MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA **TUESDAY, OCTOBER 27, 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, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - Chirco. (Excused)

Upon motion unanimously adopted, Council recessed at 9:00 a.m. to a Closed Session in Room W133, to confer with Legal Counsel with respect to (A) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: City Auditor; Name: Sharon Erickson; (B) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code subsection (a) of Section 54956.9: (1) Licking Enterprises, Inc. v. City, et al.; Names of Parties Involved: Licking Enterprises, Inc., City of San José, a Municipal Corporation; San Jose City Council; Ron Gonzales, Cindy Chavez, Pat Dando, Ken Yeager, Chuck Reed, Forrest Williams, Linda J. Lezotte, Nora Campos, George Shirakawa, Jr., David D. Cortese, John DiQuisto, sued in their official capacities; Court: United States District Court, Northern District of California; Case No: C07-00735 RMW (PVT); Amount of Money or Other Relief Sought: Damages according to proof; (C) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 in one (1) matter; (D) 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 (IAFF), 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 (IAFF), Local 230; (2) Association of Legal Professionals of San Jose (ALP); 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

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CLOSED SESSION (Cont'd.)

between City of San José and ABMEI; (4) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; 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 (OE#3). (11) San José Police Officers' Association (SJPOA); 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/employeerelations/ moa.asp**; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:40 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

The Dartmouth Middle School Band, directed by Sam Neipp, performed an original composition for the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance accompanied by third-grade students from the San Jose Christian School.

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 Items 3.3 and 3.7 deferred to November 3, 2009. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing the month of October as "Breast Cancer Awareness Month" in the City of San José. (Chirco/Kalra)

Mayor Reed, Vice Mayor Chirco and Council Member Kalra proclaimed the month of October as "Breast Cancer Awareness Month" in the City of San José, and Vice Mayor Chirco was presented with a special award of recognition for her strength, courage and resolve during her battle with breast cancer.

1.2 Presentation of a commendation to the Capital Improvement Program Action Team for its leadership role in making the City's Decade of Investment a success.

Action: Mayor Reed, Chief Deputy City Manager Ed Shikada, City Manager Debra Figone and Director of Public Works Katy Allen recognized and commended the Capital Improvement Program Action Team for its leadership role in making the City's Decade of Investment a success.

1.3 Presentation of a commendation to Jan Marini Skin Research for small business success. (Economic Development/Kalra)

Action: Mayor Reed and Council Member Kalra recognized and commended Jan Marini Skin Research for small business success.

1.4 Presentation of a proclamation declaring the month of October 2009 as "Crime Prevention Month" in the City of San José. (Constant)
(Rules Committee referral 10/21/09)

Action: Mayor Reed Council Member Constant and Chief of Police Robert L. Davis recognized and proclaimed the month of October 2009 as "Crime Prevention Month" in the City of San José.

1.5 Presentation of a proclamation declaring October 24th, 2009 as "World Polio Day" in the City of San José. (Herrera/Pyle)
(Rules Committee referral 10/21/09)

Action: Mayor Reed and Council Members Herrera and Pyle recognized and proclaimed October 24th, 2009 as "World Polio Day" in the City of San José and commended the Rotary Club for their outstanding work.

CONSENT CALENDAR

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

2.4 (a) Adopt a resolution:

(1) Approving the continued full voting membership of the City of San José in Airports Council International – North America (ACI-NA).

(2) Designating the City Manager as the City's authorized representative to the ACI-NA.

(3) Authorizing the City Manager to cast votes in support of or opposition to proposed federal legislation to be taken by the ACI-NA on behalf of its members that the Manager determines to be (a) consistent with the City's official position; or (b) consistent with the most recently adopted City Legislative Principles, when applicable.

(4) In instances when the City has no official position or applicable guiding legislative principle, the Manager is authorized to take an "interim" legislative position provided that: 1) the ACI-NA is informed before the vote is cast that the City's final legislative position will need to be approved by the City Council; and 2) the Manager report out to Council for review on any legislation where an interim vote is cast.

(5) Approving payment of annual membership dues as a condition of ACI-NA membership, subject to Council appropriation of funds.

(b) Adopt a resolution:

(1) Approving full voting membership of the City of San José in the California Airports Council (CAC).

(2) Designating the City Manager as the City's authorized representative to the CAC.

(3) Authorizing the City Manager to cast votes in support of or opposition to proposed federal or state legislation to be taken by the CAC on behalf of its members that the Manager determines to be (a) consistent with the City's official position; or (b) consistent with the most recently adopted City Legislative Principles, when applicable.

