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
Councilmember Anthony (Tony) Spitaleri
Councilmember David Whittum
Councilmember Jim Griffith

ABSENT: Councilmember Ron Swegles (excused)

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
Chief of Public Safety Don Johnson
Director of Public Works Marvin Rose
Deputy City Clerk Lisa Natusch

Mayor Hamilton stated Councilmember Swegles is recovering following surgery last week and he is expecting to be back soon.

CLOSED SESSION REPORT FOR JUNE 15, 2010

Closed Session pursuant to Government Code Section 54957.6 – Conference with Labor Negotiator

Closed Session pursuant to Government Code Section 54957

Vice Mayor Moylan stated Council met in two Closed Sessions; Council took action and gave some direction in both.

SPECIAL ORDER OF THE DAY – City Clerk Kathleen Franco Simmons administered the Oath of Office to incoming board and commission members.
PUBLIC ANNOUNCEMENTS

Richard Kolber, Democratic Club of Sunnyvale, announced an upcoming meeting.

Mayor Hamilton announced the upcoming State of the City event on Sunday, July 4, 11 a.m. – 2 p.m. at Washington Park. Hamilton stated that in addition to the State of the City address, Council will present awards to outstanding members of the Sunnyvale community.

CONSENT CALENDAR

MOTION: Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to approve the Consent Calendar.

VOTE: 6 - 0 (Councilmember Swegles absent)

1.A. MOTION Approval of Draft Special Council Meeting Minutes of May 20, 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 10-158 Nos. 506, 507 and 508

   Staff Recommendation: Review the attached lists of bills.

1.D. MOTION State Proposition 1B Infrastructure Bond Funds - Second Allotment and RTC 10-154 Revision of First Allotment, and Approval of Budget Modification No. 36

   Staff Recommendation: Alternatives 1, 2, and 4: Approve the revised first allocation of Proposition 1B funds; approve the plan for the second allocation of Proposition 1B funds; and approve Budget Modification No. 36, to align the CDBG funded concrete projects to the CDBG Action Plan.

1.E. MOTION FY 2009/2010 NOVA Workforce Services Department Expenditure RTC 10-152 Update and Approval of Budget Modification No. 40

   Staff Recommendation: Approve Budget Modification No. 40 to redistribute the $12,461,721 NOVA Expenditure Budget amongst programs for FY 2009/2010.

1.F. MOTION Appropriation of Department of Homeland Security Training Grant Funds RTC 10-150 and Approval of Budget Modification No. 39

   Staff Recommendation: Approve Budget Modification No. 39 to appropriate the SHSGP funds into a special project to offset costs incurred in FY 2009/2010, as well as to incorporate $148,356 in SHSGP grant funding into the FY 2010/2011 Budget.
1.G. MOTION
RTC 10-145
Approval of Budget Modification No. 32 to Appropriate $500 in federal
Library Services and Technology Act (LSTA) Grant funds through the
California State Library to Host Children’s Bilingual Programs for Día de
Los Niños/Día de Los Libros

Staff Recommendation: Approve Budget Modification No. 32 to appropriate $500 in Library
Services and Technology Act (LSTA) funds for Día de Los Niños/Día de Los Libros
programming.

1.H. MOTION
RTC 10-146
Approval of Budget Modification No. 30 to Appropriate $5,000 in federal
Library Services and Technology Act (LSTA) Grant Funds through the
California State Library (CSL) for Enhancement for Programming

Staff Recommendation: Approve Budget Modification No. 30 to appropriate $5,000 in
Library Services and Technology Act (LSTA) funds for Enhancement for Programming
equipment.

1.I. MOTION
RTC 10-147
Approval of Budget Modification No. 31 to Appropriate $1,200 in
Sunnyvale Rotary Club Grant Funds for a Laptop Computer for Library
Children’s Services/Homework Center

Staff Recommendation: Approve Budget Modification No. 31 to appropriate $1,200 in
Sunnyvale Rotary Club funds for a Laptop Computer for Children’s Services

1.J. MOTION
RTC 10-148
Approval of Budget Modification No. 27 to Appropriate State Public
Library Foundation Monies.

Staff Recommendation: Approve Budget Modification No. 27 to appropriate State Public
Library Funds for use in the following special project category: Improvements to Library
Services.

1.K. MOTION
RTC 10-157
Approve Community Development Block Grant (CDBG) Loan Agreement
with the Bill Wilson Center for a Loan of $100,000 to Rehabilitate
Peacock Commons Apartments

Staff Recommendation: Approval of the CDBG Loan Agreement between the City and the
Bill Wilson Center.

1.L. MOTION
RTC 10-156
Approval of Budget Modification No. 41 to Appropriate Office of
Economic Adjustment's Economic Development Conveyance Grant for
Onizuka Air Force Station

Staff Recommendation: Approve Budget Modification No. 41 to appropriate the Office of
Economic Adjustment's Economic Development Conveyance Grant for Onizuka Air Force
Station.

1.M. MOTION
RTC 10-149
Approval of Budget Modification No. 38 to Recognize Grant Funding and
Appropriate Funds for Project Readiness Initiatives

Staff Recommendation: Approve Budget Modification No. 38 to appropriate up to $25,000 of
the subject grant funding to new project, Project Readiness Initiatives Program.
1.N. RESOLUTION 
RTC 10-153  
Adopt a Resolution to Authorize the Filing of the Fiscal Year 2010/11 Transportation Development Act Article 3 Application for Pedestrian and Bicycle Projects

Staff Recommendation: Alternative 1: Adopt the resolution authorizing the filing of a project application with the VTA and MTC for allocation of Transportation Development Act funds for FY 2010/11 for pedestrian/bicycle projects for a Borregas Avenue Bicycle and Pedestrian Improvements Project.

Contracts: Sunnyvale Works!

1.O. MOTION 
RTC 10-159  
Award of Sunnyvale Works! Contract for Coating Inspection Services on an "As-Needed" Basis (F0905-99)

Staff Recommendation: It is recommended that Council award a contract in an amount not-to-exceed $150,000 to West Coast Coating Consultants for tank coating inspection services on an "as-needed" basis.

Other

1.P. MOTION 
RTC 10-162  
Approval of Revised Council Policy 7.3.10, Mayor and Vice Mayor Selection

Staff Recommendation: Approve the policy revisions as presented.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Tap Merrick distributed photos to Council regarding Laurelwood School traffic on Lochinvar and encouraged schools to create a “walkpool” instead of a carpool. Merrick distributed photos of liquidambar balls collected on one day from one week’s worth of liquidambar droppings. Merrick stated he is not suggesting they all be done away with this year, but over the next ten years.

Ron Ueberschaer stated he is a new resident and has noticed a lot of abandoned shopping carts and is astonished that even if you catch someone removing a shopping cart from a store the City has no statute to call that a crime. Ueberschaer stated the abandoned shopping carts degrade the neighborhood.

Mayor Hamilton confirmed staff will get back to Mr. Ueberschaer.

Denise Kopecky expressed concern about abandoned shopping carts and the increase in utility bills. Mayor Hamilton encouraged Ms. Kopecky to speak during those agenda items.

PUBLIC HEARINGS/GENERAL BUSINESS

2. MOTION 
RTC 10-160  
Finance Manager Grace Leung presented the staff report.

Mayor Hamilton announced this is the last opportunity for public comment and stated there will be an opportunity for Council to make motions after the public hearing.

Councilmember Whittum stated he is interested in discussing the road construction fee and the public safety impact fee discussed in Attachment F of the report.

