

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, DECEMBER 8, 2009

The Council of the City of San José convened in regular session at 9:00 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:02 a.m. to a Closed Session in Room W133, to confer with Legal Counsel pursuant to (A) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: City Manager: Debra Figone. (B) to confer with Legal Council pursuant Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) City v. PG&E; Names of Parties Involved: City Attorney of the City of San José, The People of the State of California, Pacific Gas and Electric Company, Does 1-10; Court: Court of Appeal of the State of California, Sixth Appellate District; Case No: H031705; Amount of Money or Other Relief Sought: Damages according to proof; (2) IAFF Local 230 v. City; Names of Parties Involved: International Association of Firefighters Local Union 230, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-133786; Amount of Money or Other Relief Sought: Petition to compel arbitration. (C) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation in one (1) matter. (D) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation (Claim Not Filed) in one (1) matter. (E) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) International Association of Firefighters, Local 230; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (2) Association of Legal Professionals of San José; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; (3) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (4) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions;

CLOSED SESSION (Cont'd.)

Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (7) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (8) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (9) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (10) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3; (11) San José Police Officers' Association; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. How to obtain a copy of existing contract or MOA: web: http://www.sanjoseca.gov/employee_relations/moa.asp; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 10:30 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - None.

INVOCATION

Pastor Javier Loera, Calvary Chapel San José, presented the Invocation. (Mayor)

PLEDGE OF ALLEGIANCE

Mayor Reed and the Third and Fourth Grade Students from Horace Mann Elementary School led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with the addition that Item 3.5 would not be heard before 4:00 p.m. (11-0.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of December 8, 2009:

A. Authority to Enter Litigation Case as Amicus Curiae:

Case Name: People v. Liqing Tu

Adverse Party or Parties: People of the State of California and Liqing Tu

Substance of Litigation: Criminal prosecution regarding alleged prostitution.

Council Vote: Ayes: Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Noes: None.

Disqualified: None.

Absent: None.

Vacant: None.

B. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: International Association of Firefighters, Local Union 230 v. City of San José

Adverse Party or Parties: International Association of Firefighters, Local Union 230

Substance of Litigation: Petition for Writ of Mandate and to compel arbitration regarding implementation of Government Code Section 3254.5.

Council Vote: Ayes: Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Noes: None.

Disqualified: None.

Absent: None.

Vacant: None.

CEREMONIAL ITEMS

- 1.1 Presentation of commendations from the City of San José and Allied Waste Services of Santa Clara County, and checks for \$1,000.00 to Horace Mann School and HP Pavilion for being leaders in recycling and sustainability. (Liccardo)
(Rules in Lieu referral 11/24/09)**

Action: Mayor Reed and Council Member Liccardo recognized and commended Horace Mann School and HP Pavilion for being leaders in recycling and sustainability; each received a plaque from Mayor Reed and \$1,000 from Allied Waste Services of Santa Clara County for their tremendous efforts.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

- 2.1 Approval of minutes.**
(a) Regular Minutes of October 6, 2009.
(b) Regular Minutes of October 20, 2009.
(c) Regular Minutes of October 27, 2009.

Documents Filed: The Regular Minutes dated October 5, 2009, October 20, 2009 and October 27, 2009.

Action: The Minutes were approved. (11-0.)

- 2.3 (a) Request for an excused absence for Council Member Constant from the Evening Meeting of the City Council on November 17, 2009 due to illness. (Constant)
(Rules in Lieu referral 11/24/09)**

Documents Filed: Memorandum from Council Member Constant, dated November 18, 2009, requesting an excused absence due to illness.

Action: The absence for Council Member Constant was excused. (11-0.)

- 2.4 Approve a second amendment to the agreement with HF&H Consultants for environmental consultant services for various Environmental Service Department projects by increasing the total compensation by \$300,000 from \$500,000, to an amount not to exceed \$800,000. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated November 16, 2009, recommending approval of a second amendment to the agreement.

2.4 (Cont'd.)

Action: The second amendment to the agreement with HF&H Consultants for environmental consultant services for various Environmental Service Department projects by increasing the total compensation by \$300,000 from \$500,000, to an amount not to exceed \$800,000 was approved. (11-0.)

2.5 **Approve the award of open purchase orders for supplies, materials, equipment and services for FY 2009-2010 #3 and authorize the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 16, 2009, recommending approval of the award of open purchase orders and authorization for the Director of Finance to execute the purchase orders.

Action: The award of open purchase orders for supplies, materials, equipment and services for FY 2009-2010 #3 was approved and the Director of Finance was authorized to execute the purchase orders. (11-0.)

2.6 **Adopt a resolution:**

- (a) **Declaring the vacant 0.067 acres of City-owned property on the northwest corner of Capitol Expressway and Senter Road surplus to the needs of the City;**
- (b) **Approving an agreement between the City and Senter Road Service Station LP for sale of the property in the amount of \$102,148; and**
- (c) **Authorizing the Director of General Services to execute all sales documents and the deed necessary to complete the transaction.**

CEQA: Exempt, File No. PP09-181. (General Services)

Documents Filed: Memorandum from Director of General Services Peter Jensen, dated November 16, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75194](#), entitled: "A Resolution of the Council of the City of San José Declaring Certain City Owned Property Located at Senter Road North of Capitol Expressway as Surplus to the Needs of the City, Approving the Sales Agreement, and Authorizing the Director of General Services to Execute All Related Documents Necessary for the Transfer of Such Property to the Adjacent Property Owner, Senter Road Service Station LP", was adopted. (11-0.)

2.7 **Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with URL Integration, Inc. to provide Project Management services in the development of the Automated Field Reporting/Record Management System for the City's Police Department for the period from the date of execution by the City through May 18, 2012, in an amount not to exceed \$374,808.46 and authorize any future amendments and all related documents without further Council action other than appropriation of funds. CEQA: Not a Project. (Police)**

2.7 (Cont'd.)

Documents Filed: Memorandum from Police Chief Robert Davis, dated November 16, 2009, recommending adoption of a resolution.

Action: [Resolution No. 75195](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement with URL Integration, Inc. for Project Management Services for the Automated Field Reporting/ Records Management Systems in An Amount Not To Exceed \$374,808.46", was adopted. (11-0.)

