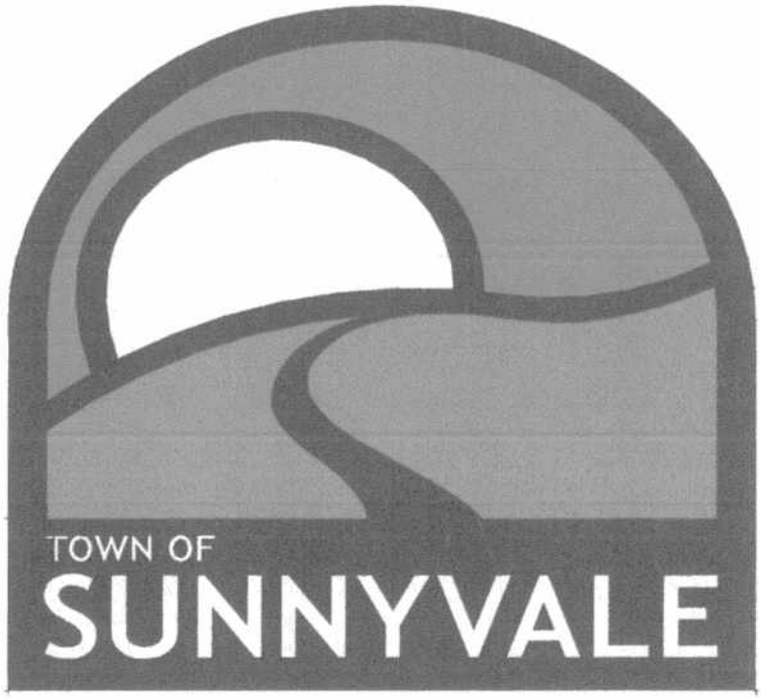


# TOWN OF SUNNYVALE
# TOWN COUNCIL MEETING

## DECEMBER 12, 2011
## 7:00 PM

**AGENDA**
**TOWN OF SUNNYVALE**
**SUNNYVALE TOWN COUNCIL**
**REGULAR MEETING**
**DECEMBER 12, 2011**
**7:00 P.M.**

THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS WILL CONDUCT A REGULAR MEETING ON DECEMBER 12, 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 SECTIONS 551.0411. 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**
**REGULAR MEETING OF 11-28-11**

- ***PUBLIC FORUM***

(CITIZENS MAY SPEAK ON ANY MATTER OTHER THAN PERSONNEL MATTERS 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 HEARING***

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

**2. CONSIDER ORDINANCE NO. 548:** AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, DALLAS COUNTY, TEXAS, PROVIDING FOR THE TAXATION OF

GOODS-IN-TRANSIT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

- ***APPOINTMENT WITH COUNCIL***

**3. UPDATE FROM 4B DEVELOPMENT CORPORATION CHAIRMAN**

- ***DISCUSSION/ACTION***

**4. PRESENT AND DISCUSS OPTIONS FOR SOLID WASTE SERVICES, FEES, AND RELATED CITIZEN SURVEY**

**5. PRESENTATION FROM THE 4A ECONOMIC DEVELOPMENT CORPORATION AND ELIZABETH MORRIS OF INSIGHT RESEARCH REGARDING TIF/TIRZ STUDY AND RECOMMENDATIONS FROM THE 4A BOARD**

- **COUNCIL REPORTS AND REQUESTS**
- **MAYOR REPORTS AND REQUESTS**
- **RECESS INTO EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D OF THE TEXAS GOVERNMENT CODE:**

***Sec. 551.071. CONSULTATION WITH ATTORNEY***

ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER.

***Sec. 551.074. PERSONNEL MATTERS***

(1) TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL OF A PUBLIC OFFICER OR EMPLOYEE:

TOWN SECRETARY POSITION
ECONOMIC DEVELOPMENT COORDINATOR/PLANNER POSITION
TOWN MANAGER POSITION

**Sec. 551.072. DELIBERATION REGARDING REAL PROPERTY**

To deliberate the purchase, exchange, lease, or value of real property – 600 Block of US Hwy 80 E

- **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 9th DAY OF DECEMBER, 2011 IN THE FOLLOWING LOCATIONS:**

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

_____

**SCOTT CAMPBELL, TOWN MANAGER/ASSISTANT TOWN SECRETARY**

SUNNYVALE

## AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager SC

RE: **ITEM 1:** Consent - Approval of Minutes

DATE: December 8, 2011

Approval of Minutes:

11/28/11 Regular Meeting

**MINUTES**
**TOWN OF SUNNYVALE**
**SUNNYVALE TOWN COUNCIL**
**REGULAR MEETING**
**NOVEMBER 28, 2011**

THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, TEXAS CONDUCTED A REGULAR MEETING ON NOVEMBEER 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 SECTIONS 551.0411. THOSE PRESENT WERE:

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

- **CALL TOWN COUNCIL MEETING TO ORDER**

Mayor Phaup called the meeting to order at 7:02 p.m.

- **INVOCATION**

Mayor Pro-Tem gave the invocation.

- **PLEDGE OF ALLEGIANCE**

Mayor Phaup led the pledge of allegiance.

- **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 THE LAW.)

No comments under public forum

- **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:

1. **APPLICATION FOR PRELIMINARY AND FINAL PLAT**
   APPLICANT: JOHN BEZNER/RAY VANEK
   AT OR ABOUT: 304 TOWN EAST BLVD.
   REQUEST: VANEK ADDITION.

Steve Gilbert stated that this item represented an application for a preliminary and final plat for a single family dwelling at 304 Town East Blvd. He further stated that the application was approved at the last regular Planning and Zoning meeting.

Mayor Pro Tem Karen Hill asked for clarification regarding which streets in the Homestead Addition backed up to the property in question. Mr. Gilbert identified the adjacent streets on the map.

Mayor Phaup introduced the applicant. The applicant introduced himself as Ray Vanek of 105 Sunview, Sunnyvale, Texas. Mayor Phaup asked if Mr. Vanek had any concerns about the letter he had received from the Town regarding his application. Mr. Vanek stated he had no concerns, and added he grew up in Sunnyvale and wanted to bring his family back to live in the community. He further stated he intended to build his home on five acres and it would be a nice addition for the Town.

