CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA **TUESDAY, MARCH 23, 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 9:30 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation of significant exposure (Claim Not Filed) in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to initiation of litigation in two (2) matters.

By unanimous consent, Council recessed from the Closed Session at 11:01 a.m. and reconvened to Regular Session at 1:30 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

Diego Gomez presented a poem "Dancing to the Beat of Your Heart" for the Invocation. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Reed and the Third Graders from De Vargas Elementary School led the Pledge of Allegiance.

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.

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, and Item 2.3(b) was deferred to March 30, 2010. (10-0-1. Absent: Kalra.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring of the month of March 2010 as "Women Veterans' Month" in the City of San José. (Herrera)

Action: Mayor Reed and Council Member Herrera recognized March 2010 as "Women Veterans' Month" in the City of San José.

1.3 Presentation of a proclamation declaring the week of March 21 through 27, 2010 as "National Surveyors Week" in the City of San José. (Constant)

Action: Mayor Reed and Council Member Constant recognized the week of March 21 through 27, 2010 as "National Surveyors Week" in the City of San José.

1.5 Presentation of a proclamation to the Assyrian Church of the East Tea Time Committee recognizing the Assyrian New Year in the City of San José. (Pyle)

Action: Mayor Reed and Council Member Pyle recognized the Assyrian New Year in the City of San José.

1.4 Presentation of a proclamation to the Iranian-American Public Employees recognizing the Iranian New Year in the City of San José. (Pyle)
(Rules Committee referral 3/17/10)

Action: Mayor Reed and Council Member Pyle recognized the Iranian New Year in the City of San José.

1.6 Presentation of a proclamation declaring the month of March 2010 as "Red Cross Month" in the City of San José. (Mayor)

Action: Mayor Reed recognized March 2010 as "Red Cross Month" in the City of San José.

Council Member Kalra arrived to the Council Meeting at 1:45 p.m.

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.)

2.3 Approval of Council Committee Reports.

(a) Rules and Open Government Committee Report of March 3, 2010. (Mayor)

(c) Neighborhood Services and Education Committee Report of March 11, 2010. (Campos)

Documents Filed: (1) The Rules and Open Government Committee Report dated March 3, 2010. (2) The Neighborhood Services and Education Committee Report dated March 11, 2010.

Action: The Committee reports were approved. (11-0.)

(b) Rules and Open Government Committee Report of March 10, 2010. (Mayor)

Action: Deferred to March 30, 2010 per Orders of the Day.

2.4 (a) Request for excused absences for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on March 3, 2010 due to Authorized City Business: Travel to Washington, D.C. to meet with Federal legislative officials to advocate on the behalf of the City of San José. (Mayor)

(b) Request for excused absences for Council Member Pyle from the Regular Meeting of the Rules and Open Government Committee on March 10, 2010 due to illness. (Pyle)

2.5 City Council Travel Reports

Action: There were none presented.

2.6 Approve the Second Amendment to the Park Maintenance Agreement between the City and Hitachi Global Storage Technologies, Inc. to extend the term of the maintenance agreement from March 31, 2010 to June 30, 2011 for the RAMAC, Raleigh Linear Green, and Charlotte Commons parks. CEQA: EIR Resolution No. 72772. Council District 2. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 11, 2010, recommending approval of the second amendment to the agreement.

Action: The Second Amendment to the Park Maintenance Agreement between the City and Hitachi Global Storage Technologies, Inc. to extend the term of the maintenance agreement from March 31, 2010 to June 30, 2011 for the RAMAC, Raleigh Linear Green, and Charlotte Commons Parks was approved. (11-0.)

2.7 Increase the amount of maximum compensation to the Purchase Order between the City and Watertight Restoration, Inc., by $47,000 from $494,500 to $541,500, to repair previously unidentified cracks in the concrete deck in the San José Convention Center Parking Garage. CEQA: Exempt, File No. PP08-292. Council District 3. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 1, 2010, recommending increasing the amount of maximum compensation to the purchase order.

Action: The increase to the maximum compensation to the Purchase Order between the City and Watertight Restoration, Inc., by $47,000 from $494,500 to $541,500, to repair previously unidentified cracks in the concrete deck in the San José Convention Center Parking Garage, was approved. (11-0.)

2.8 Adopt a resolution authorizing the Director of Finance to negotiate and execute an agreement with Main Street Capital Advisors to serve as the City's Investment Advisor for the term of April 1, 2010 to June 30, 2012, in an amount not to exceed $172,600, with two one-year options for extension through June 30, 2014, not to exceed $48,700 per option year, subject to annual appropriation of funds. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 1, 2010, recommending adoption of a resolution.

Action: Resolution No. 75311, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute an Agreement with Main Street Capital Advisors to Serve as the City's Investment Advisor for the Term of April 1, 2010 to June 30, 2012 In An Amount Not To Exceed $172,600 with Two (2) One-Year Options for Extension Through June 30, 2014, Not To Exceed $48,700 per Option Year and Subject to Annual Appropriation of Funds", was adopted. (11-0.)

2.9 (a) Increase the existing contingency amount by $206,000 from $183,330 to $389,330, to purchase additional seating from Zoeftig International for the Norman Y. Mineta San José International Airport.

