

MOTION: Councilmember Howe moved, and Councilmember Swegles seconded, to approve staff recommendation: Council approves the second reading of Ordinance No. 2892-09.

VOTE: 5-1 (Councilmember Whittum dissented and Councilmember Chu absent)

4. **ORDINANCE No. 2893-09** **Adoption of Ordinance 2893-09 Adding Sections 5.36.365 and 5.36.405 to and Amending Certain Sections of Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses And Regulations) of the Sunnyvale Municipal Code Pertaining to Taxicab Franchises**

Public hearing opened at 8:05 p.m.

No speakers

Public hearing closed at 8:05 p.m.

MOTION: Councilmember Howe moved, and Councilmember Hamilton seconded, to approve staff recommendation: Council approves the second reading of Ordinance No. 2893-09.

VOTE: 5-1 (Councilmember Swegles dissented and Councilmember Chu absent)

#### **COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS**

None

#### **NON-AGENDA ITEMS AND COMMENTS**

Council: Councilmember Whittum confirmed the study session regarding California High Speed Rail will be held Tuesday, March 24, 2009, prior to the Council meeting.

Councilmember Whittum suggested Council move to summary minutes; instead of detailed Council meeting minutes. Due to staff costs related to preparing minutes, Councilmember Whittum proposed summary minutes and Council meeting closed captioning would be more efficient and cost-effective.

Mayor Spitaleri commented he attended the grand opening of the Visual and Performing Arts Center at De Anza College stating there was a great turnout and all communities can enjoy this beautiful new facility.

Mayor Spitaleri noted part of his assignment from the United States Conference of Mayors was to develop a program addressing youth obesity. Working closely with the director of Community Services and the city manager, the goal is to challenge residents to lose weight and regain their lives.

Councilmember Moylan asked for a copy of the PowerPoint presentation from the recent Sunnyvale Walkability Workshop. The event was facilitated in part by the office of County Supervisor Liz Kniss and supported by Sunnyvale staff.

Staff: None

**INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- RTC 09-068 Opportunity for Council to appeal decisions of the Planning Commission of February 23, 2009

**ADJOURNMENT**

Mayor Spitaleri adjourned the Council meeting at 8:15 p.m.

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Katherine Bradshaw Chappelle  
Interim City Clerk

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Date