



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 2, 2010

The Council of the City of San José convened in regular session at 9:00 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:00 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation of significant exposure (Claim Not Filed) in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) Gatti v. City, et al; Names of Parties Involved: Jane Gatti, City of San José and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case: 1-09-CV-135117; Amount of Money or Other Relief Sought: Damages according to proof; (2) Van Key v. Lim, et al; Names of Parties Involved: William Van Key, Nurulayni Soriano Lim; Bianting Hamjani Lim and Does 1-30, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-139225; Amount of Money or Other Relief Sought: Damages according to proof. (C) to confer with Real Property Designated Representatives pursuant to Government Code 54956.8: Property: Portions of Grant Avenue, McLellan Avenue and Edwards Avenue identified as portions of APNs 264-35-000 and 264-40-000; Negotiating Parties: Matt Morey for the City of San José and Katherine Oven for Santa Clara Valley Water District; Under Negotiation: The direction will concern price and terms of payment; Unlikely Range of Value of Property: Negotiated price based on appraisal and comparable property values. (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

CLOSED SESSION (Cont'd.)

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 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 11:00 a.m. and reconvened to Regular Session at 1:32 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

The Antioch Baptist Church Choir presented the Invocation. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved and Item 2.3(c) was deferred to March 9, 2010. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation recognizing Mi Pueblo Foods for raising \$100,000 for Haiti Relief Efforts. (Campos)

Action: Mayor Reed and Council Member Campos recognized and commended Mi Pueblo Foods for raising \$100,000 for Haiti Relief Efforts.

**1.2 Presentation of a proclamation declaring the month of March 2010 as “Nutrition Month” in the City of San José. (Kalra)
(Rules Committee referral 2/24/10)**

Action: Mayor Reed and Council Member Kalra recognized the month of March 2010 as “Nutrition Month” in the City of San José.

**1.3 Presentation of a proclamation declaring the week of March 1 through 7, 2010 as “Peace Corps Week” in the City of San José. (Mayor)
(Rules Committee referral 2/24/10)**

Action: Mayor Reed recognized the week of March 1 through 7, 2010 as “Peace Corps Week” in the City of San José.

**1.4 Presentation of a proclamation declaring the first week of March 2010 as “Irish Week” in the City of San José to welcome Dublin’s Lord Mayor, Councilor Emer Costello and the Dublin delegation and thanked the San José-Dublin Sister City Committee for organizing the Irish Week events. (Pyle)
(Rules Committee referral 2/24/10)**

Action: Mayor Reed and Council Member Pyle recognized the first week of March 2010 as “Irish Week” in the City of San José to welcome Dublin’s Lord Mayor, Councilor Emer Costello and the Dublin delegation.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Campos 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 February 10, 2010. (Mayor)**
- (b) Public Safety, Finance and Strategic Support Committee Report of February 18, 2010. (Nguyen)**
- (c) Rules and Open Government Committee Report of February 3, 2010. (Mayor)**

Documents Filed: (1) The Rules and Open Government Committee Reports dated February 3, 2010 and February 10, 2010. (2) The Public Safety, Finance and Strategic Support Committee Report dated February 18, 2010.

Public Comments: David Wall pulled Items 2.3(a)-(c) from the Consent Calendar and expressed concern that his comments were not reflected correctly on the Committee minutes.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the Rules and Open Government Committee Reports and the actions of February 3, 2010 and February 10, 2010; and the Public Safety, Finance and Strategic Support Committee Report and the actions of February 18, 2010, were accepted. (10-0-1. Absent: Constant.)

- (d) Neighborhood Services and Education Committee Report of February 11, 2010. (Campos)**
[Deferred from 02/23/10 – Item 2.3(e)]

Action: Deferred to March 9, 2010 per Orders of the Day.

- 2.4 (a) Request for excused absences for Council Member Campos from the Regular Meeting of the Transportation and Environment Committee on March 1, 2010 due to Authorized City Business: Trip to Sacramento to meet with State Legislators and Assembly Speaker John A. Pérez. (Campos)**
(Rules Committee referral 2/24/10)

Documents Filed: Memoranda from Council Member Campos, both dated February 19, 2010, requesting excused absences due to authorized City business.