(b) Authorize the Director of Finance to execute purchase orders for any additional furniture that may be required for the completion of the new Airport, subject to the appropriation of funds.

CEQA: Resolution Nos. 67380 and 71451, File No. PP10-017. (Finance/Airport)

Documents Filed: Memorandum from Director of Finance Scott Johnson and Director of Aviation William Sherry, dated March 1, 2010, recommending increasing the contingency amount and authorization to the Director of Finance to execute purchase orders.

2.9 (Cont'd.)

Action: The existing contingency amount was increased by $206,000 from $183,330 to $389,330, to purchase additional seating from Zoeftig International for the Norman Y. Mineta San José International Airport and the Director of Finance was authorized to execute purchase orders for any additional furniture that may be required for the completion of the new Airport, subject to the appropriation of funds. (11-0.)

2.10 Support the City's application to Caltrans for its Community-Based Transportation Planning and Environmental Justice Grants and adopt the following two resolutions:

(a) Authorize the Director of Planning, Building and Code Enforcement to file an application on behalf of the City to compete for the Caltrans Community-Based Transportation Planning Grant in an amount not to exceed $300,000 to develop an urban corridor plan for South Bascom Avenue and Southwest Expressway, and authorize the City Manager to negotiate and execute all contracts and related documents required for the acceptance of the grant by the City, and as may be required by Caltrans for the completion of the grant funded projects.

(b) Authorize the Director of Planning, Building and Code Enforcement to file an application on behalf of the City to compete for the Caltrans Environmental Justice Grant in an amount not to exceed $300,000 to develop an urban corridor plan for East Santa Clara Street, and authorize the City Manager to negotiate and execute all contracts and related documents required for the acceptance of the grant by the City of San José, and as may be required by Caltrans for the completion of the grant funded projects.

CEQA: Not a Project. Council Districts 3 and 6. SNI: University, Thirteenth Street and Five Wounds/Brookwood Terrace. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 9, 2010, recommending adoption of resolutions.

Action: Resolution No. 75312, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Planning, Building and Code Enforcement to Execute and Submit an Application to the State of California (CALTRANS) Under the Community Based Transportation Planning Grant Program for a Grant to Develop an Urban Corridor Plan for South Bascom Avenue and Southwest Expressway In An Amount Not To Exceed $300,000; and Authorizing the City Manager to Accept the Grant if Awarded and To Negotiate and Execute All Related Documents" and Resolution No. 75313, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Planning, Building and Code Enforcement to Execute and Submit an Application to the State of California (CALTRANS) Under the Environmental Justice Grant Program for a Grant to Develop an Urban Corridor Plan for East Santa Clara Street In An Amount Not To Exceed $300,000; and Authorizing the City Manager to Accept the Grant if Awarded and To Negotiate and Execute All Related Documents", were adopted. (11-0.)

2.11 (a) Adopt a resolution authorizing the director of Public Works to execute Contract Change Order Number 2 for a credit of $245,000 with CalState Construction, Inc., for the San José Environmental Innovation Center Phase 1 Project.

(b) Approve an increase in the contingency for the San José Environmental Innovation Center Phase 1 Project in the amount of $245,000 from $225,657 for a total contingency of $470,657.

CEQA: EIR, File No. PP06-100 and Resolution No.73929 certified by the San José Planning Commission on June 11, 2007, and approved by Council on June 26, 2007, respectively and addenda thereto, File No. PP09-112. (Public Works)

Documents Filed: Replacement memorandum from Director of Public Works Katy Allen, dated March 15, 2010, correcting budget information in the Cost Summary/Implications and Budget Reference sections pertaining to the Total Project Costs and Remaining Project costs values; and adoption of a resolution and approval of an increase in contingency.

Action: Resolution No. 75314, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute Contract Change Order No. 2 with Calstate Construction, Inc. for the San José Environmental Innovation Center Phase 1 Project, for a Credit of $245,00", was adopted and an increase in the contingency for the San José Environmental Innovation Center Phase 1 Project in the amount of $245,000 from $225,657 for a total contingency of $470,657 was approved. (11-0.)

2.12 (a) Approve an agreement with the Willow Glen Business Association from the date of execution to December 31, 2024 to provide services for the Willow Glen Community Benefit District as specified in the agreement and as outlined in the Willow Glen Community Benefit District Management Plan and Engineer's Report.

(b) Adopt the following 2009-2010 Appropriation Ordinance and Funding Sources Resolution amendments in the Business Improvement Districts Fund:

(1) Establish a Willow Glen Community Benefit District appropriation to the Department of Public Works in the amount of $196,737.

(2) Establish an estimate for Earned Revenue – Willow Glen Assessment (CBD) in the amount of $196,737.

(3) Establish an Administration Services appropriation to the Department of Public Works in the amount of $5,000.

(4) Establish a Transfer from the General Fund in the amount of $5,000.

(c) Adopt the following 2009-2010 Appropriation Ordinance amendments in the General Fund:

(1) Decrease the Non-Personal/Equipment appropriation in the Environmental Services Department by $5,000.

(2) Establish a Transfer to the Business Improvement Districts Fund in the amount of $5,000.

