



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 15, 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 8:06 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel with respect to Public Employment/Public Employee Appointment pursuant to Government Code Section 54957: Department: Fire Department; Title: Fire Chief. (B) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) Colvin v. City, et al.; Names of Parties Involved: Michael Colvin, Mary Beth Majors, James Becknall, City of San José, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-159895; Amount of Money or Other Relief Sought: Damages according to proof. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (2) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; (3) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (4) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of

CLOSED SESSION (Cont'd.)

Agreement between City of San José and CAMP; (7) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (8) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (9) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (10) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3; (11) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association; (12) Unit 99; Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. 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 10:40 a.m. and reconvened to Regular Session at 10:50 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 Vice Mayor Chirco, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 2.3(a)(b) was deferred to June 22, 2010, Item 11.2 was continued to August 2010 and Item 11.6 was heard first in the evening; Item 8.2 (Joint/RDA) was deferred to June 22, 2010. (9-0-2. Absent: Campos, Kalra.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of June 15, 2010:

Authority to file a complaint in one action:

Authority to file a complaint was given in (1) one matter. The names of the action(s) and the defendant(s), as well as the substance of the complaint shall be disclosed to any person upon inquiry once the action(s) are formally commenced.

CLOSED SESSION REPORT (Cont'd.)

Council Vote: Ayes: Campos, Chirco, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Noes: None.
Disqualified: None.
Absent: None.

City Manager Debra Figone introduced the City of San José's new Fire Chief William "Willie" McDonald.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Constant.)

2.1 Approval of Minutes.

Action: There were none presented.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28749 – Amending Part 2 of Chapter 3.36 of Title 3 of the San José Municipal Code by adding a Section 3.36.205 to exclude from membership in the Police and Fire Retirement Plan a Fire Chief or Police Chief who has no prior service credit in that plan.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28749 executed on June 11, 2010, submitted by the City Clerk.

Action: Ordinance No. 28749 was adopted. (10-0-1. Absent: Constant.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of May 26, 2010. (Mayor)**
(b) **Rules and Open Government Committee Report of May 19, 2010. (Mayor)**

Action: Deferred to June 22, 2010 per Orders of the Day.

- (c) **Community and Economic Development Committee Report of May 24, 2010. (Pyle)**

Documents Filed: The Community and Economic Development Committee Report dated May 24, 2010.

Public Comments: David Wall voiced concerns about the Council Members arriving late to the Committee meetings.

2.3 (c) (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, The Community and Economic Development Committee Report dated May 24, 2010 was approved. (10-0-1. Absent: Constant.)

2.4 Mayor and Council Excused Absence Requests.

Action: There were none presented.

2.5 City Council Travel Reports.

Action: There were none presented.

2.6 Approve a second Amendment to the Advertising Concession Agreement between the City and Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports to add Terminal B to the advertising concession areas covered by the Agreement, revise the capital investment requirements to reflect changes in advertising sites at the Airport, and revise the Concession Fee provisions of the Agreement, retroactive to the commencement of the Agreement, to reduce the Minimum Annual Guarantee (MAG) by \$330,545 from \$4,575,000 to \$4,244,455, and to reduce the MAG by an additional \$22,131 from to \$4,222,324, beginning on July 1, 2010. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-190.I. (Airport)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated May 24, 2010, recommending approval of a second amendment to the agreement.

Action: A second Amendment to the Advertising Concession Agreement between the City and Clear Channel Outdoor, Inc. dba Clear Channel Airports to add Terminal B to the advertising concession areas covered by the Agreement, revise the capital investment requirements to reflect changes in advertising sites at the Airport, and revise the Concession Fee provisions of the Agreement, retroactive to the commencement of the Agreement, to reduce the Minimum Annual Guarantee by \$330,545 from \$4,575,000 to \$4,244,455, and to reduce the Minimum Annual Guarantee by an additional \$22,131 from to \$4,222,324, beginning on July 1, 2010 was approved. (10-0-1. Absent: Constant.)

- 2.7 (a) Adopt a resolution authorizing the Director of Aviation to negotiate and execute Supplemental Lease Agreement Number 13 to extend the Permit with the U.S. General Services Administration for exclusive space leased by the Transportation Security Administration at the Airport from July 1, 2010 through June 30, 2011, with revenue to the City of approximately \$960,385.**
- (b) Adopt a resolution authorizing the Director to negotiate and execute future Supplemental Agreements to the Permit to extend the term through no later than June 30, 2017 at then current Airport lease rates and to document changes to the exclusive leased space.**

CEQA: Resolution Nos. 67380 and 71451, PP10-094. (Airport)

2.7 (Cont'd.)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated May 24, 2010, recommending adoption of resolutions.

