



## AGENDA

**Subcommittee:** School District/City Council  
**Meeting Date:** March 19, 2018  
**Meeting Time:** 5:00 p.m.  
**Meeting Location:** City Hall Conference Room

### Subcommittee Members and City Staff:

Mayor Joe Palla, Chair	School Board member Preston Addison
Councilmember Gus Wolter	School Board Member Todd Lands
City Manager Paul Cayler	School Superintendent Jeremy Decker

1. **Call to Order:**
2. **Communications:** Committee may discuss written communications sent to committee members since the last subcommittee meeting.
3. **Public Comment:** Members of the public may comment on any item not on this agenda. Please limit comments to three minutes. Members of the public may comment on items on the agenda when the subcommittee considers that item.
4. **Approval of Minutes:**
  - a) January 23 ,2018
5. **Current Items for Discussion:**
  - a) Update - Timeline – Start Refinishing Tennis Court Project – Jeremy Decker
  - b) Update – Boys and Girls Club - Ad-Hoc Committee – Joe Palla
  - c) Update – Education program surrounding cannabis – Todd Lands
  - d) Discussion – Canisters of nitrous oxide (AKA – Whippits) – Joe Palla
  - e) Update – Cloverdale Swimming Pool Project – Ad-Hoc Committee – Joe Palla
  - f) Discussion – possible student survey – Gus Wolter
6. **Information Only Memos:** None
7. **Future Agenda Items:**
  - A. May 21, 2018 Meeting
    - a) Student Liaison Program – Sponsor Appreciation
    - b) Student Liaison Program – Selection for 2018-19
    - c) Presentation – School District Facilities Master Plan – Jeremy Decker
  - B. July 16, 2018 Meeting - Presentation–Emily Harris, Recology, Waste Zero Specialist
8. **Pending Items**
9. **Good of the Order**
10. **Adjournment:** Adjourn to Monday, May 21, 2018, at 5:00 p.m., or alternate date as requested.



## **DRAFT MINUTES**

**Subcommittee:** School District/City Council  
**Meeting Date:** January 22, 2018  
**Meeting Time:** 5:00 p.m.  
**Meeting Location:** City Hall Conference Room

### **Subcommittee Members and City Staff:**

Mayor Joe Palla, Chair	School Board member Preston Addison
Councilmember Gus Wolter	School Board Member Todd Lands
City Manager Paul Cayler	School Superintendent Jeremy Decker

1. **Call to Order:** Chair, Mayor Palla called the meeting to order at 5:00 p.m.
2. **Communications:** None
3. **Public Comment:** None
4. **Approval of Minutes:** The minutes of the November 6, 2017, meeting were approved.
5. **Current Items for Discussion:**
  - a. Update – USTA Grant for Refinishing Tennis Court project  
Brad Horrall presented this item and distributed a handout (attached) highlighting the process he has been involved with in applying for the USTA grant. Discussion was conducted regarding the pros and cons of pursuing this grant and other funding options. The subcommittee voted to move forward with the refinishing of the tennis courts without the USTA grant funds.
  - b. Update – Boys and Girls Club – after school and summer programs  
Michelle Edwards gave a brief update. Discussion of funding and community need ensued. Suggestion was made to conduct a community awareness campaign.
  - c. Discussion – Education program surrounding cannabis –  
Patrick King discussed the need to find and adopt an existing educational program that can be adapted to issues he sees community youth facing. Discussion ensued. Mr. Decker will set up a meeting with Project Success. Mayor Palla suggested including a police representative at this meeting
  - d. Update – Cloverdale Swimming Pool project  
Mayor Palla gave a brief update regarding the heating and management of the pool. Mayor Palla discussed the next steps for the ad hoc committee and stated the desired goals of installing the solar system, getting County funding for management of the pool and expanding the summertime hours, as well as having school programs available at the pool. The subcommittee was in agreement.
  - e. Update – Funding Availability for joint use programs  
Mayor Palla informed the subcommittee that he has RGM & Associates looking for funds when they become available.
  - f. Presentation – School District Facilities Master Plan – moved to future agenda
  - g. Discussion – City Council Student Liaison Program  
Mayor Palla discussed scheduling the formal acknowledgement of the sponsors at the May meeting. Recruitment of next school year’s student liaisons was discussed, with an application deadline set for May 15 and selection to be made at the May 21 School/City subcommittee meeting as well.
6. **Information Only Memos:** None
7. **Future Agenda Items:** Presentation – School District Facilities Master Plan
8. **Pending Items**
9. **Good of the Order**
10. **Adjournment:** The meeting was adjourned at 6:15 p.m., to Monday, March 19, 2018, at 5:00 p.m., or alternate date as requested.

