

**MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, JUNE 8, 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 9:32 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 Filed): Claimant: In re Claim of Hildebrand; City Department: Transportation; (B) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation: number of matter(s) to be discussed: 1; (C) to confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: Property Street, Address, Parcel Number, or Other Unique Reference of Property: a portion of APN 659-56-063; Negotiating Parties: Matt Morley for the City of San José and Kelly Erardi for Shapell Industries of Northern California; Under Negotiation: the direction will concern price and terms of payment; Likely 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 Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (4) International

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

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; (12) Unit 99; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. 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 11:35 a.m. and reconvened to Regular Session at 1:33 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**

Reverend Kathryn Doar of St. Francis Episcopal Church provided the Invocation. (District 6)

## PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance accompanied by third-grade students from Forest Hill Elementary.

## ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 2.3(e) and 2.3(g) deferred to June 15, 2010.

## CEREMONIAL ITEMS

### **1.1 Presentation of a proclamation declaring June 11, 2010 as “Filipino Independence Day” in the City of San José. (Chu/Liccardo)**

Action: Mayor Reed and Council Members Chu and Liccardo recognized June 11, 2010 as “Filipino Independence Day” in the City of San José and presented a commendation to American Legion Northside Post 858.

### **1.2 Presentation of a commendation to The Crosscultural Community Services Center for their service to improve the quality of life for Silicon Valley families and children in need. (Herrera/Nguyen)**

Action: Mayor Reed and Council Members Herrera and Nguyen recognized and commended the Crosscultural Community Services Center for their service to improve the quality of life for Silicon Valley families and children in need.

### **1.3 Presentation of a commendation to the YWCA for their efforts to strengthen students’ basic academic skills, while providing them with a rich, high-quality, life skills enrichment curriculum program through Project Inspire. (Pyle)**

Action: Mayor Reed, Vice Mayor Chirco and Council Members Campos, Herrera, Nguyen and Pyle recognized and commended the YWCA for their efforts to strengthen students’ basic academic skills, while providing them with a rich, high-quality, life skills enrichment curriculum program through Project Inspire.

### **1.4 Presentation of a commendation to Relay for Life Almaden for their commitment to help the Almaden Community get well, stay well, find cures, and fight back against cancer. (Pyle)**

Action: Mayor Reed and Council Member Pyle recognized and commended Relay for Life Almaden for their commitment to help the Almaden Community get well, stay well, find cures, and fight back against cancer.

**1.5 Presentation of a proclamation recognizing June 26th and June 27th as “RACES Field Day” in the City of San Jose. (Mayor)  
(Rules Committee referral 5/26/10)**

Action: Mayor Reed recognized June 26th and June 27th as “RACES Field Day” in the City of San Jose.

**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.)

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 28745 – Amending Chapter 17.38 of Title 17 of the San José Municipal Code to require maintenance of vacant buildings and registration of neglected vacant or abandoned buildings.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28745 executed on May 21, 2010, submitted by the City Clerk.

Public Comments: David Wall recommended changes to the ordinance to address public safety hazards of abandoned buildings.

Action: [Ordinance No. 28745](#) was adopted. (11-0.)

- (b) **ORD. NO. 28746 – 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. PDC10-003**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28746 executed on May 21, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28746](#) was adopted. (11-0.)

**2.3 Approval of Council Committee Reports.**

- (a) **Transportation and Environment Committee Report of May 3, 2010. (Liccardo)**  
[Deferred from 5/18/10 – Item 2.3(a) and 5/25/10 – Item 2.3(c)]
- (b) **Rules and Open Government Committee Report of May 5, 2010. (Mayor)**  
[Deferred from 5/25/10 – Item 2.3(a)]
- (c) **Neighborhood Services and Education Committee Report of May 13, 2010. (Campos)**  
[Deferred from 5/25/10 – Item 2.3(b)]

### 2.3 Approval of Council Committee Reports (Cont'd.)

- (d) **Rules and Open Government Committee Report of May 12, 2010. (Mayor)**
- (f) **Public Safety, Finance and Strategic Support Committee Report of May 20, 2010. (Nguyen)**

Documents Filed: (1) Transportation and Environment Committee Report dated May 3, 2010. (2) The Rules and Open Government Committee Report dated May 5, 2010. (3) Neighborhood Services and Education Committee Report dated May 13, 2010. (4) The Rules and Open Government Committee Report dated May 12, 2010. (5) Public Safety, Finance and Strategic Support Committee Report dated May 20, 2010.

