

**TOWN OF SUNNYVALE
TOWN COUNCIL MEETING**

**JULY 25, 2011
7:00 PM**

**Specially Called Meeting
6:00 PM**



**AGENDA
TOWN OF SUNNYVALE
SUNNYVALE TOWN COUNCIL
SPECIALLY CALLED MEETING
JULY 25, 2011
6:00 P.M.**

THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS WILL CONDUCT A SPECIALLY CALLED MEETING ON JULY 25, 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, 551.071 AND GOVERNMENT CODE SECTION 551.074. ITEMS TO BE DISCUSSED:

- **CALL MEETING TO ORDER**

- **CONVENE INTO EXECUTIVE SESSION PURSUANT TO V.T.C.A. GOVERNMENT CODE SECTION 551.071 - LITIGATION AND 551.074 PERSONNEL**
EXECUTIVE SESSION AGENDA:
 1. **LITIGATION - DEWS VS TOWN OF SUNNYVALE**
 2. **LITIGATION - VULCAN LANDS LLC VS TOWN OF SUNNYVALE**
 3. **PERSONNEL - TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL OF A PUBLIC OFFICER OR EMPLOYEE**

- **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.

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 22ND DAY OF JULY 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
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REGULAR MEETING
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- **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 - REGULAR MEETING 07-11-11**
- B. APPROVAL OF MINUTES - SPECIAL MEETING 07-11-11**

• **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.)

• **DISCUSSION/ACTION ITEM**

2. CONSIDER ORDINANCE NO. 538: AN ORDINANCE OF THE TOWN OF SUNNYVALE, TEXAS, PROVIDING FOR SUSPENSION OF THE ACCEPTANCE, PROCESSING AND APPROVAL OF APPLICATIONS FOR PERMITS FOR DEVELOPMENT OR CONSTRUCTION OF HEAVY INDUSTRIAL USES IN THE GENERAL BUSINESS, HIGHWAY COMMERCIAL AND INDUSTRIAL DISTRICTS IN THE TOWN OF SUNNYVALE, TEXAS, AND OF REZONING APPLICATIONS FOR SUCH USES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A TERM; PROVIDING FOR EXEMPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

• **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 AND FINAL PLAT

APPLICANT: TROY NELSON
AT OR ABOUT: 350 MICHAEL LANE
REQUEST: NELSON ADDITION

• **DISCUSSION/ACTION ITEMS**

4. FY 2010 AUDIT REPORT/PRESENTATION

5. ORDINANCE NO. 539: AN ORDINANCE AMENDING ORDINANCE NUMBER 534 WHICH MADE APPROPRIATIONS FOR THE SUPPORT OF THE TOWN OF SUNNYVALE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010 AND ENDING SEPTEMBER 30, 2011; AND AMENDING THE ANNUAL GENERAL FUND BUDGET OF THE TOWN OF SUNNYVALE FOR THE 2010-2011 FISCAL YEAR.

6. RESOLUTION 11-17- A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE APPROVING THE ENTERING INTO OF AN INTERLOCAL AGREEMENT WITH DALLAS COUNTY CONCERNING COST SHARING OF ROADWAY REPAIR EXPENSES.

7. CONSIDER COUNCIL APPOINTMENTS TO THE PLANNING AND ZONING COMMISSION, HWY 190 AND HOME RULE COMMITTEES

8. SB 100 - ELECTION DISCUSSION/UPDATE

• **COUNCIL REPORTS AND REQUESTS**

• **MAYOR REPORTS AND REQUESTS**

• **ADJOURN**

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SUNNYVALE LIBRARY AT 402 TOWER PLACE**

KATHRYN DEWEY, TOWN SECRETARY



**MINUTES
TOWN OF SUNNYVALE
SUNNYVALE TOWN COUNCIL
SPECIALLY CALLED MEETING
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6:00 P.M.**

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

- **CALL MEETING TO ORDER**

Mayor Phaup called the meeting to order at 6:05 p.m.

- **INTERVIEW BOARD AND COMMISSION APPLICANTS**

Applicants were interviewed for board and commission appointment consideration.

- **ADJOURN**

Mayor Phaup adjourned the meeting at 7:13 p.m.

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

Mayor Jim Phaup

ATTEST:

Kathryn Dewey, Town Secretary

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



**MINUTES
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JIM PHAUP
KAREN HILL
PAULA YATES
SAJI GEORGE
RONNIE HENDERSON, JR
PAT WILEY

• **CALL TOWN COUNCIL MEETING TO ORDER**

Mayor Phaup called the meeting to order at 7:13 p.m.

• **INVOCATION**

Councilmember George gave the invocation.

• **PLEDGE OF ALLEGIANCE**

Mayor Phaup led the pledge of allegiance.

• **CONSENT AGENDA**

• **PUBLIC FORUM**

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Public Comments:

1) Steve Pettit, 360 S. Larkin Rd. spoke to the council regarding the issues surrounding the possible road closure of Berry Rd.

2. PUBLIC INPUT ON UPCOMING BUDGET

There were no public comments.

• **DISCUSSION/ACTION ITEMS**

3. RESOLUTION 11-16, A RESOLUTION OF THE TOWN OF SUNNYVALE TOWN COUNCIL APPROVING AN AGREEMENT WITH THE UNION PACIFIC RAILROAD FOR A REIMBURSEMENT OF COSTS ASSOCIATED WITH THE TOWN'S CLOSURE OF THE BERRY ROAD PUBLIC RAILROAD CROSSING USDOT NO. 794810U AND EASEMENT ACROSS THE RAILROAD'S PROPERTY

Mayor Phaup read Item #3 into the record. Scott Campbell, Town Manager, advised this resolution represented an agreement with the Union Pacific Railroad to reimburse the Town's costs for the permanent road closure of the Berry Road railroad crossing. Mr. Campbell gave a brief history of the request from the railroad.

Motion was made by Councilmember Wiley to approve Resolution 11-16 as presented. Motion seconded by Councilmember Henderson. Motion carried 5/0.

4. CONSIDER COUNCIL APPOINTMENTS TO 4A DEVELOPMENT CORPORATION, 4B DEVELOPMENT CORPORATION, LIBRARY BOARD, AND BOARD OF ADJUSTMENT, HOME RULE CHARTER COMMITTEE, AND THE HWY 190 ADVISORY COMMITTEE

Sunnyvale 4A Development Corporation:

Motion was made by Councilmember Hill to appoint:

David Carlile for a 2-year term expiring in 2013

Terrie Shatter for a 2-year term expiring in 2013

Bill Metzger for a 2-year term expiring in 2013

Motion seconded by Councilmember Henderson. Motion carried 4/1 with Councilmember Wiley opposed.

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Town Council Meeting
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Sunnyvale 4B Development Corporation:

Motion was made by Councilmember Henderson to appoint:

John Bailey for a 2-year term expiring in 2013

Motion seconded by Councilmember Wiley. Motion carried 3/2 with Councilmembers Hill and Yates opposed.

Motion was made by Councilmember Hill to appoint:

Warren Kampmeier for a 2-year term expiring in 2013

Motion seconded by Councilmember Yates. Motion carried 3/2 with Councilmembers Henderson and Wiley opposed.