Mayor Hamilton stated when people have a fix-it ticket they have to go to Public Safety to have it signed off, which was previously free. Mayor Hamilton stated the policy was changed last year to charge a fee for non-residents. Mayor Hamilton stated in reviewing increases in other fees that have doubled or tripled, and she thinks it may be appropriate to look at making the $33.00 fee for Public Safety to sign-off fix-it tickets apply to everyone, not just non-residents.

Public hearing opened at 7:22 p.m.

Andy Frazer expressed concern regarding the City’s pension obligations and encouraged Council to support the city manager’s recommendations to increase the employee contribution and implement a two-tier retirement system.

Mayor Hamilton stated there was a Santa Clara County Grand Jury Report regarding pensions that the City is required by law to respond to and that will be coming back to Council in early August.

Deborah Marks spoke about the importance of trees to the community and expressed concern regarding cuts to street tree service.

Andrew Lucia, Vice Principal, Peterson Middle School, stated he was in attendance to advocate for the Neighborhood Resource Officer (NRO) program to continue in FY 2010/2011. Lucia provided information on the importance of the NRO program and its lasting effect on the safety of the student population and stated the NRO acts as a liaison between the police department and the schools.

Laura Stuchinsky spoke of the benefits and practical purposes of street trees and urged that cuts to the street tree program be only temporary and that Council reinvest in the program when the economy recovers. Stuchinsky asked that to the extent the City has the opportunity to secure PG&E funding for undergrounding overhead lines, the Council prioritize streets that have overhead wires over the park strip which are preventing the City from planting large species of trees.

Bob Obrey, Chair, Arts Commission, stated the commission met on May 19 to review portions of the City Manager’s recommended FY 2010/2011 Budget and Resource Allocation Plan that pertained to arts and recreation services. Chair Obrey stated the commission voted unanimously to recommend that Council approve the budget and resource allocation plan as presented.

Mike Andrade, president, Public Safety Officers Association (PSOA) stated PSOA is still actively working with the city manager to find meaningful solutions to the long term budget problems. Andrade stated the issue of adequate staffing in the department has reached a critical crossroads. DPS has only realized staffing amputations in the last 25 years while
population and workloads demand increase. Andrade stated DPS is the second busiest EMS agency in the county, and patrol officers have less proactive time to prevent crime, and are steadily becoming a reactionary force. Andrade stated DPS is not adequately staffed or prepared to respond to concurrent emergencies and often lacks sufficient command control at emergency scenes. Andrade stated the only place left to cut after the proposed 15 is from administration or from minimum staffing numbers in police and fire. Andrade stated based on previous cuts in similar positions, service level reductions can be expected in investigative, fire prevention and community services.

Councilmember Whittum stated the Public Safety budget is going up and inquired what Mr. Andrade thinks the problem is. Whittum stated it has been suggested that the cost per officer is causing the budget to increase and that if the cost per officer were controlled better we would have more officers. Andrade stated they have been working with the city manager to find solutions to some of the problems. Andrade confirmed for Councilmember Whittum that PSOA is in discussions with the city manager regarding the proposals.

Ray Su, Chair, Board of Library Trustees introduced Narendra Pathak, Board of Library Trustees. Pathak provided information on the increases in circulation and computer use, and decreases in staff over the past three years. He expressed appreciation for Council’s continued support of the Sunnyvale Public Library.

James Maxwell, Principal, Fremont High School stated he strongly advocates for the Neighborhood Resource Officer Program to continue at Fremont High School. Maxwell stated the NROs make a tremendous difference and the school will experience repercussions if the NROs are not there.

Erik Walukiewicz, coordinator of safety and operations, Fremont Union High School District, asked Council to seriously consider upholding the Neighborhood Resource Officer program.

Chief Don Johnson clarified there is no proposal to cut Neighborhood Resource Officers at the middle or high school level. Chief Johnson stated one of things he is looking at is the K – 5 level where the kids may not have as much attachment or recognition of the officer and where the same issues as a middle school or high school do not arise. Chief Johnson stated he knows Fremont Union High School district subsidizes an NRO program in Cupertino so we may want to look into that as well.

Vice Mayor Moylan confirmed with Chief Johnson that the NRO at the K – 5 level was not proposed to be eliminated but civilianized.

Denise DeLange spoke in support of the Neighborhood Resource Officer program and the street tree program and stated the benefits of trees.

Tap Merrick suggested establishing a sunset provision on fees that are established so they can be revisited at a better economic time. Merrick referred to a previous Council subcommittee and suggested saving the City money by moving elections from odd-numbered years to even-numbered years.

Public hearing closed at 7:52 p.m.

Vice Mayor Moylan referred to Attachment F, the concept of a landscaping and lighting district to help take care of trees and stated the time between regularly scheduled tree
maintenance has gotten farther apart. He stated one of the options is a citywide landscaping and lighting district and requested clarification of whether it is a study or budget issue. Finance Director Mary Bradley stated staff is recommending the City utilize an assessment engineer to look at the engineering and propose the formula for each of the different land uses. Bradley stated if Council is interested in this or any of the fees staff could have a study done and come back to Council; it is an assessment district.

Councilmember Spitaleri stated the Neighborhood Resource Officers are important for the school and neighborhoods; Spitaleri inquired about the impact on the neighborhood of making it a civilian position. Director Johnson stated he does not believe there would be a reduction in service by making the position non-sworn.

MOTION: Vice Mayor Moylan moved and Councilmember Lee seconded the motion to proceed with the landscaping and lighting district.

Vice Mayor Moylan spoke to his motion and stated many citizens have expressed concerns about pruning street trees. Moylan stated he knows Sunnyvale does more than some other cities but a lot of the trees are getting to the point where they really need pruning but we don’t have the funds to do it.

City Manager Luebbers stated this is not a unique idea; it works well in cities that have the same dedication to trees. Luebbers added that in an assessment district, any funds collected legally are obligated to be spent on landscaping and lighting.

Vice Mayor Moylan stated the issue that undergrounding utilities is directly related to trees has been discussed thoroughly; the Capital Projects budget provides for using funds provided by PG&E.

Finance Director Bradley asked for clarification on the motion as to whether it is intended to include both street tree services and concrete maintenance in the landscaping and lighting district.

Vice Mayor Moylan stated that was his intention but he is flexible if Council wants to amend.

Councilmember Griffith inquired if there are any other cities in the county that have a landscaping and lighting assessment district. Finance Director Bradley stated she has examples in her office. City Manager Luebbers added it is prevalent not only in California but throughout the United States.

Councilmember Griffith requested clarification whether the motion is to proceed with creating an assessment district or to gather more information and bring back to Council.

Vice Mayor Moylan stated the motion is to proceed with the process that would result in creating one.

City Manager Luebbers stated this action would not create one; it would begin a process, staff would report back, discuss the type of budget it would take and what type of assessment that would mean for each individual type of land use.

Councilmember Griffith stated he has a hard time with this issue because we seem to be saying: “we’re lacking funding for city services so let’s get more money from the taxpayers.”
Councilmember Griffith stated he is not a fan of that being the solution, but as long as this is information gathering and there is an opportunity to vote after more information has been provided, he will support the motion.

Mayor Hamilton asked that staff be directed to look at not just street tree pruning but also treatment for infestation of bugs, sap, and potential application of the chemical that keeps the liquidambar balls from forming.

Vice Mayor Moylan confirmed the motion was intended to include all of that.