- 2.8 (a) **Adopt a resolution accepting the 2009 Child Sexual Predator Program Grant in the amount of \$447,773 and authorize the City Manager to execute the Grant Agreement, any future amendments, and all related documents without further Council action other than appropriation of funds;**
- (b) **Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund in fiscal year 2009-2010 for the first year costs:**
- (1) **Establish a City-wide appropriation to the Police Department for the 2009 Child Sexual Predator Program Grant in the amount of \$265,286; and**
 - (2) **Increase the Earned Revenue Estimate from the Federal Government by \$265,286.**

CEQA: Not a Project. (Police/City Manager's Office)

Documents Filed: Memorandum from Police Chief Robert Davis and Budget Director Jennifer Maguire, dated November 16, 2009, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: [Resolution No. 75196](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Acceptance of the U.S. Department of Justice of Community Oriented Policing Services 2009 Child Sexual Predator Program Grant in the Amount of \$447,773 and Execution of the Agreement"; [Ordinance No. 28681](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the General Fund for the 2009 Child Sexual Predator Program Grant; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 75197](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 74956 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2009-2010 to Adjust Revenues in the General Fund", were adopted. (11-0.)

- 2.9 **Approve travel retroactively by Mayor Reed to New York, NY on October 1-2, 2009 to attend the IBM Smarter Cities Forum as a Panelist. Source of Funds: Mayor's Office. (Mayor)**
(Rules in Lieu referral 11/24/09)

Documents Filed: Memorandum from Mayor Reed, dated November 18, 2009, requesting approval of travel.

2.9 (Cont'd.)

Mayor Reed provided a brief report on his trip to attend the IBM Smarter Cities Forum as a panelist in New York City on October 1 through October 2, 2009.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the travel for Mayor Reed was retroactively approved. (11-0.)

- 2.10 (a) (1) Approve the District 4 “Breakfast with Santa” as a City Council sponsored Special Event.**
(2) Approve and accept donations from various individual, businesses or community groups to support the event.
(b) Approve the District 6 Movie Event “Flow”, as a City Council sponsored Special Event.

(City Clerk)

(Rules in Lieu referral 11/24/09)

Documents Filed: Memoranda from City Clerk Lee Price, both dated November 24, 2009, recommending approval of the events for District 4 and District 6.

Action: The District 4 “Breakfast with Santa” as a City Council sponsored Special Event and donations from various individual, businesses or community groups to support the event were approved; and the District 6 Movie Event “Flow”, as a City Council sponsored Special Event was approved. (11-0.)

- 2.11 As recommended by the Rules and Open Government Committee on December 2, 2009, adopt a support position for HR 3745 (Baldwin) Community Access Preservation Act 2009, which would have several positive effects for the City and the community. (City Manager’s Office)**

[Rules Committee referral 12/2/09 – Item D(1)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated December 3, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: A support position for HR 3745 (Baldwin) Community Access Preservation Act 2009, which would have several positive effects for the City and the community, was adopted. (11-0.)

- 2.12 As recommended by the Rules and Open Government Committee on December 2, 2009, adopt the proposed 2010-2011 City Budget Calendar and the detailed schedule for City Council Budget Study Sessions on the City’s 2010-2011 Operating Budget and the 2010-2011 Capital Budget and 2011-2015 City Capital Improvement Program. (City Manager’s Office)**

[Rules Committee referral 12/2/09 – Item E(1)]

Documents Filed: Memorandum from City Clerk Lee Price, dated December 3, 2009, transmitting the recommendations of the Rules and Open Government Committee.

2.12 (Cont'd.)

Action: The proposed 2010-2011 City Budget Calendar and the detailed schedule for City Council Budget Study Sessions on the City's 2010-2011 Operating Budget and the 2010-2011 Capital Budget and 2011-2015 City Capital Improvement Program was approved. (11-0.)

2.13 As recommended by the Rules and Open Government Committee on November 18, 2009 and on December 2, 2009:

- (a) **Reappoint James Smith and Miguel Olivo to the Small Business Development Commission to terms ending December 31, 2012. (Nguyen)**
- (b) **Appoint Ramiro Torres to the Historic Landmarks Commission to an unexpired term ending June 30, 2011. (Chirco)**
- (c) **Appoint Erica Schaefer to the Early Care and Education Commission for an unexpired term ending June 30, 2010, and Keith Morales and Kathleen McDavid to fill two unexpired terms ending June 30, 2012. (Chirco)**
- (d) **Appoint Francisco Rodriguez to the Disability Advisory Commission for an unexpired term ending June 30, 2012. (Pyle)**
- (e) **Reappoint Raj Baines to the Human Rights Commission for a three-year term ending December 31, 2012 and appoint Megan Young, Jaime Contreras and Margaret Akdeniz to fill three three-year terms ending December 31, 2012. (Chu)**
- (f) **Reappoint James Bojorquez and Darrold "Dan" Wagner to the Advisory Commission on Rents. (Herrera)**
- (g) **Appoint Joyce Rouborn, Judith Marie Heyter, Nancy Williamson, Milton Cadena, and Chaitanya Vaidya to the Senior Citizens Commission. (Constant)**

[Rules Committee referral 11/18/09 – Items G(1) – G(5) and 12/2/09 – Items G(1) – G(2)]

Documents Filed: Memorandum from City Clerk Lee Price, dated December 3, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: Upon motion by Council Member Chu, seconded by Council Member Oliverio and carried unanimously, the appointments were approved, with the exception of Jaime Contreras (Human Rights Commission), which was rescinded by Council Member Chu. (11-0.)

2.14 As recommended by the Community and Economic Development Committee on November 30, 2009, review and discuss the Draft 2010 Relevant Legislative Guiding Principles with focus on community and economic development. (City Manager's Office)

Community and Economic Development Committee referral 11/30/09 – Item D(10)

Note: Item 3.9 was renumbered to Item 2.14.

Documents Filed: Memorandum from City Clerk Lee Price, dated December 3, 2009, transmitting the recommendations of the Rules and Open Government Committee.

2.14 (Cont'd.)

