

## **Proposed 2017 Priority Advocacy 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 2017. 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. NOVA is ranked the 2<sup>nd</sup> highest in the state for the numbers of individuals who have been laid off through the official WARN (Worker Adjustment and Retraining Notification) notices, impacting 5,967 this past year, up from 3,411 affected the previous year. Even in an economic recovery, workers are being left further behind without the skills to compete in today’s demanding market place. In California, 26.8 percent of the unemployed are considered long-term unemployed, specifically, out of work for 27+ weeks, which is above the national share of 24.9 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. 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 current climate at the state and federal levels and uncertainty following the election, funding for and local control of workforce development is vulnerable in 2017 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 success in 2016 with several grant awards from the State for an advanced transportation project, Slingshot initiative, and several Workforce Accelerator projects and from the U.S. Department of Labor National Dislocated Worker grant. In addition, over the years, the department has received 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 exists to identify, coordinate and implement communications interoperability solutions to its member agencies. The purpose of SVRIA is to develop seamless operation of voice, radio 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.

Ensuring that our nation’s emergency responders can communicate readily available technology is of the utmost importance, whether during everyday situations or more complex 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 data communications allowing more flexibility for collaboration. In 2017, the City will continue to monitor and potentially perform advocacy at the local, state and federal level to encourage the build-out of the network and an efficient sustainment model.

### **3. Environmental Regulatory & Conservation Issues**

Continued interest in environmental issues at both the state and/or federal levels will likely result in regulations and legislation that could significantly impact the City. Monitoring and advocacy efforts will be geared to ensure 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 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 and SP 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. CARB is now moving forward with a second update to the Scoping Plan to reflect the 2030 target, to achieve a 40% reduction from 1990 GHG levels,

established in Executive Order B-30-15 and SB 32 which was signed into law in September 2016.

### **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 2035. Staff anticipates that the State may recast the targets into mandates on cities and counties. Diverting more organics from disposal is 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 will require overcoming significant statewide funding, siting and land use and environmental permitting challenges. . A key issue is the need for a realistic, market-driven definition of "organics." For example, as the City implements its commercial and residential organics diversion services, staff is seeing that the end users of the collected materials have little ability to make useful products or to recover energy from many single-use food and beverage packaging materials that are labeled by manufacturers as "compostable." This can set up conflict between well-meaning generators of fiber-based single-use foodware (e.g. large corporate cafeterias) and the end users of the collected "organics"—with the City playing referee in the middle.

It is in the City's interest to continue to monitor the 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.

### *South 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 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. The project needs to be tracked, 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.

#### *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 running at average levels this year, however dry condition persisted for the last three years which led Governor Brown to declare a Water Shortage Emergency. Currently the SCVWD has called for water use reduction of 20% through January 2017 and the SFPUC due to improved water supply conditions in the Hetch Hetchy Reservoir has deferred to the State Water Board guidelines on what water agencies goals should be set at. In June 2016, Sunnyvale City Council also declared a Stage 1 Water Shortage Emergency and set a reduction target at 15%. On September 15, 2016, The State Water Board released the draft revised Substitute Environmental Document (SED) to update water quality requirements for salinity in the southern Delta and water flows in major tributaries to the San Joaquin River ( the Stanislaus, Tuolumne, and Merced Rivers), which drain into the southern Delta. The SED is part of the process to update the Bay-Delta Plan which is required by law to be updated every three years. The goals of the Bay-Delta Plan are to identify beneficial uses of water, set water quality objectives for the Bay-Delta and set a program of implementation for achieving those water quality objectives. The Bay-Delta Plan also lays out water quality protections to ensure various uses such as drinking, agriculture, and fisheries are protected.

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 2017 be another dry year with less than average rainfall, Council will likely 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. Regional Transportation Plan: Taxicabs/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.

Recent activity in the state legislature (AB650, which was vetoed by the Governor) has made it clear that regulatory burden on the taxi industry is an issue of state-wide concern; however, state regulation of the taxi industry may require several legislative cycles. Local taxi businesses continue to seek relief from burdensome fees and redundant driver testing and inspection. The City will continue to engage in a county-wide dialogue that contemplates a regional solution that will reduce impediments from market entry for taxi businesses while maintaining high standards of safety and providing viable transportation options to the community.

## **8. Massage Therapy**

In response to AB 1147, the City recently amended SMC 9.41 to comply with current state law. AB 2194 (Bonilla) will extend the sunset date of the California Massage Therapy Council to January 1, 2021 and makes some changes to the existing state regulation of massage businesses. Staff will monitor this proposed legislation and its effect on 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/ Recreational Marijuana**

Three 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.

In November 2016, California voters passed Proposition 64, decriminalizing marijuana in California and providing state regulation of the recreational marijuana business. This measure changes the name of the Bureau of Medical Cannabis Regulation to the Bureau of Marijuana Control and makes it also responsible for regulating and licensing nonmedical marijuana businesses. In addition, the measure requires other state agencies to regulate and license different parts of the nonmedical marijuana industry. These state agencies would have responsibilities similar to the ones they currently have for medical marijuana. The measure requires each licensing agency to charge fees that cover its marijuana regulatory costs. Under the measure, the system for tracking medical marijuana products that must be developed under current law would be expanded to include marijuana for nonmedical use.

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 the sale and distribution of recreational and medical marijuana. Staff will support legislation imposing stricter provisions for obtaining medical marijuana cards and allowing law enforcement to monitor businesses or practitioners that sell and distribute marijuana and issue medical marijuana cards.