



**AGENDA
TOWN OF SUNNYVALE
SUNNYVALE TOWN COUNCIL
SPECIALLY CALLED MEETING
MARCH 28, 2011
6:00 P.M.**

THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS WILL CONDUCT A SPECIALLY CALLED MEETING ON MARCH 28, 2011 AT 6:00 P.M. IN THE COUNCIL CHAMBERS OF THE SUNNYVALE TOWN HALL LOCATED AT 127 N. COLLINS ROAD, SUNNYVALE, TEXAS UNDER V.T.C.A., GOVERNMENT CODE SECTION 551.041 AND GOVERNMENT CODE SECTION 551.071. ITEMS TO BE DISCUSSED:

- **CALL MEETING TO ORDER**

- **CONVENE INTO EXECUTIVE SESSION PURSUANT TO V.T.C.A. GOVERNMENT CODE SECTION 551.071 - LITIGATION**
EXECUTIVE SESSION AGENDA:
 1. **LITIGATION - DEWS VS TOWN OF SUNNYVALE**
 2. **LITIGATION - VULCAN LANDS, LLC VS TOWN OF SUNNYVALE**
 3. **LITIGATION - MEET WITH LEGAL COUNSEL TO DISCUSS THREATENED LITIGATION CONCERNING TOWN'S COMPLIANCE WITH ELECTION CODE**

- **RECONVENE INTO OPEN SESSION AND TAKE ANY ACTION NECESSARY AS A RESULT OF THE EXECUTIVE SESSION**

- **ADJOURN**

ALL LOCATIONS IDENTIFIED ARE IN THE TOWN OF SUNNYVALE UNLESS OTHERWISE INDICATED. FOR A DETAILED PROPERTY DESCRIPTION, PLEASE CONTACT THE BUILDING OFFICIAL AT TOWN HALL. ALL ITEMS ON THE AGENDA ARE FOR POSSIBLE DISCUSSION AND ACTION. PLEASE TURN OFF ALL TELEPHONES AND HANDHELD COMMUNICATION DEVICES WHILE IN ATTENDANCE AT THIS MEETING. MEMBERS OF THE PUBLIC ARE REQUESTED TO LIMIT THEIR COMMENTS, WHETHER AT THE PUBLIC FORUM OR DURING A PUBLIC HEARING, TO NO MORE THAN FIVE (5) MINUTES.

THE SUNNYVALE TOWN COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED ABOVE, AS AUTHORIZED BY TEXAS GOVERNMENT CODE SECTION 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATION ABOUT REAL PROPERTY), 551.073 (DELIBERATIONS ABOUT GIFTS AND DONATIONS), 551.074 (PERSONNEL MATTERS), 551.076 (DELIBERATIONS ABOUT SECURITY DEVICES), AND 551.086 (ECONOMIC DEVELOPMENT).

THE TOWN OF SUNNYVALE IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA). REASONABLE ACCOMMODATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED TO THOSE WHO PROVIDE NOTICE TO THE DIRECTOR OF COMMUNITY SERVICES AT 972-226-7177 AT LEAST 48 HOURS PRIOR TO THE MEETING.

I HEREBY CERTIFY THAT THE FOREGOING NOTICE WAS POSTED ON THIS THE 25TH DAY OF MARCH 2011 IN THE FOLLOWING LOCATIONS

**TOWN HALL AT 127 N. COLLINS ROAD SUNNYVALE ISD 417 E. TRIPP ROAD
SUNNYVALE LIBRARY AT 402 TOWER PLACE**

KATHRYN DEWEY, TOWN SECRETARY



**AGENDA
TOWN OF SUNNYVALE
SUNNYVALE TOWN COUNCIL
REGULAR MEETING
MARCH 28, 2011
7:00 P.M.**

THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS WILL CONDUCT A REGULAR MEETING ON MARCH 28, 2011 AT 7:00 P.M. IN THE COUNCIL CHAMBERS OF THE SUNNYVALE TOWN HALL LOCATED AT 127 N. COLLINS ROAD, SUNNYVALE, TEXAS UNDER V.T.C.A., GOVERNMENT CODE SECTION 551.041. ITEMS TO BE DISCUSSED:

- **CALL TOWN COUNCIL MEETING TO ORDER**
- **INVOCATION**
- **PLEDGE OF ALLEGIANCE**

1. CONSENT AGENDA

(ALL ITEMS ON THE CONSENT AGENDA ARE ROUTINE ITEMS AND MAY BE APPROVED WITH ONE MOTION; SHOULD ANY MEMBER OF THE TOWN COUNCIL OR ANY INDIVIDUAL WISH TO DISCUSS ANY ITEM, SAID ITEM MAY BE REMOVED FROM THE CONSENT AGENDA BY MOTION OF THE TOWN COUNCIL)

- A. APPROVAL OF MINUTES - SPECIAL MEETING 02-28-11**
- B. APPROVAL OF MINUTES - REGULAR MEETING 02-28-11**

• **PUBLIC FORUM**

(CITIZENS MAY SPEAK ON ANY MATTER OTHER THAN PERSONNEL MATTER OR MATTERS UNDER LITIGATION. NO TOWN COUNCIL ACTIONS OR DISCUSSION WILL BE TAKEN UNTIL SUCH MATTER IS PLACED ON THE AGENDA AND POSTED IN ACCORDANCE WITH LAW.)

• **COUNCIL APPOINTMENT**

2. PRESENTATION FROM PAM MUNDO - FILM FRIENDLY DESIGNATION

• **PUBLIC HEARING**

OPEN OR CONTINUE PUBLIC HEARING, CONSIDER TESTIMONY AND OTHER INFORMATION PROVIDED, CLOSE PUBLIC HEARING, AND TAKE NECESSARY ACTION WITH RESPECT TO THE FOLLOWING:

3. APPLICATION FOR PRELIMINARY PLAT

APPLICANT: RKS TEXAS INVESTMENTS, LP

AT OR ABOUT: SW CORNER OF HWY 80 AND COLLINS RD

REQUEST: SUNNYVALE CENTRE PHASE

• **DISCUSSION/ACTION ITEMS**

4. ORDINANCE 527, AN ORDINANCE OF THE TOWN OF SUNNYVALE, TEXAS, AMENDING THE CODE OF ORDINANCES APPENDICES ARTICLE 5.000, MUNICIPAL COURT FEES, TO ADD SECTION 5.450 TO PROVIDE FOR MOVING VIOLATION FINES AND PROVIDING AN EFFECTIVE DATE

5. RESOLUTION 11-06, A RESOLUTION OF THE TOWN OF SUNNYVALE, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AND NECESSARY RELATED SERVICES AGREEMENT WITH NEXT ERA FOR A FIXED PRICE PER KWH THAT IS LOWER THAN CONTRACT RATES FOR 2011-2013, SAID EXTENSION TO CONTINUE UNTIL DECEMBER 31, 2018; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE TOWN TO ENTER INTO A CONTRACT FOR ELECTRICITY; AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2011 OR AS SOON AFTER FINALIZATION OF A CONTRACT AS POSSIBLE; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE TOWN'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS THROUGH DECEMBER 31, 2018.

