



# City of Sunnyvale

## Meeting Minutes City Council

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Tuesday, October 27, 2020

5:30 PM

City Web Stream | Comcast Channel 15

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**Special Meeting: Closed Session - 5:30 PM | Regular Meeting - 7 PM**

### **5:30 P.M. SPECIAL COUNCIL MEETING (Closed Session)**

#### **Call to Order**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting was conducted telephonically.

Mayor Klein called the meeting to order at 5:32 p.m. via teleconference.

#### **Roll Call**

**Present:** 7 - Mayor Larry Klein  
Vice Mayor Nancy Smith  
Councilmember Gustav Larsson  
Councilmember Glenn Hendricks  
Councilmember Russ Melton  
Councilmember Michael S. Goldman  
Councilmember Mason Fong

Mayor Klein, Vice Mayor Smith and all Councilmembers attended via teleconference.

#### **Public Comment**

Public Comment opened at 5:34 p.m.

No speakers.

Public Comment closed at 5:34 p.m.

#### **Convene to Closed Session**

**A**      [20-0833](#)      Closed Session held pursuant to California Government Code Section 54956.8:  
CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Property: Acquisition of 970 W Evelyn Ave, Sunnyvale, CA -

APN 165-20-017

Agency negotiator: Kent Steffens, City Manager; Chip Taylor, Director of Public Works; and Sherine Nafie, City Property Administrator

Negotiating parties: Edward Woodhall, Owner

Under negotiation: Price and terms

**B**      [20-0667](#)      Closed Session Held Pursuant to California Government Code Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency Designated Representatives: Tina Murphy, Director of Human Resources; Kent Steffens, City Manager; Charles Sakai, Labor Attorney

Employee Organization: Public Safety Officers Association (PSOA)

### **Adjourn Special Meeting**

Mayor Klein adjourned the meeting at 6:44 p.m.

### **7 P.M. COUNCIL MEETING**

#### **CALL TO ORDER**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting was conducted telephonically.

Mayor Klein called the meeting to order at 7:00 p.m. via teleconference.

#### **ROLL CALL**

**Present:** 7 - Mayor Larry Klein  
Vice Mayor Nancy Smith  
Councilmember Gustav Larsson  
Councilmember Glenn Hendricks  
Councilmember Russ Melton  
Councilmember Michael S. Goldman  
Councilmember Mason Fong

Mayor Klein, Vice Mayor Smith and all Councilmembers attended via teleconference.

**CLOSED SESSION REPORT**

Vice Mayor Smith reported that Council met in Closed Session held pursuant to California Government Code Section 54956.8: CONFERENCE WITH REAL PROPERTY NEGOTIATORS Property: Acquisition of 970 W Evelyn Ave, Sunnyvale, CA APN 165 20 017 Agency negotiator: Kent Steffens, City Manager; Chip Taylor, Director of Public Works; and Sherine Nafie, City Property Administrator Negotiating parties: Edward Woodhall, Owner Under negotiation: Price and terms; nothing to report.

Vice Mayor Smith reported that Council met in Closed Session Held Pursuant to California Government Code Section 54957.6: CONFERENCE WITH LABOR NEGOTIATORS Agency Designated Representatives: Tina Murphy, Director of Human Resources; Kent Steffens, City Manager; Charles Sakai, Labor Attorney Employee Organization: Public Safety Officers Association (PSOA); nothing to report.

**ORAL COMMUNICATIONS**

Vice Mayor Smith announced details of COVID-19 testing availability at the Sunnyvale Murphy Park Building and testing availability via Santa Clara County. She also announced the current recruitment for various Boards and Commissions and applications are being accepted for the Neighborhood and Community Events Grant Program.

Kristel Wickham spoke towards the upcoming November 3 election.

Christophe LaBelle spoke about an officer involved shooting of Walter Wallace Jr. and shared support for policies that reduce violence at the hands of police officers.

Michael Johnson, Executive Director, Sunnyvale Downtown Association shared details of the Stronger Together campaign and of the Holiday Tree Lighting Celebration.