Motion was made by Councilmember Yates to appoint:

Cindy Bornowski for a 2-year term expiring in 2013

Motion seconded by Councilmember Hill. Motion failed 2/3 with Councilmembers Henderson, Wiley and George opposed.

Motion was made by Councilmember Henderson to appoint:

Kara Ranta for a 2-year term expiring in 2013

Motion seconded by Councilmember Hill. Motion carried 5/0.

Motion was made by Councilmember Henderson to appoint:

Michael Giordano for a 1-year term expiring in 2012

Motion seconded by Councilmember Wiley. Motion carried 4/1 with Councilmember Yates opposed.

Sunnyvale Library Board:

Motion was made by Councilmember Hill to appoint:

Mary Hughes for a 2-year term expiring in 2013

Carolyn Trammell for a 2-year term expiring in 2013

Katie Frazier for a 2-year term expiring in 2013

Rajan Philip for a 2-year alternate term expiring in 2013

Motion seconded by Councilmember Yates. Motion carried 5/0.

Board of Adjustment:

Motion was made by Councilmember Hill to appoint:

Fred Miller for a 2-year term expiring in 2013

Dale Graves for a 2-year term expiring in 2013

Laela Naghela EL for a 2-year term expiring in 2013

Diane De La Garza for a 2-year term expiring in 2013

Motion seconded by Councilmember George. Motion carried 5/0.

5. DISCUSSION AND STAFF PRESENTATION REGARDING PROPOSED REVISIONS TO CURRENT HUNTING REGULATIONS

Scott Campbell explained the staff request for review of current hunting regulations. Sgt. Jacks spoke to the council regarding resident complaint calls. Several mapping options were discussed.

Public Comments:

1. **Bragg Smith**, E-S Ranch, spoke concerned about revisions restricting protection of cattle on significant tracts of land.
2. **Diane Turner**, 228 Barnes Bridge, asked the council to involve landowners in recreational hunting regulations.
3. **Connie Pullen**, 252 Barnes Bridge Rd, explained that when he had a problem with predators he would carry a gun as he saw fit. He advised he thought the council was overstepping their authority.
4. **Mike Sage**, 137 Rebecca Rd, discussed issues with controlling predators at his orchards.

No action taken.

• **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 5/0.

Mayor Phaup adjourned into executive session at 8:20 p.m.

Mayor Phaup reconvened into regular session at 9:00 p.m.

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

No action.

• **COUNCIL REPORTS AND REQUESTS**

Councilmember George invited those present to attend a Medical Camp hosted by St. Paul's Mar Thoma Church on July 22, 2011 located at 1002 Barnes Bridge Rd, Mesquite, TX 75150.

• **MAYOR REPORTS AND REQUESTS**

Mayor Phaup thanked everyone who donated at the Lexi Johnson carwash. He reminded everyone a planning meeting would be held on Thursday, July 14, 2011.

• **ADJOURN**

Mayor Phaup adjourned the meeting at 9:05 p.m.

Minutes
Town Council Meeting
July 11, 2011
Page 5

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

Mayor Jim Phaup

ATTEST:

Kathryn Dewey, Town Secretary

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ARE CONDENSED THEREFROM



AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager *SC*

RE: **ITEM # 2: Consideration of Ordinance No. 538: Suspending Acceptance of Applications of Permits for Development or Construction of Heavy Industrial Uses in Certain Zoning Classifications**

DATE: July 21, 2011

Staff will provide an update and presentation on this item Monday night.

**TOWN OF SUNNYVALE, TEXAS
ORDINANCE NO. 538**

AN ORDINANCE OF THE TOWN OF SUNNYVALE, TEXAS, PROVIDING FOR SUSPENSION OF THE ACCEPTANCE, PROCESSING AND APPROVAL OF APPLICATIONS FOR PERMITS FOR DEVELOPMENT OR CONSTRUCTION OF HEAVY INDUSTRIAL USES IN THE GENERAL BUSINESS, HIGHWAY COMMERCIAL AND INDUSTRIAL DISTRICTS IN THE TOWN OF SUNNYVALE, TEXAS, AND OF REZONING APPLICATIONS FOR SUCH USES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A TERM; PROVIDING FOR EXEMPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Sunnyvale ("Sunnyvale") has adopted comprehensive zoning regulations by Ord. No. 339, as amended (the "Zoning Ordinance"); and

WHEREAS, the Zoning Ordinance text establishes a General Business ("GB") District, a Highway Commercial ("HC") District, and an Industrial ("I") District among other zoning districts and identifies permitted and conditionally permitted uses in such Districts; and

WHEREAS, multiple undeveloped tracts of land in the Town are classified as GB, HC or I Districts on the Town's official Zoning Map; and

WHEREAS, many such tracts are located adjacent or in proximity to existing or planned residential or commercial uses; and

WHEREAS, few of the allowed uses in the GB, HC or I District have been defined in the Zoning Ordinance; and

WHEREAS, many of the terms describing allowed uses in the GB, HC and I Districts are antiquated and do not reflect current zoning practices by Texas municipalities; and

WHEREAS, many of the uses allowed in the GB, HC and I Districts have been traditionally classified as heavy industrial uses that may be inappropriate for location in the Town or at the locations presently zoned for such uses; and

WHEREAS, heavy industrial uses pose potentially harmful impacts on nearby residences and businesses, including other less intense industrial uses; and

WHEREAS, other uses permitted of right in the GB, HC and I District are not sufficiently defined so as to enable the Town to determine whether the use once established constitutes a heavy industrial use and hence poses harmful or negative impacts associated with such uses; and

WHEREAS, the Zoning Ordinance must be consistent with the Town's adopted Comprehensive Plan; and

WHEREAS, the Comprehensive Plan's Land Use Element contains policies prescribing compatibility between residential and non-residential uses; and

WHEREAS, heavy industrial uses permitted of right in the GB, HC or I Districts can be established upon approval of a site plan and building permit without the imposition of conditions that could otherwise mitigate the potential harmful effects of such uses on neighboring land uses; and

WHEREAS, the Town Council finds that a moratorium on the acceptance, processing and approval of applications for permits for heavy industrial uses is needed to properly evaluate, define and classify such uses, and to determine whether such uses should be prohibited within the Town, allowed only conditionally in the GB, HC or I Districts, or permitted of right in such Districts; and

WHEREAS, time is of the essence in defining and classifying heavy industrial uses under the Town's Zoning Ordinance; and

WHEREAS, it is the intent of the Town Council to expeditiously complete its evaluation of heavy industrial and potentially heavy industrial uses, so as not to unnecessarily delay establishment of industrial uses in the community;

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF

SUNNYVALE, TEXAS:

SECTION 1: Findings Incorporated.

a. The recitations contained in the whereas clauses prefacing this Ordinance hereby are incorporated by reference into the body of this Ordinance as findings of fact as if fully set forth herein.

b. The necessity to impose a moratorium on the acceptance, processing and approval of applications for the development or construction of heavy industrial uses within the Town is supported by such findings of fact.

SECTION 2: Affected Area. The provisions of this ordinance shall apply to all land that is classified as a GB District, a Highway Commercial District or an I District on the Town's official Zoning Map, or which is proposed to be rezoned to such Districts for a heavy industrial use.

