

Proposed 2016 Priority Issues and Legislative Advocacy Positions

2016 Priority Issues

1. Investment Funding and Local Control for Workforce Development

“Investment Funding and Local Control for Workforce Development” will continue to be a Priority Issue for the City in 2016. 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 and churn of the Silicon Valley technology-driven economy as new industries replace the obsolete. Even in an economic recovery, workers are being left further behind without the skills to compete in today’s demanding market place. In California, 30 percent of the unemployed are considered long-term unemployed, specifically, out of work for 27+ weeks, which is above the national share of 26.8 percent. These workers, who may face barriers to employment, require job-driven retraining and support services for the skilled employment that the new and emerging industries will bring. The implementation of the federal Workforce Innovation and Opportunity Act (WIOA) will offer new opportunities, as well as threats to the local workforce development system. WIOA will not ensure any additional resources to serve the continued high demand from customers, and local government’s authority and control over local/regional designation, one-stop procurement and how best to allocate these limited resources may be diminished. Given the current climate at the state and federal levels, funding for and local control of workforce development in this region is vulnerable in 2016 and could potentially threaten the sustainability of these local and essential programs and the economic prosperity of this community.

The City department will continue to apply for state and federal grants to address customer need and achieved some success in 2015 with several State grant awards for the Electric Vehicles project, Slingshot initiative, Workforce Accelerator and an Additional Assistance grant. In addition, over the years, the department has applied for and received a variety of federal grants and support from the private sector. 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*.

2. Interoperability/Public Safety Communications System

The Silicon Valley Regional Interoperability Authority (SVRIA) represents the interests of all public safety agencies in Santa Clara County through its 15 municipal members. SVRIA was formed to provide interoperable communications solutions to its members. SVRIA exists to identify, coordinate and implement communications interoperability solutions to its member agencies. The purpose of these projects is to seamlessly integrate voice and data communications between law enforcement, fire and rescue service, emergency medical services and emergency management for routine operations, critical incidents and disaster response and recovery. SVRIA provides consolidated guidance and participation in larger regional efforts including participation in the Bay Area Regional Interoperable Communications System (BayRICS) that represents the Bay Area Urban Area Security Initiative (UASI) 10 county region.

One of the prominent issues in public safety communications today is interoperability, defined by many as “the ability for public safety first responders to communicate with whom they need to, when they need to, when authorized.” Ensuring that our nation’s emergency responders can communicate effectively is of the utmost importance, whether during everyday situations, localized emergencies, statewide emergencies or

national emergencies. 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.

On February 22, 2012, the Middle Class Tax Relief and Job Creation Act 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 will provide a single interoperable platform for emergency and daily public safety communications. This network is designed to bring together voice and data communications throughout the nation allowing more flexibility for collaboration. In 2015, the City will continue to monitor and potentially perform advocacy at the local, state and federal level to encourage the establishment of the network and an efficient sustainment model.

3. Environmental Regulatory & Conservation Issues

Continued interest in environmental issues at both the state and federal levels will likely result in regulations and legislation that could significantly impact the City. Monitoring and advocacy efforts will be geared to ensuring that emerging legislation is in 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 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. Along the same lines, new regulations and/or permit requirements that include numerical limits for municipal urban runoff discharge should be opposed as infeasible and a 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 related issues including energy conservation, renewable energy, energy storage, distributed energy, and Community Choice Aggregation. It is in the City's interest to support policy that enables, accelerates and supports the deployment of clean energy. The City has particular interest in any discussions related to Community Choice Aggregation as it has a potentially large impact on the City's Climate Action Planning efforts. The City should be aware of any legislation that may have a regional and local impact on greenhouse gas emissions.

AB 32

AB 32, the Global Warming Solutions Act of 2006, set the 2020 greenhouse gas emissions reduction goal into law. In 2008, the State approved the AB 32 Scoping Plan, which contains the main strategies California will use to reduce the greenhouse gases (GHG) that cause climate change. The initial Scoping Plan has a range of GHG reduction actions which include direct regulations,

alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions market-based mechanisms such as a cap-and-trade system, and an AB 32 program implementation fee regulation to fund the program. In 2014, the California Air Resources Control Board (CARB) approved the first update to the AB 32 Scoping Plan to highlight progress to date, refine program parameters, defines priorities for the next five years, and sets the foundation for how post 2020 reduction targets will be achieved. The updated Scoping Plan focuses on nine key topics areas for the post-2020 element. These include: (1) transportation, fuels, and infrastructure, (2) energy generation, transmission, and efficiency, (3) waste, (4) water, (5) agriculture, (6) natural and working lands, (7) short-lived climate pollutants, (8) green buildings, and (9) the cap and trade program.

