

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, MAY 18, 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, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - Chirco. (Excused)

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 subsection (a) of Section 54956.9 with respect to existing litigation: (1) City v. PG&E; Names of Parties Involved: City of San José, Pacific Gas and Electric Company, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case No: 108CV122836; Amount of Money or Other Relief Sought: Seeking to obtain real property through eminent domain for fair market value. (B) 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 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,

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

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](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 11:07 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Council Members - None.

## **INVOCATION**

Joseph George Middle School Drum Corps presented the Invocation. (District 5)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed and the students from Rosemary Elementary School (District 1) 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, and Item 2.3(a) was deferred to May 25, 2010 and noted that although a Mitigated Negative Declaration for a Conditional Use Permit for the expansion of a gas station at the southeast corner of McKee Road and 33rd Street indicated that the hearing on that appeal should have been heard in the evening on May 18, 2010, subsequently the item was renoticed to be heard on June 15, 2010. (11-0.)

## CEREMONIAL ITEMS

### **1.2 Presentation of a proclamation declaring the week of May 16-22, 2010 as Public Works Week. (Public Works)**

Action: Mayor Reed and Director of Public Works Katy Allen recognized the week of May 16 through May 22, 2012 as “Public Works Week”.

### **1.3 Presentation of a proclamation declaring the month of May 2010 as “Historic Preservation Month” in the City of San José. (Chirco)**

Action: Mayor Reed and Vice Mayor Chirco recognized the month of May 2010 as “Historic Preservation Month” in the City of San José.

### **1.4 Presentation of the winners of the Historical San José 2010 Photography Contest sponsored by the Historic Landmarks Commission. (Chirco)**

Action: Item 1.4 was dropped.

### **1.6 Presentation of a commendation to the 2010 Silver Creek High School Japan Bowl Teams for their achievements at the 2010 National Japan Bowl Competition. (Herrera)**

Action: Mayor Reed and Council Member Herrera recognized and commended the 2010 Silver Creek High School Japan Bowl Teams for their achievements at the 2010 National Japan Bowl Competition.

### **1.9 Presentation of a proclamation declaring May 12, 2010 as “National Lab Day” in the City of San José in recognition of the nationwide initiative to build local communities of support that will foster ongoing collaborations among volunteers, students and educators. (Kalra)**

Action: Mayor Reed and Council Member Kalra recognized May 12, 2010 as “National Lab Day” in the City of San José.

## 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.)

### **2.1 Approval of Minutes.**

- (a) Regular Minutes of March 2, 2010.**
- (b) Airport Economic and Budget Issues Study Session Minutes of March 8, 2010.**
- (c) Regular Minutes of March 9, 2010.**

- 2.1 (d) **Regular Minutes of March 16, 2010.**  
(e) **Regular Minutes of March 23, 2010.**  
(f) **Regular Minutes of March 30, 2010.**

Documents Filed: (1) The Regular Minutes dated March 2, 2010, March 9, 2010, March 16, 2010, March 23, 2010 and March 30, 2010. (2) The Airport Economic and Budget Issues Study Session Minutes dated March 8, 2010.

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

2.2 **Final adoption of ordinances.**

- (a) **ORD. NO. 28743 – To provide for a temporary Business Tax Suspension Program for taxpayers with thirty-five or fewer employees that enter into a new lease or renew an existing lease between January 1 – September 1, 2010 and pay past due obligations owed the City as provided in the ordinance.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28743 executed on May 14, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28743](#) was adopted. (11-0.) (First Reading: 10-1. Noes: Campos.)

2.3 **Approval of Council Committee Reports.**

- (a) **Transportation and Environment Committee Report of May 3, 2010. (Liccardo)**

Action: Deferred to May 25, 2010 per Orders of the Day.

- (b) **Rules and Open Government Committee Report of April 28, 2010. (Mayor)**  
(c) **Rules and Open Government Committee Report of April 21, 2010. (Mayor)**  
(d) **Community and Economic Development Committee of April 26, 2010. (Pyle)**

Documents Filed: (1) The Rules and Open Government Committee Reports dated April 21, 2010 and April 28, 2010. (2) The Community and Economic Development Committee Report dated April 26, 2010.

Public Comments: David Wall provided comments on the Rules and Open Government Committee Report dated April 21, 2010 and the Community and Economic Development Committee Report dated April 26, 2010.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Committee reports were approved. (11-0.)

- 2.4 (a) **Request for an excused absence for Vice Mayor Chirco from the Regular Meeting of the Neighborhood Services and Education Committee on May 13, 2010 due to Personal Appointment. (Chirco)**  
**(Rules Committee referral 5/12/10)**

**2.4 (a) (Cont'd.)**

Documents Filed: Memorandum from Vice Mayor Chirco, dated May 12, 2010, requesting an excused absence due to a personal appointment.

