

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 22, 2010

The Council of the City of San José convened in regular session at 8:00 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 8:02 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation of significant exposure (Claim not Filed) in one (1) matter. (B) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: Property: 150 S. Second Street; Negotiating Parties: Peter Jensen for the City of San José and David Akbar and Manvir Gillon for SAVU; 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. (C) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) Lefall, et al. v. City of San José; Names of Parties Involved: Dion Lefall, George Louie, Gloria Vaughn and Derrick Jackson for themselves and on behalf of all other similarly situated, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-094037; Amount of Money or Other Relief Sought: Damages according to proof; (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 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. (3) 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; (4) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing

CLOSED SESSION (Cont'd.)

Contract or MOA: Memorandum of Agreement between City of San José and CEO; (5) 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; (6) 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; (7) 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; (8) 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. (9) 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; (10) 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. Web: http://www.sanjoseca.gov/employee_relations/moa.asp; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 10:50 a.m. and reconvened to Regular Session at 11:07 a.m. in the Council Chambers.

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

Absent: Council Members - None.

ORDERS OF THE DAY

Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Items 2.3(a)-(f) were deferred to August 03, 2010, Item 3.16 was dropped and Items 9.1, 3.7 and the Joint/SJFA Meeting were heard first in the afternoon.

STRATEGIC SUPPORT SERVICES

- 3.11 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 and 6/17/10 – Item 1)**

3.11 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated June 4, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Employee Relations Alex Gurza, dated June 21, 2010, recommending execution of an agreement with a term of July 1, 2010 to June 30, 2011. (3) Seven letters of correspondence all dated June 22, 2010 from employees of the City of San José expressing support to the staff recommendations.

Note: Items 3.11, 3.12, 3.13, 3.14 and 3.15 were heard together.

Director of Human Resources Mark Danaj presented the Staff report.

Motion: Council Member Herrera moved approval of the Staff recommendations for Items 3.11, 3.12, 3.13, 3.14 and 3.15, including the amendment approving an agreement with a term of July 1, 2010 to June 30, 2011 for each contract. Council Member Oliverio seconded the motion.

Public Comments: Speaking in support to the Staff recommendations and urging further dialogue and negotiations with the other unions were Nancy Ostrowski, Judy Purrington, Al Gonzalez (AEA/CAMP), Cameron Cleland (CAMP), John Mukhar, Cora Pamintuan (AEA), Roger Storz, Warren Krause, Tom Brim (ABMEI), Tom Linebarger (Painters 913), Carlos Barajas (OE#3), Gary Roberts, Reverend David Bird, Reverend Rebecca Kuiken (Interfaith Council on Economics and Justice), Sergio Jimenez, Rosemary Kamei, Jonathan Karpf, Jo Kenny, Elise Blazek, George Beattie (SJPOA) and Randy Sekany (San Jose Firefighters).

Director of Employee Relations Alex Gurza responded the Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75449](#), entitled: “A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21 (CAMP) with a Term of July 1, 2010 – June 30, 2011”, was adopted, as amended. (11-0)

3.12 **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 and 6/17/10 – Item 2)**

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated June 4, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Employee Relations Alex Gurza, dated June 21, 2010, recommending execution of an agreement with a term of July 1, 2010 to June 30, 2011.

3.12 (Cont'd.)

Action: Upon motion by Council Member Herrera, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75450](#), entitled: “A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and the International Brotherhood of Electrical Workers, Local No. 332 (IBEW) with a Term of July 1, 2010 – June 30, 2011”, was adopted, as amended. (11-0)

3.13 **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 and 6/17/10 – Item 3)**

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated June 4, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Employee Relations Alex Gurza, dated June 21, 2010, recommending execution of an agreement with a term of July 1, 2010 to June 30, 2011.

Action: Upon motion by Council Member Herrera, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75451](#), entitled: “A Resolution of the Council of the City of San José Approving Agreements with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041/042 and Unit 043, with a Term of July 1, 2010 – June 30, 2011”, was adopted, as amended. (11-0)

3.14 **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 and 6/17/10 – Item 4)**

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated June 4, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Employee Relations Alex Gurza, dated June 21, 2010, recommending execution of an agreement with a term of July 1, 2010 to June 30, 2011.

Action: Upon motion by Council Member Herrera, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75452](#), entitled: “A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and the Association of Maintenance Supervisory Personnel (AMSP) with a Term of July 1, 2010 – June 30, 2011”, was adopted, as amended. (11-0)

- 3.15 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 and 6/17/10 – Item 5)**

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated June 10, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Employee Relations Alex Gurza, dated June 21, 2010, recommending execution of an agreement with a term of July 1, 2010 to June 30, 2011.

Action: Upon motion by Council Member Herrera, seconded by Council Member Oliverio and carried unanimously, [Resolution No. 75453](#), entitled: "A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and the Operating Engineers, Local No. 3 (OE#3) with a Term of July 1, 2010 – June 30, 2011", was adopted, as amended. (11-0)

- 3.16 Approval of the terms of an amendment of the agreement with Municipal Employees' Federation (MEF) regarding custodial services and compensation for custodial employees as referenced in the staff report.
(City Manager's Office)
(Orders of the Day)**

Action: Item 3.16 was dropped per Orders of the Day.

- 3.2 Adopt amendments to the annual appropriation ordinance and funding sources resolution for various operating and capital funds to reflect estimated 2009-2010 revenue receipts, expenses, and encumbrances. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: (1) Memorandum from Budget Director Jennifer Maguire, dated June 15, 2010, recommending adoption of appropriation ordinance and funding sources resolution amendments. (2) Supplemental memorandum from Budget Director Jennifer Maguire, dated June 21, 2010, correcting an erroneous recommendation and an inadvertent omission to the original memorandum. (3) Seventeen letters from members of the public all dated June 22, 2010, expressing comments to the City of San José's budget issues.

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

Budget Director Jennifer Maguire and Acting Director of Transportation Hans Larsen responded to Council questions.

3.2 (Cont'd.)

Council Member Liccardo requested that Staff return to the Transportation and Environment Committee with the results of the consultant's study of the evaluation of the reduction of the number of crossing guards, including where the hot spots are within each Council District.

Action: On a call for the question, the motion carried unanimously, [Ordinance No. 28764](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the General Fund, Various Special Funds and various Capital Funds to Reflect Estimated 2009-2010 Revenue Receipts, Expenses and Encumbrances; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 75446](#), 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 Various Operating Funds", were adopted, as amended by the supplemental memorandum from Budget Director Jennifer Maguire, dated June 21, 2010, correcting an erroneous recommendation and an inadvertent omission to the original memorandum. (11-0)

- 3.3
- (a) **Adopt the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 2010-2011 and the Manager's Final Budget Addendum.**
 - (b) **Adopt the Annual Funding Sources Resolution for Fiscal Year 2010-2011 and the Manager's Final Budget Addendum.**
 - (c) **Adopt a resolution in compliance with Article XIIB of the Constitution of the State of California and as modified by Proposition 111 and SB 88 electing the population and inflation factors and establishing the Fiscal Year 2010-2011 Appropriation Limit.**

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

Action: Item 3.3 was continued to June 29, 2010 at 1:30 p.m. for action.

RECESS/RECONVENE

The City Council recessed at 12:25 p.m. from the morning Council Session and reconvened at 1:30 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

INVOCATION

Rabbi Menachem Levine, Congregation Am Echad presented the Invocation. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

CEREMONIAL ITEMS

1.1 Presentation of commendations to District 9 Stars Bev Hooper, Jackie Daemion, and Karl Belser. (Chirco)

Action: Mayor Reed and Vice Mayor Chirco recognized and commended the District 9 Stars Bev Hooper, Jackie Daemion, and Karl Belser.

1.2 Presentation of commendations to Alfonso Rodriguez, Jr. and Alfonso Rodriguez III for surpassing their civic duties at the risk of fatal injury to rescue a man in need. (Campos)

Action: Mayor Reed and Council Member Campos recognized and commended Alfonso Rodriguez, Jr. and Alfonso Rodriguez III for surpassing their civic duties at the risk of fatal injury to rescue a man in need.

1.3 Presentation of commendations to HACE Scholarship recipients Gabrielle Cordera, Joe Garcia, Jr., Luis Garcia, and Alberto Servin. (Campos)

Action: Mayor Reed and Council Member Campos recognized and commended Gabrielle Cordera, Joe Garcia, Jr., Luis Garcia, and Alberto Servin, recipients of HACE Scholarships.

1.4 Presentation of a proclamation recognizing June 23, 2010 as “Olympic Day” in the City of San José. (Mayor)

Mayor Reed recognized June 23, 2010 as “Olympic Day” in the City of San José.

JOINT REDEVELOPMENT AGENCY

**9.1 Consider an ordinance for the Cisco Site 4 Development Agreement to reserve 2.5 million square feet of industrial development capacity and to authorize the City Clerk to execute the Development Agreement, for property located on the north and south sides of E. Tasman Drive, between Zanker Road and Coyote Creek, and to the south along Cisco Way (3750, 3850 Zanker Road, and 3550 Cisco Way) (Cisco Technology, Owner). CEQA: EIR Resolution No. 72768 and Addenda thereto.
**DA10-001 – District 4
(Redevelopment Agency/City Manager’s Office)
(Deferred from 6/15/10 – Item 4.3)****

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Chu, dated June 18, 2010, recommending approval of the Staff recommendations. (2) Memorandum from Chief Development Officer Paul Krutko, dated June 3, 2010, recommending approval of an ordinance. (3) Proof of Publication of Notice of Public Hearing, executed on June 9, 2010, submitted by the City Clerk.

Chief Development Officer Paul Krutko and Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions.

Mayor Reed opened the public hearing.

Public Comments: Larry Burnett, Cisco Technology, spoke to the merits of the project.

Motion: Council Member Chu moved approval of the memorandum he cosigned with Mayor Reed, approving the Staff recommendations, and preserving the ability to develop up to 2.5 million square feet of industrial park development and office space under the provisions of the North San José Area Development Policy. Council Member Herrera seconded the motion.

Mayor Reed closed the public hearing.