Holly Lofgren spoke towards the upcoming November 3 election and shared concerns regarding the impact of independent expenditures supporting Sunnyvale candidates on local elections.

**CONSENT CALENDAR**

MOTION: Vice Mayor Smith moved and Councilmember Melton seconded the

motion to approve agenda items 1.A through 1.G.

The motion carried with the following vote:

**Yes: 7 -** Mayor Klein  
Vice Mayor Smith  
Councilmember Larsson  
Councilmember Hendricks  
Councilmember Melton  
Councilmember Goldman  
Councilmember Fong

**No: 0**

**1.A**     [20-0027](#)     Approve City Council Meeting Minutes of October 13, 2020

Approve the City Council Meeting Minutes of October 13, 2020 as submitted.

**1.B**     [20-0733](#)     Approve the List(s) of Claims and Bills Approved for Payment  
by the City Manager

Approve the list(s) of claims and bills.

**1.C**     [20-0244](#)     Appoint a City of Sunnyvale Community Member  
Representative to the Valley Transportation Authority Bicycle  
and Pedestrian Advisory Committee

Appoint Mr. Timothy Oey as Sunnyvale's community member representative for the Santa Clara Valley Transportation Authority Bicycle and Pedestrian Advisory Committee for a two-year term, which begins retroactively on July 1, 2020 and ends on June 30, 2022.

**1.D**     [20-0804](#)     Award of Contract to Kimley Horn & Associates, Inc., for Signal  
Coordination and Timing Optimization (F20-144)

Take the following actions:

- Award a consultant services agreement in the amount not-to-exceed \$372,050 in substantially the same form as Attachment 1 to the report to Kimley Horn & Associates, Inc.;
- Approve a 10% contingency in the amount of \$37,205; and
- Authorize the City Manager to execute the contract when all necessary conditions have been met.

**1.E**     [20-0363](#)     Acceptance of Google Inc.'s Donation of Voluntary Bicycle and

Pedestrian Facility Improvements (Phase 1 and Phase 2) on Manila Drive/West Moffett Park Drive with an Estimated Construction Cost of \$2,575,800 and Finding of Exemption from the California Environmental Quality Act

Accept Google Inc.'s donation of voluntary bicycle and pedestrian facility improvements (Phase 1 and Phase 2) on Manila Drive/West Moffett Park Drive with an estimated construction cost of \$2,575,800 and make a finding that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c) existing streets, sidewalks, bicycle lanes and facilities involving negligible or no expansion and that does not create additional automobile lanes.

- 1.F**      [20-0853](#)      Ratify Vice Mayor Smith's Appointment to the League of California Cities Women's Caucus as Immediate Past President; Re-appoint Councilmember Glenn Hendricks to the Valley Transportation Authority Board of Directors as the City of Sunnyvale Representative

Council ratifies Vice Mayor Smith's appointment to the League of California Cities Women's Caucus as immediate past president and re-appoints Councilmember Hendricks to the Valley Transportation Authority Board of Directors as the City of Sunnyvale Representative.

- 1.G**      [20-0906](#)      CONTINUED FROM OCTOBER 13, 2020.  
Approve Participation in the Bay Area Air Quality Management District Spare the Air Cut the Commute Pledge

Approve participation in the Bay Area Air Quality Management District Cut the Commute Pledge with the aspirational goal to extend remote work options by at least 25 percent for employees whose work requirements allow for that flexibility to improve air quality and quality of life for all Bay Area residents. Implementation details of the remote work policy will be determined by the City Manager.

### **PUBLIC HEARINGS/GENERAL BUSINESS**

- 2**      [20-0814](#)      Approve a Phased Reach Codes Program and implement Phase 1 for new Residential and Non-Residential Construction Projects: Introduce an Ordinance to Amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) and Find that the Action is Exempt from CEQA

Councilmember Fong stated he is a Tesla shareholder, recused himself, and left the teleconference meeting at 7:23 p.m.

Chief Building Official Suzanne Park provided the staff report and presentation.