Councilmember Yates asked the applicant if it was his intention to build more homes in the future at this location. Mr. Vanek stated that he did not intend to build additional homes and that he bought the extra acreage to ensure no additional homes will be built near the location.

Councilmember George inquired as to which way the home would face. Mr. Vanek indicated that the house would face Town East at an angle so the back of the house would face the lake at an angle. He stated the house would be about 400 feet from Town East Blvd.

Councilmember Yates asked if Mr. Vanek was aware of a historic marker that was in the vicinity of this property, and Mr. Vanek indicated he was not aware of it. Mayor Phaup stated that the Town would research that issue and advise Mr. Vanek of their findings.

Mayor Phaup opened the public hearing and asked for anyone with comments to come forward. There were no comments and Mayor Phaup closed the public hearing.

Councilmember George commented on the one notice of opposition the Town received, and asked if staff knew the reason for the opposition. Steve Gilbert stated he did not know the reason for the opposition, but suggested it could be because of confusion as to what constitutes a subdivision. Councilmember Yates asked if the person opposed had addressed the Planning and Zoning Commission and Mr. Gilbert stated he had not.

Richard DeLaGarza, 325 Lakeside Trail asked about the setback from the road, stating he had been told it was about 100' from the road. He also stated he had received a letter about a storage building to be located near the house that would require an exemption. He also asked why the applicant would not plat this as one

single lot. Town Manager, Scott Campbell, stated that the storage building would be considered by the Board of Adjustment. Mr. Gilbert stated that Mr. Vanek was seeking a variance from BOA for a detached garage/storage building that exceeded the Town's height requirements. Mayor Phaup stated that Mr. DeLaGarza would have an opportunity to address the Board of Adjustment about the storage building variance request in January.

Motion was made by Councilmember Hill to approve the preliminary plat and final plat for 304 Town East Blvd., Vanek Addition contingent upon the completion of the items listed in the letter dated November 23 from Town Engineer, Marc Bentley. Mayor asked if he could amend her motion to include the comments and issues to be resolved in the letter, and also granting a variance for the sanitary sewer hook up. Mayor Pro Tem Hill agreed to the amended motion. The motion was seconded by Councilmember Wiley. Motion carried 5/0.

- **APPOINTMENT WITH COUNCIL**

2. **UPDATE FROM BOARD OF ADJUSTMENT**

Jean Holt stated she felt the current Board of Adjustment was one of the best the Town has had. Mayor Phaup asked if the BOA had encountered any issues or problems that the Town Council could help, and if she felt any training was needed. Ms. Holt stated she thought some training would be beneficial. She further stated that one challenge for the board was focusing on the individual requests, and not concerning themselves with precedents. Mayor Pro Tem Hill asked if the Board there was a common theme in some of the variance requests that might need to be addressed in the zoning ordinance. Ms. Holt stated that port-a-cache's should be addressed. Mayor Phaup indicated that issue has been discussed with council in the strategic planning sessions.

Councilman Henderson asked Steve Gilbert if the issues with accessory buildings were similar to previous issues where a garage was turned into a living quarters. Mr. Gilbert stated that the issues with accessory buildings are typically associated with size applicants often desire a much bigger building than is allowed.

Mr. Gilbert stated that deviation from the allowed material for an accessory building is a common request. Councilmember George asked Mr. Gilbert if staff had maintained a list of the most commonly occurring variance requests, and Mr. Gilbert confirmed that staff does maintain a list. Scott Campbell stated that a joint workshop with the Council and BOA would be planned for after the first of the year.

Ms. Holt stated that the issue of stucco should be reviewed as well. Steve Gilbert stated that the stucco issue was discussed with P&Z almost one year ago and there was little interest in amending the ordinance. Councilmen Henderson asked if we could further define the requirements for stucco to ensure the highest quality product

for this area, versus the older materials that are more prone to problems. Scott Campbell and Steve Gilbert stated they felt specific language could be included in the regulations to address this issue. Mayor Phaup asked if there were many variance requests for hardy board siding and Mr. Gilbert indicated only for accessory buildings, but not main dwellings.

Ms. Holt suggested screening requirements be reviewed as well.

Councilmember Yates asked Ms. Holt if the BOA had experienced any issues with member attendance. Ms. Holt stated that one member had to travel often that resulted in some missed meetings, but that she did not feel there were excessive absences.

Mayor Phaup thanked Ms. Holt for her update.

- **DISCUSSION/ACTION**

3. **PRESENT AND DISCUSS OPTIONS FOR SOLID WASTE SERVICES AND RELATED CITIZEN SURVEY**

Town Manager, Scott Campbell, distributed a spreadsheet he indicated was prepared by Councilmember George that reflected the information in the council packet narrative. He stated that the contract with Republic Services had recently been renewed, and staff has been negotiating different options for added services.

Mr. Campbell explained four scenarios for trash and recycling services as proposed by the current solid waste hauler as follows:

The current plan reflects a proposal for trash pickup twice a week with current rear load system. Brush and bulky items pickup would still be available two times a week just as it is now and the hauler would provide a dumpster for drop off recycling. The proposed charge is $9.94. Mr. Campbell stated that the costs being presented tonight are costs to the town, not necessarily what would be passed on to the citizens. He stated that the actual charge to the citizen needs council discussion.

Mr. Campbell stated that the Option A is similar to the first plan; however includes curbside recycling with a 95 gallon cart every other week. He further stated that this plan is proposed at 10.92.

Mr. Campbell stated that Option B is for automated trash pickup using the 95 gallon carts, bulky item brush pickup once a week, versus the twice a week we have now, and includes curbside recycling with a 95 gallon cart every other week. He further stated that this plan is proposed at $13.95.

Option C is for automated trash pickup twice a week, recycling using an 18 gallon recycling bin. Mayor Phaup asked if recycling was automated using bins. Mr.

Campbell stated it was not an automated system. Mr. Campbell stated that he felt option C was not a good choice because the bins would prove to be too small.

