

**DRAFT MINUTES\***  
**SUNNYVALE CITY COUNCIL**  
**TUESDAY, DECEMBER 13, 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 13, 2011**

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

Vice Mayor Griffith reported Council met in closed session regarding Public Employee Performance Evaluations; 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 December 6, 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 11-270 No. 584

Staff Recommendation: Review the attached lists of bills.

- 1.D. MOTION Budget Modification No. 20 to Appropriate \$30,634 of Office of Traffic  
RTC 11-276 Safety Grant Funds for Sobriety Checkpoints

Staff Recommendation: Alternative 1: Approve Budget Modification No. 20 to appropriate Office of Traffic Safety Sobriety Checkpoint Grant funds in the amount of \$30,634 to a new project – 2011/2012 OTS Sobriety Checkpoints.

- 1.E. MOTION Approval of Budget Modification No. 16 to Recognize Grant Funding and  
RTC 11-269 Appropriate Grant Funds for A Safe Routes to School Bicycle and Pedestrian Transportation Improvement Project

Staff Recommendation: Alternative 1: Approve Budget Modification No.16 to appropriate \$820,000 of the subject grant funding to new project Safe Routes to School and Neighborhood Guided Bike Routes.

- 1.F. MOTION Approval of Budget Modification No. 18 to Recognize and Appropriate  
RTC 11-277 Funding for the Final Planning Phase of the Onizuka / BRAC Project

Staff Recommendation: Alternative 1: Approve Budget Modification No. 18 to recognize and appropriate \$14,500 in revenue from the Foothill-De Anza Community College District and to appropriate \$41,600 in City funds to fund staff and legal support and CEQA technical studies and filing fees for the Onizuka BRAC planning process.

- 1.G. RESOLUTION FY 2010/2011 Annual Status Report on Receipt and Use of Development  
RTC 11-263 Impact Fees and Adoption of Resolution Approving Findings Regarding Unspent Fees

Staff Recommendation: Alternative 1: Accept the FY 2010/2011 Annual Status Report on Receipt and Use of Development Impact Fees.

**Contracts**

- 1.H. MOTION Award of Bid No. F1109-21 for Concrete Sidewalk, Curb, Gutter and  
RTC 11-271 Driveway Approaches - 2011 CDBG and Approval of Budget Modification  
No. 17

Staff Recommendation: Award a contract in the amount of \$438,500, to JJR Construction, Inc., for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions are met; approve construction contingency in the amount of \$83,616; and approve Budget Modification No. 17 to appropriate available CDBG funding for the project.

- 1.I. MOTION Amend an Existing Contract for Capital Project Construction Management  
RTC 11-275 and Support Services (F1111-28)

Staff Recommendation: Approve an amendment to an existing contract with CSG Consultants, Inc., extending the contract through December 31, 2012 and increasing the not-to-exceed value by \$683,200, from \$754,400 to \$1,437,600.

- 1.J. MOTION Award of Bid No. F1108-08 for Sunnyvale Downtown Streetscape  
RTC 11-273 Improvements and Approval of Budget Modification No. 19

Staff Recommendation: Award a contract in the amount of \$1,562,596 to JJR 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 10% construction contingency in the amount of \$156,260; and approve Budget Modification No. 19 to provide additional funding for this project.

**PUBLIC COMMENTS**

Arlene Goetze expressed concern regarding fluoridated water.

Christie Huh expressed appreciation for Councilmember Lee's service and leadership.

**PUBLIC HEARINGS/GENERAL BUSINESS**

2. MOTION 2011-7063: SummerHill Homes/Dorothy Miller Family, LP: Appeal of a  
RTC 11-279 Decision by the Planning Commission to Deny a Special Development Permit and Vesting Tentative Map for a Mixed Use Project Consisting of 113 Residential Townhouse Units and Approximately 17,302 square feet of Office/Commercial space on 660 - 666 West El Camino Real

Director of Community Development Hanson Hom presented the staff report.

Councilmembers Whittum, Lee and Spitaleri disclosed they met with the applicant.

Public hearing opened at 7:23 p.m.

Katia Kamangar, SummerHill Homes, Applicant, provided information regarding the appeal and explained the challenges of commercial use of the property.

Ken Rodrigues, architect, provided a presentation on the design of commercial alternatives for the project.

Katia Kamangar provided additional information regarding the merits of the residential use alternative. Kamangar requested Council either approve the 17,000 square feet of retail and residential as originally proposed, or that the 2-acre parcel be set aside for future commercial use.

