

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 27, 2010

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54957(a) with respect to: Consultation with: Chief of Police. (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. (C) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) City v. New-Tec; Names of Parties Involved: City of San José, a Municipal Corporation, New-Tec Circuit Sales, Inc; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV164712; Amount of Money or Other Relief Sought: Eviction action where City is seeking to recover possession of commercial property and monetary damages. (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 José and CEO; (6) City Association of

CLOSED SESSION (Cont'd.)

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/employee_relations/moa.asp; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:45 a.m. and reconvened to Regular Session at 1:35 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

Chinese "Guzheng" Demonstration was presented for the Invocation. (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 Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 2.3(a) deferred to May 4, 2010 per Orders of the Day. (11-0.)

CEREMONIAL ITEMS

1.5 Presentation of a proclamation declaring May 1, 2010 as “Show Us Your Hope Day” in the City of San José. (Oliverio)

Action: Mayor Reed and Council Member Oliverio recognized May 1, 2010 as “Show Us Your Hope Day” in the City of San José.

1.6 Presentation of a commendation to Grainger Company for helping local businesses maintain, repair and operate their business as well as their philanthropic commitment to the community. (Nguyen)

Action: Mayor Reed and Council Member Nguyen recognized and commended the Grainger Company for helping local businesses maintain, repair and operate their business as well as their philanthropic commitment to the community.

1.7 Presentation of a commendation to Bill Wilson Center for strengthening the community by serving youth and families through counseling, housing, education and advocacy. (Nguyen)

Action: Mayor Reed and Council Member Nguyen recognized and commended the Bill Wilson Center for strengthening the community by serving youth and families through counseling, housing, education and advocacy. The Grainger Company presented \$25,000 to the Bill Wilson Center.

CONSENT CALENDAR

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

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of April 7, 2010. (Mayor)**
- (b) **Public Safety, Finance and Strategic Support Committee Special Meeting Report of April 14, 2010. (Nguyen)**
- (c) **Public Safety, Finance and Strategic Support Committee Report of April 15, 2010. (Nguyen)**

Action: Deferred to May 04, 2010.

2.4 (a) Request for an excused absence for Council Member Campos from the Regular Meeting of the Transportation and Environment Committee on April 5, 2010 and Closed Session of City Council on April 6, 2010 due to Authorized City Business: Invited to the White House as a Representative of the City of San José. (Campos)

2.4 (a) (Cont'd.)

Documents Filed: Memorandum from Council Member Campos, dated April 1, 2010, requesting an excused absence due to authorized City business.

Council Member Constant requested clarification on the Council Policy to designate someone to act on behalf of the City of San José and on the travel memorandum which denotes the cost and who is paying for the travel.

City Clerk Lee Price responded that Council Policy 9-5 states that Council Members and Appointees are required to request travel approval prior to out-of-State travel or to request to use the Mayor/Council Travel Fund for travel. She added that out-of-State and International travel that is paid for by some other agency, annual trips, city-to-city trip requests must be preapproved by the City Council. Council Member Campos stated that she used her own personal funds for the trip to Washington D.C.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Herrera and carried, the absence for Council Member Campos was excused. (9-2. Noes: Constant, Liccardo.)

- (b) **Request for an excused absence for Council Member Chu from the City Council Special Meeting on April 12, 2010 due to illness. (Chu)**
- (c) **Request for an excused absence for Council Member Chu from the Special Meeting of the Public Safety, Finance & Strategic Support Committee on April 14, 2010 due to Authorized City Business: District 4 Community Budget Meeting in San José, CA. (Chu)**

Documents Filed: Memoranda from Council Member Chu, dated April 12, 2010 and April 14, 2010, requesting excused absences.

Council Member Chu explained that the reason he missed the Special Meeting of the Public Safety, Finance and Strategic Support Committee was because of the Community District 4 Budget Meeting in Alviso.

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

- 2.6 (a) **Adopt a resolution authorizing the City Manager to negotiate with, and provide compensation to, Airport tenants for planning, design, permit and construction costs incurred where the Airport, for the benefit of the general public, requires changes to planned tenant improvements after a design has been approved by the City in a total amount for all such tenant costs incurred not to exceed \$500,000.**

- 2.6 (b) **Approve the Settlement Agreement and Release with Host International, Inc. (Host) to pay Host an amount not to exceed \$32,560 in full satisfaction of all planning, design, and permit costs incurred to redesign a concession area located in Terminal A that was relocated by the City after execution of the Host Retail Concession Agreement and completion of design by Host, but prior to tenant improvement construction.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP10-039. (Airport)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated April 5, 2010, recommending adoption of a resolution and approval of the settlement agreement and release.

