

## **Policy 7.4.14 Legislative Advocacy Positions**

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### **POLICY PURPOSE:**

It is the purpose of this policy to establish guidelines and standards regarding City resources and support for Councilmembers. This policy is supplementary to and in no way intended to conflict with the City Charter. For further information on this subject, see:

- City Charter, Section 807
- Code of Ethics and Conduct for Elected Officials (available on the City’s internal Web site or in the Office of the City Clerk)

Additionally, the Legislative Advocacy Positions identify the City’s broad advocacy positions on issues and legislation. As defined by the General Plan (Policy 7.3B4), the Legislative Advocacy Positions are short-term in nature, typically speak to pending legislation and current issues, and support the General Plan and guide Council and staff on intergovernmental matters. They are a component of the City’s Council Policies, which provide guidelines for City action in all areas of City business. City business is defined as all matters directly related to service delivery, or otherwise contributing to the City’s operational success.

### **POLICY STATEMENT:**

- I. Each year the City Manager shall present for Council’s consideration draft Legislative Advocacy Positions. Once approved by City Council, these “advocacy positions” become the official City advocacy position on pending legislation.
- II. The LAP is utilized by Councilmembers and staff throughout the year to determine City positions on legislation and intergovernmental issues and minimizes the need for staff to request direction from Council on legislation and issues as they arise. The LAP should not duplicate policies already cited in other Council Policy documents, i.e. the Council Policy Manual, General Plan, Municipal Code, etc.
- III. During the year, staff monitors and researches pending legislation to identify bills that could significantly impact Sunnyvale. Research actions range from web site research to contacting legislative analysts in government offices and city associations. Staff may also conduct limited advocacy should issues arise throughout the year that significantly impact the City, and if Council positions have previously been established by the LAP.
- IV. To consolidate documents, underscore important issues, and focus the City’s limited advocacy resources, Policy 7.4.14 includes the City’s annual priority issues. Council developed the concept of the LAP in 1982 (RTC 82-590). Following annual Council approval, the current year’s City Priorities and Legislative Advocacy Positions are attached to this policy.
- V. Implementation.  
The City Manager shall monitor those provisions of this policy within the City Manager’s Charter responsibilities. Disagreement in interpretation shall be resolved by the City Council. The City Manager shall institute administrative policy to implement this policy. At the time a new Councilmember is seated, the Mayor and City Manager should review this policy with him/her.

## COUNCIL POLICY MANUAL

Annually, the City Manager shall review the resource requirements necessary to support the level of service specified in this policy, and recommend as a part of the proposed budget necessary changes of budget resources.

(Adopted: RTC 95-018 (1/17/1995); Amended: 96-016 (3/23/1996), 97-002 (1/14/1997), 98-008 (1/13/1998), 98-246 (7/14/1998), 98-264 (7/21/1998), 98-304 (8/18/1998), 99-009 (1/12/1999), 00-020 (1/25/2000), 01-002 (1/9/2001), 02-018 (1/15/2002), 03-021 (1/14/2003), 04-018 (1/13/2004) 05-009 (1/11/2005); (Clerical/clarity update, Policy Update Project 12/2005); 06-038 (2/7/2006); (Index added 5/22/06); 07-036 (01/30/2007); Clarity update (6/21/07); 08-063 (2/26/08); 09-046 (2/24/09); 10-016 (1/26/10); 11-022 (2/8/11); Adopted: RTC 12-009 (2/7/12); Amended: RTC: 12-048 (2/28/12); Updated for clarity (9/5/12); Adopted w/ modification: RTC: 13-020 (1/29/13); Adopted w/ modification: RTC 14-006 (1/7/14); Adopted: Council Policy Update, RTC #14-0061 (November 25, 2014); Adopted w/ modification: RTC: 15-008 (1/6/15); Adopted w/ modifications: RTC 16-0005 (1/5/16); Adopted w/ modifications: RTC 17-0011 (1/10/17); Information Only RTC 17-0132 (1/24/17); Adopted w/ modifications: RTC 17-0632 (6/20/17); Adopted w/ modifications: RTC 18-006 (1/9/18); Adopted: RTC 18-1064 (1/15/19); Adopted RTC 20-0253 (2/25/20))

Lead Department: Office of the City Manager

For Reference see also: 7.4.15 Council Advocacy, 7.4.16 Ballot Measure Positions.