Public Hearing opened at 8:20 p.m.

Kerry Haywood voiced support for the ordinance and of the Reach Codes Program phase levels as presented. She shared concerns with increased demands on electric grids.

Barbara Fukumoto communicated support of the new construction Reach Codes, making exceptions to the all-electric code on a case by case basis and adjusting the electric vehicle (EV) charging infrastructure requirement to categorize hotels and motels as “other non-residential.”

Radhika Agarwal, on behalf of Sunnyvale-Silicon Youth Climate Action Team (Action Team) spoke towards modifications to the Reach Codes related to non-residential kitchens, the implementation timeline for Phase 3 and EV infrastructure requirements for hotels and motels.

Mike Serrone, on behalf of Sunnyvale Democratic Club shared support for the Reach Codes Program specifically the EV charging infrastructure requirements.

Peri Plantenberg, Co-Lead, Action Team voiced support for the Action Team’s recommendations for the Reach Codes.

Kaushik Tota, President, Sunnyvale Youth Public Policy Institute (Institute) and Action Team member spoke towards strengthening the proposed Reach Codes related to data servers and non-residential kitchens.

Annabelle Law, Action Team member communicated support for the Action Team’s recommendations for the Reach Codes.

Shruti shared support for an all-electric reach code and for an implementation timeline for Phase 3.

Bruce Paton voiced support for the phased approach recommendation for the Reach Codes program. He encouraged Council to consider increasing the EV

installation requirements and combining Phases 1 and 2.

Rani Fischer communicated support for making exceptions for commercial kitchens on a case by case basis.

Rathik Murtinity, Institute member shared support for increasing Sunnyvale's EV charging infrastructure.

Doug Kunz urged Council to consider eliminating the exceptions related to non-residential kitchens and buildings with industrial and process loads.

Kristel Wickham, Sustainability Commission Chair spoke towards the Commission's recommendations for the Reach Codes program; specifically, eliminating Exception 1 (buildings with industrial and process loads) and Exception 4 (non-residential kitchens).

Kristel Wickham, speaking on her on behalf voiced support for establishing a Phase 3 implementation timeline.

Sannath Mathapathi, Institute member communicated support for increasing EV requirements for hotels and motels, specifically changing section 5.106.5.3 to increase the percentage of parking spaces required to be EV-ready.

Anika Khandavalli, Action Team member shared support for the Action Team's recommendations for the Reach Codes.

John Supp, Silicon Valley Clean Energy (SVCE) spoke towards level 1 EV chargers and shared details of the free technical assistance program offered by SVCE.

Bruce Nagel voiced support for installation of software controls that manage EV charging infrastructure.

Mallory Mitton, Action Team member communicated support for the Action Team's recommendations for the Reach Codes.

James Tuleya shared support for Reach Codes related to all-electric and EV infrastructure. He spoke towards making exceptions for commercial kitchens on a case by case basis.

Public Hearing closed at 9:09 p.m.

MOTION: Councilmember Hendricks moved and Councilmember Goldman seconded the motion to approve Alternative 2: approve a Phased Reach Codes Program and implement Phase 1 for new Residential and Non-Residential construction projects and introduce an Ordinance to amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) and find that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15308, 15305 and 15061 with the following modifications:

- Develop a new all-electric exception to cover other electric sources not on the grid; Set Electric Vehicle Charging Infrastructure Requirements:

- New multi-family residential construction (no size project limitations) have 70% of spaces at EV capable – conduit provided and 30% at level 2 EV ready circuit – outlet provided;

- Hotels and motels have 50% of spaces at EV capable – conduit provided and 20% at level 2 EV ready circuit – outlet provided;

- Office building have 35% of spaces at EV capable – conduit provided and 35% at level 2 EV charging station; and

- Single-family, including duplexes and townhomes, have unassigned spaces at 70% with EV capable – conduit provided and 30% at level 2 EV ready circuit – outlet provided.