2.4 (b) (4) In instances when the City has no official position or applicable guiding legislative principle, the Manager is authorized to take an "interim" legislative position provided that: 1) the CAC is informed before the vote is cast that the City's final legislative position will need to be approved by the City Council; and 2) the Manager report out to Council for review on any legislation where an interim vote is cast.

(5) Designating the Assistant Director of Aviation as the City's alternate representative to ensure the City is always represented at membership meetings and able to cast a vote.

(6) Approving payment of annual membership dues and the City's share of any other assessed costs, as established by the CAC as a condition of membership, subject to Council appropriation of funds.

CEQA: Not a Project. (Airport)

Documents Filed: Memoranda from Director of Aviation William F. Sherry, dated October 5, 2009, recommending adoption of resolutions.

Action: Resolution No. 75142, entitled: "A Resolution of the Council of the City of San José Authorizing the Continued Full Voting Membership of the City of San José in Airports Council International – North America", and Resolution No. 75143, entitled: "A Resolution of the Council of the City of San José Authorizing City Membership in the California Airports Council", were adopted. (11-0.)

2.5 Adopt a resolution amending the previous Council authorization granted to the Director of Public Works to negotiate and execute a Construction Agreement with Westrust San José, LLC for certain public improvements at the northeast corner of Monterey Road and Curtner Avenue to increase the amount of reimbursement to the Developer by $146,722, from $979,616 to an amount not to exceed $1,126,338. CEQA: Resolution No. 72771. The subject roadway improvements were addressed in the Final EIR prepared for the General Electric Facility Planned Development Rezoning, File No. PDC04-029. Council District 7. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated October 5, 2009, recommending adoption of a resolution.

Action: Resolution No. 75144, entitled: "A Resolution of the Council of the City of San José Amending the Authorization of the Director of Public Works to Negotiate and Execute an Amendment to an Agreement with Westrust San Jose LCC for the Construction of Certain Public Improvements at the Northeast Corner of Monterey Road and Curtner Avenue Including a Reimbursement for Additional Reimburseable Work to Westrust San Jose LLC in a Revised Amount Not to Exceed $1,126,338", was adopted. (11-0.)

2.6 Adopt a resolution approving the transfer of an easement granting ingress and egress rights over City property to the Coyote Creek levee, and authorizing the City Manager to execute all documents necessary to transfer easement rights on City-owned property on Corie Court to the Santa Clara Valley Water District (District). CEQA: Not a Project. (General Services)

Action: Dropped per Administration.

2.7 (a) Adopt a resolution to:

(1) Initiate proceedings to consider the Frank and Nellie Wolfe House #9, located at 643 S. Sixth Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

(2) Set a public hearing on Tuesday, December 1, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.

(3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: University.
HL09-182 – District 3

(b) Adopt a resolution to:

(1) Initiate proceedings to consider the Latta House, located at 445 N. Third Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

(2) Set a public hearing on Tuesday, December 1, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.

(3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: 13th Street.
HL09-183 – District 3

(c) Adopt a resolution to:

(1) Initiate proceedings to consider the Field-Gross House, located at 167 S. Fourteenth Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

(2) Set a public hearing on Tuesday, December 1, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.

(3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: University.
HL09-184 – District 3

2.7 (Cont'd.)

(d) Adopt a resolution to:

(1) Initiate proceedings to consider the Petree House, located at 102 S. Twelfth Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

(2) Set a public hearing on Tuesday, December 1, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.

(3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: University.

HL09-185 – District 3

(e) Adopt a resolution to:

(1) Initiate proceedings to consider the Riggs House, located at 577 S. Twelfth Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

(2) Set a public hearing on Tuesday, December 1, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.

(3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: University.

HL09-186 – District 3

(f) Adopt a resolution to:

(1) Initiate proceedings to consider the Former Second Presbyterian Manse, located at 655 S. Sixth Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

(2) Set a public hearing on Tuesday, December 1, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.

(3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: University.

HL09-187 – District 3

2.7 (Cont'd.)

(g) Adopt a resolution to:

(1) Initiate proceedings to consider the Cox House, located at 198 S. Twelfth Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

(2) Set a public hearing on Tuesday, December 1, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.

(3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: University.

HL09-188 – District 3

(h) Adopt a resolution to:

(1) Initiate proceedings to consider the Purdy House, located at 438 N. Second Street, as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

(2) Set a public hearing on Tuesday, December 1, 2009 at 1:30 p.m. for Council consideration of City landmark designation of the structures.

