

SPECIAL MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

THURSDAY, JUNE 17, 2010

The Council of the City of San José convened in special session at 1:05 p.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.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the City Council/Redevelopment Agency unanimously waived the four-day special meeting requirement per Rule 6.5(a)(2)(b) of Resolution No. 75246 (Rules for the Conduct of Meetings) for all items on this special meeting agenda. (11-0)

Director of Employee Relations Alex Gurza outlined the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21 (CAMP), International Brotherhood of Electrical Workers, Local No. 332 (IBEW), Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041 and 042, and 043, Association of Maintenance Supervisory Personnel (AMSP) and Operating Engineers, Local No. 3 (OE#3).

City Manager Debra Figone outlined the City Charter provisions and recommended that Council approve the terms of the City's Last, Best and Final Offer for the five Unions. City Manager Figone pointed out that Council may direct Staff to continue to research legal, charter and labor relations issues related to the City's flexibility to change cost sharing at the normal cost of retirement benefits on an ongoing basis. She stated that if circumstances change, Council may direct Staff to resume negotiations that could result in a change to the terms that have been implemented and to accept and evaluate any proposals and requests to resume negotiations received by the bargaining units.

Items 1 – 5 (Cont'd.)

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

Extensive Council discussion followed.

Council Members Kalra and Campos expressed opposition, citing that the employees should not be imposed upon and preferred that Staff return to the bargaining units and continue negotiations with the Unions.

Public Comments: Encouraging open negotiations, not imposing on the unions today, to allow the unions 24 hours to come up with further clarifications to their offer and to continue negotiations were Nancy Ostrowski (AEA, CAMP), Theresa Hayes, Cay Denise MacKenzie, Kara Capaldo, Mark Damey (CAMP), Varsha Patel, Jon Max Reger (OE#3), David Wall, Christopher Platten, Ben Field (South Bay Labor Council), Steve Mullen, John Mukhar, Dianna Butcher (AEA), Roger Storz, Dale Dapp (AMSP), Larry Pegram, Bob Brownstein, Don Dietrich, Randy Sekany (Local 230), Sal Ventura (IBEW 332), Gay Gale, Omar Torres (AFSCME Local 101), Tilia Ayala (Justice for Families), Scott Knies, Bob Leininger, Ross Signorino, Tina Morrill, Dennis Martin and Pat Sausedo (San José Silicon Valley Chamber of Commerce).

RECESS/RECONVENE

Upon motion unanimously adopted, Council recessed at 3:44 p.m. to a Closed Session in Room W133 (A) 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, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement

CLOSED SESSION (Cont'd.)

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. Web: http://www.sanjoseca.gov/employee_relations/moa.asp; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the special Closed Session at 5:10 p.m. and reconvened to Special Council Session at 5:23 p.m. in the Council Chambers.

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

Absent: Council Members - None.

Mayor Reed announced that Items 1 through 5 will be continued to Tuesday, June 22, 2010, as the City Council agreed to allow the negotiating team further authorization to continue bargaining with the Unions.

- 1. Adopt a resolution approving the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21, (CAMP), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager's Office)
(Continued from 6/15/10 – Item 3.2)**

Action: Continued to June 22, 2010.

- 2. Adopt a resolution approving the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the International Brotherhood of Electrical Workers, Local No. 332 (IBEW), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager's Office)
(Continued from 6/15/10 – Item 3.3)**

Action: Continued to June 22, 2010.

3. **Adopt a resolution approving the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041 and 042, and 043, effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager's Office)
(Continued from 6/15/10 – Item 3.4)**

Action: Continued to June 22, 2010.

4. **Adopt a resolution approving the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the Association of Maintenance Supervisory Personnel (AMSP), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager's Office)
(Continued from 6/15/10 – Item 3.5)**

Action: Continued to June 22, 2010.