Action: Item 2.4(a) was dropped per Vice Mayor Chirco.

- 2.6 (a) Reject all bids for the SJ-19 Recycled Water Airport Main Extension project.**  
**(b) Accept the report on re-bid of the project and award of contract for SJ-19 Recycled Water Airport Main Extension project to the low bidder, Bay Pacific Pipelines, Inc., for the term of May 25, 2010 to August 27, 2010, in an amount not to exceed \$473,000, and approve a project contingency in the amount of \$75,000.**

**CEQA: Exempt, File PP10-20. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated April 26, 2010, recommending rejection of all bids, accept the report on the re-bid of the project and the award of the contract to the low bidder. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated May 2010, stating concurrence with the Staff recommendation.

Action: All bids for the SJ-19 Recycled Water Airport Main Extension project were rejected and the report on re-bid of the project and award of contract for SJ-19 Recycled Water Airport Main Extension project to the low bidder, Bay Pacific Pipelines, Inc., for the term of May 25, 2010 to August 27, 2010, in an amount not to exceed \$473,000, with related contingency, were approved. (11-0.)

- 2.7 Adopt a resolution authorizing the City Manager to submit two grant proposals to the California Energy Commission, Alternative and Renewable Fuel and Vehicle Technology Program, for up to \$1,000,000 each to conduct pre-development planning for:**

- (a) A biomethane transportation fuel production facility on Water Pollution Control Plant lands.**  
**(b) An alternative fuel vehicle manufacturing facility in San José.**

**CEQA: Not a Project, File #PP10-068 Grant Application. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated April 26, 2010, recommending adoption of a resolution. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated May 2010, stating concurrence with the Staff recommendation.

Public Comments: David Wall voiced opposition to the use of biomethane fuel and alternative fuel vehicles.

**2.7 (Cont'd.)**

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75370](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit Two Grant Proposals to the California Energy Commission, Alternative and Renewable Fuel and Vehicle Technology Program, For Up to \$1,000,000 Each to Conduct Predevelopment Planning for a Biomethane Transportation Fuel Production Facility on the Water Pollution Control Plant and an Alternative Fuel Vehicle Manufacturing Facility in San José", was adopted. (11-0.)

**2.8 Adopt a resolution authorizing the Director of Finance to:**

- (a) Negotiate and execute purchase orders with Oracle, Inc. pursuant to the master terms and conditions agreed upon between the parties on February 28, 2005 for software update and license support for a one year term, at a total cost of \$419,359.**
- (b) Approve a contingency not-to-exceed \$20,000 to cover any unanticipated additional maintenance requirements during the initial one year term, subject to the appropriation of funds.**
- (c) Exercise annual options to renew software update and license support with Oracle, Inc. subject to the annual appropriation of funds.**

**CEQA: Not a Project, File No. PP10-066(a) Agreements and Contracts. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated April 26, 2010, recommending adoption of a resolution.

Public Comments: David Wall voiced opposition to issues associated with biomethane fuel and alternative fuel vehicles.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75371](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute Purchase Orders for Software Update and License Support with Oracle, Inc.", was adopted. (11-0.)

- 2.9**
- (a) Approve a grant agreement with the State of California Natural Resources Agency for receipt of grant funds in the amount of \$700,000 under the California River Parkways grant program from the Proposition 50 State Bond Fund for the Guadalupe River Reach 6 Trail (Woz Way to Virginia Street) Project.**
  - (b) Approve a grant agreement with the State of California Natural Resources Agency for receipt of grant funds in the amount of \$123,574 from Proposition 13 State Bond Fund for the Guadalupe River Reach 6 Trail (Woz Way to Virginia Street) Project.**

- 2.9 (c) **Approve a Memorandum of Unrecorded Grant Agreement to be recorded against City owned property for the Guadalupe River Reach 6 Trail (Woz Way to Virginia Street) Project as required by the State of California Natural Resources Agency as a condition of the grant agreements.**

**CEQA: Mitigated Negative Declaration, File No. PP04-03-102. Council District 3. SNI: Washington, Greater Gardner. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May, 4, 2010, recommending approval of the grant agreements and memorandum of unrecorded grant agreement.

Action: A grant agreement with the State of California Natural Resources Agency for receipt of grant funds in the amount of \$700,000 under the California River Parkways grant program from the Proposition 50 State Bond Fund for the Guadalupe River Reach 6 Trail project, a grant agreement with the State of California Natural Resources Agency for receipt of grant funds in the amount of \$123,574 from Proposition 13 State Bond Fund for the Guadalupe River Reach 6 Trail project and a Memorandum of Unrecorded Grant Agreement to be recorded against City owned property for the Guadalupe River Reach 6 Trail Project as required by the State of California Natural Resources Agency as a condition of the grant agreements were approved. (11-0.)