Action: The absences for Council Member Campos were excused. (11-0.)

- 2.5 (a) Verbal Report from Council Member Pyle on February 10, 2010 trip to Sacramento, CA to meet with the City’s Legislative Delegation regarding the impacts of the State’s Budget on San José’s overall City/Agency Budget. (Pyle)**

Council Member Pyle provided a brief report about the trip to Sacramento, California to meet with the City’s Legislative Delegation regarding the impacts of the State’s Budget on the City of San José.

2.5 (a) (Cont'd.)

Public Comments: Ross Signorino commented on the verbal report from Council Member Pyle.

The verbal report from Council Member Pyle was received.

2.6 (a) Reject all bids for the San José/Santa Clara Water Pollution Control Plant, Filter Rehabilitation, FY 2009/2010 project.

(b) Adopt a resolution authorizing the City Manager or her designee to:

- (1) Award the contract for the San José/Santa Clara Water Pollution Control Plant, Filter Rehabilitation, FY 2009/2010 project to the lowest responsive and responsible bidder in an amount not to exceed \$300,000 and approval of a 10% construction contingency.**
- (2) Decide any timely bid protests, make the City's final determination as to the lowest responsive and responsible bidder, or to reject all bids and re-bid the project.**

CEQA: Exempt, File No. PP09-185. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated February 8, 2010, recommending rejection of all bids and adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated February 25, 2010, stating concurrence with the Staff recommendations.

Director of Environmental Services John Stufflebean responded to concerns raised by Council Member Campos.

Action: Upon motion by Council Member Campos, seconded by Council Member Constant and carried unanimously, all bids were rejected and Resolution No. 75291, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Construction Contract for the San José/Santa Clara Water Pollution Control Plant, Filter Rehabilitation, FU 2009-2010 Project to the Lowest Responsive and Responsible Bidder, in an Amount Not To Exceed \$300,000", was adopted. (11-0.)

**2.7 As recommended by the Rules and Open Government Committee on February 17, 2010, approve the 2010-2011 Clean Tech Legislative Agenda. (Mayor)
[Rules Committee referral 2/17/10 – Item A(2)(a)]**

Action: Deferred to March 9, 2010 per Mayor Reed.

**2.8 As recommended by the Rules and Open Government Committee on February 24, 2010, adopt a support position for AB 510 (Skinner) – Net Energy Metering which was supported by the City in 2009 as AB 560 (Skinner). CEQA: Not a Project. (Environmental Services)
[Rules Committee referral 2/24/10 – Item D(1)]**

2.8 (Cont'd.)

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated February 24, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: A support position for AB 510 – Net Energy Metering which was supported by the City in 2009 as AB 560 was adopted. (11-0.)

2.9 **As recommended by the Rules and Open Government Committee on February 24, 2010, reappoint Jeannie LoFranco to a second term on the Project Diversity Screening Committee for a term ending December 31, 2011. (City Clerk)** **[Rules Committee referral 2/24/10 – Item G(1)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated February 24, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: Jeannie LoFranco was reappointed to a second term on the Project Diversity Screening Committee for a term ending December 31, 2011. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

Documents Filed: Staff presentation dated March 2, 2010 outlining the 2011-2015 General Fund Forecast.

City Manager Debra Figone provided a brief update on the 2011-2015 General Fund Forecast which projects a budget shortfall of 116.2M in 2010-2011 due to increased retirement contribution rates and decreased revenue estimates. She added that the Mayor's Budget Message will be released on March 12, 2010.

