

**APPROVED MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, MAY 10, 2011**

**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 Jim Griffith  
Councilmember Otto Lee  
Councilmember Ron Swegles  
Councilmember Christopher Moylan  
Councilmember Anthony (Tony) Spitaleri  
Councilmember David Whittum

**ABSENT:**

None.

**STAFF PRESENT:**

City Manager Gary Luebbers  
Assistant 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  
Director of Community Development Hanson Hom  
City Clerk Kathleen Franco Simmons

**SPECIAL ORDER OF THE DAY** – Mayor Hamilton presented Director of Public Works Marvin Rose a proclamation regarding National Public Works Week.

**PUBLIC ANNOUNCEMENTS**

Richard Kolber, Democratic Club of Sunnyvale, provided information regarding an upcoming meeting.

Mayor Hamilton announced an upcoming meeting of the County of Santa Clara Citizens Redistricting Commission.

**CONSENT CALENDAR**

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

VOTE: 7 - 0

- 1.A. MOTION Approval of Council Meeting Minutes of April 26, 2011
- 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 11-090 Nos. 552 and 553

Staff Recommendation: Review the attached lists of bills.

**Contracts**

- 1.D. MOTION Amend an Existing Contract for Pavement Rehabilitation of Various  
RTC 11-092 Streets Phase II and Approval of Budget Modification No. 32 (F1004-109)

Staff Recommendation: Approve an amendment to an existing contract with Top Grade Construction, Inc. by increasing the not-to-exceed amount by \$95,000, from \$1,227,949 to \$1,322,949, to compensate for the negotiated settlement of a contractor claim submitted during the course of project construction; and approve Budget modification No. 32 to provide additional funding for the project.

**Other**

- 1.E. RESOLUTION Resolution to Rename Capella Way to Olson Way  
RTC 11-095

Staff Recommendation: Adopt a resolution changing the name of Capella Way to Olson Way.

**STAFF RESPONSES TO PRIOR PUBLIC COMMENTS**

None.

**PUBLIC COMMENTS**

Kim Ferm, Director of 211 Santa Clara County, provided written materials and 2010 statistics and information regarding United Way.

**PUBLIC HEARINGS/GENERAL BUSINESS**

- 2. MOTION Raynor Activity Center – Change from Request for Proposal to Bid  
RTC 11-091 Process and Approval of Budget Modification Number 30

Director of Public Works Marvin Rose presented the staff report.

Public hearing opened at 7:25 p.m.

Maria Fushiki, My Dream Academy, expressed concerns regarding the change in process.

J. Mueller, President, Sunnyvale Gymnastics Club, spoke in opposition to the proposed change to a bid process and recommended retaining the RFP process.

Councilmember Whittum disclosed he met with the Board of the Sunnyvale Gymnastics Club in January or February.

Ikko Fushiki, owner, My Dream Academy, expressed concerns regarding the proposed change in process and recommended further dialogue between the City Manager and the tenants and neighbors.

Tap Merrick expressed concern about the only goal being maximizing profits and encouraged consideration of the existing tenants who have been providing services to the community.

Wendy Hales, parent of a child at My Dream Academy, spoke in opposition to the change in process and in support of keeping the RFP process.

Eugene Garcia spoke in opposition to the change in process and encouraged consideration of traffic issues.

Public hearing closed at 7:42 p.m.

MOTION: Councilmember Moylan moved and Councilmember Swegles seconded the motion to approve Alternative 1: Approve Budget Modification Number 30 and the change from a Request For Proposal to a bid process for the master lease of Raynor Activity Center.

VOTE: 3 - 4 (Councilmembers Lee and Spitaleri, Vice Mayor Griffith and Councilmember Whittum dissented)  
Motion failed.

MOTION: Councilmember Lee moved and Vice Mayor Griffith seconded the motion to approve Budget Modification Number 30 and keep the RFP process.

VOTE: 4 - 3 (Mayor Hamilton, Councilmembers Moylan and Swegles dissented)

3. MOTION                    2011 Charter Review Committee Final Report and Council Direction on  
RTC 11-089                Charter Amendments

City Attorney David Kahn presented the staff report. Charter Review Committee Chair Carol Weiss presented the report of the Committee.

Public hearing opened at 9:20 p.m.

Bill Ritter, Charter Review Committee member but speaking for himself, expressed comments in favor of a mayor directly elected by the citizens.

Tap Merrick, Charter Review Committee member, provided information regarding the intent of the lifetime term limit language and Council compensation, and recommended looking at switching to even-year elections.

Arthur Schwartz spoke in favor of the current system of electing the Mayor by Council.