AMENDMENT: Mayor Hamilton recommended that the motion include concrete maintenance.

Vice Mayor Moylan accepted the amendment of the motion.

City Manager Luebbers stated as we go forward we may want to bifurcate those two issues.

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

MOTION: Councilmember Whittum moved and Mayor Hamilton seconded the motion to move forward on the two items in Attachment F: Public Safety Impact Fees and Traffic Impact Fees for Road Maintenance.

Councilmember Whittum clarified this motion would be similar to the motion the Vice Mayor made, but with respect to the two items on the first page of Attachment F, to initiate a study with perhaps the same consultant.

Mayor Hamilton asked if this would be the same process with two different items.

City Manager Luebbers stated it would be the same process that an impact fee would be and voted on by the Council as opposed to an assessment district.

Councilmember Whittum spoke to the motion and stated one of the distinctions between the previous motion and this is an impact fee is a fee charged to developers for new projects to help pay for the impacts of the development on the rest of the community. He stated it ultimately raises the cost of new housing but is a more equitable approach.

Councilmember Griffith confirmed with staff the report states impact fees can only be used for capital purposes, not on-going operations and stated it is not clear that an impact fee can be used for additional officers. City Manager Luebbers stated it would not provide for additional officers; it would buy fire apparatus, police cars, and capital equipment which would free-up money that might be used for that to increase staffing.

VOTE: 6-0 (Councilmember Swegles absent)

Vice Mayor Moylan asked a procedural question about the vote process for the budget supplements. City Manager Luebbers stated the supplements could be acted upon at this time; it would provide for a more comprehensive document for June 29 and would allow staff to provide a clearer overall financial picture at that time.
MOTION: Vice Mayor Moylan moved to delete Supplement 5 and take the funding and add it to Supplement 3.

Vice Mayor Moylan explained the Neighborhood Grant Program funding would go to Citywide Event Grant funding. He stated since the Housing and Human Services Commission recommended less than the 100K which Council had allocated to the various activities, staff identified freed-up funds and split them across three different uses in the supplements: Community Event Grant funding, Neighborhood Grant Program, and Junior Achievement. Moylan suggested the funds not be spread so thin that if the money isn’t put back into the Neighborhood Grant Program, the Community Event Grant Fund could be brought back close to where Council wanted it in the first place.

Councilmember Spitaleri seconded the motion.

Councilmember Griffith stated he will be opposing the motion and explained he has seen the benefit of the Neighborhood Grant Program in building communities when it is used well. He stated his neighborhood and other neighborhoods have benefited from it. He stated it is a good program, he is disappointed it is reduced and doesn’t think it should be cut altogether.

SUBSTITUTE MOTION: Councilmember Whittum offered a substitute motion to pass the budget supplements as recommended by staff.

Substitute motion died for lack of a second

VOTE: 2 - 4 (Councilmembers Lee, Griffith, Mayor Hamilton, and Councilmember Whittum dissented, Councilmember Swegles absent)

Motion failed.

MOTION: Vice Mayor Moylan moved to approve budget Supplement 6 with the requirement that the Junior Achievement funding be restricted to high school level.

Motion died for lack of a second.

MOTION: Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to delete Supplement 4 regarding Council meeting minutes.

Vice Mayor Moylan spoke to the motion and stated he thinks the Council and the citizens get real value from reading who said what at Council meetings and not just a simple summary of motion/second.

Councilmember Griffith stated he will be opposing the motion and stated currently there is a video playback of the meetings which are indexed by the minutes, and it is relatively easy to find out what somebody said. Griffith stated the reality of this budget situation is that we’re in the worst budget we’ve seen in four generations and painful cuts are being made all over. He stated one area not a lot of cuts are being made is on Council and this would be a Council cut he would be willing to make since the video playback is as long-lived as the minutes are intended to be.

Vice Mayor Moylan asked if the savings identified are to an hourly employee. Assistant City Manager Walker stated the supplement indicates for the first two years those hours would be retained in the department. He stated on-going time reduction in hours in the City Clerk’s office after two years would amount to a reduction from the budget that amounts to 388
hours staff time which would probably be achieved by fewer staff hours devoted to the Clerks office and spread throughout the Office of the City Manager.

Vice Mayor Moylan requested further clarification as to whether this means that someone who works in two different offices would spend less time in the City Clerks office. Assistant City Manager Walker stated savings would be accomplished by working with other departments over the course of that time and someone who supported the City Clerk’s office would then be supporting someone else’s office part-time and the Clerk’s office part-time.

Vice Mayor Moylan stated he still doesn’t understand where the cost savings comes from. Assistant City Manager Walker stated overall there will be fewer people; it just won’t be one body from the office of the City Clerk.

Vice Mayor Moylan stated that explains why it is hard to estimate the savings in this case and stated he wants to make the point that this is not a Council budget item that is just done for the convenience of the Council. Moylan stated it is part of open government and letting everyone know what we do. He indicated citizens would have to be told to watch the meetings on video in real time, and stated he views the way minutes are currently done not as a convenience for Council but as a convenience for the citizens. He stated this depends upon how important Council thinks it is to make actions very clear and very obvious without requiring an undue burden of time on the part of the citizens to find out exactly what the Council did.

Mayor Hamilton inquired as to how long the Granicus videos are kept, where they are being stored, and whether there is a possibility of a technology that can create a transcript from the web casts. City Clerk Kathleen Franco Simmons responded the Granicus recordings are stored, or hosted by Granicus for three years, and the KSUN recording is stored permanently. Director of Information Technology Cuong Nguyen confirmed Granicus recordings are stored in the archives in the servers at Granicus permanently. Nguyen stated he does not think there is a service available today to create a transcript from the web casts, but stated Granicus has a minutes tool for use at the same time the web cast is occurring. He stated it would take more resources and is no different than the clerk is doing today to listen to the web cast later and do the minutes the same way.

VOTE: 2 - 4 (Councilmembers Lee, Griffith, Mayor Hamilton, Councilmember Whittum dissented, Councilmember Swegles absent) Motion failed.

Mayor Hamilton asked if anyone wanted to revisit Councilmember Whittum’s earlier substitute motion.

Vice Mayor Moylan stated the idea of deleting Supplement 5 and moving the funds into Supplement 3 was defeated, but Supplement 3 and Supplement 5 could be acted upon independently or together. Moylan stated the substitute motion was to do both, but that is not the only option.

Mayor Hamilton suggested all the Budget Supplements could be handled tonight.
MOTION: Councilmember Griffith moved and Councilmember Lee seconded the motion to approve staff's recommendations on the Budget Supplements.

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

3. MOTION RTC 10-161
   Annual Review of Fees and Charges for Fiscal Year 2010/2011

Budget Analyst Drew Corbett presented the staff report.

Mayor Hamilton stated Council should bring up any adjustments before the public hearing, and motions can be made after the public hearing.

Councilmember Griffith inquired if Council ends up not adopting part of this, is it already taken account into the budget and would Council have to identify an offset in order to justify a change to the fees. Corbett stated it would depend on the level of materiality; revenues are projected based on fees but they are just projections. Corbett stated it would depend upon whether it was a major change or not.

Mayor Hamilton stated she and the city manager discussed if there is something that may have a major fiscal impact, could a motion be made to direct staff to look at it. Mayor Hamilton stated a study session is scheduled for next week but not a full Council meeting; an additional study session could be added to review what the impacts might be, prior to the meeting on June 29.

Mayor Hamilton confirmed for Councilmember Griffith that changes could be made on June 29.