Council Member Liccardo pulled Item 2.14 from the Consent Calendar for clarification. Director of Intergovernmental Relations Betsy Shotwell responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, the Draft 2010 Relevant Legislative Guiding Principles with focus on community and economic development were reviewed and discussed. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

City Manager Debra Figone reported that labor negotiations are currently ongoing and Staff is working to reach an agreement with the building inspectors. She added that Staff was in the process of updating the SNI Business Plan and met with 75 neighborhood leaders last week.

3.2 Reports of the Rules and Open Government Committee Mayor Reed, Chair

- (a) Reports of the Rules and Open Government Committee – November 18, 2009**
- (b) Report of the Rules and Open Government Committee – October 28, 2009**
- (c) Report of the Rules and Open Government Committee – November 4, 2009**
- (d) Report of the Special Rules and Open Government Committee – November 9, 2009**

Documents Filed: (1) The Rules and Open Government Committee Reports dated November 18, 2009, October 28, 2009 and November 4, 2009. (2) The Special Rules and Open Government Committee Report dated November 9, 2009.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Herrera and carried unanimously, the reports of the Rules and Open Government Committee and actions of November 29, 2009, October 28, 2009, November 4, 2009 and November 9, 2009, were accepted. (11-0.)

3.3 Report of the Public Safety, Finance and Strategic Support Committee -November 19, 2009, Council Member Nguyen, Chair

Documents Filed: The Public Safety, Finance and Strategic Support Committee Report dated November 19, 2009.

Director of Finance Scott Johnson responded to Council questions about the Annual Financial Report.

3.3 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera and carried unanimously, the Report of the Public Safety, Finance and Strategic Support Committee and the actions of November 19, 2009, were accepted. (11-0.)

3.4 **Accept the Mayor's Biennial Review of the Ethics Ordinances and provide direction to staff as outlined in the Mayor's Memo. (Mayor)** **(Rules Committee referral 11/4/09)** **(Deferred from 11/17/09 – Item 3.8)**

Action: Deferred to December 15, 2009 per Administration.

3.6 (a) **Accept Team San José “Client Satisfaction” performance measures for 2009-2010.** (b) **Accept City Manager’s verbal report regarding Team San José’s labor agreement.** **CEQA: Not a Project. (Economic Development)**

Documents Filed: (1) Memorandum from Chief Development Officer Paul Krutko, dated November 22, 2009, recommending approval of the performance measures and acceptance of the verbal report. (2) Staff presentation summarizing Team San José 2009-2010 Performance Measures and Labor Agreement dated December 8, 2009.

Chief Development Officer Paul Krutko summarized the Team San José Performance Measures.

City Attorney Richard Doyle responded to Council questions. Extensive Council discussion followed.

Motion: Council Member Liccardo moved approval of the Staff recommendations, including: (a) Request that the Team San José Board of Directors reconsider the exclusivity provision of its recently implemented labor policy; (b) Request that the current marketing plan be revised to respond to the negative publicity that the Convention Center and the City received when the new labor policy was adopted. (c) Status report back to Council on January 12, 2010. Council Member Oliverio seconded the motion.

City Attorney Richard Doyle, Chief Development Officer Paul Krutko and Daniel Fenton, Team San José, responded to Council questions.

Council Members Kalra, Campos and Nguyen objected to changing the exclusivity provision of the labor policy.

Council Member Campos requested to amend the motion to add “both Team San José and the local Teamsters Union” to the motion. Council Member Kalra requested to amend the motion to include all the labor unions in the motion.

3.6 (Cont'd.)

Council Member Liccardo amended the motion to include the requests from Council Members Campos and Kalra to encourage the Team San José Board of Directors to reconsider the exclusivity provision in its recently implemented labor agreement as it relates to both Team San José and the local Teamsters Union; as well as consider all options involving the unions and stakeholders. The amendments were accepted by Council Member Oliverio.

Public Comments: Steve Smith, Silicon Valley International Auto Show, expressed concern and objected to the exclusivity labor agreement. Dan Higgins, Vice President of Sales, GES, stated that San José should reach out to other municipalities and talk to other convention bureaus, cities and clients.

Seventeen members of Local 287 expressed support to Team San José and the exclusivity labor agreement, Kenneth Elliott, Dan Faaola, Monte Hamilton, Bob Blanchet, Bob McCormick, Vicky Deleal, Merrilee Tafoya, Jack Disisto, Reynalle Pertica, Caren Sencer, Robert Hipskind, Ignacio Beltran, Rick Fonteno, Jenny Cordova, Mike Freemyer, Mike Garrity and George Netto.

Ross Signorino commented in support to Team San José and Local 287. Jim Peterson expressed support to Team San José but objected to changing the exclusivity agreement.

Council Member Campos provided meeting disclosures.

Action: On a call for the question, the motion carried, Team San José “Client Satisfaction” performance measures for 2009-2010 and the City Manager’s verbal report regarding Team San José’s labor agreement were accepted, as amended: (1) Encourage the Team San José Board of Directors to reconsider the exclusivity provision in its recently implemented labor agreement as it relates to both Team San José and the local Teamsters union; as well as consider all options involving the unions and stakeholders. (2) Request that the current marketing plan be revised to respond to the negative publicity the Convention Center and the City received when the new labor policy was adopted. (3) Return to Council with a status report on January 12, 2010. (9-2. Noes: Kalra, Nguyen.)

3.7 As recommended by the Public Safety, Finance and Strategic Support Committee on November 19, 2009:

- (a) **Accept the report outlining current efforts underway to review the San José Police Department’s use of force.**
- (b) **Accept the Mayor’s recommendation that the City Manager convene a working group including the Independent Police Auditor and the City Auditor to review the San José Police Department’s use of force in 2009 and report back to the City Council through the Public Safety, Finance and Strategic Support Committee within 90 days.**

- 3.7 (c) **Direct the City Manager to meet with the San José Police Officers Association regarding the formation of the working group. Refer for City Council consideration the inclusion of a member of the public on the working group in view of confidentiality issues.**

(City Manager's Office/Police)

[PSFSS Committee referral 11/19/09 – Item D(4)]

Documents Filed: Memorandum from City Clerk Lee Price, dated November 24, 2009, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Deputy City Manager Deanna J. Santana presented the current efforts underway to review the San José Police Department's Use of Force.

Mayor Reed requested to add the following direction to the final motion: to direct the City Manager convene a working group "and considering including".