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. Diverting more organics from disposal would be consistent with the City's Zero Waste Strategic Plan goals. However, creating the composting and anaerobic digester infrastructure needed to process the additional food waste would require overcoming significant statewide funding, siting and land use and environmental permitting challenges. It is in the City's interest to continue to monitor progress and implementation of all 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.

Sunnyvale 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 will be 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 Management Team (Team) is comprised of the California State Coastal Conservancy, the California Department of Fish and Game, the U.S. Fish and Wildlife Service, Santa Clara Valley Water District, Alameda County Flood Control and Water Conservation District, and the U.S. Army Corps of Engineers, as well as the Lead Scientist and Collaborative Process Coordinator. The Team will work with local treatment plants to gather data needed for the modeling effort, and to determine if there are opportunities for further collaboration. The project needs to be watched carefully, due to its proximity and possible impact on the City's Water Pollution Control Plant.

California Environmental Quality Act Reform

The 2014 California legislative session involved considerable discussion regarding substantive reforms to the California Environmental Quality Act (CEQA). CEQA is recognized as an important tool for ensuring public disclosure of potentially significant environmental impacts and for ensuring that adequate mitigation measures are included to reduce or avoid these impacts. Growing concerns have been expressed, however, that some groups are using CEQA inappropriately to delay a project, and often the opposition is not truly predicated on environmental concerns. Environmental impact reports are increasingly challenged in the courts. Along with causing significant project delays, cities must commit considerable staff resources and incur substantial financial costs to defend these legal challenges. While CEQA reform has been a topic of regular discussion with numerous revisions enacted since the law was passed in 1970, the revisions have generally been incremental and ineffective in streamlining the CEQA process.

The 2014 legislative session expected significant CEQA reform, however an overall CEQA reform proposal did not proceed and SB 731 was introduced, which proposed CEQA reform specific to

infill projects. In the last days of the session, SB 731 was shelved and SB 743 was approved. SB 743 includes provisions modifying the expedited judicial review provisions for environmental leadership projects, and adopting some streamlining provisions for infill projects in transit priority areas. SB 743 removes 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.

Referendum to Repeal SB 270 (Statewide ban on single -use plastic grocery bags)

Sunnyvale has in place an ordinance that bans all stores from providing single -use plastic carryout bags and requires stores to collect a ten cent charge for paper or reusable bags provided to customers.

On September 30, 2014, Governor Brown signed SB 270, which bans, statewide, single -use plastic carryout bags at large stores on July 1, 2015 and at small grocers, convenience stores, liquor stores on July 1, 2016. The law requires a store to charge at least 10 cents to provide a paper bag or reusable bag. SB 270 also provides \$2 million in loans to plastic bag makers to help them with transition to manufacturing reusable bags.

SB 270 does not supersede Sunnyvale’s bag ordinance (or any local ordinance introduced by September 1, 2014 and adopted by January 1, 2015). It does bar future changes to local ordinances, which may be amended only to raise their bag charges to 10 cents.

A plastics industry group, led by bag manufacturer Hilex Poly has succeeded in qualifying the California Plastic Bag Ban Referendum for the November 2016 election as a veto referendum. If a majority of those voting cast a “no” vote, SB 270 will be overturned. The City’s ordinance would remain in effect. Until the election, SB 270 implementation is on hold City staff will monitor and oppose actions to overturn SB 270.

Industrial Clear-cut Logging in California

The City supports prohibitions on industrial clear-cut logging of forests in California. For the purposes of this issue, “clear-cutting” may be defined as any public or private forest management or timber harvest method in which sixty percent (60%) or more of cubic tree volume of any area greater than two and one-half (2 ½) acres is felled within any fifteen-year period; and “clear -cutting” also refers to any forest management or timber harvesting practice that results in the first image of a clear-cut forest. 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.