Vice Mayor Moylan stated one of the staff proposals is to grant PG&E a fee waiver on tree removal permits and his inclination is to not grant a waiver. Moylan stated he would be interested if any members of the public have opinions on that.

Councilmember Spitaleri inquired about the engine company standby fee of $389 and who it would apply to. Director Johnson stated it would apply to events such as requiring an engine to stand by at the grand opening of Town Center for emergency response. Chief Johnson confirmed for Councilmember Spitaleri the fee would not be charged to the City. Johnson stated the fee could be for a special event, a PG&E outage or a hazardous materials spill.

Councilmember Spitaleri inquired about the fire prevention and engine company re-inspection fee. Spitaleri stated he can understand if we have a self-certification item where an item must be corrected in a given period of time. Spitaleri stated those that don’t have the ability to do that are allowed under the code to give a business a given amount of time to correct a life-safety issue and then the engine company is required to go out and see if it is done. He confirmed with staff the fee would be charged for them to go back out to see if they’ve corrected the violation found during the first inspection.

Chief Johnson stated the rationale is to make sure they correct it and fall into compliance. The fee is to recover the cost for non-compliance.
Councilmember Lee inquired about the definition of vicious animal for the vicious animal permit. Chief Johnson stated it typically refers to dogs; dogs that have caused serious injury to either another dog or a human. Chief Johnson confirmed for Councilmember Lee the City maintains a database of vicious animals and there are currently two in the City.

Councilmember Lee inquired about the definition of preferential parking prohibitions. Lt. Jeff Hunter stated it refers to the districts that have posted signage where you need a permit to park. Hunter stated parking patrol officers cite vehicles for the municipal code section that applies to the preferential parking. Lt. Hunter confirmed for Councilmember Lee the preferential parking areas were established within the last two years and this is the first year it has been in the fee schedule.

Chief Johnson confirmed with staff “registration tags required” refers to expired registration tags.

Councilmember Griffith inquired about the definition of large events and inquired if National Night Out would be subject to the fee. Chief Johnson stated National Night Out would not be subject to the fee; it would be an event that would predictably bring together enough people that you could have ingress and egress problems to get in and out of the area such as an Art & Wine Festival or a grand opening.

Councilmember Griffith inquired if this would apply to any of the difficulties in the area around the Hindu Temple when they have events. Chief Johnson stated he believes it could.

Councilmember Spitaleri inquired if it would apply to State of the City or the Pet Parade. Spitaleri requested staff to provide a definition of “large event”. Director Johnson stated it would not affect State of the City or the Pet Parade.

Mayor Hamilton stated a tree trimming permit is needed whether the tree is being trimmed by PG&E or the property owner and if the tree permit is not obtained, it is still the responsibility of the property owner even though PG&E is doing the tree trimming.

Director of Community Development Hanson Hom clarified that a tree removal permit is only for removal of a tree; a permit is not required for pruning a tree. Director Hom stated PG&E typically takes out the permits but if the City has to do an enforcement effort, the underlying responsibility would rest with the property owner for compliance with any tree removal permit requirements or fees. Director Hom stated PG&E is basically an agent for the property owner in this case as far as issuance of permit fees and compliance with City regulations. Mayor Hamilton confirmed with staff this would be the case if the tree is being removed due to a PG&E power line. Director Hom stated that could be a justification for granting the tree removal permit. Director Hom stated usually in cases where PG&E notifies a property owner and takes initiative to remove the tree due to interference with transmission lines, in which almost all cases tree removal permit is granted.

Mayor Hamilton inquired as to what makes that the responsibility of the property owner. Director Hom stated it is part of the City’s regulations regarding private property, therefore underlying responsibility lies with the property owner since the regulation is with the land.

Mayor Hamilton inquired if a study issue is required if Council wants to create a legal exception based on the fact that it is being done for a public utility purpose and put the
responsibility for that on the public utility.

City Attorney Kahn stated it could be a study issue, but he is not sure it would result in an ordinance that would be legally enforceable or an ordinance putting the responsibility on other than the property owner, but it could be looked at.

Mayor Hamilton inquired as to what could be done to get PG&E to pay for the tree removal permits.

City Manager Luebbers stated the option is to not waive the fee.

Councilmember Griffith stated the reason PG&E does tree removal is to minimize the danger of downed lines, and inquired if establishing a fee makes it more of a hurdle for PG&E to create a safer community.

City Manager Luebbers stated the people who are going to make the determination to take down a tree because it is a safety factor really do not care that there is a fee involved.

Director Hom stated the fee is approximately $200; removing a tree is usually a more substantial cost than just the permit fee.

Director Hom confirmed for Councilmember Griffith the fee is based on the staff costs and it the process would be that PG&E would need to have submit a check instead of applying online at no cost.

Mayor Hamilton referred to the vehicle mechanical or registration violation citation correction fee and stated because it is a service only used if you have received a fix it ticket, the cost of recovery of that service should be paid by those who need it. Mayor Hamilton stated she would be interested to get public input on it.

Public hearing opened at 8:42 p.m.

Dave Jones, member of the Silicon Valley Bicycle Coalition, stated there should be some promotion of the $3 bicycle license fee. He stated it is a state-imposed fee and recommended if it is be for revenue-generation, information, and safety concern more enforcement should be done for safety and use of helmets.

Werner Gans stated if the City charges PG&E a fee for removing trees it will be passed on to the customers, so he does not see what the gain is.

Tap Merrick recommended the City waive fee for PG&E to cut down liquidambar trees as we do with all other liquidambar trees.

Chris Hughes, forester, PG&E spoke regarding the tree removal fee. Hughes stated Sunnyvale has a very efficient online permit process. Hughes stated PG&E contends that fees for permits are covered under the franchise fees paid to every city and county. Hughes announced a sidewalk support program began today. Mayor Hamilton inquired as to approximately how many trees are removed in Sunnyvale each year. Hughes stated he believes the number is 35; the number of trees maintained is approximately 23,000. Hughes stated trees targeted for removal pose a clear risk to the lines.
Mr. Hughes confirmed for Councilmember Whittum that PG&E does not pay tree removal permit fees in other cities.

Public hearing closed at 8:49 p.m.

Councilmember Whittum stated that based on Mr. Hughes comments he thinks the tree removal permit fee deserves more discussion.

Mayor Hamilton asked if Councilmember Whittum would like to make a motion to request staff bring back some numbers for the franchise fee act next week or on June 29.

MOTION: Councilmember Whittum moved and Councilmember Spitaleri seconded the motion to get the city’s attorney’s opinion regarding the argument that the fees are covered under the Franchise Fee Act.

City Attorney Kahn stated the other important number would be the annual amount received under the PG&E Franchise.

Mayor Hamilton clarified the motion is to have staff bring back more information on the franchise fee.

VOTE: 6 - 0 (Councilmember Swegles absent)

MOTION: Councilmember Spitaleri moved and Councilmember Griffith seconded the motion to direct staff to provide a definition of “large events.”

FRIENDLY AMENDMENT: Councilmember Griffith proposed an amendment to include information on expected revenue. Councilmember Spitaleri accepted the friendly amendment.

VOTE: 6 - 0 (Councilmember Swegles absent)

Mayor Hamilton stated she would like to consider a motion regarding the vehicle mechanical or registration violation citation correction fee.

MOTION: Councilmember Griffith moved and Vice Mayor Moylan seconded the motion to direct staff to provide further information regarding the revenue and the impact of the vehicle mechanical or registration violation citation correction fee for residents and non-residents.