# 2020 Priority Advocacy Issues

## 1. Investment Funding and Local Control for Workforce Development

The City will track and take positions on federal and state proposals that will impact the education and training of the local community's workforce and local elected official's authority over the local workforce development system. This is in alignment with Council Policy 5.0 *Long-term Advocacy Positions - Socio-Economic, Section 5.2 — Economy and Employment and Section 5.3 – Education and Training.*

Financial resources from federal and state governments for workforce development, education and training programs are critical to effectively preparing the workforce for the changing demands of the Silicon Valley's technology-driven economy. Even in a robust economy, workers are being left further behind without the skills to compete in today's highly competitive job market. Individuals that face barriers to reemployment require job-driven retraining, apprenticeships/internships and support services to acquire the skills, credentials and confidence necessary for the new and emerging industries.

The implementation of the federal Workforce Innovation and Opportunity Act (WIOA) has brought new opportunities, as well as potential threats to the local workforce development system. WIOA will not ensure any additional resources to serve the continued high demand from customers. Local government's authority and control over local/regional planning, one-stop procurement and how best to allocate these limited resources may also be diminished. Given the present climate at the state and federal levels and uncertainty with the current Congressional priorities, funding for and local control of workforce development is vulnerable in 2020 and could potentially threaten the sustainability of these local and essential programs and the economic prosperity of this community.

## 2. Interoperability/Public Safety Communications System

Ensuring that our nation's emergency responders can communicate using readily available technology is of the utmost importance. It is a priority for the City to support resolving interoperability problems that affect emergency communications systems, remedying the current shortage of broadcast spectrum availability for public safety needs, and providing funding for interoperable equipment.

The Middle Class Tax Relief and Job Creation Act of 2012 created the First Responder Network Authority (FirstNet). The law gives FirstNet the mission to build, operate and maintain the first high-speed, nationwide wireless broadband network dedicated to public safety. FirstNet provides a single interoperable platform for emergency and daily public safety data communications allowing more flexibility for collaboration. The City supports an efficient, sustainable build-out of the network and may consider joining it when it reaches full capacity.

## 3. Environmental Regulatory & Conservation Issues

Staff will monitor emerging legislation to ensure alignment with the City's interests. Issues of importance to the City include solid waste reduction and recycling; Product Stewardship/ Extended Producer Responsibility programs; marine debris regulation; industrial and municipal storm water permit regulations; potential application of "cap and trade" GHG regulations to landfills; hazardous materials and clean-up of toxic sites; green building standards and requirements; greenhouse gas emissions regulation and climate resiliency; and fossil fuel energy/renewable energy alternatives.

Specific items of interest include:

### Water

The City supports provisions of National Pollutant Discharge Elimination System permit regulations that are attainable and reflect local conditions and circumstances. New regulations and/or permit requirements that include numerical limits for municipal urban runoff discharge should be opposed as an infeasible and very expensive way to address the problem. It is in the City's continued interest to support non-point source discharge regulations, water conservation and recycling and pollution controls that benefit the City. Policies by Regional Water Quality Boards should recognize the goals of the Clean Water Act but apply an appropriate standard based on local circumstances.

### Renewable Energy and Community Choice Aggregation

The City will continue to monitor discussions regarding clean energy issues including energy conservation, renewable energy, energy storage, distributed energy, and Community Choice Aggregation (CCA). It is in the City's interest to support policy that enables, accelerates and supports the deployment of clean energy as the City's effective implementation of the Climate Action Plan is heavily reliant on the local CCA Sunnyvale helped to form, Silicon Valley Clean Energy. The City should monitor legislation that may have a regional and local impact on greenhouse gas emissions to advocate for effective and equitable approaches to emissions reduction.