- 2.10 **Adopt a resolution authorizing the City Manager to negotiate and execute a freeway maintenance agreement between the City of San José and the California Department of Transportation for State Highway 101 in the City of San José from Story Road to Capitol Expressway including the 101/Tully Road interchange. CEQA: Mitigated Negative Declaration, File No. OA05-010. Council Districts 5, 7 and 8. SNI: K.O.NA.; Tully/Senter; West Evergreen. (Transportation)**

Documents Filed: Memorandum from Acting Director of Transportation Hans F. Larsen, dated April 26, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75372](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Freeway Maintenance Agreement with the California Department of Transportation for State Highway 101 in the City of San José from South of Story Road to North of Capital Expressway Including the 101/Tully Road Interchange”, was adopted. (11-0.)

- 2.11 **As recommended by the Rules and Open Government Committee on May 12, 2010, adopt a position of support for SB 918 (Pavley) to require the State Department of Public Health to develop and adopt uniform water recycling criteria for potable water reuse. (Environmental Services)**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 13, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: David Wall provided comments on Senate Bill 918.

## 2.11 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, a position of support for SB 918 (Pavley) to require the State Department of Public Health to develop and adopt uniform water recycling criteria for potable water reuse was adopted. (11-0.)

## 2.12 **As recommended by the Rules and Open Government Committee on May 12, 2010, adopt a position of support for AB 2138 (Chesbro) Plastic Ocean Pollution Reduction, Recycling and Composting Act. (Environmental Services)**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 13, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: A position of support for AB 2138 (Chesbro) Plastic Ocean Pollution Reduction, Recycling and Composting Act was adopted. (11-0.)

## 2.13 **As recommended by the Rules and Open Government Committee on May 12, 2010:**

- (a) **Reappoint Erik Karstan Smith and Jose Villanueva Castro, Jr. to the Parks and Recreation Commission. (Pyle)**
- (b) **Reappoint Daniel Ray Newell and Otila Salazar Torres to the Disability Advisory Commission. (Pyle)**
- (c) **Reappoint Frank Sweeney and John Salad to the Airport Commission. (Chu)**
- (d) **Reappoint Erica Schaefer to the Early Care and Education Commission. (Chirco)**
- (e) **Reappoint Dana Peak and Stephen Cohen to the Historic Landmarks Commission. (Chirco)**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 13, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The nine reappointments were approved. (11-0.)

## **END OF CONSENT CALENDAR**

## **STRATEGIC SUPPORT SERVICES**

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

City Manager Debra Figone provided a brief response to the Working Partnerships USA budget proposals that were revealed at the press conference on Monday, May 17, 2010.

- 3.2 (a) As recommended by the Public Safety, Finance and Strategic Support Committee on April 15, 2010, accept the report containing recommended changes to the City of San José Executive Home Loan Program.
- (b) Adopt a resolution modifying the City of San Jose Executive Home Loan Program and repealing Resolution No. 69478.  
(City Manager’s Office)

Action: Deferred to May 25, 2010 per Administration.

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 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

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 26, 2010, submitted by the City Clerk.

Action: Item 4.1 was dropped.

- 4.2 Approval of an ordinance amending San Jose Municipal Code Chapter 17.38, Neglected Vacant Houses to:
- (a) Change the title of the Chapter from “Neglected Vacant Houses” to “Maintenance and Rehabilitation of Neglected Vacant or Abandoned Buildings,” and expand the provisions of the existing ordinance to include any neglected vacant or abandoned buildings.
- (b) Require all vacant or abandoned buildings to be rehabilitated within 180 calendar days after the building is vacant, unless the building meets certain maintenance or other requirements specified in the ordinance.
- (c) Require all vacant or abandoned historic buildings or structures listed on the National Register of Historic Places, California Register of Historic Resources, or City of San Jose Register of Historic Landmarks to have an operating security alarm system approved by the City’s Director of Planning, Building and Code Enforcement, and clarify that vacant or abandoned historic buildings deemed unsafe by the Fire Marshal may be subject to additional fire alarm system requirements consistent with Section 311 of the California Fire Code.
- (d) Make other clarifying changes to the ordinance as described in the memorandum.

CEQA: Exempt, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for the Protection of the Environment. (Planning, Building and Code Enforcement)  
(Deferred from 5/11/10 – Item 4.1)

## 4.2 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 23 2010, recommending approval of an ordinance. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 12, 2010, providing clarification of additional security and fire alarm requirements for vacant or abandoned historic buildings within the City of San José. (3) Staff presentation dated May 18, 2010 summarizing the Amendments to Neglected Vacant House Ordinance.

Code Enforcement Administrator Jamie L. Matthews presented the Staff report.

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

Mayor Reed requested that the City Attorney clarify the language and incorporate for the second reading of the ordinance that rehabilitation in the Municipal Code state that the property is no longer considered a public nuisance.