Richard Kolber spoke in support of using the current system one more time and if it does not work, consider a directly-elected Mayor.

Public hearing closed at 9:42 p.m.

MOTION: Councilmember Spitaleri moved and Councilmember Lee seconded the motion to approve Alternative 1: Accept Final Report and Recommendations from the Sunnyvale 2011 Charter Review Committee.

VOTE: 7 - 0

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve 2.c.i.:

*2. Direct City staff to draft appropriate ballot language and resolution(s) to place the Charter Review Committee recommendations below on the November 2011 (or a subsequent) ballot for submission to the Sunnyvale electorate.*

***c. Compensation (Charter Section 603)***

*The Committee recommends that the automatic 5% annual salary increase should be removed. Council and Mayor salaries should be set at the current 2011 amounts and increased, if at all, by the preceding October's annual percentage change in the Consumer Price Index-U for the San Francisco-San Jose-Oakland area. In no event shall the annual increase exceed 5%, and the salary shall not be decreased.*

*i. Accept*

AMENDMENT: Councilmember Whittum moved an amendment to revise the language from 2011 to 2008.

Motion died for lack of second.

VOTE ON MAIN MOTION: 6 - 1 (Councilmember Swegles dissented)

MOTION: Councilmember Spitaleri moved and Councilmember Moylan seconded the motion to approve 2.a.iii to reject the committee's recommendation against changing the current Council-selected Mayor to a directly-elected Mayor.

*2. Direct City staff to draft appropriate ballot language and resolution(s) to place the Charter Review Committee recommendations below on the November 2011 (or a subsequent) ballot for submission to the Sunnyvale electorate.*

**a. Change to Directly-Elected Mayor:**

*The Committee, by a 5-4 vote, recommends against changing the current Council-selected Mayor to a directly-elected Mayor.*

*iii. Reject*

VOTE: 4 - 3 (Mayor Hamilton, Vice Mayor Griffith and Councilmember Whittum dissented)  
Motion carried.

MOTION: Councilmember Moylan moved and Councilmember Lee seconded the motion to accept all four recommendations of the committee under 2.b.

*2. Direct City staff to draft appropriate ballot language and resolution(s) to place the Charter Review Committee recommendations below on the November 2011 (or a subsequent) ballot for submission to the Sunnyvale electorate.*

**b. Charter Language for Mayoral Term and Term Limits if Council Places a Directly-Elected Mayor Measure on the 2011 Ballot**

- *The Committee recommends that the term for a directly-elected Mayor is 4 years.*
- *The Committee recommends that there is a lifetime maximum term limit of 8 years for a directly-elected Mayor.*
- *The Committee recommends that the term limit for a directly elected Mayor is 8 years, and no more than a total of 16 years out of 20 for any combination of service as a Council member and directly-elected Mayor.*
- *The Committee recommends that there is no required waiting period between a term of Council member and Mayor.*

VOTE: 4 - 3 (Vice Mayor Griffith, Mayor Hamilton and Councilmember Whittum dissented)  
Motion carried.

4. RESOLUTION      Conduct Public Hearing and Adoption of a City of Sunnyvale Resolution  
RTC 11-086          to Levy an Annual Assessment for the Downtown Sunnyvale Business  
Improvement District

Councilmember Whittum stated his residence is within 500 feet of the district, recused himself, and left the room.

Economic Development Manager Connie Verceles presented the staff report.

Public hearing opened at 9:30 p.m.

No speakers.

Public hearing closed at 9:30 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Spitaleri seconded the motion to approve Alternative 1: Adopt Resolution of the City of Sunnyvale to Levy an Annual Assessment for the Downtown Sunnyvale Business Improvement District.

VOTE: 6 - 0 (Councilmember Whittum recused)

Following this item, Councilmember Whittum returned to the room and took his seat at the dais.

5. MOTION            Approve Housing and Urban Development (HUD) Action Plan for FY  
RTC 11-094        2011-12

Director of Community Development Hanson Hom presented the staff report.

Public hearing opened at 9:37 p.m.

Marie Barlahan, Director of Operations and Volunteers, Sunnyvale Community Services, provided examples of services provided and urged Council to fund Sunnyvale Community Services.

Elizabeth Sacco, Staff Attorney, Senior Adults Legal Assistance, provided examples of services provided and urged Council to continue funding.

Marie Bernard, Executive Director, Sunnyvale Community Services, urged Council to provide maximum funding.

Fred Fowler, member of the Housing and Human Services Commission but speaking for himself, requested Council make an exception to Council policy and add another \$61,000 to backfill the CDBG shortfall and provide full funding to all agencies. Fowler provided written materials.