Action: [Resolution No. 75352](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Provide Compensation to Airport Tenants for Changes to Tenant Leasehold and Concession Areas Necessary to Accommodate the Airport's Capital Development Program in an Amount Not To Exceed \$500,000", was adopted and the Settlement Agreement and Release with Host International, Inc. (Host) to pay Host an amount not to exceed \$32,560 in full satisfaction of all planning, design, and permit costs incurred to redesign a concession area located in Terminal A that was relocated by the City after execution of the Host Retail Concession Agreement and completion of design by Host, but prior to tenant improvement construction was approved. (11-0.)

- 2.7 **Adopt a resolution setting a Public Hearing for June 8, 2010 at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated April 5, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75353](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to for the Approval of a Report of the Director of Finance on the Cost of Unpaid Sidewalk Repairs for June 8, 2010", was adopted. (11-0.)

- 2.8 **Approval of the First Amendment with ROEM Development Corporation, for Planned Development Permit PD06-062, associated with Tentative Map No. PT05-113 and Final Tract Map 9831 to extend the date to complete the park improvements from February 27, 2012 to February 27, 2015. CEQA: Resolution No. 72877. Council District 7. (Parks, Recreation and Neighbor-hood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated April 5, 2010, recommending approval of the first amendment to the Turnkey Parkland Agreement.

Public Comments: David Wall commented that the City should be more proactive with the contractors and that the parks be built as the units are being built or built first.

2.8 (Cont'd.)

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Pyle and carried unanimously, the First Amendment with ROEM Development Corporation, for Planned Development Permit PD06-062, associated with Tentative Map No. PT05-113 and Final Tract Map 9831 to extend the date to complete the park improvements from February 27, 2012 to February 27, 2015 was approved. (11-0.)

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

- (a) **Draft a letter of support for the application of the San José Conservation Corps to the State of California Conservation Corps for the Thompson Creek Trail and Alum Rock Park and projects.**
- (b) **Sign and submit a Sponsor Land Tenure/Site Control Letter (Attachment A) to the California Conservation Corps for the Thompson Creek Trail and Alum Rock Park projects.**
- (c) **Accept this work as part of the settlement agreement dated January 12, 2010 between the City of San José and the San José Conservation Corps in the amount of \$160,000 regarding all claims and outstanding amounts identified in the Audit of the San José Conservation Corps issued by the City Auditor in May 2009.**

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

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated April 14, 2010, recommending adoption of a resolution.

Public Comments: David Wall addressed part (c) and stated that there are other ways to recoup monies from the San José Conservation Corps.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 75354](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Draft a Letter of Support for the Application of the San José Conservation Corps, Sign and Submit a Sponsor Land Tenure/Site Control Letter to the State of California Conservation Corps for the Thompson Creek Trail and Alum Rock Park and Projects", was adopted. (11-0.)

2.10 Adopt a resolution to consider the establishment of a Rule 20A Underground Utility District along Lincoln Avenue from West San Carlos Street to approximately 160 feet northwest of Coe Avenue, Auzerais Avenue approximately 190 feet west of Lincoln Avenue, Northrup Street from Lincoln Avenue to Highway 280, Parkmoor Avenue from Lincoln Avenue to approximately 280 feet west of Northrup Street, and Paula Street approximately 210 feet west of Lincoln Avenue, and setting a Public Hearing on June 8, 2010, at 1:30 p.m. CEQA: Addendum to a Mitigated Negative Declaration, File No. PP10-002. Council District 6. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 5, 2010, recommending adoption of a resolution.

2.10 (Cont'd.)

Action: [Resolution No. 75355](#), entitled: “A Resolution of the Council of the City of San José Setting the Time and Place for a Public Hearing to Consider the Establishment of a Rules 20A Underground Utility District Along Lincoln Avenue from West San Carlos Street to Approximately 160 feet Northwest of Coe Avenue, Auzeais Avenue Approximately 190 Feet West of Lincoln Avenue, Northrup Street from Lincoln Avenue to Highway 280, Parkmoor Avenue from Lincoln Avenue to Approximately 280 Feet West of Northrup Street and Paula Street Approximately 210 Feet West of Lincoln Avenue on June 8, 2010”, was adopted. (11-0.)

**2.11 Adopt a resolution appointing LaDoris Cordell for services as Independent Police Auditor for a term beginning May 17, 2010 and ending December 31, 2012, and approving compensation terms, which include Unit 99 benefits that are subject to change from time to time upon Council approval. (Mayor)
[Rules Committee referral 4/21/10 – Item A(1)(a)(1)]**

Documents Filed: Memorandum from Mayor Reed, dated April 15, 2010, recommending adoption of a resolution.

Public Comments: David Wall spoke in opposition to the appointment of the Independent Police Auditor.

City Attorney Richard Doyle responded to Council questions. Discussion ensued.

Motion: Vice Mayor Chirco moved approval of the memorandum from Mayor Reed, including the attachment from the City Attorney, approving the appointment of the Independent Police Auditor. Council Member Nguyen seconded the motion.

Council Members Constant and Oliverio expressed concern to single out any position exempt from the current pay cuts.