3.3 Adopt a resolution:

- (a) Approving Rules and Open Government Committee recommendation for “Non-Governmental Body” to be consistent with the work of the Non-profit Strategic Engagement Committee.**
- (b) Adopting the recommendations from the Rules and Open Government Committee related to Statistical Reports Prepared by the Independent Police Auditor.**

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

3.3 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Communications Tom Manheim, dated February 8, 2010, recommending approval of the Rules and Open Government Committee recommendations. (2) Memorandum from Director of Communications Tom Manheim, dated February 9, 2010, recommending approval of the Rules and Open Government Committee recommendations related to statistical reports prepared by the Independent Police Auditor. (3) Staff presentation dated March 2, 2010 summarizing the Non-Government Bodies. (4) Staff presentation dated March 2, 2010 outlining the Independent Police Auditor Statistical Reports. (5) Letter from Silicon Valley Council of Nonprofits, dated March 2, 2010, expressed support to the staff recommendations.

Director of Communications Tom Manheim presented the Open Government Recommendations, Non-Governmental Bodies and highlighted the Rules and Open Government Committee Recommendations. Acting Independent Police Auditor Shivaun Nurre summarized the Independent Auditor Statistical Reports.

Discussion followed.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, Resolution No. 75292, entitled: "A Resolution of the Council of the City of San José (1) Approving the Sunshine Reform Task Force Phase I Report and Recommendations on Non-Governmental Bodies, as Amended by the Rules and Open Government Committee; (2) Approving the Sunshine Reform Task Force Phase II Report and Recommendations on Independent Police Auditor Statistical Reports, as Amended by Rules and Open Government Committee and (3) Implementing the Approved Recommendations on a Pilot Basis", was adopted. (11-0.)

3.4 As recommended by the Rules and Open Government Committee, adopt a resolution:

- (a) **Revising Council Policy 0-32 – Disclosure and Sharing of Material Facts to include disclosure by the Mayor and members of the City Council of any communication received and read during a Council meeting, either directly or indirectly, that is relevant to a matter under consideration by the City Council.**
- (b) **Modifying Council Policy 0-33 – Public Records Policy and Protocol to include communications concerning official business sent and received by the Mayor, Council Members or their staff via non-City-owned devices for purposes of a one-year pilot program.**

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

Documents Filed: (1) Replacement memorandum from Director of Communications Tom Manheim, dated February 26, 2010, providing corrected language in paragraph 2, Public Records Policy and Protocol on Page 3 and transmitting the Rules and Open Government Committee recommendations. (2) Staff presentation dated March 2, 2010 outlining Communications by City Council Using New Technologies.

3.4 (Cont'd.)

Senior Deputy City Attorney Lisa Herrick summarized Communications by City Council Using New Technologies.

City Attorney Richard Doyle and Senior Deputy City Attorney Lisa Herrick responded to Council questions.

Action: Upon motion by Council Member Herrera, seconded by Council Member Nguyen and carried unanimously, Resolution No. 75293, entitled: "A Resolution of the Council of the City of San José Approving Revisions to (1) City Council Policy 0-32, Disclosure and Sharing of Material Facts, and (2) City Council Policy 0-33, Public Records Policy and Protocol", was adopted. (11-0.)

3.2 **Accept the report on the implementation of the City's Open Government initiatives. (City Manager's Office)**

Documents Filed: (1) Memorandum from Director of Communications Tom Manheim, dated February 9, 2010, recommending acceptance of the report. (2) Staff presentation dated March 2, 2010 summarizing the Open Government Recommendations Implementation Status.

Director of Communications Tom Manheim outlined the Implementation Status of the City's Open Government Initiatives.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the report on the implementation of the City's Open Government initiatives was accepted. (11-0.)

- 3.5
- (a) **Council discussion and consideration of a ballot measure for the June 8, 2010 election to submit to the electors of the City of San José a proposed measure regarding the City's cardrooms.**
 - (b) **Direct the City Attorney to draft a resolution of the City Council calling and giving notice of, on its own motion, a Special Municipal Election to be held on June 8, 2010, to submit to the electors of the City of San José a proposed measure regarding the City's Cardrooms, for Council consideration on March 9, 2010.**
 - (c) **Council discussion and input on a community outreach strategy to provide information to the public regarding a ballot measure concerning cardrooms.**
- CEQA: Not a Project. (City Manager's Office)**

3.5 (Cont'd.)