Action: On a call for the question, the motion carried unanimously, [Ordinance No. 28766](#), entitled: “An Ordinance of the City of San José Approving an Amended and Restated Development Agreement with Cisco Technologies, Inc. Relative to the Development of Real Properties Located in North San José, to Preserve the Ability to Construct up to 2.5 Million Square Feet of Industrial Park Development Under the Provisions of the North San José Area Development Policy and Authorizing the City Clerk to Execute the Amended Development Agreement”, was passed for publication. (11-0)

STRATEGIC SUPPORT SERVICES

3.7 Subject to appropriation of funds in the 2010-2011 Budget:

- (a) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund (001) for Fiscal Year 2010-2011:**
 - (1) **Increase the estimate for other revenue in the amount of \$75,000,000.**
 - (2) **Increase the estimate for use of money and property in the amount of \$547,000 of additional interest earnings as revenue in the General Fund.**
 - (3) **Establish a City-wide appropriation to the Finance Department for the 2010 TRANs Debt Service in the amount of \$75,547,000.**
- (b) **Adopt a resolution:**
 - (1) **Authorizing the issuance and sale of the City of San José 2010 Tax and Revenue Anticipation Note (“2010 Note”) in the not-to-exceed aggregate principal amount of \$75,000,000 to be sold through a private placement.**
 - (2) **Approving, in substantially final form, the Note Purchase Agreement and authorizing the Director of Finance or other authorized officers to execute the Note Purchase Agreement and other related documents, as necessary, in connection with the issuance of the 2010 Note and authorizing other related actions in connection therewith.**

CEQA: Not a Project, PP10-069, City organizational and administrative activities. (City Manager’s Office/Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson and Budget Director Jennifer Maguire, dated June 1, 2010, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Herrera and carried unanimously, [Ordinance No. 28767](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the General Fund for the 2010 Trans Debt Service; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 75455](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the General Fund” and [Resolution No. 75456](#), entitled: “A Resolution of the Council of the City of San José Providing for the Borrowing of Funds for Fiscal Year 2010-2011 and the Issuance and Sale of the City of San José 2010 Tax and Revenue Anticipation Note (Or Portions Thereof) In An Amount Not To Exceed \$75,000,000 and Approving the Execution of a Note Purchase Agreement Relating to Such Note and Authorizing Other Actions in Connection Thereof”, were adopted. (11-0)

JOINT REDEVELOPMENT AGENCY

9.2 Adopt a resolution by the City Council:

- (a) **Finding that the cost of the proposed design-build contract for the Convention Center Expansion and Renovation Project (Project) is likely to exceed \$5,000,000, and the design-build procurement process is likely to save money or result in faster project completion than if the City used a procurement process involving its normal competitive bidding process.**
- (b) **Approving a Request for Proposals and the criteria and process by which the City shall select a design-build entity for the Project.**
- (c) **Authorizing the Public Works Director to issue addenda during the Request for Proposals process to make revisions to the Request for Proposals that are consistent with the scope and selection criteria as approved by Council.**

CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002. (City Manager's Office/ Redevelopment Agency)

Documents Filed: Memorandum from City Manager Debra Figone and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 4, 2010, recommending adoption of a resolution.

Director of Public Works Katy Allen presented the Staff Report. Redevelopment Agency Director Bill Ekern and Chief Development Officer Paul Krutko were available for questions.

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

Director of Public Works Katy Allen responded to Council questions and concerns.

Council Member Liccardo voiced support to the design-build approach but expressed concern about the end result most likely being judged by the last 20% during the process.

Action: On a call for the question, the motion carried, [Resolution No. 75459](#), entitled: "A Resolution of the Council of the City of San José (A) Finding that the Cost of the Proposed Design-Build Contract for the Convention Center Expansion and Renovation Project is Likely to Exceed \$5,000,000 and the Design-Build Procurement Process is Likely to Save Money or Result in Faster Project Completion Than if the City Used a Procurement Process Involving Its Normal Competitive Bidding Process; (B) Approving a Request for Proposals and the Criteria and Process by Which the City Shall Select a Design-Build Entity for the Project and (C) Authorizing the Public Works Director to Issue Addenda During the Request for Proposals Process to Make Revisions to the Request for Proposals that are Consistent with the Scope and Selection Criteria as Approved by Council", was adopted. (10-1. Noes: Liccardo.)

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Vice Mayor Chirco and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: Campos, Constant.)

2.1 Approval of Minutes.

Action: There were none.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28750** – Establishing a Rule 20A Underground Utility District along Lincoln Avenue from West San Carlos Street to approximately 160 feet northwest of Coe Avenue, Auzerais Avenue approximately 190 feet west of Lincoln Avenue, Northrup Street from Lincoln Avenue to Highway 280, Parkmoor Avenue from Lincoln Avenue to approximately 280 feet west of Northrup Street, and Paula Street approximately 210 feet west of Lincoln Avenue.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28750 executed on June 11, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28750](#) was adopted. (9-0-2. Absent: Campos, Constant.)

- (b) **ORD. NO. 28751** – Amending Section 11.12.050 of Chapter 11.12 of Title 11 of the San José Municipal Code to authorize the City Manager to appoint persons authorized to direct traffic.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28751 executed on June 18, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28751](#) was adopted. (9-0-2. Absent: Campos, Constant.)

- (c) **ORD. NO. 28752** – Amending Chapters 3.28 and 3.44 of Title 3 of the San José Municipal Code to add new Sections 3.28.755, 3.28.955 and 3.44.105 and amend Sections 3.28.770 and 3.28.780 to implement revisions in employee and employer retirement contributions for the Federated City Employees Retirement System.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28752 executed on June 18, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28752](#) was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.2 (d) **ORD. NO. 28753** – Amending Part 10 of Chapter 3.36 of Title 3 and Chapter 3.44 of Title 3 of the San José Municipal Code to add new Sections 3.36.1525 and 3.44.095 to implement revisions in employee and employer retirement contributions for the Police and Fire Department Retirement Plan.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28753 executed on June 18, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28753](#) was adopted. (9-0-2. Absent: Campos, Constant.)

- (e) **ORD. NO. 28754** – Amending various Sections of Chapters 23.02 and 23.04 of Title 23 of the San José Municipal Code to allow freeway signs for large shopping centers, allow attached signs to face a freeway, establish operational requirements for programmable electronic signs, establish a San Pedro Square Signage Area together with signage regulations for that area, modify the requirements for fin signs and vertical projecting signs in the Downtown Sign Zone, allow architectural sign clusters for large parcels, distinguish between on-site and off-site commercial messages, and make other related technical or clerical amendments.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28754 executed on June 18, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28754](#) was adopted. (9-0-2. Absent: Campos, Constant.)

- (f) **ORD. NO. 28755** – Rezoning certain real property situated at the easterly terminus of Skyway Drive, east of Monterey Road (100 Skyway Drive) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC10-009

Documents Filed: Proof of Publication of the Title of Ordinance No. 28755 executed on June 18, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28755](#) was adopted. (9-0-2. Absent: Campos, Constant.)

- (g) **ORD. NO. 28756** – Rezoning certain real property situated on the southwest side of Carol Drive, approximately 900 feet west of Highway 87 (2661 Carol Drive), from R-1-1 Single-Family Residence District to A(PD) Planned Development Zoning District. PDC07-018

Documents Filed: Proof of Publication of the Title of Ordinance No. 28756 executed on June 18, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28756](#) was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.2 (h) **ORD. NO. 28757 – Rezoning certain real property situated at the north side of Auzerais Avenue between Bird and Royal Avenues (395 Bird Avenue) from LI-Light Industrial to A(PD) Planned Development Zoning District. PDC09-023**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28757 executed on June 18, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28757](#) was adopted. (9-0-2. Absent: Campos, Constant.)

- (i) **ORD. NO. 28758 – Rezoning certain real property situated in the area bounded by the Village Square, Cortona Drive, Classico Avenue and Ruby Avenue (4035 Evergreen Village Square), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC09-020**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28758 executed on June 18, 2010, submitted by the City Clerk.

Action: [Ordinance No. 28758](#) was adopted. (9-0-2. Absent: Campos, Constant.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of June 2, 2010. (Mayor)**
- (b) **Transportation and Environment Committee Report of June 7, 2010. (Liccardo)**
- (c) **Rules and Open Government Committee Report of June 9, 2010. (Mayor)**
- (d) **Neighborhood Services and Education Committee Report of June 10, 2010. (Campos)**
- (e) **Rules and Open Government Committee Report of May 26, 2010. (Mayor)**
- (f) **Rules and Open Government Committee Report of May 19, 2010. (Mayor)**

Action: Deferred to August 08, 2010 per City Clerk and Orders of the Day.

- 2.4 (a) **Request for an excused absence for Council Member Campos from the Regular Meeting of the Neighborhood Services and Education Committee on June 10, 2010 due to illness. (Campos)
(Rules Committee referral 6/9/10)**

Documents Filed: Memorandum from Council Member Campos, dated June 10, 2010, requesting an excused absence.

Action: The absence for Council Member Campos was excused. (9-0-2. Absent: Campos, Constant.)

2.5 City Council Travel Reports.

Action: There were none.

- 2.6 Adopt a resolution ratifying the execution and submission by the City Manager of a California Solar Initiative Reservation Request Form to Pacific Gas and Electric on April 23, 2010, and authorizing the City Manager to execute any additional documents necessary to accept a California Solar Initiative Rebate arising from the installation and operation of solar electricity panels at the Norman Y. Mineta San José International Airport Consolidated Rent-A-Car Garage, in a total rebate amount not to exceed \$3,000,000. CEQA: Resolution Nos. 67380 and 71451, File No. PP10-105. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated June 8, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75460](#), entitled: “A Resolution of the Council of the City of San José Ratifying the Submission and Execution by the City Manager of a California Solar Initiative Request Form to Pacific Gas and Electric Company on April 23, 2010 and Authorizing the City Manager to Execute Any Additional Documents Necessary to Accept a California Solar Initiative Rebate Arising from the Installation and Operation of Solar Electricity Panels at the Norman Y. Mineta San José International Airport Consolidated Rent-A-Car Garage In A Total Rebate Amount Not To Exceed \$3,000,000”, was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.7 Adopt a resolution authorizing the City Attorney to negotiate and execute a Fourteenth Amendment to the agreement with Orrick Herrington & Sutcliffe LLP for legal services related to the financing of improvements at the Norman Y. Mineta San Jose International Airport and the City’s outstanding Airport revenue debt, extending the term through June 30, 2011 and increasing compensation by \$50,000, for a total amount not to exceed \$475,000. CEQA: Not a Project; File No. PP10-066, services that involve no physical changes to the environment. (City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 11, 2010, recommending adoption of resolution.

Action: [Resolution No. 75461](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Fourteenth Amendment to the Airport Legal Services Agreement with Orrick, Herrington and Sutcliffe LLP”, was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.8 (a) Approve payment to Ms. Akemi Hildebrand in the amount of \$151,000 pursuant to a Settlement Agreement and Release, as authorized by the City Council in closed session on June 8, 2010 to resolve her claims against the City of San Jose for two grey water intrusions.**
- (b) Approve the following Appropriation Ordinance amendments in the Sewer Service and Use Charge Fund (Fund 541) for 2009-2010:**
- (1) Decrease the Ending Fund Balance by \$44,000.**

2.8 (b) (2) Increase the Environmental Services Department: Sanitary Sewer Claims appropriation by \$44,000.

CEQA: Not a Project; File No. PP010-066, Agreements/Contracts (New or Amended). (City Attorney's Office/City Manager's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle and Budget Director Jennifer Maguire, dated June 10, 2010, recommending approval of the payment to Ms. Hildebrand and appropriation ordinance amendments.

Action: The payment to Ms. Akemi Hildebrand in the amount of \$151,000 pursuant to a Settlement Agreement and Release, as authorized by the City Council in closed session on June 8, 2010 to resolve her claims against the City of San Jose for two grey water intrusions was approved and [Ordinance No. 28768](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in Sewer Service and Use Charge Fund for the Environmental Services Department: Sanitary Sewer Claims; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (9-0-2. Absent: Campos, Constant.)

