

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, APRIL 20, 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 (c) with respect to anticipated litigation in one (1) matter. (B) 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 two (2) matter. (C) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) Fisher v. City, et al; Names of Parties Involved: Camille Monet Fisher, John Marfia, City of San José, DOES 1-10; Court: United States District Court, Northern District of California; Case No: CV-09-02774 JW; Amount of Money or Other Relief Sought: Damages according to proof; (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, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (2) Association of Legal Professionals of San José (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; 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

## **CLOSED SESSION (Cont'd.)**

José and CEO; (6) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (7) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (8) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (9) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (10) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3; (11) San José Police Officers' Association (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 11:30 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.

## **INVOCATION**

Sierramont Middle School Musicians performed an overture of "Lucio Silla de Mozart". (District 4)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved and the Joint/San José Financing Authority Meeting was deferred to April 27, 2010. (11-0.)

## CEREMONIAL ITEMS

**1.1 Presentation of a commendation to Silicon Valley SCORE for their business assistance to local nonprofits through strategic guidance services. (Mayor/Campos)**

Action: Mayor Reed and Council Member Campos recognized and commended Silicon Valley SCORE for their business assistance to local nonprofits through strategic guidance services.

**1.2 Presentation of a proclamation declaring the week of April 18 – 24, 2010 as “Crime Victims’ Rights Week” in the City of San José. (Constant)**

Action: Mayor Reed and Council Member Constant recognized the week of April 18, 2010 through April 24, 2010 as “Crime Victims’ Rights Week” in the City of San José.

**1.3 Presentation of a proclamation recognizing April 22, 2010 as “Earth Day” in the City of San José. (Kalra/Chu)  
(Rules Committee referral 4/14/10)**

Action: Mayor Reed and Council Members Kalra and Chu recognized April 22, 2010 as “Earth Day” in the City of San José.

**1.4 Presentation of a commendation to Monsignor Eugene Boyle in recognition of his life long commitment to social justice. (Mayor)  
(Rules Committee referral 4/14/10)**

Action: Mayor Reed recognized and commended Monsignor Eugene Boyle in recognition of his life long commitment to social justice.

## 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 30, 2010. (Mayor)**
- (b) Transportation and Environment Committee Report of April 5, 2010. (Liccardo)**
- (c) Neighborhood Services and Education Committee Report of April 8, 2010. (Campos)**
- (d) Rules and Open Government Committee Report of March 24, 2010. (Mayor)**

Documents Filed: (1) The Rules and Open Government Committee Report dated, March 30, 2010. (2) The Transportation and Environment Committee Report dated April 5, 2010. (3) The Neighborhood Services and Education Committee Report dated April 8, 2010. (4) The Rules and Open Government Committee Report dated March 28, 2010.

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

### **2.6 Report on bids and award of construction contract for the Electric Cart Storage project to the lowest responsive bidder, R.A.N. Electric, Inc., in the amount of \$138,000, and approval of a contingency in the amount of \$13,800. CEQA: Exempt, File No. PP08-297. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated March 22, 2010, recommending award of the contract to the low bidder with related contingency. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated April 6, 2007, stating concurrence with the Staff recommendation.

Action: The construction contract for the Electric Cart Storage project to the lowest responsive bidder, R.A.N. Electric, Inc., in the amount of \$138,000, with related contingency, was approved. (11-0.)

### **2.7 Report on bids and award of construction contract for the RAS & SS Valve Replacement Project Secondary – Tunnel Battery B (B-1 thru B-6) to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$587,000, and approval of a contingency in the amount of \$58,700. CEQA: Exempt, File No. PP10-056. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated March 22, 2010, recommending award of the contract to the low bidder with related contingency. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated April 6, 2007, stating concurrence with the Staff recommendation.

Action: The construction contract for the RAS & SS Valve Replacement Project Secondary, Tunnel Battery B to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$587,000, with related contingency, was approved. (11-0.)

- 2.8 As recommended by the Rules and Open Government Committee, adopt a position of support, with amendments, for AB 1998 (Brownley). (Environmental Services/Intergovernmental Relations)  
(Rules Committee referral 04/07/10)**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated April 8, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Constant voiced his opposition to AB 1998.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, a position of support was adopted for AB 1998 (Brownley), to implement a statewide program to significantly reduce single-use carryout bags in California. (10-1. Noes: Constant.)