Brenda Lalonde of 1450 E. Cleveland Road, Hutchins, Texas spoke to the council regarding the four options. Ms. Lalonde stated most cities have moved away from the bins because citizens ultimately require more bins because they are too small. She further stated that the wind blows them around too much. She stated that the Republic Services can honor any of the proposals presented tonight.

Councilman Henderson asked if cost for the cart for the recycling program was built in to the proposed rates. Ms. Lalonde confirmed that the cost of the cart was included in the rate, and that Republic also maintains and replaces damaged carts. Mayor Pro Tem Hill asked if they would still rent the carts for the trash collection, and Ms. Lalonde stated that there would be no rental charge for the carts if the Town chose one of the plans requiring carts. Councilman George stated that a common complaint he has received was in regard to the 95 gallon cart being too big and difficult to pull to the curb. He also stated that a family of two would not need the 95 gallon cart.

Councilmember Hill if it was possible to use a cart smaller than the proposed 95 gallon. Ms. Lalonde explained that a 65 gallons cart is available, but the 95 gallon cart was similar to move, and took up the same amount of floor space. She further stated that she felt the 65 gallon cart would not accommodate every other week collection of recyclables. Councilmember Yates asked if citizens would be forced to recycle, understanding that they would have to still pay the full charge.

Councilman Henderson stated that he felt option A was a good option because it provides the curbside recycling, and provides a minimal increase to the citizen. Councilmember Yates agreed that option A was a good option. Ms. Yates stated that there would be a cost associated with sending out a survey on this issue. Mayor Phaup stated that the recent mailer from the Town indicated a survey was forthcoming.

Councilman George asked what was the percentage of household waste is recycled. Ms. Lalonde stated that fifty to seventy-five percent.

Mayor Phaup stated that council needed to discuss the administrative charge to be passed to the citizen and that currently the Town did not recoup those costs. Mayor Phaup suggested the council consider a fifteen percent administrative charge. Council discussed the administrative charge and Councilman Henderson asked if staff could determine the administrative costs for further discussion. Mayor Phaup asked staff to research the possibilities of an on-line survey, and to place this item on the next agenda to discuss the survey, and the administrative charges for residential and commercial accounts.

## 4. REVIEW OF STATUS/ISSUES FOR MAYOR/COUNCIL STRATEGIC PRIORITIES

Mayor Phaup stated that he had emailed an update on the strategic goals and priorities list that he and the Town Manager had prepared. He further stated that several of the items on vision point two would involve the replacement Fire Chief. He further stated that he had instructed Mr. Campbell to proceed with filling other key staff positions before moving forward with filling the Chief's vacancy, and therefore some of the strategic planning items would be delayed. Mayor Phaup stated that he had met with members of the Mesquite Historical Society regarding the New Hope School; however we had not heard back yet. He further stated that he would like to initiate discussions with the school district regarding any potential locations.

Mayor Phaup stated that one of the strategic planning actions included hiring a new Economic Development position and he felt we needed to have that position filled soon after the first of the year. He further stated he is still making improvements to the website to include a Mayor's blog and posting the strategic planning action items.

Mayor Phaup stated that we needed to continue to study the TIF/TIRZ issue before making any decisions. He stated that 4A is proceeding with their recommendations on this issue, but he understands that are still several questions. Councilmember Yates stated that she felt it might be wise to wait until the Town has hired the new economic development position before proceeding with the TIF/TIRZ.

Mayor Phaup stated that he would work with staff and the 4B Board on funding of a signage program, and would present information to the council after the first of the year.

Scott Campbell stated that the 190 Advisory Committee and the Home Rule Charter Committee were both moving forward and do take significant time and research. He further stated that the completion of the 190 Advisory Committee effort would trigger the start of several other projects on the strategic planning list. He stated that after a recommendation on 190 was complete, some of the other zoning ordinance amendments and zoning review could be initiated. Mayor Phaup stated he would like the Economic Development/Planner position to be filled before initiating those projects. Mr. Campbell stated that he had prepared a Request for Proposal for the budgeted update to the Comprehensive Plan.

Mayor Pro Tem Hill stated that there had been previous discussion on performing an external audit of the fire department before hiring a new Fire Chief, and stated she still felt that audit would be beneficial in hiring a new chief. Councilman Henderson stated that such an assessment would be very beneficial for a newly hired Chief. He further asked if we were currently interviewing for the Chief position. Mayor Phaup stated we were not as he had instructed the Town Manager to move forward with filling the Town Secretary vacancy and Economic Development position before

moving forward with a search for a fire chief because their were people willing to fill the Chief's role in the interim period. Scott Campbell stated that he was interested in using an assessment center program as part of the hiring process for the new chief. Councilman George asked if staff could provide some benchmark data regarding the job requirements for the new Fire Chief.

Mayor Phaup stated that we would provide another update on the strategic planning items after the first of the year. Councilmember George stated that he appreciated the effort to keep up with these items and stated that it was important to continue working on these items and target completion dates. Councilmember Hill stated she was encouraged that the Town had completed several of the items on the strategic planning list and that staff and council is working toward completion of the other items. Mayor Phaup stated he was very pleased the 190 effort and Home Rule effort was underway, and that both efforts take significant time.

- **COUNCIL REPORTS AND REQUESTS**

Councilmember Wiley made a request that the Town Manager research possibilities of the 4B Board or Town funding a wellness program with Anytime Fitness in Sunnyvale.

Councilmember Hill asked if the Anytime Fitness in Sunnyvale had room to expand, stating she understood it was not very big. Scott Campbell stated staff would research that question.

Councilmember Yates stated that citizen Jim Wade's mother did pass away last week and that we wanted to thank him as a long-time volunteer and offer our sympathies.

Councilman Henderson asked if the Tree Lighting was this Friday and Mayor Phaup confirmed that it was at 7:00 on Friday.

- **MAYOR REPORTS AND REQUESTS**

- **RECESS INTO EXECUTIVE SESSION PURSUANT TO CHAPTER 551, SUBCHAPTER D OF THE TEXAS GOVERNMENT CODE:**

Mayor Phaup asked for a motion to enter executive session. Motion was made by Councilmember Yates and seconded by Councilmember Wiley. The motion carried unanimously. Council adjourned into executive session at 8:02 p.m.