Documents Filed: (1) Memorandum from Deputy City Manager Deanna J. Santana, dated February 23, 2010, recommending Council discussion and consideration of a ballot measure, direction to the City Attorney, input on a community outreach strategy and direction to Administration (2) Supplemental memorandum from Deputy City Manager Deanna J. Santana, dated March 1, 2010, summarizing the input provided by the City's cardrooms Bay 101 and Garden City regarding the proposed cardroom ballot measure. (3) Staff presentation dated March 2, 2010 outlining the Proposed Cardroom Ballot Measure.

Mayor Reed provided meeting disclosures.

Deputy City Manager Deanna J. Santana presented the Proposed Cardroom Ballot Measure.

City Attorney Richard Doyle, Deputy City Manager Deanna J. Santana and Police Chief Robert Davis responded to Council questions.

Extensive Council discussion followed.

Council Member Constant provided meeting disclosures and expressed concern that there was not a consensus from the cardrooms on all the issues.

Motion: Council Member Pyle moved approval to direct Staff and the City Attorney to include the following language in the ballot measure for Council approval on March 9, 2010. (1) Raise the cardroom tax from 13% to 15%. (2) Increase the number of card tables by eighteen so that each club can have nine more. (3) Permit the cardrooms to offer any card game which is legal in California and play card games only by rules permitted by State law. (4) Conduct necessary audits and oversight. Council Member Herrera seconded the motion.

Vice Mayor Chirco and Council Members Pyle and Campos provided meeting disclosures.

Police Chief Robert Davis expressed concern about impacting San José regulations. Council Member Liccardo agreed with Chief Davis and also expressed concern about social impacts.

Vice Mayor Chirco voiced concern about the percentages of cardrooms in the neighborhoods, stating there needs to be a balance for a safe, secure community and an ability to maintain an entertainment venue.

Council Member Chu provided meeting disclosures.

Council Member Campos and Chu objected to the "no limit" on bets.

3.5 (Cont'd.)

Substitute Motion: Council Member Constant moved approval to defer this item to allow further discussions with the cardrooms in order for this measure to be placed on the November 2010 ballot. Vice Mayor Chirco seconded the motion.

Council Member Oliverio noted that the option to place this measure on the November ballot will still exist next week and for that reason he would not support the substitute motion on the floor.

Mayor Reed expressed opposition to the substitute motion because the issues that Council had discussed today could be resolved in time to return to Council on March 9, 2010. He added that the cardrooms are supportive of the Staff recommendations and noted that the rate of loss between a June election and November election is about \$400,000 a month.

Vice Mayor Chirco concurred with Mayor Reed's comments and withdrew her second to the substitute motion.

The substitute motion died for lack of a second.

The original motion was back on the floor and discussion ensued.

Public Comments: Ross Signorino expressed support to the motion on the floor and noted that he would vote "yes" if this measure was on the ballot.

Action: On a call for the question, the original motion carried, the City Attorney and Staff were directed to include the following language in the ballot measure for Council approval on March 9, 2010: (1) Raise the cardroom tax from 13% to 15%. (2) Increase the number of card tables by eighteen so that each club can have nine more. (3) Permit the cardrooms to offer any card game which is legal in California and play card games only by rules permitted by State law. (4) Conduct necessary audits and oversight. (6-5. Noes: Campos, Chu, Kalra, Liccardo, Nguyen.)

3.6 As recommended by the Public Safety, Finance and Strategic Support Committee on February 18, 2010:

- (a) **Accept the Audit of Decentralized Cash Handling.**
- (b) **Direct the City Attorney's Office to draft an ordinance repealing provisions in the San Jose Municipal Code regarding bicycle licensing requirements.**

CEQA: Not a Project. City Auditor)

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated February 24, 2010, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon W. Erickson presented a brief outline of the Audit of Decentralized Cash Handling.