6. ORDINANCE 528, AN ORDINANCE OF THE TOWN OF SUNNYVALE, TEXAS, CALLING TWO JOINT PUBLIC HEARINGS OF THE TOWN PLANNING AND ZONING COMMISSION AND TOWN COUNCIL TO CONSIDER AN AMENDMENT TO THE LAND USE DIAGRAM OF THE COMPREHENSIVE PLAN FROM THE INDUSTRIAL AND COMMERCIAL LAND USE CATEGORIES TO AN URBAN DENSITY RESIDENTIAL LAND USE CATEGORY FOR A 17.25-ACRE TRACT OF LAND 17.2519 ACRE TRACT OF LAND SITUATED IN THE TIMOTHY COHWELL SURVEY, ABSTRACT NO. 335, SUNNYVALE, DALLAS COUNTY, TEXAS, AND BEING PART OF A TRACT OF LAND CONVEYED TO FC PROPERTIES ONE, LTD. BY DEED RECORDED IN VOLUME 96059, PAGE 1966 (A MORE DETAILED LEGAL DESCRIPTION BEING AVAILABLE AT SUNNYVALE TOWN HALL); TO CONSIDER A PARALLEL AMENDMENT TO THE OFFICIAL ZONING MAP FROM INDUSTRIAL AND HIGHWAY COMMERCIAL DISTRICTS TO AN ATTACHED HOUSING DISTRICT FOR THE SAME LAND IN ORDER TO AUTHORIZE A FOUR-PLEX RESIDENTIAL PROJECT CONTAINING 96 DWELLING UNITS; CONSIDERING A CONCEPT PLAN FOR THE AHC DISTRICT; CONSIDERING STANDARDS FOR DEVELOPMENT OF THE AHC DISTRICT, INCLUDING ALTERNATIVE PERFORMANCE STANDARDS; CONSIDERING CONDITIONS FOR DEVELOPMENT OF THE AHC DISTRICT; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

• **ADJOURN**

ALL LOCATIONS IDENTIFIED ARE IN THE TOWN OF SUNNYVALE UNLESS OTHERWISE INDICATED. FOR A DETAILED PROPERTY DESCRIPTION, PLEASE CONTACT THE BUILDING OFFICIAL AT TOWN HALL. ALL ITEMS ON THE AGENDA ARE FOR POSSIBLE DISCUSSION AND ACTION. PLEASE TURN OFF ALL TELEPHONES AND HANDHELD COMMUNICATION DEVICES WHILE IN ATTENDANCE AT THIS MEETING. MEMBERS OF THE PUBLIC ARE REQUESTED TO LIMIT THEIR COMMENTS, WHETHER AT THE PUBLIC FORUM OR DURING A PUBLIC HEARING, TO NO MORE THAN FIVE (5) MINUTES.

THE SUNNYVALE TOWN COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED ABOVE, AS AUTHORIZED BY TEXAS GOVERNMENT CODE SECTION 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATION ABOUT REAL PROPERTY), 551.073 (DELIBERATIONS ABOUT GIFTS AND DONATIONS), 551.074 (PERSONNEL MATTERS), 551.076 (DELIBERATIONS ABOUT SECURITY DEVICES), AND 551.086 (ECONOMIC DEVELOPMENT).

THE TOWN OF SUNNYVALE IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA). REASONABLE ACCOMMODATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED TO THOSE WHO PROVIDE NOTICE TO THE DIRECTOR OF COMMUNITY SERVICES AT 972-226-7177 AT LEAST 48 HOURS PRIOR TO THE MEETING.

I HEREBY CERTIFY THAT THE FOREGOING NOTICE WAS POSTED ON THIS THE 25TH DAY OF MARCH 2011 IN THE FOLLOWING LOCATIONS:

**TOWN HALL AT 127 N. COLLINS ROAD SUNNYVALE ISD 417 E. TRIPP ROAD
SUNNYVALE LIBRARY AT 402 TOWER PLACE**

KATHRYN DEWEY, TOWN SECRETARY



AGENDA ITEM SUMMARY

TO: Town Council
FROM: Scott Campbell, Town Manager *SC*
RE: **ITEM 1: Consent Items**
DATE: February 23, 2011

Item A: Minutes



**MINUTES
TOWN OF SUNNYVALE
SUNNYVALE TOWN COUNCIL
SPECIALLY CALLED MEETING
FEBRUARY 28, 2011
6:00 P.M.**

THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS CONDUCTED A SPECIALLY CALLED MEETING ON FEBRUARY 28, 2011 AT 6:00 P.M. IN THE COUNCIL CHAMBERS OF THE SUNNYVALE TOWN HALL LOCATED AT 127 N. COLLINS ROAD, SUNNYVALE, TEXAS UNDER V.T.C.A., GOVERNMENT CODE SECTION 551.041 AND GOVERNMENT CODE SECTION 551.071. THOSE PRESENT WERE:

MAYOR	DAVID BYRD
MAYOR PRO-TEM	KAREN HILL
COUNCILMEMBER	PAULA YATES
COUNCILMEMBER	SAJI GEORGE
COUNCILMEMBER	RONNIE HENDERSON, JR
COUNCILMEMBER	PAT WILEY

- **CALL MEETING TO ORDER**

Mayor Byrd called the meeting to order at 6:07 p.m.

- **CONVENE INTO EXECUTIVE SESSION PURSUANT TO V.T.C.A. GOVERNMENT CODE SECTION 551.071 - LITIGATION**

EXECUTIVE SESSION AGENDA:

1. LITIGATION - DEWS VS TOWN OF SUNNYVALE

2. LITIGATION - VULCAN LANDS, LLC VS TOWN OF SUNNYVALE

Motion was made by Councilmember Hill to adjourn into executive session. Motion seconded by Councilmember Wiley. Motion carried unanimously.

Mayor Byrd adjourned into executive session at 6:08 p.m.

Mayor Byrd reconvened into regular session at 7:05 p.m.

- **RECONVENE INTO OPEN SESSION AND TAKE ANY ACTION NECESSARY AS A RESULT OF THE EXECUTIVE SESSION**

No action taken. Mayor Byrd announced a suit had been filed by Vulcan Lands LLC. Paperwork was under review with the town attorney.

- **ADJOURN**

Mayor Byrd adjourned the meeting at 7:07 p.m.

The undersigned presiding officer certifies that this is a true and correct record of the proceedings.

Mayor David Byrd

ATTEST:

Kathryn Dewey, Town Secretary

A TAPE RECORDING OF THIS MEETING IS ON FILE AT TOWN HALL. THESE MINUTES ARE CONDENSED THEREFROM



**MINUTES
TOWN OF SUNNYVALE
SUNNYVALE TOWN COUNCIL
REGULAR MEETING
FEBRUARY 28, 2011
7:00 P.M.**

THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS CONDUCTED A REGULAR MEETING ON FEBRUARY 28, 2011 AT 7:00 P.M. IN THE COUNCIL CHAMBERS OF THE SUNNYVALE TOWN HALL LOCATED AT 127 N. COLLINS ROAD, SUNNYVALE, TEXAS UNDER V.T.C.A., GOVERNMENT CODE SECTION 551.041. THOSE PRESENT WERE:

MAYOR	DAVID BYRD
MAYOR PRO-TEM	KAREN HILL
COUNCILMEMBER	PAULA YATES
COUNCILMEMBER	SAJI GEORGE
COUNCILMEMBER	RONNIE HENDERSON, JR
COUNCILMEMBER	PAT WILEY

• **CALL TOWN COUNCIL MEETING TO ORDER**

Mayor Byrd called the meeting order 7:07 p.m.

• **INVOCATION**

Councilmember Hill gave the invocation.

• **PLEDGE OF ALLEGIANCE**

Mayor Byrd led the pledge of allegiance.