Good morning Mayor,

As we discussed earlier this week, State law does make it a crime to sale and/or possess canisters of nitrous oxide (commonly called whippits) in certain situations. Penal Code sections 381b-381e specifically prohibits the following:

1. Possession of nitrous oxide *with the intent* of inhaling it for intoxicating purposes (misdemeanor).
2. Sale of canister of any kind exclusively containing nitrous oxide to any person under 18 years of age (court can order suspension of business license).
3. Knowingly dispense nitrous oxide to any person who will use it for specified prohibited purposes, if that person then causes death or great bodily injury to himself or herself or another person (misdemeanor).
4. A seller of nitrous oxide must keep a written record of persons who purchase nitrous oxide from it and also to provide certain written warnings to the purchaser (misdemeanor).

This law at least provides the City something to point to and possibly enforce.

Interestingly, in 2017, SB 631 was introduced in the California Senate but died before being adopted by Governor Brown. If it had been adopted, it would have made it illegal for tobacco retailers to sell nitrous oxide cartridges at their businesses. It even gave city attorney's the power and right to prosecute these as misdemeanors under their muni codes. After reviewing the legislative history, it does not appear that this died for any legally fatal reasons (probably just political reasons). Although it died in the Legislature we think this may provide a guide to what a City could possibly adopt. We would still look deeper at any preemption issues (for example, if it tried to directly regulate the sale of alcohol).

We could only find one city so far that regulates the sale of nitrous oxide. It is the city of Rialto in San Bernardino county (attached is Rialto's Muni Code provision). It basically just takes the Penal Code sections (cited above) and prohibits the sale to anyone, even those who are over 18. We believe it is definitely possible this is the only such ordinance in California. In the staff report for the ordinance, the City stated "Rialto would be the first City in the United States that prohibits the sale of nitrous oxide." It was passed in March 2017. We recommend, if we do draft an ordinance, either finding a better ordinance (if anyone exists) or using SB 631 as a model. We would also want to do some deeper research, however, to make sure we have authority to regulate this under our police powers.

Please let me know if you have any questions. Thank you.

**Jose M. Sanchez**

Principal

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Jose

## Chapter 9.43A - NITROUS OXIDE

### 9.43A.010 - Definitions.

The following words and phrases used in this chapter shall be defined as follows:

"Device" refers to any cartridge, compressed gas cylinder, apparatus, container, or other object used to contain or dispense or administer nitrous oxide.

"Nitrous oxide" refers to colorless, nonflammable gas (N<sub>2</sub>O) sometimes used in aerosols and sometimes used as an anesthetic, which, when inhaled, produces loss of sensibility to pain, oftentimes preceded by exhilaration and laughter and used often as an anesthetic in dentistry. Nitrous oxide is oftentimes called, "laughing gas."

"Person" refers to any individual or other entity howsoever organized or constituted.

### 9.43A.020 - Sale or distribution of nitrous oxide.

It shall be unlawful for any person in the city to attempt to sell, offer, distribute, or otherwise provide to any person nitrous oxide, a device to dispense or administer nitrous oxide, or any device that contains a quantity of nitrous oxide.

### 9.43A.030 - Exceptions.

Prohibitions in this chapter shall not apply to the following:

- A. A pharmacist, pharmacist intern, or pharmacy as defined by Cal. Bus. & Prof. Code § 4036, Cal. Bus. and Prof. Code § 4030, and Cal. Bus. and Prof. Code § 4037, as may be amended, who dispenses the device in the course of his duties as a pharmacist or pharmacist intern, or wholesalers licensed by the Board of Pharmacy or manufacturers classified under the North American Industry Classification System pursuant to Cal. Penal Code § 381e, as may be amended, who dispense the device in the course of their duties.
- B. A health care professional who possesses and dispenses nitrous oxide in the course of medical or dental treatment.
- C. Any person who is under the influence of nitrous oxide or any material containing nitrous oxide duly received pursuant to exception B or C above.
- D. Any person that possesses or distributes nitrous oxide under an express exemption pursuant to Cal. Penal Code § 381b-e.

### 9.43A.040 - Violations and penalties.

Any violation of this chapter shall be a misdemeanor and, upon conviction thereof, punishable by county jail or by a fine of one thousand dollars, or both.