Public Comments: David Wall brought attention to discrepancies between the comments he had made and those reported on the May 12 Rules and Open Government Committee Report and May 20, 2010 Public Safety, Finance and Strategic Support Committee Report.

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

- (e) **Rules and Open Government Committee Report of May 19, 2010. (Mayor)**
- (g) **Community and Economic Development Committee Report of May 24, 2010. (Pyle)**

Action: Deferred to June 15, 2010 per Orders of the Day.

### 2.6 Approve Consultant Master Services agreements with Ricondo & Associates, Inc. and Landrum & Brown, Inc. for airport economic analysis professional services, in amounts not to exceed a maximum of \$750,000 for each agreement and for a term from execution date to June 30, 2015. CEQA: Not a Project, File No. PP10-066(d), consultant services for studies/research. (Airport)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated May 17, 2010, recommending approval of consultant master services agreements for airport economic analysis services.

Public Comments: David Wall questioned whether the economic analysis could have been done earlier and possibly in-house.

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, the Consultant Master Services agreements with Ricondo & Associates, Inc. and Landrum & Brown, Inc. for airport economic analysis professional services, in amounts not to exceed a maximum of \$750,000 for each agreement and for a term from execution date to June 30, 2015, were approved. (11-0.)

- 2.7 Adopt a resolution authorizing the City Manager to execute a quitclaim deed to an abandoned access road across APN No. 660-02-013 to DAL Properties, Inc. in accordance with the provisions of a stipulated judgment approved by the City Council. CEQA: Mitigated Negative Declaration, File No. PDC09-007. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 25, 2010, recommending adoption of a resolution.

Public Comments: David Wall spoke in opposition to more housing development in this area due to congestion and lack of services.

City Attorney Richard Doyle offered clarification on the nature of the judgment.

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 75388](#) entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Quitclaim Deed to an Abandoned Access Road Across APN No. 660-02-013 to DAL Properties, Inc., in Accordance with the Provisions of a Stipulated Judgment Approved by the City Council", was adopted. (11-0.)

- 2.8 Approve amendment to contract with Fairbanks, Maslin, Maulin, Metz and Associates to increase the contract amount by \$100,000 to allow for additional telephone survey work. CEQA: Not a Project, File No.PP10-066(d), consultant services for research with no commitment to a future course of action. (City Manager's Office)**

Documents Filed: Memorandum from Communications Director Tom Manheim, dated May 10, 2010, recommending amendment of a contract.

Public Comments: David Wall expressed opposition to a third-party vendor being paid for this service.

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, an amendment to contract with Fairbanks, Maslin, Maulin, Metz and Associates to increase the contract amount by \$100,000 to allow for additional telephone survey work was approved. (11-0.)

- 2.9 (a) Accept the offer of sponsored travel to Washington D.C. to speak at the Responsible Hospitality Institute.**  
**(b) Designate Leland Wilcox, Downtown Coordinator, as the City of San José's representative at the 2010 Leadership Summit Conference on June 6, 2010, pursuant to San José Municipal Code Section 12.08.030(I).**  
**CEQA: Not a Project, File No.PP10-066(e), services that involve no physical changes to the environment. (Economic Development)**

## 2.9 (Cont'd.)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko dated May 17, 2010, recommending approval of sponsored travel for Leland Wilcox.

Public Comments: David Wall offered criticism of the City's "Entertainment Zone".

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, the sponsored travel and designation of Leland Wilcox as the City's representative at the 2010 Leadership Summit Conference in Washington D.C. was approved. (11-0.)

## 2.10 **Adopt a resolution authorizing the City Manager to negotiate and execute the third amendment to the Agreement with Langham Consulting Services, Inc. to provide technical planning and implementation services related to the City's utility billing system; to increase the total compensation by \$180,000 to an amount not to exceed \$430,000; and to extend the agreement term through December 31, 2011. CEQA: Not a Project, File No.PP10-066(e), professional services with no physical changes to the environment. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated May 17, 2010, recommending adoption of a resolution.