Action: Resolution No. 75402, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Negotiate and Execute Supplemental Lease Agreement Number 13 to Extend the Permit with the United States General Services Administration for Exclusive Space Leased by the Transportation Security Administration at the Airport from July 1, 2011, with Revenue to the City of San José Approximately \$960,385" and Resolution No. 75403, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Negotiate and Execute Future Supplemental Agreements to the Permit with the United States General Services Administration for Exclusive Space Leased by the Transportation Security Administration at the Airport, To Extend the Term Though June 30, 2017 at then Current Airport Lease Rates and To Document Changes to the Exclusive Leased Space", was adopted. (10-0-1. Absent: Constant.)

2.8 Adopt a resolution authorizing:

- (a) **The City Manager to negotiate and execute all contracts, amendments, agreements, leases, subleases and memorandums of understanding with contractors and vendors providing services to the Workforce Investment Act Program (WIA), including, but not limited to, novations or assignments, vendor training contracts, case management contracts, consultant contracts, memorandums of understanding required with Mandatory Partners for the use of One-Stop facilities, and cities and the unincorporated area of Santa Clara County whose residents receive service under the WIA program for the period from July 1, 2010 to June 30, 2011 in accordance with procurement procedures and requirements mandated by the State and Federal governments for Workforce Investment Act grant recipients and with established City procurement procedures and requirements that have been reviewed and approved by the Silicon Valley Workforce Investment Network (work2future) Executive Committee and/or the Board. The City Manager is also authorized to negotiate and execute Council-approved agreements that have been reviewed and approved by the work2future Executive Committee and/or the work2future Board so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**
- (b) **The City Manager to negotiate and execute all grants and sub-grant agreements for discretionary funding applied for and approved by the work2future Board for the period from July 1, 2010 to June 30, 2011.**

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

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated May 24, 2010, recommending adoption of a resolution.

2.8 (Cont'd.)

Action: Resolution No. 75404, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Agreements Related to the Workforce Investment Act Program and Projects for FY 2010-2011", was adopted. (10-0-1. Absent: Constant.)

2.9 Approve the second amendment to the agreement with David J. Powers & Associates for environmental consultant services for various Environmental Services Department projects by increasing the total compensation by \$100,000, from \$500,000 to an amount not to exceed \$600,000. CEQA: Not a Project, File No.PP10-066 (a), agreements and contracts for purchase of professional services. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated May 24, 2010, recommending approval of the second amendment to the agreement.

Public Comments: David Wall voiced his opposition to the agreement with David J. Powers and Associates and added that the City Auditor should review the agreement.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the second amendment to the agreement with David J. Powers & Associates for environmental consultant services for various Environmental Services Department projects by increasing the total compensation by \$100,000, from \$500,000 to an amount not to exceed \$600,000. CEQA: Not a Project, File No.PP10-066 (a), agreements and contracts for purchase of professional services was approved. (10-0-1. Absent: Constant.)

2.10 Approve the award of open purchase orders for supplies, materials, equipment and services for FY 2009-2010 #8 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 May 24, 2010, recommending approval of award of open purchase orders and authorization to execute the purchase orders.

Action: The award of open purchase orders for supplies, materials, equipment and services for FY 2009-2010 #8 was approved and the Director of Finance was authorized to execute the purchase orders. (10-0-1. Absent: Constant.)

2.11 Report on bids and award the painting and rehabilitation of five secondary clarifier tanks at the Water Pollution Control Plant to low bidder Jeffco Painting and Coating, Inc. (Vallejo, CA) for a total amount not to exceed \$642,000, and authorize the Director of Finance to:
(a) Execute the service order for \$642,000.

- 2.11 (b) Approve a contingency in the amount of \$50,000 for any unforeseen changes or requirements that may arise prior to the completion of services.**

CEQA: Not a Project, File No. PP10-066(a) agreements and contracts that involve no physical change to the environment. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 17, 2010, recommending award of service order to the low bidder with related contingency.

Action: The award of the painting and rehabilitation of five secondary clarifier tanks at the Water Pollution Control Plant to low bidder Jeffco Painting and Coating, Inc. for a total amount not to exceed \$642,000, with related contingency, was approved and the Director of Finance was authorized to execute the service order. (10-0-1. Absent: Constant.)