CEQA: Exempt, File No. PP08-097. Council District 6. (Public Works/City Manager)

2.12 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Budget Director Jennifer Maguire, dated March 1, 2010, recommending approval of an agreement and adoption of appropriation and funding sources resolution amendments and an appropriate ordinance.

Action: An agreement with the Willow Glen Business Association from the date of execution to December 31, 2024 to provide services for the Willow Glen Community Benefit District as specified in the agreement and as outlined in the Willow Glen Community Benefit District Management Plan and Engineer's Report was approved; Ordinance No. 28728, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Business Improvement Districts Fund for the Willow Glen Community Benefit District; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 75310, 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 Business Improvement Districts Fund" and Ordinance No. 28729, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the General Fund for the Transfer to the Business Improvement District Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

2.13 (a) Approve an increase in the construction contingency for the Fire Station No. 19 construction contract with Applegate Johnston Construction Company, Inc., by $100,000 from $172,775 for a total contingency amount of $272,775.

(b) Approve the Second Contract Amendment for Don Dommer Associates, Inc., for the Fire Station No. 19 Project, and increasing the amount of compensation by $52,000 from $360,000 to $412,000 and extending the term of the agreement from March 31, 2010 to December 31, 2010.

(c) Adopt the following Appropriation Ordinance amendments in the Neighborhood Security Bond Fund (Fund 475) for 2009-2010.

(1) Increase the Fire Station 19 – Relocation (Piedmont) appropriation by $l50,000.

(2) Decrease the Fire Station 36 Silver Creek/Yerba Buena appropriation by $150,000.

CEQA: Exempt, File No. PP06-116 (Fire Station No. 19) and Exempt, File No. PP08-232 (Fire Station No. 19) for monopole. Council District 4. (Public Works/Fire/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Fire Chief Darryl Von Raesfeld, dated March 1, 2010, recommending approval of an increase in construction contingency, approval of the second contract amendments and adoption of appropriation ordinance amendments.

2.13 (Cont'd.)

Action: An increase in the construction contingency for the Fire Station No. 19 construction contract with Applegate Johnston Construction Company, Inc., by $100,000 from $172,775 for a total contingency amount of $272,775 and the second contract amendment for Don Dommer Associates, Inc., for the Fire Station No. 19 Project, and increasing the amount of compensation by $52,000 from $360,000 to $412,000 and extending the term of the agreement from March 31, 2010 to December 31, 2010 were approved and Ordinance No. 28730, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Neighborhood Security Bond Fund for the Fire Station 19 - Relocation (Piedmont) Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" was adopted. (11-0.)

2.14 Approve travel by Mayor Reed to Washington, D.C. on March 3-6, 2010 to meet with Federal legislative officials and departments to advocate for legislation beneficial to the City of San José. Source of Funds: Mayor's Office Budget. (Mayor) (Rules Committee referral 3/10/10)

Documents Filed: Memorandum from Mayor Reed, dated February 4, 2010, requesting approval of travel.

Action: The travel request for Mayor Reed was approved. (11-0.)

2.15 As recommended by the Rules and Open Government Committee on March 17, 2010, approve the appointments of Carmen Johnson and Melanie Espino to serve as Committee Members on the Healthy Neighborhoods Leadership Committee. (City Manager's Office)
[Rules Committee referral 3/17/10 – Item G(1)]

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated March 18, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The appointments of Carmen Johnson and Melanie Espino to serve as Committee Members on the Healthy Neighborhoods Leadership Committee were approved.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone Airlines announced that Volaris Airlines will be providing direct service between San José and Guadalajara, Mexico, beginning Friday, April 30, 2010.

3.2 Accept the FY 2009-2010 Status Report on the Citywide Capital Improvement Program. CEQA: Not a Project. (Public Works)
(Deferred from 3/16/10 – Item 3.2)

Action: Deferred to April 6, 2010 Per Mayor.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Accept the Annual Progress Report on the Implementation of the San José 2020 General Plan Housing Element covering the period from January 2009 through December 2009. CEQA: Not a Project. (Planning, Building and Code Enforcement/Housing)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Housing Leslye Krutko, dated March 1, 2010, recommending acceptance of the report.

Director of Housing Leslye Krutko responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Annual Progress Report on the Implementation of the San José 2020 General Plan Housing Element covering the period from January 2009 through December 2009 was accepted. (11-0.)

4.2 Consider an ordinance amending provisions of Chapters 20.70 and 20.100 of Title 20 of the San José Municipal Code to establish the City Council as the Decision Making Body for Conditional Use Permits for Drinking Establishments that operate after midnight and have an occupancy greater than 250 persons within the Downtown Core Downtown Primary Commercial Zoning District. CEQA: EIR Resolution No. 72767, File No. PP10-049. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). (Planning, Building and Code Enforcement)
Citywide

4.2 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated March 23, 2010, recommending approval of the Staff recommendation, with one amendment to paragraph (b) of the Staff recommendations. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 1, 2010, transmitting the Staff Report on File No. PP10-049 dated March 1, 2010. (3) Planning Commission Secretary Joseph Horwedel, dated March 17, 2010, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing, executed on February 28, 2010, submitted by the City Clerk. (5) Staff presentation dated March 23, 2010 outlining the Downtown Zoning Overlay.