2.9 Adopt a resolution authorizing the City Manager to execute an Amendment to the existing Second Amended and Restated Agreement between the City of San José and the San José Convention & Visitors Bureau until September 30, 2010, with a compensation for the extension period not to exceed \$500,000. CEQA: Not a Project, File No.PP10-066 (e), agreements/contracts. (Economic Development)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 4, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75462](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City to Execute an Amendment to the Second Amended and Restated Agreement with the San José Convention and Visitors Bureau for Marketing and Sales Services", was adopted. (9-0-2. Absent: Campos, Constant.)

2.10 Adopt a resolution:

- (a) Ratifying a grant agreement with the U.S. Department of Energy to conduct the Solar America Initiative's Solar Market Transformation Special Project activities, for the term of January 1, 2010 through December 31, 2011, and to accept a grant in an amount not to exceed \$1,301,636.**
- (b) Authorizing the City Manager and Redevelopment Agency Executive Director to negotiate and execute an agreement for the City's use of the Agency's site located at 155-193 East Santa Clara Street, which is valued at \$9,343 per month for a period of up to two years, for the Green Vision Education and Demonstration Center; and**
- (c) Authorizing the City Manager to grant licenses to clean tech companies providing donations to the Green Vision Education and Demonstration to be on site at 155-193 East Santa Clara Street for a period of up to two years.**

CEQA: Resolution No. 65459, File No. PP09-204. (Environmental Services)

2.10 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated June 1, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated June 21, 2010, reporting on the status of an additional \$200,000 in funding from the Department of Energy to implement activities outlined in the original Solar America Initiative's Solar Market Transformation Special Project grant proposal and proposed changes in the agreement with the Redevelopment Agency.

Action: [Resolution No. 75463](#), entitled: "A Resolution of the Council of the City of San José Ratifying a Grant Agreement with the U.S. Department of Energy for the Solar America Initiative's Solar Market Transformation Special Project", was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.11 Subject to appropriation of funds in the 2010-2011 Budget, adopt a resolution authorizing the City Manager to negotiate and execute agreements with Goodwill of Silicon Valley, the Salvation Army, and HOPE Services for recycling and reuse services for a term from July 1, 2010 through June 30, 2011, with a total maximum annual compensation for the period through June 30, 2011 not to exceed \$356,176 for Goodwill of Silicon Valley, \$125,870 for the Salvation Army, and \$6,201 for HOPE Services. CEQA: Not a Project, File No.PP10-066 (e), agreements for services that involve no physical change to the environment. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean. dated June 1, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75464](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements with Goodwill of Silicon Valley, the Salvation Army and Hope Services for Recycling and Reuse Services", was adopted. (9-0-2. Absent: Campos, Constant.)

- 2.12 Adopt a resolution authorizing the Director of General Services to:**

- (a) Negotiate and execute an agreement with Family Supportive Housing, Inc., a California non-profit corporation for the purchase of land located at 1590/1600 Las Plumas Avenue, San José, CA, (APN N. 254-03-039) for purposes related to the implementation of the Santa Clara County Integrated Waste Management Plan.**
- (b) Execute all documents necessary to complete the transaction in accordance with the business points as outlined in the attached Exhibit B of the memorandum to Council.**

CEQA: Mitigated Negative Declaration was adopted on February 24, 2010, for the purchase of the 1.76-acre San José Family Shelter property located at 1590/1600 Las Plumas Avenue (PP09-206). (Environmental Services/General Services)

2.12 (Cont'd.)

Documents Filed: Memorandum from Director of General Services Peter Jensen and Director of Environmental Services John Stufflebean, dated June 1, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75465](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to: (1) Negotiate and Execute an Agreement with Family Supportive Housing for the Purchase of Real Property Located at 1590/1600 Las Plumas Avenue in San José, and (2) Execute All Documents Necessary to Complete the Transaction", was adopted. (9-0-2. Absent: Campos, Constant.)

2.13 Subject to appropriation of funds in the 2010-2011 Budget:

- (a) Adopt a resolution authorizing the City Manager to execute a grant agreement with the Department of Energy to conduct the Local Energy Assurance Planning activities, for the term of July 1, 2010 through June 30, 2012, with a grant to the City in the amount of \$299,983.**
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2010-2011:**
 - (1) Establish a Recovery Act – City-Wide Expenses Local Energy Assurance Planning appropriation to the Environmental Services Department in the amount of \$150,891.**
 - (2) Increase the estimate for Revenue from Federal Government – Recovery Act by \$150,891.**

CEQA: Not a Project, File No. PP10-066 (e), services that involve no physical changes to the environment. (Environmental Services/City Manager's Office)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean and Budget Director Jennifer Maguire, dated June 1, 2010, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: [Resolution No. 75466](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Grant Agreement with the U.S. Department of Energy to Conduct Local Energy Assurance Planning Activities, In An Amount Not To Exceed \$299,983"; [Ordinance No. 28769](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in General Fund for the Recovery Act – Citywide Expenses Local Energy Assurance Planning; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 75467](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the General Fund", were adopted. (9-0-2. Absent: Campos, Constant.)

- 2.14 Subject to appropriation of funds in the 2010-2011 Budget, approve the award of open purchase orders for supplies, materials, equipment and services for FY 2010-2011 #1 and authorize the Director of Finance to execute the purchase orders. CEQA: See attachment for CEQA determinations. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 1, 2010, recommending approval of the open purchase orders and authorization for the Director of Finance to execute the purchase orders.

Action: The open purchase orders for supplies, materials, equipment and services for FY 2010-2011 #1 was approved and Director of Finance was authorized to execute the purchase orders. (9-0-2. Absent: Campos, Constant.)

- 2.15 Subject to appropriation of funds in the 2010-2011 Budget, report on Request for Proposal for the operation, management and maintenance of the Compressed Natural Gas (CNG) fuel station at the Norman Y. Mineta San José International Airport (“Airport”) and adoption of a resolution:**

(a) Authorizing the Director of Finance to:

- (1) Execute an agreement with Pinnacle CNG Company (Midland, TX) to operate, manage and maintain CNG fueling station at the Airport, for an initial three year term with total compensation not to exceed \$610,848, not including costs for non-routine or emergency maintenance and repair, subject to the annual appropriation of funds; and**
- (2) Exercise three additional one-year options to extend the agreement after the initial term, subject to the annual appropriation of funds.**

(b) Authorizing the Director of Aviation to expend an additional contingency amount of up to \$200,000 under the agreement to cover costs for non-routine or emergency maintenance and repairs for the initial three year term, subject to the annual appropriation of funds.

CEQA: Resolutions No. 67380 and 71451, File No. PP10-104. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 1, 2010, recommending adoption of a resolution and approval of related contingency.

Action: [Resolution No. 75468](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Pinnacle CNG Company for Operation and Maintenance of a Compressed Natural Gas Fueling Station at the Norman Y. Mineta San José International Airport”, was adopted, and related contingency, was approved. (9-0-2. Absent: Campos, Constant.)

2.16 Adopt a resolution:

- (a) **Setting a public hearing on Tuesday, August 3, 2010, at 1:30 p.m. for 2010-2011 Sewer Service and Use Charges and Storm Sewer Service Charges based on annual reports of the Director of Finance and direct the City Clerk to publish notice of the time and place of the hearing.**
- (b) **Allowing the Director of Finance to file, with the City Clerk, the 2010-2011 Sewer Service and Use Charges and Storm Sewer Service Charges on or before July 16, 2010.**

CEQA: Not a Project, File No. PP10-069(a) City organizational & administrative activities. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 1, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75469](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing on the Annual Sewer Service and Use Charge and Storm Sewer Service Charge Reports of the Director of Finance Pursuant to Sections 15.12.550 and 15.16.1410 of the San José Municipal Code", was adopted. (9-0-2. Absent: Campos, Constant.)

2.17 Subject to appropriation of funds in the 2010-2011 Budget, adopt a resolution authorizing the Director of Finance to:

- (a) **Negotiate and execute the Fifth Amendment to the Environmental Enforcement Data Management System (EEDMS) Agreement with EnfoTech & Consulting, Inc. to extend the term of the agreement by eighteen months from July 31, 2010 to January 31, 2012 and increase the compensation by \$318,199 for a revised not to exceed amount of \$1,381,598 in order to upgrade the existing EEDMS to a web based system.**
- (b) **Exercise five additional one-year options to extend the Agreement for ongoing software maintenance and support at a fixed cost of \$49,500 per year subject to the appropriation of funds.**
- (c) **Execute change orders not-to-exceed a contingency amount of \$72,750 to cover any unanticipated changes to the scope of services for the upgrade to a web based system.**

CEQA: Not a Project, File No. PP10-066(a) agreements and contracts. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated June 1, 2010, recommending adoption of a resolution. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated May 24, 2010, stating concurrence with the Staff recommendation.

Action: [Resolution No. 75470](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a Fifth Amendment to the Agreement with EnfoTech & Consulting, Inc.", was adopted. (9-0-2. Absent: Campos, Constant.)

2.18 Adopt a resolution authorizing the City Manager and the City Manager's authorized designees to negotiate and execute:

- (a) **The Twelfth Amendment to the General Banking Services Agreement with Union Bank of California to increase the maximum annual compensation by \$30,000 from \$320,000 to \$350,000 to provide final banking and transaction services through June 30, 2010;**
- (b) **The Third Amendment to the agreements with Wells Fargo Bank for General Banking Services and Merchant Card Processing Services and First Amendment to the agreement with Wells Fargo Bank for Custodial Services to increase the maximum annual compensation by \$145,000 from \$574,000, to an amount not to exceed \$719,000 for the initial term through June 30, 2010; and**
- (c) **Amendments to the agreements with UBOC and Wells Fargo Bank, if necessary, to either increase or decrease the maximum annual compensation or extend the term of the UBOC agreement without further City Council approval provided the total maximum compensation for banking services does not exceed appropriated funds for banking services.**

CEQA: Not a Project, File No. PP10-066 (a) professional services with no changes in the physical environment. (Finance)

Documents Filed: Memorandum from Assistant Director of Finance Julia H. Cooper, dated June 9, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75471](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager and the City Manager's Authorized Designees to Negotiate and Execute (1) The Twelfth Amendment to the General Banking Services Agreement with Union bank of California To Increase the Maximum Annual Compensation By \$30,000 from \$320,000 to an Amount Not To Exceed \$350,000 to Provide Final Banking and Transition Services Through June 30, 2010; (2) The Third Amendment to the Agreements with Wells Fargo Bank for General Banking Services and Merchant Card Processing Services and the First Amendment to the Agreement with Wells Fargo Bank for Custodial Services to Increase the Maximum Annual Compensation by \$145,000 from \$574,000 To An Amount Not To Exceed \$719,000 for the Initial Term Through June 23, 2010 and (3) Amendments to the Agreement with Union Bank of California and Wells Fargo Bank, if Necessary, To Either Increase or Decrease the Maximum Annual Compensation or Extend the Term of the Union Bank of California Agreement without Further City Council Approval Provided the Total Maximum Compensation for Banking Services Does Not Exceed Appropriated Funds for Banking Services", was adopted. (9-0-2. Absent: Campos, Constant.)