Public Comments: David Wall advised that the City Auditor's Office should closely monitor the City's utility billing system.

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 75389](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Third Amendment to the Agreement with Langham Consulting Services, Inc. to Provide Technical Planning and Implementation Services Related to the City's Utility Billing System; to Increase the Total Compensation by \$180,000 to an Amount Not to Exceed \$430,000; and to Extend the Agreement Term Through December 31, 2011", was adopted. (11-0.)

## 2.11 **Adopt a resolution authorizing the City Manager to negotiate and execute the First Amendment to the Happy Hollow Corporation dba Happy Hollow Foundation agreement to provide promotion and support for Happy Hollow Park and Zoo through events, promotions, and fundraising activities retroactive from July 1, 2009 through June 30, 2013 with the option to extend the agreement with two one-year options through June 30, 2015. CEQA: Not a Project, File No.PP10-066(e) services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 17, 2010, recommending adoption of a resolution.

**2.11 (Cont'd.)**

Action: [Resolution No. 75390](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the First Amendment to the Agreement to the Happy Hollow Corporation DBA Happy Hollow Foundation Agreement to Provide Promotion and Support for Happy Hollow Park and Zoo through Events, Promotions and Fundraising Activities”, was adopted. (11-0.)

**2.12 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2009-2010:**

- (a) **Increase the estimate for Earned Revenue by \$288,210; and**
- (b) **Establish an appropriation to the Department of Public Works for the San José Convention Center Expansion and Renovation Project (PSM 605) in the amount of \$288,210.**

**CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002. Council District 3. SNI: Downtown Core. (Public Works/City Manager’s Office)**

Documents Filed: Joint memorandum from Director of Public Works Katy Allen and Budget Director Jennifer Maguire, dated May 17, 2010, recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28748](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the San José Convention Center Expansion and Renovation Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and [Resolution No. 75391](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 74956 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2009-2010 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, was adopted. (11-0.)

**2.13 Adopt a resolution of intention to form Maintenance District 23 (Berryessa Rd from I-680 to Piedmont Rd) and directing the Director of Public Works to create and file an Engineer’s Report. CEQA: Exempt, File No. PP10-090. Council District 4. (Public Works/Transportation)**

Documents Filed: Joint memorandum from Director of Public Works Katy Allen and Acting Director of Transportation Hans Larsen, dated May 17, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75392](#), entitled: “A Resolution of the Council of the City of San José Declaring its Intention to Establish Maintenance District 23 (Berryessa Road from I-680 to Piedmont Road)”, was adopted. (11-0.)

- 2.14 As recommended by the Rules and Open Government Committee on May 26, 2010, adopt an oppose position to AB 155 (Mendoza) Local Government Bankruptcy Proceedings, which was opposed by the City on November 3, 2009, as SB 88 (DeSaulnier). (Finance)  
[Rules Committee referral 5/26/10 – Item D(1)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 27, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: David Wall expressed agreement with the Rules and Open Government Committee's recommendation to oppose AB 155, saying this Bill is not in the best interest of the public.

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, a position of opposition to AB 155 (Mendoza) Local Government Bankruptcy Proceedings, which was opposed by the City on November 3, 2009, as SB 88 (DeSaulnier), was adopted. (11-0.)

- 2.15 As recommended by the Rules and Open Government Committee on May 26, 2010 and June 2, 2010:**