Public Comments: Speaking in support to the Staff recommendations were Brian Grayson and Judi Henderson, Preservation Action Council San José, and Ruth Cavagnaro, Shasta Hanchet Park Neighborhood Association.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Liccardo and carried unanimously, [Ordinance No. 28745](#), entitled; “An Ordinance of the City of San José Amending Chapter 17.38 of Title 17 of the San José Municipal Code to Require Maintenance of Vacant Building and Registration of Neglected or Abandoned Buildings”, was passed for publication, as amended, the City Attorney was directed to clarify the language and incorporate for the second reading of the ordinance that rehabilitation in the Municipal Code state that the property is no longer considered a public nuisance. (11-0.)

## NEIGHBORHOOD SERVICES

- 5.1 Adopt a resolution authorizing the City Manager to submit an application to the YMCA of Santa Clara Valley in an amount not to exceed \$1,200,000 to support the efforts of a Summer Nutrition Collaborative and to negotiate and execute a grant agreement accepting the grant and any collateral documents, and to execute amendments to the grant agreement to extend or modify the grant period or to accept additional grant funds up to twice the original amount under this grant. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services) (Deferred from 5/11/10 – Item 5.1)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 5, 2010, recommending adoption of a resolution.

## 5.1 (Cont'd.)

Director of Parks, Recreation and Neighborhood Services Albert Balagso provided comments and advised that he will provide a revised list of sites via an information memorandum to the City Council.

Action: Upon motion by Council Member Constant, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75373](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application to the YMCA of Santa Clara Valley for a Grant to Support the Efforts of a Summer Nutrition Collaborative, To Negotiate and Execute a Grant Agreement with YMCA and To Negotiate and Execute All Related Documents", was adopted. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

**6.1 As recommended by the Transportation and Environment Committee on May 3, 2010, accept the report and approve a Major Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to:**

- (a) Shift the plan horizon from 2017 to 2027.**
- (b) Updated projected demand and facility requirements.**
- (c) Modify specific components of the facility development program.**

**CEQA: Airport EIR, Resolution Nos. 67380 and 71451, File No. PP10-024. (Airport) [Transportation and Environment Committee referral 5/3/10 – Item D(7)]**

Action: Deferred to June 8, 2010 per Administration.

## ENVIRONMENTAL & UTILITY SERVICES

**7.1 Adopt a resolution authorizing the City Manager to negotiate and execute first amendments to the master agreements with:**

- (a) Carollo Engineers for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent.**
- (b) CH2M Hill for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by five percent.**
- (c) Black & Veatch for various capital improvement projects at the San José/Santa Clara Water Pollution Control Plant increasing the maximum compensation by \$3,000,000, for a total agreement amount not to exceed \$4,000,000 and decreasing the hourly rates by four percent.**

**CEQA: Not a Project: Statutorily Exempt, File No. PP10-066(d), CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Environmental Services)**

Action: Deferred to June 15, 2010 per Administration.

**7.2 As recommended by the Transportation and Environment Committee on May 3, 2010, approve the Strategic Energy Action Plan which establishes strategies and actions for achieving Green Vision Goals related to energy use reductions and increased use of renewables. CEQA: Not a Project, File No. PP10-068 Policy Adoption. (Environmental Services)**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated May 12, 2010, transmitting the recommendations of the Transportation and Environment Committee.

Energy Program Manager of the Sustainability and Compliance Division Mary Tucker provided the Staff report.

Director of Environmental Services John Stufflebean and City Attorney Richard Doyle responded to Council questions and comments.

Action: Upon motion by Council Member Kalra, seconded by Council Member Liccardo and carried unanimously, the Strategic Energy Action Plan which establishes strategies and actions for achieving Green Vision Goals related to energy use reductions and increased use of renewables was approved. (11-0.)

## **OPEN FORUM**

Documents Filed: Letter dated May 18, 2010 from the Friends of T.J. Martin, Jeffrey Fontana Parks regarding the response to PG&E cutting of trees.

- (1) Speaking in opposition to the removal of trees from the TJ Martin/Jeffrey Fontana Parks by PG&E were Roberta Moore, Richard Stevens, Pier Maggiani, Vince Piazzisi, David James, Rosy Bowring, Linda Wilson and Jay Stevens.

Council Member Pyle responded to the Friends of the TJ Martin/Jeffrey Fontana Parks and noted that she would send the Attorney's letter and facts about the removal of trees to the group; and she was willing to meet with the group, as well.

- (2) Bill Chew stated he was running for Mayor of the City of San José and thanked everyone who nominated him.
- (3) Jim Piazza, Green Earth Enterprise, reiterated his concerns about the difficulties in establishing a business in the City of San José. City Manager Debra Figone referred Mr. Piazza to speak to a member of her staff.
- (4) Jose Francisco Medeiros explained he was evicted from his property and expressed concern that the City Council did not respond to his messages. Mayor Reed spoke to Mr. Medeiros after the afternoon session ended.
- (5) Kevin O'Keefe urged the City Council to repeal the fireworks ban and suggested ways to make fireworks safe for the residents.