Downtown Coordinator Lee Wilcox provided a staff presentation on the potential Downtown Zoning Guidelines which would identify areas for entertainment and drinking establishments, including appropriate development and operational standards for uses.

Motion: Council Member Liccardo moved approval his memorandum dated March 23, 2010, approving the Staff recommendations and amending paragraph (b) to: *Mandate that all Public Drinking Establishments, regardless of occupancy load, have a "Management Plan" to obtain a Conditional Use Permit. The Plan may vary in length or detail based on the size/occupancy of the establishment.* Council Member Herrera seconded the motion.

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

A brief discussion followed.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28731, entitled: "An Ordinance of the City of San José Amending Various Sections of Chapter 20.70 and Chapter 20.100 of Title 20 of the San José Municipal Code to Establish a New Conditional Use Permit Process for Larger Drinking Establishments that Operate After Midnight and Have a Maximum Occupancy Load of More than 250 Persons Where Under the City Council Would be the Initial Decision Making Body", was passed for publication, as amended. *(Mandate that all Public Drinking Establishments, regardless of occupancy load, have a "Management Plan" to obtain a Conditional Use Permit. The Plan may vary in length or detail based on the size/occupancy of the establishment, memorandum from Council Member Liccardo, dated March 23, 2010.)* (10-0-1. Absent: Campos.)

TRANSPORTATION & AVIATION SERVICES

6.1 Adopt a resolution authorizing the City Manager to negotiate and execute:

(a) A Cooperative Agreement between the City of San José and Santa Clara Valley Transportation Authority (VTA), to define VTA's responsibility for the delivery of the Blossom Hill Pedestrian Overcrossing Bridge and City's associated operation and maintenance responsibility.

(b) A New Pedestrian Crossing Developer Agreement between the City, VTA, and Union Pacific Railroad (UPRR), for the maintenance and use of the pedestrian overcrossing by the City over UPRR's rail corridor.

(c) An agreement between the City and VTA for the transfer of ownership and maintenance of the pedestrian overcrossing from VTA to the City upon completion of the Blossom Hill Pedestrian Overcrossing project.

(d) An agreement between the City and State of California for the maintenance of the Blossom Hill Pedestrian Overcrossing that crosses State property.

CEQA: Exempt. Council District 2. (Transportation)

Documents Filed: (1) Memorandum from Acting Director of Transportation Hans Larsen, dated March 1, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from Acting Director of Transportation Hans Larsen, dated March 19, 2010, highlighting the post-construction terms of the warranty of design and workmanship and transfer of such warranties from the Valley Transportation Authority to the City and to provide information about current negotiations on the new pedestrian crossing developer agreement with Union Pacific Railroad that extend the City's indemnification liability for the pedestrian overcrossing.

Acting Director of Transportation Hans Larsen provided the Staff report and responded to Council questions.

Action: Upon motion by Council Member Kalra, seconded by Council Member Oliverio and carried unanimously, Resolution No. 75315, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Cooperative Agreement with Santa Clara Valley Transportation (VTA); A New Pedestrian Crossing Developer Agreement with VTA and Union Pacific Railroad; A Transfer of Ownership Agreement with VTA and A Maintenance Agreement with the State of California Concerning the Blossom Hill Pedestrian Overcrossing Bridge", was adopted. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency convened at 2:36 p.m. to consider Items 9.1, 9.2 and 9.3 in a Joint Session.

9.1 As recommended by the Community and Economic Development Committee on February 22, 2010:

(a) Adopt a City Council resolution approving a Council Policy to establish criteria and guidelines for the consideration and installation of monuments on City property. The policy will give guidance for installation of monuments on parks, plazas and certain other types of City property.

(b) Adopt a Redevelopment Agency Board resolution requiring the Agency to conform to the City's Monument Policy, as adopted and modified from time to time.

(City Manager's Office/Redevelopment Agency)

Documents Filed: (1) Memorandum from City Clerk Lee Price, MMC, dated March 11, 2010, transmitting the recommendations of the Community and Economic Development Committee. (2) Memorandum from Chief Development Officer Paul Krutko, dated March 16, 2010, providing additional information about the development of Government Speech topics, community outreach and review criteria contained in the proposed Monuments Policy in response to questions raised to Staff by the members of the Community and Economic Development Committee and in response to add an appeals mechanism to the policy. (3) Staff presentation dated March 23, 2010 summarizing the Monuments Policy. (4) Presentation from the San José "Vietnam War" Memorial Foundation, Inc., dated March 23, 2010, regarding the Sons of San José and that they will not be forgotten.

Public Art Director Barbara Goldstein provided an overview of the Monuments Policy and responded to Council questions.

Motion: Council Member Herrera moved approval of the Staff recommendations, with direction to Staff to extend the appeals window to thirty days with the approval and appeals process written out and included in the application and to forward to the Rules Committee all applications and City Manager's recommendations. Council Member Campos seconded the motion.

Council discussion ensued.

Council Member Campos requested to amend the motion to direct Staff to forward to the Rules Committee for review, any monuments which create division in the community. The amendment was accepted by Council Member Herrera.