City Attorney Richard Doyle and Police Chief Robert Davis responded to Council questions.

Council Member Chu requested that Staff reach out to the Vietnamese and Hispanic Communities.

Public Comments: Ross Signorino expressed his support to the San José Police Department.

Motion: Council Member Nguyen moved approval of the staff recommendations, with the addition requested previously by Mayor Reed and to include a request that the City Manager reach out to key stakeholders in the community to elicit their input prior to presenting the recommendations to the full Council as it relates to the public safety issues. Council Member Liccardo seconded the motion.

A short discussion followed.

Action: On a call for the question, the motion carried unanimously, the report outlining current efforts underway to review the San José Police Department's use of force was accepted, as amended, add: "and consider including the Independent Police Auditor and the City Auditor..."; The Mayor's recommendation that the City Manager convene a working group including the Independent Police Auditor and the City Auditor to review the San José Police Department's use of force in 2009 and report back to the City Council through the Public Safety, Finance and Strategic Support Committee within 90 days was approved; City Manager was directed to meet with the San José Police Officers Association regarding the formation of the working group and to refer for City Council consideration the inclusion of a member of the public on the working group in view of confidentiality issues; and the City Manager was further directed to reach out to key stakeholders in the community to elicit input prior to presenting the recommendations to the full Council. (11-0.)

3.8 As recommended by the Public Safety, Finance and Strategic Support Committee on November 19, 2009:

- (a) Accept the FY 2009-10 First Quarter Investment Report.**
- (b) Adopt a resolution approving revisions to the City's Investment Policy to update job titles of the City's Investment Officials and to include foreclosure mitigation as one of several criteria used when evaluation an institution's short term investment instruments.**

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 11/19/09 – Items D(6)(a)(b)]

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated November 24, 2009, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (2) Supplemental memorandum from Assistant Director of Finance Julia Harper Cooper, dated December 3, 2009, recommending adoption of a resolution.

Public Comments: Gina Gates, People Acting in Community Together (PACT), spoke in support to the Staff recommendations.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, the FY 2009-10 First Quarter Investment Report was accepted and [Resolution No. 75198](#), entitled: “A Resolution of the Council of the City of San José Approving Revisions to the City's Investment Policy to Update Job Titles of the City's Investment Officials and To Include Foreclosure Mitigation as One of Several Criteria Used When Evaluating An Institution's Short Term Investment Instruments”, was adopted. (10-0-1. Absent: Chu.)

3.9 As recommended by the Community and Economic Development Committee on November 30, 2009, review and discuss the Draft 2010 Relevant Legislative Guiding Principles with focus on community and economic development. (City Manager's Office)

Community and Economic Development Committee referral 11/30/09 – Item D(10)

Action: *Item 3.9 was renumbered to Item 2.14.*

3.10 As recommended by the Public Safety, Finance and Strategic Support Committee on November 19, 2009, acceptance of the Comprehensive Annual Financial Report. (Finance)

[Public Safety, Finance and Strategic Support Committee referral 11/19/09 – Item D(5)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated December 4, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Manager Debra Figone, Director of Finance Scott Johnson and Assistant Director of Housing Jacky Morales-Ferrand responded to Council questions and comments.

3.10 (Cont'd.)

Mayor Reed requested that Staff issue an information memorandum clarifying the ending fund balance.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the Comprehensive Annual Financial Report was accepted, and Staff was directed to issue an information memorandum clarifying the ending fund balance. (10-0-1. Absent: Campos.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 As recommended by the Historic Landmarks Commission, consider the following Historic Landmark Nominations and Mills Act Historical Property Contracts:

(a) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Purdy House located at 438 N. Second Street (City Landmark No. HL08-189 and California Mills Act No. MA09-010). SNI: 13th Street. Council District 3.**

- (1) **Conduct a public hearing and adopt a resolution designating the Purdy House, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
- (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Purdy House (William and Jordan Saenz Baker, Property Owners) and adopt a resolution approving the contract.**

The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the 438 N. Second Street as Historic Landmark No. 189 and approving associated Historical Property Contract File No. MA09-010 with the condition that “installing new fencing” not be included as an item in the Preservation Plan. CEQA: Exempt. (PBCE)

(b) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Latta House located at 445 N. Third Street (City Landmark No. HL08-183 and California Mills Act No. MA09-002). SNI: 13th Street. Council District 3.**

- (1) **Conduct a public hearing and adopt a resolution designating the Latta House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
- (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Latta House (Courtney and Jonathan Carr, Property Owners) and adopt a resolution approving the contract.**

The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Latta House as Historic Landmark No. 183 and approving associated Historical Property Contract File

- 4.2 (c) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Frank and Nellie Wolfe House #9 located at 643 S. Sixth Street (City Landmark No. HL09-182 and California Mills Act No. MA09-001). SNI: University. Council District 3.**
- (1) **Conduct a public hearing and adopt a resolution designating the Frank and Nellie Wolfe House #9 as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
 - (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Frank and Nellie Wolfe House #9 (Jason Rowan and Batsirai Mutasa, Property Owners) and adopt a resolution approving the contract.**
- The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Frank and Nellie Wolfe House #9 as Historic Landmark No. 182 and approving associated Historical Property Contract File No. MA09-001. CEQA: Exempt. (PBCE)**
- (d) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Former Second Presbyterian Manse located at 655 S. Sixth Street (City Landmark No. HL09-187 and California Mills Act No. MA09-008). SNI: University. Council District 3.**
- (1) **Conduct a public hearing and adopt a resolution designating the Former Second Presbyterian Manse, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
 - (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Former Second Presbyterian Manse (David Dudek, Property Owner) and adopt a resolution approving the contract.**
- The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Former Second Presbyterian Manse as Historic Landmark No. 187 and approving associated Historical Property Contract File No. MA09-008 with the condition that the Preservation Plan only include improvements to the main house. CEQA: Exempt. (PBCE)**
- (e) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Petree House located at 102 S. Twelfth Street (City Landmark No. HL09-185 and California Mills Act No. MA09-005). SNI: University. Council District 3.**
- (1) **Conduct a public hearing and adopt a resolution designating the Petree House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
 - (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Petree House (Seamus and Jennifer Turner, Property Owners) and adopt a resolution approving the contract.**

