

**DRAFT MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, SEPTEMBER 28, 2010**

**CALL TO ORDER**

Mayor Hamilton called the meeting to order in 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 Ron Swegles  
Councilmember Anthony (Tony) Spitaleri  
Councilmember David Whittum  
Councilmember Jim Griffith

**ABSENT:**

Councilmember Otto Lee (excused)

**STAFF PRESENT:**

City Manager Gary Luebbers  
Assistant to City Manager Robert Walker  
City Attorney David Kahn  
Acting Director of Finance Grace Leung  
Chief of Public Safety Don Johnson  
Assistant Director of Public Works Mark Rogge  
Director of Community Development Hanson Hom  
City Clerk Kathleen Franco Simmons

**SPECIAL ORDER OF THE DAY**

Mayor Hamilton presented Bobbe Smirni with a proclamation declaring October 2010 Breast Cancer Awareness Month in Sunnyvale.

**PUBLIC ANNOUNCEMENTS**

Councilmember Griffith announced an upcoming Climate Action Plan Community Workshop.

Councilmember Griffith announced board and commission vacancies and an October 29 application deadline.

Councilmember Spitaleri announced the Boy Scouts of America will be celebrating their 90<sup>th</sup> Anniversary in Santa Clara County at an upcoming event.

Laurie Rinenbach announced the grand opening of Panera Bread in Sunnyvale.

Manuel Macias announced the Sunnyvale Rotary Club 1<sup>st</sup> Annual Car Show in Sunnyvale.

**CONSENT CALENDAR**

Staff requested to pull Item 1.D from the Consent Calendar for clarification.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to approve the Consent Calendar, with the exception of Item 1.D.

VOTE: 6 - 0 (Councilmember Lee absent)

- 1.A. MOTION Approval of Council Meeting Minutes of September 14, 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 10-258 Nos. 522 and 523

Staff Recommendation: Review the attached lists of bills.

- 1.D. MOTION Agreements Between the City of Sunnyvale and Silicon Valley  
RTC 10-253 Leadership to Provide Leadership Sunnyvale Training Program

Assistant City Manager Walker clarified the language on Attachment B, page 3 of 5 of Exhibit D to include Sunnyvale residents, employers and employees as those served.

Public hearing opened at 7:20 p.m.

No speakers.

Public hearing closed at 7:20 p.m.

MOTION: Councilmember Griffith moved and Vice Mayor Moylan seconded the motion to approve Alternative 2: Other action as directed by Council to approve Attachment A, In-Kind Services Agreement between the City of Sunnyvale and SVL, and Attachment B, Outside Group Funding Agreement and authorize the City Manager to enter into said Agreements, with the exception of changing the wording in all attachments and the report to Council to represent that the class must incorporate 18 Sunnyvale stakeholders.

VOTE: 6 - 0 (Councilmember Lee absent)

- 1.E. MOTION Approve Agreement with Housing Authority of the County of Santa Clara  
RTC 10-254 for a Sub-Recipient Grant of \$350,000 for a Sunnyvale Tenant Based Rental Assistance Program

Staff Recommendation: Approve agreement with the Housing Authority of the County of Santa Clara, in substantially the same form as the attached, for a sub-recipient grant of \$350,000 for a Sunnyvale TBRA program, and authorize the City Manager to sign the agreement.

**Personnel**

- 1.F. RESOLUTION Notice of Intention to Change the Reporting Value of Employer Paid  
RTC 10-261 Member Contributions (EPMC) for the Public Safety Management  
Association (PSMA)

Staff Recommendation: Adopt the resolution that will be submitted to CalPERS and attached to our current contract with them to show the modification to the employer and employee contribution amount for Employer Paid Member Contribution (EPMC).

- 1.G. RESOLUTION Alternative Retirement System for Temporary (Unclassified Casual,  
RTC 10-264 Seasonal, Special Project, and Recreation) Employees.

Staff Recommendation: Alternative 1: Adopt the resolution to participate in the Public Agency Retirement Services Alternative Retirement System (PARS-ARS) as an alternative plan in lieu of Social Security for current temporary employees who elect coverage, and all new temporary employees, effective as soon as administratively possible, with the initial cost sharing of 7.5% contribution rate set at 6.2% for the temporary employee and 1.3% for the City, and with the City initially paying plan fees; and adopt the resolution updating the City's Salary Resolution.