Mayor Phaup reconvened the Council Meeting at 9:02 pm.

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

Councilmember Yates made a motion to appoint Scott Campbell as the Assistant Town Secretary. The motion was seconded by Councilmember Hill. Mayor Phaup explained that this potion had not been appointed in over two years. The motion carried unanimously.

Mayor Phaup adjourned the council meeting at 9:03 pm.

## AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager SC

RE: **ITEM 2: Conduct Public Hearing and Consider Ordinance 548 Regarding Taxation of Goods in Transit**

DATE: December 8, 2011

Goods-in-transit are generally certain goods that reside temporarily in warehouses within a municipality while awaiting shipment to other locations. The specific definition of goods-in-transit is set forth in the Texas Tax Code, Section 11 .253(a)(2). In 2007, the Texas Legislature adopted House Bill 621, which made goods-in-transit exempt from ad valorem taxation, beginning with the 2008 tax year. However, House Bill 621 also allowed taxing units to continue taxing goods-in-transit if they first conducted a public hearing and then took official action to do so prior to January 1, 2008. At that time, the definition of 'goods in transit' was unclear as it pertained to ownership of the facility. This prompted many cities to opt-out of the exemption and continue to tax all good in transit. Sunnyvale adopted Ord. No. 476 (attached) to opt-out in November of 2007.

Earlier this year, the Texas Legislature, in its first called special session, adopted Senate Bill 1, which became effective on September 1, 2011. Senate Bill 1 amended Section 11 .253 of the Texas Tax Code to exempt once again goods-in-transit from taxation, beginning January 1, 2012, even in taxing jurisdictions where action properly had been taken to continue taxing goods-in-transit. The amended language clarifies by making the

exemption applicable to only goods that are stored in a public warehouse facility which is not owned by the person who owns the goods. Senate Bill 1 requires cities to opt-out again if they do not want to offer the exemption. In order for the ordinance to be effective for the 2012 tax year, it must be adopted no later than December 31, 2011. No action by January 1, 2012 would mean that the personal property stored under contract of bailment by a public warehouse operator, where the personal property is not owned by the owner of the public warehouse, would not be taxed by the local government. Most local governments are taking action to tax the personal property held in public warehouses. Attached is a letter from DCAD explaining this issue, and estimating the loss to the town if the exemption were offered. DCAD estimates we would lose approximately 6.8 million of value, or $28K in revenue annually.

Staff sought the recommendation of 4A on this issue as the exemption is a clearly an economic development tool, and they recommended council take no action, thereby allowing the exemption. Staff also received the attached letter from Millard Refrigerated Services requesting no action be taken.

The value lost to the Town as a result of offering this exemption is not significant at this point. There appears to be justification to offer the exemption as an economic development tool, potentially resulting in much more added value than what will initially be lost. Staff offers no objection to 4A's recommendation to take no action on this ordinance.

**ORDINANCE NO. 548**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, DALLAS COUNTY, TEXAS, PROVIDING FOR THE TAXATION OF GOODS-IN-TRANSIT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Senate Bill 1 passed by the 82nd Texas Legislature, First Called Special Session, amended Section 11.253 of the Tax Code regarding the exemption for "Goods-in-Transit"; and,

**WHEREAS**, Section 11.253, Tax Code, was amended to prohibit a taxing unit from taxing Goods-in-Transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes action on or after October 1, 2011, to provide for the taxation of the Goods-in-Transit; and,

**WHEREAS**, the governing body is required by the new legislation to take action to tax Goods-in-Transit after public hearing even if the governing body previously took action to tax Goods-in-Transit; and,

**WHEREAS**, previously the Town Council took action to tax Goods-in-Transit; and,

**WHEREAS**, the Town may choose to opt out of the local exemption for Goods-in-Transit by holding a public hearing and taking action to continue tax such goods on or after October 1, 2011, but prior to January 1, 2012; otherwise, such property will be exempt from taxation; and,

**WHEREAS**, the Town desires to continue to tax Goods-in-Transit beginning tax year 2012; and,

**WHEREAS**, the Town Council has conducted a public hearing as required by Section 1-n (d), Article VIII, Texas Constitution, at which citizens were provided an opportunity to speak.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, DALLAS COUNTY, TEXAS, THAT:**

SECTION 1. Beginning tax year 2012, and continuing thereafter until further action is taken by the Town Council, "Goods-in-Transit", as defined by Tax Code, Section 11.253, shall be subject to property taxation by the Town.

SECTION 2. All ordinances of the Town in conflict with the provisions of this ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect.

SECTION 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 4. This ordinance shall take effect immediately from and after its passage

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF SUNNYVALE, DALLAS COUNTY, TEXAS, ON THIS THE 12TH DAY OF NOVEMBER, 2011.**

APPROVED:

ATTEST

_____
Scott Campbell, Assistant Town Secretary

_____
Jim Phaup, Mayor

August 2, 2011

David Cranford, Finance Admin.
City of Sunnyvale, Finance Dept.
127 Collins Road
Sunnyvale, Texas 75182

The First Special Session of the 82nd Session of the Texas Legislature adjourned on June 30, 2011. Senate Bill 1 was passed and within this comprehensive budget bill was language amending the Property Tax Code as it concerns the goods-in-transit exemption. This exemption was previously enacted by the Legislature in 2007. The following excerpt from the bill shows the changes:

(2) "Goods-in-transit" means tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is stored under a contract of bailment by a public warehouse operator at one or more public warehouse facilities in this state that are not in any way owned or controlled by the owner of the personal property for the account of the person who acquired or imported the property;

(C) is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and

(D) does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

(5) "Bailee" and "warehouse" have the meanings assigned by Section 7.102, Business & Commerce Code.

(6) "Public warehouse operator" means a person that:

(A) is both a bailee and a warehouse; and

(B) stores under a contract of bailment, at one or more public warehouse facilities, tangible personal property that is owned by other persons solely for the account of those persons and not for the operator's account.