Action: On a call for the question, the motion carried, [Resolution No. 75356](#), entitled: “A Resolution of the Council of the City of San José Approving the Appointment of LaDoris Cordell as Independent Police Auditor with a Term Starting May 17, 2010 and Ending December 31, 2012 and the Terms of Compensation”, was adopted. (9-2. Noes: Constant, Oliverio.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that 1,300 full time and part time employees are affected due to position eliminations or bumping and 970 positions are proposed for elimination. She added that the 2010-2011 Proposed Budget will be released on Monday, May 3, 2010. She also advised that she will provide additional clarification on the seniority lists.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Adopt a resolution to approve:

- (a) **The Economic Strategy 2010 and the Work Plan identifying “Top 10 Actions for 2010”.**
- (b) **The submittal of the Economic Strategy 2010 as the City’s Comprehensive Economic Development Strategy to the U.S. Economic Development Administration for qualifying federal grants.**

CEQA: Not a Project, File No. PP10-069, Staff Report. (Economic Development)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated April 5, 2010, recommending adoption of a resolution.

Chief Development Officer Paul Krutko presented the staff report and responded to Council questions.

Mayor Reed requested Staff to provide information to Council on how Clean Tech jobs will be tracked separately.

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

Mayor Reed requested that Staff include the following in the “Top 10 Actions for 2010”: Retain and improve the Special Tenant Improvement Program and the Industrial Tools Installation Program to expedite permit review for expanding companies.

Public Comments: David Wall and Ross Signorino commented on the Economic Strategy 2010 and the Work Plan identifying “Top 10 Actions for 2010”.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75357](#), entitled: “A Resolution of the Council of the City of San José Approving the Economic Strategy 2010 and Work Plan and Authorizing Its Submittal to the U.S. Economic Development Administration”, was adopted, as amended, with Staff directed to include the following in the “Top 10 Actions for 2010”: Retain and improve the Special Tenant Improvement Program and the Industrial Tools Installation Program to expedite permit review for expanding companies. Staff requested to provide information to Council on how Clean Tech jobs will be tracked separately. (11-0.)

- 4.2 Adopt a resolution authorizing the City Manager, or designee, to submit an application for federal assistance to the U.S. Department of Commerce's Economic Development Administration for \$3,000,000 to build energy efficient building systems at the Clean Tech Demonstration Center, and \$2,000,000 in financial assistance for demonstration, deployment and commercialization activities undertaken by partners in the Regional Innovation Cluster. CEQA: Not a Project, File No. PP10-068, Grant Application. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated April 7, 2010, recommending adoption of a resolution.

Chief Development Officer Paul Krutko responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75358](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the U.S. Department of Commerce for a Grant for the Clean Tech Demonstration Center in a Total Amount Not To Exceed \$5,000,000, To Accept the Grant if Awarded and to Execute All Related Documents", was adopted. (11-0.)

- 4.3 Conduct a public hearing and consider an ordinance amending Title 20 of the San José Municipal Code to amend: Table 20-190 (Parking Spaces Required by Land Use) in Section 20.90.60 and Section 20.90.220, both of Chapter 20.90, to specify a Parking Requirement for Business Destination Areas; and Chapter 20.200 to add a definition of Business Destination Areas. CEQA: Negative Declaration, File No. PP10-059. (Planning, Building and Code Enforcement)
Citywide**

Action: Continued to May 18, 2010 per Administration.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Approve the Agency Agreement with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program for 2010-2011.
(b) Approve the Agency Agreement with the County of Santa Clara for Countywide AB939 Implementation Fee for 2010-2011.
CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated April 5, 2010, recommending approved of the agreements.

Public Comments: David Wall spoke in support to the Staff recommendations.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, the Agency Agreements with the County of Santa Clara for the Countywide Household Hazardous Waste Collection Program and for the Countywide AB939 Implementation Fee, for 2010-2011 were approved. (11-0.)

7.2 Accept the 2009 Annual Status Report on cooperative efforts between the City of San José and the Santa Clara Valley Water District relating to:

- (a) Flood Protection**
 - (1) Flood Preparedness**
 - (2) Floodwater Management**
 - (3) Dam Safety**
- (b) Water Supply**
 - (1) Water Supply Outlook**
 - (2) Water Conservation**
 - (3) Water Recycling**
- (c) Watershed Protection**
 - (1) Trash Removal from Creeks**
 - (2) Countywide Efforts Focused on Reducing Trash**
 - (3) Coyote Valley Projects**
 - (4) Santa Clara Valley Habitat Plan – A Conservation Legacy**
 - (5) Parks, Trails, and Open Space Partnership**
- (d) Policy/Planning Initiatives**
 - (1) Adopting Joint Priorities for 2009-2010**
 - (2) Protection and Augmentation of the Water Supply**
 - (3) District Comprehensive Plan**
 - (4) Water Resources Planning**

CEQA: Not a Project. Environmental review was completed or is in progress as appropriate for each of the individual projects described in this Annual Status Report. (Environmental Services)

Documents Filed: Memorandum from City Manager Debra Figone and Chief Executive Officer Beau Goldie, dated April 8, 2010, recommending acceptance of the report.