Public hearing closed at 9:55 p.m.

MOTION: Councilmember Moylan moved and Councilmember Griffith seconded the motion to accept the report with a revision, referring to page 16 of 19 of the Action Plan, to delete the seven agencies for whom the cost per Sunnyvale resident rounded to the nearest \$100 is \$1,000 or more, and give the original recommended award to the remaining groups, subject to the 25% limit so that Sunnyvale Community Services gets 25% of what is left. The seven agencies are Family & Children's Services, Sunnyvale Senior Nutrition, Healthy Kids Program, Catholic Charities Daybreak III, Friends for Youth, West Valley Community Services and Abilities United.

AMENDMENT: Councilmember Whittum moved the motion on the floor be referred to the Housing and Human Services Commission for consideration.  
Motion died for lack of second.

Council recessed for a break at 10:30 p.m.

Mayor Hamilton called the meeting to order at 10:46 p.m. with all Councilmembers present.

AMENDMENT: Councilmember Moylan amended the motion to waive the 25% policy cap and, after taking out the seven agencies, to fund the remaining 11 agencies at the full funding.

Vice Mayor Griffith accepted the amendment.

VOTE: 4 - 3 (Councilmembers Lee, Spitaleri, and Whittum dissented)

Motion carried.

MOTION: Councilmember Moylan moved and Councilmember Swegles seconded the motion to adopt the 2011 Action Plan.

VOTE: 7 - 0

MOTION: Councilmember Lee moved and Councilmember Whittum seconded the motion to award the seven agencies eliminated an amount based on 40% of the full funding amount.

VOTE: 3 - 4 (Vice Mayor Griffith, Mayor Hamilton, Councilmembers Moylan and Swegles dissented)

Motion failed.

6. ORDINANCE NO. 2951-11 Adoption of Ordinance No. 2951-11 Amending Certain Sections of Chapter 18.10 (Parks and Open Space Dedication) of Title 18 (Subdivisions) and Chapter 19.74 (Park Dedication Fees for Rental Housing Projects) of Title 19 (Zoning) of the Sunnyvale Municipal Code Pertaining to Park Dedication

City Attorney David Kahn presented a brief report.

Public hearing opened at 11:04 p.m.

No speakers.

Public hearing closed at 11:04 p.m.

MOTION: Councilmember Moylan moved and Councilmember Whittum seconded the motion to approve second reading of Ordinance No. 2951-11.

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

Motion carried.

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

Councilmember Moylan provided a report regarding a meeting of the Emergency Preparedness Council in which the Department of Public Safety made a presentation.

Councilmember Moylan provided a report regarding a meeting of the County of Santa Clara Citizens Redistricting Commission in which a proposal by the City was presented.

Vice Mayor Griffith provided a report regarding a meeting of the County Recycling and Waste Reduction Commission regarding consumer/producer responsibility toward zero waste.

Mayor Hamilton reported she attended a tour of the Fair Oaks Senior Housing project.

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

Councilmember Spitaleri reported a Wine Walk event held by the Sunnyvale Downtown Association.

Councilmember Lee expressed appreciation for the Navy and Navy Seals on the capture of Osama Bin Laden.

Vice Mayor Griffith expressed appreciation to the Sunnyvale Downtown Association for the Wine Walk event which catered to retailers.

Vice Mayor Griffith inquired about a letter from LAFCO regarding County-owned property in the City and Director of Community Development Hanson Hom provided a response.

Councilmember Swegles congratulated Councilmember Lee on receiving the Boy Scouts of America Characters Award.

Councilmember Moylan announced Bike to Work Day.

Melodi Masaniai provided information regarding a Celebration of Life in memory of Anne Mack.

Mayor Hamilton reported an item on the next agenda regarding planning for the City's Centennial Celebration.

Mayor Hamilton reported yesterday was Gary Luebbbers' birthday.

### **INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- RTC 11-093 Opportunity for Council to Appeal Decisions of the Planning Commission of April 25, 2011 and the Zoning Administrator Hearing of April 27, 2011
- Study Session Summary of April 26, 2011 – Board and Commission Interviews
- Study Session Summary of May 3, 2011 – Board and Commission Interviews
- Draft Minutes of the Sustainability Commission Meeting of April 18, 2011

### **ADJOURNMENT**

Mayor Hamilton closed the meeting in memory of San Carlos Mayor Omar Ahmad.

Mayor Hamilton adjourned the meeting at 11:21 p.m.

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Kathleen Franco Simmons  
City Clerk

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Date

*\*Approved by Council May 24, 2011*