- 2.9 Receive report and adopt a resolution authorizing the Director of Finance to:**
- (a) Execute a master consultant and maintenance agreement with Environmental Science Associates (San Francisco, CA) for the mitigation monitoring, maintenance and reporting services in an amount not to exceed \$350,000 for an initial term of 24 months.**
  - (b) Execute a one-year option to extend, subject to the appropriation of funds.**
- CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 29, 2010, recommending receiving report and adoption of a resolution.

Action: The report was received and [Resolution No. 75341](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Environmental Science Associates for Mitigation Monitoring, Maintenance and Reporting for Various Parks and Trails Projects", was adopted. (11-0.)

- 2.10 Adopt a resolution authorizing the City Manager, or designee, to:**
- (a) Submit a grant application in the amount not to exceed \$200,000 to the Santa Clara Valley Water District ("Water District") under the 2010 Environmental Enhancement Planning Grant program for the Design Development for Upper Penitencia Creek Stream Enhancements project ("Project").**
  - (b) Accept any grant funds awarded to the City and negotiate and execute all necessary documents related to any grant funding from the Water District to the City for the Project.**
- CEQA: Statutorily Exempt, per Section 15262 (Planning and Feasibility Studies) of the CEQA Guidelines. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 29, 2010, recommending adoption of a resolution.

**2.10 (Cont'd.)**

Action: [Resolution No. 75343](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Execute and Submit an Application to the Santa Clara Valley Water District for a Grant for the Design for the Upper Penitencia Creek Stream Enhancements Project Under the Clean, Safe Creeks and Natural Flood Protection Program of 2000 (Environmental Enhancement Planning Grant Program) In An Amount Not To Exceed \$200,000, To Accept the Grant if Awarded and To Execute All Related Documents”, was adopted. (11-0.)

**2.11 Adopt a resolution adopting the Mitigated Negative Declaration and a mitigation monitoring and reporting program, which were completed in compliance with the California Environmental Quality Act and reflect the City’s independent judgment and analysis, for the proposed San José International Airport Jet Fuel Pipeline project (File No. CP09-012). CEQA: The environmental impacts of the pipeline project were addressed by a Mitigated Negative Declaration approved for File No. CP09-012 on July 17, 2009, and staff recommends its adoption by City Council. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 29, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75344](#), entitled: “A Resolution of the Council of the City of San José Adopting the Wickland Pipelines, LLC’s Jet Fuel Pipeline Mitigated Negative Declaration, For Which an Initial Study Was Prepared in Accordance with the California Environmental Quality Act and Adopting a Mitigation Monitoring and Reporting Program”, was adopted. (11-0.)

**2.12 Appoint Council Member Oliverio and Mayor Reed to the Diridon Joint Policy Advisory Board as representatives of the City of San José. (Mayor) (Rules Committee referral 4/14/10)**

Documents Filed: Memorandum from Mayor Reed, dated April 9, 2010, recommending the appointment of Council Member Oliverio and Mayor Reed to the Diridon Joint Policy Advisory Board.

Action: Mayor Reed and Council Member Oliverio were appointed to the Diridon Joint Policy Advisory Board as representatives of the City of San José.

**2.13 As recommended by the Rules and Open Government Committee on April 14, 2010, approve an opposition position for Proposition 16: Imposes New Two-Thirds Voter Approval Requirement for Local Public Electricity Providers. [Initiative Constitutional Amendment] (City Manager’s Office) [Rules Committee referral 4/14/10 – Item D(1)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated April 15, 2010, transmitting the recommendations of the Rules and Open Government Committee.

**2.13 (Cont'd.)**

Action: An oppose position for Proposition 16 which Imposes new two-thirds voter approval requirement for local public electricity providers (Initiative Constitutional Amendment) was adopted. (11-0.)

**2.14 As recommended by the Rules and Open Government Committee on April 14, 2010:**

**(a) Approve the Council District 9 sponsorship of a reception honoring the Historic Landmarks Commission Photo Contest as a City Council sponsored Special Event.**

**(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

**(City Clerk)**

**[Rules Committee referral 4/14/10 – Item H(4)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated April 15, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Council District 9 sponsorship of a reception honoring the Historic Landmarks Commission Photo Contest as a City Council sponsored Special Event was approved and authorization to accept donations from various individuals, businesses, or community groups to support the event, was approved. (11-0.)