Director of Environmental Services John Stufflebean provided comments on the collaborative efforts between the City of San José and Santa Clara Valley Water District.

Division Manager of Director of Parks, Recreation and Neighborhood Services Matt Cano provided a staff report on the joint trail projects.

Public Comments: David Wall presented comments on water, watershed protection and trash in the creeks and added that there should not be a moratorium on housing. Mark Trout requested that the collaborative check into the possibility of fluoride in the water.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the 2009 Annual Status Report on cooperative efforts between the City of San José and the Santa Clara Valley Water District was accepted. (10-0-1. Absent: Chu.)

OPEN FORUM

- (1) Dr. Joan Todd, Historical Ventures, stated that small investors are interested in developing green energy businesses in the City of San José.
- (2) Jim Piezzo, Green Earth Enterprise, encouraged the Council to remove barriers to the success of small businesses in San José.
- (3) Keith Weissglass, representing State Senator Joe Simitian, issued an invitation to attend a community celebration honoring Vice Mayor Judy Chirco, Eleventh State Senate District “Woman of the Year” on Thursday, May 6, 2010, at 4:30 p.m. to 6:00 p.m., Camden Community Center, 3359 Union Avenue, San José, California.
- (4) Wilma Hashii requested that the City Council re-open the Seven Trees Library.
- (5) Mark Trout commented on the death of Georgia Senator Nancy Schaefer.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 3:50 p.m.

RECESS/RECONVENE

The City Council recessed at 3:50 p.m. from the afternoon Council Session and reconvened at 7:06 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

ORDERS OF THE EVENING

Upon motion by Vice Mayor Chirco, seconded by Council Member Pyle and carried unanimously, Items 10.1(a) and 11.3 were continued to May 18, 2010. (11-0.)

CEREMONIAL ITEMS

1.1 Administer Oaths of Office to District 5 Youth Commissioner Garland Heng and District 8 Youth Commissioner Rosealeen Dhaliwal. (City Clerk)

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated March 24, 2010, transmitting the names of the new Youth Commissioners who will be appointed at the April 27, 2010 evening Council Meeting

Action: City Clerk Lee Price administered the Oaths of Office to District 5 Youth Commissioner Garland Heng and District 8 Youth Commissioner Rosealeen Dhaliwal.

1.2 Presentation of Outstanding Contributors in Childcare to Artemia Agustin, Tammy's Family Daycare; Lisa Giuliana, Teachable Moments Family Day Care; Teresita Padilla, Lead Teacher at Santa Clara Office of Education McKinley Preschool; San Juan Bautista Child Development Center's Fatherhood/Male Involvement Program. (Chirco)

Action: Mayor Reed, Vice Mayor Chirco, and Council Members Liccardo, Kalra, Nguyen and Chu recognized and commended the outstanding contributors in childcare.

1.3 Presentation of the George Howard Memorial Award to 100 Black Men of Silicon Valley. (Chirco)

Action: Mayor Reed, Vice Mayor Chirco and Council Member Oliverio recognized and commended the 100 Black Men of Silicon Valley.

1.4 Presentation of a commendation recognizing the local teen organization GROW (Give Raise Organize Work) for their financial support of the Calabazas Library. (Constant)

Action: Mayor Reed and Council Member Constant recognized and commended the Give Raise Organize Work teen organization for their financial support of the Calabazas Library.

STRATEGIC SUPPORT SERVICES

3.4 Adopt a resolution approving compensation and benefit changes with the goal of achieving a 10% ongoing total compensation reduction for the Mayor, City Council and City Council Appointees, including the Redevelopment Agency Director, and excluding any change to the salary only for the newly hired Independent Police Auditor. (Mayor)

[Rules Committee referral 4/21/10 – Item A(1)(a)(2)]

Documents Filed: (1) Memorandum from Mayor Reed, dated April 15, 2010, recommending adoption of a resolution. (2) Memorandum from Council Member Constant, dated April 14, 2010, recommending District 1 Staff salary reductions. (3) Memorandum from Council Members Constant and Liccardo, dated April 14, 2010, recommending irrevocable salary reduction and waiver of vehicle allowance.

City Manager Debra Figone offered brief comments. Director of Employee Relations Alex Gurza summarized the Staff Report on Fiscal Year 2010-2011 Citywide Total Compensation.

Mayor Reed presented opening comments and read the recommendations contained in his memorandum dated April 15, 2010.

Public testimony on Items 3.2, 3.3 and 3.4 were heard together, as follows.