Glenn Hendricks, Chair, Planning Commission, provided information regarding the Planning Commission review of the project in Study Session in August 2011 and vote on the project on November 28, 2011. Hendricks stated the Planning Commission voted to deny the special development permit and tentative map. Hendricks requested that if Council decides to move the project forward, to refer it back to the Planning Commission for further review.

Bill Jacobson, owner of Cherry Glen Plaza, adjacent to the property, and Civic Square on Hollenbeck and El Camino, spoke in support of the applicant and asked Council to approve the appeal.

Eleanor Hansen spoke in favor of approval of the project and referring it back to Planning Commission. Hansen recommended this project be used as a test case for what is wanted on El Camino Real.

Dorothy Miller, one of the property owners, stated the family has pondered what to do with the site for eleven years. Miller provided a history of the site and presented an aerial view of the auto dealership on the site in 1955. Miller stated they care deeply for the City, would like to build a commercial parcel and have an income producing use as soon as possible, but tenants and financing are needed.

Katia Kamangar responded to concerns regarding privacy and a buffer between residential and commercial use. Kamangar stated if the City wants more intense commercial uses, they are open to the phasing concept and they believe the project would revitalize this part of Sunnyvale.

Dorothy Miller stated commercial tenants do not want to be in the back of the property due to visibility issues.

Public hearing closed at 8:12 p.m.

Connie Verceles, Economic Development Manager, provided information regarding the sales tax and property tax revenues vs. the sales tax from an auto dealership and reported a recent increase in Transient Occupancy Tax revenue.

**MOTION:** Councilmember Lee moved and Councilmember Spitaleri seconded the motion to approve Alternative 2: Grant the appeal and adopt the Mitigated Negative Declaration and approve the Special Development Permit and Vesting Tentative Map with the attached conditions, including referring the project back to Planning Commission for detailed review of site plan and architecture: COA PS-1, and in addition, 1) the minimum commercial use be 2 acres, 2) the minimum commercial FAR be reduced from 20% to 10%, and 3) for condition of approval BP-13 on construction phasing, change the inspection to 90% of completion of all the residential units.

Councilmember Moylan suggested the motion is Alternative 3: Grant the appeal and adopt the Mitigated Negative Declaration and approve the Special Development Permit and Vesting Tentative Map, with modified conditions.

Councilmember Lee agreed.

FRIENDLY AMENDMENT: Councilmember Moylan offered an amendment to require as a condition of approval to retain the pedestrian access to the Jacobsen property on the east. Councilmember Lee accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Moylan offered an amendment to remove all of the deviations for setbacks.

Councilmember Lee accepted the friendly amendment.

Planning Officer Trudi Ryan provided historical information regarding the usage of neighboring lots.

VOTE: 3 - 3 (Vice Mayor Griffith, Mayor Hamilton, and Councilmember Whittum dissented)

Motion failed.

MOTION: Councilmember Lee moved and Councilmember Moylan seconded the motion to adopt the Mitigated Negative Declaration and send the proposal back to the Planning Commission for further review.

RESTATED MOTION: Councilmember Lee restated the motion to deny the appeal, adopt the Mitigated Negative Declaration, and refer the project to the Planning Commission for further review.

FRIENDLY AMENDMENT: Councilmember Whittum offered an amendment phrase the motion as to deny the appeal and refer the application and the applicant back to staff. Councilmember Lee declined to accept the friendly amendment.

REVISED MOTION: Councilmember Lee revised the motion to remove proposal of denying the appeal, adopt the Mitigated Negative Declaration, and send the application back to the Planning Commission without implying denying or granting the appeal at this time.

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

Mayor Hamilton stated that the Planning Commission decision stands.

3. MOTION                    FY 2010/11 Budgetary Year-End Financial Report, Comprehensive  
RTC 11-272                Annual Financial Report, Redevelopment Agency Financial Report, and  
                                         Sunnyvale Financing Authority Financial Report

Budget Manager Drew Corbett presented the staff report.

Public hearing opened at 9:16 p.m.

No speakers.

Public hearing closed at 9:16 p.m.