1. CONSENT AGENDA

(ALL ITEMS ON THE CONSENT AGENDA ARE ROUTINE ITEMS AND MAY BE APPROVED WITH ONE MOTION; SHOULD ANY MEMBER OF THE TOWN COUNCIL OR ANY INDIVIDUAL WISH TO DISCUSS ANY ITEM, SAID ITEM MAY BE REMOVED FROM THE CONSENT AGENDA BY MOTION OF THE TOWN COUNCIL)

A. APPROVAL OF MINUTES - SPECIAL MEETING 02-14-11

B. APPROVAL OF MINUTES - REGULAR MEETING 02-14-11

C. APPROVAL OF MINUTES - SPECIAL MEETING 02-18-11

Motion made by Councilmember Yates to approve the consent agenda as presented. Motion seconded by Councilmember Wiley. Motion carried unanimously.

• **PUBLIC FORUM**

(CITIZENS MAY SPEAK ON ANY MATTER OTHER THAN PERSONNEL MATTER OR MATTERS UNDER LITIGATION. NO TOWN COUNCIL ACTIONS OR DISCUSSION WILL BE TAKEN UNTIL SUCH MATTER IS PLACED ON THE AGENDA AND POSTED IN ACCORDANCE WITH LAW.)

Public Comments:

- 1) **Damon Cole**, 205 Robin Ridge, spoke concerned about drainage in his subdivision.
- 2) **Jim Wade**, 299 E. Tripp Rd, said longtime resident Mrs. Fischer had passed away over the weekend. Mr. Wade explained the timeframe needed for Sunnyvale Centre's new project. He asked for consideration of approval for their needed performance agreement. He raised the question of not allowing smoking in restaurants and asked for review of convenience/package store zoning with regards to beer and wine. Mr. Wade asked to allow the "old schoolhouse" be put to use with Historical Mesquite for an outdoor classroom.

There were no other public comments.

• **COUNCIL APPOINTMENT**

2. PRESENTATION FROM BILL HALE WITH TXDOT UPDATE ON ROAD PROJECTS AFFECTING SUNNYVALE.

Bill Hale, representing Texas Department of Transportation, gave a presentation. He stated the bridge at US 80 and Collins Road was estimated for a completion in July 2011. Mr. Hale said the East Branch of Hwy 190 through Sunnyvale was in the environmental process. Once the environmental impact study was completed, formal public hearings would be conducted in approximately March 2012. He showed the alignments under consideration.

• **PUBLIC HEARING**

OPEN OR CONTINUE PUBLIC HEARING, CONSIDER TESTIMONY AND OTHER INFORMATION PROVIDED, CLOSE PUBLIC HEARING, AND TAKE NECESSARY ACTION WITH RESPECT TO THE FOLLOWING:

3. APPLICATION FOR REPLAT

APPLICANT: JIM DOUGLAS

AT OR ABOUT: TRIPP RD EAST OF COLLINS RD

REQUEST: STONEY CREEK PHASE 5-A

Steve Gilbert, Building Official, advised an application had been received from Jim Douglas for a replat of Lots #1-3 and #6-8 for Stoney Creek Phase 5A. The project had been reviewed by Planning and Zoning Commission where it had received a favorable review.

Marc Bentley, Town Engineer, explained the configuration of the lots making them consistent with the approved 2008 preliminary plat.

Richard Hovas, Tipton Engineering representing Jim Douglas, was present to answer any questions.

Mayor Byrd opened the public hearing.

Public Comments:

- 1) **Sherry Bellows**, 424 E. Tripp Rd, spoke opposed to the project. Mrs. Bellows said she represented 36 households.
- 2) **Michelle Cole**, 205 Robin Ridge, spoke concerned about lot 6 on the replat and drainage issues near her home.
- 3) **S. Mathew**, 209 Robin Ridge, asked the zoning not change from 1-acre lots in the neighborhood. Mr. Mathew was also concerned about the safety issues in the drainage problem areas.
- 4) **Sarah Bradford**, 501 Robin Ridge, asked if a roadway was connected to her street or if it would remain a cul-de-sac.
- 5) **Scott Blazy**, 290 Duxbury, asked what Mr. Douglas intentions were for the lots.

There were no other public comments.

Richard Hovas gave the options for lot #6. He said the drainage situation mentioned during this meeting was currently under review and would be addressed with the town engineer within a week.

Marc Bentley explained the landscape buffer requirements along Tripp Rd. and the need for (5) five more feet on lots requiring septic systems.

Councilmember Yates asked Sherry Bellows to come back and visit with the town council with her concerns.

Councilmember Hill described the phasing in other subdivisions with respect to managing growth.

Councilmember Yates asked if building lines could be moved closer to Tripp Rd solving the problem. Marc Bentley said yes, but explained that once again these same lots would need to a replat when phase 5B comes in for development.

Councilmember Henderson stated the concerns he heard at the meeting had nothing to do with the (6) six lots in question.

Mayor Byrd addressed “fear” concerns and spoke about the technical issue being requested.

Mayor Byrd closed the public hearing.

Motion made by Councilmember Hill to approve the application for replat for Stoney Creek Phase 5A as presented contingent upon resolution of drainage area discussed at this meeting. Motion seconded by Councilmember George. Motion carried 4/1 with Councilmember Yates voting opposed.

Mayor Byrd recessed the meeting at 8:55 p.m.
Mayor reconvened the meeting at 9:10 p.m.

4. APPLICATION FOR CONDITIONAL USE PERMIT
APPLICANT: RONALD & MARY BAUGHMAN
AT OR ABOUT: 494 N. COLLINS RD.
REQUEST: CONDITIONAL USE PERMIT FOR AN
ACCESSORY DWELLING

Steve Gilbert advised a conditional use permit had been received for 494 N. Collins Rd. Request was to convert the downstairs storage area to additional living space.

Ronald and Mary Baughman were present to answer any questions about their remodel.

Councilmember Hill asked if they had considered removing the garage doors from the front of the building since it was more a full-time residence. Mrs. Baughman described a porch being planned with an overhang. She was not opposed to removing the doors.

Mayor Byrd opened the public hearing.

Public Comments:

- 1) **Jim Wade**, 299 E. Tripp Rd, spoke in favor of the application, but asked for review of accessory dwellings throughout town.

There were no other public comments. Mayor Byrd closed the public hearing.

Motion was made by Councilmember George to approve the conditional use permit for 494 N. Collins Rd. as presented. Motion seconded by Councilmember Henderson. Motion carried unanimously.

Mayor Byrd asked the staff to bring forward a review and recommendations of accessory dwellings to the council for discussion.

5. CONSIDER APPROVAL OF ORDINANCE 525, AN ORDINANCE AMENDING ZONING ORDINANCE NO 324, DULY PASSED BY THE TOWN COUNCIL ON JANUARY 31, 2000; AS AMENDED BY ORDINANCE NOS. 324, 332, 338, AND 339, AND AS AMENDED FROM TIME TO TIME; BY ADDING NEW CHAPTER 17A, MASTER PLANNED DEVELOPMENT DISTRICT (MPD), AND SUCH OTHER CHANGES CONCERNING THE FOREGOING AS DETERMINED TO BE NECESSARY OR DESIRABLE AND PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CONFLICTS CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Mayor Byrd read Item #5 into the record. Sherry Sefko with Freese and Nichols, Town Planner, presented a Master Planned Development Zoning Districts. She explained this was tailored zoning with a win/win scenario for both the town and developer for non-residential developments.