2.19 Subject to appropriation of funds in the 2010-2011 Budget, adopt a resolution authorizing the Director of Finance to negotiate and execute the first amendment to the agreement between the City of San José and MuniServices Company to increase compensation by \$400,000 to a total not to exceed \$3,780,000 and extend the term for one additional year from July 1, 2010 through June 30, 2011 for the sales and use tax audit services. CEQA: Not a Project, File No. PP10-066 (e), services that involve no physical changes to the environment. (Finance)

2.19 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 1, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75472](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute the First Amendment to the Agreement between the City of San José and MuniServices, LLC", was adopted. (9-0-2. Absent: Campos, Constant.)

2.20 Adopt a resolution authorizing the Director of General Services to negotiate and execute an agreement with David Akbar and Manvir Gillon, a partnership doing business as SAVU for the lease of real property located at 150 S. 2nd Street for purposes of operating a restaurant and sports bar, for rentals as follows: Year 1 \$88,978; Year 2 \$122,197; Year 3 \$125,863; Year 4 \$129,639; Year 5 \$133,528; Year 6 \$137,534; Year 7 \$141,660; Year 8 \$145,910; Year 9 \$150, 287; Year 10 \$154,796 for total compensation to the City of San José \$1,330,392. CEQA: Exempt, File No. PP10-095. (GS)

Documents Filed: Memorandum from Director of General Services Peter Jensen, dated June 4, 2010, recommending adoption of a resolution.

Public Comments: Scott Giangrew, Hawgs Seafood Bar, voiced concern that there had been a lack of communication between the City Staff and his business that had put him in an awkward situation with his employees and customers.

Council Member Liccardo briefly commented on Mr. Giangrew's concerns.

Motion: Council Member Liccardo moved approval of the Staff recommendations, with Staff directed to include the following business terms: (1) Live entertainment of any kind will not be allowed on the site. (2) The business must close by midnight with deviation only in limited circumstances. (3) Any outdoor dining to conclude by 10 pm with doors closed. (4) Appropriate noise limitations for a use appropriate to the proximity to residential are to be included in the lease. Council Member Herrera seconded the motion.

City Attorney Richard Doyle and City Manager Debra Figone responded to Council questions.

Council Member Liccardo and Vice Mayor Chirco requested that Staff work with Mr. Giangrew to address his concerns.

2.20 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, [Resolution No. 75473](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute an Agreement with David Akbar and Manvir Gillon, a Partnership Doing Business as SAVU, for the Lease of Real Property Located at 150 S. 2nd Street to Operate a Restaurant and Sports Bar for an Initial Ten Year Term with Two Five Year Options to Renew, For Rentals in the Initial Term Totaling \$1,330,212.00”, was adopted, as amended, to include the following business terms: (1) Live entertainment of any kind will not be allowed on the site. (2) The business must close by midnight with deviation only in limited circumstances. (3) Any outdoor dining to conclude by 10 pm with doors closed. (4) Appropriate noise limitations for a use appropriate to the proximity to residential are to be included in the lease. (10-0-1. Absent: Campos.)

2.21 Approve an agreement between the City and Rebecca Yeh and David Shao, the adjoining property owners, for sale of the property identified by APN 569-12-034 and located at 1494 Ridgewood Drive in the amount of \$370,000. CEQA: Exemption, File No. PP10-040. (General Services)

Documents Filed: Memorandum from Director of General Services Peter Jensen, dated May 27, 2010, recommending approval of an agreement.

Action: An agreement between the City and Rebecca Yeh and David Shao, the adjoining property owners, for sale of the property identified by APN 569-12-034 and located at 1494 Ridgewood Drive in the amount of \$370,000, was approved. (9-0-2. Absent: Campos, Constant.)

2.22 Subject to appropriation of funds in the 2010-2011 Budget, adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara to:

- (a) Provide matching grant funding in an amount not to exceed \$707,000 from the Communications Capital Program to offset a portion of the matching funds required for the \$6,200,000 Public Safety Interoperable Communications grant for the Phase II Emergency Communications Microwave Project; and**
- (b) Provide Emergency Communications Microwave Project communication equipment and in-kind services to the County of Santa Clara as additional contributions toward the \$6,200,000 Public Safety Interoperable Communications grant for the Phase II Emergency Communications Microwave Project.**

CEQA: Not a Project, File No. PP10-066 (e) Services that involve no physical changes to the environment. (General Services)

Documents Filed: Memorandum from Director of General Services Peter Jensen, dated May 28, 2010, recommending adoption of a resolution.

2.22 (Cont'd.)

Action: [Resolution No. 75474](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the County of Santa Clara for the Phase II Emergency Communications Microwave Project", was adopted. (9-0-2. Absent: Campos, Constant.)

2.23 Subject to appropriation of funds in the 2010-2011 Budget, adopt a resolution:

- (a) **Approving a 12-month extension to the Housing Services Partnership (HSP) contract with EHC Lifebuilders (EHC) to provide homeless services on behalf of the City from July 1, 2010 through June 30, 2011.**
- (b) **Approving an increase in the HSP contract amount from \$2,310,712 to \$3,710,712, an increase of \$1,400,000, to cover the cost of services provided through June 30, 2011.**
- (c) **Authorizing the Director of Housing to negotiate and execute all necessary documents.**

CEQA: Not a Project, File No. PP10-066(e), agreements/contracts. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated June 3, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75475](#), entitled: "A Resolution of the Council of the City of San José Approving an Amendment to the Housing Services Partnership Contract with EHC Lifebuilders to Provide Services to San José Residents Who Are Homeless or At Risk of Homelessness and Approving an Increase in Funding", was adopted. (9-0-2. Absent: Campos, Constant.)

2.24 Subject to appropriation of funds in the 2010-2011 Budget:

- (a) **Adopt a resolution authorizing the Director of Housing to accept a Brownfields Cleanup Revolving Loan Fund grant of up to \$525,000 from the California Department of Toxic Substances Control and to negotiate and execute the grant agreement and any amendments or other documents necessary to implement the grant for the cleanup of the site of the previously approved 92-unit Orvieto Family Apartments, an affordable multifamily rental project located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive, to be developed by ROEM Development Corporation, or its legal affiliate.**
- (b) **Adopt the following Appropriation Ordinance amendments in 2010-2011 in the Multi-Source Housing Fund:**
 - (1) **Establish an appropriation to the Housing Department for the Toxic Substances Control Grant project in the amount of \$525,000.**
 - (2) **Decrease the Ending Fund Balance by \$525,000.**

CEQA: Resolution No. 72877, Goble Lane Environmental Impact Report, File No. PP09-086. (Housing/City Manager's Office)

2.24 (Cont'd.)

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Budget Director Jennifer Maguire, dated June 3, 2010, recommending adoption of a resolution and appropriation ordinance amendments.

Action: [Resolution No. 75476](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to: (1) Accept a Brownfields Cleanup Revolving Loan Fund Grant from the California Department of Toxic Substances Control and (2) Negotiate and Execute the Grant Agreement and any Amendments or Other Documents Necessary to Implement the Grant" and [Ordinance No. 28770](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in Multi-Source Housing Fund for the Toxic Substances Control Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (9-0-2. Absent: Campos, Constant.)

2.25 Subject to appropriation of funds in the 2010-2011 Budget:

- (a) **Adopt a resolution authorizing the City Manager to negotiate and execute a joint Memorandum of Understanding between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative (UASI), to accept the 2009 UASI grant allocation in the amount of \$2,000,000 and to execute additional amendments and related documents without further Council action; and**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund for Fiscal Year 2010-2011:**
 - (1) **Establish a City-wide appropriation to the Police Department for the 2009 Urban Areas Security Initiative (UASI) Grant in the amount of \$950,000.**
 - (2) **Establish a City-wide appropriation to the Fire Department for the 2009 Urban Areas Security Initiative (UASI) Grant in the amount of \$1,050,000.**
 - (3) **Increase the Revenue Estimate from the Federal Government by \$2,000,000.**

CEQA: Not a Project, File No. PP10-066 (a), 2009 UASI Grant MOU. (Police/Fire/City Manager's Office)

Documents Filed: Memorandum from Police Chief Robert L. Davis, Fire Chief Darryl Von Raesfeld and Budget Director Jennifer Maguire, dated June 1, 2010, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

2.25 (Cont'd.)

Action: [Resolution No. 75477](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Joint Memorandum of Understanding Between the City of San José and the City and County of San Francisco, To Accept the 2009 Urban Areas Security Initiative Grant Allocation in the Amount of \$2,000,000 and To Execute Additional Amendments and Related Documents Without Further Council Action”; [Ordinance No. 28771](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the General Fund for the 2009 Urban Areas Security Initiative Grant – Police and Fire; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 75478](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the General Fund”, were adopted. (9-0-2. Absent: Campos, Constant.)

2.26 Adopt a resolution:

- (a) **Declaring the intention of the Council to grant a franchise to Wickland Pipelines, LLC, for the purpose of transmitting and distributing jet fuel and oil-related products;**
- (b) **Setting a public hearing on August 3, 2010, at 1:30 p.m. in the City Council Chambers located at 200 E. Santa Clara Street in San José, California to hear any objections to the granting of the franchise; and**
- (c) **Directing the City Clerk to publish notice of the public hearing at least once within fifteen (15) days after the passage of the resolution in a newspaper of general circulation.**

CEQA: Mitigated Negative Declaration, File No. CP09-012. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 1, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75479](#), entitled: “A Resolution of the Council of the City of San José Declaring Its Intent to Approve a Grant of Franchise to Wickland Pipelines, LLC for the Purpose of Transmitting and Distributing Petroleum Products Through Pipelines Under, Along and Across the Public Right-of-Way Within the City of San José”, was adopted. (9-0-2. Absent: Campos, Constant.)

2.27 Subject to appropriation of funds in the 2010-2011 Budget:

- (a) **Adopt a resolution authorizing the Director of Public Works to determine the lowest responsive and responsible bidder for the Phase 1 “Contract for the Norman Y. Mineta San José International Airport Interim Rental Car Parking Lot Demolition Project” and to either: (i) award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$1,500,000; or (ii) reject all bids and re-bid the Project.**
- (b) **Approve a contingency equal to ten percent (10%) of the award amount.**

- 2.27 (c) **Adopt a resolution authorizing the Director of Public Works to determine the lowest responsive and responsible bidder for the Phase 2 “Contract for the Norman Y. Mineta San José International Airport Green Island Long Term Parking Lot Improvement Project” and to either:**
- (1) **Award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$5,500,000, or**
 - (2) **Reject all bids and re-bid the Project.**
- (d) **Approve a contingency equal to ten percent (10%) of the award amount.**
CEQA: Resolution Nos. 67380 and 7145; File No. PP10-109. (Public Works/Airport)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated June 1, 2010, recommending adoption of resolutions, including contingencies for each contract.

Action: [Resolution No. 75480](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Determine the Lowest Responsive and Responsible Bidder, To Award the Phase 1 Contract for the Norman Y. Mineta San José International Airport Interim Rental Car Parking Lot Demolition Project to the Lowest Responsive Bidder, In An Amount Not To Exceed \$1,500,000 or To Reject All Bids and Rebid the Project” and [Resolution No. 75481](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Determine the Lowest Responsive and Responsible Bidder, To Award the Phase 2 Contract for the Norman Y. Mineta San José International Airport Green Island Long Term Parking Lot Improvement Project to the Lowest Responsive Bidder, In An Amount Not To Exceed \$5,500,000 or To Reject All Bids and Rebid the Project”, were adopted, including related contingencies for Phase 1 and Phase 2, were approved. (9-0-2. Absent: Campos, Constant.)