### AB 32 and SB 32- Climate Change Scoping Plan

The Global Warming Solutions Act of 2006 (AB 32) set the 2020 greenhouse gas emissions reduction goal into law. AB32 required the California Air Resources Board (CARB) to develop a Scoping Plan, which contains the main strategies California will use to reduce the greenhouse gases (GHG) that cause climate change. The Scoping Plan was first approved in 2008 and must be updated every five years. In December 2017, CARB approved the 2017 Climate Change Scoping Plan. This updated plan strengthens existing programs and seeks to further integrate efforts to reduce both GHG and air pollution, guided by the State target to reduce emissions by 40% by 2030, as established by SB 32 in 2016. It is in the City's interest to continue to monitor the progress and implementation of the Scoping Plan as they relate to advancement of the City's climate action goals, impacts to City operations and services, and funding for the City's climate action initiatives.

### SB 1383 and CARB

In September, 2015, CARB announced its intent to ban landfill disposal of food waste and other organics by 2025 in hopes of further reducing methane emissions from landfills. SB 1383 (Lara), signed into law by Governor Brown on September 19, 2016, reinforced CARB's focus on diverting organics from landfill. The bill establishes 2014 disposal as a baseline, then sets a state target of reducing disposal 50% by 2020 and 75% by 2025. CalRecycle is expected to have final regulations during the first quarter of 2020. The City is incorporating SB 1383 implementation plans into the development of the waste hauler franchise agreement. Diverting more organics from disposal is consistent with the goals of the City's Zero Waste Strategic Plan and Climate Action Plan. However, creating the infrastructure needed to process the additional food waste required to meet these goals will require overcoming significant statewide challenges. The City should advocate for legislation that addresses these challenges, including funding, siting and land use and environmental permitting. The City should also support any legislation that provides funding for local agencies to build infrastructure to utilize organic waste to produce renewable energy or biofuels.

## COUNCIL POLICY MANUAL

It is in the City's interest to continue to monitor the progress and implementation of these efforts as they relate to its utility functions of wastewater, water, and solid waste management and to the City's greenhouse gas reduction goals and approaches.

### South Bay Salt Ponds

The salt pond conversion project, to restore the salt ponds to their natural ecosystem and provide flood protection, is ongoing. A large amount of fresh water enters the San Francisco Bay from wastewater treatment plants in South Bay cities, including Sunnyvale. These inputs of freshwater are included in the hydrodynamic modeling work conducted to evaluate the impact of alternatives on such things as salinity, water quality, and water levels. The project should be tracked, due to its proximity and possible impact on the City's Water Pollution Control Plant.

### South Bay Shoreline Protection Project

Shoreline areas along San Francisco Bay, including Sunnyvale, risk damages from coastal flooding, with potential impacts to human health and safety, due to future sea level rise. The South San Francisco Bay Shoreline Project is a Congressionally authorized study by the US Army Corps of Engineers together with the Santa Clara Valley Water District and the State Coastal Conservancy to identify and recommend flood risk management projects for Federal funding. The Corps is looking at projects that will reduce flood risk, restore some of the region's lost wetlands, and provide related benefits such as recreation and public access. This project, and other Bay Area resiliency planning efforts, should be tracked into ensure that Sunnyvale's infrastructure and community assets are considered and protected as the Bay Area plans and constructs resiliency projects.

### California Environmental Quality Act Reform

The California Environmental Quality Act (CEQA) is recognized as an important tool for ensuring public disclosure of potentially significant environmental impacts from development projects and ensuring adequate mitigation measures are included to reduce or avoid these impacts. After growing concerns that some groups were using CEQA inappropriately to derail a project and not truly predicated on environmental concerns, the legislature passed SB743 to modify the expedited judicial review provisions for environmental leadership projects and streamline some provisions for infill projects in transit priority areas. SB 743 removed parking, transportation Level-of-Service (LOS), and aesthetics standards as grounds for legal challenges against project developments in urban infill areas. These standards are most commonly used in CEQA litigation to slow or terminate a new development project. The standards will remain in place to demand a higher threshold for green-field developments. It is expected that additional CEQA reform will be necessary in the future.