Councilmember George asked for the definition of minor revisions interpreted by the town manager. Mrs. Sefko gave examples.

Mayor Byrd opened the public hearing. There were no public comments. Mayor Byrd closed the public hearing.

Motion made by Councilmember Hill to approve Ordinance 525 as presented tonight. Motion seconded by Councilmember George. Motion carried unanimously.

6. CONSIDER APPROVAL OF ORDINANCE 526, AN ORDINANCE OF THE TOWN OF SUNNYVALE, TEXAS, AMENDING CHAPTER 8 OF THE SUNNYVALE TOWN CODE TO MODIFY ARTICLE 8.700 JUVENILE CURFEW; PROVIDING FOR AFFIRMATIVE DEFENSES; PROVIDING FOR SEVERABILITY; A PENALTY, SAVINGS, REPEAL, AND AN EFFECTIVE DATE.

Mayor Byrd read Item #6 into the record. Scott Campbell, Town Manager, explained the extension of the current juvenile curfew

Mayor Byrd opened the public hearing.

Public Comments:

- 1) **Cindy Bornowski**, 106 Big Bend Circle, asked if allowances were made for employment.
- 2) **Jim Wade**, 299 E. Tripp Rd, explained the times listed in the ordinance.

There were no other public comments.

Motion was made by Councilmember Henderson to extend the juvenile curfew from March 1, 2011 until March 1, 2014, Ordinance #526. Motion seconded by Councilmember George. Motion carried unanimously.

• DISCUSSION/ACTION ITEMS

7. CONSIDER ALL MATTERS INCIDENT AND RELATED TO APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION, INCLUDING THE ADOPTION OF A RESOLUTION PERTAINING THERETO. RESOLUTION 11-04, A RESOLUTION APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

Mayor Byrd stated Resolution 11-04 was necessary to allow publication of notice of intention to issue debt for our water system improvements.

Eric Macha, representing First Southwest, presented a sample timetable of events for notice requirements for Certificates of Obligation.

Motion made by Councilmember Hill to approve Resolution 11-04, including the date of April 11, 2011 as well as the amount of \$3,100,000. Motion seconded by Councilmember Wiley. Motion carried unanimously.

8. CONSIDER ALL MATTERS INCIDENT AND RELATED TO DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT, INCLUDING THE ADOPTION OF A RESOLUTION PERTAINING THERETO. RESOLUTION 11-05, A RESOLUTION DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT

Mayor Byrd read Item #8. Scott Campbell explained the resolution was a requirement to allow for reimbursement out of bond proceeds for any expenditures related to our water system improvements occurring prior to receipt of bond funds.

Motion made by Councilmember Yates to approve Resolution 11-05 declaring expectation to reimbursement expenditures with proceeds of future debt in an amount not to exceed \$3,100,000. Motion seconded by Councilmember George. Motion carried unanimously.

• **ADJOURN**

Mayor Byrd adjourned the meeting at 10:15 p.m.

The undersigned presiding officer certifies that this is a true and correct record of the proceedings.

Mayor David Byrd

ATTEST:

Kathryn Dewey, Town Secretary

A TAPE RECORDING OF THIS MEETING IS ON FILE AT TOWN HALL. THESE MINUTES ARE CONDENSED THEREFROM

Item 2



AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager *SC*

RE: **ITEM 2: Presentation by 4A Board: Film Friendly Designation**

DATE: March 25, 2011

The 4A Board has asked to present information on the advantages and procedures for becoming a "Film Friendly" Community.

Guidelines for filming in Sunnyvale, Texas

I. Purpose

The Guidelines contained in this policy are intended to create a program for promoting economic development activity with Sunnyvale and within the vicinity of the Town, in accordance with Chapter 380, Texas Local Government Code. The following Guidelines are also intended to protect the personal and property rights of Sunnyvale, Texas residents and businesses, and to promote the public health, safety and welfare. The Town Manager reserves the right to impose additional regulations in the interest of public health, safety and welfare, or if otherwise deemed appropriate by the Town Manager.

These Guidelines cover requests for commercial use of Town-owned property (including but not limited to streets, rights-of-way, parks, and or public buildings), commercial use of private property which may affect adjacent public or private property, and the use of Town equipment and personnel in the filming of movies, television programs, commercials, training films and related activities.

II. Town Control/Town Manager Authority

The Town Manager may authorize the use of any street, right-of-way, park, or public building, equipment or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the Town Manager may require that any or all of the conditions and/or remuneration herein and as specified on the application be met as a prerequisite to that use.

The Applicant agrees that the Town of Sunnyvale shall have exclusive authority to grant the Applicant the use of public streets, right-of-way, parks and public buildings of the Town, as well as authority to regulate the hours of production and the general location of the production. The Town reserves the full and absolute right to prohibit all filming or to order cessation of filming in order to promote the public health, safety or welfare.

The Applicant shall allow Town departments (e.g. Police, Fire, Building) to inspect all structures, property, devices and equipment to be used in connection with the filming and taping, as deemed appropriate by the Town Manager.

III. Permit Requirements

Before filing an application for filming in Sunnyvale, the Office of the Town Manager must be contacted to discuss the production's specific filming requirements and the feasibility of filming in Sunnyvale, Texas.

Any commercial producer who desires to undertake a commercial production in Sunnyvale is required to complete and return the attached application for filming to the Office of the Town Manager, within the time frames below:

- **Commercials or episodic television:** a minimum of two (2) business days prior to the commencement of filming or any substantial activity related to the project.
- **Feature films:** a minimum of five (5) business days prior to the commencement of filming or any substantial activity related to the project.

IV. Fees

An application processing fee of \$25.00 should accompany each application for filming in Sunnyvale.

The Town Manager may waive this fee upon proof of an organization's non-profit status, or for any other reason deemed appropriate by the Town Manager.

V. Use of Town Equipment and Personnel

The Applicant shall pay for all costs of any Police, Fire, Public Works, or other city personnel assigned to the project (whether or not specifically requested by the production). Remuneration rates for the use of any Town equipment, including police cars and fire equipment, will be established on a case-by-case basis as determined by the Town Manager. The Applicant shall pay all costs in full within ten (10) days after receipt of an invoice for said costs. The Town Manager may at his discretion, require an advance deposit for all costs related Town personnel and/or use of Town equipment.

The Town Manager, in consultation with the Town Public Safety (Dallas County Sherriff) and the Town Fire Chief, shall have the authority to stipulate additional fire or police requirements and level of staffing for same, at any time during a film project if it is determined to be in the best interest of public health, safety and welfare, which cost shall be borne entirely by the Applicant. Off-duty police and firefighters shall be paid by the production company at a rate no less than one and one-half times their hourly rate.

VI. Use of Town Property

The Town Manager may authorize the use of any street, right-of-way, park or public building, use of Sunnyvale, Texas name, trademark or logo and/or use of Town equipment and/or personnel for commercial uses in the production of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the Town Manager may require that any or all of the conditions and/or remuneration as specified herein and on the application be met as a prerequisite to that use. A security or damage deposit may be required within the discretion of the Town Manager.