Public Comments: Speaking in support to the Staff recommendations and to the motion on the floor were members of the San José "Vietnam War" Memorial Foundation, Inc., Mike Salas, Socorro Puentes Vigil, John Sitelo, Cathy Bernal and Dennis Fernandez.

9.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 75316, entitled: "A Resolution of the Council of the City of San José Approving a New Council Policy Entitled Monument Policy", was adopted and approving Council Policy 9-14 as amended: (1) Extend the appeals window to thirty days with the approval and appeals process written out and included in the application. (2) Rules Committee to review any monuments which create division in the community. (3) Forward to the Rules Committee all applications and City Manager's recommendations; and Redevelopment Agency Board Resolution No. 5952, entitled: "A Resolution of the Board of Directors of the City of San José Requiring the Agency to Conform to the City of San José's Monument Policy, As Adopted and Modified from Time to Time", was adopted, as amended. (11-0.)

9.2 (a) Adopt a City Council resolution:

(1) Approving the Replacement Housing Plan for the Markham Terrace Apartments, located at 2112 Monterey Road.

(2) Authorizing the transfer of the CDBG obligations set forth in the $220,000 CDBG loan from the Markham Terrace Apartments to the Boccardo Regional Reception Center, located at 2011 Little Orchard Street.

(3) Authorizing the Director of Housing to: (i) accept and execute an Assignment Agreement from the Redevelopment Agency of the Public Use Rights contained in the Owner Participation Agreement between the Redevelopment Agency and EHC Lifebuilders for 2112 Monterey Road, and (ii) negotiate and execute the documents required to transfer the Public Use Rights from 2112 Monterey Road to 2011 Little Orchard Street.

(b) Agency Board approval of an Assignment Agreement with the City to assign the Public Use Rights contained in the Owner Participation Agreement between the Redevelopment Agency and EHC Lifebuilders for 2112 Monterey Road.

CEQA: Mitigated Negative Declaration, File Nos. GP08-07-04 and PDC09-015. Council District 7. (City Manager's Office/Redevelopment Agency)

Documents Filed: Memorandum from City Manager Debra Figone and Redevelopment Agency Board Executive Director Harry S. Mavrogenes, dated March 2, 2010, recommending adoption of a resolution and approval of an assignment agreement with the City.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 75317, entitled: "A Resolution of the Council of the City of San José Approving Actions Related to the Sale of the Property at 2112 Monterey Road from EHC Lifebuilders to Charities Housing as Required by the Forbearance Agreement with EHC and Its Creditors", was adopted and an Assignment Agreement with the City to assign the Public Use Rights contained in the Owner Participation Agreement between the Redevelopment Agency and EHC Lifebuilders for 2112 Monterey Road was approved. (11-0.)

9.3 (a) City Council hold a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing in connection with the 2010A Bonds relating to certain affordable housing projects identified in Exhibit A.

Public Comments: Mayor Reed opened the Tax Equity and Fiscal Responsibility Act public hearing. There was no testimony from the floor. Mayor Reed closed the Tax Equity and Fiscal Responsibility Act public hearing.

(b) Adopt a resolution of the Redevelopment Agency Board:

(1) Authorizing the issuance of the following series of Redevelopment Agency of the City of San José Merged Area Redevelopment Project housing set-aside tax allocation bonds:

(a) Housing Set-Aside Tax-Exempt Refunding Tax Allocation Bonds, Series 2010A in an expected amount not to exceed $57,000,000 (the "2010A Bonds").

(b) Housing Set-Aside Taxable Tax Allocation Bonds, Series 2010B in an expected amount not to exceed $12,000,000 (the "2010B Bonds").

(c) Taxable Subordinate Housing Set-Aside Tax Allocation Variable Rate Bonds, Series 2010C in an expected amount not to exceed $93,000,000 (the "2010C" Bonds and collectively with the 2010A Bonds and 2010B Bonds, the "Bonds").

(2) Approving in substantially final form the Bonds, Eighth Supplemental Fiscal Agent Agreement, Subordinate Fiscal Agreement, Continuing Covenant Agreement, a Bond Purchase Agreement relating to the 2010A and 2010B Bonds, one or more Continuing Disclosure Agreements, preliminary Official Statement relating to the 2010A and 2010B Bonds; authorizing the Agency's Executive Director and Chief Financial Officer to execute and, as appropriate, negotiate these documents and other related documents as necessary after consultation with Bond Counsel, Agency General Counsel, and the financial advisor for the Bonds.

(3) Authorizing the Agency's Executive Director and Chief Financial Officer, and their designees, to take all necessary actions in connection with the issuance of the Bonds.

(4) Authorizing the Agency General Counsel to negotiate and execute an agreement with Hawkins, Delafield & Wood LLC, for a total amount not to exceed $270,000 for Bond Counsel and Disclosure Counsel fees.

(c) Adopt a resolution of the City Council:

(1) Approving the issuance of the Bonds by the Redevelopment Agency; approving the execution and delivery of one or more tax regulatory agreements; and making a finding pursuant to Redevelopment Law that the Merged Area will benefit from the projects located outside of the Merged Area that are financed or refinanced by the Bonds;

9.3 (c) (3) Authorizing the City Manager and her designees to take all necessary actions in connection with issuance of the Bonds; and

(4) Certifying that a TEFRA hearing was held in accordance with applicable federal regulations.