FRIENDLY AMENDMENT: Councilmember Goldman offered a friendly amendment that “other non-residential” have 20% at level 2 EV charging station and affordable housing be the same as market rate housing (70% of spaces at EV capable – conduit provided and 30% at level 2 EV ready circuit – outlet provided).

Councilmember Hendricks restated the friendly amendment that “other non-residential” have 35% of spaces at EV capable – conduit provided and 35% at level 2 EV charging station, that there be no “affordable housing” category and accepted the friendly amendment.

FRIENDLY AMENDMENT: Vice Mayor Smith offered a friendly amendment to make exceptions for commercial kitchens on a case by case basis.

Councilmember Hendricks declined to accept the friendly amendment.

Following discussion, Councilmember Hendricks clarified the motion that new

multi-family residential construction have 70% of spaces at level 1 ready circuit – outlet provided, instead of EV capable – conduit provided.

FRIENDLY AMENDMENT: Councilmember Melton offered a friendly amendment to eliminate exception 4 – non-residential kitchens.

Councilmember Hendricks accepted the friendly amendment.

FRIENDLY AMENDMENT: Vice Mayor Smith offered a friendly amendment to add a new exception for natural gas fuel cell technology on a case by case basis.

Councilmember Hendricks accepted the friendly amendment.

Following discussion, Vice Mayor Smith stated the intent of the friendly amendment is to include exceptions for a variety of additional energy sources not just natural gas fuel cells.

FRIENDLY AMENDMENT: Councilmember Melton offered a friendly amendment for the second reading of the Ordinance to occur at the December 1, 2020 Council meeting.

Councilmember Hendricks accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Melton offered a friendly amendment to direct staff to conduct public outreach to organizations in the field of affordable housing.

Councilmember Hendricks declined to accept the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Larsson offered a friendly amendment to direct staff to make the Ordinance available for public review by November 17, 2020 and distribute to interested parties.

Councilmember Hendricks accepted the friendly amendment.

City Clerk David Carnahan read the Ordinance title for the record.

The motion carried with the following vote:

**Yes: 6 -** Mayor Klein  
Vice Mayor Smith  
Councilmember Larsson  
Councilmember Hendricks  
Councilmember Melton  
Councilmember Goldman

**No: 0**

**Recused: 1 -** Councilmember Fong

Council took a recess at 10:41 p.m. and reconvened at 10:50 p.m. with Mayor Klein, Vice Mayor Smith and Councilmembers Larsson, Hendricks, Melton and Goldman present via teleconference. Councilmember Fong returned at 10:50 p.m.

**3**      [20-0799](#)      Award of Bid No. PW20-16 to Hensel Phelps Construction Co. for Civic Center Modernization Phase 1

Assistant City Engineer Allison Boyer, Assistant Public Works Director Jennifer Ng, Public Works Director Chip Taylor and City Manager Kent Steffens provided the staff report and presentation.

Public Hearing opened at 11:25 p.m.

Alex Caraballo, International Brotherhood of Electrical Workers (IBEW) shared concerns with the bid and project. He suggested Council deny the project unless a suitable electrical contractor is used.

Will Smith, Business Representative, IBEW Local 332 spoke towards “low-road” contractors and voiced concerns regarding the bid.

Mike Serrone communicated support for the project and spoke towards the 6-week bid process.

Public Hearing closed at 11:35 p.m.

MOTION: Councilmember Hendricks moved and Councilmember Melton seconded the motion to approve Alternative 1:

- Award a construction contract in substantially the same form as Attachment 2 to the report in the amount of \$174,116,999.92 to Hensel Phelps Construction Co.;

- Authorize the City Manager to execute the construction contract when all necessary conditions have been met; and
- Approve an 8.2% construction contingency in the amount of \$14,277,594.