The Applicant shall reimburse the Town for inconveniences when using public property. Following is the rate schedule:

Activity	Cost (per Calendar Day)-maximum of 12 hours/day
Total or disruptive use (regular operating hours) of a public building, park, right-of-way or public area.	\$500
Partial non-disruptive use of a public building, park, right-of-way or public area	\$250
Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)	\$50 per block
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)	\$25 per block
Use of Town parking lots, parking areas, and Town streets (for the purpose of parking film trailers, buses, catering trucks and other large vehicles)	\$50 per block or lot

The Applicant acknowledges and agrees that the Town of Sunnyvale, Texas, possesses and retains exclusive authority to grant the Applicant a revocable licenses for the use of its name, trademark, and logo, public streets, rights-of-way, parks and buildings of the Town as well as control over the hours of production and the general location of the production, The Town reserves the full and absolute right to prohibit all filming or to order cessation of filming activity in order to promote the public health, safety and /or welfare.

VII. Special Equipment and Vehicles

The Applicant shall provide a report listing the number of vehicles and types of equipment to be used during the filming, including proposed hours of use and proposed parking locations. Such location will need to be specifically approved by the Town Manager. On-street parking or use of public parking lots is subject to Town approval. The use of exterior lighting, power generators or any other noise-or-light Producing equipment requires on-site approval of the Town Manager.

VII. Hours of Filming

Unless express written permission has been obtained from the Town Manager in advance and affected property owners, tenants and residents have been notified, filming will be limited to the following hours. Monday through Friday 7:00 a.m. to 9:00 p.m. and Saturday, Sunday and holidays, 8:00 a.m. to 8:00 p.m.

IX. Notification of Neighbors

The Applicant shall provide a short written description, approved by the Town Manager, of the schedule for the proposed production to the owners, tenants and residents of each property in the affected neighborhoods (s). The Applicant, or his or her designee, shall use their best efforts to notify each owner, tenant and resident of all such property, and shall submit, as part of this application, a report noting each owner, tenant or resident’s comments, along with their signatures, addresses and phone numbers. Based on this community feedback, and other appropriate factors considered by the Town Manager, the Town Manager may grant or deny the filming application.

X. Certificate of Insurance

The applicant shall attach a valid certificate of insurance, issued by a company authorized to conduct business in the State of Texas, naming the Town of Sunnyvale and its agents, officers, elected officials, employees and assigns, as additional insured, in an amount not less than \$1,000,000 general liability, including bodily injury and property damage with a \$5,000,000 umbrella; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage.

XI. Damage to Public or Private Property

The Applicant shall pay in full, within ten (10) days of receipt of an invoice, the costs of repair for any and all damage to public or private property, resulting from or in connection with, the production, and restore the property to its original condition prior to the production, or to better than original condition.

XII. Hold Harmless Agreement

The Applicant shall sign the following Hold Harmless Agreement holding the city harmless from any claim that may arise from their use of designated public property, right-of-way, or equipment in conjunction with the permitted use:

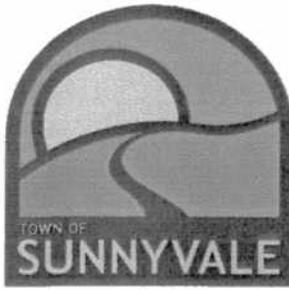
I certify that I represent the firm which will be performing the filming/taping at the locations specified on the attached permit application. I further certify that I and my firm will perform in accordance with the directions and specifications of the Town of Sunnyvale, and that I and my firm will indemnify and hold harmless the Town of Sunnyvale, Texas and its elected officials, officers, servants, employees, successors agents, departments and assigns from any and all losses, damages, expenses, costs and/or claims, of every nature and kind arising out of or in connection with the filming/taping and other related activities engaged in pursuant to this Application.

I further certify that the information provided on this Application is true and correct to the best of my knowledge, and that I possess the authority to sign this and other contracts and agreements with the Town of Sunnyvale, Texas on behalf of the firm.

Signed: _____

Title: _____

Date: _____



STAFF REPORT

DATE: March 25, 2011
TO: Town Council
FROM: Community Development Department
SUBJECT: Preliminary Plat - Sunnyvale Centre
File No. 1259
PAGES: 1

Lawrence Cates & Associates has made application for a preliminary plat on behalf of RKS Texas Investments. Sunnyvale Centre is a proposed 28 acre commercial/retail development. The current zoning for the property is GB - General Business. The property is located on the southwest corner of Collins Road (SH 352) and US Hwy 80. The project extends between both ends of T.C. Lupton, at US Hwy frontage road and Collins Road.

There were six (6) notices mailed and none returned in favor as of March 17, 2011.

The preliminary plat for Sunnyvale Centre was submitted in order to construct a proposed access drive/ring road for the development. The owner intends to build a thirty (30) foot wide concrete drive which will provide access to proposed pads sites that will eventually be developed between the ring road and US Hwy 80 frontage road/ Collins Road. This plat does not include any pads sites at this time. Each pad site will have to submit a site plan that meets the current zoning ordinances and obtain approval from Planning and Zoning and Town Council when they are developed.

Based on our review, staff has no objections to the preliminary plat as submitted. However, the applicant was requested to submit landscape plans for the two entrance medians and plans were never submitted. The applicant has also submitted for a zoning change to a Master Planned Development. This zoning change is being continued to the April P & Z meeting at the request of the applicant. It is staff's opinion that since the MPD is being continued, that once the MPD is reviewed and approved, it could affect the preliminary plat with respect to setbacks, lot sizes, landscaping etc. This concern has been expressed to the applicant.

Based on the information stated above, staff is recommending approval of the preliminary plat as submitted subject to engineering approval of construction plans and submittal/approval of required landscape/irrigation plans.



TOWN OF SUNNYVALE
 127 N Collins Road
 Sunnyvale, Texas 75182
 (972) 203-4188

DEVELOPMENT APPLICATION

- | | |
|--|--|
| <input checked="" type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Replat |
| <input type="checkbox"/> Final Plat | <input type="checkbox"/> Amending Plat |
| <input type="checkbox"/> Preliminary Site/Concept Plan | <input type="checkbox"/> Site Plan |
| <input type="checkbox"/> Landscape | <input type="checkbox"/> Building Elevations |
| <input type="checkbox"/> Tree survey | |

FILE NO: 1259

PROPERTY INFORMATION

Addition Name: Sunnyvale Centre, Phase I		Address/Location: SWC U.S. Hwy. 80 & Collins Rd. (S.H. 352)	
Lot(s): 1	Block: A-D	Current Zoning: GB	
# of Acres: 21.434	# of Lots: 4	# of Units: N/A	

APPLICANT INFORMATION

Name: Michael L. Clark, P.E.		Company: Lawrence A. Cates & Assoc, LLP	
Mailing Address: 14800 Quorum Drive, Suite 200			
City: Dallas	State: Texas	Zip: 75254	
Phone: 972-385-2272	Fax: 972-980-1627	Email: mclark@lca-dallas.com	

OWNER INFORMATION

Name: Rick Sheldon		Company: RKS Texas Investments, LP	
Mailing Address: 601 Sonterra Blvd.			
City: San Antonio	State: Texas	Zip: 78258	
Phone: 210-490-2500	Fax: 210-490-4465	Email: nhiatt@ricksheldonrealestate.com	

SITE PLAN APPLICATION SUBMITTAL REQUIREMENTS

(Check those that apply)