(3) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, followed by a report and recommendation back to City Council.

CEQA: Not a Project. SNI: 13th Street.

HL09-189 – District 3

(Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated October 5, 2009, recommending adoption of resolutions. (2) Eight Affidavits of Routing, all executed on November 2, 2009, and distributed by the City Clerk.

Action: Resolution No. 75145, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, to Designate the Frank and Nellie Wolfe House #9, Presently Located at 643 S. Sixth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature"; Resolution No. 75146, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, to Designate the Latta House, Presently Located at 445 North Third Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature"; Resolution No. 75147, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, to Designate the Field-Gross House, Presently Located at 167 South Fourteenth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature";

2.7 (Cont'd.)

Resolution No. 75148, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, to Designate the Petree House, Presently Located at 102 South Twelfth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature"; Resolution No. 75149, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, to Designate the Riggs House, Presently Located at 577 South Twelfth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature"; Resolution No. 75150, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, to Designate the Former Second Presbyterian Manse, Presently Located at 655 South Sixth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature"; Resolution No. 75151, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, to Designate the Cox House, Presently Located at 198 South Twelfth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature"; and Resolution No. 75152, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, to Designate the Purdy House, Presently Located at 438 North Second Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature", were adopted. (11-0.)

2.8 (a) Approval of an Annual Operating Grant Agreement with Our City Forest for 2009-2010, in an amount not to exceed $275,000; and

(b) Approval of a Matching Grant Agreement with Our City Forest in an amount not to exceed $120,000 for Our City Forest to apply towards its local match required for the AmeriCorps Grant.

CEQA: Exempt, File No. PP04-313. (Transportation)

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated October 5, 2009, recommending an operating grant and matching grant agreements.

Action: An Annual Operating Grant Agreement with Our City Forest for 2009-2010, in an amount not to exceed $275,000, with approval of a Matching Grant Agreement with Our City Forest in an amount not to exceed $120,000 for Our City Forest to apply towards its local match required for the AmeriCorps Grant, was approved. (11-0.)

2.9 Approve travel by Council Member Chu to San Antonio, Texas on November 10-14, 2009 to attend National League of Cities Congress of Cities and Exposition. Source of Funds: Mayor/Council Travel Fund. (Chu)
(Rules Committee referral 10/14/09)

Documents Filed: Memorandum from Council Member Chu, dated September 30, 2009, requesting approval of travel.

Action: The travel request for Council Member Chu was approved. (11-0.)

2.10 Approve travel by Council Member Chu to Anaheim, CA on November 19-20, 2009 to attend League of Cities Board Meeting. Source of Funds: Mayor/Council Travel Fund. (Chu)
(Rules Committee referral 10/14/09)

Documents Filed: Memorandum from Council Member Chu, dated October 5, 2009, requesting approval of travel.

Action: The travel request for Council Member Chu was approved. (11-0.)

2.11 As recommended by the Rules and Open Government Committee on October 14, 2009, approve the appointment of Donna Cox to the Mobilehome Advisory Commission as a Resident representative for an unexpired term ending December 31, 2011. (Chu)
[Rules Committee referral 10/14/09 – Item G(1)]

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated October 16, 2009, transmitting the recommendations of the Rules and Open Government Committee. (2) Supplemental memorandum from City Clerk Lee Price, dated October 22, 2009, providing information regarding San Jose's mobilehome community as requested by the Mayor.

Action: The appointment of Donna Cox to the Mobilehome Advisory Commission as a Resident Representative for an unexpired term ending December 31, 2011, was approved. (11-0.)

2.12 As referred by the Rules and Open Government Committee on October 21, 2009, consider a position for the legislative objective of extending the federal alternative fuels excise tax credit in H.R. 1835 and S. 1408. (Airport)
[Rules Committee referral 10/21/09 – Item D(2)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated October 23, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: A position of support was adopted for the legislative objective of extending the federal alternative fuels excise tax credit in H.R. 1835 and S. 1408. (11-0.)

2.13 As referred by the Rules and Open Government Committee on October 21, 2009, consider the approval of the proposed designation of Council Member Kansen Chu as the voting delegate at the November 14, 2009 Annual Business Meeting for the National League of Cities (NLC). (City Manager's Office)
[Rules Committee referral 10/21/09 – Item H(1)]

Documents Filed: Memorandum from City Clerk Lee Price, dated October 23, 2009, transmitting the recommendations of the Rules and Open Government Committee.

