

**DRAFT MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, DECEMBER 6, 2011**

**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 Jim Griffith  
Councilmember Otto Lee  
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 Frank Grgurina  
Director of Community Development Hanson Hom  
Director of Public Works Kent Steffens  
City Clerk Kathleen Franco Simmons

**CLOSED SESSION REPORT FOR DECEMBER 6, 2011**

*Closed Session pursuant to Government Code Section 54957 - Public Employee Performance Evaluation – City Attorney*

Vice Mayor Griffith reported Council met in closed session regarding Public Employee Performance Evaluations; direction was given, no action was taken.

**CLOSED SESSION REPORT FOR DECEMBER 6, 2011**

*Closed Session pursuant to Government Code Section 54956.9(b) – Conference with Legal Counsel*

*\*Pending Council Approval*

Vice Mayor Griffith reported Council met in closed session regarding anticipated litigation; no direction was given, no action was taken.

### **PUBLIC ANNOUNCEMENTS**

None.

### **CONSENT CALENDAR**

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

VOTE: 6 - 0

- 1.A. MOTION Approval of Council Meeting Minutes of November 29, 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 11-265 Nos. 582 & 583

Staff Recommendation: Review the attached lists of bills.

### **Other Items**

- 1.D. MOTION Recommendation to Sunnyvale City Council to Approve Confirmation of  
RTC 11-266 New Members to the NOVA Workforce Board

Staff Recommendation: The NOVA Workforce Board Nominating Committee recommends Alternative 1: Confirm Ms. Louise Hofmeister, Ms. Meerah Rajavel and Ms. Margarita Vega for four-year terms on the NOVA Workforce Board.

- 1.E. ORDINANCE Adoption of Ordinance No. 2963-11 Amending Section 9.26.030 of  
2963-11 Chapter 9.26 of Title 9 of the Sunnyvale Municipal Code pertaining to  
Abatement of Nuisances.

Staff Recommendation: Approve the second reading of Ordinance No. 2963-11.

- 1.F. ORDINANCE Adoption of Ordinance No. 2964-11 Amending Chapter 16.43 (Green  
2964-11 Building Code) of Title 16 (Building and Construction) of the Sunnyvale  
Municipal Code.

Staff Recommendation: Approve the second reading of Ordinance No. 2964-11.

### **PUBLIC COMMENTS**

None.

**PUBLIC HEARINGS/GENERAL BUSINESS**

2. MOTION Update/Review Corner Vision Triangle Municipal Code Ordinance –  
RTC 11-264 Study Issue

Transportation and Traffic Manager Jack Witthaus presented the staff report.

Public hearing opened at 7:26 p.m.

Kevin Jackson recommended inclusion of all Bicycle and Pedestrian Advisory Commission suggestions and to require any variance to be reviewed by the commission before approval.

Art Schwartz provided information regarding the need to include alleyways and place limits on shrubbery in the proposed vision triangle ordinance.

Public hearing closed at 7:32 p.m.

MOTION: Councilmember Moylan moved and Mayor Hamilton seconded the motion to approve Alternative 1: Direct staff to prepare a revision to the Sunnyvale Municipal Code to include the following provisions related to intersection and driveway sight triangles, with a modification to replace the word “signalized” in 1.b. with “controlled”:

- a. New land developments with 100 or more parking spaces shall be required to adhere to a 40 foot driveway vision triangle standard.
- b. Signalized intersections shall provide no parking zones of 20 feet from curb returns, consistent with the parking restriction standards of the California MUTCD.
- c. Fences, hedges or any other obstructions more than 3.5 feet in height shall be prohibited in vision triangles.
- d. Exceptions to vision triangle requirements shall be allowed for see through fences with fence posts spaced 8 feet apart and not higher than 4.5 feet, one tree with a typical trunk circumference of thirty eight inches and canopy higher than 10 feet at maturity, and buildings at all way stop controlled or signalized intersections located in the El Camino Precise Plan area.
- e. The driveway vision triangle shall be measured from the back of sidewalk or from the property line where no sidewalk exists.

FRIENDLY AMENDMENT: Councilmember Whittum moved to amend the motion to include alleyways to make it the “driveway and alleyway vision triangle.”  
Councilmember Moylan accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Whittum moved to amend the motion to replace in item 1.c. “3.5” feet with “3.0” feet in height.  
Councilmember Moylan declined to accept the friendly amendment.

VOTE: 6 - 0

3. ORDINANCE Certification of Environmental Impact Report and Adoption of Single-Use  
RTC 11-268 Carryout Bag Ordinance

Director of Environmental Services Department John Stufflebean presented the staff report.

Public hearing opened at 7:57 p.m.

Diane Gleason spoke regarding the trend toward the banning of single-use plastic bags and recommended the ban apply to all retailers irregardless of size.

Michelle Philips asked Council to support the ban on plastic bags and recommended the charge for bags start at ten cents and increase to 25 cents.

Kim Jelfs spoke in support of the ban.

Dan Hafeman stated that at the Sustainability Commission he recommended the ban apply to all retail establishments with the exception of restaurants. Hafeman recommended the reporting requirements only be applied to the stores identified in the current staff proposal and that an enforcement rule be put in place to allow anyone to make a complaint.

Kevin Jackson asked Council to approve the ban.

Allison Chan, Save the Bay, urged Council to move forward with the ordinance and include all retail establishments.

Margaret Lawson demonstrated a number of reusable bags and encouraged support for the ban.

Arthur Schwartz spoke regarding a net bag he has used for 30 years. Schwartz encouraged applying the ban to all retail establishments and recommended keeping the price of bags fixed.