- 2.28 **Approval of the second amendment to the agreement for consultant services with Anderson Brule Architects, extending the term of the agreement for the Educational Park Branch Library project from April 30, 2011 to October 30, 2011, and increasing the amount of Additional Services and Reimbursable compensation by \$50,000, for a total agreement amount not to exceed \$1,330,000. CEQA: Mitigated Negative Declaration, File No. PP08-024. Resolution approved by Council on November 6, 2007. Council District 4. (Public Works/Library)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Library Director Jane Light, dated June 1, 2010, recommending approval of the second amendment to the agreement.

Action: The second amendment to the agreement for consultant services with Anderson Brule Architects, extending the term of the agreement for the Educational Park Branch Library project from April 30, 2011 to October 30, 2011, and increasing the amount of additional services and reimbursable compensation by \$50,000, for a total agreement amount not to exceed \$1,330,000, was approved. (9-0-2. Absent: Campos, Constant.)

- 2.29 Adopt a resolution authorizing the City Manager to negotiate and execute a consultant agreement with the second highest ranked consultant, LPA, Inc., for design consultant services including project design, preparation of construction documents and construction administration services for the new Southeast Branch Library, in a total amount not to exceed \$850,000. CEQA: Addendum to the Evergreen Specific Plan EIR, Resolution No.63719, File No. PP10-008. Council District 8. (Public Works/Library)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Library Director Jane Light, dated June 1, 2010, recommending adoption of a resolution.

Action: [Resolution No. 75482](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with LPA Inc. for Design Services for the Southeast Branch Library, In An Amount Not To Exceed \$850,000", was adopted. (9-0-2. Absent: Campos, Constant.)

2.30 Subject to appropriation of funds in the 2010-2011 Budget:

- (a) Approval of an Agreement for Design Services with the Santa Clara Valley Transportation Authority for the Santa Clara-Alum Rock Bus Rapid Transit Project in an amount not to exceed \$151,875.**
- (b) Approval of an Agreement for Design Services with the Santa Clara Valley Transportation Authority for the Capitol Expressway Light Rail Pedestrian Improvements Project in an amount not to exceed \$309,225.**
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in 2010-2011 in the Construction Excise Tax Fund:**
 - (1) Establish an appropriation to the Department of Transportation for the Santa Clara-Alum Rock Bus Rapid Transit project in the amount of \$151,875.**
 - (2) Establish an appropriation to the Department of Transportation for the Capitol Expressway Light Rail Pedestrian Improvements project in the amount of \$309,225.**
 - (3) Increase the estimate for Earned Revenue by \$461,100.**

CEQA: Not a Project, File No. PP10-066(a), agreements and contracts. Council Districts 3, 5 and 8. SNI: Five Wounds/Brookwood Terrace, Gateway East, Mayfair, East Valley/680 Communities. (Public Works/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Budget Director Jennifer Maguire, dated June 1, 2010, recommending approval of the agreements and appropriation ordinance and funding sources resolution amendments.

Action: An Agreement for Design Services with the Santa Clara Valley Transportation Authority for the Santa Clara-Alum Rock Bus Rapid Transit Project in an amount not to exceed \$151,875 and an Agreement for Design Services with the Santa Clara Valley Transportation Authority for the Capitol Expressway Light Rail Pedestrian Improvements Project in an amount not to exceed \$309,225, were approved; [Ordinance No. 28772](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to

2.30 (Action Cont'd.)

Appropriate Monies in Construction Excise Tax Fund for the Santa Clara – Alma Rock Bus Rapid Transit Project and for the Capitol Expressway Light Rail Pedestrian Improvements Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 75483](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the Construction Excise Tax Fund”, were adopted. (9-0-2. Absent: Campos, Constant.)

2.31 Subject to appropriation of funds in the 2010-2011 Budget:

- (a) Adopt a resolution authorizing the Director of Public Works to determine the lowest responsive and responsible bidder for the Silicon Valley Intelligent Transportation Systems (SV-ITS) Enhancement Project and to either:**
 - (1) Award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$1,300,000; or**
 - (2) Reject all bids and re-bid the Project.**
 - (b) Approve a contingency equal to ten percent (10%) of the award amount.**
- CEQA: Addendum to Mitigated Negative Declaration, File No. PP10-091. Council Districts 3, 6 and 9. (Public Works/Transportation)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Director of Transportation Hans F. Larsen, dated June 1, 2010, recommending adoption of a resolution with related contingency.

Action: [Resolution No. 75484](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Award a Construction Contract for the Silicon Valley Intelligent Transportation Systems Enhancement Project to the Lowest Responsive Bidder In An Amount Not To Exceed \$1,300,000, and approval of a Ten Percent Contingency, For A Total Amount Not to Exceed \$1,430,000”, was adopted. (9-0-2. Absent: Campos, Constant.)

2.32 Approval of the American with Disabilities Act Transition Plan Update for Sidewalks that identifies procedures and priorities for building curb ramps and removing sidewalk accessibility barriers and establishes goals for having fully accessible sidewalks along major streets, within pedestrian priority zones, and near public use facilities by 2020, and full sidewalk accessibility throughout the City by 2040. CEQA: Categorically Exempt, File No. PP10-107. (Transportation)

Documents Filed: (1) Memorandum from Acting Director of Transportation Hans F. Larsen, dated June 3, 2010, recommending approval of the transition plan update for sidewalks. (2) Supplemental memorandum from Acting Director of Transportation Hans F. Larsen, dated June 17, 2010, clarifying the City priority for retrofitting preexisting curb ramps that do not meet current Americans with Disabilities standards.

2.32 (Cont'd.)

Action: The American with Disabilities Act Transition Plan Update for Sidewalks that identifies procedures and priorities for building curb ramps and removing sidewalk accessibility barriers and establishes goals for having fully accessible sidewalks along major streets, within pedestrian priority zones, and near public use facilities by 2020, and full sidewalk accessibility throughout the City by 2040, was approved. (9-0-2. Absent: Campos, Constant.)

- 2.33 Approve an ordinance amending Parts 1 and 5.5 of Chapter 3.36 of Title 3 of the San José Municipal Code relating to the Police and Fire Department Retirement Plan to add new Sections 3.36.130 and 3.36.140 defining “Limitation Year” and “Plan Year” and revising Section 3.36.730 to clarify provisions related to Internal Revenue Code limitations on pension benefit calculations. CEQA: Not a Project; File No. PP10-068, Municipal Code or Policy (new or revised). (City Attorney’s Office)
(Rules Committee referral 6/9/10)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 18, 2010, recommending approval of an ordinance.

Action: [Ordinance No. 28773](#), entitled: “An Ordinance of the City of San José Amending Parts 1 and 5.5 of Chapter 3.36 of Title 3 of the San José Municipal Code Relating to the Police and Fire Department Retirement Plan to Add New Sections 3.36.130 and 3.36.140 Defining ‘Limitation Year’ and ‘Plan Year’ and Revising Section 3.36.730 to Clarify Provisions Related to Internal Revenue Code Limitations on Pension Benefit Calculations”, was passed for publication. (9-0-2. Absent: Campos, Constant.)

- 2.34 As recommended by the Rules and Open Government Committee on June 9, 2010:**
- (a) Approve the co-sponsorship of the National League of Cities Public Safety and Crime Prevention Steering Committee Meeting as a City Council sponsored special event.**
 - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**
- (City Clerk)
[Rules Committee referral 6/9/10 – Item H(3)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 9, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The co-sponsorship of the National League of Cities Public Safety and Crime Prevention Steering Committee Meeting as a City Council sponsored special event was approved and approval to accept donations from various individuals, businesses or community groups to support the event was authorized. (9-0-2. Absent: Campos, Constant.)

- 2.35 As recommended by the Rules and Open Government Committee on June 16, 2010, reappoint Patricia Colombe to the Historic Landmarks Commission for a third term, to last three years. (Chirco)
[Rules Committee referral 6/16/10 – Item G(1)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 17, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: Patricia Colombe was reappointed to the Historic Landmarks Commission for a third term, to last three years. (9-0-2. Absent: Campos, Constant.)

- 2.36 As recommended by the Rules and Open Government Committee on June 16, 2010, appoint Barbara Cox, Green Energy Grants Coordinator for the California Labor Management Cooperation Committee of the International Brotherhood of Electrical Workers to serve as a mandated labor representative on the SVWIN Board of Directors as required by law. (Mayor)
[Rules Committee referral 6/16/10 – Item G(2)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 17, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: Barbara Cox, Green Energy Grants Coordinator for the California Labor Management Cooperation Committee of the International Brotherhood of Electrical Workers, was appointed to serve as a mandated labor representative on the SVWIN Board of Directors as required by law. (9-0-2. Absent: Campos, Constant.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone recognized and commended Fire Chief Darryl Von Raesfeld for his dedicated service to the community on the eve of his retirement from the City of San José Fire Department.

3.4 As recommended by the Public Safety, Finance and Strategic Support Committee on May 20, 2010, accept the Report from the City Auditor on the Audit of the City's Licensing and Permitting of Cardroom Owners and Employees. (Auditor) [Public Safety, Finance and Strategic Support Committee referral 5/20/10 – Item D(2)] (Deferred from 6/15/10 – Item 3.15)

Documents Filed: (1) Memorandum from City Clerk Lee Price, MMC, dated June 1, 2010, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (2) Memorandum from City Attorney Richard Doyle, dated June 18, 2010, responding to questions on the Audit of the City's Licensing and Permitting of Cardroom Owners and Employees.

City Auditor Sharon W. Erickson presented the Staff Report.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the Report from the City Auditor on the Audit of the City's Licensing and Permitting of Cardroom Owners and Employees, was accepted. (9-0-2. Absent: Campos, Kalra.)

3.5 Approve a settlement and authorize the City Attorney to execute a Settlement Agreement to settle two federal Fair Labor Standards Act lawsuits brought by San José fire employees in which (1) the fire employees will be paid back wages in an amount to be determined by recalculating each participating fire employee's overtime pay which they are due, if any, consistent with the proposed settlement agreement, approved by the federal court as fair and reasonable; (2) the City will calculate overtime pay prospectively pursuant to the attached proposed settlement agreement beginning the first pay period that commences after July 1, 2010; and (3) the City will pay attorneys' fees and costs for both lawsuits, in a total amount of one hundred five thousand dollars (\$105,000), as considered by the City Council during Closed Session on March 30, 2010. CEQA: Not a project, File No. PP10-069 (b), personnel related decisions. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 8, 2010, recommending approval of the settlement.

City Attorney Richard Doyle recommended approval of the settlement with the fire employees regarding Fair Labor Standards Act Overtime claims.

