

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 9, 2010

The Council of the City of San José convened in regular session at 9:30 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 9:31 a.m. to a Closed Session in Room W133, (A) to confer with Counsel – Anticipated Litigation (Claim Not Filed). With significant exposure to litigation pursuant to subsection (b) of Section 54956.9 of the Government Code: Number of matters to be discussed: 1; (B) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code subsection (a) of Section 54956.9: (1) San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José; Names(s) of Parties(s) Involved: San José Silicon Valley Chamber of Commerce Political Action Committee; Compac Issues Fund, Sponsored by the San José Silicon Valley Chamber of Commerce; The City of San José; San José Elections Commission; Does 1 through 10; Court: Superior Court of California, County of Santa Clara; Case No.: 1-09-CV-146667; Amount of Money or Other Relief Sought: Challenge to SJMC 12.06.310; (C) 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; 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, Local 230; (2) Association of Legal Professionals of San José (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 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:

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.

CLOSED SESSION (Cont'd.)

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); Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: City of San José – Association of Maintenance Supervisory Personnel, Benefit & Compensation Summary. (9) Association of Engineers & Architects; Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and Association of Engineers & Architects (AEA); (10) International Union of Operating Engineers, Local No. 3 (OE#3); 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 11:00 a.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - None.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of January 12, 2010:

A. Pending Litigation – Settlement Authorized:

Case Name: City v. PG&E

Substance of
Settlement:

Approval of settlement of lawsuit. PG&E to pay \$6M, 25% (approximately \$1.5M) will go to special energy/clean energy fund, 75% (\$4.5M) to General Fund. PG&E also agreed to franchise fee increase to 2.3% (from 2.0%). PG&E waives streetlight audit amount (\$1.08M). The settlement is subject to PUC approval of the Franchise Fee Amendment.

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

Noes: None.

Disqualified: None.

Absent: None.

Vacant: None.

INVOCATION

Pastor Anne Carlson from New Creation Lutheran Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance accompanied by third-grade students from Country Lane Elementary School (District 1).

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 2.3(b) and 3.6 deferred to February 23, 2010, and the adjournment honor of Juanita Serrato-Lopez was deferred to a future Council meeting. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the Month of February 2010 as “American Heart Month” in the City of San José. (Kalra/Campos)

Action: Mayor Reed and Council Members Campos and Kalra recognized the Month of February 2010 as “American Heart Month” in the City of San José.

**1.2 Presentation of a proclamation declaring the Month of February 2010 as “African American History Month” in the City of San José. (Kalra/Nguyen)
(Rules Committee referral 2/3/10)**

Action: Mayor Reed and Council Members Kalra and Nguyen recognized the Month of February 2010 as “African American History Month” in the City of San José.

**1.3 Presentation of a proclamation recognizing February 7 – 13, 2010 as Future Business Leaders of America – Phi Beta Lambda Week. (Mayor)
(Rules Committee referral 2/3/10)**

Action: Mayor Reed recognized February 7 – 13, 2010 as Future Business Leaders of America – Phi Beta Lambda Week.

CONSENT CALENDAR

Upon motion by Council Member Herrera, seconded by Vice Mayor Chirco 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 December 1, 2009**
- (b) **Special Minutes of December 3, 2009**
- (c) **Regular Minutes of December 8, 2009**
- (d) **Joint Council/San José Financing Authority Minutes of December 8, 2009**
- (e) **Regular Minutes of December 15, 2009**

Documents Filed: (1) Regular Minutes dated December 1, 2009, December 8, 2009 and December 15, 2009. (2) Special Minutes dated December 3, 2009. (3) Joint/San José Financing Authority Minutes dated December 8, 2009.

Action: The City Council minutes were approved. (11-0.)

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28695 – Rezoning certain real property situated on the southeast corner of Lincoln Avenue and Willow Street (1098 Lincoln Avenue), from CP Commercial Pedestrian to CP(PD) Planned Development Zoning District. PDC09-016**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28695 executed on February 2, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28695](#) was adopted. (11-0.)

- (b) **ORD. NO. 28696 – Rezoning certain real property situated on the east side of Monterey Road, approximately 700 feet north of Tully Road (2112 Monterey Road), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC09-015**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28696 executed on February 2, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28696](#) was adopted. (11-0.)

