

**APPROVED MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, MAY 25, 2010**

**CALL TO ORDER** - Mayor Hamilton called the meeting to order in the Council Chambers.

**SALUTE TO THE FLAG**

Mayor Hamilton led the salute to the flag.

**ROLL CALL**

**PRESENT:**

Mayor Melinda Hamilton  
Vice Mayor Christopher Moylan  
Councilmember Otto Lee (participated by teleconference)  
Councilmember Ron Swegles  
Councilmember Anthony (Tony) Spitaleri  
Councilmember David Whittum  
Councilmember Jim Griffith

**ABSENT:**

None

**STAFF PRESENT:**

City Manager Gary Luebbers  
Assistant City Manager Robert Walker  
City Attorney David Kahn  
Director of Finance Mary Bradley  
Director of Community Development Hanson Hom  
Director of Public Safety Don Johnson  
Director of Public Works Marvin Rose  
Deputy City Clerk Lisa Natusch

**CLOSED SESSION REPORT FOR MAY 25, 2010**

*Closed Session pursuant to Government Code Section 54957 - Public Employee Performance Evaluation of the City Manager and the City Attorney*

Vice Mayor Moylan reported Council did mid-year informal evaluations of the City Manager and the City Attorney.

**SPECIAL ORDER OF THE DAY** – Department of Public Safety Special Awards

**SPECIAL ORDER OF THE DAY** – Fry's Electronics 25th Anniversary

**PUBLIC ANNOUNCEMENTS**

Ron Smith, representing the Sprouts grocery store, extended an invitation to the Grand Opening of their 50<sup>th</sup> store.

Mark Andrews, representing the Girls U14 Sunnyvale Strikers soccer team, announced they were holding several fundraising events for their trip to a soccer tournament in West Palm Beach, Florida in July.

**PRESENTATION** – Alert SCC Reverse 911 System

**CONSENT CALENDAR**

Vice Mayor Moylan pulled Item 1.K. from the Consent Calendar.

Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to approve the Consent Calendar, with the exception of Item 1.K.

VOTE: 7 - 0

- 1.A. MOTION Approval of Joint Sunnyvale City Council and Redevelopment Agency Minutes of May 11, 2010
- 1.B. MOTION Approval of Information/Action Items – Council Directions to Staff

**Fiscal Items**

- 1.C. MOTION List of Claims and Bills Approved for Payment by the City Manager – List  
RTC 10-133 Nos. 504 and 505

Staff Recommendation: Review the attached lists of bills.

- 1.D. MOTION Approval of Budget Modification No. 33 to Appropriate an Additional  
RTC 10-137 \$488,000 to Public Safety Recruitment and Training Project 826220

Staff Recommendation: Approve Budget Modification No. 33 to appropriate an additional \$488,000 to project 826220.

- 1.E. MOTION Approve Budget Modification No. 34 and Increase Contract Contingency  
RTC 10-141 for Project 822812, Storm Sewer Extension for McKinley Avenue.

Staff Recommendation: Approve Budget Modification No. 34 and increase the construction contingency for the contract with Peak Engineering in the amount of \$90,000 to cover the cost of the pavement modifications and conforms.

- 1.F. MOTION Approve HOME Investment Partnership Act (HOME) Loan Agreement  
RTC 10-118 with Aster Park, LP, a legal entity of Mid-Peninsula Housing Coalition (MPHC), for \$1.3 Million to Rehabilitate Aster Park Apartments

Staff Recommendation: Approve the attached HOME Loan Agreement with Aster Park, LP, a legal entity of Mid-Peninsula Housing Coalition.

- 1.G. MOTION Approval of Budget Modification No. 37 to Appropriate an Additional  
RTC 10-134 \$150,000 for Outside Counsel Services

Staff Recommendation: Approve Budget Modification No. 37 to appropriate an additional \$150,000 for Outside Counsel Services.

**Contracts: Sunnyvale Works!**

- 1.H. MOTION Award of Sunnyvale Works! Bid No. F0903-86, Water Main Replacement  
RTC 10-136 at Washington Avenue, and Approval of Budget Modification No. 35

Staff Recommendation: Award a contract in the amount of \$316,130 to D&D Pipelines, Inc. for the subject project and authorize the city manager to execute the contract when all necessary conditions have been met; approve a 15% project contingency in the amount of \$47,420; and approve Budget Modification No. 35.

- 1.I. MOTION Award of Sunnyvale Works! Bid No. F0903-82, Interior Re-Coating and  
RTC 10-139 Structural Repairs of Three Tanks at Hamilton Water Plant

Staff Recommendation: Award a contract in the amount of \$569,501 to Crosno Construction, Inc. for the subject project, and authorize the city manager to execute the contract when all necessary conditions have been met; and approve a 15% project contingency in the amount of \$85,425.

**Other Items**

- 1.J. MOTION Recommendation to Sunnyvale City Council to Approve Confirmation of  
RTC 10-130 New Members to the NOVA Workforce Board

Staff Recommendation: Confirm Mr. Bruce Knopf and Dr. Linda Thor for four-year terms on the NOVA Workforce Board.

- 1.K. MOTION Approve Proposed Revisions to Council Policy 7.3.13 Support for  
RTC 10-142 Councilmembers; Staff-Council Communications

Vice Mayor Moylan stated he believes this is the opportunity to modify our current policy regarding under what circumstances Council takes a City position on a ballot measure. Vice Mayor Moylan suggested that Council take a position if the measure affects the citizens of Sunnyvale and not just if it affects City operations.

Griffith stated he appreciated Vice Mayor Moylan's intent, but was concerned that by definition every ballot measure impacts the citizens of Sunnyvale in some way, therefore Council could be reviewing everything.

Mayor Hamilton stated she supports the policy as written. Hamilton stated she believed the citizens are able to determine what measures affect them personally and how they would want to vote.

Public Hearing opened at 7:29 p.m.

No Speakers.

Public Hearing closed at 7:29 p.m.

MOTION: Vice Mayor Moylan moved to modify the policy to say that staff will come to Council with a position recommendation on any ballot measure that directly impacts citizens of Sunnyvale.  
Motion died for lack of second.

MOTION: Councilmember Griffith moved and Mayor Hamilton seconded the motion to approve Alternative 1: Approve the policy revisions as presented.

Councilmember Griffith spoke to the motion reiterating his agreement with the intent of Vice Mayor Moylan's motion but suggested it should be left to Council to broaden the purview. Griffith explained it does not preclude Council from taking positions on other issues; he does not want to see City staff second guessing Council and doing a lot more work than they should be.