## **ADJOURNMENT**

The Council of the City of San José adjourned the afternoon session at 3:22 p.m.

## RECESS/RECONVENE

The City Council recessed at 3:22 p.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

## ORDERS OF THE EVENING

Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, A Mitigated Negative Declaration for a Conditional Use Permit for the expansion of a gas station at the southeast corner of McKee Road and 33rd Street indicated that the hearing on that appeal would be heard in the evening on May 18, 2010, subsequently the item was renoticed to be heard on June 15, 2010. (11-0.)

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the following recipients of the City of San José's Champions of Arts Education Awards: Jeff Bordona: Manager of Youth, Family & School Audiences, San José Museum of Art; Aimée Ipson-Pflederer: Visual & Performing Arts Coordinator, Santa Clara County Office of Education; Mitsu Kumagai: Youth & Arts Program Manager, Arts Council Silicon Valley; and Joseph George Middle School, Alum Rock Union School District. (Economic Development)**

Action: Mayor Reed and Council Member Liccardo recognized and commended the recipients of the City of San José's Champions of Arts Education Awards.

- 1.5 Presentation of commendations recognizing District 9 Stars Patty Nation, Lorna MacKintosh, and Dave and Ginger Manley. (Chirco)**

Action: Mayor Reed and Vice Mayor Chirco recognized and commended the District 9 Stars Patty Nation, Lorna MacKintosh and Dave and Ginger Manley.

- 1.7 Presentation of a commendation to the volunteers of Mormon Helping Hands Day. (Mayor)**

Action: Mayor Reed recognized and commended the volunteers of "Mormon Helping Hands Day".

**1.8 Administer Oaths of Office to Districts 2 and 4 and Citywide Youth Commissioners. (City Clerk)**

Action: Assistant City Clerk Dennis Hawkins administered the Oaths of Office to the District 2, District 4 and Citywide Youth Commissioners. Mayor Reed and Council Members Kalra and Chu congratulated the Youth Commissioners.

**STRATEGIC SUPPORT SERVICES**

**3.4 Adopt a resolution supporting the Bill of Rights for Children and Youth developed by the San José Youth Commission. (Chirco)  
[Rules Committee referral 5/5/10 – Item A(2)(a)]**

Documents Filed: Memorandum from Vice Mayor Chirco, dated April 27, 2010, recommending adoption of a resolution supporting the Bill of Rights for Children and Youth developed by the San José Youth Commission.

Motion: Vice Mayor Chirco moved approval of the adoption of a resolution supporting the Bill of Rights for Children and Youth developed by the San José Youth Commission. Council Member Pyle seconded the motion.

Public Comments: Speaking in support to the Bill of Rights for Children and Youth developed by the San José Youth Commission were Kavya Shankar, Nicholas Polussa (San José Youth Commission), Mark Hennessey, Christian Avendano, Ana Maria Ramirez (Washington United Youth Center) and Tamara.

Mayor Reed and Vice Mayor Chirco provided comments.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75374](#), entitled: “A Resolution of the Council of the City of San José Adopting a Bill of Rights to Support and Highlight the Importance of the Children and Youth of the City of San José”, was adopted. (11-0.)

**GENERAL PLAN PUBLIC HEARINGS**

- 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  
[Continued from 4/27/10 – Item 10.1(a)]**

## 10.1(a)(Cont'd.)

Documents Filed: Memorandum from Council Member Herrera, dated May 14, 2010, recommending deferring the General Plan Hearing of GP08-08-03 to the Fall/Winter General Plan Public Hearings.

Motion: Council Member Herrera moved approval of her memorandum dated May 14, 2010, to continue this item to the Fall/Winter General Plan Public Hearings. Council Member Liccardo seconded the motion.

Council Member Herrera stated that the residents of the Ranch of Silver Creek did not receive notice of the General Plan change and that there was an expectation that additional public outreach would be done. She pointed out that the intent of the outreach was to allow for an appropriate amount of time to read the studies and reports, understand the conclusions, understand the proposed change and provide meaningful input on the project. Council Member Herrera stated that moving this item to the Fall/Winter General Plan Public Hearings would give the community more time to participate.

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

Extensive Council discussion followed.

Sal Caruso, representing the Applicant, indicated that the neighborhood deserves fair treatment, spoke to the merits of the project and requested the General Plan Public Hearing for this item in thirty days.

Mayor Reed opened the public hearing.

Public Comments: Speaking in support to the memorandum from Council Member Herrera to defer the hearing of this item to the Fall/Winter General Plan Public Hearings were Satish Musukula, Ahmed Khan, Steve Sullins, Balaji Virajpet, John Jiang, Walter Chang, Sunondo Ghosh, Samar Sharma, Butch Francisco, Omer Elyousej, Asnirwad Bahukhandi, Sanjay Saini, Richard Rosdail and Sonia Saini.