5. **Adopt a resolution approving the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the Operating Engineers, Local No. 3 (OE#3), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager's Office)
(Continued from 6/15/10 – Item 3.6)**

Action: Continued to June 22, 2010.

6. **Adopt a resolution approving additional compensation and benefit changes for executive management and professional employees in Unit 99 and other unrepresented employees effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager's Office)
(Continued from 6/15/10 – Item 3.8)**

Documents Filed: (1) Memorandum from City Manager Debra Figone, dated June 4, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from City Manager Debra Figone, dated June 17, 2010, modifying recommendations to provide for a one time total compensation reduction.

City Manager Debra Figone presented an outline of her supplemental memorandum dated June 17, 2010.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 75436](#), entitled: "A Resolution of the Council of the City of San José Approving Additional Compensation and Benefit Changes for Executive Management and Professional Employees in Unit 99 and Other Unrepresented Employees (Units 81 and 82), Effective June 27, 2010", was adopted. (11-0)

7. (a) **Approve an ordinance implementing a 10% reduction in total compensation for the Mayor and Council Members.**
- (b) **Adopt a resolution implementing a 10% reduction in total compensation for the Council Appointees.**
- (c) **Approve other amendments to documents providing for compensation, as appropriate.**

**CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (Mayor)
(Continued from 6/15/10 – Item 9.2)**

Documents Filed: (1) Memorandum from Mayor Reed, dated June 3, 2010, recommending adoption of an ordinance, resolution and other amendments, as appropriate. (2) Memorandum from Mayor Reed, dated June 10, 2010, describing the Mayor and Council Member's salaries. (3) Memorandum from Mayor Reed, dated June 14, 2010, recommending that proposals from the appointees not include additional retirement contributions to meet their second 5% of reduction in compensation.

Mayor Reed read his recommendations which are described in detail in "Action".

City Attorney Richard Doyle responded to Council questions and concerns.

Motion: Council Member Constant moved approval of the Mayor's recommendations as described in "Action". Council Member Herrera seconded the motion.

Brief discussion followed.

Action: On a call for the question, the motion carried unanimously, [Ordinance No. 28759](#), entitled: "An Ordinance of the City of San José Adopting Salaries and Other Compensation for the Mayor and Council Members for Fiscal Year 2010-2011", was passed for publication, as amended, implementing the Mayor and City Council ongoing 5% reductions in compensation; Approving Council proposals implementing 10% reductions in total compensation subject to verification in calculation, which will be done in coordination with the Mayor's Office. Any variances shall be taken out of base pay via irrevocable waivers for Fiscal Year 2010-2011; and [Resolution No. 75437](#), entitled: "A Resolution of the Council of the City of San José Approving a 10% Reduction in Total Compensation for Council Appointees, Effective June 27, 2010", was adopted, as amended, approving a 10% reduction in total compensation for the Council Appointees as proposed by the Council Appointees subject to confirmation which will be done in coordination with the Mayor's Office. Any shortages shall be taken out of base pay to achieve the total 10% reduction. Approved, as amended, the Independent Police Auditor excluded from these actions. (11-0)

8. (a) **Review, discussion and approval of the Mayor's 2010 June Budget Message.**
(b) **Adopt a resolution by the City Council authorizing the City Manager to negotiate and execute grant agreements addressed in the Mayor's Budget Message which are for amounts that exceed the City Manager's contract authority.**

CEQA: Not a Project, File No. PP10-067, approval of non-project specific funding mechanisms. (Mayor)

(Continued from 6/15/10 – Item 9.3)