- | | | |
|--|----------------------------|---------------|
| <input checked="" type="checkbox"/> Preliminary Plat & Checklist | 24"x36", 4 copies (folded) | Fee: 540.00 |
| <input type="checkbox"/> Final Plat & Checklist | 24"x36", 4 copies (folded) | Fee: _____ |
| <input type="checkbox"/> Amended Plat & Checklist* | 24"x36", 4 copies (folded) | Fee: _____ |
| <input type="checkbox"/> Minor Plat & Checklist* | 24"x36", 4 copies (folded) | Fee: _____ |
| <input type="checkbox"/> Replat & Checklist* | 24"x36", 4 copies (folded) | Fee: _____ |
| <input type="checkbox"/> Preliminary Site/Concept Plan & Checklist | 24"x36", 4 copies (folded) | Fee: _____ |
| <input type="checkbox"/> Site Plan & Checklist | 24"x36", 4 copies (folded) | Fee: _____ |
| <input type="checkbox"/> Landscape Plan & Checklist | 24"x36", 4 copies (folded) | Fee: _____ |
| <input type="checkbox"/> Building Elevations | 24"x36", 4 copies (folded) | Fee: _____ |
| <input checked="" type="checkbox"/> Photometric/Lighting | 24"x36", 2 copies (folded) | Fee: _____ |
| <input type="checkbox"/> Tree Survey & Checklist | 24"x36", 4 copies (folded) | Fee: _____ |
| <input checked="" type="checkbox"/> Civil Engineering Plans | 2 Sets (rolled) | Fee: 1,000.00 |

*Use final plat checklist

(See Fee Schedule for all Amounts)

PA 2-24-11

OWNER AUTHORIZATION

Check one of the following:

- I will represent the application myself; or
- I authorize Michael L. Clark, P.E. (name of applicant) to represent this application on my behalf. The named applicant shall be the principal person for responding to all requests and to attend all meetings.

I waive the statutory time limit for plat approval in accordance with Section 212.009 of the Local Government Code.

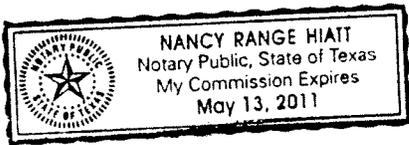
Owner's Signature:  Date: 2-21-11
 Rick Sheldon, Partner

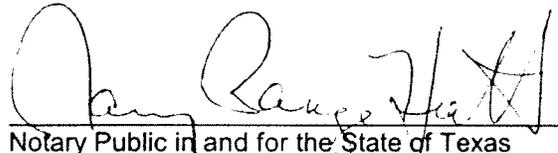
STATE OF TEXAS

COUNTY OF: Bexar

BEFORE ME, a Notary Public, on this day personally appeared Rick Sheldon the above signed, who, under oath, stated the following: "I hereby certify that I am the owner or authorized corporate representative for the purposes of this application; that all information submitted herein is true and accurate."

Subscribed and sworn to before me this 21st day of February, 2000. 2011




 Notary Public in and for the State of Texas

This application is not considered accepted by the Town until the Town Engineer or Chief Building Official has signed below.


 Town Engineer

 Chief Building Official

L
C
A

Lawrence A. Cates & Associates, LLP

Consulting Engineers
14800 Quorum Drive, Suite 200
Dallas, Texas 75254
Telephone: (972) 385-2272
Fax: (972) 980-1627
www.lawrenceacates.com

March 16, 2011

Mr. Marc Bentley, P.E.
Town Engineer
Town of Sunnyvale
127 N. Collins Road
Sunnyvale, Texas 75182

Re: Preliminary Plat
Sunnyvale Centre Addition
LCA No. 054-001

Dear Mr. Bentley:

There are not any existing trees 6-inch caliper or larger that will be affected by the referenced project. If you have any questions, please contact me at your earliest convenience.

Sincerely,



Michael L. Clark, P.E.



cc. Mike Anderson, via email



**Notice of Application for Preliminary Plat
Town of Sunnyvale**

The Town of Sunnyvale has received a request by Michael L. Clark/ RKS Texas Investments for approval of a Preliminary Plat for Sunnyvale Centre, Phase I. The property being platted is located at the southwest corner of U.S. Hwy 80 and S. Collins and is shown on the attached exhibit.

Plat Description-BLOCK A, LOT 1 BLOCK B, LOT 1 BLOCK C & LOT 1 BLOCK D. 21.434 ACRES BEING OUT OF THE J.P. LAWRENCE SURVEY, ABSTRACT. 807 TOWN OF SUNNYVALE, DALLAS COUNTY, TEXAS.

The Planning and Zoning Commission will hear this application on March 21, 2011 and the Town Council will consider the application on March 28, 2011 or April 11, 2011. The hearings will be conducted in open session at Town Hall, 127 Collins Road at 7:00 P.M. If you have comments on this application, you may present them in person at these meetings or may submit written comments at any time on or before date of the hearings.

The Preliminary Plat application and supporting documents are on file at Town Hall and may be examined at no charge. For further information contact the Development Department at 972-203-4188.

If you wish to submit a written response, please fill out and return this notice as soon as possible.

I am in favor of the Preliminary Plat

I am opposed to the Preliminary Plat

Explanation:

Awesome Deal!!!

Signature:

Printed Name:

Address:

Date:

[Signature]
Rick Sheldon, Managing Partner
Applicant
3-14-11



**Notice of Application for Preliminary Plat
Town of Sunnyvale**

The Town of Sunnyvale has received a request by Michael L. Clark/ RKS Texas Investments for approval of a Preliminary Plat for Sunnyvale Centre, Phase I. The property being platted is located at the southwest corner of U.S. Hwy 80 and S. Collins and is shown on the attached exhibit.

Plat Description-BLOCK A, LOT 1 BLOCK B, LOT 1 BLOCK C & LOT 1 BLOCK D. 21.434 ACRES BEING OUT OF THE J.P. LAWRENCE SURVEY, ABSTRACT. 807 TOWN OF SUNNYVALE, DALLAS COUNTY, TEXAS.

The Planning and Zoning Commission will hear this application on March 21, 2011 and the Town Council will consider the application on March 28, 2011 or April 11, 2011. The hearings will be conducted in open session at Town Hall, 127 Collins Road at 7:00 P.M. If you have comments on this application, you may present them in person at these meetings or may submit written comments at any time on or before date of the hearings.

The Preliminary Plat application and supporting documents are on file at Town Hall and may be examined at no charge. For further information contact the Development Department at 972-203-4188.

If you wish to submit a written response, please fill out and return this notice as soon as possible.

- I am in favor of the Preliminary Plat
 I am opposed to the Preliminary Plat

Explanation:

Signature:

Paul E. Cash

Printed Name:

PAUL E. CASH

Address:

347 TRIPP RD

Date:

3/17/11



**Notice of Application for Preliminary Plat
Town of Sunnyvale**

The Town of Sunnyvale has received a request by Michael L. Clark/ RKS Texas Investments for approval of a Preliminary Plat for Sunnyvale Centre, Phase I. The property being platted is located at the southwest corner of U.S. Hwy 80 and S. Collins and is shown on the attached exhibit.

Plat Description-BLOCK A, LOT 1 BLOCK B, LOT 1 BLOCK C & LOT 1 BLOCK D. 21.434 ACRES BEING OUT OF THE J.P. LAWRENCE SURVEY, ABSTRACT. 807 TOWN OF SUNNYVALE, DALLAS COUNTY, TEXAS.

The Planning and Zoning Commission will hear this application on March 21, 2011 and the Town Council will consider the application on March 28, 2011 or April 11, 2011. The hearings will be conducted in open session at Town Hall, 127 Collins Road at 7:00 P.M. If you have comments on this application, you may present them in person at these meetings or may submit written comments at any time on or before date of the hearings.

The Preliminary Plat application and supporting documents are on file at Town Hall and may be examined at no charge. For further information contact the Development Department at 972-203-4188.

If you wish to submit a written response, please fill out and return this notice as soon as possible.