The City has broad interest in the impacts of clear-cutting. Such practices are not an impact to current water supply in Sunnyvale. 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

The City of Sunnyvale has four different sources of water supply readily available. Over 90% of Sunnyvale

water comes from two sources - the Hetch-Hetchy Reservoir through the San Francisco Public Utilities Commission (SFPUC) and the Santa Clara Valley Water District (District) State Water Project or Central Valley Project. Water supplies have been strained due to the ongoing drought. Rainfall has been below average for the last three years which led Governor Brown in January 2014 to declare a Water Shortage Emergency. Following this declaration, the SFPUC and SCVWD called for water use reduction of 10% and 20% respectively. Sunnyvale City Council also declared a Water Shortage Emergency and amended the Municipal Code to restrict irrigation hours between 9 AM and 6 PM when Daylight Savings Time is in effect. State and Federal Water Projects supplies are also challenged due to California Bay Delta issues. In July 2012 Governor Jerry Brown outlined revisions to the Bay Delta Conservation Plan to ensure California's water system is sustainable from an environmental and economic perspective. Population growth, habitat loss and ongoing threats to levee stability and water supply have crippled the California Bay Delta, threatening the health and economies of California communities.

The Bay Area Water Supply and Conservation Agency (BAWSCA), SFPUC and the District have the lead on the primary regional issues around the water supply. However, it is important for the Council to stay current on the water resource issues as they progress, in order to lend support wherever needed by the suppliers. For example, should 2015 be another dry year with less than average rainfall, Council will be asked to approve a rationing plan for all residents and businesses in Sunnyvale in order to meet the dwindling water supply. All support for SFPUC issues should be coordinated with BAWSCA. In some cases BAWSCA may have suggestions, or coordinate efforts, for the suburban agencies to be sure to maintain a consistent and appropriate level of support, and any other involvement. The issue is being addressed in all areas of our State government. Support may involve meetings, letters of support, public testimony, and assignment of staff so that the City can best respond as a retailer, and work with our suppliers in the interests of the City's residential and commercial water consumers.

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: Limiting local authority of wireless telecommunications facility to aesthetics, and not RF exposure or the need for facilities; adding the provision of a "shot clock" requiring local agencies to complete review of projects to a specified time period; and, exempting a type of wireless facility from local permit authority because it is considered a "public utility." In 2015, the Federal Communications Commission issued an order attempting to clarify rules passed by Congress in 2012 known as 6409 which limits the approval authority by local jurisdictions for co-located wireless telecommunications facilities. Recently, the Governor signed into law a "shot clock" that requires local agencies to take action on wireless telecommunications facilities within 90 days for co-locations and 150 days for new facilities.

These efforts continue to erode the City's ability to effectively regulate wireless telecommunications facilities. The efforts have continued to take away local authority on facilities that directly affect a city's residents. The most recent FCC rule includes a broad definition of what type of modifications must be approved by a local agency and attempts to define "modification" as the addition of new antennas and equipment on an existing telecommunications location, and also prohibit a local jurisdiction from denying those modifications. This could for example, result in future wireless carriers adding antennas anywhere on a rooftop without screening if a prior carrier installed a facility on the same building (which would require screening by the City).

6. School Mitigation Fees

In 1986, the Governor signed into law Assembly Bill 2926 (Chapter 887/Statutes 1986) which authorized school districts to levy development fees to pay for new school facilities and established the maximum fees that can be charged to developers that are building new residential and non-residential projects. This fee is updated every two years as adjusted for inflation. Once the maximum rate is set by the State, it is the responsibility for each school district to establish its own rate.

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.

With increasing community concern over the ability of school districts to meet the facility needs for a growing school-age population, 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 formidable challenge on school districts to implement their school modernization programs while also responding to the pressures of increasing enrollment. The City would support 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.

7. Transportation Network Companies

The City of Sunnyvale has a long-standing support and focus on transportation for hire in the City (taxicabs, limousines, shuttles, etc.). Transportation network companies (TNCs) also fall under this area of focus; however, like limousines, TNCs are regulated by the California Public Utilities Commission, rather than the City.

California state law supersedes the City Charter and places regulatory authority over limousines and other transportation for hire, including TNCs, with the California Public Utilities Commission. The City of Sunnyvale will continue to follow the Public Utilities Commission's actions related to TNCs. The City is supportive of current law that requires all TNCs to provide \$1.0 million in insurance coverage for enrolled drivers at all times when carrying passengers. This measure aligns with the City's insurance requirement placed on all taxicab franchises.