- 2.12 Adopt resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2010-2011 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21 and 22 and levying the assessments therein. CEQA: Statutorily Exempt. Council Districts 2, 3, 4 and 8. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 24, 2010, recommending adoption of resolutions.

Action: Resolution No. 75405, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 1 (Los Paseos) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75406, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 2 (Trade Zone Boulevard – Lundy Avenue) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75407, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 5 (Orchard Parkway – Plumeria Drive) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75408, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 8 (Zanker - Montague) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75409, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 9 (Santa Teresa – Great Oaks) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75410, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 11 (Brokaw Road from Junction Avenue to Old Oakland Road) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75411, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 13 (Karina – O’Nel) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75412, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 15 (Silver Creek Valley) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75413, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 18 (The Meadowlands) for Fiscal Year

2.12 (Cont'd.)

2010-2011 and Levying Assessments”; Resolution No. 75414, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 19 (River Oaks Area Landscaping) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75415, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 20 (Renaissance – North First Landscaping) for Fiscal Year 2010-2011 and Levying Assessments”; Resolution No. 75416, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 21 (Gateway Place – Airport Parkway) for Fiscal Year 2010-2011 and Levying Assessments” and Resolution No. 75417, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 22 (Hellyer Avenue – Silver Creek) for Fiscal Year 2010-2011 and Levying Assessments”, were adopted. (10-0-1. Absent: Constant.)

2.13 Adopt a resolution:

- (a) **Approving the Downtown San José Property-Based Improvement District Annual Report for Fiscal Year 2010-2011 as filed or modified by Council;**
- (b) **Confirming the individual assessments as proposed or modified by Council, including the assessment on City owned property of approximately \$321,991 and the assessment on Redevelopment Agency property of approximately \$69,964;**
- (c) **Directing that the City baseline services contribution in the amount of \$357,811, and assessment payment be made; and**
- (d) **Directing the Director of Finance to deliver the assessment roll to the County for collection with the property taxes.**

CEQA: Statutorily Exempt, File No. PP10-067. Council District 3. (Transportation/Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Director of Transportation Hans Larsen, dated May 24, 2010, recommending adoption of a resolution.

Council Member Liccardo congratulated the City Staff and the Downtown Association for their hard work.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75418, entitled: “A Resolution of the Council of the City of San José Approving the Downtown San José Property Based Business Improvement District Annual Report for Fiscal Year 2010-2011 as Filed or Modified by the City Council; Confirming the Individual Assessments as Proposed or Modified by the City Council, Including the Assessment on City Owned Property of Approximately \$321,991 and the Assessment on Redevelopment Agency Property of Approximately \$69,964; Directing that the City Baseline Services Contribution in the Amount of \$357,811 and Assessment Payment be Made and Directing the Director of Finance to Deliver the Assessment Roll to the County of Santa Clara for Collection”, was adopted. (10-0-1. Absent: Constant.)

- 2.14 As recommended by the Rules and Open Government Committee on June 9, 2010, reaffirm and approve the City and Agency’s position to oppose SB 974 (Steinberg), a legislative bill similar to AB 1139 (J. Perez) that the City and Redevelopment Agency opposed last year. (Redevelopment Agency)
[Rules Committee referral 6/9/10 – Item D(1)(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 10, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: David Wall argued that the City of San José should support this legislation because it provides more competition.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the City and Agency’s position to oppose SB 974 (Steinberg), a legislative bill similar to AB 1139 (J. Perez) that the City and Redevelopment Agency opposed last year was reaffirmed and approved. (10-0-1. Absent: Constant.)

- 2.15 As recommended by the Rules and Open Government Committee on June 9, 2010, approve a support position for SB 1107 (Kehoe): Water Quality: Interceptor and Trap Grease. (Environmental Services)
[Rules Committee referral 6/9/10 – Item D(1)(b)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 10, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The support position for SB 1107 (Kehoe): Water Quality: Interceptor and Trap Grease was approved. (10-0-1. Absent: Constant.)

- 2.16 As recommended by the Rules and Open Government Committee on June 9, 2010, approve a support position for AB 1784 (Fong) – Santa Clara Valley Transportation Authority. (Transportation)
[Rules Committee referral 6/9/10 – Item D(1)(c)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 10, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The support position for AB 1784 (Fong) – Santa Clara Valley Transportation Authority was approved. (10-0-1. Absent: Constant.)