3.5 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the City Attorney was authorized to execute a Settlement Agreement to settle two federal Fair Labor Standards Act lawsuits brought by San José fire employees in which (1) the fire employees will be paid back wages in an amount to be determined by recalculating each participating fire employee's overtime pay which they are due, if any, consistent with the proposed settlement agreement, approved by the federal court as fair and reasonable; (2) the City will calculate overtime pay prospectively pursuant to the attached proposed settlement agreement beginning the first pay period that commences after July 1, 2010; and (3) the City will pay attorneys' fees and costs for both lawsuits, in a total amount of one hundred five thousand dollars (\$105,000), as considered by the City Council during Closed Session on March 30, 2010. (10-0-1. Absent: Campos.)

- 3.6 (a) **Approve an ordinance amending Section 2.08.130 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise provisions for removal of Retirement Board Members.**
- (b) **Approve an ordinance amending Part 12 of Chapter 2.08 of Title 2 and Section 3.36.330 of Part 3 Of Chapter 3.36 of the San José Municipal Code to revise the structure of the Board Of Administration for the Police And Fire Department Retirement Plan, adopt minimum qualification criteria for public members of said Board, revise provisions for compensation of Board Members and revise the definition of a Board quorum.**
- (c) **Approve an ordinance amending Part 10 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise the structure of the Board Of Administration for the Federated City Employees Retirement System, adopt minimum qualification criteria for public members of said Board and revise provisions for compensation of Board Members.**

CEQA: Not a Project; File No. PP10-068. (City Attorney's Office)

Action: Deferred to August 03, 2010 per City Attorney's Office.

- 3.8 **Approve an ordinance that would define the lowest cost plans for retiree healthcare for the remainder of Calendar Year 2010 to be the Kaiser plan with \$10 co-pays, with this six-month change to be retroactive to July 1, 2010. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Debra Figone, dated June 8, 2010, recommending approval of an ordinance.

Public Comments: Bob Leininger, Federated Retired Employees Association, spoke in favor of the Staff recommendations, but urged the Council to direct Staff to add one more year to further define the lowest cost plans for retiree healthcare because of the consequences to low-income retirees.

3.8 (Cont'd.)

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Herrera and carried unanimously, [Ordinance No. 28774](#), entitled: “An Ordinance of the City of San José Providing for an Alternative Allocation of Costs of Providing Medical Insurance Coverage for Calendar Year 2010”, was passed for publication. (10-0-1. Absent: Campos.)

- 3.9 (a) **Accept the staff response to the Civil Grand Jury Report entitled “Money-Losing Hayes Mansion: A San José City Council Responsibility.” CEQA: Not a Project, File No. PP10-069(a) City organizational and administrative activities. (Finance)**
- (b) **Subject to appropriation of funds in the 2010-2011 Budget, adopt a resolution authorizing the Director of Finance to Negotiate and execute the second amendment to the continuation agreement with Horwath Hospitality & Leisure, LLC to commission a feasibility study of alternative uses of the Dolce Hayes Mansion in addition to the services performed under the existing agreement, and to increase the contract amount from \$479,986 by \$32,500 for a not to exceed amount of \$512,486. CEQA: Statutorily Exempt, File No. PP10-066(d), consultant services with no commitment to a future course of action. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson and Director of General Services Peter Jensen, dated June 1, 2010, recommending acceptance of the staff response to the Civil Grand Jury Report. (2) Memorandum from Director of Finance Scott P. Johnson, dated June 8, 2010, recommending adoption of a resolution.

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

City Manager Debra Figone and Chief Deputy City Manager Edward Shikada responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, the Staff response to the Civil Grand Jury Report entitled “Money-Losing Hayes Mansion: A San José City Council Responsibility”, was accepted and [Resolution No. 75485](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a Second Amendment to the Continuation Agreement with Horwath Hospitality and Leisure, LLC to Commission a Feasibility Study of Alternative Uses of the Dolce Hayes Mansion and to Increase the Contract Amount to a Total Not To Exceed \$512,486, Subject to Appropriation of Funds”, was adopted. (10-0-1. Absent: Campos.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Conduct public hearing and adopt a resolution approving the Hotel Business Improvement District budget report for Fiscal Year 2010-11, as filed or as modified by the Council, and to levy the Hotel BID assessments for 2010-2011. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**
- (b) **Conduct public hearing and adopt a resolution approving the Japantown Business Improvement District budget report for Fiscal Year 2010-11, as filed or as modified by the Council, and to levy the Japantown BID assessments for 2010-2011. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**
- (c) **Conduct public hearing and adopt a resolution approving the Downtown Business Improvement District budget report for Fiscal Year 2010-11, as filed or as modified by the Council, and to levy the Downtown BID assessments for 2010-2011. CEQA: Exempt, File No. PP08-048. Council District 3. SNI: St. James Square; University; Joséfa/Auzerais; Burbank/Del Monte. (Economic Development)**

Documents Filed: (1) Memoranda from Chief Development Officer Paul Krutko, all three dated June 1, 2010, recommending adoption of resolutions. (2) Three Proof of Publications of Notices of Public Hearings, executed on June 12, 2010, submitted by the City Clerk.

Mayor Reed inquired whether the City Clerk had received any written protests from the affected businesses in any of the three Business Improvement Districts.

City Clerk Lee Price responded that there have been no written protests received in the Office of the City Clerk from the Hotel, Japantown or Downtown Business Improvement Districts.

Mayor Reed opened the public hearing.

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75486](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Hotel Business Improvement District for Fiscal Year 2010-2011 and Levying Assessments in the Bid for Fiscal Year 2010-2011”; [Resolution No. 75487](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Japantown Business Improvement District for Fiscal Year 2010-2011 and Levying Assessments in the Bid for Fiscal Year 2010-2011” and [Resolution No. 75488](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Downtown Business Improvement District for Fiscal Year 2010-2011 and Levying Assessments in the Bid for Fiscal Year 2010-2011”, were adopted. (9-0-2. Absent: Campos, Kalra.)

- 4.2 Direct the City Attorney to prepare an ordinance to amend the Public Entertainment Permit Ordinance to authorize the following changes:**
- (a) The security requirement be amended to one (1) security guard for every fifty (50) patrons on site, up to the actual occupancy limit.**
 - (b) The security requirement be amended to require security personnel to start their shift when entertainment begins or not later than 9:00PM, which ever occurs first.**
 - (c) The term of the Public Entertainment Permit from two (2) years, to a potential four (4) year Permit conditioned on a successful two (2) year review with a two (2) year extension.**
 - (d) Create a renewal process for the Public Entertainment.**
 - (e) Amend the process to obtain a “Manager’s License” to only require information pertinent to the applicant and not the business.**

CEQA: Not a Project, File No.PP10-068 (b), general procedure and policy making. (Economic Development)

Documents Filed: (1) Memorandum from Chief Development Officer Paul Krutko, dated June 1, 2010, recommending direction to the City Attorney to prepare an ordinance. (2) Staff presentation dated June 22, 2010 summarizing the Public Entertainment Permit Ordinance Revisions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the City Attorney was directed to prepare an ordinance to amend the Public Entertainment Permit Ordinance with authorized changes as described in the Staff memorandum dated June 22, 2010. (10-0-1. Absent: Campos.)

- 4.3 Adopt a resolution allowing the City Manager to Negotiate and Execute an Amendment to the Option Agreements with Coleman Airport Partners, LLC for the purchase of the former FMC property located at 1125 Coleman Avenue to a allow a 90-Day extension of the option payments. CEQA: EIR Resolution No. 7176, File No. PP08-093. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 10, 2010, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75489](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to the Amended and Restated Option Agreements with Coleman Airport Partners, LLC for the Former FMC Property Located at 1125 Coleman Avenue to Allow a 90 Day Extension of the Option Period”, was adopted. (10-0-1. Absent: Campos.)

- 4.4 Adopt a resolution authorizing the City Manager to negotiate and execute:**
- (a) No build easements to be granted by City over portions of the Peralta Adobe Plaza to adjacent property owners or to be recorded against a ground lease held by Urban Markets as lessee of the Perrazzo property; and**
 - (b) A property use and maintenance agreement with Urban Markets LLC for maintenance of the Plaza.**

CEQA: Resolution No. 72767, File No. CP 09-054. Council District 3. (Economic Development)

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75490](#), entitled “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute No Build Easements Over Portions of San Pedro Square To Be Granted to Adjacent Property Owners or Ground Lessees and A Property Use and Maintenance Agreement with Urban Markets LLC for Use of the Peralta Adobe Plaza”, was adopted. (10-0-1. Absent: Campos.)

- 4.5 (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund (290) for 2009-2010:**
- (1) Increase the estimate for Recovery Act – Federal Revenue in the amount of \$473,636.**
 - (2) Establish an appropriation to the Office of Economic Development for the Recovery Act – Temporary Assistance to Needy Families Emergency Contingency Fund (ECF) in the amount of \$423,636.**
 - (3) Establish an appropriation to the Office of Economic Development for the Recovery Act – Wagner-Peyser Disability Program Navigator in the amount of \$50,000.**
- (b) Subject to appropriation of funds in the 2010-2011 Budget, adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund (290) for 2010-2011:**
- (1) Increase the estimate for Recovery Act – Federal Revenue in the amount of \$2,083,661.**
 - (2) Establish an appropriation to the Office of Economic Development for the Recovery Act – Temporary Assistance to Needy Families Emergency Contingency Fund in the amount of \$2,034,589.**
 - (3) Establish an appropriation to the Office of Economic Development for the Recovery Act – Wagner-Peyser Disability Program Navigator in the amount of \$49,072.**

CEQA: Not a Project; File No. PP10-067 (b): appropriation ordinance. (Economic Development/City Manager’s Office)

4.5 (Cont'd.)

Documents Filed: Memorandum from Chief Development Officer Paul Krutko and Budget Director Jennifer Maguire, dated June 1, 2010, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28775](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28593 to Appropriate Monies in the Workforce Investment Act Fund for the Recovery Act – Temporary Assistance to Needy Families, Emergency Contingency Fund and For the Recovery Act – Wagner-Peyser Disability Program Navigator; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 75491](#), 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 Workforce Investment Act Fund”; [Ordinance No. 28776](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the Workforce Investment Act Fund for the Recovery Act – Temporary Assistance to Needy Families, Emergency Contingency Fund and For the Recovery Act – Wagner-Peyser Disability Program Navigator; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 75492](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the Workforce Investment Act Fund”, were adopted. (10-0-1. Absent: Campos.)