### Industrial Clear-cut Logging in California

The City supports prohibitions on industrial clear-cut logging of forests in California. The Sierra Club reports that such deforestation degrades water quality in the areas where the activity takes place, impacts wildlife habitat, reduces the capacity for carbon sequestration as a greenhouse gas reduction strategy, and makes the impacted area less resistant to fire. While such practices do not impact Sunnyvale's current water supply (it is not allowed in the Hetch Hetchy watershed and it does not impact Delta supply), the City has broader interest in the health of California's forests and watersheds. Additionally, the City's Climate Action Plan objectives are well aligned with the interest to protect the carbon sequestration capacity that can be threatened by clear-cutting.

## 4. Regional and State-wide Water Supply Issues

Over 95% of Sunnyvale water comes from two sources - the Hetch Hetchy Reservoir through the San Francisco Public Utilities Commission (SFPUC) and Valley Water's State Water Project or Central Valley Project. While we are no longer in drought, water conservation must remain a way of life in California. Sunnyvale already has water waste prohibitions in effect to make conservation a way of life, as listed in Sunnyvale Municipal Code 12.34.020.

The Bay Area Water Supply and Conservation Agency (BAWSCA), SFPUC and the Valley Water lead regional water supply issues. However, it is important for the City to stay current on the water resource issues to lend advocacy support when needed.

## 5. Local Authority Over Wireless Telecommunications Facilities

The wireless telecommunications industry has made efforts to limit or exempt local control over projects such as new wireless facilities. Several actions by federal and state lawmakers have resulted in (1) limiting local authority of wireless telecommunications facility to aesthetics, and not Radio Frequency (RF) exposure or the need for facilities; (2) requiring local agencies to complete review of projects within a specified timeframe; and, (3) exempting a type of wireless facility from local permit authority because it is considered a "public utility." Most recently, the FCC streamlined wireless infrastructure deployment of 5G infrastructure (small cell facilities) and shortened the review timeframe from 90 days to 60 days for co-locations and from 150 days to 90 days for new facilities. Per this order, the short clock will start even if the local agency refuses to accept an incomplete application and only gives the local agency 10 days to issue an incompleteness notice.

Additionally, in January of 2019, an FCC order pertaining to small cell facilities now prohibits a city from refusing to allow use of city-owned property in the ROW (such as poles) for wireless deployment, as this would have the effect of prohibiting wireless service. These efforts continue to erode the City's ability to effectively regulate wireless telecommunications facilities and continue to remove the City's local authority on facilities that directly affect a city's residents.

## 6. PG&E Restructuring

On January 29, 2019, Pacific Gas and Electric (PG&E) filed for Chapter 11 bankruptcy due to liability issues stemming from several devastating wildfires in California. PG&E has until June 30 to finalize a restructuring plan that gains the Governor's approval before seeking final bankruptcy approval from a judge. PG&E could face a possible State intervention if the deadline is missed. There are currently three competing proposals to resolve the bankruptcy: PG&E's restructuring plan, Mayor Liccardo's customer-owned utility model, and SB 917 (Wiener) publicly-owned model.

- *PG&E Restructuring Plan:* this reorganization plan would address PG&E's pre-Chapter 11 obligations to creditors and other stakeholders, including wildfire victims. The plan also promises to regionalize the company's operations and infrastructure, operationalize and prioritize safety, pay \$25 billion in value to wildfire victims, and assuming all bargaining agreements, including pension obligations.
- *Customer-owned utility model:* Spearheaded by San Jose Mayor San Liccardo, a coalition of over 200 mayors and local elected officials proposes to transition PG&E into a customer-owned utility. As a privately-owned nonprofit entity, the customer-owned company would assume all current collective bargaining agreements, pay all local property taxes and franchise fees (but be exempt from federal income tax), and make the requisite \$5 billion contribution to the AB 1054 fund. Proponents commit to compensating wildfire victims in cash, not stock like the PG&E plan. PG&E opposes this option.