- 4.2 (e) **The Historic Landmarks Commission (HLC) recommends (4-0-1-1; Cohen absent, Colombe abstaining) that the City Council adopt resolutions designating the Petree House as a Historic Landmark No. 185 and approving associated Historical Property Contract File No. MA09-005. CEQA: Exempt. (PBCE)**
- (f) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Cox House located at 198 S. Twelfth Street (City Landmark No. HL09-188 and California Mills Act No. MA09-009). SNI: University. Council District 3.**
- (1) **Conduct a public hearing and adopt a resolution designating the Cox House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
 - (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Cox House (Gary Rucker and Michael Howerton, Property Owners) and adopt a resolution approving the contract.**
- The Historic Landmarks Commission (HLC) recommends (4-0-1-1; Cohen absent, Colombe abstaining) that the City Council adopt resolutions designating the Cox House as a Historic Landmark No. 188 and approving associated Historical Property Contract File No. MA09-009. CEQA: Exempt. (PBCE)**
- (g) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Riggs House located at 577 S. Twelfth Street (City Landmark No. HL09-186 and California Mills Act No. MA09-006). SNI: University. Council District 3.**
- (1) **Conduct a public hearing and adopt a resolution designating the Riggs House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
 - (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Riggs House (Suzanne Rice and Neil McCarthy, Property Owners) and adopt a resolution approving the contract.**
- The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt resolutions designating the Riggs House as a Historic Landmark No. 186 and approving associated Historical Property Contract File No. MA09-006. CEQA: Exempt. (PBCE)**
- (h) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Field-Gross House located at 167 S. Fourteenth Street (City Landmark No. HL09-184 and California Mills Act No. MA09-003). SNI: University. Council District 3.**
- (1) **Conduct a public hearing and adopt a resolution designating the Field-Gross House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
 - (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the Field-Gross House (Bernadette Drechsler, Property Owner) and adopt a resolution approving the contract.**

- 4.2 (h) **The Historic Landmarks Commission (HLC) recommends (4-0-1-1; Cohen absent, Colombe abstaining) that the City Council adopt resolutions designating the Field-Gross House as a Historic Landmark No. 184 and approving associated Historical Property Contract File No. MA09-003. CEQA: Exempt. (PBCE)**

[Continued from 12/1/09 – Item 4.5(a)-(h)]

Documents Filed: (1) Memoranda from Historic Landmarks Commission Secretary Joseph Horwedel, all eight dated November 13, 2009, transmitting the recommendations of the Historic Landmarks Commission. (2) Eight Affidavits of Routings all executed on December 14, 2009, and distributed by the City Clerk. (3) Proof of Publication of Notice of Public Hearing, executed on October 23, 2009, submitted by the City Clerk.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75199](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Purdy House Located at 438 North Second Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 75200](#), entitled: “A Resolution of the Council of the City of San José Approving A Historic Landmark Preservation Agreement With William Baker and Jordan Saenz Baker for The Purdy House Located at 438 North Second Street (City Landmark No. HL09-189)”; [Resolution No. 75201](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Latta House Located at 445 North Third Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 75202](#), entitled: “A Resolution of the Council of the City of San José Approving A Historic Landmark Preservation Agreement With Courtney Carr and Jonathan Carr for The Latta House (City Landmark No. HL09-183)”; [Resolution No. 75203](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Frank and Nellie Wolfe House #9 Located at 643 South Sixth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 75204](#), entitled: “A Resolution of the Council of the City of San José Approving A Historic Landmark Preservation Agreement With Jason Rowan and Batsiai Mutasa for the Frank and Nellie Wolfe House (City Landmark No. HL09-182)”; [Resolution No. 75205](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Former Second Presbyterian Manse Located at 655 South Sixth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 75206](#), entitled: “A Resolution of the Council of the City of San José Approving A Historic Landmark Preservation Agreement With David Dudek, Naomi Dudek and Rman Yousefi for The Former Second Presbyterian Manse Located at 655 South Sixth Street (City Landmark No. HL09-187)”; [Resolution No. 75207](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code,

4.2 (Cont'd.)

The Petree House Located at 102 South Twelfth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 75208](#), entitled: “A Resolution of the Council of the City of San José Approving A Historic Landmark Preservation Agreement With Seamus Turner and Jennifer Turner for The Petree House Located at 102 South Twelfth Street (City Landmark No. HL09-185)”; [Resolution No. 75209](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Cox House Located at 198 South Twelfth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 75210](#), entitled: “A Resolution of the Council of the City of San José Approving A Historic Landmark Preservation Agreement With Gary Rucker and Michael Howerton The Cox House Located at 198 South Twelfth Street (City Landmark No. HL09-188)”; [Resolution No. 75211](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Riggs House Located at 577 South Twelfth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature”; [Resolution No. 75212](#), entitled: “A Resolution of the Council of the City of San José Approving A Historic Landmark Preservation Agreement With Suzanne Rice and Neil McCarthy For The Riggs House Located at 577 South Twelfth Street (City Landmark No. HL09-186)”; [Resolution No. 75213](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Field-Gross House Located at 167 South Fourteenth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature” and [Resolution No. 75214](#), entitled: “A Resolution of the Council of the City of San José Approving A Historic Landmark Preservation Agreement With Bernadette Drechsler for The Field-Gross House Located at 167 South Fourteenth Street (City Landmark No. HL09-184)”, were adopted. (11-0.)

4.3 **Conduct a public hearing on the Historical Property Contract (California Mills Act No. MA09-004) between the City of San José and the owners of the Stern/Fischer Residence, located at 132 Pierce Avenue, (City Landmark No. HL01-123) (James F. Cox, Property Owner) and adopt a resolution approving the contract. The Historic Landmarks Commission (HLC) recommends (5-0-1; Cohen absent) that the City Council adopt a resolution approving Historical Property Contract File No. MA09-004. SNI: University. CEQA: Exempt. Council District 3. (PBCE)** [Continued from 12/1/09 – Item 4.6(b)]

Documents Filed: Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated November 13, 2009, transmitting the recommendation of the Historic Landmarks Commission.

4.3 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75215](#), entitled: “A Resolution of the Council of the City of San José Approving A Historic Landmark Preservation Agreement With James F. Cox for The Stern-Fischer Residence Located on 132 Pierce Avenue (City Landmark No. HL01-123)”, was adopted. (11-0.)