VOTE: 5 – 2 (Vice Mayor Moylan and Councilmember Whittum dissented)

- 1.L. MOTION Approval of Revised Council Policy 7.2.19, Boards and Commissions  
RTC 10-143

Staff Recommendation: Approve the policy revisions as presented.

#### **STAFF RESPONSES TO PRIOR PUBLIC COMMENTS**

None.

#### **PUBLIC COMMENTS**

Robert Biro expressed concern regarding the proposed Morse Park site. Biro stated recent environmental studies found high soil contamination and inquired if the site is highly contaminated, could the two adjoining residential areas be as well.

Mayor Hamilton stated staff will get back to him with an answer.

#### **PUBLIC HEARINGS/GENERAL BUSINESS**

2. MOTION Board and Commission Appointments  
RTC 10-144

Deputy City Clerk Lisa Natusch presented the staff report and clarified that the Parks and Recreation Commission vacancy is one term to June 30, 2014.

Mayor Hamilton stated David Gandrud applied for three commissions with his preference being the Personnel Board and was interviewed by Council, however there is not a Council-appointed vacancy at this time. Hamilton stated she forwarded his information to the employee associations and they declined to nominate him.

Deputy City Clerk Lisa Natusch confirmed for Vice Mayor Moylan that employees have six months to nominate someone and staff will come back to Council in September with the results of any employee nominations.

Councilmember Griffith disclosed that Glenn Hendricks, Planning Commission applicant, was his election campaign treasurer and a supporter of him.

**Bicycle and Pedestrian Advisory Commission (2 vacancies-Category 1; 2 vacancies-Category 2)**

Four terms expiring 6/30/2014

David Gandrud

VOTE: 5 - 0 (Councilmember Griffith and Vice Mayor Moylan abstained)

James Manidakos

VOTE: 7 - 0

Angela Rausch

VOTE: 7 - 0

Cathy Switzer

VOTE: 7 - 0

Deputy City Clerk Lisa Natusch announced David Gandrud, James Manidakos, Angela Rausch and Cathy Switzer have been appointed to the Bicycle and Pedestrian Advisory Commission for terms expiring June 30, 2014.

MOTION: Councilmember Griffith moved and Vice Mayor Moylan seconded the motion to appoint David Gandrud to Category 1 and Angela Rausch to Category 2.

VOTE: 7 - 0

**Planning Commission (3 vacancies)**

Two terms expiring June 30, 2014

One term expiring June 30, 2012

Alyson Abramowitz

VOTE: 3 – 0 (Councilmember Swegles, Vice Mayor Moylan, Councilmember Griffith and Councilmember Spitaleri abstained)

Maria Dohadwala

VOTE: 7 – 0

Glenn Hendricks

VOTE: 6 – 0 (Councilmember Whittum abstained)

Anna Ko

VOTE: 0 – 0 (Councilmember Lee, Councilmember Griffith, Vice Mayor Moylan, Mayor Hamilton, Councilmember Spitaleri, Councilmember Whittum and Councilmember Swegles abstained)

Gustav Larsson

VOTE: 7 – 0

Ken Rheaume

VOTE: 2 – 0 (Councilmembers Lee, Councilmember Griffith, Mayor Hamilton, Councilmember Spitaleri, and Councilmember Swegles abstained)

Vice Mayor Moylan stated the long terms were filled by the candidates who received seven votes.

MOTION: Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to appoint the person who got six votes to the term ending June 30, 2012.

VOTE: 7 – 0

Deputy City Clerk Lisa Natusch announced Glenn Hendricks was appointed to the Planning Commission for a term ending June 30, 2012, Gustav Larson was appointed to the Planning Commission for a term ending June 30, 2014, and Maria Dohadwala was appointed to the Planning Commission for a term ending June 30, 2014.

**Housing and Human Services Commission (1 vacancy)**

One term to June 30, 2012

Anna Ko

VOTE: 7 – 0

Deputy City Clerk Lisa Natusch announced Anna Ko has been appointed to the Housing and Human Services Commission for a term expiring June 30, 2012.

**Board of Library Trustees (1 vacancy)**

One term expiring June 30, 2014

Narendra Pathak

VOTE: 7 – 0

Danny Ooi

VOTE: 4 – 0 (Councilmembers Griffith, Spitaleri, and Swegles abstained)

Nirmala Vaidyanathan

VOTE: 1 – 0 (Councilmember Lee, Councilmember Griffith, Vice Mayor Moylan, Mayor Hamilton, Councilmembers Spitaleri and Swegles abstained)

Mukta Verma

VOTE: 2 – 0 (Councilmember Griffith, Vice Mayor Moylan, Mayor Hamilton, Councilmember Spitaleri, Councilmember Swegles abstained)

Sarah Wilson

VOTE: 4 – 0 (Councilmember Griffith, Mayor Hamilton and Councilmember Spitaleri abstained)

Deputy City Clerk Lisa Natusch announced that Narendra Pathak has been appointed to the Board of Library Trustees for a term expiring June 30, 2014.

**Heritage Preservation Commission (2 vacancies)**

Two terms expiring June 30, 2014

Ted Ringel

VOTE: 6 – 0 (Councilmember Swegles abstained)

Nirmala Vaidyanathan

VOTE: 5 – 0 (Vice Mayor Moylan and Councilmember Spitaleri abstained)

Deputy City Clerk Lisa Natusch announced Ted Ringel and Nirmala Vaidyanathan have been appointed to the Heritage Preservation Commission for terms expiring June 30, 2014.

**Parks and Recreation Commission (1 vacancy)**

One term expiring June 30, 2014

Robert Harms

VOTE: 7 – 0

Deputy City Clerk Lisa Natusch announced Robert Harms has been appointed to the Parks and Recreation Commission for a term expiring June 30, 2014.

3. ORDINANCE      2010-7279 Urgency Interim Zoning Ordinance - Moratorium Affecting the  
RTC 10-129      Sale and Distribution of Marijuana for Medical Purposes

Director of Community Development Hanson Hom presented the staff report.

Director Hom confirmed for Councilmember Griffith that staff has been following what has been going on in the City of Mountain View. Hom stated there is pending litigation; in February the City of Mountain View adopted a moratorium or an interim ordinance similar to what is being proposed tonight to further clarify that such uses are not to be established until further study.

Councilmember Whittum stated the language in the resolution states there is reasonable access to medical marijuana dispensaries for persons with a legal necessity for medical marijuana is available, and inquired where the reasonable access is.

Director Hom stated there are legal medical marijuana dispensaries established in nearby communities in San Jose, the East Bay and San Francisco.

Councilmember Whittum inquired about the language in the resolution which states there is an immediate and actual threat to public health, safety and welfare, and inquired as what the threat is.