- *Publicly-owned model:* SB 917 (Wiener) proposes transitioning PG&E into a government run, publicly-owned utility by using eminent domain to force the company's stockholders to sell their shares to the State. The State would pay for the takeover by issuing public bonds. SB 917 proposes to create a public benefit corporation that would be contracted by the State, allowing current labor agreements and pensions to remain intact. Both PG&E and its largest labor union oppose this plan.

Any restructuring of PG&E will have major impact to our residents and businesses. The City supports efforts to provide affordable, reliable, diverse, safe, and environmentally acceptable power to the citizens and businesses of Sunnyvale (Council Policy 3 – Environmental Management, Policy 5.1 Energy). Staff will monitor proceedings closely and support efforts that improve safety, reliability, promote the City's clean energy goals, and are cost-effective for consumers.

## 7. School Mitigation Fees

Assembly Bill 2926 (1986) authorized school districts to levy development fees to pay for new school facilities. Maximum fees are set by the State every two years based on inflation. The school fees are earmarked for improving and expanding school facilities to serve the school-age population that would be generated from new development. Land values and construction costs have dramatically increased since 1986 and the current adjusted maximum rate does not adequately mitigate the school impacts from new development.

Consideration should be given to increasing the allowable school mitigation fees. Cities and school districts are constrained by the amount set by the State, and the current rate does not adequately cover the cost for new facilities and enhancements to existing facilities. This places a strain on school districts to implement their school modernization programs while also responding to the pressures of increasing enrollment. The City supports efforts by the State Legislature and/or Allocation Board to increase the rates and/or inflation calculator to more realistically reflect current school facility costs, or consider other provisions to allow school districts to effectively mitigate the impacts of new development.

## 8. Massage Therapy

In response to AB 1147, the City amended SMC 9.41 to comply with revised state law. AB 2194 (Bonilla) extended the sunset date of the California Massage Therapy Council to January 1, 2021 and made some changes to the existing state regulation of massage businesses. Staff will continue to monitor this legislation that effects state and local laws related to the massage industry.

## 9. Anticipated Legislation regarding the use of Unmanned Aircraft Systems by Law Enforcement and First Responder Immunity when interfering with Unmanned Aircraft Systems

Staff will continue to monitor future legislative proceedings closely and support any legislation that: allows local governments to adopt ordinances governing the safe use of UAS; places reasonable restrictions on law enforcement regarding use of unmanned aircraft systems; and releases liability restrictions on law enforcement agencies that interfere with drones posing a threat to emergency services.

## 10. Medical Marijuana/ Recreational Marijuana

In response to Proposition 64, decriminalizing marijuana in California and providing state regulation of the

recreational marijuana business, the City of Sunnyvale maintained the status quo, banning all commercial marijuana activities. The City amended chapter 9.86 the Sunnyvale Municipal Code and various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the city to expressly include non-medical marijuana. To remain consistent with state law, the City placed reasonable regulations on indoor personal cultivation of marijuana, and prohibited the outdoor personal cultivation of marijuana.

The City has supported legislation that fundamentally promotes public health and safety, while sustaining the ability of local agencies to appropriately regulate businesses and recover costs. Staff will continue to monitor future legislative proceedings and support any legislation that maintains this position. Additionally, staff will support state legislation that promotes public health and safety by mirroring Sunnyvale's existing restrictions imposed on smoking in outdoor areas and public gathering places.

### 11. Affordable Housing and Homelessness

Affordable housing and homelessness have been topics of intense public interest in the City and region for many years. Public interest in the topic tends to increase sharply during times of economic booms, and wane in times of recession, as home prices and rents (affordability levels) rise and fall, in relative terms. Currently the City and the region are facing housing affordability and supply deficiencies at a level not seen since before the 2008 recession. Cities around the region and in many other major metropolitan areas around the country are struggling to address homelessness and housing affordability concerns of residents and workers, including a severe shortage of housing affordable to lower- and moderate-income households in many California cities.