- 4.4 Adopt a resolution supplementing the authority previously granted to issue not to exceed \$13,600,000 of City of San José Multifamily Housing Revenue Bonds (Brookwood Terrace Family Apartments), Series 2009B (the "Bonds") to allow such issuance in two series, with (i) the Series B-1 Bonds (the “Series B-1 Bonds”) issued a fixed rate bonds directly placed with the U.S. Treasury Department (the “Treasury”) and (ii) the Series B-2 Bonds (the “Series B-2 Bonds”) issued either as publicly offered variable rate demand bonds credit enhanced by a letter of credit from JP Morgan Chase (the “Bank”) or as variable rate bonds directly placed with the Bank; and authorizing the Assistant Director Finance to negotiate and approve changes to the Bond Documents previously approved by the City Council and to negotiate and approve other documents necessary to enable the issuance of the Bonds in two series. CEQA: Mitigated Negative Declaration, File No. PDC08-038. Council District 3. SNI: Five Wounds/Brookwood Terrace. (City Attorney’s Office)**

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Item 4.4 was deferred to December 15, 2009. (11-0.)

STRATEGIC SUPPORT SERVICES

- 3.5 Approve proposed settlement and authorize the City Attorney to execute Settlement Agreements and any other documents necessary to effect settlements with homeowners of 414, 420, 426, 432, 438, 444 and 450 Terrace Drive relative to soil conditions present on their properties. CEQA: Exempt. Acting as the Lead Agency, the State Department of Toxic Substances Control (DTSC) on July 27, 2006 found the removal of soil in the rear yards of residences located at Terrace Drive to be categorically exempt under the provisions of Section 15330 of the CEQA Guidelines, as amended. Section 15330 covers minor actions to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of hazardous waste or hazardous substances. The City may, as a responsible agency, rely upon the DTSC’s prior CEQA determination to inform the City actions currently proposed related to soil conditions in the Terrace Drive rear yards. (City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 24, 2009, recommending approval of the proposed settlement.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, the proposed settlement was approved and the City Attorney was authorized to execute Settlement Agreements and any other documents necessary to effect settlements with homeowners of 414, 420, 426, 432, 438, 444 and 450 Terrace Drive relative to soil conditions present on their properties. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Adopt a resolution:

- (a) **Finding and determining that significant poverty, unemployment, rate of home foreclosures and general distress exist throughout the City of San José as a consequence of the recent housing market collapse, the impact of the national recession and the fiscal crisis experienced by the State of California and local communities.**
- (b) **Designating the entire geographic region of the City of San José as an Economic Recovery Zone in order to make the City eligible to issue Recovery Zone Economic Development Bonds (RZEDB) and Recovery Zone Facility Bonds (RZFB).**
- (c) **Authorizing the City Manager or her designee to take such other actions, including negotiating and executing agreements, as may be necessary to ensure that the City of San José is designated a Recovery Zone in the event the California Debt Limit Allocation Committee reallocates RZFB and RZEDB funding activity.**

CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated November 16, 2009, recommending adoption of a resolution.

Motion: Council Member Oliverio moved approval of the Staff recommendations. Council Member Kalra seconded the motion.

Chief Development Officer Paul Krutko responded to Council questions and comments.

Mayor Reed requested that Staff provide the Council with “talking points” to help inform the public.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75216](#), entitled: “A Resolution of the Council of the City of San José (i) Finding and Determining that Significant Poverty, Unemployment, Rate of Home Foreclosures and General Distress Exist Throughout the City of San José as a Consequence of the Recent Housing Market Collapse, The Impact of the National Recession and the Fiscal Crisis Experienced by the State of California and Local Communities, (ii) Designating the Entire Geographic Region of the City of San José as an Economic Recovery Zone in Order to Make the City Eligible to Recovery Zone Economic Development Bonds (RZEDB) and Recover Zone Facility Bonds (RZFB) and (iii) Authorizing the City Manager and Her Designee to Take Such Other Actions, Including Negotiating and Executing Agreements As May Be Necessary to Ensure that the City of San José is Designated a Recovery Zone in the Event the California Debt Limit Allocation Committee Reallocated RZFB and RZEDB Funding Activity”, was adopted. Staff was directed to provide the Council with “talking points” to help inform the public. (11-0.)

4.6 Adopt a resolution authorizing the City Manager to negotiate and execute a Ground Lease between the City and the Earthquakes LLC for the development of a 2.6 acre soccer practice field as an interim use on the 74.8 acre City-owned Airport West Property located at 1125 Coleman Avenue. CEQA: Resolution No. 71716. Council District 3. (Economic Development)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated November 13, 2009, recommending adoption of a resolution.

Mayor Reed requested that Staff issue an information memorandum after the ground lease is executed.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 75217](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Ground Lease with Earthquakes LLC for the Development of An Approximately 2.6 Acre Soccer Practice Field as an Interim Use on the 74.8 Acre City Owned Airport West Property”, was adopted. Staff was directed to issue an information memorandum after the ground lease is executed. (11-0.)

4.7 (a) Accept report on Request for Proposal for the purchase of a Multi-Family Loan Portfolio Management System and adoption of a resolution authorizing the Director of Finance to:

- (1) Execute an agreement with MK Partners, Inc. for the implementation of the Multi-Family Loan Portfolio Management System in an amount not to exceed \$246,700 including all professional and technical support services required to implement the system as well as hosting services that will be provided by Salesforce.com Inc. under a separate subscription agreement.
- (2) Execute change orders not to exceed a contingency amount of \$40,000 to cover any unanticipated changes in the system design and implementation.
- (3) Execute ten one-year options to renew the agreements for continued technical support and hosting services subject to annual appropriation of funding.

(b) Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Fund (Fund 443) for 2009-2010:

- (1) Decrease the Ending Fund Balance by \$286,700.
- (2) Increase the Housing Department’s Non-Personal/Equipment Appropriation in the amount of \$286,700.

CEQA: Not a Project. (Finance/City Manager’s Office)

(Deferred from 11/3/09 – Item 2.5, et al, and 12/1/09 – Item 4.4)

Action: Deferred to December 15, 2009 per Administration.