Documents Filed: (1) Revised June Budget Message for Fiscal Year 2010-2011 from Mayor Reed, dated June 11, 2010, with changes. (2) June Budget Message for Fiscal Year 2010-2011 from Mayor Reed, dated June 4, 2010. (3) Memoranda from Council Member Pyle, dated June 11, 2010 and June 17, 2010, recommending approval of the Mayor's June Budget Message, including several amendments. (4) Memorandum from Council Member Chu, dated June 11, 2010, recommending approval of the Mayor's June Budget Message, with an amendment. (5) Memorandum from Council Member Oliverio, dated June 8, 2010, recommending acceptance and transmitting the results and comments of a web survey. (6) Statement and Declaration of Conflict of Interest Forms both dated June 15, 2010, from Council Member Nguyen, declaring conflicts of interests as related to living 500 feet away from Fire Station 33 and serving as an Advisory Board Member of the Indian Health Center of Santa Clara Valley (Healthy Neighborhood Venture Fund). (7) Statement and Declaration of Conflict of Interest Form dated June 17, 2010 from Vice Mayor Chirco, declaring a conflict of interest related to the Healthy Neighborhood Venture Fund, as she currently serves on the Advisory Board.

Mayor Reed read the recommended changes on his revised June Budget Message for Fiscal Year 2010-2011, dated June 11, 2010.

Council Member Nguyen recused herself from voting on items relating to Fire Station 33 and Communication Hill as she lives within 500 feet from the property. She recused herself from voting on items related to The Healthy Neighborhood Venture Fund because she currently serves as an Advisory Board Member of the Indian Health Center of Santa Clara Valley.

Vice Mayor Chirco recused herself from voting on items related to the Healthy Neighborhood Venture Fund as she currently serves on the Advisory Board.

Motion: Council Member Liccardo moved approval of the Mayor's Revised June Budget Message, dated June 11, 2010, with the recommended changes. Council Member Herrera seconded the motion.

City Manager Debra Figone and Budget Director Jennifer Maguire responded to Council questions and concerns.

Council Member Campos expressed opposition to the Mayor's Revised June Budget Message because it will send the message that she is not in support of public safety.

8. (Cont'd.)

Public Comments: The following speakers expressed support to the recommendations contained in the memorandum from Council Member Pyle, dated June 17, 2010, commented on public safety cuts, to keep the fire stations open, to continue negotiating with the unions for concession and finding ways to partner with community partners. David Wall, Bob Brownstein, Randi Kinman, Ben Field (South Bay Labor Council), Nancy Ostrowski, Cay Denise MacKenzie, Cameron Cleland, Kara Capaldo (CAMP/IFPTE), Randy Sekany (San José Firefighters), John Mukhar, Diana Butcher (AEA) Tilia Ayala (Justice for Families), George Beattie (SJPOA), Rebecca Kuiken (Interfaith Council), Mike Frezzo and Cynthia Bojorguez (MACSA).

Amendment to the Motion: Council Member Pyle moved approval of her memorandum dated June 17, 2010, as an amendment to the motion as put forth by Council Members Liccardo and Herrera. Council Member Chu seconded the motion. On a call for the question, the motion failed. (4-7. Noes: Chirco, Constant, Herrera, Liccardo, Nguyen, Oliverio; Reed.)

Council discussion returned to the original motion.

Council Members Liccardo and Herrera accepted the revised Mayor's Revised June Budget Message with changes and the additional amendments as put forth by Mayor Reed.

Action: On a call for the question, the original motion carried, the Mayor's Revised June Budget Message was approved, as amended: (a) Attachment 1, Page 2, restore library hours, community centers, Martin Luther King Library, anti-graffiti program and staffing, technology business Applications Management and Legal Representation/Transactions (Deputy City Attorneys). (b) Attachment 2, "Funds to Minimize Police Layoffs", \$257,649; fund an additional Deputy City Attorney; Eliminate a Senior Deputy Attorney; add a Legal Services Manager; Add an Administrative Legal Assistant and [Resolution No. 75438](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Grant Agreements Addressed in the Mayor's 2010 Budget Message and Approved Amendments in Amounts that Exceed the City Manager's Contract Authority", was adopted. (8-3. Noes: Campos, Kalra, Pyle.)