Director Hom stated in recent cases there has been a lot of concern among communities with enforcement, crime and public safety issues related to such dispensaries and it is a concern of the City that if we are to allow such dispensaries, we need to carefully consider the type of operational conditions we would need to apply to such uses for future enforcement purposes.

Councilmember Whittum referred to page 3 which indicates a use not specifically permitted

is prohibited unless you find that the use is similar to and not more objectionable or intensive than the uses listed. Councilmember Whittum inquired what would be more objectionable or intensive about having a business that has only home delivery and no retail walk up.

Director Hom stated the concern is allowing such a use to be established without any clear guidelines or conditions of approval prior to further study. Hom stated staff's interpretation is such a use is a unique use and staff cannot find it is similar to another allowed use in the zoning code at this time.

Director Hom confirmed for Councilmember Whittum that the use is not a permitted use in the zoning code so staff would not be able to process a use permit or miscellaneous plan permit.

Councilmember Whittum inquired if Council were to decide the use is permitted with some conditions, would staff be able to require a use permit. Director Hom stated staff's recommendation is to enact a zoning code amendment that might allow the use under limited locations or conditions and at that time it would be defined what type of permit would be needed.

Councilmember Whittum inquired if someone applies for something not specifically listed, and staff decides it is probably ok but not next to residences, could staff require a use permit; is there a basis for asking that it be consistent with adjoining uses.

Director Hom stated it depends on the nature of the use. It would need to be determined what the use is similar to; if it is determined it is similar to a use that is listed as a permitted use in that zoning district, the use is outright permitted and the only approval that might be required is any architectural revisions, sign review, etc. Director Hom stated that if it is determined that the use is similar to another conditional use in that zoning district, then you could require whatever approval is required for that similar use.

Director Hom confirmed for Councilmember Whittum that staff would proceed with the study with the passage of the urgency ordinance. Hom stated if the urgency ordinance did not pass, staff would maintain the current interpretation that such uses are not currently allowed under the City zoning code.

Councilmember Whittum inquired about the schedule and budget for the study. Director Hom stated staff believes the study can be completed within the next 12 months; several issues influence that such as the pending court cases.

Councilmember Whittum inquired if Council was not to pass the ordinance and instead to direct staff to pursue a study on a shorter time scale, would staff have the resources to do that. Director Hom stated staff recommends Council adopt an urgency ordinance to make it clear that such uses should not be established until Council has had the ability to look at the outcome of the study and make recommendations to staff for possible zoning code amendments.

Mayor Hamilton stated that following the Study Issues Workshop in January, Council was reminded that this study issue fell below the line and was deferred for review next January. Mayor Hamilton confirmed with Director Hom that he effect this ordinance would have would be to force City staff to do the study now. Director Hom stated that because there has been

an increase in inquiries about such dispensaries, staff's opinion is the issue should be addressed now. Director Hom stated that one of the study issues ranked above the line, developing design standards for multifamily developments, was contingent on receiving a grant. If the City was successful in receiving the grant, it would not happen until early 2011. Director Hom stated that now that the hours are available for 2010, it allows staff to substitute another study in its place. Director Hom confirmed for Mayor Hamilton the reason for passing the urgency ordinance now is to emphasize and clarify that such dispensaries are not a permitted use in the City; staff's interpretation of the zoning code is they are not a similar use or similar to a more intensive use. Hom stated the issue is going to generate a lot of public discussion and interest; staff needs to go through a process to confer with various interest groups, follow the court cases and study how other cities have regulated dispensaries.

Councilmember Spitaleri stated medical marijuana is prescribed by a physician and inquired what stops CVS from selling it and whether the ordinance would stop CVS from doing that.

Director Hom stated that under the current ordinance staff does not interpret it as an allowed use and there are state laws that govern the use.

City Attorney Kahn stated a pharmacy such as CVS or Walgreen's could not dispense marijuana because under federal law it is still considered to be a controlled substance therefore the pharmacy would be breaking federal law if it was to dispense it.

City Attorney Kahn confirmed for Councilmember Spitaleri that doctors dispensing marijuana are currently in violation of a Federal law; the current administration has indicated that enforcement of that particular Federal violation is not a priority for the United States Attorney's Office, but technically it is a violation of federal law.

Public hearing opened at 8:13 p.m.

Alesha Boyd, Sunnyvale Cooperative Association (SCOA), stated SCOA wants to create a healthy community for medical cannabis patients. Boyd stated the closest legal dispensaries are in Oakland, San Francisco and Santa Cruz, and the distance makes it difficult for a majority of cannabis patients; a location in Sunnyvale would facilitate local residents and neighboring cities. Boyd stated SCOA supports the proposed interim ordinance and encouraged the City to study implementing the necessary regulations.

Robert Dale Jones, Sunnyvale resident, spoke on behalf of a local medicinal cannabis collective in favor of the urgency ordinance.

Dorji Roberts, attorney, stated the patients who have joined the collective want to do things responsibly and work with the City. Roberts stated the components of decent legislation are not that complicated and it does not need to be pushed out for a year.

G. Batzi Kuburovich, director of MediLeaf and member of MC3 (Medical Cannabis Collectives Coalition) provided written materials to Council and spoke of his experience applying for a business license.

Councilmember Spitaleri inquired if anyone asked him what MediLeaf was when he was applying for the business license. Kuburovich stated on the business license application it says closed loop medical cannabis collective legally established as per the Attorney

General guidelines. Kuburovich stated he was told by staff it is an illegal business, but after a 15 minute wait he was given a business license. Kuburovich stated the use does fit.

Mayor Hamilton stated the letter in the handout indicates a business license was not obtained. Kuburovich stated a receipt was given and the letter was received afterward. Director Hom stated staff did take in the business license application for consideration but it was not approved over the counter. Hom stated a letter was issued subsequently indicating the business license could not be processed under the current zoning code interpretation. Mayor Hamilton stated what was included in the written materials was a receipt, not a business license.

Councilmember Whittum confirmed with Kuburovich that he is appealing the staff decision.

Councilmember Whittum inquired if Kuburovich has the right under the Charter to appeal the staff decision.

Director Hom stated under the zoning code a request can be submitted to request that the community development director interpret that a marijuana dispensary is similar to or not more intensive than another permitted use. Hom stated Kuburovich can also apply for a zoning map amendment to initiate consideration of an amendment to the zoning code.

Councilmember Spitaleri confirmed with Kuburovich that he did not get a business license but a receipt for payment of a business license. Kuburovich stated he understood the receipt was a business license and apologized.