**2.15 As recommended by the Rules and Open Government Committee on April 14, 2010:**

**(a) Approve the District 8 Senior Health Fair Event as a City Council sponsored Special Event.**

**(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

**(City Clerk)**

**[Rules Committee referral 4/14/10 – Item H(5)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated April 15, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 8 Senior Health Fair Event as a City Council sponsored Special Event was approved and authorization to accept donations from various individuals, businesses, or community groups to support the event, was approved. (11-0.)

**2.16 As referred by the Transportation and Environment Committee on April 5, 2010, accept the progress report highlighting activities since December 2009 on the Master Plan for the San José/Santa Clara Water Pollution Control Plant. (Environmental Services)**

**[Transportation and Environment Committee Referral 04/05/10 – Item (d)(2)]**

## **2.16 (Cont'd.)**

Documents Filed: (1) Memorandum from City Clerk Lee Price, MMC, dated April 8, 2010, transmitting the recommendations of the Transportation and Environment Committee. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated April 6, 2007, stating concurrence with the Staff recommendation.

Note: Item 2.16 was renumbered from Item 7.3.

Action: The progress report highlighting activities since December 2009 on the Master Plan for the San José/Santa Clara Water Pollution Control Plant was accepted. (11-0.)

### **END OF CONSENT CALENDAR**

## **STRATEGIC SUPPORT SERVICES**

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

City Manager Debra Figone reported that over the next two weeks, more than 1,100 employees will be notified that they are being impacted in some way, either because their position is being eliminated or because they are being bumped based on seniority rules. She added that there has been no progress on Labor negotiations since last week and no agreements to date or any that will reduce employee costs.

### **3.2 As recommended by the Public Safety, Finance and Strategic Support Committee on March 18, 2010:**

- (a) Adopt a resolution:**
  - (1) Making a determination that the public interests and necessity demand:**
    - (a) The Silicon Valley Regional Interoperability Authority (SVRIA) acquire, construct, maintain, and operate the Silicon Valley Regional Interoperability Project (SVRIP) and the projects entered into pursuant to the SVRIA Joint Powers Agreement.**
    - (b) The SVRIA be empowered to exercise the power to issue revenue bonds.**
  - (2) Authorizing the City Manager to execute SVRIA Joint Powers Agreement.**
  - (3) Authorizing the City Manager to execute the Amendment to the Second Amended Joint Funding Agreement (JFA Amendment) to allow the Silicon Valley Regional Interoperability Project to transfer its assets to a joint powers authority.**
- (b) Recommend that the Mayor appoint two elected City officials and alternates to represent the City on the SVRIA Board of Directors.  
(City Manager's Office)**

### 3.2 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, dated April 9, 2010, recommending Council Members Constant and Oliverio to represent the City of San José on the SVRIA Board of Directors and Council Members Chu and Kalra as the alternates. (2) Memorandum from City Clerk Lee Price, MMC, dated March 25, 2010, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Police Captain Diane Urban provided a report on the Silicon Valley Region Interoperability Project and Proposed Joint Powers Agreement Structure.

Action: Upon motion by Council Member Constant, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75345](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Joint Powers Agreement for the Silicon Valley Regional Interoperability Authority; and Authorizing the City Manager to Execute the Amendment to the Second Amended Joint Funding Agreement for the Silicon Valley Interoperability Project”, was adopted. Council Members Constant and Oliverio were appointed to represent the City of San José on the Silicon Valley Regional Interoperability Authority Board of Directors. Council Members Chu and Kalra were approved as the alternates. (11-0.)

## NEIGHBORHOOD SERVICES

### 5.1 **Conduct a public hearing and consider the adoption of a resolution setting forth the new Schedule of Parkland Fees to reflect the 2009 Residential Land Value Study to be effective on June 21, 2010. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Replacement memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 22, 2010, recommending adoption of a resolution and updating the parkland fees based on the 2009 Study in order to more accurately reflect current economic conditions. (2) Email from two residents of San José dated April 9, 2010, urging Council to adopt the new fee schedule.

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

City Clerk Lee Price clarified that the that the new Schedule of Parkland Fees to reflect the 2009 Residential Land Value Study will be *effective on June 21, 2010*.