**Contracts**

- 1.H. MOTION Award of Contract for Two Vacuum Powered Cleaning Trucks  
RTC 10-265 (F1008-13) and Approval of Budget Modification No. 12

Staff Recommendation: Award a contract for two vacuum powered cleaning trucks in the amount of \$577,630, to Municipal Maintenance Equipment, Inc. and; approve Budget Modification No. 12 to appropriate funds from the Water Fund Capital and Infrastructure Reserve to fund the purchase of a new hydro-excavator.

- 1.I. MOTION Award of Contract for Two Front End Loader/Backhoes (F1008-12)  
RTC 10-266

Staff Recommendation: Award a contract for two loader/backhoes in the amount of \$132,938, to Pape Machinery Inc.

**Contracts: Sunnyvale Works!**

- 1.J. MOTION Award of Sunnyvale Works Bid No. F1007-07 for Pavement  
RTC 10-263 Rehabilitation of Sunnyvale Avenue from Arques Avenue to Hazelton  
Avenue

Staff Recommendation: Award a contract in the amount of \$280,257 to Galeridge Construction, Inc. for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met; and approve a construction

contingency in the amount of \$28,026.

- 1.K. MOTION Award of Sunnyvale Works! Bid No. F1007-08 for Pavement  
RTC 10-262 Rehabilitation of Sunnyvale Avenue from Hazelton Avenue to Maude  
Avenue and Approval of Budget Modification No. 11

Staff Recommendation: Award a contract in the amount of \$273,632 to Galeridge Construction, Inc. for the subject project, and authorize the city manager to execute the contract when all the necessary conditions have been met; approve a 10% construction contingency in the amount of \$27,363; and approve Budget Modification No. 11 to transfer \$233,320 from Project 828570, Sunnyvale Avenue Rehabilitation, to Project 825290, Pavement Rehabilitation.

**Other Items**

- 1.L. RESOLUTION Adoption of Resolution to Authorize the City of Sunnyvale to Receive  
RTC 10-233 Federal and State Criminal History Information for Employees Who are  
Required to Obtain EMT and/or Advanced EMT Certification

Staff Recommendation: Alternative 1: Adopt the Resolution authorizing the City of Sunnyvale to receive Federal and State Criminal History Information for employees who are required to obtain EMT and/or Advanced EMT Certification.

- 1.M. RESOLUTION Resolution Providing Blanket Authorization for Future Caltrans Project  
RTC 10-251 Document Execution

Staff Recommendation: Alternative 1: Review and approve the attached resolution authorizing the city manager to execute all future Caltrans project administration documents.

- 1.N. RESOLUTION Vehicle Emissions Reductions Based at Schools (VERBS) Grant for a  
RTC 10-255 School Transportation Demand Management Project—Resolution of  
Support

Staff Recommendation: Alternative 1: Approve the attached Resolution of Support for Vehicle Emissions Reductions Based at Schools (VERBS) Transportation Demand Management grant funding.

**STAFF RESPONSES TO PRIOR PUBLIC COMMENTS**

City Manager Luebbers stated a report regarding traffic in the Birdland area was included in the City Manager's Bi-Weekly Report which is posted on the City Web site.

City Manager Luebbers stated regarding smoking in multi-family complexes, the City of Sunnyvale's smoking regulations mirror the State of California's regulations, and prohibiting smoking in multi-family complexes is not part of the State regulations.

City Manager Luebbers stated regarding leaf blowers and their effect on air quality, staff contacted the Bay Area Air Quality Management District and they have no regulations regarding leaf blowers. Luebbers stated the City does have a noise regulation of 65 decibels within 50 feet, and a standard leaf blower typically would not exceed that.

Luebbers stated regarding adult fee waivers for recreation programs, Council took action in 2006 to remove adult fee waivers as a result of the state of the economy. Luebbers stated the citizen who made the inquiry at the previous meeting appeared before the Parks and Recreation Commission and asked that the issue be considered as a recommended study issue, and the Parks and Recreation Commission declined to do so.

### **PUBLIC COMMENTS**

Mayor Hamilton announced a 15 minute limit on public comments; the first five speakers would be heard at this time and the rest would be heard at the end of the meeting.