Matt Lucero, owner of Buddy's Cannabis Patient Collective in Mountain View, stated they are in litigation with City of Mountain View. Lucero spoke in favor of getting an ordinance in place quickly and stated it can be a positive thing for the community.

Mr. Lucero confirmed for Councilmember Griffith that he supports the 45-day moratorium.

Mayor Hamilton confirmed with Lucero that he is operating without a business license issued by the City of Mountain View. Lucero stated they are currently in litigation.

K.C. Olson spoke on behalf of the Silicon Valley Chapter of American's for Safe Access (ASA) and indicated they are available to help with any questions on the ordinance.

Lauren Vasquez, attorney and director of the Silicon Valley Chapter of American's for Safe Access (ASA) stated medical cannabis is issued by a doctor through a recommendation, it is not a prescription due to the federal prohibition. Vasquez stated it would be appreciated if a tax was not added to the medicine as prices are already high and a sales tax would increase the cost. Vasquez stated there is a lack of evidence that dispensaries are associated with crime any more than any other business and because of increased security they provide, some areas actually become safer. Vasquez stated there is a lot of good information available and the businesses can be regulated in a way that benefits both the patients and the community.

Councilmember Whittum asked Vasquez to leave information with staff.

Harriet Rowe, member of the Planning Commission speaking on her own behalf, commented on the other speakers' statements and stated she would like to see Council

contact the speakers and possibly meet with them. Rowe spoke in favor of the moratorium.

Jim Davis, member of the California Narcotics Officers Association, stated at their last conference they had an extensive seminar dealing with the kinds of issues discussed this evening. Davis stated Proposition 215, SB420 and the Attorney General's rules and regulations are extremely difficult to understand and stated it is extremely important that staff become familiar with the inter-workings with them.

Paul Stewart, director of public policy, MC3, stated he met with Director Hom regarding the application for the collective in Sunnyvale. Stewart stated he understands concerns with the burgeoning issue of medicinal cannabis collectives. Stewart offered himself as a resource for staff and Council to assist in studies, research and ordinance drafting. Stewart stated MC3 is a coalition of not for profit collectives. Stewart stated it will not take staff a year to write an ordinance.

Public hearing closed at 8:53 p.m.

Mayor Hamilton inquired about the Attorney General's guidelines and how they mesh with the City's zoning code authority.

City Attorney Kahn stated in *City of Claremont v. Kruse*, the appellate court held that cities retain authority over zoning and were able to prohibit dispensaries from coming to that city because it was not a permitted use. Kahn stated it does not mean they have to be prohibited; it means that if the land use code is such that they are not allowed then prohibiting them is allowed and permitted under California law. Kahn stated there is a pending case in the City of Anaheim looking at whether or not a total ban on dispensaries is permitted under Proposition 215. Kahn stated that if a city makes the decision to allow a dispensary, under California law the Attorney General opinion would be the guidelines that would be used, therefore if the City of Sunnyvale was to take a position that it wanted to permit dispensaries, the only legal way they could function would be under the Attorney General's guidelines so they would supplement the City's position but the City can still make its land use determination.

Mayor Hamilton inquired as to what kinds of things the guidelines deal with. City Attorney Kahn stated the guidelines are more specific to what types of patients can be part of a collective, what a collective is, whether it can be for profits and how it operates. Kahn stated the land use determinations would be something for each individual City.

**MOTION:** Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to approve Alternative 1: to adopt the Urgency Interim Zoning Ordinance with the specific understanding that the study issue that previously fell below the line will now take the place of the study issue on design standards for multifamily developments.

Vice Mayor Moylan suggested that whenever anyone applies for a business license and it gets turned down, the letter sent should have the check in it instead of having to call Finance and request the refund. City Manager Luebbers concurred.

Vice Mayor Moylan stated the study issue is going to be done a lot earlier than it otherwise would have and it sounded like the speakers want to see the issue dealt with one way or another.

Councilmember Spitaleri stated he supports the motion and he does not believe it will take a year or more to study the issue. Spitaleri stated he sees two important things that will come out of this - it will help the people in need and it will probably be one of the best things we can do to reduce crime. Spitaleri stated he hopes staff will reach out to the individuals who have provided information in order to help move the study forward.

Councilmember Whittum stated he is concerned about the schedule; he does not think two years is acceptable and he thinks one year is too long. Councilmember Whittum stated he is not sure what the right time scale is but the thing that disturbs him most is that the idea of waiting for the precedents tends to assume that we are going to try to ban this, and if that is the case, the discussion should be had sooner rather than later.

AMENDMENT: Councilmember Whittum offered an amendment that staff come back within 90 days with some alternatives, one of which to include an enabling ordinance which would address zoning, monitoring and taxes and fees. Whittum stated he would like to see a tighter schedule than just one to two years.

Mayor Hamilton confirmed with Councilmember Whittum that he suggests staff come back in 90 days with an ordinance that would allow the dispensaries to open, among other alternatives. Whittum stated he would like to see some type of schedule and not just see it float for a year.

City Attorney Kahn stated if Council passes the urgency moratorium, it will be valid for 45 days. At the end of the 45 day period, there has to be a noticed public hearing at which the moratorium can be extended for up to 10 months and 15 days. Kahn stated that his belief is at the end of the 45 days staff would have a much better idea of the time it will take to complete the study process, and Council could either extend the moratorium for the full year or a lesser amount of time.

Director Hom stated it is very likely staff will come back within 45 days for an extension of the moratorium and at that time staff can provide a tentative work plan of how soon they believe they can get an ordinance to Council. Hom stated this would include outreach activities, and because it is a zoning code amendment it would also need to go through a public hearing process with the Planning Commission for recommendation.

Vice Mayor Moylan stated the alternative he put in his motion is that within the 45 days staff will come back and tell Council when the study will be complete and it will be complete this year.

Director Hom stated that based on staff's preliminary assessment, we will come back to Council in one year. Hom stated staff can come up with as aggressive a schedule as is realistic.

Vice Mayor Moylan stated if it had been ranked higher it would have fallen above the line and inquired if it would have been completed in 2010. Director Hom stated it depends on the ranking of the other study issues.

Mayor Hamilton stated when it comes back to Council for reconsideration a time limit can be set that is less than one year.

Vice Mayor Moylan asked if staff can commit at this point to completing it this calendar year. Director Hom stated staff will come back to Council with a work plan.

Vice Mayor Moylan stated the amendment would have to be a formal amendment because he will not incorporate it into the motion.

FORMAL AMENDMENT: Councilmember Whittum offered an amendment that staff be directed to bring an enabling ordinance back to Council within 90 days, among other things they may bring back which may include other alternatives.  
Motion died for lack of a second.