- 2.17 As recommended by the Rules and Open Government Committee on June 9, 2010, approve a support position for AB 2064 (Perez & Bass) – Emergency Shelter Operations Grant Account. (Housing)
[Rules Committee referral 6/9/10 – Item D(1)(d)]**

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 10, 2010, transmitting the recommendations of the Rules and Open Government Committee.

2.17 (Cont'd.)

Action: The support position for AB 2064 (Perez & Bass) – Emergency Shelter Operations Grant Account was approved. (10-0-1. Absent: Constant.)

- 2.18 As recommended by the Rules and Open Government Committee on June 9, 2010, approve a support position for two federal bills regarding the Low-Income Housing Tax Credit (LIHTC) Program: S. 3141 (Bingaman) and S. 3326 (Cantwell). (Housing)**
[Rules Committee referral 6/9/10 – Item D(2)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 10, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: David Wall asserted that the developers receive too many parks and do not allow for enough public parks.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, a support position for two federal bills regarding the Low-Income Housing Tax Credit (LIHTC) Program: S. 3141 (Bingaman) and S. 3326 (Cantwell) were approved. (10-0-1. Absent: Constant.)

- 2.19 As recommended by the Rules and Open Government Committee on June 9, 2010, approve the appointment of Sajeev Sidher, Senior Tax Manager for Deloitte, to serve as a private sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (Mayor)**
[Rules Committee referral 6/9/10 – Item G(1)]

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 10, 2010, transmitting the recommendations of the Rules and Open Government Committee.

Action: The appointment of Sajeev Sidher, Senior Tax Manager for Deloitte, to serve as a private sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law was approved. (10-0-1. Absent: Constant.)

- 2.20 As recommended by the Rules and Open Government Committee on June 9, 2010:**
(a) Approve the District 2 Edenvale Technology Park 2010 Business Appreciation Event as a City Council Sponsored Special Event; and
(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(2)]

Documents Filed: Memorandum from City Clerk Lee Price, MMC, dated June 10, 2010, transmitting the recommendations of the Rules and Open Government Committee.

2.20 (Cont'd.)

Action: The District 2 Edenvale Technology Park 2010 Business Appreciation Event 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. (10-0-1. Absent: Constant.)

2.21 **Approve an ordinance amending Section 11.12.050 of Chapter 11.12 of Title 11 of the San José Municipal Code to authorize the City Manager to temporarily or permanently appoint staff to perform traffic control in accordance with the requirements of California Vehicle Code Section 21100(e), as it may be amended. CEQA: Not a Project, File No. PP10-068(b), general procedure & policy making. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated June 7, 2010, recommending approval of an ordinance.

Council Member Liccardo congratulated Staff for their work on this endeavor.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Ordinance No. 28751, entitled: “An Ordinance of the City of San José 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”, was passed for publication. (10-0-1. Absent: Constant.)

END OF CONSENT CALENDAR

JOINT/REDEVELOPMENT AGENCY

The Joint Redevelopment Agency convened at 11:36 a.m. in a Joint Session to consider Item 9.1 in a Joint Session.

9.1 **Approve the Third Amendment to Amended and Restated San José Arena Management Agreement Between the City of San José and San José Arena Management, LLC. CEQA: Not a Project, File No. PP10-066, services that involve no physical changes to the environment. (City Manager’s Office/Redevelopment Agency)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Liccardo, Oliverio and Pyle, dated June 11, 2010, recommending approval of the Staff recommendations. (2) Memorandum from City Manager Debra Figone and Redevelopment Agency Board Executive Director Harry S. Mavrogenes, dated June 1, 2010, recommending approval of the third amendment to the agreement. (3) Staff presentation dated June 15, 2010 outlining the Third Amendment to the Amended and Restated San José Arena Management Agreement.

9.1 (Cont'd.)

Motion: Council Member Liccardo moved approval of the memorandum he cosigned with Mayor Reed and Council Members Oliverio and Pyle, dated June 11, 2010, approving the Staff recommendations. Council Member Herrera seconded the motion.

Mayor Reed and Council Member Liccardo provided meeting disclosures.

Public Comments: Don Gralnek (San José Arena Management) and Greg Jamison spoke in support to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, the Third Amendment to Amended and Restated San José Arena Management Agreement between the City of San José and San José Arena Management, LLC was approved. (11-0.)