SECTION 3: Definitions.

a. Affected area means the area described in Section 2 above.

b. Development application means any application for approval of a plat for division of land for purposes of construction or development, or a plan for construction or development on vacant land or on land to be redeveloped, which plat or plan is required or authorized by and pursuant to the Town's Zoning Ordinance, Subdivision Ordinance or development regulations, including but not limited to a rezoning application (including an application for approval of a planned development district), or an application for approval of a concept plan, site plan, site plan, development plan, master plan, preliminary plat, final plat, development plat, replat, or building permit.

c. "Heavy industrial use" means any of use or combination of uses permitted of

right or conditionally in the GB, HC or I Districts that are listed on Exhibit A attached hereto and incorporated herein by reference.

- d. Town means the Town of Sunnyvale, Texas.

SECTION 4: Suspension of Applications.

a. Except as expressly provided otherwise herein, no development application for a heavy industrial use within the affected area shall be accepted, processed or approved after the effective date and during the term of this Ordinance. Every proposed development application within the affected area shall identify all uses which are intended for the property by the use classifications contained in the GB, HC or I District regulations.

b. In the event that a development application for a heavy industrial use is submitted to the Town, the application shall be returned, together with any proffered application fee, to the applicant with notification that the application cannot be accepted for filing or further processing for the duration of this Ordinance.

c. Any action taken by any Town employee, officer, agent, bureau, department or commission of the Town to accept for filing, process or approve a non-exempt development application within the affected area after the effective date and during the term of this Ordinance hereby is deemed to be void and of no effect, and upon discovery such action shall be rescinded or otherwise disapproved.

SECTION 5 Appeals.

a. An applicant for approval of a development application for a heavy industrial use, who is aggrieved by the Town=s decision not to accept for filing, process or approve such application during the term of this Ordinance, may appeal for relief to the Town Council. The appeal

shall be in writing and shall be transmitted to the Office of Town Secretary within ten (10) days of the date of notification that the development application will not be accepted for filing or be processed for the duration of this ordinance.

b. The appeal shall be considered and decided by the Town Council within thirty (30) days of the date the appeal is received in the Office of the Town Secretary. The Town Council shall not release the applicant from the requirements of this Ordinance, unless the applicant first presents credible evidence from which the Town Council can reasonably conclude that the delay in processing the development application for a heavy industrial use deprives the applicant of a vested property right pursuant to Tex. Loc. Gov=t Code ch. 245 or pursuant to common law; of a right obtained pursuant to a development agreement; or of the economically viable use of his land.

c. In deciding whether to grant relief to the applicant on the appeal, the Town Council shall take into consideration the following:

- (1) whether any exemption to Tex. Loc. Gov=t Code ch. 245 applies;
- (2) the degree to which the property owner may be damaged or the property devalued by the delay in processing the application;
- (3) the nature and enforceability of any development agreement between the Town and the applicant or property owner;
- (4) the likelihood that sufficient relief will be provided to the applicant following termination of the Ordinance;
- (5) the total expenditures made in connection with the proposed use in good faith reliance on prior approvals; any fees reasonably paid in connection with the proposed development;

- (6) any representations made by the Town concerning approval of the development application and reasonably relied upon to the detriment of the applicant; and
- (7) the degree to which approval of the development application jeopardizes the public's health, safety or general welfare.

d. The Town Council may take one or more of the following actions:

- (1) deny the appeal, in which case the development application shall not be accepted, further processed or approved;
- (2) grant the appeal, and direct that the official responsible for reviewing the application accept the application for filing, process the application further, or approve the application consistent with existing regulations or subsequently enacted regulations; or
- (3) grant the appeal subject to conditions consistent with the purpose of this ordinance.

e. The relief that is granted by the Town Council pursuant to an appeal shall terminate, and all claims pertaining to vested rights or loss of economically viable use shall be deemed waived, forfeited and void, if any of the following conditions occur:

- (1) a development application consistent with the Town Council's decision is not filed within thirty days (30) of granting of such relief;
or
- (2) the application subsequently is denied for failure to comply with existing or subsequently enacted regulations governing the permit; or

(3) the development application has expired.

SECTION 6. Exemptions. The provisions of this Ordinance shall not apply to the following development applications:

a. Any existing use of land in a GB, HC or I District which is in conformance with the City's zoning and development regulations;

b. Any proposed use permitted of right or conditionally which is authorized in a GB, HC or I District and which is not a heavy industrial use;

c. Any complete development application that was filed before the effective date of this Ordinance;

d. Any subsequent development application that is for the same project as the application described in subsection (c), provided that the initial application was approved and has not since expired.

SECTION 7. Study. The Town Manager, in association with the Town planner, is hereby directed to undertake a study to determine the proposed treatment of heavy industrial uses under the Town's Zoning Ordinance and shall deliver his report and recommendations, including but not limited to proposed changes to the GB, HC or I District regulations and associated definitions and use tables, to the Town Council not later than 90 days after the effective date of this Ordinance.

SECTION 8 Term of Ordinance. Unless rescinded, altered or extended by the Town Council, this ordinance shall continue in effect from the effective date hereof for a period of 120 days.

SECTION 9: Conflicts. All Ordinances or provisions of Ordinances in conflict with this Ordinance are superseded to the extent of the conflict. Any remaining provisions of conflicting

Ordinances shall remain in full force and effect.

SECTION 10: 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 11: Effective Date. The suspension of applications provided in section 4 takes effect immediately upon its passage.

DULY PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS on first reading this _____ day of _____, 2011.

Jim Phaup, Mayor

EXHIBIT A

- A. The following uses permitted of right in the General Business District, under Section 12.2.B. of the Zoning Ordinance:
8. Envelope Manufacturing
 13. Optical Goods Manufacturing
 15. Printing
 16. Publishing Company
 21. Venetian Blind Assembly
- B. The following uses permitted conditionally in the General Business District, under Section 12.3.A. of the Zoning Ordinance:
4. Manufacturing, processing and fabrication of pre-manufactured parts or material into finished or semi-finished products for resale and/or distribution
 8. Truck Leasing – excluding semi-trucks and heavy load vehicles
- C. The following uses permitted of right in the Highway Commercial District, under Section 14.2.B. of the Zoning Ordinance:
3. Artificial Flower Manufacturing
 4. Artificial Limb Manufacturing
 8. Book Printing, Binding, Bindery
 10. Candy Manufacturing
 18. Distribution Center
 20. Electroplating; Electrotyping
 22. Envelope Manufacturing
 23. Feed Store - wholesale
 24. Fence Company - sales and storage
 26. Furniture Repair and Upholstering – wholesale
 27. Gas and electrical public utility regulating stations
 31. Ice Cream Manufacturing; Ice Manufacturing
 32. Leather Products Manufacturing
 33. Lithographing
 34. Looseleaf Book Manufacturing
 35. Lumber Yard or building material sales
 36. Machine Shop
 37. Milk Depot - wholesale
 38. Millinery Manufacturing
 42. Optical Goods Manufacturing
 44. Paper Products and Paper Box Manufacturing
 45. Photoengraving Plant
 46. Plastic Products - molding, casting and shaping
 60. Truck Sales or Leasing - semi-trucks and heavy load trucks
 61. Trailer Sales or Leasing - trailers, all lengths