- (a) **Reappoint Roger Lasson, Larry Saltman and Robert Gill each to a term ending June 30, 2013 and appoint Kenneth Kelly and Richard McCoy each to a term ending June 30, 2013 on the Senior Citizens Commission. (Constant)**
- (b) **Appoint Joshua Barousse, Wendy Ho, and Guadalupe Rodriguez each to an unexpired term ending June 30, 2011 on the Human Rights Commission. (Chu)**
- (c) **Appoint William Collins to an unexpired term ending June 30, 2011 and Erica Valladao to a term ending June 30, 2013 on the Early Care and Education Commission. (Chirco)**
- (d) **Appoint Carlos Padilla to an unexpired term ending December 31, 2012 and Elaine Coombs to an unexpired term ending December 31, 2010 on the Advisory Commission on Rents. (Herrera)**
- (e) **Appoint George Gange and Ian Klufft each to unexpired term ending June 30, 2011 on the Airport Commission. (Chu)**
- (f) **Appoint Karl Vidt to an unexpired term ending June 30, 2012 and Deanford Chen and Jessica Rauff each to a term ending June 30, 2013 on the Disability Advisory Commission. (Pyle)**
- (g) **Appoint Sergio Arturo Jimenez to a term ending June 30, 2013 on the Parks and Recreation Commission. (Pyle)**
- (h) **Reappoint Michael Martin to a term ending on June 30, 2013 on the Arts Commission. (Liccardo)**
- (i) **Appoint Nicholas Adams, Richard Allen James, and Richard Robbins each to a term ending June 30, 2013 and Ben Miyaji to an unexpired term ending June 30, 2011 on the Arts Commission. (Liccardo)**

**[Rules Committee referral 5/26/10 – Item G(1) – G(9)]**

**2.15 (Cont'd.)**

- (j) Appoint Spencer Horowitz to a term ending June 30, 2013 on the Airport Commission.**
- (k) Appoint Alice Salee to an unexpired term ending December 31, 2011 on the Housing and Community Development Advisory Commission. (Nguyen)**
- (l) Appoint Mark Blaszczyk and Stephen Gifford each to a term ending June 30, 2013 on the Traffic Appeals Commission. (Nguyen)**
- (m) Reappoint Hoa (Mike) Nguyen and David Hook each to a term ending June 30, 2013 and appoint Tony Nguyen to a term ending June 30, 2013 on the Library Commission. (Oliverio)**

**[Rules Committee referral 6/2/10 – Item G(1) – G(4)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 27, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: Appointments and Reappointments to Boards, Commissions and Committees as recommended by the Rules and Open Government Committee on May 26, 2010 and June 2, 2010, were approved. (11-0.)

**2.16 As recommended by the Rules and Open Government Committee on May 26, 2010:**

- (a) Approve the District 2 Diwali, Festival of Lights, as a City Council sponsored Special Event; and**
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

**CEQA: Not a Project, File No. PP10-066(e), services involving no physical change to the environment. (City Clerk)**

**[Rules Committee referral 5/26/10 – Item H(3)]**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated May 27, 2010, transmitting the recommendations of the Rules and Open Government Committee. (2) Supplemental memorandum from City Clerk Lee Price, dated June 2, 2010, providing additional background and updated financial information.

Public Comments: Kevin Kittila expressed disappointment that public funds could be spent on the Diwali Festival, yet the City's Fourth of July fireworks had been canceled due to a lack of funds.

City Attorney Richard Doyle clarified that no public funds were used for the Diwali Festival, that it was funded through donations from various businesses, community groups and individuals.

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, the 2010 District 2 Diwali, Festival of Lights as a City Council Sponsored Special Event with acceptance of donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.17 As recommended by the Rules and Open Government Committee on May 26, 2010:**
- (a) Accept the report on compliance with Open Government requirements for posting of public calendars by City officials on the City’s website.**
  - (b) Approve the two minor modifications to the calendar disclosure requirements recommended by the Rules and Open Government Committee:**
    - (1) Changing the posting deadline time from Noon to 5:00 p.m.; and**
    - (2) When the posting deadline falls on a Monday holiday, extending it to the same time on the following day.**
- (City Manager’s Office)**  
**[Rules Committee referral 5/26/10 – Item H(4)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 27, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The report on compliance with Open Government requirements for posting of public calendars by City officials on the City’s website was accepted, and two minor modifications to the calendar disclosure requirements as recommended by the Rules and Open Government Committee were approved. (11-0.)

- 2.18 As recommended by the Rules and Open Government Committee on May 26, 2010, adopt a resolution revising Council Policy 7-5, Naming of City-Owned Land and Facilities. (Parks, Recreation and Neighborhood Services)**  
**[Rules Committee referral 5/26/10 – Item H(5)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 27, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: [Resolution No. 75393](#), entitled: “A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 7-5 Relating to Naming of City-Owned Land and Facilities”, was adopted. (11-0.)