Director Johnson provided the information requested and stated last year staff did 1,211 sign-offs and of those, 163 were non-residents and 1,048 were residents. Director Johnson stated the year to date amount collected is $4,727. Director Johnson stated if we were to charge residents the $29 fee, the amount collected would rise to $30,392 based on current actuals. Mayor Hamilton confirmed the proposed fee is actually $33.

No vote was taken on the previous motion.

MOTION: Councilmember Griffith moved and Vice Mayor Moylan seconded the motion to adopt the fee as part of the fee schedule.

Councilmember Griffith stated these are people who have done something wrong and he
does not think the City should be absorbing the cost in that case and it is a luxury that we have to give up.

Vice Mayor Moylan stated his recollection is we did not charge a fee for anyone and then a fee was added for non-residents because of a perception that people were coming from out of town to get their tickets signed off in Sunnyvale.

VOTE: 6 - 0 (Councilmember Swegles absent)

4. RESOLUTION Adoption of Proposed FY 2010/2011 Rates for Water, Wastewater and Solid Waste Utilities

Revenue Systems Supervisor Tim Kirby presented the staff report and stated the City received 359 protests as of 5 p.m. Two hundred eleven were simple protests to the rate increase, 81 were related to the economy, 45 were related to fixed or low income concerns and 22 were related to service concerns.

Public hearing opened at 9:05 p.m.

Robert Given, resident 52 years, stated in last ten years there has been more than a doubling of the cost of utilities and inquired about the differences in increases for different sized meters.

Revenue Systems Supervisor Tim Kirby stated there were large cost of service adjustments made to fixed charges last year; the rationale is the size of the meter reflects demands on the water system.

Werner Gans stated thousands are unemployed, those employed have not seen raises and seniors live on a fixed income that is shrinking. Gans inquired how a 7.5 percent increase in garbage collection fees can be justified in this environment.

Siegfried Otto submitted 47 signed protests from Cape Cod Village Mobile Home Park to Tim Kirby. Otto urged Council to exclude the elderly and disabled from the increase in charges.

Monica Schwenke inquired about water rate increases and how no increase would affect services. Schwenke encouraged Council to consider more efforts for recycling and incentives for people who create less waste and use less water. Schwenke stated there should be cost savings for people who consistently use less water and create less waste.

Finance Director Bradley stated the rates are generally designed to encourage conservation; the rates are tiered and the lower tier is considerably less. Bradley stated solid waste rates have fixed costs and volume costs, and the truck must pass the house whether the garbage can is out or not.

Revenue Systems Supervisor Kirby confirmed for Mayor Hamilton revenue received from recyclables offsets the cost of collecting it curbside, but it does not completely cover the cost.

Dave Jones encouraged Council to consider having less of a relationship with the San Francisco Public Utilities Commission as it seems the kind of rates they are proposing and
how they are putting it on the cities to carry seems like an undue burden and the
relationship should be reexamined in the future. Jones stated he seconds the comments of
Ms. Schwenke. Jones stated he recommends pumping ground water.

Councilmember Lee stated we purchase water from the San Francisco Public Utilities
Commission (SFPUC) and the Santa Clara Valley Water District (SCVWD) and the costs of
water from SCVWD are lower than SFPUC. Councilmember Lee inquired as to how we
could buy more from the cheaper source and less from the more expensive source.

Director of Public Works Marvin Rose stated staff is attempting to buy the most cost efficient
water for the use that we have. Director Rose stated we have some flexibility in how we
move water around the City but predominately the Hetch Hetchy water serves the north part
of the City and the SCVWD water serves the south part of the City. Director Rose stated
because of the change in the costs we have in the last six months pushed as much of our
water system into the SCVWD because it is cheaper, but we also have minimum numbers
we have to buy from each agency. Director Rose stated well water is used for peaking
purposes, to take the demand off the high volume areas in the City, and we pay for the
groundwater. Director Rose stated the SCVWD puts that water into the ground and we pay
them to take it out at a wholesale cost.

Director Rose confirmed for Councilmember Lee that 40-45 percent of the water comes
from SFPUC and 40-45 percent comes from SCVWD; the rest is made up in well water and
production of reclaimed water for landscape uses. Director Rose confirmed for
Councilmember Lee that we have limited opportunities to use reclaimed water but we use it
where we can. Historically it has been significantly more costly to produce reclaimed water
than to purchase water, but that is changing and we are about at the point now where we
are starting to be competitive because our costs have stayed relatively flat while the cost of
purchasing water has gone up. Director Rose stated we are looking at redoing our master
plan for reclaimed water, pushing reclaimed water to more locations because we think it can
help us with the cost in the future as well as with the supply demand in the future.

Councilmember Lee inquired when the minimums can be renegotiated with the agencies.
Director Rose stated we are contracted with SFPUC until 2018, and the number with
SCVWD is adjusted every three years. Director Rose stated our balance of water in the long
term is very consistent; we do not see a great opportunity to cut Hetch Hetchy water
because we have that demand in the north part of the City. Director Rose stated we have
approximately a 10 percent number that we can move water around in the City; we do that
to respond to the cheapest water we can. Director Rose stated there was a time when
Hetch Hetchy water was cheaper but that has shifted and we are trying to shift with it.

Councilmember Lee inquired about the solid waste minimums. Director Rose stated we are
at the point in the contract where we are able to reduce the minimum by up to 10 percent
and we are going to take advantage of that opportunity. Councilmember Lee inquired what
percent of the allocated minimum we are using. Director Rose stated he does not have that
number tonight but can get it.

Councilmember Lee inquired if there is an opportunity to sell some of the excess that we are
not generating. Director Rose responded we don’t have the opportunity to sell it, but it is
ours and available to use.

Jim Davis inquired about the $300 million retrofit on the Water Pollution Control Plant. Davis
inquired if we have capability of charging Hetch Hetchy for going through the City. Director Rose stated Hetch Hetchy owns the right-of-way and facilities, and we are a contract agency that purchases from them, so we do not have the ability to impose charges on them.

Revenue Systems Supervisor Kirby stated the plan assumes funding through the issuance of wastewater revenue bonds and it is built into our long term projections on rates.

Tap Merrick stated he does not feel the increase in street sweeping is necessary. Merrick stated some people use their recycle bins more than others and proposed a plan where some are put out different weeks of the month. Merrick stated theft of aluminum cans is not being policed successfully.

Public hearing closed at 9:31 p.m.

Councilmember Griffith inquired as to what extent we have looked at changes to the size of pickups to allow people to order smaller bins if they use less trash and get a lower rate.

Solid Waste Program Manager Mark Bowers responded there are 35, 65, and 95 gallon containers; there are some technical and behavioral issues to address. Bowers stated the smaller cart sizes are made smaller by taking a 35 gallon cart and inserting something in the bottom and if it falls out, the customer ends up with 35 gallons of capacity. Bowers stated it is possible and something we could study in the future. Bowers stated the behavioral issue is that when you offer a lower cost service and some people will migrate to the smallest side whether it fits their need or not, and then we get into customer service issues with people putting so much waste in that it won’t fall out when the truck empties the cart.

Councilmember Griffith inquired about RFID tagging garbage cans. Bowers stated the garbage cans have RFID tags and we are working on a system that will combine GPS and RFID to tell us where we pick up each cart so we can improve customer service. Bowers stated the technical details are still being worked out and there are several vendors the garbage company is talking to.

Bowers stated State law requires putrescible waste be picked up once per week.