- 64. Blinds Assembly
- 66. Welding Supply - retail or wholesale

D. The following uses permitted conditionally in the Highway Commercial District, under Section 14.3.A. of the Zoning Ordinance:

- 7. Clothing Manufacturing
- 8. Warehouse - cold storage
- 11. Furniture manufacturing
- 14. Motor freight terminal, hauling and storage and truck parking
- 24. Truck Terminal Yard

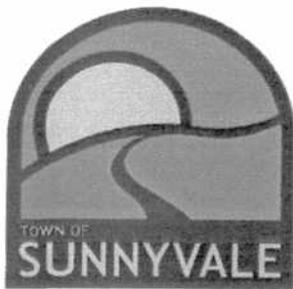
E. The following uses permitted of right in the Industrial District, under Section 15.2.B. of the Zoning Ordinance:

- 1. Aircraft firms, including sales, service and rentals
- 2. Awning Manufacturing
- 4. Bakeries - wholesale
- 5. Bottling plants or breweries
- 7. Cleaning plants – including carpets and dyeing
- 8. Construction equipment (heavy), including sales, service, rental and storage (unless a part of a construction site in case of storage)
- 9. Contractors Storage yard
- 11. Dairy products – processing
- 12. Drapery Manufacturing
- 14. Gas and electrical public utility regulating stations
- 16. Manufacturing, compounding, assembling, processing, packaging or treatment of products such as candy, drugs, perfumes, pharmaceuticals, perfumed toilet soaps, toiletries, but not including refining or rendering of fats and oils
- 17. Manufacturing, compounding, assembling, or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, metal, paper, plastics, precious or semi-precious metals or stones, light sheet metal, shell, textiles, tobacco, tools, toys, wire, yarns, wood not involving planing mills as the primary process, and paint not employing a boiling process
- 18. Manufacturing or assembly of electrical appliances, electronic instruments and devices, optical goods, precision instruments, radios and phonographs - including the manufacture of small parts only, such as coils, condensers, transformers and crystal holders
- 19. Manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay
- 22. Oil Equipment Sales, Manufacturing and Storage
- 23. Paint mixing and manufacturing
- 25. Plastic Products - molding, casting and shaping
- 26. Recycling Center
- 27. Recycling Plant

28. Storage of mineral production related materials
29. Sheet Metal Shop
30. Sales and service of mineral related equipment
31. Welding Shop (fabrication)
32. Public Utility Service Yard

F. The following uses permitted as conditional of right in the Industrial District, under Section 15.3.B. of the Zoning Ordinance:

2. Hauling - light and heavy
3. Rock quarries, sand, gravel and earth excavations. At the time the permit is granted, the Town Council may impose reasonable conditions for the protection of public health and safety, and may provide for the restoration of such property to a usable condition after uses have been terminated
4. Food processing and storage
5. Tire retreading or recapping
11. Automotive Body, Paint, and Interior Repair and Maintenance (NAICS-02 Code 811121, and Car Washes (NAICS-02 Code 811192)
12. Asphalt Paving and Products Manufacturing Plant (NAICS Codes 324121-324122)
- 12.A. Motor Freight Terminal (including hauling, storage and truck parking)
13. Assembly/Mixture of Certain Nontoxic Compounds – An establishment that is involved with the assembly, mixture, or combination of non-toxic, non-polluting, non-combustible, and inorganic raw materials into another non-toxic, non-polluting, non-combustible, and inorganic chemical form. A use classified under this definition shall be classified under NAICS Code #325188, but shall only specifically include the manufacturing of liquid iron sulfate and liquid aluminum sulfate for the water clarification industry



STAFF REPORT

DATE: July 20, 2011
TO: Town Council
FROM: Community Development Department
SUBJECT: Nelson Addition
File No. 1277
PAGES: 1

Troy Nelson has made application for preliminary and final plat for the subject project. The project is located at 350 Michael and consists of one residential lot on 0.73 acres of land. The property falls within the SF-3 zoning district:

Two items to be resolved:

- SF-3 zoning district requires a minimum lot size of 1 acre. The proposed lot size is 0.73 acres. A variance is being requested.
- Verification that the required Town monuments have been set as indicated on the final plat.

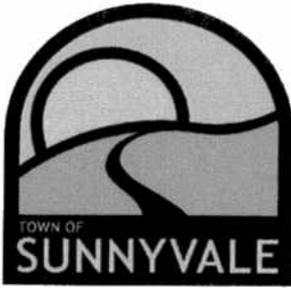
Town staff supports the variance request under one condition, the applicant must be successful in obtaining a septic system permit from Dallas County.

There were fourteen (14) notices mailed and two (2) returned in favor as of July 18, 2011.

Plats were approved by Planning & Zoning Commission on July 18, 2011.

Based on staff's review, we are recommending approval of the preliminary and final plats subject to the above stated items being resolved.

Marc Bentley, P.E.
Town Engineer



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

PdZ = 7-18-11 @ 1:00 PM
 Council = 7-25-11 @ 7:00 PM

DEVELOPMENT APPLICATION

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

FILE NO: 1277

PROPERTY INFORMATION

Addition Name: <u>Nelson Addition</u>	Address/Location: <u>350 Michael</u>
Lot(s): <u>.732</u>	Block: <u></u>
# of Acres: <u></u>	# of Lots: <u></u>
	Current Zoning: <u>1</u>
	# of Units: <u></u>

APPLICANT INFORMATION

Name: <u>Troy Nelson</u>	Company: <u></u>
Mailing Address: <u>350 Michael</u>	
City: <u>Sunnyvale</u>	State: <u>TX</u>
Phone: <u>972-226-4089</u>	Zip: <u>75182</u>
Fax: <u>cell</u>	Email: <u>troy.nelson@encana.com</u>
	<u>214 329 8417</u>

OWNER INFORMATION

Name: <u>Same as above</u>	Company: <u></u>
Mailing Address: <u></u>	
City: <u></u>	State: <u></u>
Phone: <u></u>	Zip: <u></u>
Fax: <u></u>	Email: <u></u>

SITE PLAN APPLICATION SUBMITTAL REQUIREMENTS

(Check those that apply)

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

*Use final plat checklist

(See Fee Schedule for all Amounts)

Fee: \$510.00 8/6-29-11
 Fee: _____
 Fee: _____

OWNER AUTHORIZATION

Check one of the following:

- I will represent the application myself; or
- I authorize _____ (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.

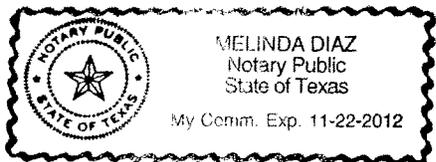
Owner's Signature: Troy Nelson Date: 6-21-11

STATE OF TEXAS

COUNTY OF: Dallas

BEFORE ME, a Notary Public, on this day personally appeared Troy Nelson 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 30th day of June, 2011.