Office of Chief Appraiser
2949 N. Stemmons Freeway, Dallas, Texas 75247
214-631-0520 dallascad.org

This bill modifies HB 621 from the 2007 Legislative Session to further limit the exemption by making it only applicable to goods that are stored in a pubic warehouse facility which is not owned by the person who owns the goods. I have attached a copy of my letter from June 2007 that explained the original goods-in-transit bill, HB 621.

The amendment also requires that another vote be taken to **opt out** of the exemption between October 1, 2011 and December 31, 2011, in order to tax the goods for 2012. This is done by taking positive action to tax the goods before January 1, 2012 or by January 1 of any subsequent tax year of the first tax year that the governing body proposes to tax goods-in-transit. This must be done by official action of the governing body of the taxing unit. Before that can happen, the governing body of the taxing unit must conduct a public hearing. If the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this bill, the exemption prescribed does not apply to that unit. The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption will apply to that taxing unit.

Based on the above, if your taxing unit does not act to tax these goods, they will become eligible for this exemption on January 1, 2012. In order to assist you in making this decision, our office has prepared an estimate of the amount of value lost in your jurisdiction if you allow the goods to receive the exemption. This estimate is based on 2011 values. I have also included a summary of how much value was lost in your jurisdiction to the existing Freeport law in 2011.

Remember if you choose to tax these goods, you must act **before January 1, 2012**. This includes allotting enough time to conduct the required public hearing. I am providing this letter to help your agency make an informed decision on this exemption. The Dallas Central Appraisal District has no position on this issue and will administer the exemption according to your wishes. Please review the information we have provided. If you have any questions feel free to contact me.

Very truly yours,

W. Kenneth Nolan

W. Kenneth Nolan
Executive Director/Chief Appraiser

WKN/kd

Attachments

Office of Chief Appraiser
2949 N. Stemmons Freeway, Dallas, Texas 75247
214-631-0520 dallascad.org

## Goods in Transit Possible Loss in Addition to Freeport Loss

| | Exempt Freeport Inventory | Goods in Transit Potential Loss | Total Potential Loss |
|---|---|---|---|
| Dallas County | $4,333,380,886 | $574,927,017 | $4,908,307,903 |
| | **Cities** | | |
| Addison | $0 | $55,284 | $55,284 |
| Balch Springs | $1,209,459 | $0 | $1,209,459 |
| Carrollton | $255,735,647 | $20,366,573 | $276,102,220 |
| Cedar Hill | $4,509,186 | $249,020 | $4,758,206 |
| Cockrell Hill | $0 | $0 | $0 |
| Combine | $0 | $0 | $0 |
| Coppell | $258,218,740 | $15,041,593 | $273,260,333 |
| Dallas | $1,202,715,061 | $163,389,282 | $1,366,104,343 |
| Desoto | $0 | $144,413 | $144,413 |
| Duncanville | $0 | $0 | $0 |
| Farmers Branch | $169,024,461 | $19,768,784 | $188,793,245 |
| Ferris | $0 | $0 | $0 |
| Garland | $345,346,456 | $38,311,700 | $383,658,156 |
| Glen Heights | $0 | $0 | $0 |
| Grand Prairie | $190,156,791 | $42,954,958 | $233,111,749 |
| Grapevine | $54,485,267 | $791,702 | $55,276,969 |
| Highland Park | $0 | $233,072 | $233,072 |
| Hutchins | $21,642,177 | $446,819 | $22,088,996 |
| Irving | $0 | $7,487,543 | $7,487,543 |
| Lancaster | $24,927,975 | $0 | $24,927,975 |
| Lewisville | $0 | $0 | $0 |
| Mesquite | $88,151,396 | $29,236,386 | $117,387,782 |
| Ovilla | $0 | $0 | $0 |
| Richardson | $0 | $3,087,780 | $3,087,780 |
| Rowlett | $858,689 | $0 | $858,689 |
| Sachse | $0 | $0 | $0 |
| Seagoville | $1,200,304 | $0 | ~~$1,200,304~~ $28,000 |
| Sunnyvale | $82,514,920 | $6,813,475 | $89,328,395 |
| University Park | $0 | $162,766 | $162,766 |
| Wilmer | $7,188,996 | $0 | $7,188,996 |
| Wylie | $0 | $0 | $0 |
| | **School Districts** | | |
| Carrollton Farmers Branch | $534,486,678 | $23,527,012 | $558,013,690 |
| Cedar Hill ISD | $4,509,186 | $249,020 | $4,758,206 |
| Coppell ISD | $374,818,462 | $16,708,755 | $391,527,217 |
| Dallas ISD | $1,231,408,933 | $198,897,420 | $1,430,306,353 |
| Desoto ISD | $0 | $43,401 | $43,401 |
| Duncanville ISD | $80,857,262 | $181,330 | $81,038,592 |
| Ferris ISD | $0 | $0 | $0 |

| | | | |
|---|---|---|---|
| Garland ISD | $372,393,234 | $30,165,426 | $402,558,660 |
| Grand Prairie ISD | $266,353,399 | $43,310,132 | $309,663,531 |
| Grapevine-Colleyville | $948,653,216 | $203,941 | $948,857,157 |
| Highland Park ISD | $0 | $400,536 | $400,536 |
| Irving ISD | $0 | $4,486,404 | $4,486,404 |
| Lancaster ISD | $24,927,975 | $18,558,022 | $43,485,997 |
| Mesquite ISD | $69,020,784 | $18,558,022 | $87,578,806 |
| Richardson ISD | $257,803,756 | $10,370,783 | $268,174,539 |
| Sunnyvale ISD | $82,514,920 | $6,813,475 | $89,328,395 |
| | **Special Districts** | | |
| Dallas Cnty FCD #1 | $31,151,861 | $355,174 | $31,507,035 |
| DCURD | $53,590,179 | $46,433 | $53,636,612 |
| Denton County LID #1 | $0 | $0 | $0 |
| Denton County RUD #1 | $0 | $0 | $0 |
| Denton Co LID#1and RUD#1 | $0 | $0 | $0 |
| Grand Prairie Metro URD | $1,152,724 | $0 | $1,152,724 |
| Irving FCD Sect 1 | $20,946,172 | $674,495 | $21,620,667 |
| Irving FCD Sect 3 | $0 | $0 | $0 |
| Lancaster MUD #1 | $0 | $0 | $0 |
| Northwest Dallas Co FCD | $0 | $0 | $0 |
| Valwood | $128,428,430 | $7,327,298 | $135,755,728 |