- 2.19 As recommended by the Rules and Open Government Committee on June 2, 2010:**
- (a) Approve the District 2 Canadian Flag Raising as a City Council sponsored Special Event; and**
  - (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**
- CEQA: Not a Project, File No. PP10-066(e), services involving no physical change to the environment. (City Clerk)**  
**[Rules Committee referral 6/2/10 – Item H(1)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated April 28 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The 2010 CommUnity Resource Fair as a City Council Sponsored Special Event with acceptance of donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

## STRATEGIC SUPPORT SERVICES

### 3.1 Report of the City Manager, Debra Figone

The City Manager offered an overview of her participation in the cross-department Regional Influence Team as part of a sustainable community.

### 3.3 Adopt a resolution approving the Report of the Director of Finance on the Reimbursement of Cost for Sidewalk Repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs. CEQA: Not a Project, File No PP10-067(a), specific funding mechanism for increase or adjustment to fees, rates and fares. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 17, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott P. Johnson, dated June 4, 2010, transmitting the update to the Final Report with results of the Sidewalk Repair Administrative Hearings held on May 13, 2010.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75394](#) entitled: “A Resolution of the Council of the City of San José Approving the Report of the Director of Finance on the Reimbursement of Cost for Sidewalk Repairs, Confirming the Assessments Contained in the Report and Directing the Recording of Liens on the Property Tax Roll for the Cost of Sidewalk Repairs”, was adopted. (11-0.)

### 3.4 Approve an ordinance amending Part 2 of Chapter 3.36 of Title 3 of the San José Municipal Code by adding a Section 3.36.205 to exclude from membership in the Police and Fire Department Retirement Plan, a Fire Chief or Police Chief, who has no prior service credit in that plan. CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated May 25, 2010, recommending approval of an ordinance.

City Manager Debra Figone and Director of Human Resources Mark Danaj offered an overview of the proposed ordinance and responded to questions from Council.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Ordinance No. 28749](#), entitled: “An Ordinance of the City of San José Amending Part 2 of Chapter 3.36 of Title 3 of the San José Municipal Code by Adding a Section 3.36.205 to Exclude from Membership in the Police and Fire Department Retirement Plan a Fire Chief or Police Chief Who Has No Prior Service Credit in the Plan”, was passed for publication. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 Municipal Regulations and Enforcement Pertaining To Medicinal Use of Cannabis.

Action: Deferred to June 15, 2010 per Administration.

- 4.2 (a) Preliminary approval of the report as filed by the Hotel Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2010-2011, and set June 22, 2010 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. (Economic Development)
- (b) Preliminary approval of the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2010-2011, and set June 22, 2010 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. Council District 3. SNI: St. James Square; University; Josefa/Auzerais; Burbank/DelMonte. (Economic Development)
- (c) Preliminary approval of the report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2010-2011, and set June 22, 2010 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. Council District 6. (Economic Development)

Documents Filed: Memoranda from Chief Development Officer Paul Krutko, all three dated May 17, 2010, recommending preliminary approval of a reports and adoption of resolutions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75395](#), entitled: “A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2010-2011 in the Hotel Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing”; [Resolution No. 75396](#), entitled: “A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2010-2011 in the Downtown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing”; and [Resolution No. 75397](#), entitled: “A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2010-2011 in the Japantown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing”, were adopted. (11-0.)

- 4.3 (a) Adopt a resolution amending the North San José Area Development Policy to:**
- (1) Add capacity within the Policy to allow for up to one million square feet of regional retail distributed throughout the Policy area, and 1,000 hotel rooms outside the Core Area with no more than 250 rooms being developed in any given hotel except those sites designated as preferred hotel sites by the Rincon South Specific Plan; and**
  - (2) Make other clarifying changes to facilitate implementation of the Policy.**
- (b) Accept the North San José Urban Design Guidelines together with the addendum thereto dated April 2, 2009.**
- (c) Accept the North San José Neighborhoods Plan.**
- CEQA: Resolution No. 72768, Addendum to the North San José Policy Update Environmental Impact Report. Council Districts 3 and 4. (PBCE)**

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members Chu, Liccardo and Pyle, dated June 4, 2010, approving the staff recommendations to amend the North San José Development Policy as directed. (2) Memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated May 27, 2010, outlining proposals for the North San José Area Development Policy. (3) Letter from Eric Morley, LLC., dated June 4, 2010, on behalf of Cisco Systems, Inc., requesting clarifications of the proposed changes to the development policy. (4) Email from Berg & Berg Enterprises, Inc., dated June 7, 2010, expressing opposition to the North San José Area Development Policy.