Councilmember Whittum stated he would appreciate those voting for the ordinance state their findings that there is reasonable access and what the threat to public health is.

Mayor Hamilton stated she supports the ordinance and is encouraged by the speakers who have stated they want to play by the rules. Hamilton stated we try to protect and balance the interests of everyone in the City and this is something that for a lot of reasons is very sensitive on both sides. Hamilton stated that in order for Council to make an informed and intelligent decision about how to deal with the situation, they need to have the ability to look at all sides. Mayor Hamilton stated she does not have an opinion on the outcome of the study; she wants to know the results of the study before a decision is made. Hamilton stated the moratorium has the effect of speeding up the study issue and this is the best possible expedient way it can be done.

Councilmember Spitaleri stated he supports the motion and he is not interested in the report that comes back in 45 days that requests extending the moratorium for ten months; he wants work done and that is what he is hoping to see after the 45 days.

Councilmember Swegles stated he appreciates what has been presented but thinks we need to do due diligence and he will support the motion.

Deputy City Clerk Lisa Natusch read the ordinance title.

VOTE: 6 - 1 (Councilmember Whittum dissented)

4. MOTION                      Consideration of a Directly-Elected Mayor (Study Issue)  
RTC 10-135

City Attorney David Kahn presented the staff report.

Councilmember Whittum inquired what work would be involved to prepare a measure to change to a system like that used in Milpitas, which has a two-year term for the Mayor with a limit of three terms and one term out. City Attorney Kahn stated the next step would be to provide another report to Council with a draft ordinance that would adopt the charter language. If the council approved, the City Clerk would work with the Registrar of Voters to place a charter amendment on the ballot for the 2010 November ballot.

Vice Mayor Moylan stated if the Council authorizes a ballot measure tonight, staff could come back with several options such as Milpitas' directly-elected two-year term, San Jose-Santa Clara's directly-elected four-year. He stated Council could choose from the options which they would want to put on the ballot.

Councilmember Whittum stated he wanted to make the point that if Council is to direct staff to prepare measures for four different options, it might narrow down the amount of staff work if the choices could be narrowed down. Whittum stated an estimate of the cost and time is involved and stated he is in favor of discussion to hear what people think about the different forms.

Councilmember Spitaleri stated he was on the charter review committee in 1991 and a lot of good testimony was taken and a lot of good points were brought up back then that seem appropriate now and with the role that mayors play in the local, state, and federal levels. Spitaleri stated he would like to see it looked at, but he is not in favor of the Milpitas process; he would prefer to look at two types. He stated the Milpitas process is every other year and one would spend more time running for elected office than time spent being the Mayor. He stated he would like to see a system studied that looks at Santa Clara and other cities that have four-year mayors. Councilmember Spitaleri stated his support for a motion to do this.

Public hearing opened at 9:18 p.m.

Jim Davis, stated he served on the 1991 Charter Review committee where it was a major issue that was discussed within the community. He stated Mr. Stone put his own stamp on the idea by getting his proposal on the ballot. Mr. Davis stated he worked strongly to make sure that did not occur. He stated he has been here in the eighteen years since 1991, has watched the City Council and watched the politics of the community. Davis stated there is no reason to change the way our government is currently established; all are citywide elected officials, all are very capable people and have been entrusted with positions of trust and authority by the citizens. He stated that at any particular time any one of the Council could be a respectable mayor for the community. Davis stated if Council wanted a directly-elected mayor, then there should be a real reason for making that change in the way we do our government as did the City of San Jose when they expanded their Council, created a directly-elected mayor, and gave him powers and authority over running certain portions of the city. Davis stated if a plan is proposed that will take away some of authority of the city manager and place that in the hands of the City Council and staff, then there is a legitimate reason to having a directly-elected mayor. He stated if there is a reason why any one of the Council doesn't think they could operate as well as any other as the mayor representing the City and being a strong advocate, there would be serious issues to consider. Davis stated the City has good government; the Council-Manager form of government has worked well for the citizens for the entire history of the community; we have excellent staff and the members of the Council provide excellent policy direction and leadership to the community and staff. He stated he strongly urges Council not to do anything regarding a directly-elected mayor.

Public hearing closed at 9:21 p.m.

**MOTION:** Councilmember Spitaleri moved to move forward with the directly-elected mayor issue.

Vice Mayor Moylan seconded the motion and asked the maker of the motion to specify whether it is for a four-year or both.

Councilmember Spitaleri stated his motion is to look at a four-year mayor. Vice Mayor Moylan affirmed.

Councilmember Spitaleri spoke to his motion and stated he chaired that committee and at that time, Sunnyvale was different, the world economy was different, a lot of things were different back then. He stated he goes back to a statement made by Bob Gonzales, Sr., father of former Mayor Ron Gonzales who made a comment back then that fits today: Gonzales indicated that the Council is weak in regional areas because there is no identifiable leadership which results in loss of revenue. Spitaleri stated when he served as mayor, one of the things he noticed was that we are now in a global economy. He stated he doesn't mean that on the local level council members and mayors would not be effective, but that in the two years he was mayor, he was pressed to try to get things done, networking, and to be part of raising awareness of the needs on the local level for funding. Spitaleri stated it was probably very difficult for a single-year mayor; if we are going to be leaders on the stage of the whole global economy or global networking, we need people who are going to be out there on a continuous basis and for a period of time to get to be known, to be able to go after projects that are important for the City and regional areas. He stated the only way to do that is to be a player, and Sunnyvale is not a player with a one or two-year mayor. He stated he is not suggesting getting rid of term limits. In the League of California Cities, the National League of Cities, and the U.S. Mayors' Conference there are those who get things done, who network, are recognized and are on committees. He stated the constant change in leadership hurts the City, and he suggested if the City wants to be a player, and wants to be part of making in-roads from a global perspective, we need to step up to the plate and change the way we do business.

Vice Mayor Moylan stated in addition to the reasons Councilmember Spitaleri cited, there are several more: as the city grows it tends to evolve from a one-year mayor to a longer-term mayor; from an appointed mayor to a directly-elected mayor, from part-time council to full-time council. He stated fifteen cities in the county, out of the ten small cities, eight of the ten appoint their mayor by the council; of the five big cities, three out of five elect their mayor; Sunnyvale is the biggest city that doesn't directly elect its mayor.

Vice Mayor Moylan stated several points raised by the member of the public should be addressed: "why would you do this if you're not changing the duties of the mayor?" Vice Mayor Moylan stated the answer is that situations occur where the person who is more popular with the majority of the council colleagues isn't necessarily the person who is more popular with all of the citizens. He provided the example of San Jose, and stated if San Jose picked its mayor by election among the council they might have a different mayor right now. Moylan asked which is the more legitimate choice – the one that thousands of people want to be the mayor or the one that four or five people want? He stated to him, the more people who want someone to be the mayor the more legitimate the choice is.