Public Comments: The following speakers commented in opposition to the City's Last, Best and Final Offer for employees represented by the Association of Building, Mechanical and Electrical Inspectors (ABMEI), for executive management and professional employees in Unit 99, and other unrepresented employees; requested that the City of San José work with the unions groups to come up with creative solutions; expressed support to the working people of the community; opposed the reduction of library hours, the closing of pools and community centers; requested that the City control spending and requested that the City eliminate costly consultants: Forrest Williams, Dean Daily, Ed Tefankjian, Bob Nelson, Rosylin Dean, Patrick Ramos, Alofa Talivaa (Sierra Neighborhood Association), Tina Morrill, Ben Field, Cindy Chávez (South Bay Labor Council), Claudia Shope, John Wolfram, Gary Roberts, Pascal Roubineau, Paul Prange, Jon Max Regger (OE-3), Susan Bailey, Chuck Territo, Mike Terwilliger, Chris Gambelin, Jan Brim, Annie Gambelin, Tom Brim, Jerry Lambert, Medi Sinaki, Steve Stender, Henry Servin (ABMEI), Lupe Nieto, LaVerne Washington (Local 101, CEO),

3.2, 3.3, 3.4 (Cont'd.)

Public Comments: (Cont'd.)

Al Gonzales, Kathryn Capaldo, Sam, Andrew Dyer, Nancy Ostrowski, Cay Denise MacKenzie, Roger Storz, Alan Wiley, Karla Enany, Jerry Suimdal (CAMP), Jim Crawford (First Methodist Church), Dennis Martin (NAIOP Silicon Valley), Bob Brownstein, Hope Cahan, Pat Sausedo, San José Silicon Valley Chamber of Commerce, Bob Leininger, Sue Bradford-Moore, Dorothy McGinley (San José Retired Employees Association), Yolanda Cruz, Desiree Gezzi (AFSCME/MEF), Stan Taylor (St. Julie Billart), David McCreath (Interfaith Council), Reverend Charles Rawlings (Council of Churches), James Gonzales (SJPOA), Stephen L. Kline, Josue Garia (Building Trades Council), Chris Wolfgram, Jerry Strangis and Richard Rosdail.

The following is action on Item 3.4.

Motion: Vice Mayor Chirco moved approval of the memorandum from Mayor Reed dated April 15, 2010, to adopt a resolution approving compensation and benefit changes with the goal of achieving a 10% ongoing total compensation reduction for the Mayor, City Council and City Council Appointees, including the Redevelopment Agency Director, and excluding any change to the salary only for the newly hired Independent Police Auditor. Council Member Constant seconded the motion.

Council Members Pyle and Kalra expressed support to the motion.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75361](#), entitled: “A Resolution of the Council of the City of San José Approving Compensation and Benefit Changes with the Goal of Achieving a 10% Ongoing Compensation Reduction for the Mayor, City Council and City Council Appointees, including the Redevelopment Agency Director and Excluding a Change to the Salary of the Independent Police Auditor”, was adopted. Staff directed to return with an ordinance to implement changes to Mayor/Council salaries. (11-0.)

3.2 Adopt a resolution approving the implementation of the terms of the City’s Last, Best and Final Offer for employees represented by the Association of Building, Mechanical and Electrical Inspectors (ABMEI), effective June 27, 2010. CEQA: Not a Project. (City Manager’s Office)

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated April 13, 2010, recommending adoption of a resolution.

City Manager Debra Figone provided opening comments. Office of Employee Relations Manager Gina Donnelly presented an overview of the terms of the City’s Last, Best and Final Offer for employees represented by the Association of Building, Mechanical and Electrical Inspectors (ABMEI).

3.2 (Cont'd.)

Motion: Vice Mayor Chirco moved approval of the Staff recommendations. Council Member Constant seconded the motion.

Council Member Constant stated that proactive steps need to be taken and that no bargaining unit should be exempt.

Substitute Motion: Council Member Nguyen moved approval to: (1) direct the City Manager to resume good-faith negotiations with ABMEI with the objective of expeditiously achieving a contract that takes effect on June 27, 2010. The parameters for negotiations shall be: (a) to accomplish the objective of reducing total ongoing employee compensation by 5%; (b) to include and build upon proposals ABMEI has already put forward; and (c) to achieve resolution in a manner that encourages other bargaining units to also adopt strategies that help resolve the city's budget shortfall. (2) Direct the City Manager to report to the City Council in closed session on the progress of these negotiations on a weekly basis. Council Member Campos seconded the motion.

Director of Employee Relations Alex Gurza and Office of Employee Relations Manager Gina Donnelly responded to Council questions.

Extensive Council discussion ensued.

Mayor Reed, Council Members Constant, Liccardo and Oliverio expressed opposition to the substitute motion.

Council Member Campos pointed out that the substitute motion sends a strong message that Council was willing to come to the table, problem solve and work with the employees and the community.

Council Member Chu expressed support to the substitute motion.

Council Member Campos provided meeting disclosures

On a call for the question, the substitute motion failed. (4-7. Noes: Chirco, Constant, Herrera, Liccardo, Oliverio, Pyle; Reed.)