Councilmember Griffith inquired if there is consideration being given toward lowering the cost of service if a pick up is not required. Bowers stated state law requires weekly pick up so there is no discount if a can is not put out. Bowers stated much of the cost of collection is the cost of getting the truck and driver to the house every week; the actual amount of garbage is a small part of the overall cost.

Councilmember Griffith inquired about multifamily dwellings with a common dumpster and HOA and to what extent are we looking at the way dumpsters are used and billed.

Solid Waste Program Manager Bowers stated there is a study issue on the calendar for 2010 which he would defer to and concurred that in a common setting there is less personal accountability.

Councilmember Spitaleri inquired about the cost of a large meter versus a small meter once it is installed. Revenue Systems Supervisor Kirby stated using the meter is the basis for the rate. Kirby stated a meter costs x dollars, fixed costs are reading that; reflecting the demand on that system; variable costs are demand, how much we have to store; we’re increasing
Councilmember Lee inquired regarding charging those on a fixed income and any possible programs available to assist them. Kirby stated in our tiered rates, the bottom tier for water service is designed to provide “lifeline service,” essentially providing water at our cost. Kirby stated we do not have any other subsidies for low income or seniors; under State law we are not allowed as a municipal utility to charge anything but cost of service. Kirby stated providing that type of subsidy would require either voluntary donations from customers or an actual subsidy from the General Fund and implementation of an administrative program to administer it.

Councilmember Lee stated we probably need a study issue.

Councilmember Whittum asked staff to comment on the increase on page 57. Kirby stated it is a 10 percent increase projected for that year.

Mayor Hamilton inquired as to what happens if Council does not approve the rate increases.

Revenue Systems Supervisor Kirby stated we operate the utilities independently; they are solely funded by the rates collected for use of the service. Kirby stated that because of the economy and other factors, we have drawn down reserves relatively aggressively to try to balance the rate impacts. Kirby stated we would need to look at other options to recover the revenue that would be lost by not increasing the rates. Kirby stated he would have to come back to Council with what the actual impact would look like; it would be significant impact that would require analysis.

Mayor Hamilton confirmed that the City’s costs are changing no matter what and the revenue has to be found somewhere. Kirby concurred and stated SFPUC is going to send us a bill for July that is going to be 15% higher than the June bill. Kirby noted that approximately 70% of the cost in the water fund is just to buy water.

MOTION: Councilmember Griffith moved and Councilmember Whittum seconded the motion to approve Alternative 1: Adopt the attached resolution increasing water rates by 7.5 percent, wastewater rates by 4.5 percent, and solid waste rates by 7.5 percent for FY 2010/2011.

Councilmember Griffith stated the majority of the increase is cost handed to us by the agency he cost that is being handed to us the only alternative to accepting something like this is to start closing parks, the library, or cutting back on some other City service in order to subsidize the cost to the people.

Mayor Hamilton stated the City is a service organization and we do not have the option of selling something like a private company does; all of our revenue comes from the people who live here and the businesses operating here. Hamilton stated the budget process is a balancing act; the long standing policy for these particular services is in line with the State law. Hamilton stated it either comes from the rate increase or from the General Fund; it is all coming from the taxpayers.

VOTE: 6 - 0 (Councilmember Swegles absent)

Councilmember Lee proposed a study issue regarding a donation program to help provide a
subsidy to seniors and those on a fixed income on the utility bill. Councilmember Spitaleri cosponsored the study issue. Councilmember Spitaleri added that he would like to expand the study to study a lower rate for seniors, the disabled and those on a fixed income.

Councilmember Lee asked staff to come back with information on Solid Waste allocation of how much we have purchased and how much we are really using.

Mayor Hamilton confirmed the information would come back in a City manager's bi-weekly report.

MOTION: Councilmember Whittum moved to have staff bring back information about how much it would cost to set up a donation program and what kind of cash flow might result. Motion died for lack of a second.

Councilmember Whittum stated you could wait until January to look at that as part of a study issue and he supports the study issue but he thinks it would be fairly straightforward to share information to get a sense of how that program might work.

Mayor Hamilton stated we should wait until the study issue in January.

City Manager Luebbers stated staff will provide any readily available information in a City Manager's Bi-Weekly Report.

5. RESOLUTION

RTC 10-151 Proposed Charter Amendment for a Directly-Elected Mayor for the November 2, 2010 Election

Mayor Hamilton announced it is past 9:30 p.m. and stated there are two speaker cards for this item.

Vice Mayor Moylan stated he thinks the absent Councilmember would like the opportunity to vote on Item 5. Vice Mayor Moylan stated he would like to continue this item until all seven Councilmembers are present.

Mayor Hamilton stated it is unclear when Councilmember Swegles might be back and it might be too close to the deadline in August. Vice Mayor Moylan stated in that case it would reduce the options to only 2011, which is the staff recommendation.

Councilmember Griffith stated the more this item is pushed back the more unknowns there will be with the timing issue. He indicated he would rather Council handle this now and avoid having to handle it at 11 p.m. the night before the filing deadline trying to put together a charter amendment for the ballot.

Mayor Hamilton stated unless a special meeting is scheduled, it cannot be put on the Council agenda until July 20.

Councilmember Spitaleri stated he supports Vice Mayor Moylan’s suggestion and suggested it be continued to July 20. Councilmember Spitaleri stated he is not concerned about running up against the deadline because the cost of putting it on the November 2010 election is of concern.

Mayor Hamilton reminded Council there are two members of the public waiting to comment
on this issue and suggested the matter be heard following a short break.

Mayor Hamilton announced a 5-minute break at 9:58 p.m.

Mayor Hamilton reconvened the meeting at 10:03 p.m. with all present except Councilmember Swegles.

City Attorney David Kahn presented the staff report.

Vice Mayor Moylan inquired of City Attorney Kahn what he meant that we would have more ballot measures in 2011. City Attorney Kahn stated there would be Councilmember seats up for election on the 2011 ballot and with more items on the ballot, the costs will be distributed.

Vice Mayor Moylan stated the costs are normally divided amongst all the cities participating in the election which is why it is cheaper to have elections in the even-numbered years. Moylan stated this is the first time he has heard it would be cheaper to have an election in the odd-numbered year and that it seems like the costs should be lower in an even-numbered year. City Attorney Kahn stated the information was provided from the Clerk after speaking with the Registrar of Voters and in his understanding the City would have more issues on the 2011 ballot and the costs are spread among all those items whereas in 2010 there would only be the one measure.

Vice Mayor Moylan stated the question has come up for a number of years as to whether to move the election to the even-numbered years to save money.

Councilmember Griffith stated that if a measure is put on the 2010 ballot this will create the necessity of printing a Sunnyvale-specific ballot, where a more general ballot applied to other jurisdictions would otherwise apply, therefor creating a cost that did not exist before. He stated in 2011 a Sunnyvale-specific ballot already has to exist.

City Attorney Kahn agreed that both statements are true and suggested the Clerk may have information on the costs.

City Clerk Kathleen Franco Simmons stated she requested information from the Registrar of Voters and received a cost estimate with the numbers provided by the City Attorney.

Mayor Hamilton asked if it is possible there is a base, fixed cost such as the $42,000 number for printing and additional measures are incrementally more. City Clerk Franco Simmons stated she doesn't believe the $42,000 is the base cost; that is an extra cost of adding a ballot measure on top of the election for Council members.