- (c) **ORD. NO. 28697 – Rezoning certain real property situated on the east side of Almaden Expressway, approximately 300 feet north of Redmond Avenue (16430 Almaden Road) from R-1-1 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District. PDC08-051**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28697 executed on February 2, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28697](#) was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of January 20, 2010. (Mayor)**
- (b) **Rules and Open Government Committee Report of January 13, 2010. (Mayor)**
[Deferred from 2/2/10 – Item 2.3(a)]
- (c) **Transportation and Environment Committee Report of January 11, 2010. (Liccardo)**
[Deferred from 1/26/10 – Item 6.1 and 2/2/10 – Item 2.3(d)]

Documents Filed: (a) The Rules and Open Government Committee Report dated January 20, 2010. (b) The Transportation and Environment Committee Report dated January 11, 2010.

Action: The Report of the Rules and Open Government Committee of January 20, 2010 and the Report of the Transportation and Environment Committee of January 11, 2010 and the actions of January 20 and January 11, 2010 were accepted. The Rules and Open Government Committee Report dated January 13, 2010 was deferred to February 23, 2010 per Orders of the Day. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

- (a) **Request for an excused absence for Vice Mayor Chirco from the Regular Meeting of the Rules and Open Government Committee on February 10, 2010 due to Authorized City Business: Trip to Sacramento, CA to meet with State Legislators regarding budget issues. (Chirco)
(Rules Committee referral 2/3/10)**
- (b) **Request for an excused absence for Council Member Chu from the Regular Meeting of the Neighborhood Services & Education Committee on February 11, 2010 due to Authorized City Business: League of California Cities Board Meeting in Sacramento, CA. (Chu)
(Rules Committee referral 2/3/10)**
- (c) **Request for an excused absence for Council Member Constant from the Regular Meeting of the Rules and Open Government Committee on February 10, 2010 due to Authorized City Business: Trip to Sacramento, CA to meet with State Legislators regarding budget issues. (Constant)
(Rules Committee referral 2/3/10)**
- (d) **Request for an excused absence for Council Member Pyle from the Regular Meeting of the Rules and Open Government Committee on February 10, 2010 due to Authorized City Business: Trip to Sacramento, CA to meet with State Legislators regarding budget issues. (Pyle)
(Rules Committee referral 2/3/10)**

Documents Filed: (1) Memorandum from Vice Mayor Chirco, dated January 28, 2010, requesting an excused absence due to Authorized City Business. (2) Memorandum from Council Member Chu, dated February 2, 2010, requesting an excused absence due to Authorized City Business. (3) Memorandum from Council Member Constant, dated February 2, 2010, requesting an excused absence due to Authorized City Business. (4) Memorandum from Council Member Pyle, dated February 3, 2010, requesting an excused absence due to Authorized City Business.

Item 2.4 was pulled from the Consent Calendar for public comment.

Public Comments: David Wall recommended a procedure be created to fill temporary vacancies of Council members.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the absences for Vice Mayor Chirco and Council Members Chu, Constant and Pyle were excused. (11-0.)

2.5 Adopt a resolution authorizing the City Manager, or designee, to:

- (a) **Submit a grant application in the amount not to exceed \$660,000 to the Metropolitan Transportation Commission (MTC) under the Community Design and Transportation (CDT) Capital Grant program for the Lower Guadalupe River Trail: Tasman Drive Under-Crossing project (“Project”);**

2.5 (Cont'd.)

- (b) **Accept any grant funds awarded to the City and negotiate and execute all necessary documents related to any grant funding from MTC to the City for the Project.**

CEQA: Mitigated Negative Declaration, File No. PP04-323. Council District 4. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated January 19, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75271](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager, or Designee, to Submit a Grant Application to the Metropolitan Transportation Commission in the Amount Not To Exceed \$660,000 for California Regional Transportation Improvement Program Funding for the Lower Guadalupe River Trail: Tasman Drive Under-Crossing Project, to Accept any Grants if Awarded and Negotiate and Execute Related Documents", was adopted. (11-0.)