Action: The proposed designation of Council Member Kansen Chu as the voting delegate at the November 14, 2009 Annual Business Meeting for the National League of Cities (NLC) was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

The City Manager provided an update on the impact to the City's budget due to the economic downturn.

3.2 Report of the Rules and Open Government Committee – October 7, 2009
Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated October 7, 2009.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera, and carried unanimously, the Report of the Rules and Open Government Committee and the actions of October 7, 2009 were accepted. (11-0.)

3.3 Report of the Public Safety, Finance & Strategic Support Committee – October 15, 2009. Council Member Nguyen, Chair.

Action: Deferred to November 3, 2009 per Orders of the Day.

3.4 (a) Approve a settlement and authorize the City Attorney to execute a Settlement Agreement and Release to settle the case of Licking v. City of San Jose. Settlement includes $2,096,000 for purchase of property for the Route 101/Mabury interchange, a leaseback of the property to the sellers for a nominal amount and payment for loss of goodwill to be determined by binding arbitration from the Building and Structure Construction Tax Fund or other legally available funds.

(b) Adopt the following Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund (429):

(1) Establish an appropriation to the Department of Transportation for the Route 101/Mabury Acquisition Project in the amount of $2,096,000; and

(2) Decrease the Ending Fund Balance by $2,096,000.

CEQA: Resolution No. 74195.1. (City Attorney's Office/City Manager's Office)

Documents Filed: Joint memorandum from City Attorney Richard Doyle and Budget Director Jennifer Maguire, dated October 5, 2009, recommending approval of a settlement agreement and adoption of an appropriation ordinance.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, authorization for the City Attorney to execute a Settlement Agreement and Release to settle the case of Licking v. City of San José was approved, and Ordinance No. 28658 was adopted.

3.5 Accept staff report and public input on Annual Summary of Upcoming Labor Negotiations. CEQA: Not a Project. (City Manager's Office)

Documents Filed: (1) Memorandum from City Manager Debra Figone, dated October 13, 2009, recommending acceptance of the Staff Report. (2) Memorandum from Director of Employee Relations Alex Gurza, dated October 23, 2009, providing additional information regarding retirement benefits and compensation. (3) Letter from Patricia Sausedo, San Jose/Silicon Valley Chamber of Commerce, suggesting upcoming labor negotiation parameters. (4) Email from Nick Cochran and Mark Waxman, dated October 27, 2009, offering suggestions for collaborative negotiations between the City and bargaining units. (5) City Manager's Powerpoint presentation "Labor Negotiations", dated October 27, 2009.

City Manager Debra Figone introduced the labor negotiations report and outlined diversity of workforce and services.

Director of Employee Relations Alex Gurza outlined personnel cost information and a summary of labor negotiation cost-saving strategies. Director of Finance Scott P. Johnson offered additional information on employee retirement benefits.

3.5 (Cont'd.)

Public Comments: Ross Signorino offered input on the future of labor negotiations. Pat Sausedo (San Jose/Silicon Valley Chamber of Commerce) expressed support for the recommendations of the City Manager and Staff, asked for greater transparency, and recommended that the Council consider opening negotiations with the bargaining units to public review. Asking for greater transparency, openness to the public and a stronger partnership between the City and Labor in developing solutions were Esther Rechenmacher, Nancy Ostrowski (AEA), Linda Dittes (AFSCME) and Daniel Finn (OE-3). Jerry Mungai and Dennis Martin (NAIOP Silicon Valley) offered input on reducing the cost of City government. Gay Gale (CAMP) presented a chart with populations indicated by retiree healthcare coalition labor leaders and asked for greater differentiation between different type of contracts. Ed Rast posed questions regarding budget guidelines

Council discussion followed regarding Council policy on open meetings for labor negotiations. City Attorney Richard Doyle agreed to return to Council with more details on open meeting policies prior to the November 5, 2009 Budget Priority Setting Session.

Action: The Staff Report and public input on the Annual Summary of Upcoming Labor Negotiations was received.

3.6 Report of the Rules and Open Government Committee – September 30, 2009 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated September 30, 2009.

Action: Upon motion by Council Member Pyle, seconded by Council Member Constant and carried unanimously, the Report of the Rules and Open Government Committee and the actions of September 30, 2009 were accepted. (11-0.)

3.7 Report of the Public Safety, Finance & Strategic Support Committee Special Meeting – October 14, 2009, Council Member Nguyen, Chair

Action: Deferred to November 3, 2009 per Orders of the Day.