The Joint Redevelopment Agency was adjourned at 11:43 a.m.

STRATEGIC SUPPORT SERVICES

3.16 Report on bids and award of contract for the Downer-Canoas Interceptor Rehabilitation project to the low bidder, Pipenology Inc., in the amount of \$3,182,432, and approval of a contingency in the amount of \$318,000. CEQA: Exempt, File No. PP09-052, dated March 13, 2009. Council Districts 6 and 10. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 24, 2010, recommending award of the contract to the low bidder.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Pyle and carried unanimously, the award of contract for the Downer-Canoas Interceptor Rehabilitation project to the low bidder, Pipenology Inc., in the amount of \$3,182,432, with related contingency, was approved. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 As recommended by the Historic Landmarks Commission, consider the following Historic Landmark Nominations and Mills Act Historical Property Contracts:
- (a) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Hermle-Fancher House located at 530 S. Sixth Street (City Landmark No. HL10-190 and California Mills Act No. MA10-001). SNI: University. Council District 3.**
 - (1) **Conduct a public hearing and adopt a resolution designating the Hermle-Fancher House, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**

- 4.2 (a) (2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owner of the Hermle-Fancher House (Jose M. Blanc, Property Owner) and adopt a resolution approving the contract.**

CEQA: Exempt. (Planning, Building and Code Enforcement)

- (b) **Historic Landmark Nomination and Mills Act Historical Property Contract for the Stelling House located at 104 S. 13th Street (City Landmark No. HL10-191 and California Mills Act No. MA10-002). SNI: University. Council District 3.**

(1) **Conduct a public hearing and adopt a resolution designating the Stelling House as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**

(2) **Conduct a public hearing on the Historical Property Contract between the City of San José and the owner of the Stelling House (Bart Narter, Property Owner) and adopt a resolution approving the contract.**

CEQA: Exempt. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memoranda from Historic Landmarks Commission Secretary Joseph Horwedel, both dated June 2, 2010, recommending adoption of resolutions. (2) Proofs of Publication of Notices of Public Hearings, executed on May 21, 2010, submitted by the City Clerk. (3) Affidavits of Routings dated June 29, 2010 submitted by the City Clerk.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Resolution No. 75423, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Hermle-Fancher House Site/Structure Located at 530 S. Sixth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”; Resolution No. 75424, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Jose M. Blanc for the Hermle-Fancher House (City Landmark No. HL10-190)”; Resolution No. 75425, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Stelling House Site/Structure Located at 104 S. Thirteenth Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature” and Resolution No. 75426, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Bart Narter for the Stelling House (City Landmark No. HL10-191)”, were adopted. (11-0.)

- 4.3 Consider an ordinance to approve a Development Agreement between Cisco Technology, Inc. and the City of San Jose to preserve the ability to construct up to 2.5 million square feet of industrial park development under the provisions of the North San Jose Area Development Policy on a 137 gross acre site. CEQA: Resolution No. 72768 and Addenda thereto. (Planning, Building and Code Enforcement)**

Action: Deferred to June 22, 2010 per Administration.

NEIGHBORHOOD SERVICES

- 5.1 (a) Adopt a resolution to amend Council Policy 7-12 (Community Center Reuse) to allow for greater opportunities to place service providers at Reuse sites.**
- (b) Approve suspension of competitive solicitation requirements under Policy 7-12 for 12 months and grant authority to the Director of Parks, Recreation, and Neighborhood Services to extend suspension of requirements for an additional 12 months, if determined necessary.**
- (c) Authorize the Director of Parks, Recreation, and Neighborhood Services to enter in to direct negotiations with potential service providers for Reuse facilities pursuant to Municipal Code Section 4.12.235, "Unique Services Purchases."**

CEQA: Not a Project, File No. PP10-068, changes to existing policies that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 26, 2010, recommending adoption of a resolution, approval of suspension of competitive solicitation and authorization for the Director of Parks, Recreation and Neighborhood Services to enter into direct negotiations.

Council Member Liccardo requested that Staff advise the Council before rejecting any opportunities.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 75427, entitled: "A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 7-12 Relating to Reuse of Community Centers", was adopted; Suspension of competitive solicitation requirements under Policy 7-12 for 12 months and grant authority to the Director of Parks, Recreation, and Neighborhood Services to extend suspension of requirements for an additional 12 months, if determined necessary was approved and the Director of Parks, Recreation, and Neighborhood Services was authorized to enter in to direct negotiations with potential service providers for Reuse facilities pursuant to Municipal Code Section 4.12.235, Unique Services Purchases. Staff was further directed to advise Council before rejecting opportunities. (11-0.)