**Dallas Central Appraisal District**

June 14, 2007

Re: HB 621

Dear xxx:

The 80th Session of the Texas Legislature adjourned on May 28, 2007. Among the bills that were passed by the Legislature was House Bill 621 (Enrolled copy attached.). The bill was captioned as follows:

> **"relating to the exemption from ad valorem taxation of tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes."**

This bill allows for a new type of "Freeport exemption" and is the enacting legislation for SJR. 6 that was passed by the 77th Legislature and placed on the ballot and approved by the voters in 2001. The existing Freeport legislation that has been authorized by the Texas Constitution and Section 11.251 of the Property Tax Code allows Freeport goods that leave the state within 175 days to be exempt from taxation. This law has been in effect since 1990. HB 621 adds a new exemption that allows goods to be exempt if they are shipped to another location **either inside or outside the State of Texas** within 175 days. The goods eligible for the exemption must be held in a location in this state that was not owned by, or under the control of, the owner of the goods. An "ownership interest in" does not include a lease, but rather was intended to include partnerships, joint ventures, or affiliate ownership of a facility. With that in mind, the meaning of "direct or indirect ownership interest" in the location where the goods-in-transit are detained is unclear as to whether a location that is leased, or subject to a lease purchase option, would qualify. It is quite possible that many large retailers who maintain inventory in a warehouse that they currently own could opt to sell the facility, lease it from the new owner, and apply for the new exemption.

The bill requires that a taxing unit **can opt out** of the exemption by taking positive action to tax the goods before January 1 of the first tax year that the governing body proposes to tax goods-in-transit. This must be done by official action of the governing body of the taxing unit. Before that can happen, the governing body of the taxing unit must conduct a public hearing. If the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this bill, the exemption prescribed does not apply to that unit. The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption will apply to that taxing unit.

Office of Executive Director/Chief Appraiser
2949 N. Stemmons Freeway • Dallas, Texas 75247-6195 • (214) 631-0520
Web Site: www.dallascad.org

Based on the aforementioned, if your taxing unit does not act to tax these goods, they will become eligible for this exemption on January 1, 2008. In order to assist you in making this decision, our office has prepared an estimate of the amount of value lost in your jurisdiction if you allow the goods to receive the exemption. This estimate is based on 2007 values and a liberal interpretation of the question of whether or not a lease constitutes control of the real estate in which the goods are stored. I have also included a summary of how much value was lost in your jurisdiction to the existing Freeport law in 2006.

Remember if you choose to tax these goods, you must act **before January 1, 2008.** This includes allotting enough time to conduct the required public hearing. I am providing this letter to help your agency make an informed decision on this exemption. The Dallas Central Appraisal District has no position on this issue and will administer the exemption according to your wishes. Please review the information we have provided. If you have any questions feel free to contact me.

Very truly yours,

W. Kenneth Nolan
Executive Director/Chief Appraiser

WKN/vgh

Attachments

assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each person about whom the commission has such information in its records.

SECTION 47.04. The Department of Public Safety, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, and the Texas Workforce Commission shall provide information to the comptroller as required by Subsection (a), Section 411.0111, and Subsection (a), Section 821.010, Government Code, and Subsection (a), Section 301.086, Labor Code, as amended by this article, beginning in 2016.

ARTICLE 48. AD VALOREM TAXATION OF CERTAIN STORED PROPERTY

SECTION 48.01. Subsection (a), Section 11.253, Tax Code, is amended by amending Subdivision (2) and adding Subdivisions (5) and (6) to read as follows:

(2) "Goods-in-transit" means tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is stored under a contract of bailment by a public warehouse operator [~~detained~~] at one or more public warehouse facilities [~~a location~~] in this state that are not in any way owned or controlled by [~~in which~~] the owner of the personal property [~~does not have a direct or indirect ownership interest~~] for the account of [~~assembling, storing, manufacturing, processing,~~

~~or fabricating purposes by~~] the person who acquired or imported the property;

(C) is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and

(D) does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

(5) "Bailee" and "warehouse" have the meanings assigned by Section 7.102, Business & Commerce Code.

(6) "Public warehouse operator" means a person that:

(A) is both a bailee and a warehouse; and

(B) stores under a contract of bailment, at one or more public warehouse facilities, tangible personal property that is owned by other persons solely for the account of those persons and not for the operator's account.

SECTION 48.02. Section 11.253, Tax Code, is amended by amending Subsections (e) and (h) and adding Subsections (j-1) and (j-2) to read as follows:

(e) In determining the market value of goods-in-transit that in the preceding year were [~~assembled,~~] stored[~~, manufactured, processed, or fabricated~~] in this state, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were

not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held by the owner of the component parts during the preceding year at a location in this state that was not owned by or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state or outside this state before the expiration of 175 days.

(h) The chief appraiser by written notice delivered to a property owner who claims an exemption under this section may require the property owner to provide copies of property records so the chief appraiser can determine the amount and value of goods-in-transit and that the location in this state where the goods-in-transit were detained for storage [~~assembling, storing, manufacturing, processing, or fabricating purposes~~] was not owned by or under the control of the owner of the goods-in-transit. If the property owner fails to deliver the information requested in the notice before the 31st day after the date the notice is delivered to the property owner, the property owner forfeits the right to claim or receive the exemption for that year.

(j-1) Notwithstanding Subsection (j) or official action that was taken under that subsection before October 1, 2011, to tax goods-in-transit exempt under Subsection (b) and not exempt under

other law, a taxing unit may not tax such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes action on or after October 1, 2011, in the manner required for official action by the governing body, to provide for the taxation of the goods-in-transit. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the governing body of the taxing unit must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. If the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit. The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit or otherwise determines that the exemption prescribed by Subsection (b) will apply to that taxing unit.