Chief Development Officer Paul Krutko and Director, Planning, Building and Code Enforcement Joseph Horwedel provided a presentation on the North San José Area Development Policy second amendment and North San José Urban Design Guidelines and Neighborhood Plans.

Extensive Council discussion followed.

Motion: Council Member Chu moved approval of the memorandum he co-signed with Mayor Reed and Council Members Liccardo and Pyle. Council Member Liccardo seconded the motion.

Public Comments: (1) Eric Morley, representing Cisco Systems, expressed appreciation to the City for its vision in implementing the North San José Plan. (2) David Wall warned that such a proposal may not necessarily be in the taxpayer's best interest, and that taxpayers should be the arbiters of how North San José should be developed, rather than a task force. (3) Ross Signorino expressed that the City is on the right track in developing more reasonable permitting processes.

#### 4.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75398](#), entitled: “A Resolution of the Council of the City of San José Amending the North San José Area Development Policy to Add Capacity Within the Policy Area for Up to One Million Square Feet of Regional Retail Development to be Distributed Throughout the Policy Area, Add Capacity for 1,000 Hotel Rooms Outside the Core Area with No More than 250 Rooms to be Developed in any Single Hotel with Specified Exceptions, and to Make Other Specified Changes to Facilitate Implementation of the Policy”, was adopted, with direction as outlined by Mayor Reed and Council Members Chu, Liccardo and Pyle in their memorandum dated June 4, 2010, and the North San José Urban Design Guidelines and North San José Neighborhoods Plan were accepted. (11-0.)

#### 4.4 **Conduct a Public Hearing and approve an ordinance to establish a Rule 20A Underground Utility District along Lincoln Avenue from West San Carlos Street to approximately 160 feet north 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. CEQA: Addendum to a Mitigated Negative Declaration, File No. PP10-002. Council District 6. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated May 17, 2010, recommending a public hearing and adoption of an ordinance. (2) Letter from Dovey Pickee, property owner, expressing opposition to the proposed project.

Director of Public Works Katy Allen disclosed that a protest from one of the 66 neighbors in the district was received too late to include in the packet, but the letter had been distributed to the Mayor and Council. She assured that the City’s project staff had contacted the property owner and responded to their concerns.

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

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Oliverio and carried unanimously, [Ordinance No. 28750](#), entitled: “An Ordinance of the City of San José Establishing 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”, was passed for publication. (10-0-1. Absent: Campos).

**4.5 As recommended by the Community and Economic Development Committee on May 24, 2010, accept the staff report and direct Administration to take the following actions:**

- (a) Review the practices and outcomes of other major cities that have programs for commercial signage in the public right-of-way and on City property;**
- (b) Identify options for implementing commercial advertising on street furniture in the public right-of-way and elsewhere on City property, and assess logistical and administrative issues associated with these options;**
- (c) Conduct public outreach regarding the proposed options;**
- (d) Issue a Request for Information to obtain responses from the outdoor advertising industry to test the market for outdoor commercial advertisement in San José and to ascertain the available options for commercial advertising on City property;**
- (e) Return to the Community and Economic Development Committee with recommendations and alternatives for commercial advertising in the public right-of-way and on City property as a mechanism to eliminate blight, create vibrancy in the public right-of-way, and generate revenue.**

**CEQA: Not a Project, File No. PP10-069, direction involves no approvals of a project. (Planning, Building and Code Enforcement)**

**[Community and Economic Development Committee referral 5/24/10 – Item D(4)]**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated June 1, 2010, transmitting the recommendations of the Community and Economic Development Committee. (2) Memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated May 10, 2010 providing the recommendation from Staff.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the Staff report directing the Administration to take actions regarding commercial signs on City property as outlined in Director of Planning, Building and Code Enforcement Joseph Horwedel's memorandum of May 10, 2010, was accepted. (9-0-2. Absent: Campos, Constant).