Joe Garcia and Neil Struthers (Building Trades) urged the Council to move the hearing forward in thirty days and not penalize the working community.

Mayor Reed closed the public hearing.

Mayor Reed and Council Members Campos, Nguyen and Herrera provided meeting disclosures.

Council Member Herrera amended her motion to continue Item 10.1(a) to August 3, 2010 to allow addition of another community outreach meeting. Council Member Liccardo accepted the amended to the motion.

**10.1(a)(Cont'd.)**

Mayor Reed expressed support to the amended motion to continue Item 10.1(a) to August 3, 2010.

Council Member Constant expressed opposition and stated that this hearing should move forward to June 15, 2010.

Vice Mayor Chirco requested to amend the motion to continue the General Plan Hearing on Item 10.1(a) to June 15, 2010 (thirty days). Council Members Herrera and Liccardo accepted the amendment to the motion.

Council Members Chu and Pyle provided meeting disclosures.

Action: On a call for the question, the amended motion carried unanimously, Item 10.1(a) was continued to a General Plan Public Hearing on June 15, 2010. (11-0.)

**10.2 Adopt a resolution approving all General Plan amendment actions taken on April 27 and May 18, 2010. (Planning, Building and Code Enforcement)  
(Continued from 4/27/10 – Item 10.5)**

Action: Upon motion by Council Member Liccardo, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75375](#), entitled: “A Resolution of the Council of the City of San José Specifying the Council’s Determinations on Proposed Amendments to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code”, was adopted. (10-0-1. Absent: Chu.)

**END OF GENERAL PLAN HEARINGS**

## **PUBLIC HEARINGS**

- 11.1 (a) In the event the Council approves the General Plan amendment to add the Neighborhood Business District overlay designation to a portion of Winchester Boulevard tentatively approved on April 27, 2010 and included for adoption in Item 10.2, adopt a resolution to repeal Resolution No. 75235 designating that portion of Winchester Boulevard as a Targeted Business Area.**

**[Continued from 4/27/10 – Item 11.1(b)]**

Documents Filed: Memorandum from Deputy Director of Planning, Building and Code Enforcement Laurel Prevetti, dated April 15, 2010, recommending adoption of a resolution.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, [Resolution No. 75376](#), entitled: “A Resolution of the Council of the City of San José Repealing Resolution No. 75235 Which Designates a Portion of Winchester Boulevard as a Targeted Business Area”, was adopted. (9-0-2. Absent: Chu, Constant.)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## PUBLIC HEARINGS

- 11.2 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 5<sup>th</sup> Street (98 N 5<sup>th</sup> Street) (Sabankaya Semih and Jeanne K Trustee & Et Al, Owner). SNI: 13<sup>th</sup> Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold Planning Commission's decision to approve.**  
**CP07-053 – District 3**

Documents Filed: (1) Replacement memorandum from Council Member Liccardo, dated May 17, 2010, recommending approval of the Staff recommendations with conditions as depicted in "Action". (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP07-053, dated February 11, 2010. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 5, 2010, recommending upholding the Planning Commission decision to approve the Conditional Use Permit. (4) Supplemental memorandum from Planning Commission Secretary Joseph Horwedel, dated May 10, 2010, providing updated information associated with Code Enforcement's investigation and inspection regarding a complaint of property blight and substandard housing. (5) Proof of Publication of Notice of Public Hearing, executed on April 9, 2009, submitted by the City Clerk.

Motion: Council Member Liccardo moved approval of his replacement memorandum dated May 17, 2010, recommending approval of the Staff recommendations with conditions as described in "Action". Council Member Nguyen seconded the motion.

Jeffrey B. Hare spoke on behalf of Semih and Jeanne Sabankaya, Owners, and highlighted the merits of the project. He pointed out one correction, that the Sabankaya family does not own the property on Eleventh Street.

Public Comments: Speaking in support to the Conditional Use Permit were Elton Lin, Christine Kim (Haven Community Church) and Helen Tindall.

Mayor Reed closed the public hearing.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Resolution No. 75377](#) was adopted, as amended, by the replacement memorandum from Council Member Liccardo, dated May 17, 2010: (1) Permit Expiration: Should a Code inspection reveal that construction has not commenced within one year of the issuance of this permit, a compliance hearing shall be held on the issue of whether Applicant has complied with the permit in making to the requisite improvements. Staff should strictly and immediately respond to any compliance. (2) Community Outreach: (a) Applicant

## 11.2 (Cont'd.)

shall meet with the Horace Mann Neighborhood Association to develop a "Good Neighbor Agreement, which shall include provisions that set forth, at a minimum: (1) A reliable phone number for neighbors to contact management of the facility to immediately address allegations of nuisance activity. (2) "Lights Out" hours, i.e. in which management will require cessation of the playing of amplified music or other external noise during sleeping hours. (3) A management plan for the Applicant to address nuisance behavior by residents, such as public drinking, littering and trespassing on neighbor's property, and similar to. (4) A means for communicating with the neighborhood -- such as email lists, or a phone number of a neighborhood leader -- of any reports of problem activity emerging from the premises. (11-0.)