NEIGHBORHOOD SERVICES

5.2 As referred by the Neighborhood Services and Education Committee on November 12, 2009:

- (a) Adopt the Final Greenprint 2009 Update with the changes indicated in the Final Errata Sheet.**
- (b) Authorize the City Manager to make any grammatical changes, minor edits, corrections and other changes which do not impact the major policies and substance of the document during the final editing and production process.**
- (c) Adopt a resolution repealing City Council Policy 1-6 “Park and Recreation Priority for Expenditure of Funds Collected from the Construction Tax and Property Conveyance Tax” and City Council Policy 6-8 “City Improvement of School Sites for Public Recreation.”**

CEQA: EIR Resolution No. 65459 and addendum thereto, File No. PP08-284. (PRNS)

[Neighborhood Services and Education Committee referral 11/12/09 – Item D(4)]

Documents Filed: (1) Memorandum from Council Member Liccardo, dated December 4, 2009, recommending further additions to the Greenprint as described in “Action”. (2) Memorandum from City Clerk Lee Price, dated November 19, 2009, transmitting the recommendations of the Neighborhood Services and Education Committee. (3) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 25, 2009, recommending additional changes to the draft Greenprint 2009 Update based upon feedback received from the Parks and Recreation Commission on October 7, 2009 and the Neighborhood Services and Education Committee meeting on November 12, 2009.

Assistant Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares outlined the Final Greenprint 2009 Update.

Motion: Council Member Liccardo moved approval of the Staff recommendations and the Staff supplemental memorandum, including his memorandum dated December 4, 2009, with additions to the Greenprint as described in “Action”. Council Member Oliverio seconded the motion.

Council Member Herrera requested to amend the motion to add direction to the Parks, Recreation and Neighborhood Services Staff to work with the City Attorney’s Office on appropriate language to add the development of 12 to 14 acres of land at the Arcadia property for new public park use as a priority one project for the Evergreen Action Plan (District 8). The amendment was accepted by Council Members Liccardo and Oliverio.

Public Comments: Expressing support of the Final Greenprint 2009 Update were Joan Bohnett, Bruce Tichinih and Roland Lebrun, Save Our Trails, and Martin Delson.

5.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, The Final Greenprint 2009 Update was approved, as amended: (1) The memorandum from Council Member Liccardo, dated December 4, 2009, was approved, with the following: (a) On Page 108, add to either the Neighborhood Community Parks or the Regional Parks list: “the east side of the Guadalupe River Bank from Interstate 280 to Willow Street, for public open space”, with language elsewhere in the Greenprint (crafted in consultation with the City Attorney) indicating that the City will work in collaboration with the Santa Clara Valley Water District to effectuate this goal. (b) On Page 109, add to the Trails list: Union Pacific Railroad from Highway 101 to the Guadalupe River Trail, with legally sufficient language (crafted in consultation with the City Attorney) elsewhere in the Greenprint document to indicate that such trail would only be built upon relinquishment of that rail line and/or upon the City’s purchase of it. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 25, 2009, recommending additional changes to the draft Greenprint 2009 Update based upon feedback received from the Parks and Recreation Commission on October 7, 2009 and the Neighborhood Services and Education Committee meeting on November 12, 2009, was approved. (3) Direct the Parks, Recreation and Neighborhood Services Staff to work with the City Attorney’s Office on appropriate language to add the development of 12 to 14 acres of land at the Arcadia property for new public park use as a priority one project for the Evergreen Action Plan (District 8); The City Manager was authorized to make any grammatical changes, minor edits, corrections and other changes which do not impact the major policies and substance of the document during the final editing and production process and [Resolution No. 75218](#), entitled: “A Resolution of the Council of the City of San José Rescinding City Council Policy 1-6, Parks and Recreation Priority for Expenditure of Funds Collected from the Construction Tax and Property Conveyance Tax and City Council Policy 6-8, City Improvement of School Sites for Public Recreation”, was adopted. (10-0-1. Absent: Constant.)

- 5.3 As referred by the Rules and Open Government Committee on October 28, 2009, consider adoption of a resolution amending the Schedule of Parkland In-Lieu Fees and Credits (Resolution No. 73587) charged pursuant to the Park Impact and Parkland Dedication Ordinance (Chapters 14.25 and 19.38 of the San José Municipal Code) to retroactively defer payment of parkland in-lieu fees and interest and penalty until the earlier of January 15, 2011, or the date of issuance of the first building permit for residential projects with approved parcel or final maps and for which building permits have not been issued. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**
[Rules Committee referral 10/28/09 – Item H(2)]

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 19, 2009, recommending adoption of a resolution.

Mayor Reed provided meeting disclosures.

5.3 (Cont'd.)

Public Comments: Erik Schoennauer, representing Morrison Park Homes LLC – Castle Group, spoke in favor of deferment of Parkland In-Lieu Fees.

Assistant Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares responded to Council questions and comments.

Action: Upon motion by Council Member Pyle, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75219](#), entitled: “A Resolution of the Council of the City of San José Amending Exhibit B of Resolution No. 73587, As Amended, To Provide for the Retroactive Deferment of the Payment of Parkland In-Lieu Fees and the Interest and Penalty Charged Pursuant to Chapter 19.38 of the San José Municipal Code for Residential Projects With Approved Final Maps and Parcel Maps and For Which Building Permits Have Not Been Issued”, was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 Approve an ordinance amending Chapter 6.64 of the San José Municipal Code to authorize the Chief of Police to cease the processing of any new applications for taxicab driver permits when certain economic indicators demonstrate a decline in the demand for taxicab services, with such authorization sunseting within three (3) years of taking effect unless extended by the City Council; clarify the authorization of the Chief of Police to allow the transfer of permitted taxicab drivers between licensed taxicab companies; and, clarify provisions of Chapter 6.64 to ensure consistency throughout the Code.**

[Transportation and Environment Committee referral – 11/2/09 – Item D(6) and Rules Committee referral 11/18/09 – Item H(7)]

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Liccardo, dated December 4, 2009, recommending approving the Staff recommendations, with additions as described in “Action”. (2) Memorandum from Council Member Kalra, dated December 8, 2009, recommending approving the memorandum from Mayor Reed and Council Member Liccardo, with further direction to Staff. (3) Memorandum from Acting Director of Transportation Hans Larsen and Police Chief Robert Davis, dated November 24, 2009, recommending approval of an ordinance. (4) Staff presentation outlining the Taxicab Driver Permit Limitation/Moratorium dated December 8, 2009. (5) List of San José Permitted Drivers from a member of the public dated December 8, 2009.