- 2.6 (a) **Approve an ordinance amending the franchise with PG&E for the sale of gas within the City (Ordinance No. 15879 as amended by Ordinance Nos. 21676 and 26913) to add a franchise fee surcharge of 0.3% resulting in a total franchise fee remitted to the City of 2.3% of gross receipts and to provide for the waiver of certain negotiation and arbitration rights under the franchise.**
- (b) **Approve an ordinance amending the franchise with PG&E for the sale of electricity within the City (Ordinance No. 15880 as amended by Ordinance Nos. 21677 and 26914) to add a franchise fee surcharge of 0.3% resulting in a total franchise fee remitted to the City of 2.3% of gross receipts and to provide for the waiver of certain negotiation and arbitration rights under the franchise. CEQA: Not a Project. (City Attorney's Office)
(To Be Deferred from 2/2/10 – Item 2.6)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated January 28, 2010, recommending approval of ordinances.

Action: [Ordinance No. 28719](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 15879 as Amended by Ordinance No. 21676 and Ordinance No. 26913 Which Granted a Franchise for the Transmission and Distribution of Gas Within the City of San José to Pacific Gas and Electric Company to Add a Franchise Fee Surcharge of 0.3% Resulting in a Total Franchise Fee Remitted to the City of 2.3% of Gross Receipts and to Provide for the Waiver of Certain Negotiation and Arbitration Rights Under the Franchise", and [Ordinance No. 28720](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 15880 as Amended by Ordinance No. 21677 and Ordinance No. 26914 Which Granted a Franchise for the Transmission and Distribution of Electricity Within the City of San José to Pacific Gas and Electric Company to Add a Franchise Fee Surcharge of 0.3% Resulting in a Total Franchise Fee Remitted to the City of 2.3% of Gross Receipts and to Provide for the Waiver of Certain Negotiation and Arbitration Rights Under the Franchise", were passed for publication. (11-0.)

- 2.7 As recommended by the Rules and Open Government Committee on January 27, 2010, accept the Santa Clara Valley Water District's (SCVWD) FY 2011 – Joint advocacy Federal projects in the City of San José's jurisdiction. (City Manager's Office/Environmental Services)
[Rules Committee referral 1/27/10 – Item D(2)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated January 28, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Item 2.7 was pulled from the Consent Calendar by Council Member Campos.

Council Member Campos questioned Staff on the opportunities for utilizing federal stimulus funds for the City's trail-building projects.

Director of Parks, Recreation and Neighborhood Services Albert Balagso responded to questions from Council and agreed to provide an information memorandum outlining the use of federally appropriated monies for trail-building projects.

Public Comments: David Wall directed comments to the water reclamation project, recommending an urgency ordinance be enacted to outlaw water softeners and concentrated salts metered into the water filtration system.

Action: Upon motion by Council Member Campos, seconded by Council Member Herrera, and carried unanimously, the Santa Clara Valley Water District's (SCVWD) FY 2011 – Joint Advocacy Federal Projects recommendations were accepted, with Staff directed to provide an information memorandum outlining how Staff intends to incorporate trail projects into pending SCVWD federal appropriations requests. (11-0.)

- 2.8 As recommended by the Rules and Open Government Committee on January 27, 2010, approve the designation of the District 6 "No Impact Man" Movie Event as a City Council Sponsored Special Event to expend City Funds and Services for the event. CEQA: Not a Project. (City Clerk)
[Rules Committee referral 1/27/10 – Item H(4)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated January 28, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The designation of the District 6 "No Impact Man" Movie Event as a City Council Sponsored Special Event and expending City Funds and Services for the event was approved. (11-0.)

2.9 As recommended by the Rules and Open Government Committee on January 27, 2010:

(a) Approve the designation of the Westfield Oakridge Winter Walk and Resource Fair for Seniors as a City Council Sponsored Special Event;

(b) Approve and accept in-kind donations from business to support the event.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 1/27/10 – Item H(5)]

Documents Filed: Memorandum from City Clerk Lee Price, dated January 28, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The designation of the Westfield Oakridge Winter Walk (WOWW) and Resource Fair for Seniors as a City Council Sponsored Special Event and acceptance of in-kind donations from business to support the event was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.5 Accept the Mayor's Budget Prioritization Survey Results. (Mayor)

Documents Filed: (1) Memorandum from Mayor Reed, dated January 29, 2010, providing an overview of the results of the 2010 Community Budget Survey Report. (2) Memorandum from Council Member Oliverio, dated February 8, 2010, submitting additional survey results and comments from his web survey.