George Bell presented a PowerPoint presentation regarding Marinol and marijuana and provided written materials.

Lynn Bennion, endocrinologist, spoke regarding marijuana use and addiction and provided written materials.

Mayor Hamilton announced a number of speakers are in attendance regarding one subject matter. Mayor Hamilton stated staff is preparing a response to those who have contacted staff.

Mayor Hamilton announced she will take a sixth speaker as the following speaker intended to make an announcement under Public Announcements.

Michael Schroder announced the opening of U.S. Firearms, the services provided, and provided written materials.

Eric Fisher, owner, U.S. Firearms, introduced himself and the services provided by the business.

Daniel Lucero stated he will be a customer of U.S. Firearms.

Robert Armitano stated he is an investor in U.S. Firearms and outlined the process for obtaining a business license to sell firearms.

Mayor Hamilton announced the remaining speakers will be heard following the general business section.

Vice Mayor Moylan clarified that speakers are called in the order the cards were submitted.

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

2. MOTION                      2009-0799-Advisory Committee Recommendations for the General Plan  
RTC 10-260                  Consolidation Project

Director of Community Development Hanson Hom presented the staff report. General Plan Consolidation Project Advisory Committee Chair Patrick Walz presented a report of the committee.

Public hearing opened at 8:06 p.m.

Art Schwartz requested Council avoid dark colors which use printer toner at a high rate and avoid printing white on dark backgrounds due to possible poor print quality.

Public hearing closed at 8:08 p.m.

**MOTION:** Councilmember Spitaleri moved and Councilmember Swegles seconded the motion to approve Alternative 1: Accept the recommendations made by the Advisory Committee, including maintaining the Committee to provide feedback as requested by staff and direct staff to proceed with the consolidation work.

**FRIENDLY AMENDMENT:** Councilmember Griffith offered a friendly amendment on Attachment A, page 15 of 28 to add language to the color section that consideration of black and white printing be taken into account.  
The friendly amendment was accepted by Councilmember Spitaleri and Councilmember Swegles.

**FORMAL AMENDMENT:** Councilmember Whittum offered an amendment that five items relating to land use, H3, H4, D1.1, D1.2 and D1.3 be left in the General Plan and to ask staff to find a place for them.  
Died for lack of second.

**FORMAL AMENDMENT:** Councilmember Whittum offered an amendment that staff be asked to look at the five fiscal items to be removed from the General Plan, A.5.3, E.1.1, E.1.4, I1C.1 and I1C.2, in terms of whether an ordinance can be formulated to capture those items.  
Died for lack of second.

**FORMAL AMENDMENT:** Vice Mayor Moylan proposed an amendment to switch to landscape printing. Councilmember Swegles seconded the amending motion.

**VOTE on FORMAL AMENDMENT:** 2 - 4 (Councilmember Griffith, Mayor Hamilton, Councilmember Spitaleri and Councilmember Whittum dissented, Councilmember Lee absent)  
Motion failed.

**VOTE ON MAIN MOTION as AMENDED by FRIENDLY AMENDMENT:** 5 - 1  
(Councilmember Whittum dissented, Councilmember Lee absent)

3. **ORDINANCE**      Amendment to Sunnyvale Municipal Code Section 10.16.120 Related to  
RTC 10-232      Nuisance Vehicles

Director of Public Safety Don Johnson presented the staff report.

Public hearing opened at 8:20 p.m.

Tap Merrick expressed concern about excessive vehicles parked in driveways and encouraged a limit on the number of cars per driver per household.

Public hearing closed at 8:23 p.m.

**MOTION:** Councilmember Swegles moved and Councilmember Whittum seconded the motion to approve Alternative 1: Amend Sunnyvale Municipal Code Section 10.16.120 to remove the requirement that a vehicle be moved at least one mile to comply with this Section; remove the language referencing the reading of the mechanical odometer. Clarify

the intent to limit parking to 72 consecutive hours by adding language to define successive acts of parking to be presumed to be a single act of parking within the meaning of this section.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 6 - 0 (Councilmember Lee absent)

4. ORDINANCE      Requiring Dual Plumbing for Future Developments for Reclaimed Water  
RTC 10-250      (Study Issue)

Director of Community Development Hanson Hom presented the staff report and a PowerPoint presentation.