NEIGHBORHOOD SERVICES

5.1 **Adopt a resolution authorizing the following, subject to the appropriation of funds by the City Council, and on such terms and conditions as deemed appropriate by the City Manager:**

- (a) **Authorize the City Manager to negotiate and execute all agreements and amendments for Parks, Recreation and Neighborhood Services Department identified on Attachment A of the memorandum to Council.**
- (b) **Authorize the City Manager to negotiate and execute agreements and amendments to accept grant funds identified on Attachment B of the memorandum to Council consistent with the 2010-2011 Proposed Budget.**
- (c) **Authorize the City Manager to negotiate and execute a three-month extension of the agreement with the County of Santa Clara for the Senior Nutrition Agreement into the first three months of 2010-2011 and to accept grant funds for that period in amounts consistent with budgeted amount in the 2010-2011 Proposed Budget, until a new agreement for 2010-2011 is finalized with the County.**

- 5.1 (d) **Authorize the Director of Parks, Recreation and Neighborhood Services to negotiate and execute 2010-2011 contracts and amendments consistent with Adopted Budget amounts for the following grant programs:**
- (1) **Bringing Everyone's Strengths Together (BEST)**
 - (2) **Healthy Neighborhoods Venture Fund (HNVF) (HNVF contracts are in the midst of a multi-year award cycle. In addition, the funding source is shifting to the General Fund.)**
 - (3) **Mayor's Gang Prevention Task Force Memorandums of Understanding**
 - (4) **Safe Summer Initiative Grant (SSIG)**
 - (5) **San José After School (SJAS)**

CEQA: Not a Project, File PP10-066(e), contracts for services involving 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 June 1, 2010, recommending adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75493](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Various Agreements and Amendments to the Agreements, and To Accept Grant Funds for Parks, Recreation and Neighborhood Services Programs; and Authorizing the Director of Parks, Recreation and Neighborhood Services to Negotiate and Execute Agreements and Amendments to Agreements Related to Certain Grant Programs, All Consistent With the Amounts Budgeted for These Programs in the Adopted Budget for Fiscal Year 2010-2011", was adopted. (10-0-1. Absent: Campos.)

5.2 **Subject to appropriation of funds in the 2010-2011 Budget:**

- (a) **Accept the 2008-2009 San José Bringing Everyone's Strengths Together (BEST) and Mayor's Gang Prevention Task Force evaluation report.**
- (b) **Approve the Resource Allocation Plan of the San José BEST program for FY 2010-2011.**

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation, and Neighborhood Services) (Rules Committee referral 6/16/10)

Documents Filed: Memorandum from Deputy City Manager Deanna J. Santana, dated June 15, 2010, recommending acceptance of the reports.

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Chirco and carried unanimously, the 2008-2009 San José Bringing Everyone's Strengths Together (BEST), Mayor's Gang Prevention Task Force evaluation report and the Resource Allocation Plan of the San José BEST program for FY 2010-2011, were approved. (9-0-2. Absent: Campos, Chu.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 Approve a cooperative Master Agreement with the Santa Clara Valley Transportation Authority for design and construction of the BART extension to Berryessa for a period from execution of the agreement to June 30, 2018. CEQA: Not a Project. (Transportation)**

Documents Filed: (1) Memorandum from Acting Director of Transportation Hans F. Larsen, dated June 1, 2010, recommending approval of a cooperative master agreement. (2) Staff presentation outlining the BART Extension to Berryessa dated June 22, 2010.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chirco and carried unanimously, a cooperative master agreement with the Santa Clara Valley Transportation Authority for design and construction of the BART extension to Berryessa for a period from execution of the agreement to June 30, 2018, was approved. (10-0-1. Absent: Campos.)

- 6.2 Subject to appropriation of funds in the 2010-2011 Budget:**

- (a) **Adopt a resolution authorizing the City Manager to negotiate and execute the following agreements to support the evaluation and potential implementation of an Automated Transit Network (ATN) connecting the San José Norman Y. Mineta International Airport to Light Rail, Caltrain, and future BART transit systems:**
- (1) **A cooperative agreement with the Santa Clara Valley Transportation Authority (VTA) providing funds in the amount of \$3,600,000 from VTA to the City to retain two consultants for evaluation of an ATN system with an allocation of \$1,800,000 for Phase 1 and \$1,800,000 for Phase 2, using no City funds.**
 - (2) **A consultant services agreement with Aerospace Corporation, a California Corporation to develop performance requirements for San José's proposed ATN system, assess the technical capability of current and future ATN systems, and evaluate the technical feasibility of building an ATN system that meets the City's goals, for a period from June 15, 2010 to December 31, 2011 and in the amount not to exceed \$1,000,000.**
 - (3) **A consultant services agreement with Arup North America Ltd., a United Kingdom corporation authorized to conduct business in California to identify routing and station options, prepare ridership and revenue estimates, and evaluate the financial feasibility of building an ATN system, for a period from June 15, 2010 to December 31, 2011 and in the amount not to exceed \$800,000.**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in 2010-2011 in the Construction Excise Tax Fund:**
- (1) **Establish an appropriation to the Department of Transportation for the Automated Transit Network Project in the amount of \$1,800,000.**

- 6.2 (b) (2) Increase the estimate for Earned Revenue by \$1,800,000. CEQA: Statutorily Exempt, CEQA Guidelines Section 125262, feasibility and planning studies. If the City decides to proceed with the project, to move to Phase II, Arup will prepare all necessary environmental documents to inform future City decisions regarding the potential construction of an Automated Transit Network. Council District 3. (Transportation/City Manager's Office)**

Documents Filed: (1) Memorandum from Acting Director of Transportation Hans F. Larsen and Budget Director Jennifer Maguire, dated June 1, 2010, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments. (2) Staff presentation summarizing the San José Airport Area Automated Transit Network dated June 22, 2010.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, [Resolution No. 75494](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements to Support the Evaluation and Potential Implementation of an Automated Transit Network Connecting the Norman Y. Mineta San José International Airport to Light Rail, Caltrain and Future BART Transit Systems"; [Ordinance No. 28777](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in Construction Excise Tax Fund for the Automated Transit Network Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 75495](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the Construction Excise Tax Fund", were adopted. (10-0-1. Absent: Campos.)

- 6.3 As recommended by the Transportation and Environment Committee on June 7, 2010, accept the progress report on the California High Speed Rail project. (Transportation)**

Action: Deferred to August 24, 2010 per Administration.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Subject to appropriation of funds in the 2010-2011 Budget:**
- (a) **Adopt a resolution authorizing the City Manager to negotiate and execute the following agreements for solid waste services with terms from July 1, 2010 through June 30, 2021:**
- (1) **California Waste Solutions for recyclables collection and processing for single-family dwellings in Districts A and C, for a total first year cost of \$16,129,900.**
 - (2) **Garden City Sanitation, Inc. for single-family dwelling garbage collection in Districts A and C for a total first year cost of \$18,314,800, with an option for providing billing and customer service for single-family dwellings in Districts A and C at an additional cost.**

- 7.1 (a) (3) **GreenTeam of San José for collection of garbage and recyclables for multi-family dwellings Citywide, single-family dwellings in District B, neighborhood clean-up services in District B, and City Facility garbage and recycling collection and processing services, for a total first year cost of \$28,924,989, with an option for providing billing and customer services for single-family dwellings in District B and multi-family dwellings Citywide at an additional cost.**
- (4) **GreenWaste Recovery, Inc. for Citywide residential yard trimmings and street sweeping collection and processing, back-end processing of municipal solid waste where applicable, neighborhood clean-up services in Districts A and C, and Citywide public litter can collection and processing services, for a total first year cost of \$22,847,700.**
- (b) **Direct staff to allocate a \$2,000,000 savings realized from the proposed solid waste service agreement with GreenWaste Recovery in 2010-2011, originally recommended to mitigate Recycle Plus rate payer increases and to fund diversion activities, for the construction of a permanent Household Hazardous Waste facility in San José for the City’s residential Recycle Plus customers.**

CEQA: 2010 Solid Waste Service Agreements: Negative Declaration, file no. PP10-055. May 26, 2010. <http://www.sanjoseca.gov/planning/eir/MND.asp>. Household Hazardous Waste Facility: Mitigated Negative Declaration, file no. PP09-138. Adopted December 1, 2009. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated June 1, 2010, recommending adoption of a resolution and direction to Staff. (2) Statement and Declaration of Conflict of Interest Form from Council Member Chu, dated June 22, 2010, disclosing a conflict of interest with California Waste Solutions. (3) Staff presentation dated June 22, 2010 summarizing the Solid Waste Service Agreements.

Council Member Chu disclosed a conflict of interest arising from California Waste Solutions and recused himself from voting.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chirco and carried unanimously, [Resolution No. 75496](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Following Agreements for Solid Waste Services with Terms from July 1, 2010 through June 30, 2021: (1) California Waste Solutions, (2) Garden City Sanitation, Inc., (3) Greenteam of San José and (4) GreenWaste Recovery, Inc.”, was adopted. Staff was directed to allocate a \$2,000,000 savings realized from the proposed solid waste service agreement with GreenWaste Recovery in 2010-2011, originally recommended to mitigate Recycle Plus rate payer increases and to fund diversion activities, for the construction of a permanent Household Hazardous Waste facility in San José for the City’s residential Recycle Plus customers. (9-0-1-1. Absent: Campos. Disqualified: Chu.)

- 7.2 Adopt a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Wholesaler-Retailer Agreement for Supply of Recycled Water between the City of San José and San José Water Company (SJWC): to permit SJWC to connect approximately 16 miles of pipeline recycled water pipeline, to be built, owned, operated and maintained by SJWC in north and central San José, to the South Bay Water Recycling system; to permit SJWC to own, operate maintain and connect such other recycled water pipeline within SJWC’s service area as may be approved by the City and SJWC in the future; and to allocate additional responsibility and liability to SJWC related to recycled water operations within SJWC’s service area. CEQA: Mitigated Negative Declaration, File No. PP10-089. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 24, 2010, recommending adoption of a resolution. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated May 24, 2010, stating concurrence with the Staff recommendation.

Public Comments: George Belhumeur, San José Water Company, spoke in support to the Staff recommendations.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 75497](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Wholesaler-Retailer Agreement for the Supply of Recycled Water with San José Water Company”, was adopted. (9-0-2. Absent: Campos, Constant.)

STRATEGIC SUPPORT SERVICES

- 3.10 (a) City Council consideration of a regular and/or urgency ordinance of the City of San José amending Title 6, Business Licenses and Regulations, of the San José Municipal Code to add a new Chapter 6.88 to establish regulations pertaining to Medical Marijuana Collectives and to the individual cultivation and use of medical marijuana and setting forth the facts constituting such urgency.**
- (b) City Council consideration an urgency ordinance of the City of San José amending Title 20, Zoning, of the San José Municipal Code (the Zoning Code) by amending Section 20.10.040 of Chapter 20.10, Section 20.40.100 of Chapter 20.40; adding a new part 9.5 to Chapter 20.80; and adding a new part 13 to, and amending Section 20.100.200 of, Chapter 20.100, all to establish land use regulations pertaining to Medical Marijuana Collectives and amending Section 1.13.050 of Title 1 of the San José Municipal Code to be consistent with the amendments to Title 20.**
- (c) City Council consideration of adoption of a resolution to initiate these amendments to Title 20 on a permanent basis, forward these proposed Title 20 amendments to the Planning Commission for its report and recommendation, and set a public hearing date on these proposed amendments to Title 20 before the City Council.**