Action: Upon motion by Council Member Constant, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75346](#), entitled: “A Resolution of the Council of the City of San José Setting Forth the Schedule of Parkland Fees Charged Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code to Reflect the 2009 Residential Land Value Study”, was adopted, as amended, with the clarification that the new Schedule of Parkland Fees to reflect the 2009 Residential Land Value Study will be *effective on June 21, 2010*. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Report on bids and award of contract for the 2010 Prop 1B Slurry Seal Project to the low bidder, Graham Contractors, Inc. in the amount of \$3,213,367 and approval of a five percent (5%) contingency in the amount of \$160,668.
- (b) Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:
- (1) Increase the appropriation to the Department of Transportation for the Prop 1B – Pavement Maintenance project in the amount of \$6,039,000.
  - (2) Decrease the Reserve – Prop 1B Pavement Maintenance by \$6,039,000.

**CEQA: Exempt, File No. PP09-101. (Transportation/City Manager’s Office)**

Documents Filed: Memorandum from Acting Director of Transportation Hans Larsen and Budget Director Jennifer Maguire, dated March 29, 2010, recommending approval of the award of contract to the low bidder and adoption of appropriation ordinance amendments.

Action: Upon motion by Council Member Constant, seconded by Council Member Oliverio and carried unanimously, the award of contract for the 2010 Prop 1B Slurry Seal Project to the low bidder, Graham Contractors, Inc. in the amount of \$3,213,367, with related contingency was approved and [Ordinance No. 28735](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Construction Excise Tax Fund for the Prop 1B – Pavement Maintenance Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” adopted. (11-0.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Take the following actions related to an agreement with San José State University related to construction of Recycled Water Facilities:
- (1) Adopt a resolution making findings from the San José State EIR for on campus recycled water project improvements (PP10-006) in conformance with CEQA Guidelines, Sections 15091 and 15093.
  - (a) (2) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with San José State University for services related to construction of recycled water facilities at a total cost to the City not to exceed Four Hundred Twenty-Two Thousand Dollars (\$422,000).

**CEQA: Resolution No. 64667 (PP91-090) and Addenda thereto, including Addendum PP03-350, for Civic Center Recycled Water Line Project. In this action, Council will adopt a resolution making findings from the San José State University Master Plan 2001 Update Final EIR, adopted by the Board of Trustees of the California State University on January 29, 2002, in conformance with the CEQA Guidelines, Sections 15091 and 15093.**

**7.1 (Cont'd.)**

**In addition to CEQA, this project has been reviewed by the US Bureau of Reclamation for compliance with the National Environmental Policy Act (NEPA). As the lead agency, Reclamation has issued a Finding of No Significant Impact (FONSI) for each of the proposed projects.**

**(Environmental Services)**

**(b) Take the following action relating to an amendment to the agreement with the City of Santa Clara:**

- (1) Adopt a resolution authorizing the City Manager to negotiate and execute the Seventh Amendment to the construction service agreement with City of Santa Clara for the South Bay Water Recycling Program, revising the approved project list, increasing the maximum amount payable by the City of San José by \$3,050,000, to a total maximum amount not to exceed \$33,650,000.**

**CEQA: CEQA for City of San José Actions: Resolution No. 64667 (PP91-090) and Addenda thereto. CEQA done by City of Santa Clara for City of Santa Clara Actions:**

**Santa Clara Industrial 3A: PLN2009-07929 and CEQ 2009-01093.**

**(Environmental Services)**

**(c) Take the following actions related to an agreement with the U.S. Bureau of Reclamation for Design and Construction of South Bay Water Recycling:**

- (1) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with U.S. Bureau of Reclamation to accept \$6.460 million in grant funds, of which \$6.310 million will be for design and construction of South Bay Water Recycling Phase 1C facilities, and \$150,000 will be retained by the Bureau of Reclamation for administrative and other costs.**

**(c) Take the following actions related to an agreement with the U.S. Bureau of Reclamation for Design and Construction of South Bay Water Recycling:**

- (2) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the San José-Santa Clara Treatment Plant Capital Fund:**

- (a) Establish an estimate for Recovery Act – Federal Revenue in the amount of \$1,875,000;**
- (b) Establish an appropriation to the Environmental Services Department for Recovery Act – South Bay Water Recycling Phase IC in the amount of \$6,310,000.**
- (c) Decrease the appropriation to the Environmental Services Department for Revised South Bay Action Plan - SBWR Extension by \$4,435,000.**

**CEQA: CEQA for City of San José Actions: Resolution No. 64667 (PP91-090) and Addenda thereto: San José Airport Extension: Resolution 64667, PP10-020. SBWR Laterals and Garden Improvements: Resolution 64667 and Addendum to Mitigated Negative Declaration, PP10-019. San José School Extensions: Resolution 64667, PP10-018.**

7.1 (Cont'd.)