Public hearing opened at 8:53 p.m.

No speakers.

Public hearing closed at 8:53 p.m.

MOTION: Councilmember Swegles moved and Councilmember Spitaleri seconded the motion to approve alternatives 1 and 3 to:

1. Introduce an ordinance to require that the following types of projects use the recycled water system for landscape irrigation when available at the project site or when within 300 feet of the project site: new multi-family (3 or more dwelling units) with greater than 1,000 square feet of new or rehabilitated landscaped area; and new non-residential buildings and additions greater than 5,000 square feet with greater than 1,000 square feet of new or rehabilitated landscaped area, and:
3. Direct staff to further study the most effective way to encourage additional usage and expansion of the recycled water system as part of the upcoming Recycled Water Master Plan.

VOTE: 3 - 3 (Vice Mayor Moylan, Councilmember Griffith, Councilmember Whittum dissented, Councilmember Lee absent)  
Motion failed.

MOTION: Councilmember Griffith moved and Councilmember Swegles seconded the motion to direct staff to return this item as part of the Recycled Water Master Plan.

VOTE: 6 - 0 (Councilmember Lee absent)

**PUBLIC COMMENTS** (continued)

Casey Miller spoke in opposition to the location of the gun shop at 590 S. Mary Avenue due to its proximity to schools, school traffic paths and residences.

Nicole Stallard, San Jose Coordinator, Pink Pistols, stated U.S. Firearms will be an asset to community.

John Ambrose stated he looks forward to shopping at the gun store.

Bill Wiese spoke in support of U.S. Firearms.

Steve Sarette spoke in support of U.S. Firearms.

Eugene Tan spoke in support of U.S. Firearms.

Gina Lermant spoke in opposition to the location of the gun shop, due to its proximity to schools.

Rohini Vora spoke in opposition to the location of the gun shop due to its proximity to schools and residential areas, and its effect on property values.

Nandini Balakrishna spoke in opposition to the location of the new gun store.

Puja Sampat spoke in opposition to the location of the gun shop due to its proximity to schools and residential areas, and its effect on property values.

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

Councilmember Swegles reported he was at the League of California Cities Annual Conference serving as a representative on the Resolutions Committee and all the recommendations made were passed.

Councilmember Swegles reported he attended his last breakfast as the President of the League of California Cities Peninsula Division.

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

Mayor Hamilton stated she received a request to revisit potential ongoing funding of the Pet Parade on an upcoming agenda and stated the item will be added to the October 5 Council meeting agenda.

Councilmember Griffith confirmed with staff that consideration of a position on Measure H will be included in the ballot measures report to Council on October 5.

Councilmember Swegles stated he will not be able to attend the October 12 Council meeting due to a prior commitment and inquired if the October 19 and October 12 meetings could be swapped.

City Manager Luebbers stated the October 12 meeting could be moved to October 19, following the study session.

Councilmember Swegles stated many Councilmembers will not return from the National League of Cities Congress of Cities and Exposition until December 5 and inquired if the December 7 Medical Marijuana Dispensaries item could be rescheduled, as it will be a short time period for Councilmembers to review an intensive report.

City Manager Luebbers confirmed for Mayor Hamilton it is possible the report will be released early and he will discuss it with the Director of Community Development. Luebbers reminded Council the report was originally scheduled to come back to Council next year, but it was accelerated at Council's request. Luebbers stated he will discuss the schedule with Mayor Hamilton.

**INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- RTC 10-259 Opportunity for Council to appeal decisions of the Planning Commission of September 13, 2010 and the Zoning Administrator Hearing of September 14, 2010
- Draft Minutes of the Council Subcommittee on Board and Commission Bylaws Meeting of September 8, 2010
- Draft Heritage Preservation Commission Minutes of September 1, 2010
- Draft Minutes of the Board of Library Trustees Meeting of September 13, 2010
- Study Session Summary of September 14, 2010 – Medical Marijuana Dispensaries

**ADJOURNMENT TO THE ONIZUKA LOCAL REDEVELOPMENT AUTHORITY**

Mayor Hamilton adjourned to the Onizuka Local Redevelopment Authority meeting at 9:50 p.m.