Housing and homelessness continue to be urgent statewide concerns, leading to increasing public debates about causes and possible solutions. The 2019 legislative season produced a record number of new housing bills which were signed by the Governor. These new bills aim to address the State's shortage of housing at all levels of affordability, and the increase in homelessness across many parts of the State. The new requirements generally consist of new reporting and transparency requirements, new streamlined processes for reviewing new housing development proposals, new standards for processing residential planning applications, and new rent control and tenant protections.

The federal government continues to threaten reduced funding for Community Development Block Grants (CDBG) and HOME grants, which the City uses to fund a variety of human service programs and affordable housing developments. While the various grant programs have remained in the budget the past few years, funding amounts continue to decrease while demands for services steadily rise.

The City has been a regional leader in implementing various policies and programs to provide housing in a variety of types and affordability levels for decades, and continues to refine and implement its programs and policies. The City's advocacy efforts are generally guided by the 2015-2023 Housing Element of the General Plan and the 2015-2020 HUD Consolidated Plan. In addition, staff recommends the City focus advocacy efforts on:

- Encouraging the state and federal governments to provide more resources (funding, legal authority, technical support, streamlining of burdensome administrative requirements associated with federal funding, etc.) to local governments to address local housing needs, which includes housing people who are currently homeless, and providing the most vulnerable homeless people with supportive services to help them maintain their housing.
- Encouraging its neighboring cities within the County, particularly in those in North County, to do



more to supply their respective fair shares of affordable housing and to play a more active role in supporting the County in its efforts to establish facilities, housing, and programs for homeless residents within their respective city limits. Play a role in the upcoming Regional Housing Needs Allocation process.

- Encouraging the State and County to provide funding resources for the development of affordable rental units within a reasonable commuting distance to the workplaces, and encourage the development of higher-density housing near jobs and transit-rich areas to address the shortage of workforce housing and “missing middle-income” housing. Actively follow the development of the Bay Area Housing Finance Authority, which was created through 2019 legislation as part of the CASA Compact.

The City will engage in constructive dialogue with the State to seek realistic solutions to local fiscal challenges and challenges in meeting local affordable housing goals, and discourage adopting measures that reduce local control and are mainly punitive in nature. Federal advocacy shall focus on encouraging level or increased federal funding for affordable housing and community development programs for local governments; preserving and strengthening the low-income housing tax credit (LIHTC) program and federal tax exemptions for private activity bonds (PAB).

## 12. Engagement with the Federal Aviation Administration Regarding Airplane Noise

The City continues to track air noise activity on multiple fronts and from multiple sources that impact our residents. In Sunnyvale, the source of air noise comes from various activities from regional international airports, general aviation airports, and Moffett Federal Airfield. Ultimately, the Federal Aviation Administration (FAA) is primarily responsible for air traffic control and our region continues to advocate for air noise mitigation. While the City does not have direct authority over air space, City staff will continue to work with regional agencies and federal representatives and authorities to mitigate the effect on our residents.

## 13. Local Government Financing to Support Public Infrastructure, Including Affordable Housing

Among the top priorities for many cities and counties is the need to repair, maintain and build new infrastructure to keep up with population and economic growth. Infrastructure projects such as fixing streets and roads, constructing public safety facilities, upgrading water and sewer systems, deploying broadband for internet connectivity and maintaining parks, while critical, are very expensive to fund. Many times, local governments rely on state and federal funding initiatives that may only partially fund prioritized projects. Sunnyvale supports initiatives that help fund prioritized infrastructure projects that improve the quality of life of its residents.

# 2019 Legislative Advocacy Positions

No additional short-term Advocacy Positions have been identified for 2020 that aren't already reflected in the 2020 Priority Advocacy Issues.