I am in favor of the Preliminary Plat

I am opposed to the Preliminary Plat

Explanation:

Signature:

Printed Name:

Address:

Date:



**Dallas Central
Appraisal District**
www.dallascad.org

DISCLAIMER
The Dallas Central Appraisal District does not control or guarantee the accuracy, relevancy, timeliness or completeness of this data. DCAD assumes no legal responsibilities for the information represented on this map. Users should independently verify the data on this map before making any conclusions based on this data.

TOWN COUNCIL MEETING

PROJECT/ITEM: Consider a fine increase for moving violations of 25 mph and greater to \$200, the maximum citation amount allowed by the State. Also, increase the moving violation base fine and mph increment rate.

ATTACHMENTS: Ordinance

DESCRIPTION: The Town's existing traffic fine schedule is tiered for violations such that the fine for 25 mph over the speed limit is \$125. Citations are increased by \$3 for each additional mph. For example, a violation of 45 mph over the speed limit is \$185.

The Judge currently requests that those with moving violations of 25 mph or more appear in court so the State allowed maximum fine of \$200 can be assessed. The Judge stated that the maximum assessment of \$200 for violations equal or greater than 25 mph is consistent throughout the State. Staff surveyed several cities in the immediate area and found this to be true. Staff is also recommending the base fine of \$80 be increased to \$97 for violations up to 10 mph over speed limit and a \$2 tier increase for each additional mph for violations 11- 24 mph. This will allow Sunnyvale to be more consistent with surrounding communities and help offset increased costs as fines have not been adjusted in over 15+ years.

In an effort to standardize Court processes to increase efficiency, Staff recommends all moving violations of 25 mph and greater be assessed the maximum fine allowed by State law of \$200. This will allow more citations to be paid online or during the week, which will reduce the number required to appear in court, Thursdays from 3 to 5pm. Staff also recommends an increased base fine from \$80 to \$97 and a \$2 mph increment increase to be more consistent with neighboring communities and offset increased costs.

TOWN OF SUNNYVALE, TEXAS

ORDINANCE NO 527

AN ORDINANCE OF THE TOWN OF SUNNYVALE, TEXAS, AMENDING THE CODE OF ORDINANCES APPENDICES ARTICLE 5.000, MUNICIPAL COURT FEES, TO ADD SECTION 5.450 TO PROVIDE FOR MOVING VIOLATION FINES AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Sunnyvale Council has been advised by Staff that adjusting the Court fine schedule will promote more standardization of the Municipal Courts processes increasing efficiency; and,

WHEREAS, the Town of Sunnyvale Council finds that the fine schedule herein proposed is in compliance with State laws and no more than what is common among surrounding cities and towns.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Sunnyvale, Texas:

That the Code of Ordinances, Town of Sunnyvale, Texas, Appendices Article 5.000 is hereby amended by adding Section 5.450 to read as follows:

Sec. 5.450 Fines for moving violations

The municipal court is hereby authorized to assess a moving violation fine of \$97 for up to 10 mph over the speed limit and \$5 per each additional mph up to 24 mph over. Violations of 25 mph and greater will be assessed a fine of \$200. School Zone violations will be assessed a fine of \$100 for up to 10 mph over the speed limit and \$7 per each additional mph up to 24 mph over. Violations of 25 mph and greater will be assessed a fine of \$200.

Section 3 This Ordinance shall be effective April 1st 2011.

PASSED AND APPROVED BY THE TOWN COUNCIL ON THIS THE 28th DAY OF MARCH, 2011.

APPROVED:

By: _____
Mayor David Byrd, Town of Sunnyvale

ATTEST:

Kathryn Dewey, Town Secretary

TOWN COUNCIL MEETING

PROJECT/ITEM: Consider resolution 11-06 to authorize Cities Aggregation Power Project (CAPP) to negotiate an extended contract with the current electric provider until 2018.

ATTACHMENTS: Resolution

DESCRIPTION: The Town joined CAPP in 2007 to bundle electric usage with numerous other cities/town to provide better electricity pricing and contract administration. The current contract runs through the calendar year 2013 at a rate of \$.07895 per kWh.

CAPP is currently negotiating with the electric provider to extent the contract through 2018 at an expected reduced rate of about 1 cent per kWh. This would save the Town about \$23,000 annually. Electric costs are directly related to natural gas prices which have been close to 10 year lows for the past couple of years and are expected to remain so for the next several years.

Staff recommends approval of Resolution 11-06 allowing CAPP to negotiate favorable terms for the purchase of electricity until 2018 providing significant cost saving and aiding in the budgeting process.

RESOLUTION NO. 11-06

A RESOLUTION OF THE TOWN OF SUNNVALE, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AND NECESSARY RELATED SERVICES AGREEMENT WITH NEXT ERA FOR A FIXED PRICE PER KWH THAT IS LOWER THAN CONTRACT RATES FOR 2011-2013, SAID EXTENSION TO CONTINUE UNTIL DECEMBER 31, 2018; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE TOWN TO ENTER INTO A CONTRACT FOR ELECTRICITY; AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN EXTENSION TO THE CURRENT ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2011 OR AS SOON AFTER FINALIZATION OF A CONTRACT AS POSSIBLE; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE TOWN'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS THROUGH DECEMBER 31, 2018.

- WHEREAS**, the Town of Sunnyvale, Texas (Town) is a member of Cities Aggregation Power Project, Inc. ("CAPP"), a nonprofit political subdivision corporation dedicated to securing electric power for its 102 political subdivision members in the competitive retail market; and
- WHEREAS**, CAPP negotiated favorable contract terms and a reasonable commodity price for delivered electricity since 2002 resulting in significant savings for its members; and
- WHEREAS**, the Town's current contract for power with Next Era arranged through CAPP expires December 31, 2013; and
- WHEREAS**, the CAPP Board of Directors is currently considering a blend and extend contract with Next Era with indicative retail energy prices that will reduce the prices under the current contract for the next three years and extend a fixed price for energy through December 31, 2018; and
- WHEREAS**, the current contract is a master agreement between CAPP and Next Era endorsed by contract with individual CAPP members; and
- WHEREAS**, CAPP must be able to commit contractually to prices in a blend and extend contract amendment within a 24-hour period in order to lock-in favorable prices; and

WHEREAS, experiences in contracting for CAPP load since 2002 demonstrated that providers demand immediate response to an offer and may penalize delay with higher prices; and

WHEREAS, suppliers demand assurance that CAPP will pay for all contracted load; and

WHEREAS, the Town must assure CAPP that it will budget for energy purchases and honor its commitments to purchase power for its electrical needs through CAPP for the period beginning January 1, 2011, and extending through December 31, 2018; and

WHEREAS, CAPP intends to continue to contract with Next Era (power supply) and Direct Energy (billing, administrative and other customer services); and

WHEREAS, the current contractual relationships between CAPP and Next Era and Direct Energy have been beneficial and cost effective for CAPP members and the Town.

THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS:

Section 1:

That the CAPP Board and its consultants and advisors are agents authorized to negotiate for the Town's electric power needs as a member of CAPP and extend the current supply agreement through December 31, 2018.

Section 2:

That the Town approves CAPP extending its current contract with Next Era for the supply of electric power and related, necessary services for the Town for a term to begin January 1, 2011 or as soon after finalization of a contract as possible and extending up to December 31, 2018, so long as the extension results in savings over the current contract term of 2011-2013 and results in fixed prices through December 31, 2018.