Vice Mayor Moylan stated it is common for many people, especially during their first year on the council, to be in a minority position on a lot of votes. Moylan stated sometimes a person like that has really strong community support and a directly-elected mayor gives the community the opportunity to say "we like this person's ideas enough; we don't want to wait for the other five people to get comfortable with that person and we want to see that person's ideas implemented now." Vice Mayor Moylan stated if the statement were true: "everyone currently on Council would make a great mayor" then it could be argued it doesn't matter how they are selected, but it hasn't always been the case. Moylan indicated when there are two very different choices that the people of the City are going to have to live with, the vote of the citizens is the more legitimate choice.

Vice Mayor Moylan stated the Council has in recent years modified how the mayor is

selected, but after the recent and third revision, he now has a lot more faith in the citizens picking the mayor than the Council. He stated it is worth taking this to the voters every twenty years.

Councilmember Swegles stated he agrees with both Councilmember Spitaleri and Vice Mayor Moylan. He stated when he was mayor, he was introduced him to someone from Illinois who was the chair of the housing committee and had been a mayor for twenty-two years. The chair asked him to be on the committee, but he was only a one-term mayor at that time and would not have the expense account to continue to be on that committee. He stated he would have been allowed to continue to serve on that committee as a council member, but the budget is restricted to where that would have been impossible to do. Swegles stated more avenues of this type need to be explored. He recommended talking to more people who have served as mayor for many years and are chair of different events and committees. Swegles stated he found an opportunity to apply for \$10 million for low-income housing he would never have known about it had he not met the person at the Mayor's Conference.

Councilmember Whittum stated one reason he supported the study issue is he thought the mayor is the person who would embody personal responsibility for some of the larger things in the City such as the Downtown, the budget, or other issues. He stated he favored the two-year term because he felt the two-year term makes them more responsive, and he feels the Milpitas system works well. Whittum stated some of the arguments in favor of the four-year term are arguments against term limits and there are arguments against term limits that should perhaps be considered.

FRIENDLY AMENDMENT: Councilmember Whittum offered an amendment to include a look at a two-year term system such as Milpitas has.

Councilmember Spitaleri accepted the amendment to also look at a two-year term.

Councilmember Griffith stated we've had a two-year mayor for just over two years, and we haven't had time for the two-year mayor to play itself out and really see what is going to happen. Griffith stated this has been decided multiple times, and every time it has come before a group to decide, it has been turned down overwhelmingly. He stated this last came before the charter review committee in 2006 and questioned whether the population's view has really changed. He stated he has heard no comments about what services will be cut by \$40,000 to pay to put the measure on the ballot. Griffith stated other cities that have a directly-elected mayor, the mayor tends to be nothing more for those people who get into office, do an end-run around term limits, and you end up with a situation where these people are in office for a very long time. He stated if he were on the other side of this, wanting to defeat this ballot measure, all he would have to say in this anti-incumbent attitude is "you'll see the same people in office even longer." He stated that is all it will take for this measure to be defeated, and that is what is going to happen if it is put on the ballot in November. Griffith stated it is a waste of time when it has been done so many times before and he has heard nothing new since it was considered in 2006. Griffith stated he will be opposing the motion.

Mayor Hamilton stated the notes from both of the charter review committees in 1991 and 1996 were stunning to her in the similarities in why both committees voted down the directly-elected mayor. She stated a directly-elected mayor fundamentally shifts the governance in the city, it politicizes the position, and it causes a fundamental shift between

the mayor and the city manager which goes to the form or governance. She stated a directly-elected mayor will want staff, but it is not a full-time position. Hamilton stated the current system balances the seven Council in a way that there is not as much in-fighting. She stated if there is one person who knows they will be mayor for four years, who says they have the mandate of the people behind them, the chemistry and dynamic of the council are shifted, which she doesn't think is a positive thing. Hamilton stated she thinks this is a reaction to the way the mayoral appointment went in January. She stated everyone on this Council with the exception of two people were elected under the rotation system where they automatically got to be mayor for a year, and now there are a bunch of people who got to be mayor under that system and some who were not elected Mayor under that system. She stated there hasn't even been a full council to go through a cycle of seven people who have to compete for the position; it is different, uncomfortable, and part of the transition process from going from one-year to two-year, and from expecting it by right, to having to compete for it. She stated that the fact that they are elected to the position is a very strong job interview. She stated she doesn't think anyone who was not there before they were elected had any idea what it means to sit up there and that someone coming in as a mayor who hasn't been through that or may not have had to demonstrate that could be problematic. Mayor Hamilton stated she thinks that this is not something that works for Sunnyvale. She stated with regard to the talk of mayors in other cities who've served for twenty years, the mid-West and East Coast have entirely different governing systems. On the West Coast we have term limits; nobody is going to serve twenty years and we have to govern within those boundaries. Hamilton stated the City has a great staff; they've done a great job getting grants from the federal and state level, and if you want to look at changing to directly-elected mayor you will have to change the governing structure of the City. She stated she doesn't see the reason to spend the money on asking the voters to change it; the two-year model passed two and a half years ago should be given a chance to work.

VOTE: 5 - 2 (Mayor Hamilton and Councilmember Griffith dissented)

Mayor Hamilton inquired as to how the measure would be paid for, and requested recommended budget or service cuts at the budget hearing on June 15. City Manager Luebbers stated it will be incorporated into the discussion on June 15.

City Attorney Kahn requested clarification of Council's intention as to putting this measure on the November 2010 ballot. Mayor Hamilton stated she believes that was the intent of the motion.

Mayor Hamilton stated that considering the mayor is currently a two-year mayor and this will be an off-year election, a question to be answered will be the impact that would have on the current mayor's position. City Attorney Kahn stated he would take a look at that.

Councilmember Whittum requested to add a point of information. He stated for him, supporting the motion had nothing to do with whatever recent events occurred; discussion of this has gone back quite some time and he didn't see any issues with the recent selection process. Mayor Hamilton asked why it would need to be changed if it was not in response.

Mayor Hamilton called for a recess at 9:40 p.m. Councilmember Swegles left the meeting.

Mayor Hamilton reconvened the Council meeting at 9:55 p.m. with all present except Councilmember Swegles; Councilmember Lee continued to participate by teleconference.