Mayor Reed provided an introduction to the 2010 Community Budget Survey Report.

David Metz of Fairbank, Maslin, Maullin, Metz and Associates presented the 2010 Budget Priorities Survey Report of Findings.

Public Comments: David Wall expressed doubt over the accurate representation of third-party surveys. Ross Signorino commented that taxation is not the answer to the budget crisis.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, the report of the Mayor's Budget Prioritization Survey Results was accepted. (11-0.)

3.6 As recommended by the Public Safety, Finance and Strategic Support Committee on December 17, 2009:

- (a) **Accept the FY 2009-10 First Quarter Revenue Collection Strategic Plan Report;**
- (b) **Adopt a resolution authorizing the Director of Finance to write off 126 uncollectible accounts in an amount totaling \$1,702,757.42. (Finance)**

[Public Safety, Finance and Strategic Support Committee referral 12/17/09 – Item D(3)]

(Deferred from 1/12/10 – Item 3.7, 1/26/10 – Item 3.5 and 2/2/10 – Item 3.4)

Action: Deferred to February 23, 2010 per Orders of the Day.

3.3 Accept the report on City Government Performance. CEQA: Not a Project. (City Auditor’s Office)

Documents Filed: Report from the City Auditor “Service Efforts and Accomplishments Report 2008-09”, dated January 21, 2010.

City Auditor Sharon Winslow-Erickson outlined the Annual Report on City Government Performance, a Service Efforts and Accomplishments Report for 2008-2009.

Action: Upon motion by Council Member Constant, seconded by Council Member Kalra and carried unanimously, the Annual Report on City Government Performance was accepted. (11-0.)

3.4 Approval of the 2009-2010 Mid-Year Budget Actions.

- (a) **Approve the 2009-2010 Mid-Year Budget Review Report.**
- (b) **Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) in the 2009-2010 Mid-Year Budget Review.**
- (c) **Approve the elimination of 9.0 positions as detailed in Section III of the 2009-2010 Mid-Year Budget Review Report; comprised of 6.0 positions in the Police Department, of which 5.0 are related to Airport Services and 1.0 to the implementation of 2009-2010 Adopted Budget actions; 2.0 Civil Service positions in the Redevelopment Agency of the City of San José (SJRA) as part of the SJRA budget rebalancing actions; and 1.0 position in the Public Works Department related to Airport Services.**

3.4 (Cont'd.)

- (d) **Adopt a resolution making certain determinations regarding the expenditure of Redevelopment Agency funds included in the Agency's Adopted Budget, under the City Public Improvements line item on the following public improvements: Revenue Control Upgrades, Convention Center Deck Upgrade, Minor Parking Facility Improvements, Security Improvements, Arena Parking Meters, Parking Technology Improvements, Happy Hollow furniture, fixtures, and equipment, Anti-Graffiti Program, Watson Park Clean-Up and Restoration, and the Police Substation furniture, fixtures, and equipment. These projects are specifically described in the memorandum from the Redevelopment Agency of the City of San José dated August 18, 2009, included in the Appendix section of this report. As approved in the City's 2009-2010 Adopted Operating Budget, these Redevelopment Agency funds pay for eligible capital projects which would otherwise be funded from City sources, thereby freeing-up City funds to support the San José BEST program and pay the cost of eight Police Officers.**

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

Documents Filed: "Mid-Year Budget Review Report 2009-2010" submitted by City Manager Debra Figone, dated January 29, 2010.

Budget Director Jennifer Maguire presented the 2009-2010 Mid-Year Budget Review and responded to questions from Council.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council. Council discussion followed.

Public Comments: David Wall criticized the report for not addressing staffing redundancies.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Chirco and carried unanimously, the 2009-2010 Mid-Year Budget Review Report was accepted, [Ordinance No. 28698](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the General Fund and Various Special and Capital Funds, and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 75266](#), 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 and Various Special and Capital Funds", and [Resolution No. 75272](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds Included in the Agency's Adopted Budget, Under the City Public Improvements Line Item for

3.4 (Cont'd.)