**SJSU Improvements: Resolution to be adopted. CEQA done by City of Santa Clara for City of Santa Clara Actions: Santa Clara Central Park: PLN 2009-07751: CEQ 2009-01085. Santa Clara Industrial 1: PLN 2009-07749, CEQ 2009-01083 Santa Clara Industrial 2: PLN 2009-07616, CEQ 2009-01080 Santa Clara Industrial 3A: PLN2009-07929 and CEQ 2009-01093**

**NEPA: In addition to CEQA, all projects have been reviewed by the US Bureau of Reclamation for compliance with the National Environmental Policy Act (NEPA). As the lead agency, Reclamation has issued a Finding of No Significant Impact (FONSI) for each of the proposed projects.**

**(Environmental Services/City Manager's Office)**

Documents Filed: (1) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated April 12, 2010, correcting the total contract amount that was misstated due to an arithmetic error and to revise the CEQA reference and recommending adoption of a resolution. (2) Memoranda from Director of Environmental Services John Stufflebean, dated March 29, 2010 and April 1, 2010, recommending adoption of resolutions. (3) Memorandum from Director of Environmental Services John Stufflebean and Budget Director Jennifer Maguire, dated March 29, 2010, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments. (4) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated April 6, 2007, stating concurrence with the Staff recommendations.

Director of Environmental Services John Stufflebean provided comments.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75347](#), entitled: "A Resolution of the Council of the City of San José Adopting Findings for Purposes of and Pursuant to the Provisions of the California Environmental Quality Act of 1970 in Connection with Actions to Support Implementation of the Non-Potable Reclamation System for the San José State University Campus Project for Which a Final Environmental Impact Report Has Been Prepared"; [Resolution No. 75348](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with San José State University for Services Related to Construction of Recycled Water Facilities, at a Total Cost to the City Not To Exceed \$422,000"; [Resolution No. 75349](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Seventh Amendment with the City of Santa Clara for the South Bay Recycling Program, Revising the Approved Project List, Increasing the Maximum Amount Payable by Three Million Fifty Thousand Dollars (\$3,050,000) to a Total Maximum Amount Not To Exceed Thirty Three Million Six Hundred Fifty Thousand Dollars (\$33,650,000)"; [Resolution No. 75350](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the U.S. Bureau of Reclamation to Accept a Grant in the Amount of \$6.46 Million for Design and Construction of South Bay Water Recycling Phase 1C

## 7.1 Action (Cont'd.)

Facilities”; [Ordinance No. 28736](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the San José-Santa Clara Treatment Plant Capital Fund for the Recovery Act – South Bay Water Recycling Phase 1C Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 75351](#), 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 San José-Santa Clara Treatment Plant Capital Fund”, were adopted. (11-0.)

## 7.2 Direct staff not to protest Santa Clara Valley Water District’s decision to maintain groundwater production charges for FY 10-11 at the current levels of \$275 per acre-foot in Zone W-5 and \$520 per acre-foot in Zone W-2. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated March 30, 2010, recommending Council direct Staff to not protest the Santa Clara Valley Water District’s decision.

Director of Environmental Services John Stufflebean provided comments.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Staff was directed to not protest the Santa Clara Valley Water District’s decision to maintain groundwater production charges for FY 10-11 at the current levels of \$275 per acre-foot in Zone W-5 and \$520 per acre-foot in Zone W-2. (11-0.)

## 7.3 As referred by the Transportation and Environment Committee on April 5, 2010, accept the progress report highlighting activities since December 2009 on the Master Plan for the San José/Santa Clara Water Pollution Control Plant. (Environmental Services)

Action: Item 7.3 was renumbered to Item 2.16. See Item 2.16 for action.