Mayor Hamilton stated if the base cost is roughly $167,000 for one issue, split between four seats, each seat would be roughly $40,000; the addition of another matter would split the fixed cost again. City Clerk Franco Simmons stated there would be fixed costs in 2011 with the election for officeholders, while the City has no costs in 2010. She stated the costs of the election would be divided between more cities in 2010 but the City doesn't have that basic, fixed cost.

Councilmember Spitaleri stated he thinks the numbers are correct because there is a potential ballot measure in Palo Alto in November and their price is about $147,000
because it is almost like a special election as it only affects the city at the time with no Councilmembers running. He stated if we were doing the ballot measure with the election of Councilmembers the cost is reduced differently.

Public hearing opened at 10:11 p.m.

Tap Merrick stated he saw no mention of limiting terms that somebody could serve as Mayor and then as a Councilmember; conceivably they could serve eight years as the Mayor and then serve eight years as a Councilmember then go back and serve eight years as the Mayor and ultimately be in power until they die. He stated it ought to be held to the eight years out of twelve term for the combination. Merrick stated “power corrupts and absolute power corrupts absolutely” and provided examples of actions of Mayor Daly of Chicago and the mayor of Santa Clara. He stated the current system is more community-oriented and less politics-oriented and recommended it.

Werner Gans made a presentation and submitted a document titled: “History of Attempts to Elect Mayor Directly.” He stated over the last twelve years, this question has been in front of the Council or a charter review committee four times and each time was rejected; two-thirds of the cities in the county have a mayor elected by the Council. He questioned what has changed to put this before the voters at a cost of $170,000 or $40,000 to be voted down again. He stated it is a waste of money and he doesn’t see the need for it.

Mayor Hamilton stated there has been no community outreach since the charter review committee on this matter.

Vice Mayor Moylan stated citizens who were in favor of this in 1991 have explained to him it was not a vote against the concept, but that it was perceived as being for one individual.

Monica Schwenke asked for clarification of whether the decision is to put this on the ballot in November, what the costs would be, where the money will come from, and how much money is in the General Fund for it. Mayor Hamilton confirmed that the November 2010 ballot one of the options, provided the cost information for years 2010 and 2011, confirmed it would come from the General Fund, and stated the Council usually budgets the amount for a standard election every other year, half for one year and half for the next year. Schwenke stated next year makes more sense in the cost analysis and asked for clarification of where the money in the General Fund comes from. Mayor Hamilton stated it comes from taxpayer sales tax and property tax. Schwenke asked if that money weren’t spent on the ballot measure what it could be spent on. Mayor Hamilton stated it would be spent on other City services.

Public hearing closed at 10:20 p.m.

MOTION: Councilmember Spitaleri moved and Vice Mayor Moylan seconded the motion to continue this item to July 20th or a later date.

Councilmember Spitaleri stated there were some points raised by speakers about term limits. He stated if at that meeting Council decides to go forward and put on the 2011 ballot it would be less expensive. Spitaleri stated he would like to have Councilmember Swegles present to participate as this is near and dear to his heart, and it would give the Council time to look at the various issues and hear from the community.
Mayor Hamilton asked for clarification as to what Councilmember Spitaleri is looking for between now and then in terms of analysis or questions.

Councilmember Spitaleri stated Council can have a better discussion on the item and looking at a deadline for this November. He stated it was talked about putting it off to a later date and that didn’t work; by putting it off some of these items can be discussed. Spitaleri stated he has some thoughts about issues that were raised in the staff report regarding terms, who, how and when, whether it should be a two-year or four-year elected mayor. He stated to not do it would be a disservice to the community.

Mayor Hamilton inquired as to whether Council was planning to have community outreach between now and July 20.

Councilmember Spitaleri responded if there is a discussion and Council decides not to do this until 2011, Council may ask for community input but that he didn’t want to put another charter review committee together. He stated if the citizens are capable of electing Councilmembers, why not ask them if they are capable of electing a directly-elected mayor. Spitaleri stated this community has changed and is not the same as 15-20 years ago. He stated 61 percent of the population is diverse: a different community, a different thinking, different young people want to have input, so why not have the ability to discuss how we would do it. He stated putting it off will not hurt anything.

FRIENDLY AMENDMENT: Councilmember Lee offered a friendly amendment to approve Alternative 3: do not adopt attached resolution placing the Charter Amendment on the ballot for November 2, 2010 special election.

Councilmember Lee stated that the fact that the cost of this is so high, he doesn’t see any possibility to put this on the 2010 election.

Councilmember Spitaleri stated he wanted to hear from his colleagues before he accepts the friendly amendment.

Vice Mayor Moylan stated there are three reasons for the postponement: to get seven Councilmembers votes on this subject, to clean up the term limit issue so that the possibility that people could be there perpetually could be taken care of and written to ensure it would apply to both the mayor and the Council, and to get a hard explanation from the Registrar of Voters of the backwards costs for the ballot measure. He stated then a balanced discussion can be held on the trade-off of additional costs for the vote versus getting double the number of voters and having it be more representative.

AMENDMENT: Councilmember Whittum offered a motion for an amendment to ask staff to bring back optional language to choose from to phrase the language corresponding to term limits.

Councilmember Whittum stated it sounds like there are two kinds discussed.

Mayor Hamilton stated there is a motion and a second on the floor.

Councilmember Whittum stated he is moving an amendment to make explicit what Vice Mayor Moylan asked for. The amendment would ask staff to bring back optional language; one would correspond to an eight year of twelve limit, and the other would be six years of
eight like Milpitas.

Vice Mayor Moylan agreed with the several options as described.

City Attorney Kahn stated term limits that would be the same as for the Council may not necessarily be the only option because the mayor is a different position and Council will have to make a decision in terms of whether it wants to impose the same term limits as it would if the person was also considered to be a Councilmember. Kahn stated there is nothing inherently illegal or improper and some cities have elected to allow someone to run for mayor or for council as separate seats, which would allow consecutive terms without the feature of term limits.

Vice Mayor Moylan confirmed with the City Attorney there wouldn’t be any problem with providing several options if this matter is continued.

Councilmember Whittum asked if there is no objection to the amendment.

Mayor Hamilton stated the maker of the motion needs to be asked if he is willing to accept that friendly amendment.

Councilmember Spitaleri stated he agrees with the comments of Vice Mayor Moylan and the suggestion by Councilmember Whittum.

Councilmember Griffith inquired of staff regarding timing and what the hard deadline is for getting something on the November 2010 ballot. City Clerk Franco Simmons stated the last meeting in July would be the Council’s last opportunity to call an election for a ballot measure as there are no Council meetings scheduled in August before the deadline.

Councilmember Griffith confirmed with staff the firm deadline is the first or second week of August. City Attorney Kahn stated around August 3rd or 4th is the deadline to provide all the information to the Registrar of Voters.

Councilmember Griffith stated he will not be supporting the motion. He stated that in light of the fact that 2010 is not being ruled out by the motion, he is concerned it will be put on the ballot two weeks before the deadline with insufficient planning and insufficient discussion, and no real opportunity for citizens to weigh in. He stated there has been no outreach and no public meetings on this and it needs to be resolved now or commit to not doing it in 2010.

Vice Mayor Moylan stated one other requests of staff if this motion is to pass is regarding the report which recommends considering doing this in 2011 on the basis of costs, but that wasn’t listed as one of the alternatives. He suggested if the motion passes, that should be one of the explicit alternatives.