Melinda Diaz
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

[Signature]
Chief Building Official



350 Michael Ln.
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.





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

The Town of Sunnyvale has received a request by Troy Nelson for approval of a Preliminary and Final Plat for the Nelson Addition. The property being platted is located at 350 Michael Ln and is shown on the attached exhibit.

Plat Description- Nelson Addition Lot 1 Block 1 being 0.732 acres of the Adam C. Haught Survey, Abstact No. 593 Town of Sunnyvale, Dallas County, Texas

The Planning and Zoning Commission will hear this application on July 18, 2011 and the Town Council will consider the application on July 25, or August 8, 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:

Roy & Jean Holt

Printed Name:

ROY & JEAN HOLT

Address:

353 MICHAEL LN

Date:

7-8-11



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Town of Sunnyvale**

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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:

Uinda Gooch

Printed Name:

Uinda Gooch

Address:

348 Michael Ln Sunnyvale Tx

Date:

7/15/11



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Town of Sunnyvale**

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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:



AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager *SC*

RE: **ITEM 4:** Presentation of 2009-10 Audit Report by Danny Strunc with Yeldell, Wilson & Co *Certified Public Accountants*.

DATE: July 21, 2011

You have been provided a copy of the FY 2010 Audit Report to include the Internal Control and Management Letters. Also included is a staff memorandum addressing those items listed in the auditor's Internal Control letter. The Management Letter includes two schedules. The first is a list of entries not made to the financial statements because of immateriality, and the second is a list of correcting accounting entries made to the Towns' financial statements. None of these entries affected the reporting of operating activity or financial position of the Town, and were made solely to expedite the preparation of the audit report. Most importantly, you will notice an unqualified opinion in the audit report. This is the Auditor's opinion that the financial reporting, which includes proper internal controls, information systems, and accounting procedures used materially represent the operating activity and financial position of the Town. The General Fund balance is \$1,617,652, Utility \$176,761, Water and Sewer Impact fees \$1,406,252, and Road Impact fees \$550,960.



AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager *SC*

RE: **ITEM 5: Consider Ordinance No. 539: Amending FY 2010 General Fund Budget**

DATE: July 21, 2011

At the mid-year budget review, council directed staff to refine its recommendations regarding B-Road expenditures to maximize Dallas County's original commitment for a 50% match. You will recall this was a result of B-Road expenditures being less than anticipated for the originally identified roads. Staff has identified additional B-road work in the amount of \$165,500, bringing the total reimbursed road repairs to \$200,746 of the county's original commitment of \$213,000. This ordinance represents a budget amendment to the General Fund reflecting the total expenditure for B-Roads, and the county's 50% reimbursement.

Staff is recommending the following B-Roads:

Concrete replacement:

Beltline	Town East to Tripp	\$21,000
Clay	352 to Long Creek	\$12,500

Asphalt Overlay:

Long Creek	365 to Town Limits	\$39,500
E Fork	301 to 317 E Fork	\$25,500
E Fork	301 to 228	\$67,000

The net effect is an increase to reserves of \$13,411 versus the amended budget reserve increase of \$50,961.

ORDINANCE NO 539.

AN ORDINANCE AMENDING ORDINANCE NUMBER 534 WHICH MADE APPROPRIATIONS FOR THE SUPPORT OF THE TOWN OF SUNNYVALE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010 AND ENDING SEPTEMBER 30, 2011; AND AMENDING THE ANNUAL GENERAL FUND BUDGET OF THE TOWN OF SUNNYVALE FOR THE 2010-2011 FISCAL YEAR.

WHEREAS, FY 2010-2011 General Fund budget was amended with the intent Staff review the condition of all B roads to ensure the fullest possible use of Dallas County 's street reimbursement program.

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

SECTION 1. The appropriations for the fiscal year beginning October 1, 2010 and ending September 30, 2011, for the support of the general government of the Town of Sunnyvale, Texas, be amended for said terms in accordance with the expenditures shown in the Town's fiscal year 2010-2011 Amended Budget a copy of which amendments are attached to and incorporated into this Ordinance for all purposes as Exhibit A.

SECTION 2. The amendments to the budget as shown in Exhibit A, are hereby approved in all respects and adopted for the fiscal year beginning October 1, 2010 and ending September 30, 2011.

PASSED AND APPROVED this the 25th day of July 2011.

Jim Phaup, Mayor

ATTEST:

Kathryn Dewey, Town Secretary

TOWN OF SUNNYVALE GENERAL FUND SUMMARY	AMENDED 2010-11 BDGET	PROPOS'D AMENDED 2010-11 BDGET (Streets)	CHANGE
BEGINNING FUND BALANCE	1,612,612	1,612,612	
REVENUES:			
Property taxes	2,452,784	2,452,784	
Permits/Licenses	79,000	79,000	
Franchises	845,822	845,822	
Sales Tax	720,000	720,000	
Developer Fees	28,617	28,617	
Court Fines	450,000	450,000	
Interest	2,000	2,000	
Ambulance Service Fees	46,000	46,000	
Other Fees	6,700	6,700	
Operating transfers in	133,000	133,000	
Other Governments (SISD, 50% Dallas Cty)	127,996	210,746	82,751
Miscellaneous	25,000	25,000	
TOTAL REVENUES	4,916,919	4,999,669	
EXPENDITURES:			
Town Manager	603,854	603,854	
Town Secretary	167,007	167,007	
Finance	165,285	165,285	
Court	226,669	226,669	
Community Services (Parks/Streets/Lib)	1,360,359	1,480,660	120,301
Community Development	247,364	247,364	
Police	1,275,098	1,275,098	
Fire and EMS	476,171	476,171	
Non-Departmental	344,151	344,151	
TOTAL EXPENDITURES	4,865,958	4,986,258	
Under (Over) Expenditures	50,961	13,411	-37,550
Adjustments to Fund Balance			
ENDING FUND BALANCE	1,663,573	1,626,023	
<i>Equivalent Operating Days (Total)</i>	<i>125</i>	<i>119</i>	
<i>Percent of Operating Expenses</i>	<i>34%</i>	<i>33%</i>	
<i>*audited</i>			

GENERAL FUND SCHEDULE OF REVENUES	AMMENDED BDGT 2010-2011	PROPOS'D AMENDED 2010 11 BDGET (Streets)	Change
Property Taxes			
5111 Current Property Tax	\$ 2,403,784	\$ 2,403,784	
5112 Delinquent Property Tax	31,000	31,000	
5120 Penalty & Interest	18,000	\$ 18,000	
Total	2,452,784	2,452,784	
Other Taxes			
5140 Sales Tax	720,000	720,000	
5135 Mixed Beverage Tax	0	0	
5131 Franchise Fees - Electric	445,000	445,000	
5132 Franchise Fees - Gas	277,822	277,822	
5133 Franchise - Solid Waste	40,000	40,000	
5130 Franchise Fees - Other	83,000	83,000	
Total	1,565,822	1,565,822	
Licenses and Permits			
5311 Building Permits	47,000	47,000	
5312 Elect/Plmg/HVAC	5,000	5,000	
5313 Zoning & Plat Permits	10,000	10,000	
5315 Miscellaneous Permits	8,000	8,000	
5316 Contractor Registrations	9,000	9,000	
5317 Engineering Fee 3%	28,617	28,617	
Total	107,617	107,617	
Fees and Charges			
5360 Ambulance Service Fees	46,000	46,000	
5361 City Hall/Park Use Fees	700	700	
5314 Health Permits	4,000	4,000	
5321 Library Fines and Fees	2,000	2,000	
Total	52,700	52,700	
Fines			
5322 Municipal Court Fines	450,000	450,000	
Total	450,000	450,000	
Interest, Rent & Lease Income			
5510 Interest Income	2,000	2,000	
Total	2,000	2,000	
Other Governments			
5517 Sunnyvale ISD Collection	10,000	10,000	
5518 Dallas County (50% B Road Match)	117,996	200,746	82,750
Total	127,996	210,746	
Intragovernmental Transfers			
5388 Operating Transfers In - Water	25,000	25,000	
5389 Operating Transfers In - 4A	12,000	12,000	
5391 Operating Transfers In - 4B	96,000	96,000	
Total	133,000	133,000	
Miscellaneous Revenue			
5519 Reimbursement from Bridge	0	0	
5521 CC Processing Fee	5,000	5,000	
5520 Miscellaneous Receipts	20,000	20,000	
Total	25,000	25,000	
TOTAL REVENUES	4,916,919	4,999,669	