The original motion was back on the floor.

Action: On a call for the question, the original motion carried, [Resolution No. 75362](#), entitled: "A Resolution of the Council of the City of San José Approving Implementation of the Terms Contained in the City's Last, Best and Final Offer to the Association of Building, Mechanical and Electrical Inspectors, Effective June 27, 2010", was adopted. (7-4. Noes: Campos, Chu, Kalra, Nguyen.)

3.3 Adopt a resolution approving compensation and benefit changes for executive management and professional employees in Unit 99, and other unrepresented employees, effective June 27, 2010. (City Manager not included) CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from City Manager Debra Figone, dated April 13, 2010, recommending adoption of a resolution.

City Manager Debra Figone offered opening comments. Director of Employee Relations Alex Gurza presented the Staff Report on the compensation and benefit changes for executive management and professional employees in Unit 99, and other unrepresented employees.

Motion: Vice Mayor Chirco moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

City Manager Debra Figone and Director of Employee Relations Alex Gurza responded to Council questions.

Council Member Constant expressed opposition to the motion because 5% concessions are put off until June 3, 2010. He suggested that the City Manager explore other options, for example furloughs.

Council Member Oliverio expressed opposition to the motion because he could not support anything less than 10% concessions.

Council Member Kalra requested that Staff return to Council with a legal and fiscal analysis on the adjustments of sick leave pay-out for deferred vested employees.

Action: On a call for the question, the motion carried, [Resolution No. 75363](#), entitled: "A Resolution of the Council of the City of San José Approving Changes to Compensation and Benefits for Executive Management and Professional Employees in Unit 99 and Other Unrepresented Employees in Units 81 and 82, Effective June 27, 2010, and Deferring Changes to Sick Leave Payout for Former Employees that Have at Least Fifteen Years of Service in the Federated City Employees' Retirement System, But Have Not Yet Retired, Until June 3, 2010", was adopted, as amended. (Action postponed on sick leave pay-out for deferred vested employees; Staff was directed to bring back a legal and fiscal analysis.) (6-5. Noes: Campos, Constant, Kalra, Nguyen, Oliverio.)

GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Chirco, seconded by Council Member Oliverio, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

- 10.1 (a) Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Non-Urban Hillside (Silver Creek Planned Residential Community) to Public/ Quasi-Public (Silver Creek Planned Residential Community) on a 3-acre portion of a 21.1-acre site, located on the east side of Dove Hill Road, approximately 500 feet north of Hassler Parkway (4200 Dove Hill Road) (Kuehne Stanislaus and Eleanore Trustee & Et, owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
GP08-08-03 - District 8**

Director of Planning, Building and Code Enforcement Joseph Horwedel provided comments on the General Plan Amendment Request and noted that this item will be renoticed and continued to May 18, 2010.

Action: Continued to May 18, 2010 per Orders of the Evening.

- (b) Tentative approval of a General Plan amendment request to amend the San José 2020 General Plan Land Use/Transportation Diagram to add a Neighborhood Business District (NBD) overlay to the Winchester Boulevard, generally from Stevens Creek Boulevard to Impala Drive. CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
GP10-01-01 - District 1**

Documents Filed: (1) Memorandum from Planning Commission Secretary Laurel Prevetti, dated April 8, 2010, transmitting the recommendation of the Planning Commission. (2) Proof of Publication of Notice of Public Hearing, executed on March 28, 2010, submitted by the City Clerk.

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

Action: Upon motion by Council Member Constant, seconded by Council Member Oliverio and carried unanimously, the City Council tentatively approved the proposed General Plan Amendment. (10-0-1. Absent: Campos.)

- 10.1 (c) Tentative approval of a General Plan Amendment request to change the San José 2020 General Plan, Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on a 1.82-acre site, located on the east side of Almaden Expressway, approximately 300 feet northerly of Fleetwood Drive (6082 Almaden Expressway) (Mazzone, Benjamin W Trustee & et al; owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). GP07-10-01 - Council District 10**

Documents Filed: (1) Memorandum from Council Member Pyle, dated April 26, 2010, recommending approval of the Staff recommendations with direction. (2) Memorandum from Planning Commission Secretary Joe Horewedel, dated April 8, 2010, transmitting the recommendation of the Planning Commission. (3) Proof of Publication of Notice of Public Hearing, executed on March 28, 2010, submitted by the City Clerk.

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

Motion: Council Member Pyle moved approval of the Staff recommendations and her memorandum dated April 26, 2010, with further direction to Staff. Council Member Oliverio seconded the motion.

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

Action: On a call for the question, the motion carried unanimously, the City Council tentatively approved the proposed General Plan Amendment and the memorandum from Council Member Pyle, dated April 26, 2010, with the following conditions: Staff was tentatively directed to notify any potential developer that any Planned Development Rezoning must include a strong neighborhood integration component. The only access to this property will be through the existing Almaden Hills Estates neighborhood. New development will need to work with the existing neighborhood to address concerns such as but not limited to, protection of existing view sheds and the continuation of existing sound walls. Almaden Hills Estates is a very active community and new development needs make every effort to create an environment that blends both. (10-0-1. Absent: Campos.)