## **TRANSPORTATION & AVIATION SERVICES**

**6.1 As recommended by the Transportation and Environment Committee on May 3, 2010, accept the report and adopt a resolution approving 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; and**
- (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)]**

**(Deferred from 5/18/10 – Item 6.1)**

## 6.1 (Cont'd.)

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated May 12, 2010, transmitting the recommendations of the Transportation and Environment Committee. (2) Supplemental memoranda from Director of Aviation William F. Sherry, both dated May 31, 2010 updating the Public Outreach information related to the proposed amendments. (3) Letter from Citizens Against Airport Pollution Steering Committee dated June 8, 2010, offering comments related to the proposed amendment to the Airport Master Plan.

Director of Aviation William F. Sherry responded to questions from Council.

Public Comments: David Wall offered accolades to the Director of Aviation for his informative reports and commented on the deposition of spent aviation fuel on gardens.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75399](#), entitled: "A Resolution of the Council of the City of San José Approving a Major Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to Update Demand Projections and the Facility Development Program", was adopted. (11-0.).

## 3.2 **As referred by the Rules and Open Government Committee on May 12, 2010, consider actions regarding Arizona's Immigration Legislation (Arizona SB 1070 and HB 2162), and request that the City Attorney join in an amicus brief filed by the County of Santa Clara or any other jurisdiction in opposition to the Arizona immigration legislation.**

**[Rules Committee referral 5/12/10 – Item A(1)(a)]**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated May 27, 2010, providing legal guidance on permissible actions the City may take in regard to the Arizona Immigration Legislation. (2) Memorandum from City Clerk Lee Price, dated May 27, 2010, transmitting the recommendations of the Rules and Open Government Committee. (3) Three hundred eighty-three letters/email from the public expressing concerns regarding opposition to the Arizona immigration legislation.

Motion: Council Member Nguyen moved approval of the memorandum she co-signed with Council Members Herrera, Kalra and Liccardo, dated May 5, 2010, with the elimination of Item 1(c), which referenced boycotting goods or services from any company that is headquartered in Arizona. Council Member Liccardo seconded the motion.

Council Member Constant declined support of the motion, citing the need to use our resources to address issues that directly affect the City of San José.

Extensive Council discussion continued.

### 3.2 (Cont'd.)

Public Comments: Speaking in support of the City's active opposition to the State of Arizona's Immigration Legislation were: Esau Herrera, Gustavo Gonzalez, Yolanda Engles, Sandy Perry, Leon Kimura, Richard Konda (Asian Law Alliance), Micael Estremera (Santa Clara County RAZA Lawyers), Gil Villagran, Anahy Reyes, Kevin Kittila, Kerri Dunlay, Chris Arriola (LaRaza Roundtable), Pastor Jethroe Moore (NAACP); Monica and Rose Amador, Mayra Salvador, Cesar Juarez, Efrain Trujillo, Victor Cristobal, and Jazmin Segura (S.I.R.E.N.); Ellen Lin, Mary Doering, Greg Miller, Dennis King (Hispanic Chamber of Commerce), Omar Torres (California Young Democrats); Samuel Trejo, Maria Cruz Castillo, Allison Lasser (Sacred Heart Community Service); Jamie McLeod, Maria Noel Fernandez, Enrique Arguello, Louis Rocha Jr. (MACSA); Raj Jayadev and Angel Luna (De-Bug); Fernando Perez, Amy Glanzman, Maureen DeNiera (Silicon Valley Young Democrats), Fred Hirsch; Mekahel Francois, Maria Granados, Ivonne Pasaran, Eulogia Figueroa, Grisell, Nadira Mambuki and Rachele Hunnekens (SEIU United Service Workers West); Jose Sandoval and Norma Benavidez.