5. MOTION 2010-7145 South Murphy Avenue Sidewalk Policy 2010 (Study Issue)  
RTC 10-121

Director of Community Development Hanson Hom presented the staff report. Councilmember Spitaleri inquired whether staff has spoken with the merchants to receive input on whether Murphy Avenue should be closed to vehicular traffic. Director Hom responded the discussion has been fairly informal; the focus of this policy was to address the sidewalk zone and non-vehicular areas.

Councilmember Whittum asked whether this policy affects only Murphy Avenue or the backside of businesses facing Murphy Avenue. Director Hom stated this policy only pertains to the sidewalk area in the 100 block of Murphy Avenue.

Mayor Hamilton inquired with regard to page 10 in the guidelines stating: "Alcoholic beverages may only be served in outdoor areas which are contiguous to the eating establishment, i.e. the area must not be separated from the restaurant by a public sidewalk." Director Hom stated it is being proposed to amend item no. 1 to add the clause: "or as otherwise permitted by ABC." Hom stated staff recognizes ABC may approve some alcohol services for those sidewalk areas that are adjacent to the street, so staff is recommending expanding the guideline to allow the possibility of allowing alcohol beverages in those non-contiguous areas. Mayor Hamilton confirmed with Director Hom with this amendment, if ABC allows drinks in the furnishing zone, it would be allowed.

Public hearing opened at 10:01 p.m.

Harriett Rowe stated on page 7 of 12, number 2 under "location" the statement: "the outdoor dining use shall not obstruct pedestrian movement or access from..." the last line states: "at least five feet of pedestrian clearance shall be provided around the use..." She asked if it should read "...around *this* use..." referring to outdoor dining, or something else. Rowe stated on page 8 of 12, it says: "Tables with individual chairs are required for outdoor dining. No bench seating. Each table shall be set up to accommodate no more than four persons in the furnishing zones." She stated she sees this as a problem as she has seen this in the past at the Bean Scene; she indicated there would be nothing to prohibit people from putting tables together. Rowe asked how the merchant would be held responsible for people who would put their seats into the pedestrian walkway, and provided several examples of situations where she has observed this occurrence. Rowe stated on page 10 of 12, it states: "eating establishments must make ashtrays available to outdoor tables on request... Smoking is prohibited within five feet of the building entry." She expressed concerns regarding the second-hand smoke, and asked if it was considered to not allow smoking around the eating establishments.

Public hearing closed at 10:05 p.m.

Director Hom stated under C.2.2. the definition of five foot clearance, refers to the outdoor dining use so whatever the defined boundaries or outdoor dining is, there needs to be a minimum five foot pedestrian clearance. With regard to prohibition of smoking in outdoor areas, Director Hom stated he would recommend it is not appropriate to address in the sidewalk policy and should be a separate ordinance that the City would need to consider.

Vice Mayor Moylan inquired as to why this issue did not go through the Planning Commission. Director Hom stated initially he thought it did, but indicated it did not as it has to do with public right-of-way areas, whereas the Planning Commission deals with private development.

Councilmember Whittum asked if input was needed on the question of furniture remaining on the sidewalk. Director Hom stated the recommendation is the policy as currently written, which is the requirement that furniture must be removed and stored in the restaurants at the end of the day. He stated the reason for that would be the uncertainty at this time regarding cleaning schedules and general maintenance concerns.

MOTION: Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to approve Alternative 1, to approve the South Murphy Avenue Sidewalk Policy.

Vice Mayor Moylan spoke to the motion and reiterated that the option of possibly converting Murphy Avenue into pedestrian only would require a separate change to this policy, and this must be done now whether that is done or not.

Councilmember Whittum asked if the Council thinks there are future items along these lines, should they go to the Planning Commission?

Councilmember Whittum offered an amendment that if it is the sense of Council in the future, such items could be reviewed by the Planning Commission.

City Manager Luebbers stated that "such items" is a pretty broad range and requested the opportunity to provide more information and narrow the scope before Council takes action. Councilmember Whittum assented.

VOTE: 6 - 0 (Councilmember Swegles absent)

6. ORDINANCE      2009-0400 Amend the Zoning Code for Consistency with the Precise  
RTC 10-131      Plan for El Camino Real and Recent Streamlining Efforts

Director of Community Development Hanson Hom presented the staff report.

Councilmember Whittum asked how far back property lines are from the curb along El Camino Real. Director Hom stated it varies quite a bit; it is based on the parcel sizes, some of which are shallow, less than one hundred feet deep and some are several hundred feet deep. Hom stated the average is about eight feet but varies along certain sections of El Camino.

Councilmember Whittum stated there will be 55-foot buildings with a 15-foot front setback, with 55-foot tall buildings that are 23 feet from the curb. Director Hom confirmed that would be allowed and is in conformance with the policies that promote more pedestrian-oriented development.

Councilmember Whittum stated the change was phrased that within 15 feet, it is 55 feet tall, whereas previously there was a standard of 75 feet with a 70-foot setback, but the ordinance Attachment A, page 7 seems to imply the height could be 75 feet tall with a 15-foot front setback. Director Hom stated that section applies to the node areas where staff recommends maintaining the existing 75-foot height limit, but for all other areas along El

Camino the proposal is to reduce the current height limit from 75 to 55 feet.

Councilmember Whittum stated section 5.3 of the El Camino Precise Plan states exceptions may apply within the areas designated as nodes. He stated that is rather general, and this is very specific and seems to entitle by right 75 feet close to the curb. Director Hom stated it is an attempt to interpret the policy; to say it is entitled by right is a little misleading because just because there is a 75-foot height limit, doesn't mean you are entitled to 75 feet and other factors come into consideration that would influence the height, such as being adjacent to residential development; parking and landscaping influence development density on a particular piece of property.

Councilmember Whittum stated he would like to know how the public would feel about 75-foot tall buildings 23 feet from the curb on El Camino. He stated he understands there has been public input on the El Camino Precise Plan but since that time the code has been changed, reducing the rights of appeal for certain kinds of permits. Director Hom explained some of the minor approvals have been reduced down to the MPP level; a specific example is the reduction from SDP to MMP; alcohol beverages, beer and wine for restaurants are now MPP which are a staff level approval appealable to the Planning Commission. Hom stated generally, MPPs apply to minor changes to a particular project.

Councilmember Whittum asked if this is approved and an application is made to have 75 feet, 23 feet from the curb, what kinds of findings or considerations could be applied for doing other than approving it? Director Hom stated it is likely a project of that size is not going to be a miscellaneous plan approval; it will be an SDP for Planning Commission appealable to City Council. Hom stated esthetics, conformance to design guidelines, massing, shadowing and those types of design issues would be taken into consideration.