(City Manager's Office/ Redevelopment Agency)

Action: Items 9.3(b)(c) were continued to March 30, 2010 per Administration.

The Joint Council/Redevelopment Agency was adjourned at 3:10 p.m.

COMMUNITY AND ECONOMIC DEVELOPEMENT

4.3 Accept the report and direct staff to prepare an ordinance to revise Title 23 of the San José Municipal Code (the Sign Ordinance) consistent with the proposed draft signage strategy and conduct additional related community outreach. CEQA: Not a Project. (Planning, Building and Code Enforcement)
(Continued from 1/12/10 – Item 4.3, et al and deferred from 3/9/10 – Item 4.1)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 17, 2009, recommending acceptance of the report and direction to Administration to prepare an ordinance to revise Title 23 of the San José Municipal Code. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated January 5, 2010, providing recommendations and other options for individual elements of the preferred sign strategy; and the remaining recommendations for the preferred signage strategy that are additional to the recommendations contained in the original Staff report dated November 17, 2009. (3) Staff presentation dated March 23, 2010 summarizing the Proposed Preferred Strategy for the Sign Code Update.

Director of Planning, Building and Code Enforcement Joseph Horwedel provided the overview the Proposed Preferred Strategy for the Sign Code Update.

Motion: Council Member Chu moved approval of Option 1 Supergraphics in North San José, Edenvale and the Airport: allow staff to explore whether there is a rationale for allowing supergraphics in these areas, identify alternatives available to Council in regard to these signs, and to analyze the benefits and disadvantages of each alternative. Council Member Liccardo seconded the motion.

Council Member Campos provided meeting disclosures.

Motion: Council Member Liccardo moved approval of the Other Proposed Downtown Sign Zone Amendments. Council Member Pyle seconded the motion.

Council Member Campos expressed concern about A-frame and temporary signage in the Neighborhood Districts.

4.3 (Cont'd.)

Motion: Council Member Campos moved approval of the Other Proposed Citywide or Special Area amendments with Staff directed to return with recommendations to address temporary A-Frame signage in Neighborhood Districts, including time limits and a more stringent enforcement mechanism for temporary signs and banners. Council Member Herrera seconded the motion.

Council Member Nguyen suggested that Staff provide a more stringent mechanism to enforce the temporary signage.

Action: On a call for the question, the motion carried unanimously, the report was accepted. (1) Option 1: Supergraphics in North San José, Edenvale and the Airport, was approved. (2) Other Proposed Minor Amendments approved: Allow flat mounted attached signs on buildings adjacent to a freeway to be displayed higher than 30 feet above grade. Identify additional provisions for temporary signage to accommodate art and other temporary displays. Explore creation of a San Pedro Square Sign Zone with regulations that reflect the area's unique character. Retain current sign area regulations: 2.5 sq. ft. per linear ft. of street frontage. (Skyline signs, roof signs and marquees are allowed in addition to this signage area). Fin Signs – Allow to project above top of building. Vertical Projecting Signs – Allow higher and lower on a building (15 to 70 ft. above grade) and allow to project above top of building. Allow small animated sign components and "vertical roof signs" as an integral element of the design of a one or two story building. Make the Downtown Sign Zone coterminous with Downtown Core Area. Staff directed to return with recommendations to address temporary A-Frame signage in Neighborhood Districts, including time limits and a more stringent enforcement mechanism for temporary signs and banners. (11-0.)

OPEN FORUM

Ross Signorino acknowledged and honored his cousin Sam La Porto, Purple Heart Recipient, who died during World War II in the Battle of the Bulge.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:41 p.m.

RECESS/RECONVENE

The City Council recessed at 4:41 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

CEREMONIAL ITEM

1.2 Presentation of a commendation to the San José Elks for their service in keeping the city, streets, and highways clean with the Adopt-A-Highway Program. (Nguyen)

Action: Mayor Reed and Council Member Nguyen recognized and commended the San José Elks for their service in keeping the city, streets, and highways clean with the Adopt-A-Highway Program.

JOINT COUNCI/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency convened at 7:06 p.m. to consider Items 9.4 in a Joint Session.

9.4 Conduct a Public Hearing and approve the FY 2010-2011 Mayor's March Budget Message. (Mayor)

Documents Filed: (1) The Mayor's Budget Message for Fiscal Year 2010-2011 from Mayor Reed, dated March 12, 2010, submitting a proposed budget for the Fiscal Year 2010-2011 that is balanced and guided by policy direction and framework of the priorities as outlined; proposals for budget reductions should provided detailed analysis of their feasibility including in-depth data, justification and outcomes for the City Council to consider later this Spring. (2) Memorandum from Council Member Kalra, dated March 22, 2010, recommending approval of the Mayor's Budget Message with additional amendments. (3) Memorandum from Council Member Chu, dated March 22, 2010, recommending approval of the Mayor's Budget Message with the following amendment: Direct the City Manager to explore a sliding scale of cutbacks of alternative strategies based on the size of salary and avoid the across the board employee pay reductions. (4) Staff presentation slide dated March 23, 2010 depicting reducing ongoing per employee costs. (5) Pictures submitted by William Gerry, Code Enforcement Inspector, dated March 23, 2010, depicting blight issues in the City of San José utilizing only one Code Inspector. (6) Presentation from the public dated March 23, 2010, summarizing "We are your neighbors. We are part of San José's public safety". (7) Letter from Wilma Haashi, dated March 23, 2010, urging Council to maintain staffing at the libraries and objecting to the reduction of library hours to three days a week.