Speaking in support of stronger immigration laws and offering criticism of the City's active opposition to Arizona's Immigration Legislation were Doug Ruiz, Don Barich, Bill Hughes, Ross Signorino, Carol Winn, Susan Bailey, Shane Patrick Connolly, Dale Anderson, Ron Asselin, Mike Bulea, Chris Novak, Teresa Hanson, David Wall, Joanne Sanders, Paul Brunemeier, Rene Guerra, Jerry Mungai, Janie Polizzi, Sandy Tate, Keith De Filippis, Carol Ostrosky, Laurel Pathman, John Messina and Amber Sanchez.

Action: On a call for the question, the motion carried, [Resolution No. 75401](#), entitled: "A Resolution of the Council of the City of San José (1) Denouncing Arizona SB 1070 and HB 2162 Immigration Enforcement Laws; (2) Prohibiting the Use of City Funds to Travel to Arizona (3) Releasing a Statement that City will Not Report Law Abiding Persons to Federal Immigration Agencies; and (4) Authorizing the City Attorney to File or Join an Amicus Curia to Any Court Challenge of the Arizona Immigration Law", was adopted, with the joint memorandum from Council Members Nguyen, Liccardo, Herrera and Kalra, dated May 5, 2010 approved as amended, *with Item 1 (c) pertaining to boycott eliminated from Council's direction to Staff.* (9-2. Noes: Constant, Oliverio).

## **OPEN FORUM**

- (1) Ross Signorino expressed views on Nazi Germany.
- (2) David Wall voiced concern on laws regarding public drunkenness.
- (3) Kevin Kittila apologized for his earlier comments on Consent Calendar Item 2.16, stating that he was misinformed regarding the source of funding for the Diwali Festival.

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 5:39 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC  
City Clerk

rmk/6-8-10.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 ITEMS

**The Joint Redevelopment Agency Board convened at 3:10 p.m. to consider Item 8.1 in a Joint Session.**

John Weiss was recognized and commended for his service to the City of San José upon his retirement from the position of Deputy Director of the Redevelopment Agency

- 8.1 (a) Adoption of a resolution by the City Council accepting the summary of costs and findings of the Amended Summary 33433 Report.**
- (b) Redevelopment Agency Board approval of the Amended and Restated Disposition and Development Agreement (DDA) with Boston Properties Limited Partnership for the construction of a three-building office complex at Almaden Boulevard and Woz Way, revising the Schedule of Performance to, among other things, extend the date for commencement of the Project and accelerate the date for close of escrow of the Agency-owned property to Developer for a revised purchase price of \$700,000.**

**CEQA: Resolution No. 64273, adopted for Downtown Strategy Plan, File No. RH00-005 & RHA00-005-01. [GUADALUPE-AUZERAIS]**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated May 27, 2010, recommending adoption of a resolution and approval of an Amended and Restated Disposition and Development Agreement with Boston Properties Limited Partnership.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75400](#), entitled: “A Resolution of the Council of the City of San José Accepting the Summary of Costs and Findings of the Amended Summary 33433 Report and Making Certain Findings Pursuant to the California Health and Safety Code Section 33433 Related to the Amended and Restated Disposition and Development Agreement with Boston Properties Limited Partnership for the Construction of a Three-Building Office Complex at Almaden Boulevard and Woz Way”, was adopted, and the Amended and Restated Disposition and Development Agreement (DDA) with Boston Properties Limited Partnership for the construction of a three-building office complex at Almaden Boulevard and Woz Way, revising the Schedule of Performance to, among other things, extend the date for commencement of the Project and accelerate the date for close of escrow of the Agency-owned property to Developer for a revised purchase price of \$700,000, was approved. (11-0.)

- 8.2 Adoption of resolutions by the Redevelopment Agency Board and City Council approving an amendment to the City/Agency Inclusionary Housing Policy in Redevelopment Project Areas, temporarily suspending inclusionary housing requirements related to newly constructed rental units until the earlier of January 1, 2013, or the effective date of the City's Inclusionary Housing Ordinance, to ensure compliance with case law. CEQA: PP08-258, addendum to the General Plan Update EIR, Resolution No. 65459 [MERGED]  
[Rules and Open Government Committee referral, 5/26/10 – Item H(1)]**

Action: Deferred to June 15, 2010 per Administration.

The Council of the City of San José and the Redevelopment Agency Board was adjourned at 3:14 p.m.