## 11.3 Consider an ordinance zoning the real property located at/on the southeast corner of Airport Parkway and Old Bayshore Highway (40 Airport Parkway) to support the relocation of a cardroom, and to construct a full service hotel and associated parking , including an off-street parking facility, on a 0.68 gross acre site. CEQA: North San José Development Policy Update EIR, Resolution No. 72768, adopted June, 2005.

### PDC10-003 – District 3

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Liccardo, dated May 14, 2010, recommending approval of the Staff recommendations with the condition as described in "Action". (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 30, 2010, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC10-003, dated April 28, 2010. (3) Memorandum from Planning Commission Secretary Joe Horwedel, dated May 6, 2010, transmitting the recommendation of the Planning Commission. (4) Proof of Publication of Notice of Public Hearing, executed on April 23, 2009, submitted by the City Clerk.

Mayor Reed, Council Members Liccardo, Constant and Chu provided meeting disclosures.

Mayor Reed opened the public hearing.

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

Council Member Liccardo confirmed with Gerry De Young (Developer) that the offer made by Garden City Casino, the Applicant, (see Page 1 of the memorandum he cosigned with Mayor Reed), was acceptable to him.

### 11.3 (Cont'd.)

Motion: Council Member Liccardo moved approval of the memorandum he cosigned with Mayor Reed, dated May 14, 2010, recommending approval of the Staff recommendation with inclusion of an offer made by the Applicant, Garden City Casino: that the developer has offered to and shall reimburse the City for lighting, traffic calming, or other safety improvements along and near the North First Street corridor (including within the Rosemary Gardens Neighborhood) up to a maximum of \$100,000. Council Member Pyle seconded the motion.

Director of Planning, Building and Code Enforcement Joseph Horwedel provided comments and acknowledged the work of Project Manager Jeannie Hamilton.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Ordinance No. 28746](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast corner of Airport Parkway and Old Bayshore Highway (APN: 230-29-065) to IP (PD) Planned Development Zoning District", was passed for publication, as amended, by the memorandum from Mayor Reed and Council Member Liccardo, dated May 14, 2010, approving the Staff recommendation with inclusion of the following offer made by the applicant, Garden City Casino: (1) The developer has offered to and shall reimburse the City for lighting, traffic calming or other safety improvements along and near the North First Street corridor (including within the Rosemary Gardens Neighborhood) up to a maximum of \$100,000.00. (11-0.)

## STRATEGIC SUPPORT SERVICES

### 3.3 Public Hearing on the Proposed Operating and Capital Budgets for the Fiscal Year 2010 -2011, the Proposed Five-Year Capital Improvement Program for 2011-2015, the Proposed Fees and Charges Report for the Fiscal Year 2010-2011. (City Manager's Office)

*Note: Please see June 29, 2010 Minutes, Item 3.3, Appendix A - Documents Filed, for all budget documents, including: (1) Operating Budget for Fiscal Year 2010-2011; (2) 2010-2015 Capital Improvement Program; (3) 2010-2011 Fees and Charges; (4) Manager's Budget Addendums; (5) Budget Documents and (6) Budget correspondence from the public.*

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on April 28, 2010, submitted by the City Clerk.

Mayor Reed opened the public hearing.

### 3.3 (Cont'd.)

Public Comments: The following speakers voiced concerns and provided solutions on the Proposed Operating and Capital Budgets for the Fiscal Year 2010 -2011, the Proposed Five-Year Capital Improvement Program for 2011-2015, the Proposed Fees and Charges Report for the Fiscal Year 2010-2011.

*One hundred nineteen speakers actually voiced their concerns on Item 3.3. However, all of the speaker cards submitted to the Clerk on May 18, 2010 are included below for the record, including those speakers who did not stay to speak because of the late hour of the Budget Public Hearing.*