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

GENERAL PLAN PUBLIC HEARINGS

- 10.2 Tentative denial of a General Plan Amendment request to change the Land Use/Transportation Diagram designation to add Mixed Industrial Overlay to an existing Heavy Industrial land use designation on a 3.95 gross acre site, located at 2159 South 10th Street (Provident Holdings & Investments LLC, Owner). CEQA: Statutorily Exempt (Denial). Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (5-1-1).
GP09-07-02 – District 7
(Continued from 2/23/10 – Item 11.3)**

Action: Continued to the Fall 2010 General Plan Hearings per Administration.

- 10.3 Tentative consideration of a General Plan amendment request to change the San José 2020 General Plan, Land Use/Transportation Diagram designation from Public/Quasi-Public to Medium Low Density Residential (8 DU/AC) on a 3.2 acre site located at the southeast corner of Yerba Buena Road and Highway 101 (3800 Dove Hill Road) (Lo, Joey and Frances, owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval (5-2-0).
GP09-08-01 - Council District 8**

Documents Filed: (1) Memorandum from Council Member Herrera, dated April 27, 2010, recommending approval of the Planning Commission recommendation with three conditions as outlined in “Action”. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated April 8, 2010, transmitting the recommendation of the Planning Commission. (3) Proof of Publication of Notice of Public Hearing, executed on March 28, 2010, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel recommended no change to the General Plan.

Mayor Reed opened the public hearing.

Public Comments: Gerry de Young commented on the merits of the project and disagreed with Item (3) on Council Member Herrera’s memorandum. He pointed out if the proposed church does not move forward; he requested consideration of development of that portion of the property (approximately one acre).

Mayor Reed closed the public hearing.

Council Member Herrera declined to change her memorandum.

Motion: Council Member Herrera moved approval of the Planning Commission’s recommendation and her memorandum dated April 27, 2010, with three conditions as depicted on Page 20 in “Action”. Vice Mayor Chirco seconded the motion.

10.3 (Cont'd.)

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

Council Members Liccardo and Kalra expressed opposition to the motion.

Council Member Chu provided meeting disclosures.

Council Member Chu requested that Council Member Herrera consider allowing the contractor to build nineteen houses in order to have larger lots. Council Member Herrera declined the request.

Action: On a call for the question, the motion carried, the City Council tentatively approved the proposed General Plan Amendment, the recommendation of the Planning Commission and the memorandum from Council Member Herrera, dated April 27, 2010, with the following conditions: (1) Allow no more than nineteen homes. (2) Applicant should submit zoning for the entire site. (3) If the proposed church does not move forward after five years, Staff should initiate a change to non-urban hillside. (8-2-1. Noes: Kalra, Liccardo. Absent: Campos.)

10.4 **Tentative consideration of a General Plan Amendment request to change the San José 2020 General Plan, Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on a 2.61 gross acre site, located at the northeast corner of Ruby Avenue and Murillo Avenue (2494 Ruby Ave) (Mahmood, Ghori; Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval (7-0-0). GP09-08-03 - Council District 8**

Documents Filed: (1) Memorandum from Council Member Herrera, dated April 27, 2010, recommending approval of the Planning Commission recommendation. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated April 8, 2010, transmitting the recommendation of the Planning Commission. (3) Proof of Publication of Notice of Public Hearing, executed on March 28, 2010, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel recommended denial of the General Plan Amendment request.

Mayor Reed opened the public hearing.

Public Comments: Jerry Strangis spoke to the merits of the project.

Mayor Reed closed the public hearing.

10.4 (Cont'd.)

Motion: Council Member Herrera moved approval of her memorandum dated April 27, 2010, approving the Planning Staff recommendation to change the San José 2020 General Plan, Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on a 2.61 gross acre site.

Council Members Liccardo and Oliverio voiced objection to the motion.

Action: On a call for the question, the motion carried, the City Council tentatively approved the proposed General Plan Amendment and the recommendation of the Planning Commission. (9-2-1. Noes: Liccardo, Oliverio. Absent: Campos.)

10.5 Adopt a resolution approving all General Plan amendment actions taken on April 27, 2010. (Planning, Building and Code Enforcement)

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the action for the General Plan Hearing was continued to May 18, 2010. (10-0-1. Absent: Campos.)

END OF GENERAL PLAN PUBLIC HEARINGS

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consider an ordinance rezoning the real property located at 1164 McLaughlin Avenue from the R-1-8 Residential Zoning District to the CG Commercial General Zoning District on a 0.17 gross acre site (Elizabeth Lien Vo, Owner). SNI: Tully/Senter. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C09-031 – District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C09-031, dated December 21, 2009. (2) Proof of Publication of Notice of Public Hearing, executed on April 14, 2010, submitted by the City Clerk.