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 Provide direction to proceed with environmental review and development of the General Plan Update text document and Land Use/Transportation Diagram using the Preferred Land Use Scenario, including the amounts and geographic distribution of new job and housing growth capacity, as jointly recommended by the Administration and the Envision Task Force. CEQA: Not a Project. The proposed action will allow staff and the consultants to proceed with the analysis of potential environmental impacts as required by CEQA. (Planning, Building and Code Enforcement)

#### 4.1 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, Vice Mayor Chirco and Council Members Liccardo and Oliverio, dated April 16, 2010, recommending acceptance of the Preferred Land Use Scenario, including further direction. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 15, 2010, providing information about the phasing concept recommendation of the Preferred Land Use Scenario made by the Envision San José 2040 Task Force at their April 12, 2010 meeting. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 29, 2010, providing direction to proceed with environmental review and development of the General Plan Update text document and Land Use/Transportation Diagram using the Preferred Land Use Scenario. (4) Staff presentation outlining the Envision San José 2040 General Plan Update dated April 20, 2010. (5) Corrected Attachment 2 from the Preferred Land Use Scenario dated April 20, 2010. (6) Letter from Berg & Berg Developers, Inc., dated April 20, 2010, expressing objection to excluding housing from Evergreen Campus Industrial and Coyote Urban Reserve.

Director of Planning, Building and Code Enforcement Joseph Horwedel provided a staff report on Envision San José 2040 Selection of Preferred Land Use Scenario.

Mayor Reed provided meeting disclosures.

Motion: Council Member Liccardo moved approval of the memorandum he cosigned with Mayor Reed, Vice Mayor Chirco and Council Member Oliverio; and the Staff recommendations. Council Member Oliverio seconded the motion.

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

Extensive discussion followed.

Public Comments: Speaking on the environmental review and development of the General Plan Update text document and Land Use/Transportation Diagram using the Preferred Land Use Scenario were David Marsland, Sierra Club Cool Cities, Brian Darrow, Alofa Talivaa, Ben Field, South Bay Labor Council, Brian Schmidt, Committee for Green Foothills and Kerri Hamilton, Citizens for Economic Environmental Justice.

Council Member Kalra requested to amend the motion to narrow the scope of the end sentence of the joint memorandum on C.i., to strike out “avoid including levels of detail that are not directly related to land use regulation or planning. Council Members Liccardo and Oliverio declined to accept the amendment.

#### 4.1 (Cont'd.)

Substitute Motion: Council Member Kalra moved to amend the motion to narrow the scope of the end sentence of the joint memorandum on C.i., to strike out “avoid including levels of detail that are not directly related to land use regulation or planning. Council Member Nguyen seconded the motion. On a call for the question, the substitute motion failed. (3-7-1. Noes: Chirco, Chu, Constant, Liccardo, Oliverio, Pyle; Reed. Absent: Campos.)

Council discussion returned to the original motion on the floor.

Action: On a call for the question, the original motion carried, the joint memorandum from Mayor Reed, Vice Mayor Chirco and Council Members Liccardo and Oliverio, dated April 16, 2010 was approved: (1) Accepting the Preferred Land Use Scenario as jointly recommended by the Envision Task Force and Administration, as well as the amount and geographic distribution of new job and housing growth capacity. (2) Administration directed to proceed with environmental review and preparation of the General Plan Update text document and Land Use/Transportation Diagram for final consideration by City Council in June 2011. (3) Staff directed to incorporate the guidance provided below in their on-going work: (a) Scope: That the Task Force work within the Guiding Principles as approved by the City Council in June 2007, focus on policies that advance the Preferred Land Use Scenario and avoid including levels of detail that are not directly related to land use regulation or planning. (b) Legal Requirements: That the City Attorney provide further guidance with regard to enabling the Task Force to pursue the jobs/housing balance that is in San José’s long term best interests, while complying fully with State-mandated obligations to provide sufficient housing for future growth. (c) Job Growth and Intensification of Floor Area Ratios: That Staff and the Task Force continue to engage directly with local developers and corporate real estate facilities executives to be certain that the new General Plan include pragmatic implementation measures to meet the community’s aspirations for San José to increase its share of job growth by 2040. (d) Comprehensive Village Plan: That Staff engage the community in preparing Growth Area Village Plans as expeditiously as possible, as funding becomes available, and most importantly, assess and model specific infrastructure needs, and amenities and services necessary to support the jobs and housing growth assigned to each growth area. (e) Envision San José 2040 Fiscal Report: That the conclusions of the fiscal report which relies upon assumptions of high growth of retail to justify revenue projections accompanying housing growth be further analyzed, with a report to the Task Force reflecting the analysis. (8-2-1. Noes: Kalra, Nguyen. Absent: Campos.)

#### OPEN FORUM

- (1) Mark Trout commented on the death of Georgia Senator Nancy Schaefer.
- (2) Andrea Sebovia expressed her views on various City issues.