The motion carried with the following vote:

- Yes:** 4 - Mayor Klein  
Councilmember Larsson  
Councilmember Hendricks  
Councilmember Melton
- No:** 3 - Vice Mayor Smith  
Councilmember Goldman  
Councilmember Fong

MOTION: Councilmember Hendricks moved and Vice Mayor Smith seconded the motion to hear Agenda Item 4:

The motion carried with the following vote:

- Yes:** 4 - Mayor Klein  
Councilmember Larsson  
Councilmember Hendricks  
Councilmember Fong
- No:** 3 - Vice Mayor Smith  
Councilmember Melton  
Councilmember Goldman

- 4**      [20-0314](#)      Introduce an Ordinance to Amend Chapter 9.28 (Regulation of Smoking) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code to Prohibit the Sale of Flavored Tobacco Products (Study Issue)

Neighborhood Preservation Manager Christy Gunvalsen provided the staff report and presentation.

Public Hearing opened at 12:38 a.m.

Bob Gordan, Tobacco-Free Coalition of Santa Clara County member spoke towards health risks related to hookah use and shared support for prohibiting the sale of flavored tobacco products.

Carol Baker, Co-Chair, Tobacco-Free Coalition of Santa Clara County and Volunteer Ambassador, American Cancer Society spoke towards health risks related to tobacco products. She communicated support for exempting hookahs.

Jaime Rojas, National Association of Tobacco Outlets shared information from the California Healthy Kids Survey about teen smoking trends in Santa Clara County. He voiced opposition to imposing a ban on flavored tobacco products.

Blythe Young, Community Advocacy Director, American Heart Association shared support for the Ordinance and of a local Tobacco Retailer License (TRL) requirement.

Amresh Prasad, Chair, Breathe California of the Bay Area communicated support for implementing a TRL administered by Santa Clara County.

Vanessa Marvin, Co-Chair, Tobacco-Free Coalition of Santa Clara County shared support for prohibiting the sale of flavored tobacco products with no exemptions.

Owner of a smoke shop located on Murphy Avenue requested Council not approve the Ordinance and instead rely on the statewide ban on flavored tobacco products.

Hanah, My Smoke Shop communicated support for not imposing a ban on flavored tobacco products.

John Maa, Chair, American Heart Association's California Advocacy Committee spoke towards health risks and associated hidden costs related to tobacco products. He voiced support for the Ordinance.

Hoo Alomari shared opposition to the Ordinance.

Public Hearing closed at 1:03 a.m.

MOTION: Councilmember Melton moved and Councilmember Hendricks seconded the motion to approve Alternative 1: introduce an Ordinance to amend the Sunnyvale Municipal Code Chapter 9.28 to prohibit the sale of flavored tobacco products.

City Clerk David Carnahan read the Ordinance title for the record.

The motion carried with the following vote:

- Yes:** 6 - Mayor Klein  
 Vice Mayor Smith  
 Councilmember Larsson  
 Councilmember Hendricks  
 Councilmember Melton  
 Councilmember Goldman

- No:** 1 - Councilmember Fong

- 5      [20-0905](#)      CONTINUED FROM OCTOBER 13, 2020.  
 Receive and File the FY 2020/21 First Quarter Budget Update  
 and Approval of Budget Modification No. 8 in the Amount of  
 \$1,932,000 to Appropriate CARES Act Funding

Agenda item not heard by Council.

- 6      [20-0865](#)      Approve the Master Plan for Public Art, Introduce an  
 Ordinance Amending Sunnyvale Municipal Code Chapter  
 19.52 (Art in Private Development) to Increase the Percent for  
 Art Requirement from 1% to 1.5%, Implementing Option 2A of  
 the Public Art Master Plan; and Allocate \$50,000 from the  
 Public Art Fund to Implement a Utility Box Art Project.

Agenda item not heard by Council.

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

Agenda item not heard by Council.

**NON-AGENDA ITEMS & COMMENTS**

**-Council**

Agenda item not heard by Council.

**-City Manager**

Agenda item not heard by Council.

**INFORMATION ONLY REPORTS/ITEMS**

- [20-0319](#)      Tentative Council Meeting Agenda Calendar

[20-0782](#) Board/Commission Meeting Minutes

[20-0803](#) Information/Action Items

**ADJOURNMENT**

Mayor Klein adjourned the meeting at 1:15 a.m.