3.6 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Nguyen and carried unanimously, the Audit of Decentralized Cash Handling was accepted and the City Attorney's Office was directed to draft an ordinance repealing provisions in the San Jose Municipal Code regarding bicycle licensing requirements. (11-0.)

NEIGHBORHOOD SERVICES

- 5.1 Approve the consolidation of contingency funding into one contingency fund up to \$1,033,999 for the three construction contracts constituting the Parks and Recreation Bond funded project Happy Hollow Park and Zoo Renovations and Improvements Project. CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April, 2007 and Amended Mitigated Negative Declaration, File No. PP09-023, dated February 6, 2009. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated February 8, 2010, recommending approval of the consolidation of contingency.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Campos and carried unanimously, the consolidation of contingency funding into one contingency fund up to \$1,033,999 for the three construction contracts constituting the Parks and Recreation Bond funded project Happy Hollow Park and Zoo Renovations and Improvements Project were approved. (11-0.)

- 5.2 (a) Adopt a Resolution authorizing the City Manager to execute Special Use Authorization Amendment Number 4 with the United States Forest Service (USFS) to extend the current permit for operation of San José Family Camp to December 31, 2010 and to extend the amendment up to two additional years, through December 31, 2012, for purposes of negotiation and analysis, if additional time is deemed necessary to complete negotiations for a potential 20-year permit renewal with the USFS.**
- (b) Accept this report which recommends the closure of Family Camp for the 2010 season as a result of significant structural weakness identified in the Camp's sixty (60) year old dining hall building and direct staff to investigate options to re-open Family Camp for the 2011 season.**

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

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated February 12, 2010, recommending adoption of a resolution and acceptance of the report. (2) Email from a member of the public dated March 2, 2010, urging Council to extend the current operation permit for San José Family Camp. (3) Letter from Friends of San José Family Camp, dated March 1, 2010, submitting handwritten comments from the voters in District 8.

5.2 (Cont'd.)

Director of Parks, Recreation and Neighborhood Services Albert Balagso provided a brief presentation on the Family Camp Permit and Status Report.

Public Comments: Urging the City Council to keep San José Family Camp open through 2010 and speaking in support to reopening San José Family Camp in 2010, if it were to be closed in 2010 for repairs were: Michael Jennings, Tom Bonsack, Ralph Occhipinti, Gary Solmonsow, Friends of Family Camp; Raymond Pirlot, Karen Gillette, George Schoenherr, Mini Bini and Richard Chavira.

Director of Parks, Recreation and Neighborhood Services Albert Balagso and Assistant Director of Public Works David Sykes responded to Council questions and concerns.

Extensive discussion followed.

Motion: Council Member Constant moved approval of the Staff recommendations with further direction as described below in “Action”. Council Member Chu seconded the motion.

Council Member Liccardo requested that Staff share the challenges of renovating and reopening San José Family Camp with the public.

Action: On a call for the question, the motion carried, Resolution No. 75294, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Special Use Authorization Amendment Number 4 with the United States Forest Service to Extend the Current Permit for Operation of San José Family Camp to December 31, 2010 and to Extend the Amendment for Up to Two Additional Years”, was adopted, and as modified, *for purposes of negotiation and analysis*, if additional time is deemed necessary to complete negotiations for a *potential 20-year* permit renewal with the United States Forest Service; the report recommending the closure of Family Camp for the 2010 season as a result of significant structural weakness identified in the Camp’s sixty year old dining hall building and direction to staff to investigate options to reopen Family Camp for the 2011 season was accepted and the City Manager was directed to return with the following analysis prior to the execution of a new 20 year lease: (1) A plan that could bring the operation of Family Camp to full cost recovery, including the amount necessary to amortize the cost of needed repairs over a period of not to exceed ten years; and which includes the establishment of a sinking fund to address the other anticipated and unanticipated needs of Family Camp in the future. (2) A plan for a potential exit strategy and what would be the implications of closing Family Camp and discontinuing the City agreement with United States Forest Service; and what that would entail as far as costs that the City would need to return to pristine condition or as required by the permit so that Council can evaluate all options on the table. (8-3. Noes: Herrera, Liccardo, Pyle.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Adopt a resolution authorizing the City Manager, or designee to submit a grant application to the Metropolitan Transportation Commission for the 2010 Regional Transportation Improvement Program grant, in the amount of \$1,369,000, with a local match of \$343,000; and negotiate and execute all documents necessary to effectuate the grant.
- (b) Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:
- (1) Establish an appropriation to the Department of Transportation for the San Carlos Multimodal Streetscape Improvements project by \$343,000.
 - (2) Decrease the Ending Fund Balance by \$343,000.