Section 3:

That the Chairman of CAPP is hereby authorized to sign a Commercial Electricity Supply Agreement ("CESA") for the Town pursuant to the contract approved and recommended by the CAPP Board of Directors within 24 hours of said approval and recommendation, provided that the energy price to be paid per kWh in 2011-2013 is less than the current contract price for 2011-2013 resulting in savings for the Town and that the fixed price for the period 2011-2013 will continue through December 31, 2018.

Section 4:

That the Town will budget and approve funds necessary to pay electricity costs proportionate to the Town's load under the supply agreement arranged by CAPP and the CESA signed by the Chairman of CAPP on behalf of the Town for the term beginning January 1, 2011 or as soon after finalization of a contract as possible and extending up to December 31, 2018.

Section 5:

That a copy of the resolution shall be sent to Mary Bunkley with the City Attorney's office in Arlington and Geoffrey M. Gay, legal counsel to CAPP.

PRESENTED AND PASSED on this 14th day of March, 2011, by a vote of _____ ayes and _____ nays at a regular meeting of the Town Council of the Town of _____, Texas.

Mayor

ATTEST:



AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager *SC*

RE: **ITEM 6: Consideration Ordinance # 528: Calling Joint Public Hearing of Town Council and Planning and Zoning Commission**

DATE: March 25, 2011

As indicated in previous correspondence, we have received a development application for a 96-unit, quad-home project off of Planters Road. This ordinance simply calls a joint public hearing with the Planning and Zoning Commission for April 18 to consider this application and related land use and zoning change request.

ORDINANCE NO: 528

AN ORDINANCE OF THE TOWN OF SUNNYVALE, TEXAS, CALLING TWO JOINT PUBLIC HEARINGS OF THE TOWN PLANNING AND ZONING COMMISSION AND TOWN COUNCIL TO CONSIDER AN AMENDMENT TO THE LAND USE DIAGRAM OF THE COMPREHENSIVE PLAN FROM THE INDUSTRIAL AND COMMERCIAL LAND USE CATEGORIES TO AN URBAN DENSITY RESIDENTIAL LAND USE CATEGORY FOR A 17.25-ACRE TRACT OF LAND 17.2519 ACRE TRACT OF LAND SITUATED IN THE TIMOTHY COHWELL SURVEY, ABSTRACT NO. 335, SUNNYVALE, DALLAS COUNTY, TEXAS, AND BEING PART OF A TRACT OF LAND CONVEYED TO FC PROPERTIES ONE, LTD. BY DEED RECORDED IN VOLUME 96059, PAGE 1966 (A MORE DETAILED LEGAL DESCRIPTION BEING AVAILABLE AT SUNNYVALE TOWN HALL); TO CONSIDER A PARALLEL AMENDMENT TO THE OFFICIAL ZONING MAP FROM INDUSTRIAL AND HIGHWAY COMMERCIAL DISTRICTS TO AN ATTACHED HOUSING DISTRICT FOR THE SAME LAND IN ORDER TO AUTHORIZE A FOUR-PLEX RESIDENTIAL PROJECT CONTAINING 96 DWELLING UNITS; CONSIDERING A CONCEPT PLAN FOR THE AHC DISTRICT; CONSIDERING STANDARDS FOR DEVELOPMENT OF THE AHC DISTRICT, INCLUDING ALTERNATIVE PERFORMANCE STANDARDS; CONSIDERING CONDITIONS FOR DEVELOPMENT OF THE AHC DISTRICT; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Sunnyvale, Texas, hereinafter called "Town," is authorized by Chapter 211 of the Texas Local Government Code and the Town Zoning Ordinance to hold a joint public hearing of the Town Council and Planning and Zoning Commission to adopt amendments to zoning regulations;

WHEREAS, Section 211.007(b) authorizes the conduct of a joint public hearing of the Town Planning and Zoning Commission and the Town Council; and

WHEREAS, Section 23.3 of the Zoning Ordinance also authorizes such joint public hearing; and

WHEREAS, VCZ Development LLC, with approval of the owner of property generally described as [brief description] Sunnyvale, Texas, has filed applications for amendments to the Land Use Diagram of the Comprehensive Plan from Industrial and Commercial Land Use Categories to an Urban Density Residential Land Use Category and a parallel amendment to the Official Zoning Map from Industrial and Highway Commercial Districts to an Attached Housing Commercial ("AHC") District for a 96-unit four-plex residential project, together with a request for incorporation of a Concept Plan for the AHC District, a request for waivers of performance standards and substitution of alternative development standards, a proposed guaranty and secured participation agreement and a request for waiver of impact fees; and

WHEREAS, the Town Council finds and concludes that all such amendments should be jointly considered together by the Council and the Town Planning and Zoning Commission in

the interest of the public and to ensure the health, safety, morals and general welfare of the Town; and

WHEREAS, the Town Council seeks to convene a joint meeting of the Planning and Zoning Commission and the Town Council during which public testimony will be heard concerning amendments to its zoning regulations and zoning map; and

WHEREAS, this matter came on before the Town Council at its regular meeting of March 28, 2011;

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS:

Section 1: Incorporation of Recitals. That all of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Section 2: Joint Public Hearing. That a public hearing will be jointly held with Town Council and the Planning and Zoning Commission at 7:00 p.m. on April 18, 2011, in the Council Chambers of Sunnyvale Town Hall, 127 Collins Road, Sunnyvale, Texas, and to jointly convene a second public hearing at 7:00 p.m. on April 25, 2011, in the Council Chambers of Sunnyvale Town Hall, 127 Collins Road, Sunnyvale, Texas, for the purpose of taking public testimony and to consider proposed amendments to the Land Use Diagram of the Comprehensive Plan and to the Town's Official Zoning Map to authorize a four-plex development of 96-dwelling units, including Target Units, proposed by VCZ Development, Inc. for a 17.25-acre tract of land generally described as [address] Sunnyvale, Texas (the "Property"), including without limitation the following specific matters:

(i) amending the Land Use Diagram of the Comprehensive Plan for the Property from the Commercial (C) and Industrial (I) Land Use Categories to the Urban Density Residential (UDR) Land Use Category;

(ii) amending Zoning Ordinance. Ord. No. 339, as amended, by changing the zoning district classifications for the Property from the Highway Commercial (HC) and Industrial (I) Districts to the Attached Housing Commercial ("AHC" District);

(iii) incorporating a proposed Concept Plan as a part of the AHC District regulations governing development of the Property;

(iv) considering proposed waivers of certain performance standards for the AHC District and substitution of alternative performance standards;

(v) considering proposed conditions to be applied with the AHC District;

(vi) considering a proposed guaranty and secured participation agreement proposed by the developer; and

(vii) considering provision for incentives, including waivers of impact fees, requested by developer and authorized in the AHC District.

Section 3: Notice. The Town Manager hereby is directed to give public notice of the joint public hearings to be convened by the Town Planning and Zoning Commission and the Town Council, and to notify adjoining property owners in accordance with Texas Local Gov't Code Chapter 211 and the Zoning Ordinance.

Section 4: Severability. It is hereby declared to be the intention of the Town Council that if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or invalid by judgment or decree of a Court of competent jurisdiction, then such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance; and the Town Council hereby declares it would have passed the remaining portions even though it had known the affected parts would be held unconstitutional or invalid.

Section 5: Effective Date. This Ordinance shall take effect immediately upon the date of its passage.

PASSED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS on this the 28th day of March, 2011.

APPROVED:

David Byrd, Mayor

ATTEST:

Kathryn Dewey, Town Secretary