PENAL CODE  
381b.

Any person who possesses nitrous oxide or any substance containing nitrous oxide, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who knowingly and with the intent to do so is under the influence of nitrous oxide or any material containing nitrous oxide is guilty of a misdemeanor. This section shall not apply to any person who is under the influence of nitrous oxide or any material containing nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person duly licensed to administer such an agent.

*(Amended by Stats. 1984, Ch. 999, Sec. 1.)*

381c.

(a) As used in this section, "nitrous oxide" refers to any of the following substances: N<sub>2</sub>O, dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas.

(b) Every person who sells, furnishes, administers, distributes, gives away, or offers to sell, furnish, administer, distribute, or give away a device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide, to a person under 18 years of age is guilty of a misdemeanor. The court shall consider ordering the person to perform community service as a condition of probation.

(c) (1) It is a defense to this crime that the defendant honestly and reasonably believed that the minor involved in the offense was at least 18 years of age.

(2) The defendant shall bear the burden of establishing this defense by a preponderance of the evidence.

(d) For the purpose of preventing a violation of this section, any person may refuse to sell, furnish, administer, distribute, or give away a device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide to a person who is unable to produce adequate proof of age of majority.

(e) On and after July 1, 2010, the court shall order the suspension of the business license, for a period of up to one year, of a person who knowingly violates this section after having been previously convicted of a violation of this section, unless the owner of the business license can demonstrate a good faith attempt to prevent illegal sales or deliveries by the owner's employees.

(f) This section shall not apply to any person who administers nitrous oxide for the purpose of providing medical or dental care, if administered by a medical or dental practitioner licensed by this state or at the direction or under the supervision of a practitioner licensed by this state.

(g) This section does not apply to the sale of nitrous oxide contained in food products for use as a propellant.

*(Added by Stats. 2009, Ch. 266, Sec. 1. (AB 1015) Effective January 1, 2010.)*

### 381d.

(a) A person who dispenses or distributes nitrous oxide to a person, and knows or should know that the person is going to use the nitrous oxide in violation of Section 381b, and that person proximately causes great bodily injury or death to himself, herself, or another person, is guilty of a misdemeanor, and shall be punished by imprisonment in a county jail, not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) This section shall not preclude prosecution under any other law.

*(Added by Stats. 2014, Ch. 458, Sec. 1. (AB 1735) Effective January 1, 2015.)*

### 381e.

(a) A person who dispenses or distributes nitrous oxide shall record each transaction involving the dispensing or distribution of nitrous oxide in a written or electronic document. The person dispensing or distributing the nitrous oxide shall require the purchaser to sign the document and provide a complete residential address and present a valid government-issued photo identification. The person dispensing or distributing the nitrous oxide shall sign and date the document and shall retain the document at the person's business address for one year from the date of the transaction. The person shall make the documents available during normal business hours for inspection and copying, upon presentation of a duly authorized search warrant, by officers or employees of the California State Board of Pharmacy or of other law enforcement agencies of this state or the United States.

(b) The document used to record each transaction shall inform the purchaser of all of the following:

(1) That inhalation of nitrous oxide outside of a clinical setting may have dangerous health effects.

(2) That it is a violation of state law to possess nitrous oxide or any substance containing nitrous oxide, with the intent to breathe, inhale, or ingest it for the purpose of intoxication.

(3) That it is a violation of state law to knowingly distribute or dispense nitrous oxide or any substance containing nitrous oxide, to a person who intends to breathe, inhale, or ingest it for the purpose of intoxication.

(c) This section shall not apply to any person who administers nitrous oxide for the purpose of providing medical or dental care, if administered by a medical or dental practitioner licensed by this state or at the direction or under the supervision of a practitioner licensed by this state.

(d) This section does not apply to the sale of nitrous oxide contained in food products for use as a propellant.

(e) This section shall not apply to the sale or distribution of nitrous oxide by a wholesaler licensed by the Board of Pharmacy or manufacturer classified under Code Number 325120 or 424690 of the North American Industry Classification System (NAICS).

(f) (1) Information obtained from a person to whom nitrous oxide was distributed or dispensed pursuant to this section shall be confidential and shall be used solely for the purposes provided in this section.

(2) Except as provided in this section, a person who dispenses or distributes nitrous oxide shall not use, review, or disclose any information obtained pursuant to this section.

(3) A person who violates this subdivision shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

*(Added by Stats. 2014, Ch. 458, Sec. 2. (AB 1735) Effective January 1, 2015.)*