CEQA: Reuse of the Downtown Strategy SEIR, Resolution No. 68839, File No. PP03-254. Council District 3. SNI: University. (Transportation)

Documents Filed: (1) Memorandum from Acting Director of Transportation Hans Larsen and Budget Director Jennifer Maguire, dated February 8, 2010, recommending adoption of a resolution and appropriation ordinance amendments. (2) Staff presentation dated March 2, 2010 summarizing the Status of the Transportation Funding Grants.

Acting Director of Transportation Hans Larsen reported on the Status of the Transportation Funding Grants.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Resolution No. 75295, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Execute and Submit a Grant Application to the Metropolitan Transportation Commission for the 2010 Regional Transportation Improvement Program Grant, in An Amount Not To Exceed \$1,369,000 for the San Carlos Multimodal Streetscape Improvements and To Execute All Documents Necessary to Effectuate the Grant" and Ordinance No. 28725, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Construction Excise Tax Fund for the San Carlos Multimodal Streetscape Improvements Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (8-0-3. Absent: Herrera, Kalra, Nguyen.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **Accept the 2009 Green Vision Annual Report and approve the proposed 2010 Work Plan. CEQA: Not a Project. (City Manager's Office)**

Action: Deferred to March 9, 2010 per Administration.

- 7.2 (a) **Adopt a resolution approving the Santa Clara Valley Water District “Mitigated Negative Declaration for Advanced Water Treatment Facility (AWTF)” and direction to City staff to implement the mitigation measures identified in the Mitigated Negative Declaration as applicable to City activities related to the AWTF.**
- (b) **Adopt a resolution authorizing the City Manager or designee to:**
- (1) **Award the “Contract for AWTF Early Earthworks” to the lowest responsive and responsible bidder and to establish a ten percent (10%) construction contingency, in an amount, including the contract award plus contingency, not to exceed \$2 million.**
 - (2) **Decide any timely protest(s), make the City’s final determinations to the lowest responsive and responsible bidder, or to reject all bids and rebid the project.**
- (c) **Approve “Agreement Between the City of San José and the Santa Clara Valley Water District for Integration of Facilities and Programs for the Use of Recycled Water in Santa Clara County” to promote cooperation between City and District related to the management and operation of their respective recycled water facilities for a term of forty years at an initial cost to the City not to exceed \$11 million (including the cost of the AWTF Earthwork contract) and an ongoing net cost to City of not to exceed \$2 million per year.**
- (d) **Approve “Ground Lease and Property Use Agreement By and Between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility” for a term of forty years to allow the District to construct and operate an AWTF on approximately five (5) acres of property located at the San José/Santa Clara Water Pollution Control Plant and to use other Plant property to connect the AWTF to the Plant.**

CEQA: Use, as a Responsible Agency under CEQA, of the lead agency’s (Santa Clara Valley Water District’s) “Mitigated Negative Declaration for Advanced Water Treatment Facility. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated February 8, 2010, recommending adoption of resolutions and approval of agreements. (2) Letter from the Treatment Plant Advisory Committee Chair Chuck Reed, dated February 23, 2010, stating concurrence with the Staff recommendations. (3) Staff presented dated March 2, 2010 summarizing the San José/Santa Clara Water Pollution Control Plant, Santa Clara Valley Water District Recycled Water Facilities and Programs Integration and Ground Lease Agreements.