- 3.10 (d) Adopt the following Appropriation Ordinance and Funding Resource Resolution Amendments in the General Fund for Fiscal Year 2010-2011:**
- (1) Increase the Police Department's 2010-2011 General Fund Personal Services appropriation by \$576,258.**
 - (2) Increase the Police Department's Non Personal Services/Equipment appropriation by \$2,930.**
 - (3) Increase the Finance Department's 2010-2011 General Fund Personal Services appropriation by \$121,014.**
 - (4) Increase the Office of the City Manager's 2010-2011 General Fund Personal Services appropriation by \$55,488.**
 - (5) Increase the Revenue Estimate for Licenses and Permits by \$755,690.**
- (e) Account for the increase collection of Indirect Cost (Overhead) by \$197,470, according to the City-wide Cost Allocation Plan for FY 2010-2011 as part of the City's Annual Report.**
- (f) Authorize the addition of 1.0 Police Sergeant position and 2.0 Police Officer positions in the Police Department Narcotics/Covert Investigations Units as of July 1, 2010.**
- (g) Authorize the addition of 1.0 Analyst II position in the Finance Department Revenue Compliance and Monitoring Division as of July 1, 2010.**
- (h) Authorize the addition of 0.5 Executive Analyst position in the City Manager's Office Administration Division as of July 1, 2010.**
- (i) Adopt a resolution to amend the Adopted 2010-2011 Schedule of Fees and Charges Resolution (Resolution 72737, as amended) to add a Medical Marijuana Collective Registration Fee and establish the fee at \$95,016 per each Collective that registers.**
- (j) Amend the Administrative Citation Schedule of Fines to establish fines for various violations related to Title 6, Business Licenses and Regulations, Chapter 6.88 (Medical Marijuana Collectives) and repeal Resolution No 75065, titled Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code.**
- (k) Review of analysis and direction to staff regarding placing a Medical Marijuana Tax on the November 2, 2010 ballot.**
- (l) Review of the community outreach strategy to provide information to the public regarding a draft Medical Marijuana Ordinance.**
- (m) As an alternative policy option, consideration of an urgency ordinance to amend Title 20 of the San José Municipal Code to amend Section 20.10.040 of Chapter 20.10 and to amend Chapter 20.80 to add a new Part 5 to ban establishments dispensing medical marijuana in the City of José and consideration of adoption of a resolution to initiate these amendments to Title 20 on a permanent basis, forward these proposed Title 20 amendments to the Planning Commission for its report and recommendation, and set a public hearing date on these proposed amendments to Title 20 before the City Council.**

CEQA: Exempt, File No. PP10-116. (Police/Planning, Building and Code Enforcement/Finance/City Manager's Office)

(Deferred from 6/15/10 – Item 3.14)

3.10 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Oliverio, dated June 18, 2010, with recommendations as noted on Page 45 in "Action". (2) Supplemental memorandum from Deputy City Attorney Angelique Gaeta-Nedrow, dated June 18, 2010, providing background on medical marijuana. (3) Memorandum from Deputy City Manager Deanna J. Santana, Police Chief Robert L. Davis, Director of Planning, Building and Code Enforcement Joseph Horwedel, Director of Finance Scott P. Johnson and Budget Director Jennifer Maguire, dated June 15, 2010, transmitting the staff recommendations. (4) Memorandum from Deputy City Manager Deanna J. Santana and Police Chief Robert L. Davis, dated June 18, 2010, transmitting information regarding the draft medical marijuana ordinances. (5) Supplemental memorandum from Deputy City Manager Deanna J. Santana, dated June 21, 2010, transmitting corrected information regarding medical marijuana registration fees and a formula to calculate patient membership fees, all which are lower than previously reported. (6) Staff presentation dated June 22, 2010, summarizing the Medical Marijuana Ordinances. (7) One hundred fifty seven letters of correspondence from the public, all dated June 22, 2010, regarding the medical marijuana ordinance.

Deputy City Manager Deanna J. Santana, Deputy City Attorney Angelique Gaeta-Nedrow, Deputy Police Chief Donald Anders, Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Finance Scott Johnson presented the Staff Report on Medical Marijuana which included Legal Analysis and Framework, Zoning and Land Use Ordinance, Medical Marijuana Ordinance and Policy Alternatives, Medical Marijuana Taxation, Potential City Tax Measure Analysis, Timeline and Cost for Ballot Placing.

Motion: Council Member Oliverio moved approval of the memorandum he cosigned with Mayor Reed dated June 18, 2010, with recommendations as described in "Action" on Page 45. Council Member Constant seconded the motion.

Extensive Council discussion followed.

Public Comments: Expressing comments, concerns, support and opposition to the information contained in the memorandum from Mayor Reed and Council Member Oliverio were, Susan Landry, Jeremy Pierry (University Avenue Wellness Center), Sue Campbell, Paul Campbell, Lisa Forsland (Alphabet Soup Preschool), Dr. Sacha Nemcov, Vonn Wilson, Kim Jelfs, Kim Mosley, Bridget Gramkowski, Shannon Morgan, John Messina, Dr. Janet Weiss (Steep Hill Lab), Julie Kline, Jade Kine (Cann Academy), Gary Salvadore (Silicon Valley Care Center), Craig Litwin (CannBe), Stephanie Tucker, Patrick Goggin, Jon Lustig, Paul Stewart (Medicinal Cannabis Collective Coalition), Roger Jacowitz, Denise Gomez, Jonathan Steigman, Stephen De Angelo (Harborside Health Center), Ed Esters, Naveen Aggurwal, Viktoria Foxx, Kim Cue, Doug Choupek (MedMar Healing Center), Jermaine King, Joni Ward, Julie Engelbreeht, Daniel Hovland (MedEx Collective+Deliveries), Pat Knoop, Darlene Welch, Lauren Vazquez (Silicon Valley ASA), Matt Krish, Christine Wagner, Mary Wagle, Tili Ayala, James M. Silva, Jenny Rutherford and Brennie Wilson.

3.10 (Cont'd.)

Council Member Oliverio pointed out that all individuals or entities that cultivate or distribute marijuana for profit are operating illegally under State law and are illegal under the San José Municipal Code.

City Attorney Richard Doyle, Director of Planning, Building and Code Enforcement Joseph Horwedel and Deputy City Manager Deanna J. Santana responded to Council questions.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed and Council Member Oliverio, dated June 18, 2010 was approved: (1) With regard to collectives that are currently located in San José, direction is given to focus enforcement on the closure of any collective that is within 500 feet from sensitive uses in the staff report and/or any collective located outside the CG Commercial General Zoning District. Staff was further directed to return to Council with: (a) An analysis of the most appropriate level of concentration of such uses in a given area, similar to the ABC licensing model. (b) An analysis of other appropriate zoning designations which could be potential locations for the establishment of collectives, such as the CIC Combined Industrial Commercial and CG Commercial General Zoning designations. (2) Administration directed to conduct polling in July 2010 to inform on August 3, 2010 Council discussion on marijuana taxation. (3) On August 3, 2010, the City Attorney directed to present the Council with language to be approved for a November 2010 ballot measure that includes taxation of medical marijuana or any other legal uses. (4) Staff directed to schedule a Council Study Session in November 2010 on issues pertaining to medical marijuana collections after the results of the “*Regulate, Control and Tax Cannabis Act of 2010*” ballot measure area known. (10-0-1. Absent: Campos.)

ADJOURNMENT

The Council of the City of San José was adjourned at 6:14 p.m. to reconvene on Tuesday, June 29, 2010 at 1:30 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/06-22-10 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 ITEMS

The Joint Redevelopment Agency Board convened at 2:11 p.m. to consider Items 8.1, 8.2, 8.3 and 8.4 in a Joint Session.

- 8.1**
- (a) Agency Board approval of a Capital Equipment Assistance Agreement with Intermolecular, Inc., in an amount not to exceed \$400,000, for acquisition of capital equipment for manufacturing to be installed at Intermolecular's headquarters in the Rincon de Los Esteros Redevelopment Project Area.**
 - (b) Adoption of a resolution by the Agency Board making necessary findings required by law for such agreement.**
 - (c) City Council reaffirmation of the prior Council resolution to invest Community Development Block Grant (CDBG) funds from the City's Clean Tech Careers fund to create job opportunities for low to moderate-income residents and to further assist Intermolecular by providing a \$200,000 CDBG grant for additional equipment acquisition and creation of low to moderate income jobs.**

CEQA: Not a Project. [RINCON DE LOS ESTEROS]

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated June 10, 2010, recommending approval of an agreement, adoption of a resolution and City Council reaffirmation of a prior Council resolution.

Public Comments: Peter Eidelman, CFO, Intermolecular, spoke to the merits of the project.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Chu and carried unanimously, a Capital Equipment Assistance Agreement with Intermolecular, Inc., in an amount not to exceed \$400,000, for acquisition of capital equipment for manufacturing to be installed at Intermolecular's headquarters in the Rincon de Los Esteros Redevelopment Project Area, was approved; Redevelopment Agency Board Resolution No. 5974, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Making Necessary Findings Required by Law for Approval of a Capital Equipment Assistance Agreement with Intermolecular, Inc.", was adopted and the City Council reaffirmed the prior Council resolution to invest Community Development Block Grant (CDBG) funds from the City's Clean Tech Careers fund to create job opportunities for low to moderate-income residents and to further assist Intermolecular by providing a \$200,000 CDBG grant for additional equipment acquisition and creation of low to moderate income jobs. (11-0)

8.2 Adoption of resolutions by the Redevelopment Agency and the City Council authorizing the Executive Director and City Manager to execute:

- (a) Capital Improvement Projects in the Merged Redevelopment Area; and**
- (b) Support Services in the FY 2010-11 Operating Budget.**

CEQA: Not a Project. [MERGED]

8.2 (Cont'd.)

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated June 16, 2010, recommending adoption of resolutions.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Pyle and carried unanimously, [Resolution No. 75457](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the FY2010-2011 Cooperation Agreements Between the City of San José and Redevelopment Agency for the Merged Redevelopment Area and for Operating Expenses" and [Redevelopment Agency Board Resolution No. 5975](#), entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the Executive Director and City Manager to Execute Cooperation Agreements Between the City of San José and Redevelopment Agency for Capital Improvement Projects in the Merged Redevelopment Area and Support Services in the FY2010-2011 Operating Budget", were adopted. (11-0)

8.3 As referred by the Neighborhood Services and Education Committee on June 10, 2010:

- (a) **Accept the report on the Strong Neighborhoods Business Plan Update with the goals of:**
- (1) **Removing barriers to neighborhood action.**
 - (2) **Stabilizing neighborhoods in crisis.**
 - (3) **Supporting neighborhood action.**
 - (4) **Connecting resources to priorities.**
- (b) **Adoption of resolutions by the City Council and Agency Board directing the City Manager and Redevelopment Agency Executive Director to implement the Strong Neighborhoods Business Plan Update.**

[Neighborhood Services and Education Committee referral 6/10/10 – Item D(6)]
[SNI]

Action: Deferred to August 10, 2010.

8.4 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, and making other minor changes. 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)] (Deferred 06/08/10 and 06/15/10 - Item 8.2)

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated June 14, 2010, recommending approval of an amendment to the City/Agency Inclusionary Housing Policy.

8.4 (Cont'd.)

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Pyle and carried unanimously, [Resolution No. 75458](#), entitled: “A Resolution of the Council of the City of San José Amending the Joint City/Redevelopment Agency Inclusionary Housing Policy to Temporarily Suspend 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 and Other Changes” and Redevelopment Agency Board Resolution No. 5976, entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving an Amendment to the City/Redevelopment 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 and Making Other Minor Changes”, were adopted. (11-0)

The Council of the City of San José and Redevelopment Agency Board was adjourned at 2:17 p.m.