

**DRAFT MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, NOVEMBER 16, 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  
Councilmember Ron Swegles  
Councilmember Anthony (Tony) Spitaleri  
Councilmember David Whittum  
Councilmember Jim Griffith

**ABSENT:**

None.

**STAFF PRESENT:**

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

**SPECIAL ORDER OF THE DAY** – Mayor Hamilton presented a Certificate of Recognition to Yahoo!.

**PUBLIC ANNOUNCEMENTS**

Councilmember Spitaleri announced recruitment for the staff Advisory Committee on Accessibility and Human Relations Cultural Diversity Advisory Committee closes December 1.

Marie Bernard, Executive Director, Sunnyvale Community Services, announced the opening of their Christmas Center and an annual auction on December 2.

**MOTION TO RECONSIDER**

MOTION: Vice Mayor Moylan moved and Councilmember Whittum seconded the motion to reconsider the action of November 9 regarding the Charter Review Committee.

VOTE: 6 - 1 (Councilmember Swegles dissented)

**CONSENT CALENDAR**

Mayor Hamilton pulled Item 1.H and City Manager Luebbers pulled Item 1.F. from the Consent Calendar.

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

VOTE: 7 - 0

- 1.A. MOTION Approval of Council Meeting Minutes of November 9, 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 10-314 No. 530

Staff Recommendation: Review the attached list of bills.

**Contracts**

- 1.D. MOTION Award of Contract for Technical Assistance for the Mode 1 Operational  
RTC 10-319 Trial at the Water Pollution Control Plant (F1010-37) and Approval of  
Budget Modification No. 19

Staff Recommendation: Award a contract to Brown and Caldwell in an amount not to exceed \$107,566 for technical assistance for the Mode 1 Operational Trial at the Water Pollution Control Plant; approve a project contingency in the amount of \$10,757; and approve Budget Modification No. 19 to provide funding for this project.

Staff Contact: Pete Gonda, (408) 730-7418

- 1.E. MOTION Third Amendment to an Existing Contract with Associated Infrastructure  
RTC 10-318 Management Services Corporation (AIMS) for Project Management  
Services (F1010-40)

Staff Recommendation: Approve a Third Amendment to Consultant Services Agreement with AIMS Corporation to increase the contract value by \$600,000, for a total not-to-exceed amount of \$1,150,000, and extending the term through December 31, 2012.

- 1.F. MOTION Award of Contract for Liquid Chlorine and Liquid Sulfur Dioxide (F1011-  
RTC 10-320 48)

Finance Director Grace Leung provided a brief report.

Public Hearing opened 7:17 p.m.

No speakers.

Public Hearing closed 7:17 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to award a one-year contract in an amount not to exceed \$200,000 to Sierra Chemical Company for Liquid Chlorine and Liquid Sulfur Dioxide as required by the Water Pollution Control Plant.

VOTE: 7 - 0

**Other Items**

- 1.G. MOTION Memorandum of Agreement between the City of Sunnyvale and the  
RTC 10-305 County of Santa Clara regarding the State Energy Program Grant for  
Retrofit Bay Area

Staff Recommendation: Approve Memorandum of Understanding.

- 1.H. MOTION Approval of Santa Clara County Cities Association Proposed Bylaws  
RTC 10-310 Amendments

Mayor Hamilton provided a brief report.

Public hearing opened 7:19 p.m.

No speakers.

Public hearing closed 7:19 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to approve the bylaws amendments as proposed by the Santa Clara County Cities Association.

VOTE: 7 - 0

- 1.I. MOTION Recommendation to Sunnyvale City Council to Approve Confirmation of  
RTC 10-312 New Members to the NOVA Workforce Board

Recommendation: The NOVA Workforce Board Nominating Committee recommends approval of Alternative 1 and confirm Mr. Thomas Baity and Ms. Laura Stefanski for four-year terms on the NOVA Workforce Board.

**STAFF RESPONSES TO PRIOR PUBLIC COMMENTS**

None.

**PUBLIC COMMENTS**

Debra Alvarado spoke regarding traffic concerns on Bernardo Avenue between Knickerbocker and Remington.

**PUBLIC HEARINGS/GENERAL BUSINESS**

2. MOTION Banning Single-Use Plastic Carryout Bags (Study Issue) and Approval of  
RTC 10-313 Budget Modification No. 18

Director of Public Works Marvin Rose presented the staff report and a PowerPoint presentation.

Public hearing opened at 7:40 p.m.

Manny Diaz, on behalf of the American Chemistry Council, spoke regarding the need to conduct further outreach to retailers and asked that the item be continued.

Kim Jelfs spoke regarding the impacts of plastic bags.

Marcum Caldwell reported information he gathered in a survey of 23 of 28 stores who responded to a brief survey he created.

Amit Srivastava provided data regarding plastic bags consumed and recycled, and stated he supports the plastic bag ban and proposed fee.

Allison Chan, representing Save the Bay, spoke in support of an ordinance to ban the free distribution of single use plastic bags.

Arthur Schwartz spoke regarding the recycling of plastic bags and the use of reusable bags.

Tara Martin-Milius, Chair, San Miguel Neighborhood Association, spoke in favor of the ban and recommended going to biodegradable, non-toxic bags.

Dan Hafeman stated the biggest issue is not recycling the bags, it is that the bags “get away” into the environment; the bags are low-reuse, and cheap.

Barbara Fukumoto, on behalf of Sunnyvale Cool, stated the organization’s support for the ban and a charge for paper bags, a stated minimum of post-consumer waste content in paper bags and suggested the ordinance require reusable bags sold in Sunnyvale be free of toxics.