* Unaudited

GENERAL FUND PARKS AND STREETS				
Code	Line-Item Descriptions	2010-11 Amended Budget	Props'd 2010-11 Amended Budget	Change
Personnel Cost				
605-6000	Wages and Salaries	246,353	246,353	
605-6001	Overtime	13,000	13,002	
605-6002	TMRS Contributions	38,805	38,806	
605-6003	Buy Back	14,500	14,502	
605-6004	Social Security and Med Fica	20,950	20,950	
605-6005	Health, Dental, Life Insur	34,354	34,354	
605-6006	Workers Compensation	4,000	4,000	
605-6007	Unemployment Tax	1,500	1,500	
	Total	373,462	373,467	
Supplies and Materials				
605-6102	Utilities- Water Parks/Ball fields	16,500	16,500	
605-6103	Utilities - Communications	3,270	3,270	
605-6104	Utilities - Electric - Park lights	7,000	7,000	
605-6105	Utilities - Street & Signal lights	69,000	69,000	
605-6201	Office Supplies	1,500	1,500	
605-6203	General Operating Supplies	7,500	7,500	
605-6204	Uniforms and Assessories	2,700	2,700	
605-6205	Preprinted Forms/Printing	350	350	
605-6207	Small Tools and Equipment	4,000	4,000	
605-6208	Fuel and Lubricants	8,000	8,000	
605-6209	Animal Supplies & Expense	15,000	15,000	
	Total	134,820	134,820	
Contract Services/Maintenance				
605-6301	Vehicle Repairs & Maint.	4,000	4,000	
605-6302	Equipment Maintenance	9,500	9,500	
605-6303	Parks Building Maintenance	3,000	3,000	
605-6304	Street Sign Replacement	10,000	10,000	
605-6305	Ballfield/Parks Maintenance	10,500	10,500	
605-6406	Road Maintenance	578,926	699,222	120,296
605-6407	Contract Mowing	47,000	47,000	
605-6408	Contract Tree Trimming	5,000	5,000	
605-6409	Contract Portables	24,000	24,000	
605-6411	Health Services & Dallas County HHW	4,000	4,000	
	Total	695,926	816,222	
Training/Dues/Subscriptions				
605-6500	Dues and Subscriptions	1,000	1,000	
605-6501	Employee Training	2,500	2,500	
605-6503	Special Events	15,000	15,000	
	Total	18,500	18,500	
Capital Outlay and Projects				
605-6700	Vehicle - 3/4 Ton Pickup/Sevice Body	0	0	
605-6701	Street - Micheal Lane	0	0	
	Total	0	0	
Community Services		1,222,708	1,343,008	

**ANNUAL BUDGET
CAPITAL AND / OR SUPPLEMENTAL REQUEST
FISCAL YEAR 2010-11**

FUND:		DEPARTMENT:		DIVISION:		OBJ CODE	DESCRIPTION OF EQUIPMENT / MATERIAL	AMOUNT FOR 2010-11
		PARKS & STREETS						
PURPOSE / OBJECTIVE OF THIS REQUEST:								
Base budget includes B roads (50% Reimbursement from Dallas County)								
SUPPLEMENTAL REQUEST "B" Roads		LOCATION		COMPLETED		BUDGET		ACTUAL
B ROADS:								DOLLAR AMT
JOBSON	TOWN E TO HIDDEN LAKE		\$107,059					\$75,420
BARNES BR	252 BR TO BELT LINE		\$152,338					\$108,533
LARKIN	380 TO RR TRACKS		\$25,452					\$24,039
TOTAL COMPLETED B ROADS								\$207,992
Not Completed "B" roads								
E FORK	301 TO 228							\$95,000
BELT LINE	TOWN EAST TO TRIPP							\$21,000
CLAY	352 TO LONG CREEK							\$12,500
LONG CREEK	365 TO CITY LIMITS							\$39,500
E FORK	301 E FORK TO 317 E FORK							\$25,500
		Total						\$193,500
NON B Rd		LOCATION		COMPLETED		DOLLAR AMT		
GLORIA	DEAD END TO EAST FORK		\$46,931					\$43,227
LONG CR		TO DUCK CREEK						\$48,360
Supplimntl Request "NON B" - (Moved to 2011-12)								
RECAP								
SUPPLEMENTAL REQUEST NON "B" Alleys & Mud Jacking		LOCATION						DOLLAR AMT
NON B Rd								\$699,222
Alleys & Mud		: ATTACHED LIST						(200,746)



AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager *SC*

RE: **ITEM 6: Resolution No. 11-17: Agreement with Dallas County for Reimbursement of B-Roads**

DATE: July 21, 2011

This resolution amends the current agreement with Dallas County to add the B-Roads as discussed in the previous item. Dallas County plans to have this on their agenda in August, and we do not anticipate any problems with approval.

RESOLUTION NO 11-17

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE
APPROVING THE ENTERING INTO OF AN INTERLOCAL AGREEMENT
WITH DALLAS COUNTY CONCERNING COST SHARING OF ROADWAY
REPAIR EXPENSES**

WHEREAS, Dallas County and the Town of Sunnyvale desire to enter into an interlocal agreement pursuant to the Interlocal Cooperation Act, Tex. Gov't Code Ch.791.001, et. seq. and / or Tex. Transportation Code section 251.012 for the purpose of increasing the efficiency and effectiveness of local governments and construction, improvement, maintenance and repair of streets or alleys that are located in the Town of Sunnyvale; and

WHEREAS, the interlocal agreement proposed to accomplish the foregoing purposes is attached hereto as Exhibit A (the "Contract"); and

WHEREAS, the entering into of such Contract, and the utilization of the features in accordance therewith, will promote the health, safety and general welfare of Town of Sunnyvale citizens.