Certain Public Improvements in the Strong Neighborhood Initiative Areas”, were adopted, and the elimination of 9.0 positions as detailed in Section III of the 2009-2010 Mid-Year Budget Review Report; comprised of 6.0 positions in the Police Department, of which 5.0 are related to Airport Services and 1.0 to the implementation of 2009-2010 Adopted Budget actions; 2.0 Civil Service positions in the Redevelopment Agency of the City of San José (SJRA) as part of the SJRA budget rebalancing actions; and 1.0 position in the Public Works Department related to Airport Services was approved. (10-0-1. Absent: Pyle.)

3.2 (a) Approve the following revisions to the governance structure of the City’s retirement plans and direct the City Attorney to draft an ordinance with the necessary revisions to the San José Municipal Code:

- (1) For the Federated City Employees’ Retirement System, replace the two City Council Board members and Civil Service Commission Board member with three public members in addition to the one existing public board member.**
- (2) For the Police and Fire Department Retirement Board, replace the two City Council Board members, the Civil Service Commission Board member and City Administration Board member with four public board members.**
- (3) Establish qualification criteria, term, stipend, appointment process, selection process, and removal process for the public board members for both retirement plans.**

(b) Direct the City Administration to continue to evaluate the other retirement board governance recommendations prepared by the consultant and return to the City Council with recommendations. CEQA: Not a Project. (City Manager’s Office)

(Deferred from 1/26/10 – Item 3.6)

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members Constant, Kalra, Liccardo and Herrera, dated February 4, 2010, approving Staff recommendations for the Retirement Board Governance structure. (2) Memorandum from City Manager Debra Figone, dated January 12, 2010, outlining recommended revisions to the governance structure of the City’s retirement plans. (3) Letters from Association of Retired San José Police Officers and Firefighters, and from San José Firefighters Local 230, both dated February 8, 2010, in support of revisions to the governance structure of the City’s retirement plans. (4) Letter from Patricia Sausedo, Vice President Public Policy & Communication, San José Silicon Valley Chamber of Commerce, and two email from the public all dated February 9, 2010 supporting the revised governance structure of the City’s retirement plans.

City Manager Debra Figone introduced the Retirement Board Governing process.

Director of Employee Relations Alex Gurza provided background on the board governance process and summarized the administration's recommendations.

3.2 (Cont'd.)

Meeting disclosures were provided by Mayor Reed, Vice Mayor Chirco and Council Members Campos, Chu, Constant, Herrera, Liccardo, Nguyen and Oliverio.

Mayor Reed outlined recommended changes to the Federated City Employees Retirement Board as detailed in the memorandum he coauthored with Vice Mayor Chirco and Council Members Constant, Kalra, Liccardo and Herrera.

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

Council Member Nguyen requested that Staff return with quarterly reports on Retirement Board Investments to the Public Safety, Finance & Strategic Support Committee.

Public Comments: The following offered support of the recommendations as outlined in Mayor Reed/Vice Mayor/Council Member's memorandum of February 4, 2010: George Beattie (SJPOA), Jay Wendling (Association of Retired San José Police Officers and Firefighters), Linda Dittes (AFSCME/MEF/CEO), Gay Gale (CAMP), Ken Heredia, Ben Field (South Bay Labor Council), Bob Leininger (Federated Retired Employee's Association), Shane Patrick Connelly and Pat Sausedo (SJSV Chamber of Commerce).

Action: On a call for the question, the motion carried unanimously, and revisions to the governance structure of the City's retirement plans were approved. The City Attorney was directed to draft an ordinance with the necessary revisions to the San José Municipal Code, including changes as outlined in the approved joint memorandum dated February 4, 2010 from Mayor Reed and Council Members Constant, Kalra, Liccardo and Herrera. Staff was directed to provide quarterly reports on Retirement Board Investments to the Public Safety, Finance & Strategic Support Committee. (11-0.)