Debbie Owens, local business owner, attended an outreach meeting and spoke in favor of a ban evenly applied to all retailers and spoke in opposition to mandating businesses to charge a fee.

Margaret Lawson spoke regarding the ease of developing a habit of reusing bags.

Public hearing closed at 8:25 p.m.

MOTION: Councilmember Lee moved and Councilmember Griffith seconded the motion to approve Alternative 1: Direct staff to prepare a Single-Use Carryout Bag ordinance that:

- bans the distribution of all single-use carryout bags
- applies the ban to:
  - Large Supermarkets and Pharmacies >10,000 square feet
  - Other Large Retailers
  - Other Food and Beverage Stores
- allows an exception to the ban if retailers package customer purchases in Green Paper Bags (bags containing at least 40% recycled paper content), so long as the retailer charges the customer a separately displayed cost-recovery fee of at least fifteen cents per bag, with 100% of the fee to be retained by the retailer;
- takes effect on the second Wednesday of a month no less than six months following second reading of the ordinance;

and Alternative 3: Approve Budget Modification No. 18 to establish a Special Project “CEQA for Single-Use Bag Ordinance” in the amount of \$100,000, with funding to be split between the Wastewater Fund and the Solid Waste Fund; **and** urge other jurisdictions in Santa Clara County to adopt similar measures; **and** direct staff to look into the issue of the size of bags and type of plastic bags.

FRIENDLY AMENDMENT: Councilmember Griffith proposed a friendly amendment to direct staff to include an option to include exemptions for purchases involving WIC or food stamps. Councilmember Lee accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Spitaleri proposed a friendly amendment that the proposed reusable bags are to be 100% toxic free and preferably be made in this country. Councilmember Lee accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Griffith proposed a friendly amendment that in addition to applying to large supermarkets, pharmacies, and other large retailers, to include as an option to direct staff to consider alternatives applying to all retailers. Councilmember Lee accepted the friendly amendment.

VOTE: 5 - 2 (Councilmembers Whittum and Swegles dissented)

3. MOTION                    2010-7126 Increasing Minimum Dimensions for Usable Open Space  
RTC 10-316                (Study Issue)

Planning Officer Trudi Ryan presented the staff report.

Public hearing opened at 9:18 p.m.

Jay Pawlek, Taylor Morrison, spoke in support of the staff recommendation and discouraged changes to make the areas larger.

Public hearing closed at 9:19 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Lee seconded the motion to approve Alternative 1: make no changes to the Zoning Code.

VOTE: 7 - 0

4. ORDINANCE 2010 California Fire Code with Amendments and Standards for High-Rise  
RTC 10-321 Buildings

Director of Public Safety Don Johnson presented the staff report.

Public hearing opened at 9:25 p.m.

Jay Pawlek, Taylor Morrison, thanked staff for working with them on their project.

Public hearing closed at 9:26 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to Alternative 1: Adopt the 2010 California Fire Code with amendments and the changes to the High Rise Ordinance.

VOTE: 7 - 0

5. ORDINANCE Adoption by Reference of the 2010 California Building Codes  
RTC 10-296

Community Development Director Hanson Hom presented the staff report.

Public hearing opened at 9:30 p.m.

No speakers.

Public hearing closed at 9:30 p.m.

MOTION: Councilmember Lee moved and Councilmember Swegles seconded the motion to approve Alternative 1: Adopt the proposed ordinances.

VOTE: 7 - 0

6. ORDINANCE Introduction of Ordinance Amending Chapter 12.60 "Storm Water  
RTC 10-303 Management" of the Sunnyvale Municipal Code (SMC)

Director of Public Works Marvin Rose presented the staff report.

Public hearing opened at 9:32 p.m.

No speakers.

Public hearing closed at 9:32 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Lee seconded the motion to approve Alternative 1: Adopt an ordinance amending Chapter 12.60 to the Sunnyvale Municipal Code to provide the legal authority as required in the City's Stormwater National Pollutant Discharge Elimination System (NPDES) permit (also known as the "MRP").

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 7 - 0

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

Councilmember Swegles provided a report from his attendance at the League of California Cities 2010 Legislative Briefing.

**NON-AGENDA ITEMS & COMMENTS**

Mayor Hamilton reported she has requested an item to be added to the December 7 agenda to consider increasing the size of the Sustainability Commission from five members to seven.

Councilmember Griffith reported the Turkey Trot is next week and announced the online registration deadline to receive bids by mail.

Councilmember Lee reported he would not be able to participate in the Turkey Trot as he will be participating in the closing ceremony of the Asian games as an invited guest.

Councilmember Lee reported some Councilmembers will attend the National League of Cities meeting in Denver and he will be serving on the Board of Directors Nominating Committee.

Councilmember Lee requested staff monitor the Lehigh Cement Company issue and keep Council apprised of any activity.

Arthur Schwartz announced a bi-monthly meeting of the Restoration Advisory Panel for Moffett Field.

Councilmember Griffith announced he is holding a town hall meeting on November 17.

City Manager Gary Luebbers announced Grace Leung is now the Sunnyvale Finance Director.

**INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- RTC 10-315 Update on Coordinating Zoning for Projects Located Near City Borders (Information Only)
- Draft Minutes of the Board of Library Trustees Meeting of November 1, 2010

**ADJOURNMENT**

Mayor Hamilton adjourned the meeting at 9:46 p.m.