(j-2) Notwithstanding Subsection (j-1), if under Subsection (j) the governing body of a taxing unit, before October 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the taxing unit, the tax officials of the taxing unit may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

SECTION 48.03. Subdivision (2), Subsection (a), Section 11.253, Tax Code, as amended by this article, applies only to an ad valorem tax year that begins on or after January 1, 2012.

SECTION 48.04. (a) Except as provided by Subsection (b) of this section, this article takes effect January 1, 2012.

(b) Section 48.02 of this article takes effect October 1, 2011.

ARTICLE 49. FISCAL MATTERS CONCERNING ADVANCED PLACEMENT

SECTION 49.01. Subsection (h), Section 28.053, Education Code, is amended to read as follows:

(h) The commissioner may enter into agreements with the college board and the International Baccalaureate Organization to pay for all examinations taken by eligible public school students. An eligible student is a student [~~one~~] who:

(1) takes a college advanced placement or international baccalaureate course at a public school or who is recommended by the student's principal or teacher to take the test; and

(2) demonstrates financial need as determined in accordance with guidelines adopted by the board that are consistent with the definition of financial need adopted by the college board or the International Baccalaureate Organization.

ARTICLE 50. FISCAL MATTERS CONCERNING TUITION EXEMPTIONS

SECTION 50.01. Section 54.214, Education Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) To be eligible for an exemption under this section, a

## Scott Campbell

**From:** mSchroeder@millardref.com
**Sent:** Thursday, December 01, 2011 12:02 PM
**To:** Scott Campbell
**Cc:** pmundo@mundoandassociates.com; soffner@millardref.com; Tim.Smith@millardref.com; DBinford@millardref.com
**Subject:** TX Goods-in-transit legislation and exemption

Dear Mr. Campbell:

Please allow me to introduce myself. My name is Michael Schroeder, and I am the new Associate General Counsel for Millard Refrigerated Services, Inc.

As you know, Millard operates a warehouse facility in Sunnyvale, which is a third party warehouse, leasing space to companies that do not own the warehouse. We understand that Sunnyvale is considering whether to take action to "opt-out" of the goods-in-transit ad valorem tax ("freeport") exemption passed by the Texas legislature. Opting out would have a negative effect on our customers and, potentially on our warehouse facility. In the case of our customer, Pilgrims Pride, alone, that impact could exceed $70,000 per year. Without this exemption Pilgrims Pride and other Millard customers could choose to warehouse their goods in a third party warehouse where the municipality chose to allow the exemption and then the Town of Sunnyvale would also lose $16,499.64 in taxes from Pilgrims Pride alone.

We should note that Millard's other three warehouses in Texas are all in municipalities that have not opted out of the freeport exemption. As you might be aware, Millard has discussed tentative plans for a fourth expansion to the Sunnyvale facility. Without this freeport exemption, the Millard warehouse in Sunnyvale could be at a competitive disadvantage and Millard may not elect to proceed with this (or any other) addition to the facility.

For the foregoing reasons, we urge you to take action to prevent Sunnyvale from opting out of the freeport exemption.

Sincerely,

**J. Michael Schroeder**
**Associate General Counsel***
**Millard | MillardRef.com**

* Not admitted in Nebraska

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M 402.350.9226
4718 South 132nd Street
Omaha, NE 68137

**From:** Pam Mundo [mailto:pmundo@mundoandassociates.com]
**Sent:** Wednesday, November 30, 2011 8:35 AM
**To:** Michael Schroeder

12/07/2011

From 2007

# TOWN OF SUNNYVALE, TEXAS

## ORDINANCE NO. 476

AN ORDINANCE OF THE TOWN OF SUNNYVALE, TEXAS; AMENDING THE CODE OF ORDINANCES, IN CHAPTER 11, ADDING SECTION 11.110 TO PROVIDE FOR TAXATION BY THE TOWN OF GOODS-IN-TRANSIT; PROVIDING FOR SEVERABILITY AND PUBLICATION BY CAPTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in its 80th Session, the Texas Legislature added section 11.253 to the Texas Tax Code (by enactment of House Bill 621), granting a property tax exemption for "goods-in-transit," as defined in section 11.253;

WHEREAS, section 11.253(j) permits a taxing unit to provide for the taxation of goods-in-transit, without regard to the exemption otherwise granted;

WHEREAS, on November 12, 2007, the Town Council of the Town of Sunnyvale held a public hearing at which members of the public were permitted to speak for or against the taxation of goods-in-transit without regard to the exemption otherwise granted;

WHEREAS, following the public hearing, the Town Council determined that it is in the best interest of the Town, taking into consideration the public health, safety, and general welfare of the community, that goods-in-transit be taxable by the Town;

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

**Section 1.** The Town Council finds that the recitals above are true and incorporates the recitals into this Ordinance for all purposes.

**Section 2.** That Chapter 11 of the Code of Ordinances, Town of Sunnyvale, Texas, is amended by adding Article 11.110, which said article reads as follows, and the Code of Ordinances is revised accordingly:

Article 11.110 Taxation of Goods-in-Transit

Goods-in-transit, as defined by section 11.253(a)(2) of the Texas Tax Code, shall be taxable by the town, beginning in tax year 2008. The exemption prescribed by section 11.253(b) shall not apply to the town.

**Section 3.** It is hereby declared to be the intention of the Town Council that if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of a court of competent jurisdiction, such event shall not affect any remaining section, paragraph, sentence, clause, or phrase of this Ordinance because the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional or illegal section, paragraph, sentence, clause, or phrase of this Ordinance.

**Section 4.** The Town Council finds that all notices required by law have been given and notice of this Ordinance was posted and the Ordinance passed in accordance with the Texas Open Meetings Act.

**Section 5.** The Town Secretary is authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method of publication provided by law.

**Section 6.** This Ordinance shall be effective immediately upon its passage, publication in accordance with the law, and approval by the Town Council, and it is so ordained.

PASSED AND APPROVED BY THE TOWN COUNCIL ON THIS 12th DAY OF November, 2007.