9.4 (Cont'd.)

Mayor Reed presented a brief overview of the Mayor's Budget Message for Fiscal Year 2010-2011.

Mayor Reed opened the public hearing.

Public Comments: Providing comments and expressing concerns about employees being laid off and to lay off employees equally, opposed to concessions from the bargaining units, to maintain staffing at the libraries, objecting to the reduction of library hours to three days a week, preserve the neighborhood services, to continue to provide monies to nonprofits through the Healthy Neighborhood Venture Funds (HNVF), to keep the living/prevailing wage as is, that all unions should contribute equally (concessions) with no arbitrations, including the Police and Fire, there should be more discussion about employee medical benefits and expressing support to the memorandum from Council Member Kalra were, Michael Medlin, Susan Bailey, Juan Ruvalcaba, Luis Matos, Jorge Palacios, Jorge Antonio Palacios, Mia Palacios, Dan McClure, Generations Community Wellness, Wilma Hashii, Tina Morrill, Bonnie Mace, Helen Chapman, Jerry Mungai, Judy Purrington, Kerri Hamilton, Reverent Charles Rawlings, Janet Ghonein, Breathe California, Sandra Velasco Scott, Dave Gonzales, Friends Outside in Santa Clara County, Malissa Magallanez, Joyce Ellington Library, Paul Higgins, Tony Nguyen, Leticia Almonte, Family and Children Services, Karen Thompson, Santa Teresa Library, Frank Carbajac, David Brody, Japantown Neighborhood Association, Tiffany Melendez, William Gerry, Reverend Kiken, Interfaith Council, Mary Cornwell, CEO, Yolanda Cruz, AFSCME/MEF, Stan Taylor, People of Faith, Dwayne Green, SEUI Local Union 1877, Jane Hills, America Aguirre, Amy Andonian, Tung Nguyen, Catholic Charities, Patrick Soricone, United Way Silicon Valley, Michael Pritchard, Pathway Society, Colleen Hudgen, Live Oak, Ramin Naderi, Liz Hunt, Isaiah Torres, Indian Health Center of Santa Clara Valley, Veronica Goei, Grail Family Services, Reymundo Espinoza, Gardner Family Health, Christa Gannon, FLY, Evette Ybarra, Family and Children Services, Birku Meleise, Ethiopian Community Services, Judy Whittier, Bill Wilson Center, Patricia Chapellone, Alum Rock, Demone Carter, Unity Care, Michele Schroeder, Senior Adult Legal Association (SALA), Anne Im, Asian Americans for Community Involvement (AACI), Sue Williams, Socorro McCord, St. Martin of Tours, Bob Leininger, San José Retired Employees Association, Karina Laurel, Joanna Molina, CCPY, Calvin Mian, Unite Here!, Randi Kinman, Sherman Oaks Neighborhood, Sally Zarnowitz, Beach Pace, City Year San José/Silicon Valley, Ben Field, South Bay Labor Council, Paul Alvarado, Good Year Mastic Neighborhood Association, Luke Vratny, Carpenters Union Local 405, Reverent Deborah T. Simon, Barbara Dehash, Alzheimer's Activity Center, Don Giliardi, Paula Martinez, Donna Lydon, Jonathan Miller, Hensley Historic District Neighborhood, Dee Urista, Gardner Community, Caroline Martin, Jon Max Regger, Gary Roberts, OE3, Eric Peterson, Todd Waltrip, Nancy Ostrowski, AEA/CAMP, Ray Simpson, IFPTE 21, Josue Garcia, Building Trades Council, La Verne Washington, CEO and Antonina.

Mayor Reed closed the public hearing.

9.4 (Cont'd.)

Motion: Vice Mayor Chirco moved approval of the Mayor's Budget Message, including (1) City Manager directed to seek 10% in personnel cost savings with a minimum of 5% ongoing and another 5% from concessions that could include one-time personnel costs savings with flexibility to help save additional services. (2) City Manager directed to meet with representatives from the City Bargaining Units to solicit ideas on how to meet the additional 5% reduction, make a good faith effort to pursue and review all proposals from the Bargaining Units, and further, to provide verbal reports on proposals under the standing item "City Manager's Report" on the regular Council Agenda.

Vice Mayor Chirco noted that she incorporated the memoranda from Council Members Kalra and Chu into her motion.

Substitute Motion: Council Member Constant moved approval of the Mayor's Budget Message and to allow the bargaining units to implement a sliding scale or any other viable pay cut, as long as the bargaining units achieve a reduction of total employee compensation of 10 percent. Council Member Liccardo seconded the motion.

Discussion followed.