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 6:05 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

smd/04-20-10 MIN

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## JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 2:12 p.m. to consider Items 8.1 and 8.2 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] (Deferred from 04/13/10 - Item 8.1.)**

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated April 6, 2010, recommending approval of a cooperation agreement.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, a Cooperation Agreement authorizing the conveyance of the property located at 406 N. Autumn Street from the City to the Agency was approved. (11-0.)

- 8.2 (a) The City Council adopt a resolution approving the sale of certain sites located at 285 South Market Street and 8 East San Fernando Street to Sobrato Interests III, accepting the 33433 Summary Report, and finding that the sale of the properties will assist in the elimination of blight, is consistent with the Implementation Plan for the San Antonio Plaza Project Area, and that the consideration for the property is not less than the fair market value at its highest and best use in accordance with the Redevelopment Plan.**
- (b) The Redevelopment Agency Board approve a Purchase and Sale and Development Agreement with Sobrato Interests III for the sale of Agency-owned properties located at 285 South Market Street and 8 East San Fernando Street for a purchase price in the amount of \$20,000,000, minus related costs. CEQA: Downtown Strategy 2000 EIR, Resolution No. 72767; PP05-272. [SAN ANTONIO PLAZA] (Deferred from 04/13/10 - Item 8.2.)**

Documents Filed: (1) Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated April 9, 2010, recommending adoption of resolutions. (2) Letter from Urban West Associates of San Diego, dated April 13, 2010, requesting a continuance on Item 8.2 pending a settlement meeting between the City of San José Redevelopment Agency and Urban West.

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

Redevelopment Agency Board Executive Director Harry S. Mavrogenes responded to Council questions.

Extensive Council discussion ensued.

## 8.2 (Cont'd.)

Council Member Campos requested to amend the motion to defer Item 8.2 one week in order to continue discussions and have questions answered in an open process.

Council Member Liccardo declined to accept the amendment, asserting that this item has been public for two weeks.

Substitute Motion: Council Member Campos moved to defer Item 8.2 one week. Council Member Kalra seconded the motion.

Public Comments: Ross Signorino stated that the City should put some of this money aside to keep the City pools open. Josue Garcia, Building Trades Council, agreed that this item should be deferred one week to provide more information to the public. Ben Fields, South Bay Labor Council, stated that devoting \$5M of the \$20M could help with the City's budget deficit. Scott Knies, San José Downtown Association, spoke in support to the motion by Council Members Liccardo and Oliverio.

On a call for the question, the substitute motion failed. (5-6. Noes: Chirco, Constant, Liccardo, Oliverio, Pyle; Reed.)

Mayor Reed requested that the Council/Redevelopment Agency Board recess in order to allow Staff time to gather the information and answer all of the Council Members' questions.

## RECESS/RECONVENE

The City Council recessed at 4:08 p.m. from the Joint Redevelopment Meeting and reconvened at 5:53 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Campos. (Excused)

## JOINT REDEVELOPMENT AGENCY ITEMS

### 8.2 (Cont'd.)

The original motion by Council Members Liccardo and Oliverio was on the floor.

Redevelopment Agency Board Executive Director Harry S. Mavrogenes and City Attorney Richard Doyle responded to further Council questions and comments.

A brief discussion followed.

## 8.2 (Cont'd.)

Council Member Liccardo requested to amend the motion to add the following to the Purchase and Sale and Development Agreement with Sobrato Interest III: subject to execution of an addendum to the agreement to amend the close of escrow date and seller's representations, and authorizing the Executive Director to execute the addendum to the agreement in a form acceptable to the General Counsel. The amendment was accepted by Council Member Oliverio.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75342](#), entitled: "A Resolution of the Council of the City of San José Approving the Sale of Certain Sites Located at 285 South Market Street and 8 East San Fernando Street to Sobrato Interests III, Accepting the Summary Costs and Findings of the 33433 Summary Report and Making Certain Findings Pursuant to the California Health and Safety Code Section 33433", and [Redevelopment Agency Board Resolution No. 5958](#) were adopted, as amended, subject to execution of an addendum to the agreement to amend the close of escrow date and seller's representations, and authorizing the Executive Director to execute the addendum to the agreement in a form acceptable to the General Counsel. (10-0-1. Absent: Campos.)

The Council of the City of San José and Redevelopment Agency Board was adjourned at 6:01 p.m.