9. (a) **Adopt resolutions approving the Operating Budget for 2010-2011 for the City of San José, the Capital Budget for 2010-2011 for the City of San José, and the Five Year Capital Improvement Program for 2011-2015 for the City of San José as revised by the Mayor's Budget Message and directing the City Manager to prepare final documents for adoption.**
- (b) **Adopt a resolution establishing the Schedule of Fees and Charges for 2010-2011.**
- (c) **Adopt a resolution amending Resolution No. 66629 to revise the term of the loan from the Sewage Treatment Plant Connection Fee Fund to the General Fund for construction of the fiber optic conduit installation project to extend the repayment date from June 30, 2011 to June 30, 2013.**

9. (d) Approve an ordinance amending Section 9.10.2470 of Chapter 9.10 of Title 9 of the San José Municipal Code to allow the Construction Demolition Debris Diversion Program deposits that are no longer eligible for refund to be transferred to the General Fund.
- (e) Approve an ordinance repealing Part 33 of Chapter 4.80 of the San José Municipal Code in order to eliminate the Anti-Tobacco Master Settlement Agreement Revenue Fund, to remove the expenditure restrictions, and to provide for the transfer of moneys in the Anti-Tobacco Master Settlement Agreement Revenue Fund to the General Fund.
- (f) Adopt a resolution amending Council Policy 1-18 to delete Section 20 relating to the Healthy Neighborhoods Venture Fund Spending Plan.
- (g) Approve an ordinance deferring expenditures and/or appropriations for public art projects at the San José International Airport during 2010-2011 and for the fiscal years thereafter until the first annual budget adopted by City Council after total passenger activity at the Airport reaches 12.2 million passengers per year, except as follows:
- (1) The 2010-2011 budget shall include a one-time allocation of \$70,000 to enable public art staff to provide supervision of a contracted art technician and to seek sponsorships for public art operations and potential future commissions;
 - (2) This deferral shall not apply to any public art projects at the Airport where the City has already executed an agreement with an artist.
- (h) Adopt a resolution to repeal Resolution No. 75331 and set forth the Master Parking Rate Schedule to:
- (1) Add a special event rate (\$5-7) for the Market/San Pedro Square Garage for evening and weekend day events.
 - (2) Add a new rate option (\$1 per hour) for Parking Meter District 5 – Arena/Diridon Area.
 - (3) Increase the meter rate in Parking Meter District 2 – East Santa Clara Street Neighborhood; Parking Meter District 3 – Japantown Neighborhood; and Parking Meter District 4 – First and Younger Neighborhood from \$0.50 per hour to up to \$1 per hour.
 - (4) Extend the hours of operation in Parking Meter District 3 – Japantown Neighborhood by one hour from the current 9 am - 5 pm, to 9 am - 6 pm.
- Action: Item (h)(4) was dropped.
- (5) Remove the Second/San Fernando Lot (Block 2) and Market/San Carlos Lot (Block 8) and eliminate the Casa del Pueblo Validation Program from the Master Parking Rate Schedule resolution.
- (i) Approve an ordinance amending Chapter 11.40 of Title 11 of the San José Municipal Code to modify the boundaries of the Arena/Diridon Area Parking Meter District and the Downtown Business Parking Meter District.
- CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273 - Rates, Tolls, Fares and Charges. (City Manager's Office)
- (Continued from 6/15/10 – Item 3.13)

9. (Cont'd.)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated June 3, 2010, recommending approval of an ordinance and/or appropriations related to deferral of public art allocation of airport projects. (2) Memorandum from City Manager Debra Figone, dated May 28, 2010, recommending approval of an ordinance to allow construction and demolition diversion deposits. (3) Memorandum from City Manager Debra Figone, dated May 28, 2010, recommending approval of an ordinance and adoption of a resolution. (4) Memorandum from Acting Director of Transportation Hans Larsen, dated May 24, 2010, recommending adoption of a resolution and approval of an ordinance.