Council Members Nguyen, Herrera and Kalra objected to the substitute motion.

Council Member Oliverio expressed support to the substitute motion.

On a call for the question, the substitute motion failed. (3-8. Noes: Campos, Chirco, Chu, Herrera, Kalra, Nguyen, Pyle; Reed.)

The original motion was back on the floor for Council discussion.

Council Member Chu requested to amend the motion to add libraries to the list of Neighborhood Services priorities. The amendment was accepted by Vice Mayor Chirco and Council Member Pyle.

Action: On a call for the question, the motion carried, the Mayor's March Budget Message for Fiscal Year 2010-2011 was approved, with the following amendments: (1) City Manager directed to seek 10% in personnel cost savings with a minimum of 5% ongoing and another 5% from concessions that could include one-time personnel costs savings with flexibility to help save additional services. (2) City Manager directed to meet with representatives from the City Bargaining Units to solicit ideas on how to meet the additional 5% reduction, make a good faith effort to pursue and review all proposals from the Bargaining Units, and further, to provide verbal reports on proposals under the standing item "City Manager's Report" on the regular Council Agenda. (3) Add libraries to the list of Neighborhood Services priorities. (8-3. Noes: Constant, Liccardo, Oliverio.)

The Joint Council/Redevelopment Agency was adjourned at 9:58 p.m.

OPEN FORUM

Eric Peterson raised issues related to ADA Compliance at Libraries and the Council Chambers. He also suggested City Employees clearly display their identification badges. Mayor Reed referred him to the General Services Department.

ADJOURNMENT

The Council of the City of San José was adjourned at 10:00 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/03-23-10 MIN

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JOINT/REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 3:22 p.m. to consider Items 8.1, 8.2 and 8.3 in a Joint Session.

8.1 City Council and Redevelopment Agency Board approval of a Cooperation Agreement authorizing the conveyance of the property located at 406 N. Autumn Street from the City to the Agency. CEQA: Autumn Extension/Coleman Widening EIR, Resolution No. 74870. [JULIAN/STOCKTON]

Action: Deferred to April 13, 2010.

8.2 (a) Redevelopment Agency Board approval of a Purchase and Sale Agreement with Huntly L. Gordon and Donna L. Gordon, of the Huntly L. Gordon and Donna L. Gordon Revocable trust, dated October 8, 2008, and Carole J. Gober in the amount of $1,011,000 plus related closing costs, for the acquisition of 445 Old West Julian Street to allow for development of the Autumn Street Extension Project.

(b) Adoption of a resolution by the City Council authorizing the City Manager to accept those properties acquired by the Redevelopment Agency for the Autumn Street Extension Project and to execute any and all documents related to such transfers.

CEQA: Autumn Extension/Coleman Widening EIR, Resolution No. 74870. [JULIAN/ STOCKTON]

Documents Filed: (1) Memorandum from Redevelopment Agency Board Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated March 11, 2010, recommending approval of an agreement and adoption of a resolution. (2) Supplemental memorandum from Redevelopment Agency Board Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated March 17, 2010, clarifying that the City will only be accepting the portion of the property to be used for the right-of-way for development of the Autumn Street Extension project and to modify the recommendation to authorize the City Manage to accept all properties acquired by the Redevelopment Agency for the Autumn Street extension.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried, a Purchase and Sale Agreement with Huntly L. Gordon and Donna L. Gordon, of the Huntly L. Gordon and Donna L. Gordon Revocable trust, dated October 8, 2008, and Carole J. Gober in the amount of $1,011,000 plus related closing costs, for the acquisition of 445 Old West Julian Street to allow for development of the Autumn Street Extension Project was approved and Resolution No. 75318, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept Those Properties Acquired by the Redevelopment Agency for the Autumn Street Extension Project and To Execute Any and All Documents Related to Such Transfers", was adopted. (10-1. Noes: Campos.)

8.3 Acceptance of the Winchester Enhancement Strategy Report, which provides ideas for future development and improvements for Winchester Boulevard. CEQA: Not a Project. [SNI: WINCHESTER]
(Deferred from 02/23/10 - Item 4.1)

Documents Filed: (1) Memorandum from Redevelopment Agency Board Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated March 11, 2010, recommending acceptance of and transmitting the Winchester Enhancement Strategy Report. (2) Staff presentation dated March 23, 2010 summarizing the Winchester Enhancement Strategy.

Motion: Council Member Constant moved approval of acceptance of the Winchester Enhancement Strategy Report. Council Member Oliverio seconded the motion.

Redevelopment Agency Deputy Executive Director Abi Maghamfar presented an overview of the Winchester Enhancement Strategy.

Public Comments: Speaking in support to the Winchester Enhancement Strategy were Charles Lauer, Steve Landau, Winchester Neighborhood Action Committee, Shozo Kagoshima, Winchester Business Association and Ken Kelly, Blackford Neighborhood Action Committee.

Action: On a call for the question, the motion carried unanimously, the Winchester Enhancement Strategy Report, which provides ideas for future development and improvements for Winchester Boulevard, was accepted. (11-0.)

The Council of the City of San José and Redevelopment Agency Board was adjourned at 3:40 p.m.