NOW, THEREFORE, BE IT RESOLVED by the Town Council ("Town Council") of the Town of Sunnyvale, Texas as follows:

- Section 1.** That the above recitals are found to be true and correct and they are incorporated herein as findings of the Town Council for all purposes.
- Section 2.** That the proposed Contract is hereby authorized and approved and the Mayor of the Town of Sunnyvale is hereby authorized, empowered and directed to execute the Contract for and on behalf of and in the name of the Town of Sunnyvale with such ministerial changes in the terms and provisions thereof as said Mayor shall in his sole discretion deem necessary and in the best interest of the Town of Sunnyvale, his signature being conclusive evidence that he did so deem any such changes to be necessary or desirable and in the best interest of the Town of Sunnyvale.
- Section 3.** That Kathryn Dewey, Town Secretary of the Town of Sunnyvale, is hereby authorized, empowered and directed to certify and attest any documents which she may deem necessary or appropriate to consummate the transaction contemplated by the Agreement.
- Section 4.** Severability. It is hereby declared to be the intention of the Town Council that if any of the sections, paragraphs, sentences, clauses and phrases of this Resolution shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not effect any of the

remaining phrases, clauses, sentences, paragraphs and sections of this Resolution, since the same would have been enacted by the Town Council without the incorporation in this Resolution of any such unconstitutional or illegal phrase, clause, sentence, paragraph or section.

Section 5. Compliance. The Town Council finds that all notices required by law have been given. Notice of this Resolution was posted and this Resolution was passed in accordance with the Open Meetings Act.

Section 6. This Resolution shall take effect immediately upon its passage and approval by the Town Council and it is SO RESOLVED.

PASSED, ADOPTED AND APPROVED by the Town Council of the Town of Sunnyvale, Texas, on this the 25th day of July 2011 by a vote of _____.

Jim Phaup, Mayor

ATTEST:

Kathryn Dewey, Town Secretary

STATE OF TEXAS §

COUNTY OF DALLAS §

**INTERLOCAL AGREEMENT
BETWEEN DALLAS COUNTY AND TOWN OF SUNNYVALE
FOR
FROM OCTOBER 1, 2010 TO SEPTEMBER 30, 2011**

The Town of Sunnyvale, Texas, hereinafter called "City", and the County of Dallas, Texas, hereinafter called "County", desire to enter into an Interlocal Agreement for the purpose of reconstructing various roads as further described on Exhibit "A".

WHEREAS, This agreement entered into by the authority of Chapter 791 of the Texas Government Code and Chapter 251 of the Texas Transportation Code to provide authorization for local governments to contract with each other for the performance of governmental functions and services, and joint funding of road or street projects.

NOW THEREFORE, THIS AGREEMENT is hereby made and entered into by City and County for the mutual consideration stated herein:

W I T N E S S E T H

City has requested and County agrees to provide funding for the reconstruction of various roads, as further described in Exhibit "A" attached hereto and incorporated herein for all purposes. The Project is classified as a County Type "B" road project.

I. COUNTY'S CONTRIBUTION

County agrees to reimburse City for the costs of Project construction/maintenance in an amount not to exceed \$213,313 (hereinafter called the "Not to Exceed Amount"), which is 50% of the estimated total project cost of \$426,625. All expenditures by the County for the performance of these governmental functions of improving this street shall be made from current revenues available to the County of Dallas. City agrees that County will not be responsible for any amounts in excess of the Not to Exceed Amount. Payment of any expenditure or proposed expenditure for the Project by County that is in excess of the Not to Exceed Amount is at the sole determination of the County and is contingent upon Dallas County Commissioners Court prior approval.

Acceptances of City's invoices are contingent upon compliance with County's invoicing procedures. City's invoices to County shall provide complete information and documentation to substantiate City's charges. Invoice period cannot be for less than a thirty (30) day period. County may withhold any disputed amounts, but shall pay all undisputed amounts. Following approval of invoices by County and by the County Auditor, County will pay City promptly, i.e., within thirty (30) days of County's approval of invoice. City agrees that a temporary delay in making payments due to County's accounting and disbursement procedures shall not place the County in default of this Agreement.

II. CITY'S CONTRIBUTION

City agrees to contribute the additional funding, which is 50% of the estimated total Project cost. City also agrees that if the actual Project costs exceed the estimated total project cost, that it will be responsible for one hundred percent (100%) of the overruns. All expenditures by the City for the performance of these governmental functions of this Project shall be made from current revenues available to the City.

III. CITY'S OBLIGATIONS

City agrees to be responsible for, including but not limited to, the following: (1) undertaking the construction management of the Project; (2) informing the public of the proposed reconstruction of the Project; (3) locating all manholes, water valves, and other utilities within the Project; (4) making or causing to be made all utility relocations or adjustments necessary for the Project at no cost to County; (5) acquiring at its own costs any right-of-way necessary to complete the Project; (6) remediation, at its own costs, of any hazardous or regulated material, or any other environmental hazard in the Project location; (7) making all payments to any contractors City hires to work on the Project; (8) contracting through formal bidding procedures to acquire the services of contractors; and (9) furnishing materials, labor, and equipment necessary to perform the Project construction.

In the event that the cost of the Project shall exceed the Not to Exceed Amount, City agrees to either reduce the scope of construction or seek additional funding to complete the Project. At the termination of the Project, City will provide County with a final cost accounting of the Project.

The City agrees that County shall have the right to enter upon the Project area during the Project's construction period. City agrees to furnish such police personnel as required by City for traffic control or other public safety matters at no cost to County.

IV. TERM

The term of this Agreement shall be from the last date of execution of this Agreement until the completion of the Project.

V. COUNTY AUDIT

County, its Auditor or its designated representative(s) shall have the unrestricted right to audit any and all accounting or other records regarding any funds paid or claimed under this agreement, including, but not limited to all books, records, reports, tickets, deposits, expenditures, budget or any item therein, supporting data, computer records and programs, and all items of hardware, software or firmware, or any other item utilized by the City regarding this agreement. City contracts and agrees that all records shall be kept and maintained for a period of time not less than four (4) years from the date of the termination of this Agreement. Such records shall be provided to the County in Dallas County, Texas and available for any audit at any time upon request.

The results of any audit may be furnished to City for comment. In the event that any audit shall determine that moneys are owed to County such sums are deemed to be due and payable to Dallas County, Texas within 30 days of the date of an invoice for such cost

being deposited in the U. S. Mail, Certified Mail, Return Receipt Requested.

The audit provisions of this agreement shall survive the termination of this agreement until all claims brought by Dallas County, Texas are fully paid or reduced to judgment not subject to appeal.

VI. LIABILITY

the County, not waiving any rights or its sovereign immunity, agrees to the extent allowed by the Texas Torts Claim Act to be responsible for any liability or damages the County may suffer as a result of claims, demands, costs or judgments, including all reasonable attorney's fees, against the County including workers compensation claims, arising out of the performance of the County employees under this Contract, or arising from any accident, injury or damage, whatsoever, to any person or persons, or to the property of any person(s) or corporations(s) occurring during the performance of this Contract and caused by the sole negligence of the County, its agents, officers, and/or employees.

The City, not waiving any rights or its sovereign immunity, agrees to the extent allowed by the Texas Torts Claim Act to be responsible for any liability or damages the City may suffer as a result of claims, demands, costs or judgments, including all reasonable attorney's fees, against the City including workers compensation claims, arising out of the performance of the City's employees under this Contract, or arising from any accident, injury or damage, whatsoever, to any person or persons, or to the property of any person(s) or corporations(s) occurring during the performance of this Contract and caused by the sole negligence of the City, its agents, officers, and/or employees.