Director of Environmental Services John Stufflebean presented an outline of the San José/Santa Clara Water Pollution Control Plant, Santa Clara Valley Water District Recycled Water Facilities and Programs Integration and Ground Lease Agreements and responded to Council questions and comments.

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

Public Comments: Ross Signorino commented that the micro-filtering system was a good investment for the future of the City of San José’s water supply.

7.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 75296, entitled: “A Resolution of the Council of the City of San José Making Certain Findings in Accordance with the California Environmental Quality Act for Actions to Support Implementation of an Agreement Between the City of San José and the Santa Clara Valley Water District and Authorization to Perform Earthwork on a Site at the San José/Santa Clara Water Pollution Control Plant, for Which an Initial Study/Mitigated Negative Declaration Was Prepared in Accordance with the California Environmental Quality Act and Adopting a Mitigation Monitoring and Reporting Program” and Resolution No. 75297, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Contract for Advanced Water Treatment Facility (AWTF) Early Earthworks to the Lowest Bidder, In An Amount Not To Exceed \$2,000,000 Including Contingency”, were adopted; and the agreement between the City of San José and the Santa Clara Valley Water District for Integration of Facilities and Programs for the use of recycled water in Santa Clara County to promote cooperation between City and District related to the management and operation of their respective recycled water facilities for a term of forty years at an initial cost to the City not to exceed \$11 million (including the cost of the AWTF Earthwork contract) and an ongoing net cost to City of not to exceed \$2 million per year and the Ground Lease and Property Use Agreement by and between the City of San José and the Santa Clara Valley Water District for Advanced Water Treatment Facility for a term of forty years to allow the District to construct and operate an AWTF on approximately five acres of property located at the San José/Santa Clara Water Pollution Control Plant and to use other Plant property to connect the AWTF to the Plant, were approved. (10-0-1. Absent: Nguyen.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 **Accept the report and direct staff to prepare an ordinance to revise Title 23 of the San José Municipal Code (the Sign Ordinance) consistent with the proposed draft signage strategy and conduct additional related community outreach. CEQA: Not a Project. (Planning, Building and Code Enforcement)**

Documents Filed: Staff presentation dated March 2, 2010 outlining the Proposed Preferred Strategy for the Sign Code Update.

Council Member Constant provided comments on Supergraphic Signs in the Downtown and left the Council Meeting at 5:30 p.m.

Director of Planning, Building and Code Enforcement Joseph Horwedel presented an overview on Supergraphics in the Downtown.

Motion: Council Member Liccardo moved approval of Options 1 and 6, as described by Staff, and direction to Staff to: (1) Provide a longer maximum term of display for significant public venues. (2) Return to Council in 24 months to revisit the limit on the number of signs. (3) Provide greater flexibility in building height under Option 6. Council Member Herrera seconded the motion.

4.1 (Cont'd.)

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

Extensive discussion followed.

Mayor Reed requested to amend the motion to create an exemption for significant public or City owned venues for duration as well as the number of signs in the downtown. The amendment was accepted by Council Members Liccardo and Herrera. The City Attorney was directed to look at both public or City owned venues.

Public Comments: Michael Colbruno, Clear Channel Outdoor, suggested that the Staff take a look at what other jurisdictions, cities and public/private partnerships are doing for supergraphics and electronic signage.

Action: On a call for the question, the motion carried unanimously, due to time constraints, Council provided direction on one out of eight policy questions, as outlined in the supplemental memorandum, as follows, Supergraphic Signs in the Downtown: Staff Options 1 and 6 as recommended by the Administration approved as amended: (1) Provide a longer maximum term of display for significant public venues. (2) Return to Council in 24 months to revisit the limit on the number of signs. (3) Provide greater flexibility in building height under Option 6. Item 4.1 was continued to March 16, 2010. (10-0-1. Absent: Constant.)

OPEN FORUM

Judy Purrington urged the Council to not further reduce service hours at the libraries in San José.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:13 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/03-02-10 MIN

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