NEIGHBORHOOD SERVICES

- 5.1 (a) **Accept the recommendation of the Director of Parks, Recreation and Neighborhood Services (Director) to place a hold through Fiscal Year 2010-2011 on the design and construction of new parks and recreation facilities which do not fit within the near term strategies outlined in the City Council approved Greenprint 2009 Update;**
- (b) **Request that the Director report back to the Mayor and City Council on an annual basis as part of the annual budget process to recommend either continuing the temporary hold or to begin design and construction; and**
- (c) **Request that the Director facilitate a process with community stakeholders to brainstorm alternative funding mechanisms for facility operations and maintenance.**

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

5.1 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated January 21, 2010, offering recommendations for parks, recreation and neighborhood services capital project schedules. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated February 2, 2010, providing breakdown of anticipated future operations and maintenance costs of projects. (3) Letter from Michael Van Every, Republic Urban Properties, LLC, dated February 9, 2010, expressing criticism of Staff's recommendations. (4) Four (4) email dated February 9, 2010, from residents of the Monte Vista housing complex expressing concerns over the hold being placed on park construction and recreation facilities.

Director of Parks, Recreation and Neighborhood Services Albert Balagso and Division Manager Matt Cano presented the recommendations of the Parks, Recreation and Neighborhood Services Division on placing a hold on design and construction of new parks and recreation facilities.

Public Comments: Michael Van Every, Republic Urban Properties, LLC, criticized the Staff's recommendation and urged suspending the collection of parkland impact fees. Richard Zappelli, Willow Glen Neighborhood Association, Steward Gilbert, and Ian McCollom offered criticism of the Staff's report and offered suggestions that would benefit the maintenance of existing parks.

Extensive Council discussion followed.

Motion: Upon motion by Vice Mayor Chirco, seconded by Council Member Liccardo and carried unanimously, the recommendation of the Director of Parks, Recreation and Neighborhood Services to place a hold through Fiscal Year 2010-2011 on the design and construction of new parks and recreation facilities which do not fit within the near term strategies outlined in the City Council approved Greenprint 2009 Update, and the requests that the Director report back to the Mayor and City Council on an annual basis as part of the annual budget process to recommend either continuing the temporary hold or to begin design and construction; and facilitate a process with community stakeholders to brainstorm alternative funding mechanisms for facility operations and maintenance, were approved. (11-0.)

5.2 Adopt a resolution authorizing the City Manager or designee to:

- (a) **Submit grant applications for the twenty-one (21) projects identified in Table 1 of this memorandum in the total amount not to exceed \$55,000,000 under the Statewide Park Development and Community Revitalization Program of 2008 (Statewide Park Program) administered by the Office of Grants and Local Services (OGALS) within the California State Department of Parks and Recreation (DPR);**
- (b) **For projects with appropriate CEQA clearance, accept any grant funds awarded to the City and to negotiate and execute all necessary documents to implement the grant awards;**

5.2 (Cont'd.)

- (c) For projects that have not obtained appropriate CEQA clearance, accept any grants funds awarded to the City for the limited purpose of completing CEQA, and negotiate and execute all necessary documents to implement the grant awards for CEQA clearance; and
- (e) For projects that have not obtained appropriate CEQA clearance, return to Council at a future date for authorization to negotiate and execute all necessary documents to implement the grant awards.

CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated January 21, 2010, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Campos and carried unanimously, [Resolution No. 75273](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager, or Designee, to Submit Grant Applications to the Statewide Park Development and Community Revitalization Program of 2008 Administered by the Office of Grants and Local Services within the California State Department of Parks and Recreation for 21 Projects Identified in the Attachment of the Resolution, in an Amount Not To Exceed \$55 Million, to Accept the Grant if Awarded, and to Negotiate and Execute Related Documents", was adopted. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Conduct a public hearing and adoption of a resolution approving and adopting the Eighth Amendment to the Countywide Nondisposal Facility Element to identify the following nondisposal facilities: the GreenTeam of San José Material Recovery Facility and Transfer Station, 575 Charles Street, San José; and the proposed GreenWaste Material Processing and Transfer Station, 2765 Lafayette Street, Santa Clara. CEQA: Exempt. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated January 19, 2010, recommending adoption of a resolution.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