Motion: Council Member Constant moved approval of Items 9(a)-(i), except Item 9(h)(4), which was dropped. Council Member Liccardo seconded the motion.

Council Member Liccardo requested to amend the motion to include direction to Staff to move forward to develop paid parking at the vacant Corp Yard site on 6th and Jackson, to add parking inventory and generate revenue as soon as practical. Council Member Constant accepted the amendment.

Public Comments: David Wall commented on the Schedule of Fees and Charges for 2010-2011.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75439](#), entitled: "A Resolution of the Council of the City of San José Approving for Adoption the Operating Budget for Fiscal Year 2010-2011"; [Resolution No. 75440](#), entitled: "A Resolution of the Council of the City of San José Approving for Adoption the Capital Budget for Fiscal Year 2010-2011"; [Resolution No. 75441](#), entitled: "A Resolution of the Council of the City of San José Approving for Adoption the Five Year Capital Improvement Program for Fiscal Years 2011-2015"; [Resolution No. 75442](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72737 to Amend and Establish Various Fees and Charges Effective July 1, 2010"; [Resolution No. 75443](#), entitled: "A Resolution of the Council of the City of San José Amending the Terms of the Loan in the Amount of \$5,152,000 from the Sewage Treatment Plant Construction Fee Fund to the General Fund for Construction of the Fiber Optic Conduit Installation Project as Previously Specified in Resolution No. 66629 to Extend the Repayment Date to June 30, 2013, and Repealing Resolution No. 66629"; [Resolution No. 75444](#), entitled: "A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 1-18, Operating Budget and Capital Improvement Program Policy" and [Resolution No. 75445](#), entitled: "A Resolution of the Council of the City of San José To Set Forth the Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities to Increase Meter Rate, Hours of Operation and Add a Special Event Rate for the Market/San Pedro Square Garage and to Repeal Resolution No. 75331 Effective Upon City Council Approval", were adopted, as amended: (1) Delay the lengthening of the evening duration of the metered parking, Page 17 of the Mayor's Budget Message, until July 2011. (2) Direct Staff to move forward to develop paid parking at the vacant Corp Yard site on 6th and Jackson, to add parking

9. (Action Cont'd.)

inventory and generate revenue as soon as practical. (3) Direct Staff to examine, and if appropriate, implement an extension of the hours of metered parking in the Civic Center and 1st/Younger areas to compensate for any lost revenue from the delay occasioned by Item (1). (4) Direct Staff to examine other business districts and locations citywide where metered parking could be implemented in a way that could effectively provide needed turnover in patron activity and generate revenues to pay for any capital costs of implementation and any business district streetscape improvements; [Ordinance No. 28760](#), entitled: “An Ordinance of the City of San José Amending Section 9.10.2470 of Chapter 9.10 of Title 9 of the San José Municipal Code to Allow the Construction Demolition Debris Program Diversion Deposits that Are No Longer Eligible for Refund to be Transferred to the General Fund”; [Ordinance No. 28761](#), entitled: “An Ordinance of the City of San José Repealing Part 33 of Chapter 4.80 of Title 4 of the San José Municipal Code, The Anti-Tobacco Master Settlement Agreement Revenue Fund”; [Ordinance No. 28762](#), entitled: “An Ordinance of the City of San José Deferring the Payment of the Public Art Allocation Required Under San José Municipal Code Chapter 22.08 for Public Art Projects at the Norman Y. Mineta San José International Airport” and [Ordinance No. 28763](#), entitled: “An Ordinance of the City of San José Amending Sections 11.40.200 and 11.40.250 of Chapter 11.40 of Title 11 of the San José Municipal Code To Modify the Boundaries of the Downtown Business and the Arena/Diridon Area Parking Meter Districts”, were passed for publication. (11-0)

ADJOURNMENT

The Council of the City of San José was adjourned at 7:06 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/06-17-10 SPEC MIN

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