Barbara Fukumoto spoke in support of the ban on single-use bags and suggested starting with a bag charge of 15 cents for 99 retailers, with a June 2012 implementation, and phasing the ban to all retailers as soon as possible or within a year, with the bag charge to be raised to 25 cents later, consistent with the City of San Jose.

Public hearing closed at 8:17 p.m.

Matt Maddox, Environmental Consultant, Rincon Consultants, provided information on the preparation of the Environmental Impact Report.

Mark Bowers, Solid Waste Program Manager, provided additional information.

MOTION: Councilmember Lee moved and Vice Mayor Griffith seconded the motion to approve Alternative 1: Certify the EIR by approving the resolution (Attachment C).

VOTE: 6 - 0

MOTION: Councilmember Lee moved and Vice Mayor Griffith seconded the motion to approve the first reading of the ordinance (Attachment A), with alterations consistent with one or more of the alternatives evaluated by the EIR including: 1) a mandatory minimum charge of 10 cents per bag, and 2) implementation for selected retailers to start on June 20, 2012, to apply to all retail establishments by March 20, 2013 (except public eating establishments); and approve Alternative III: Modify the description of Project 828980 "CEQA for Single-Use Bag Ordinance" to allow any funds remaining in the project to be used for education and outreach to assist with implementation of the ordinance.

FRIENDLY AMENDMENT: Vice Mayor Griffith offered a friendly amendment to increase the fee to 25 cents in January 2014 to match the San Jose fee.  
Councilmember Lee accepted the friendly amendment.

FRIENDLY AMENDMENT: Vice Mayor Griffith offered a friendly amendment to add to the list of exemptions: non-profit charitable reusers.  
Councilmember Lee accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Whittum moved an amendment to Section 5.38.060, in the sentence beginning, "All stores must provide" to change the word "must" to "may".  
Motion died for lack of a second.

AMENDMENT: Councilmember Spitaleri moved to amend the motion to keep the fee at 10 cents.  
Councilmember Moylan seconded the amendment.

VOTE on AMENDMENT: 3 - 3 (Councilmember Lee, Vice Mayor Griffith, and Mayor Hamilton dissented)  
Motion failed.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE on MAIN MOTION: 5 - 1 (Councilmember Whittum dissented)

4. ORDINANCE      2011-7746: Housing and Community Revitalization Sub-element  
RTC 11-267      Implementation Measures. Proposed Amendments to Zoning Code  
Related to: Special Needs Housing; Multi-family Residential Development  
Review Procedures; Parking Standards for Senior Housing, Affordable  
Housing, and Housing for Persons with Disabilities; and, Reasonable  
Accommodation Procedures.

Planning Officer Trudi Ryan presented the staff report.

Public hearing opened at 9:12 p.m.

Sue Muller stated the amendments would cluster a huge population in the Orchard Gardens area and suggested other areas be considered.

Eleanor Hansen recommended a study issue be done on this issue.

Brandon Sulser, Planning Commissioner, spoke regarding the importance of having Planning Commission review in the process.

Public hearing closed at 9:20 p.m.

MOTION: Councilmember Moylan moved and Vice Mayor Griffith seconded the motion to approve Alternative 2: Introduce the draft ordinance in Attachment B to amend the Municipal Code to:

- a. Special Needs Housing and Emergency Housing
- b. Multi-family Residential Development Review Procedures

- c. Parking Standards for Senior Housing, Affordable Housing, and Housing for Persons with Disabilities
- d. Reasonable Accommodation Procedures;  
with modifications to accept the Planning Commission recommendation, to require these types of projects to be reviewed by the Planning Commission.

AMENDMENT: Councilmember Whittum moved to amend to remove portion 1.A Special Needs Housing and Emergency Housing.  
Motion died for lack of second.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 5 - 1 (Councilmember Whittum dissented)

- 5. COUNCIL            Consideration of Change to Frequency of Sustainability Commission  
DISCUSSION       Meetings, Change of Location of Library Board Meetings, and Adoption  
                         of Commission Liaison Policy

Vice Mayor Griffith presented the report.

Public hearing opened at 9:46 p.m.

No speakers.

Public hearing closed at 9:46 p.m.

MOTION: Councilmember Lee moved and Councilmember Whittum seconded the motion to approve the Subcommittee's recommendation to approve Alternatives 1, 2, and 3:  
Alternative 1: Adopt the Council Policy language 7.2.19S, drafted by the subcommittee and attached in Appendix A, establishing a policy for Council liaisons to boards and commissions, with assignments made by automatic rotation for six-month terms.  
Alternative 2: Modify Council Policy 7.2.19A(X) as indicated in Appendix A to change the frequency of Sustainability Commission from bi-monthly to monthly.  
Alternative 3: Modify Council Policy 7.2.19A as indicated in Appendix A to establish staff guidelines for the location of board and commission meeting locations.

VOTE: 6 - 0

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

Mayor Hamilton extended an invitation to Council to attend the upcoming Santa Clara County Cities Association holiday party.

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

Councilmember Whittum proposed study issues and budget issues and submitted a written proposal.

Councilmember Spitaleri complimented the Downtown Association on the Christmas tree lighting and the Department of Public Safety for the Toys for Tots event. Spitaleri also stated the Lakewood Village parade was a success.

**INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- Draft Minutes of the Arts Commission Meeting of November 16, 2011
- Draft Minutes of the Housing and Human Services Commission Meeting of November 16, 2011

**ADJOURNMENT**

Mayor Hamilton adjourned the meeting at 10 p.m.