7.1 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, [Resolution No. 75274](#), entitled: “A Resolution of the Council of the City of San José Approving and Adopting the Eighth Amendment to the Countywide Nondisposal Facility Element (“NDFE”) to Identify the Following Nondisposal Facilities: The GreenTeam of San José Material Recovery Facility and Transfer Station at 575 Charles Street, San José, and the Proposed Green Waste Material Processing and Transfer Station at 3765 Lafayette Street, Santa Clara”, was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Consider an ordinance rezoning the real property located on the west side of Cadwallader Avenue, approximately 500 feet southerly of Prunetree Lane (4093 Cadwallader Avenue) to allow up to 38 single-family detached residential units on an 18.5 gross acre site (Larios Cheryl Trustee & Et Al, Tedro Living Trust Marion L. Tedro, Tedro Living Trust Robert S. Tedro, James E. Bertlett, Margret H. Oxsen, Michael & Laura Pianka, Vinh Tran, Owner; Asc Properties, LLC Tony Arreola, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-2-0).**

**PDC09-010 – District 8
(Deferred from 1/26/10 – Item 11.6)**

Documents Filed: (1) Memorandum from Council Member Herrera, dated February 8, 2010, recommending approval of Staff’s Recommendations with additions to be addressed at the PD Permit Stage. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC09-010, dated November 30, 2009, recommending approval. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated December 14, 2009, transmitting the Planning Commission recommendation. (4) Email from Bonnie Mace (District 8 Community Round Table Steering Committee) dated February 9, 2010, recommending approval of the rezoning with changes as outlined in Council Member Herrera’s memorandum of February 8, 2010.

Mayor Reed opened the public hearing.

Public Comment: Mark Lazzarini, representing the Applicant, requested approval of the rezoning with changes as recommended by Council Member Herrera. The following voiced support for the proposed rezoning with additional considerations as recommended by Staff: Sateesh Lele, Laurie Pianka, Cheryl Larios, Bob Tedrow and Bonnie Mace.

Mayor Reed closed the public hearing.

Meeting disclosures were offered by Council Member Campos.

4.1 (Cont'd.)

Motion: Council Member Herrera moved approval of the Planned Development Rezoning with additional considerations as outlined in “Action” below. The motion was seconded by Council Member Pyle.

Action: On a call for the question, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28721](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Cadwallader Avenue, Approximately 500 Feet South of Prunetree Lane, from R-1-5- Single-Family Residence and A(PD) Planned Development Zoning Districts to A(PD) Planned Development Zoning District”, was passed for publication, with changes as outlined in Council Member Herrera’s memorandum of February 8, 2010 as follows: (1) Up to 41 units may be included on the site plan contingent on the applicant satisfactorily addressing the design issues contained in the staff report and with the additions as follows: (2) Streets – ensure that there is a safe pedestrian and emergency vehicle connection to Cadwallader Avenue to encourage residents to walk their children to school. This connection will be accessible to emergency vehicles only. (3) Flag Lot/Lot 29 – direct the applicant to reduce the elevation of Lot 29 and move the house further towards the cul-de-sac to lessen the interface with the neighbor. (4) Drainage – at the PD Permit stage, ensure that existing and future drainage issues are compliant with local, state and federal agencies. (5) Interface and setbacks – ensure at the PD Permit stage that the lot patterns, setbacks and buildings are configured to be compatible and typical for the development in this area when backing up to existing residences and to further explore the design of the separation between new homes along the southern edge of the site that borders APN 676-89-006. (6) Grading – at the PD Permit stage, the grading minimizes large flat pads and results in more natural slopes. (7) Height – there is a maximum of two stories on all the homes. (10-0-1. Absent: Constant.)

OPEN FORUM

- (1) David Wall made observations regarding shopping cart theft.
- (2) Geoffrey Mangers commented on a lawsuit he filed against the County and asked that the City join him in litigation.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:28 p.m. in memory of Juan Manuel Flores, longtime resident of the Northside, 1954 graduate of Bellarmine College Prep, proud owner of the Guadalajara Market #2 for over 40 years, active member of Holy Cross Church, and loving husband, father, uncle, and grandfather. (Liccardo)

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

rmk/02/09/2010MIN

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.