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

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera and carried unanimously, [Ordinance No. 28741](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at 1164 McLaughlin Avenue from R-1-8 Single Family Residence to CG Commercial General Zoning District”, was passed for publication. (10-0-1. Absent: Campos.)

- (b) In the event the Council approves the General Plan amendment to add the Neighborhood Business District overlay designation to a portion of Winchester Boulevard in Item 10.1(b), adopt a resolution to repeal Resolution No. 75235 designating that portion of Winchester Boulevard as a Targeted Business Area.**

Action: Continued to May 18, 2010 General Plan Hearings.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consider an ordinance rezoning the real property located at/on the west side of N. Third Street, 340 feet south of Hensley Street (405 N Third Street) in the Hensley Historic District from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to six residential units within the existing structure(s) on a 0.17 gross acre site (Layne Sharon J, Owner; Bill Priest, Developer). SNI: 13th Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of 4 units (5-2-0).
PDC08-033 – District 3**

Action: Continued to June 15, 2010.

PUBLIC HEARINGS

- 11.3 Conduct an Administrative Hearing and consider an APPEAL of the Planning Commission's decision to approve a Conditional Use Permit to expand a legal non-conforming use by adding 11 rooms to an existing 16-room guest house on a 0.29 gross acre site, in the R-M Multiple Residence Zoning District, located at/on the southeast corner of E Saint John Street and N 5th Street (98 N 5th Street) (Sabankaya Semih and Jeanne K Trustee & Et Al, Owner). SNI: 13th Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold Planning Commission's decision to approve.
CP07-053 – District 3**

Action: Continued to May 18, 2010 per Orders of the Evening.

OPEN FORUM

Documents Filed: News item from Indybay dated May 19, 2009 regarding the Cinco de Mayo celebration on May 3, 2009.

- (1) Mark Trout criticized Child Protective Services.
- (2) Sharat G. Lin, San José Peace and Justice Center, submitted an article about the Cinco de Mayo celebration on May 3, 2009 and urged the San José Police Department to treat this festival like any other and without discrimination.
- (3) Donna Wallach, Justice for Palestinians, asserted she had personally observed discrimination by the San José Police Department of Hispanics at Cinco de Mayo on May 3, 2009.

ADJOURNMENT

The Council of the City of San José was adjourned at 12:08 a.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/04-27-10 MIN

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

JOINT REDEVELOPMENT AGENCY ITEM

- 8.1 (a) **Redevelopment Agency Board approval of a Purchase and Sale Agreement with Michael G. Akatiff & Christy D. Akatiff, as Trustees under Michael G. Akatiff and Christy D. Akatiff Revocable Living Trust Agreement dated July 8, 1993, and Pacific Coast Cycle Corporation in the amount of \$4,610,000 plus related closing costs, for the acquisition of all or portions of 443-479 Howard Street, 442 Howard Street, 428 Old W. Julian Street, 440 Old W. Julian Street (APN 259-25-050); authorization for the Executive Director to execute ancillary documents or take those actions necessary to close escrow.**
- (b) **Redevelopment Agency Board approval of a Purchase and Sale Agreement with Michael G. Akatiff & Christy D. Akatiff, as Trustees under Michael G. Akatiff and Christy D. Akatiff Revocable Living Trust Agreement dated July 8, 1993 for the sale of a portion of 445 Old W. Julian Street (APN 259-25-003); and authorizing the Executive Director to execute ancillary documents or take those actions necessary to close escrow.**

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

Documents Filed: Memorandum from Redevelopment Agency Board Executive Director Harry S. Mavrogenes, dated April 13, 2010, recommending approval of the agreements.

Redevelopment Agency Board Executive Director Harry S. Mavrogenes and Assistant Executive Director John Weis responded to Council questions.

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

Council Member Campos voiced opposition, citing she has yet to see the funding to complete the project.

Public Comments: Michael G. Akatiff (Seller) was available for questions.

Action: On a call for the question, the motion carried, a Purchase and Sale Agreement with Michael G. Akatiff & Christy D. Akatiff, as Trustees under Michael G. Akatiff and Christy D. Akatiff Revocable Living Trust Agreement dated July 8, 1993, and Pacific Coast Cycle Corporation in the amount of \$4,610,000 plus related closing costs, for the acquisition of all or portions of 443-479 Howard Street, 442 Howard Street, 428 Old W. Julian Street, 440 Old W. Julian Street,(APN 259-25-050) and a Purchase and Sale Agreement with Michael G. Akatiff & Christy D. Akatiff, as Trustees under Michael G. Akatiff and Christy D. Akatiff Revocable Living Trust Agreement dated July 8, 1993 for the sale of a portion of 445 Old W. Julian Street (APN 259-25-003) were approved and the Executive Director was authorized to execute ancillary documents or take those actions necessary to close escrow on both purchase and sale agreements. (10-1. Noes: Campos.)

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