Councilmember Whittum stated when biking on El Camino has been discussed, there is an issue with it being a state highway therefore we are limited in what we can do. Whittum asked if any thought has been given to the frontage that could be used for a bikeway and if there is any plan to do an expansion of El Camino in concert with new developments so that the right-of-way is widened to provide for bikes. Director Hom replied he is not aware of any.

Mayor Hamilton disclosed she owns property within 500 feet of one of the nodes on the plan, however because the plan is so general it doesn't directly affect her property. She stated she is not going to recuse herself on this item.

Public hearing opened at 10:20 p.m.

No speakers.

Public hearing closed at 10:20 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to approve Alternatives 1 and 2: introduce the proposed ordinance and adopt the Negative Declaration, and repeal Council Policy 1.1.11 as it is incorporated into the proposed ordinance.

Councilmember Whittum stated he has doubts about the wisdom of allowing 75-foot structures so close to El Camino and he has doubts about the community reaction when they realize that is what we are talking about. He stated it is nice to hear that it could be

mediated in the usual planning process but he would like to hear people's thoughts as to why 75 feet. He stated 55 feet seemed like a reasonable number and that is what was talked about in the El Camino Precise Plan.

Deputy City Clerk Lisa Natusch read the ordinance title.

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

7. RESOLUTION Authorize the Issuance and Sale of Water Revenue Bonds and  
RTC 10-138 Wastewater Revenue Bonds and Approve Related Documents and  
Actions

Revenue Systems Supervisor Tim Kirby presented the staff report and stated the item was incorrectly listed as an ordinance; it is a resolution. Additionally, staff provided a revised resolution; the resolution attached to the original staff report stated: "not to exceed amount for the wastewater bonds of \$45 million"; it should state "\$40 million" which has been corrected in the revised resolution.

Councilmember Spitaleri left the dias.

Councilmember Whittum inquired as to the difference between "pledging" and "allocating" the revenues. Revenue Systems Supervisor Kirby indicated this refers to the security; we're saying that we will pledge those revenues to pay the debt service first.

Councilmember Whittum stated section 510 states "the City will not acquire, construct, operate or maintain any system utility that will be competitive with the water system" and asked what that would preclude, meaning the City wouldn't start a second water system. Revenue Systems Supervisor Kirby confirmed and stated the recycled water system is part of the City's water utility.

Councilmember Whittum confirmed with staff that if the City chose by some means or special district to help people use gray water, it would not be considered competitive with this.

Councilmember Whittum stated he noticed that Exhibit B, the description of water project was left blank. Kirby stated that will be filled in at the end, for the indenture; the description of the water project is very basic: to fund water system improvements.

Councilmember Whittum stated on the definition of net revenues, it says "minus the amount required to pay all operation maintenance costs" and questioned whether gross revenues less these costs would allow for expenditures, such as roof repair. Revenue Systems Supervisor Kirby stated it is a very important definition; it tells us that before we pay the debt service, we make sure that we can operate the utility. Kirby stated that is the intent of allowing exclusion of operations and maintenance expenses from the definition of net revenues.

Councilmember Whittum referenced page 3 and asked how far above 120 percent the City is expecting and how much margin is in the outlook for the next fiscal year. Kirby responded the City is projecting well over 120 percent coverage. He stated when the City presented its credit to the rating agencies, that is one of the things they focused on. Kirby stated there are some projected tables in the preliminary official statement that cover projected debt service

coverage and we are 2.5 coverage in the water utility and almost 3.4 in the wastewater utility within that five years. Kirby stated the factors mean how many times over debt service the City has in terms of coverage.

Councilmember Whittum asked if staff is confident there isn't much risk of reaching the 6.5 percent as this is moving forward within the next month. Finance Director Bradley stated staff checked at the rating agencies with the investment bankers to determine where the market was and were pleasantly surprised the 30-year rate was a little under 4.5; staff is confident we won't hit the true interest cost of 6.56 percent.

Public hearing opened at 10:29 p.m.

No speakers.

Public hearing closed at 10:29 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Whittum seconded the motion to approve Alternative 1, to approve a resolution authorizing the proceedings relating to the refunding of the 2001 Installment Sale Agreement, Financing of Capital improvements for the City's Water and Wastewater Systems, authorizing the issuance and sale of water revenue bonds and wastewater revenue bonds, and approving related documents and actions.

VOTE: 5 - 0 (Councilmembers Swegles and Spitaleri absent)

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

Councilmember Lee reported he attended a Moffett Field meeting to receive an update on the clean-up of areas of Moffett Field and rehab of Hangar One.

Councilmember Griffith reported on a meeting of the VTA PAC to discuss many issues, one of which is particularly relevant to Sunnyvale regarding a ballot measure to attach a \$10 fee to vehicle registration to provide money toward transportation projects throughout the County.

Mayor Hamilton provided clarification of the Planning Commission appointments made earlier in the meeting. Without objection, all three appointments are specifically intended to start on July 1, 2010.

Deputy City Clerk Lisa Natusch requested clarification on the appointment to the Housing and Human Services Commission. Vice Mayor Moylan stated with that opening, there is no one currently filling the seat as with the Planning Commission who will resign as soon as a replacement is appointed. Vice Mayor Moylan recommended making the Housing and Services term effective immediately.

Mayor Hamilton explained that a person appointed effective today would be eligible to serve only one additional term because they would have served just over two years for the partial term; if appointed as of July 1, 2010, there will potentially be two full terms. Vice Mayor Moylan stated he is more concerned about seeing the work get done.

Councilmember Griffith recommended the effective date be July 1, 2010.

MOTION: Councilmember Whittum moved and Councilmember Griffith seconded the motion to make the Planning Commission and the Housing and Human Services Commission terms start July 1, 2010.

VOTE: 5 - 1 (Vice Mayor Moylan dissented and Councilmember Swegles absent)

**NON-AGENDA ITEMS & COMMENTS**

Mayor Hamilton reported she participated in a soapbox derby in Mountain View but did not win.

Mayor Hamilton provided a brief report regarding the Health & Safety Fair at Columbia Neighborhood Center.

Mayor Hamilton reported she attended the softball league closing ceremonies.

**INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- RTC 10-132 Update Regarding Morse Avenue Park Site Development (Information Only)
- RTC 10-140 Opportunity for Council to Appeal Decisions of the Planning Commission of May 10, 2010
- Study Session Summary of May 4, 2010 – Board and Commission Interviews
- Study Session Summary of May 17, 2010 – Board and Commission Interviews
- Draft Minutes of the Heritage Preservation Commission meeting of May 5, 2010

**ADJOURNMENT TO THE FINANCING AUTHORITY**

Mayor Hamilton adjourned to the Financing Authority at 10:39 p.m.

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Kathleen Franco Simmons  
City Clerk

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Date