Amanda Aldama, Rosaleen Dhaliwal, Kasey Ong, Nina Kamath, Amy Garland Heng, Megan Lee (Youth Commissioners), Maria M. Khan, Rudy Martinez, Lori Wallace, Connie Shaw, Steve Barrientos, Paul Alvarado (Goodyear Mastic), Cuauhxiuhitt Xochitl, Christian Avendano, Adán, Juan Gutierrez, Lourdes Carrera, Rocio Portillo, Fortunata Leon, Ana Maria Rameriz (Washington United Youth Center), Armando Briseno, Francisco Robles, Mary Rios, Cassandra Rios (Gardner Community Center), Ray Blockie, Don Staub, Keith Turner, Patty Dignan, Michelle Laporte, Sujatha Venkat (West Valley Community Services), Gerry Chappuis, Jane Lawson, Sam Grimaldo (City of San José Employee), Greg Lippman, Magdalena Carrasco, Eric Arias (MASCA Youth Center), Claudia Shope, Karen Atree Pienne (San José Repertory Theatre), Ray Mendoza, Patricia Palomares-Mason, Rita Torres, Cora Arellano, Stephen L. Kline, Victor Cristobal, Forrest Williams, Latu, Kerri Hamilton (Citizens for Environmental and Economic Justice), Fred Hirsch, R.J. Castro (Police Athletic League), Jaime Alvarado, Aaron Resendez, Aaron Carrera, Lilia Aguero, Elisa Marina Alvarado (Teatro Vision), Daniel Zapien, Mark Lopez, Judy Purrington, April Rivera, Justin Hopper, Maddie Duran, Shabina Sandhanialia, Raul Cervantes (Los Paseos Youth Center), Pam Helmke, Will Bick (City of San José Park Rangers), Tony Martinez, Lourdes Nuño, Felipe Juarez, Keith Uriarte, Yolanda Cruz (AFSCME/MEF), Michaela Rodriguez (The Friends of Grace), Marc Huaar, Cheryl Garcia, Mark Keliihanapuk, Anthony Styczynski, Bijan Raquion, Richard Lewis, Tyler Lewis, Anthony Nguyen (Kamalii Oke Kai Canoe Club), Kevin R. Fish, Debbie M., Rosa P., James McAlister, Kendrick Washington, Derrod Taylor, Elena Martinez, Michelle Berry, Augustin Millan, Marion Jenson (Alma Community Center), Harvey Darnell, Omar Torres, Frank Cortez, Anna Ryan, Mike Elix, Melanie Helmke, Dennis Martin (Arts Commission), Darcie Green, Dave Gonzales, Dennis Haggerty (Alum Rock Youth Center), Reverend Rebecca Keike (Interfaith Council), Jim Clark-Moore (Hope Lutheran), Louis Rocha Jr., Eva Chavez, Celia Rameriz, Cynthia Bgorquez, Esther Medina, Michelle Mendoza, Ramon Ramirez, Erica, Sam, Jazmin, Osvaldo Ruelas, Daniela Chavez, Imelda Sanchez (MASCA), Ramin Naderi, Liz Hunt (Indian Health Center), Ben Field (South Bay Labor Council), Martin Monica, Don Faria, Pat Sausedo (San José Silicon Valley Chamber of Commerce), Paula Martinez, Jimmy Duarte, Chris Faria, Ania Flatao (Office of Therapeutic Services), Brain Hundley (Faith in Action Shelter), Kiely Rose Phillips, Marie Rodriguez, Jaime Beckwith, Marissa Smith (Santa Clara County 4-H Club), Susan Price, Anup Prasad, Ryan O'Neil (SEIU Local 521), Bill Leininger, Reverend Daryl L. Lavway (Grace Baptist Church), Eliseo Lopez, Destiny, Sabrina, Donovan Mitchell, Zeke Cervantes,

### 3.3 (Cont'd.)

#### Public Comments: (Cont'd.)

Maria Mendoza, Zaire Jimerson, Daniel Covarrubias, Kerry Mok, Luis Alfonso Ahumada, Dayneisha Wahington, Alana Solis, Angel Mendoza, Beth Gonzales, Pastor Carlos Barahona, Hector Ramirez, Sara Armas-Gonzalez, Patricio Muñoz, Elizabeth Muro, Robert Robles (Alum Rock Youth Center), Ruby Lagunes, Loi Thai, Junguoo Park, James Lin, Steve Bailey, Danielle Hoffman (Big Brother, Big Sister Bay Area), Dene Starr, Nadine Cordova, Sandra Cordova, Norman Callender, Jesus Rosas Reyes, J. Manuel Herrera, Deborah Yu, John Messino, Reverend Dana Bainbridge (Christian Church), Tony Nguyen, Reverend Joseph Leon (Pueblo de Dios Lutheran), Bob Brownstein, Jenny Mitchell (San José Steamrollers), Lewis Shear, Janie M. Reed (West Valley Center) and Marina Solis (San José Native American Youth Empowerment Program).

Mayor Reed closed the public hearing.

### **NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10049	E/S of N White Rd, approx. 100' S of Kentridge Dr	4	Timothy Shieh Chen	8 Lots / 7 Units	SFD
10050	SE corner of E. Mission/ N. Tenth	3	Westmont Square LLC	62 Lots / 60 Units	SFD/MFA

### **ADJOURNMENT**

The Council of the City of San José was adjourned at 11:10 p.m. in memory of Reverend Larry Summers Burroughs. (Constant)

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk  
smd/05-18-10 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.