MOTION: Councilmember Moylan moved and Vice Mayor Griffith seconded the motion to approve Alternative 1: Receive and file the budgetary Year-End Financial Report, the audited Comprehensive Annual Financial Report, the Memorandum on Internal Control and Required Communications issued by the independent auditors, the Redevelopment Agency Financial Report, and the Sunnyvale Financing Authority Financial Report; and Alternative 2: Approve the set aside and administrative appropriation of \$3.7 million from the Budget Stabilization Fund to cover the City's RDA "opt-in" payment in January, pending the ruling from the State Supreme Court.

VOTE: 6 - 0

4. ORDINANCE      Notice of Intention to Amend the CalPERS Contract to Provide 20475  
RTC 11-274      (Different Level of Benefits) and Section 21363.1 (3% @ 55 Full Formula)  
Applicable to Local Safety Members Entering Membership for the First  
Time in a Safety Classification

Director of Human Resources Teri Silva presented the staff report.

Public hearing opened at 9:18 p.m.

No speakers.

Public hearing closed at 9:18 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Moylan seconded the motion to approve Alternative 1: Adopt the Resolution of Intention to amend the CalPERS contract to provide 20475 (Different Level of Benefits) and Section 21363.1 (3% @ 55 Full formula) applicable to Local Safety members entering membership for the first time in the safety classification after the effective date of this contract amendment; and Section 414(h)(2) of the Internal Revenue code, whereby employee-paid contributions are made on a pre-tax basis. Provide the introduction and first reading of an Ordinance of the City Council authorizing such amendment to the contract; and adopt the related resolutions.

City Clerk Kathleen Franco Simmons read the ordinance title.

VOTE: 6 - 0

City Manager Luebbers clarified the ordinance applies to Public Safety Members, not Miscellaneous Employees as stated in the ordinance title.

5. ORDINANCE      Adoption of Ordinance No. 2965-11 Adding Chapter 5.38 (Plastic  
2965-11      Carryout Bags) of Title 5 (Business Licenses and Regulations) of the  
Sunnyvale Municipal Code Related to Single-Use Carryout Bags

Public hearing opened at 9:20 p.m.

Diane Gleason presented examples of reusable bags and spoke in support of the plastic bag ban.

Public hearing closed at 9:21 p.m.

MOTION: Vice Mayor Griffith moved and Councilmember Lee seconded the motion to approve the second reading of Ordinance No. 2965-11.

VOTE: 5 - 1 (Councilmember Whittum dissented)

6. ORDINANCE 2966 -11 Adoption of Ordinance No. 2966-11 Amending Certain Sections of Title 19 (Zoning) of the Sunnyvale Municipal Code Relating to Implementation of the Housing and Community Revitalization Sub-Element to Include Provisions for 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

Public hearing opened at 9:25 p.m.

No speakers.

Public hearing closed at 9:25 p.m.

MOTION: Councilmember Whittum moved to decline to pass the ordinance and request staff to reword the ordinance, adding a buffer of either 200 feet or 500 feet, and bring it back to Council for consideration.

Motion died for lack of second.

MOTION: Vice Mayor Griffith moved and Councilmember Lee seconded the motion to approve the second reading of Ordinance No. 2966-11.

VOTE: 5 - 1 (Councilmember Whittum dissented)

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

Vice Mayor Griffith reported a meeting of the County Recycling and Waste Reduction Commission in which plans for the next year were discussed, including the issue of expanded polystyrene food packaging.

Councilmember Moylan reported the Valley Transportation Authority Board approved funds for the BART project to Santa Clara County and reported a meeting of the El Camino Bus Rapid Transit Policy Board.

Councilmember Lee reported the Santa Clara County Cities Association holiday party and expressed congratulations to Mayor Hamilton for her service as President and congratulations to City Manager Gary Luebbers for his support of the Mayor in her role.

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

Mayor Hamilton reported a Full Circle Farm event which was grant funded by NVIDIA.

Councilmember Spitaleri wished happy holidays to staff and the City.

Councilmember Lee reported it was his last full Council meeting after eight years, congratulated outgoing Mayor Hamilton, and honored the memory of Councilmember Ron Swegles.

**INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- Study Session Summary of November 29, 2011 – Overview of the Horizon 2035 Policies: Draft Land Use and Transportation Element (LUTE) of the General Plan and Draft Climate Action Plan (CAP)
- RTC 11-278 Opportunity for Council to Appeal Decisions of the Planning Commission of November 28, 2011 and the Zoning Administrator Hearing of November 30, 2011

**ADJOURNMENT TO THE REDEVELOPMENT AGENCY**

Mayor Hamilton adjourned to the Redevelopment Agency at 9:36 p.m.