8. Response to AB 1147 (Bonilla) Massage Therapy

Sponsored by the League of California Cities (LCC), AB 1147 completely revised and recast the law pertaining to massage therapy, including returning land use control and regulatory authority of massage establishments back to cities. The City supported this measure as an important step in reducing the incidences of human trafficking and prostitution. The City actively engaged with the LCC to provide feedback on this clean-up legislation in response to previous legislation (SB 731, 2008) which established massage establishments as having fewer regulations than every other business in the state. In response to AB 1147, the City recently amended SMC 9.41 to comply with current state law. Staff will monitor future proposed legislation and will also monitor the effect of state and local law on 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

The City anticipates legislation regarding Unmanned Aircraft Systems (drones). An example is the currently inactive AB 56 (Quirk) which specifies requirements for the use of unmanned aircraft systems (drones) by law enforcement agencies, including adoption of local policies governing that use. It prohibits surveillance of activities covered by the First Amendment, and surveillance of private property without a warrant or the owner's consent, with narrow exceptions. AB 56 Codifies cause of action against local agencies for violations and imposes rules re: aerial surveillance that contradict the Plain View Doctrine governing observation by helicopters. It also imposes requirements on destruction of data with narrow exceptions for training purposes and academic research.

Staff will continue to follow this legislation and support reasonable restrictions on law enforcement with regard to use of unmanned aircraft systems (drones).

SB 168 (Gaines), vetoed by Governor Brown on October 3, 2015, would have provided specified emergency responders with immunity from civil liability for any damage to an unmanned aircraft system (drone) , if the damage was caused while the emergency responder was providing, and the unmanned aircraft system was interfering with, the operation, support, or enabling of specified emergency services. This bill would have made it unlawful to knowingly, intentionally, or recklessly operate an unmanned aircraft or unmanned aircraft system (drones) in a manner that prevents or delays the extinguishment of a fire, or in any way interferes with the efforts of firefighters to control, contain, or extinguish a fire, as specified.

Staff will continue to monitor future legislative proceedings closely and supports any legislation that releases liability restrictions on law enforcement agencies that interfere with drones posing a threat to emergency services.

10. Medical Marijuana

Three recent state laws were passed relating to Medical Marijuana and controlled substances: AB 243 (Wood), regulating cultivation of medical marijuana in California, and providing for cultivation licenses and the regulation of cultivation sites; AB 266 (Bonta), protecting local control by requiring both a state and a local license or permit for all medical marijuana businesses, and establishing health and safety standards backed by mandatory product testing; and SB 643 (McGuire), establishing criteria for state licensing and upholding local authority to levy fees and taxes.

Chapter 9.86 of the Sunnyvale Municipal Code explicitly prohibits medical marijuana distribution facilities in the City of Sunnyvale. The City does not issue permits or levy fees and taxes under the current Municipal Code. However, the City supported this legislation as it 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 the City's authority to regulate medical marijuana that is being transported from cultivators to dispensaries and support legislation imposing stricter provisions for obtaining medical marijuana cards and allowing law enforcement to monitor businesses or practitioners that issue medical marijuana cards.

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 local residents and workers, including a severe shortage of housing affordable to lower- and moderate-income households in many California cities.

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. Two important policy documents contain many of these policies, programs, and current goals and objectives: the 2015-2023 Housing Element of the General Plan and the 2015-2020 HUD Consolidated Plan. The content of these policy documents is generally sufficient to support City legislative advocacy efforts on the topics of affordable housing and homelessness. However, in order to keep this topic front and center among the City's list of current priority issues, staff has developed this priority issue at this time. City advocacy efforts should focus 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. Recent state and federal actions or inactions, including the Governor's veto of several key housing bills, and the gridlock in Congress that has been recurring in recent years over federal funding for housing and homeless programs, have been counter-productive to local governments' efforts to adequately address local needs. In addition, the City should focus advocacy efforts on 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.

2016 Legislative Advocacy Positions

1) Support legislation to limit or eliminate direct investment of public funds to support the production or drilling of fossil fuels.

[2016 FIN Staff Recommendation] **Lead Dept. FIN**