3.8 As recommended by the Public Safety, Finance and Strategic Support Committee on October 15, 2009, accept the audit of Animal Care and Services. (City Auditor's Office) [Public Safety, Finance and Strategic Support Committee referral 10/15/09 – Item D(4)]

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated October 23, 2009, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (2) Supplemental memorandum from City Auditor Sharon Winslow-Erickson, dated October 22, 2009, providing additional information as requested at the October 15, 2009, Public Safety, Finance and Strategic Support Committee meeting.

3.8 (Cont'd.)

Public Comments: Gay Routh expressed an urgent need for additional washers and dryers at the Animal Care Center.

Action: The audit of Animal Care and Services was received.

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Adopt a resolution:

(a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Belovida at Newbury Park Senior Apartments), Series 2009A" in an aggregate principal amount not to exceed $26,200,000 (the "Bonds");

(b) Approving a loan of Bond proceeds to Belovida at Newbury Park, L.P., a California limited partnership created by CORE Affordable Housing, LLC and EAH, Inc., to finance the construction of the Belovida at Newbury Park Senior Apartments located at 1777 Newbury Park Drive in San José;

(c) Approving in substantially final form the Bonds, Trust Indenture, Loan Agreement, and Regulatory Agreement and Declaration of Restrictive Covenants;

(d) Authorizing the City Manager, Director of Finance, Assistant Director of Finance, Treasury Division Manager, Debt Administrator, and Director of Housing, or their designees, to execute and, as appropriate, to negotiate, execute and deliver these Bond documents and other related Bond documents as necessary; and

(e) Approving a change in the project's income restrictions, related to units restricted to extremely low-income and very low-income households, to 48 units restricted to households at or below 30% of Area Median Income ("AMI"), 136 units restricted to households at or below 50% of AMI, and one unrestricted manager's unit.

CEQA: Mitigated Negative Declaration, File No. PDC07-015. Council District 3. (Housing/Finance)

Action: Deferred to November 3, 2009 per Administration

4.3 As recommended by the Community and Economic Development Committee on September 28, 2009, accept staff's verbal progress update report on the Mayors' Budget Message directive to review marketing budgets and identify opportunities to improve collaboration and use resources most effectively on the effort to communicate key San José messages through the national /international media. (Economic Development/Redevelopment Agency/Mayor)
[Community and Economic Development Committee referral 9/28/09 – Item D(4)]
(Deferred from 10/20/09 – Item 4.3)

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated October 7, 2009, transmitting the recommendations of the Community and Economic Development Committee. (2) Powerpoint presentation on the Communications Working Group.

Public Information Officer Michelle McGurk gave an overview of the coordinated marketing efforts of the Communications Working Group.

Action: The report of the Communications Working Group was received.

TRANSPORTATION & AVIATION SERVICES

6.2 Adopt a resolution authorizing the City Manager to negotiate and execute a second amendment to the URS Corporation Master Agreement for continuing program support services on Airport capital improvement projects, increasing compensation by $3,500,000, for a total amount not to exceed $18,500,000. CEQA: Resolution Nos. 67380 and 71451, File No. PP 09-162. (Airport)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated October 5, 2009, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Resolution No. 75153, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Master Agreement with URS Corporation for Program Support Services for Airport Capital Development Program", was adopted. (9-0-2. Absent: Constant, Herrera.)

6.3 Report on bids and award of a construction contract for the Remove and Replace Asphalt Concrete Pavement 2009 Project to the low bidder, MCK Services, Inc., in the amount of $2,283,920, and approval of a five percent (5%) contingency in the amount of $114,200. CEQA: Exempt, File No. PP04-039. (Transportation)

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated October 5, 2009, recommending approval of a construction contract.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Report on bids and award of a construction contract for the Remove and Replace Asphalt Concrete Pavement 2009 Project to the low bidder, MCK Services, Inc., in the amount of $2,283,920, with a related contingency was approved. (10-0-1. Absent: Constant.)

OPEN FORUM

(1) Ross Signorino spoke about the recent and tragic death of Alyson Snow, a victim of a street-racing crash.
(2) Kathy Brandhorst expressed personal viewpoints.
(3) Matt Lucero advocated the establishment of medical marijuana dispensaries in San Jose.
(4) Geoffrey Mangers commented on a lawsuit he filed against the County.

ADJOURNMENT

The Council of the City of San José was adjourned at 4:32 p.m. in memory of San Jose Police Officer Desmond Casey, to honor the 10-year anniversary of his death. He died in the line of duty while piloting Air One.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

rmk/10-30-07MIN

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.