Motion: Council Member Liccardo moved approval of the Staff recommendations, the memorandum he cosigned with Mayor Reed and the memorandum from Council Member Kalra. Council Member Herrera seconded the motion.

Deputy Director of Public Works Timm Borden and City Attorney Richard Doyle responded to Council questions.

6.2 (Cont'd.)

Council Member Nguyen requested to amend the motion to direct the City Attorney to add language in the ordinance specifying a 10 business day turnaround time, from receipt to approval. The amendment was accepted by Council Members Liccardo and Herrera.

Council Member Chu objected to the motion stating he could not support a policy decision that limits the opportunity for someone to succeed in America.

Public Comments: Speaking in support to the approval of the ordinance and the motion on the floor were Mohamed I. Ali, Kebede Kaba, Kirpal Bajwa, Shakur Buni, San José Taxi Drivers Association, Charles Hope, Sarbjit Singh, Tony Alexander and Bikjam Jeet Singh, Alpha Cab/California Cab.

Speaking in opposition were Sherry Singh, American Cab Inc., Ajit Singh, All Star Cab, Julia Miller and Dmitrix Vorik, Rainbow Cab Inc.

Action: On a call for the question, the motion carried, [Ordinance No. 28682](#), entitled: “An Ordinance of the City of San José Amending Various Sections of Chapter 6.64 of Title 6 of the San José Municipal Code to Authorize the Police Chief to Cease the Processing of Any New Applications for Taxicab Driver Permits When Certain Economic Indicators Demonstrate a Decline in the Demand for Taxicab Services, With Such Authorization Sunsetting Within Three (3) Years of Taking Effect Unless Extended by the City Council; To Clarify the Authorization of the Chief of Police to Allow the Transfer of Permitted Taxicab Drivers Between Licensed Taxicab Companies and To Clarify Provisions of Chapter 6.64 To Ensure Consistency Throughout the Code”, was passed for publication, as amended, and approved, as modified, by directing the City Attorney to add language in the ordinance specifying a 10 business day turnaround time (from receipt to approval). Additional direction provided to Staff as follows: (1) The memorandum from Mayor Reed and Council Member Liccardo, dated December 4, 2009, was approved, with the following additions:(a) Affirm the flexibility of Airport Staff to enable a taxicab company to retain its existing allocation of airport permits during the period in which the City is not issuing driver permits under this policy. (b) Staff directed to return to Council during the fee-setting process in June 2010, or sooner, with an amendment to the fee schedule to substantially increase the fine for operating a taxicab without a valid certificate, license and/or permit (i.e. “bandit cabs”). (c) Staff directed to provide a phone number and email address to drivers and companies to report “bandit cabs”. (d) Staff directed to return to the Transportation and Environment Committee in eighteen months to assess whether the policy should remain in effect, be modified or terminated. (2) The memorandum from Council Member Kalra, dated December 8, 2009, recommending approval of the memorandum from Mayor Reed and Council Member Liccardo and the following: (a) Direct the Department of Transportation Staff to compile a report of the current system of allocation of taxi cab company airport permits and return to the Transportation and Environment Committee and subsequently to the full Council within 90 days. This report need not cover the criteria which allow companies to qualify for airport permits, only the allocation process. (10-1. Noes: Chu.)

NOTICE OF CITY ENGINEER’S AWARD OF CONSTRUCTION PROJECTS

In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in August, September, October and November 2009:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Penitencia Creek Park Reach 6 Interim Improv	4	Wattis Construction, Inc.	\$116,310	8/13/09
PW General Engineering Contract 2009-2011	Citywide	Fermin Sierra Construction, Inc.	\$1,000,000	8/25/09
So De Anza Blvd Sewer	1	Stoloski & Gonzalez Inc.	\$182,681	8/28/09
24 th St Improv (Re-Bid)	3	San José Signal Electric	\$282,750	9/1/09
Fire Station #36 Median Island/Bicycle Trail	8	Suarez & Munoz Const Inc.	\$108,915	9/2/09
Albany-Kiely Storm Drain Improvement Phase V-VI	1	Rodan Builders, Inc.	\$855,053.80	9/8/09
ES Bldg Tenant Improve	Citywide	Zolman Const & Dev Inc.	\$170,000	9/11/09
Aborn Park Play Lots	8	Maxicrete, Inc.	\$381,000	9/21/09
SNI ST01: Seven Trees Blvd Sidewalk Improve	7	Ameca Gen Engineering	\$247,214	10/1/09
NYM SJIA Electrical Trades Contract 09-10	Citywide	BBJ Electric, Inc.	\$150,000	10/21/09
San Sewer Cond Assess – CCTV Inspection 09-10	Citywide	National Plant Services	\$447,000	11/16/09

ADJOURNMENT

The Council of the City of San José was adjourned at 6:06 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/12-8-09 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 6:07 p.m. to consider Items 8.1, 8.2 and 8.3 in a Joint Session.

8.1 City Council and Redevelopment Agency Board consideration and approval of the Mayor's Redevelopment Agency Budget Message. (Mayor)

Action: Deferred to December 15, 2009.

- 8.2 (a) The Redevelopment Agency's Revised Fiscal Year 2009-2010 Revenue, Capital and Operating Budgets.**
(b) The Redevelopment Agency's Capital Improvement Program (CIP) for Fiscal Year 2010-2015.

Action: Deferred to December 15, 2009.

8.3 City Council and Redevelopment Agency Board approval of:

- (a) The third amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San José, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Senior Policy Advisor, Economic Development and Land Use by one year.**
(b) The third amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San José, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Schedule Coordinator by one year.

CEQA: Not a Project.

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated November 25, 2009, recommending approval of the third amendment to the Cooperation Agreements.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the third amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San José, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Senior Policy Advisor, Economic Development and Land Use by one year; and the third amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San José, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Schedule Coordinator by one year, were approved. (11-0.)

The Council of the City of San José and Redevelopment Agency Board was adjourned at 6:08 p.m.