APPROVED:

Jim Phaup, Mayor

ATTEST:

Kathryn Dewey, Town Secretary

## AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager SC

RE: **ITEM 3:** Update from 4B Board

DATE: December 8, 2011

Chairman of the 4B Board of Directors, Mark Dewitt, will update the Council on 4B's ongoing efforts and projects.

## AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager SC

RE: **ITEM 4: PRESENT AND DISCUSS OPTIONS FOR SOLID WASTE SERVICES, FEES, AND RELATED CITIZEN SURVEY**

DATE: December 8, 2011

Attached please find a sample solid waste/recycling survey to facilitate discussion Monday night. We have confirmed that we do have survey capabilities on our website, and would like to discuss the survey format and questions.

The citizen charge proposed on this draft includes a 12% administrative charge. Also attached is the requested breakdown of the costs to the town to administer residential and commercial services. These costs do not include the cost for the current recycling dumpster, which is being subsidized at about 16K per year.

## CITIZEN SURVEY ON SOLID WASTE COLLECTION AND RECYCLING

The Town of Sunnyvale Town Council is currently evaluating the Town's solid waste collection contract. The Town's current services for solid waste collection and recycling are as follows:

Solid Waste: collected twice each week. Residents may use carts or garbage bags. Bulky item and brush collection is included in your normal garbage collection. **The current residential charge is $9.18 per month for these services.**

Recycling: Currently, the Town does not offer residential curb-side recycling; however does provide a recycling drop-off center at Town Hall for recyclable plastic, glass, cardboard, newspaper, and metal cans. Currently, there is no charge to residents for this service. This service is subsidized by the Town at approximately $16,000 per year.

The Town has requested its current solid waste hauler to propose options for added and/or amended services; and we are seeking citizen input on these options. **Listed below are four (4) options for trash and recycling services. Please check the box of the option you prefer. Please check only one option. If you do not prefer any of the four proposed options, please indicate so by checking the last box, and provide your comments on the space provided.**

☐ Option One

- Garbage collection twice per week with the use of carts or bags (identical to current service)
- Bulky item and brush collected twice per week (identical to current trash service).
- Recycling services: A drop off recycling dumpster will continue to be provided at Town Hall (identical to current service).
- Monthly cost to residents - $11.13/month. This represents an increase of $23.40 per year.

☐ Option Two

- Garbage collection twice per week with the use of carts or bags (identical to current service)
- Bulky item and brush collected twice per week (identical to current service).
- Recycling services: automated curbside recycling collected once every other week using 95 gallon cart.
- Monthly cost to resident - $12.23/month. This represents an increase of $36.60 per year.

☐ Option Three

- Automated garbage collection twice per week with the use of 95 gallons carts (garbage must be placed inside carts; however bags are not required)
- Bulky item and brush collected once per week – a decrease from existing service
- Recycling services: automated curbside recycling collected once every other week using 95 gallon cart.
- Monthly cost to resident - $15.62/month. This represents an increase of $77.28 per year.

☐ Option Four

- Automated garbage collection twice per week with the use of 95 gallons carts (garbage must be placed inside carts; however bags are not required)
- Bulky item and brush collected once per week – a decrease from existing service
- Recycling services: curbside recycling collected once each week using 18 gallon bins.
- Monthly cost to resident - $15.62/month. This represents an increase of $77.28 per year.

☐ I prefer none of the options stated above. I offer the following comments to assist the Town Council in their effort to evaluate the current solid waste and recycling collection services provided to residents in Sunnyvale:

_____

_____

_____

_____.

The Town would like to thank you for your participation in this survey. We will post the results of this survey within the next 45 days, and will notify residents of any changes or additions to current solid waste and recycling services prior to implementation.

Cost of providing solid waste services for residents.

Assume 2000 households

| | Monthly | Annualized |
|---|---|---|
| Republic monthly charge for residential | $ 9.18 | $ 220,320.00 |
| 1/3 Cost to prepare and mail utility bills. | $ 480.00 | $ 5,760.00 |
| Manpower 2 hours per week @ $35.00 per hour | $ 303.45 | $ 3,641.40 |
| Trash Off | | $ 688.51 |
| Total Annualized Cost | | $ 230,409.91 |
| | | 2000 |
| Annualized Cost per household | | $ 115.20 |
| Cost 2000 households | $ 9.60 | $ 230,409.91 |
| Charge by Town 2000 households | $ 9.18 | $ 220,320.00 |
| Deficit | $ 0.42 | $ 10,089.91 |
| Deficit Percentage | 5% | 5% |

Cost of providing solid waste services for Commercial.

Assume 20 commerical

| | Monthly | Annualized |
|---|---|---|
| Republic monthly charge for commercial | $ 17.38 | $ 4,171.20 |
| 1/3 Cost to prepare and mail utility bills. | $ 4.80 | $ 57.60 |
| Total Annualized Cost | | $ 4,228.80 |
| Cost per commercial | $ 17.62 | $ 4,228.80 |
| Charge by Town per commercial | $ 15.00 | $ 3,600.00 |
| Deficit | $ 2.62 | $ 628.80 |
| Deficit Percentage | 17% | 17% |
| Total household and commercial deficit | | $ 10,718.71 |

SUNNYVALE

## AGENDA ITEM SUMMARY

TO: Town Council

FROM: Scott Campbell, Town Manager SC

RE: **ITEM 5: PRESENTATION BY THE 4A ECONOMIC DEVELOPMENT CORPORATION AND ELIZABETH MORRIS OF INSIGHT RESEARCH REGARDING A TIF/TIRZ STUDY AND RECOMMENDATIONS FROM THE 4A BOARD**

DATE: December 8, 2011

Attached please find a copy of the TIF/TIRZ study from Elizabeth Morris of Insight Research as commissioned by the 4A Board. The purpose of this item is to receive the report from Ms. Morris and the 4A Board, and provide an opportunity for council questions and discussion. The 4A Board approved the attached resolution at their last meeting, which requests council approval of an Ordinance adopting the boundaries of a TIRZ.

To allow adequate time for council consideration and any potential changes to the proposal, we are not seeking formal action this meeting. If council provides direction to proceed with the creation of the TIRZ before the end of the year, we will need to schedule a public hearing and action on the ordinance before the last day of December.