City and County agree that any liability or damages as stated above occurring during the performance of this Agreement caused by the joint or comparative negligence of their employees, agents and officers shall be determined in accordance with the comparative responsibility laws of the State of Texas.

VII. MISCELLANEOUS

A. **Fiscal Funding.** Notwithstanding anything to the contrary herein, this Agreement is expressly contingent upon the availability of the County funding for each item and obligation contained herein. City shall have no right of action against the County as regards this Agreement, specifically including any funding by County of the Project in the event that the County is unable to fulfill its obligations under this Agreement as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure of County to budget or authorize funding for this Agreement during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the County, at its sole discretion, may provide funds from a separate source or terminate this Agreement by written notice to City at the earliest possible time prior to the end of its fiscal year.

Notwithstanding anything to the contrary herein, this Agreement is expressly contingent upon the availability of City funding for each item and obligation contained herein. County shall have no right of action against the City as regards this Agreement,

specifically including any funding by City of the Project in the event that the City is unable to fulfill its obligations under this Agreement as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure of City to budget or authorize funding for this Agreement during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the City, at its sole discretion, may provide funds from a separate source or terminate this Agreement by written notice to County at the earliest possible time prior to the end of its fiscal year.

B. Immunity and Venue. This Agreement is expressly made subject to County's Sovereign Immunity, Title 5 of the Texas Civil Practice & Remedies Code and all applicable State of Texas and Federal laws. This Agreement and all matters pertinent thereto shall be construed and enforced in accordance with the laws of the State of Texas and venue shall lie exclusively in Dallas County, Texas.

C. Not an Agent. County and City agree and acknowledge that each entity is not an agent of the other entity and that each entity is responsible for its own acts, forbearance, negligence and deeds, and for those of its agents or employees in conjunction with the performance of work covered under this agreement.

D. No Third Party Beneficiaries. The terms and provisions of this Agreement are for the benefit of the parties hereto and not for the benefit of any third party. It is the express intention of County and City that any entity other than County or City receiving services or benefits under this agreement shall be deemed an incidental beneficiary only. This Agreement is intended only to set forth the contractual right and responsibilities of the agreement parties.

E. Assignment. City may not under any circumstances assign its interest in, or rights or obligations under, this Agreement without prior written consent of the County.

F. Entire Agreement. This Agreement and any attachments contain the entire agreement between the parties respecting the subject matter of this Agreement and supersedes all prior and contemporaneous understandings and agreements, whether oral or in writing, between the parties respecting the subject matter of this Agreement.

G. Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions, or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

H. Waiver of Covenants or Conditions. The waiver by one party of the performance of any covenant or condition under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by it of any other covenant or condition under this Agreement.

I. Amendment. This Agreement may be amended at any time by the written agreement of the County and City. All amendments, changes, revisions, and discharges of this Agreement in whole or in part, and from time to time, shall be binding upon the parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the parties thereto.

J. Notice. All notices, request, demands, and other communication under this Agreement shall be in writing and shall be deemed to have been duly given, delivered in

person, or three days after mailing (certified mail postage prepaid, return receipt requested) to the respective parties as follows:

COUNTY:

Commissioner Mike Cantrell
Road & Bridge District 2
District Office:
715 Rowlett Road
Garland, Texas 75043
Phone: 214.589.7060 Fax: 214.589.7090

CITY:

Director of Community Services
127 N Collins Rd
Sunnyvale, Texas 75182
Phone: 972.226.7177 Fax: 972.226.1804

K. **Binding Agreement.** This Agreement has been duly executed and delivered by both parties and constitutes a legal, valid and binding obligation of the parties, their successors and permitted assigns.

L. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

M. **Headings.** The titles which are used following the number of each paragraph are only for convenience in locating various provisions of this Agreement and shall not be deemed to affect the interpretation or construction of such provision.

N. **Number and Gender.** Words of any gender used in this Agreement shall be held and construed to include any other gender and words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise.

O. **Remedies.** This agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this agreement and shall be cumulative.

P. **Contingent.** This Agreement is expressly subject to and contingent upon formal approval by the Dallas County Commissioners Court and by resolution of the respective City Councils.

The Town Sunnyvale, State of Texas, has executed the Agreement pursuant to duly authorized City Council Resolution 10-23, Town Council Minutes Dated the 8th day of November 2010.

The County of Dallas, State of Texas, has executed this agreement pursuant to Commissioners Court Order Number _____ and passed on the ____day of _____, 2010.

Executed this the _____ day of _____, 2010.

Executed this the _____ day of _____, 2010.

TOWN OF SUNNYVALE:

COUNTY OF DALLAS:

BY _____
SCOTT CAMPBELL, TOWN MANAGER

BY _____
JIM FOSTER, COUNTY JUDGE

ATTEST _____
KATHRYN DEWEY, TOWN SECRETARY

APPROVED AS TO FORM:

Bob Schell, Chief
Assistant District Attorney/Civil

Division

Date: _____

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

EXHIBIT A
Project Description

Location	Limits	Length	Width	S/Y	Tons	Total
Beltline	Town East to Tripp Rd	254	12	339	N/A	\$21,000
Clay	352 to Long Creek	151	12	201	N/A	\$12,500
Long Creek	365 to Town Limits	1550	24	N/A	681	\$ 39,500
E Fork	301 to 317 E Fork	1000	24	N/A	440	\$ 25,500

YTD Construction/Contract – Original Agreement (Jobson, Barnes Br,
Larkin, and E Fork from 301 to 228). \$302,992

TOTAL \$401,492



AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager *SC*

RE: **ITEM # 7: Consider Appointments to Planning and Zoning Commission, Home Rule Charter Committee, and Hwy 190 Advisory Committee**

DATE: July 21, 2011

There are no further interviews scheduled. Appointments made last week include:

Sunnyvale 4A Development Corporation:

David Carlile for a 2-year term expiring in 2013
Terrie Shatter for a 2-year term expiring in 2013
Bill Metzger for a 2-year term expiring in 2013

Sunnyvale 4B Development Corporation:

John Bailey for a 2-year term expiring in 2013
Warren Kampmeier for a 2-year term expiring in 2013
Kara Ranta for a 2-year term expiring in 2013
Michael Giordano for a 1-year term expiring in 2012

Sunnyvale Library Board:

Mary Hughes for a 2-year term expiring in 2013
Carolyn Trammell for a 2-year term expiring in 2013
Katie Frazier for a 2-year term expiring in 2013
Rajan Philip for a 2-year alternate term expiring in 2013

Board of Adjustment:

Fred Miller for a 2-year term expiring in 2013

Dale Graves for a 2-year term expiring in 2013

Laela Naghela EL for a 2-year term expiring in 2013

Diane De La Garza for a 2-year term expiring in 2013



AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager *SC*

RE: **ITEM 8: Mayor/Staff Update on SB 100**

DATE: July 21, 2011

Monday night we would like to present the latest update regarding SB 100 and its effect on our election process.