Mayor Hamilton stated she is not in support of the motion and expressed concern that what is being proposed to put on the ballot is a fundamental change to the way the City is governed. She stated everyone says the mayor’s job is not going to change, but the reality is once the mayor is directly elected, it will change the dynamic of the seven people on the dais. Mayor Hamilton stated she went to the U.S. Conference of Mayors and talked to people from the East Coast, mayors who’ve been there for twenty years, and there is a very different governing style. She stated on the West Coast, we’ve chosen to do a more term-
limited, city manager form of government, not a directly-elected mayor form of government, and this is proposing fundamentally changing the structure of how the City is governed with no charter review committee, no citizen outreach, no public input, no staff analysis, no discussion of salary, travel budget or other changes. Mayor Hamilton stated she is concerned the City is falling into the state model of, if we can’t work it out here we send it to the voters. She stated the voters elected the Council to make some of these decisions, but this one is one they need to be in on before the Council decides to spend $167,000 or $42,000. Mayor Hamilton stated there is a standing recommendation from a charter review committee that met four years ago, that voted overwhelmingly not to do this. She recommended at the very least the charter review committee should be brought back together, have them review their recommendation, and to reach out to the citizens for their input. Mayor Hamilton stated she has been hearing from people asking why this is coming back when it was just voted upon two and a half years ago to change to a two-year mayor, and there hasn’t been two two-year mayors yet to see how it works. Mayor Hamilton stated if people want to consider doing it next year, we need to go through the same process as for every other change to the charter which includes a charter review committee.

FORMAL AMENDMENT: Councilmember Whittum moved to amend the motion to not place the measure on ballot for 2010 provided there are no other items to place on the ballot for November 2, 2010.

Mayor Hamilton stated that was Councilmember Lee’s friendly amendment that Councilmember Spitaleri did not accept.

Councilmember Whittum stated it is a formal amendment which could be seconded.

Councilmember Lee seconded the motion for the formal amendment.

Councilmember Spitaleri inquired of Vice Mayor Moylan regarding his concern on whether the figures are correct.

Vice Mayor Moylan stated the amendment is a very reasonable thing to proposed, but stated he will oppose the amendment because he is uncomfortable with those figures. He stated he himself has not made the balancing act of how much more worth it would it be to get a more representative vote during the even-numbered year.

VOTE on FORMAL AMENDMENT: 5 – 1 (Vice Mayor Moylan dissented, Councilmember Swegles absent)

Mayor Hamilton stated another one of her major concerns is that if it is placed on the November 2010 ballot the Council won’t have the opportunity to go back and revisit the budget to figure out where that money is coming from.

VOTE on MAIN MOTION: 4 - 2 (Councilmembers Griffith, Mayor Hamilton dissented, Councilmember Swegles absent)

Mayor Hamilton confirmed with staff they are clear on what to bring back on July 20. City Attorney Kahn stated his notes show in addition to the current proposal, Council would like optional language both not having term limits for the mayor and allowing consecutive terms along with options for limiting the mayor’s term to the same amount of time as we currently have for a councilmember, no more than eight years in a twelve year period, looking also at
the Milpitas model to propose as an option. Vice Mayor Moylan stated also deleting the option of putting it on the November 2010 ballot if that would be the only thing from the City on the November ballot and that those costs are correct.

Mayor Hamilton asked that with Council’s consensus an outreach program be put together and have a suggested outreach program brought back as part of that recommendation on the 20th.

Councilmember Spitaleri stated he has no objection to an outreach program but he will be strong in his feelings about a charter review committee.

Mayor Hamilton stated she is concerned that the Council will vote on July 20th to place something on the ballot more than a year in advance when there is time to actually do the process.

6. ORDINANCE

Adoption of Ordinance No. 2920-10 Amending Certain Sections of Title 19 (Zoning) of the Sunnyvale Municipal Code Relating to the Precise Plan for El Camino Real

City Attorney David Kahn presented the staff report.

Public hearing opened at 10:40 p.m.

Public hearing closed at 10:40 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to approve the second reading of Ordinance No. 2920-10.

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

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Whittum announced the Santa Clara Valley Water District is receiving input on renewal of the clean safe creeks measure and the Watershed Advisory Committee heard discussion at their last meeting and it will be an ongoing process.

Councilmember Lee reported from the Santa Clara County Cities Association Legislative Action Committee there was recently an assembly bill proposed by Assemblymember Coto related to water and the City has not taken a support position until a couple of issues are resolved. Lee stated because the organization is not going to meet in July and August the SCVWD will likely solicit each city for their support.

Vice Mayor Moylan provided a VTA report regarding alterations made to a couple of issues that came before the VTA Board including a proposed vehicle license fee increase and a congestion management program dues increase.

Councilmember Spitaleri stated he will not have a report until he returns from Sacramento on Friday.
NON-AGENDA ITEMS & COMMENTS

Mayor Hamilton reported during a budget study session would not be necessary next week; there will only be a study session regarding Civic Center buildings.

Mayor Hamilton announced the Music & Market series starts tomorrow night and she will be speaking to kick it off.

Mayor Hamilton announced she was appointed by the Santa Clara County Cities Association to the Regionalization 2.0 Committee with Joint Venture Silicon Valley which will be talking about how the cities and organizations can work better together on a regional level.

Mayor Hamilton provided a report on a Santa Clara County Cities Association meeting which received a presentation from ABAG regarding housing allocation numbers.

Councilmember Griffith stated he and Councilmember Whittum will be selling drinks at the Music & Market.

Vice Mayor Moylan requested the June 22 study session begin at 7 p.m. or 7:30 p.m.

City Manager Luebbers confirmed with Vice Mayor Moylan that staff is preparing a response to the Santa Clara County Civil Grand Jury Reports and will bring them to Council for approval.

Councilmember Whittum stated the medical marijuana dispensary item is on the June 29 agenda and stated it would be helpful to have included on the agenda sample ordinances that were provided by members of the public. Councilmember Whittum asked if there is any objection to including those sample ordinances on the agenda for June 29.

City Manager Luebbers stated staff will see what we have available and report back to Council.

Mayor Hamilton stated she is not prepared to make a decision until she has all the information and just seeing the ordinances is not enough information.

Councilmember Whittum stated he is concerned that we are treading water hoping to continue to ban this indefinitely and if that is the case let’s have a vote on that and hear what people’s concerns are.

City Manager Luebbers stated staff is prepared to commit to finishing the process in this calendar year.

Councilmember Lee announced he will be traveling to our friendship city, Suzhou, China next week to attend the United States-China Green Council and he will make a presentation on Sunnyvale’s green efforts.

City Attorney Kahn reported today was the deadline for getting the signatures of Macy’s and Target to close escrow on the Nokia lease and all necessary signatures were received.

Councilmember Spitaleri announced planning of the Pet Parade will begin soon.

Councilmember Spitaleri requested an update on the status of the bank foreclosure downtown.
City Manager Luebbers stated the emphasis over the past month has been getting the Nokia lease finished. Luebbers stated the next step is to finish that process and as he receives any information he will provide it to Council.

INFORMATION ONLY REPORTS/ITEMS
- Tentative Council Meeting Agenda Calendar
- Draft Minutes of the Board of Library Trustees Meeting of May 17, 2010
- Draft Minutes of Joint Arts Commission and Parks and Recreation Commission Meeting of May 19, 2010
- Draft Minutes of the Housing and Human Services Commission Meeting of May 26, 2010
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting of May 20, 2010

ADJOURNMENT

Mayor Hamilton closed the meeting in memory of Vince Cala and adjourned at 10:58 p.m.