- 5.2 Adopt a resolution authorizing the City Manager or designee to:**
- (a) Submit grant applications for the three projects identified in Table 2 of the memorandum to Council in the total amount not to exceed \$21,000,000 under the Nature Education Facilities Grant Program administered by the Office of Grants and Local Services within the California State Department of Parks and Recreation;**
 - (b) Accept any grants funds awarded to the City for the limited purpose of completing CEQA clearance, and negotiate and execute all necessary documents to implement the grant awards to complete CEQA clearance; and**
 - (c) Return to Council at a future date for authorization to negotiate and execute all necessary documents to implement the grant awards.**

CEQA: Statutorily Exempt, File No. PP10-066, CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 24, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from Director Balagso, dated June 11, 2010, providing an update that the grant application for Alum Rock Park Log Cabin and the Youth Science Institute Building Improvements project will not be submitted to the State of California Natural Resources Agency under the Nature Education Facilities Grant Program. Staff will now be submitting three applications that will not exceed \$21,000,000.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, Resolution No. 75428, entitled: “A Resolution of the Council of the City of San José Approving the Grant Applications for Nature Education Facility Program Funds Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006”, was adopted. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

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

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

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

7.1 Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated April 26, 2010, recommending adoption of a resolution. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated June 8, 2010, stating concurrence with the Staff recommendation.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, Resolution No. 75429, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute First Amendments to the Master Agreements with Carollo Engineers, CH2M Hill and Black & Veatch for Engineering Services for the San José Water Pollution Control Plant Capital Improvement Program", was adopted. (11-0.)

7.2 **Adopt a resolution setting the wholesale discount for recycled water used for industrial and agricultural purposes at \$325 per acre foot compared to Santa Clara Valley Water District rate for untreated water, effectively increasing the rate for industrial and agricultural recycled water effective July 1, 2010 from \$175 per acre-foot to \$195 per acre foot. CEQA: Not a Project, File No. PP10-067(a), increases or adjustments to fees, rates and fares. (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 June 8, 2010, stating concurrence with the Staff recommendation.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Herrera and carried unanimously, Resolution No. 75430, entitled: "A Resolution of the Council of the City of San José Adopting Wholesale Recycled Water Rates for the South Bay Water Recycling Program Effective July 1, 2010", was adopted. (11-0.)

7.3 **Adopt a resolution authorizing the City Manager to negotiate and execute a Grant Agreement with the U.S. Bureau of Reclamation to receive up to \$260,000 upon execution of the agreement, and up to an additional \$20,440,000 subject to appropriation of federal funds, in reimbursement for up to twenty-five percent of eligible costs incurred in the Phase 1B expansion of the South Bay Water Recycling facilities. CEQA: Final EIR for the San José Nonpotable Reclamation Project, Resolution No. 64667 (File No. PP-91-090; SCH# 1992013071) and Addenda thereto and Negative Declaration for South Bay Water Recycling Program-Phase 1B, File No. PP00-072. NEPA: Final Environmental Assessment/Finding of No Significant Impact, for Revised South Bay Water Recycling Program Phase 1B (FONSI #97-03-MP) and Categorical Exclusion for South Bay Water Recycling Phase 1B (March 19, 2009). (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 June 8, 2010, stating concurrence with the Staff recommendation.

7.3 (Cont'd.)

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Constant and carried unanimously, Resolution No. 75431, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the U.S. Bureau of Reclamation to Receive Up To \$260,000 Upon Execution of the Agreement and Up to An Additional \$20,440,000 Subject to Appropriation of Federal Funds, In Reimbursement for Up to Twenty Five Percent of Eligible Costs Incurred in the Phase 1B Expansion of the South Bay Water Recycling Facilities", was adopted. (11-0.)

7.4 **Report on bids and award of contract for the Motor Control Center Phase II Replacement Project to the lowest responsive and responsible bidder, Blocka Construction, in the amount of \$1,020,000; and approval of a budget contingency of 15% contract amount of \$153,000. CEQA: Exempt, File No. PP04-03-079. (Environmental Services/Public Works)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean and Director of Public Works Katy Allen, dated May 24, 2010, recommending award of the contract to the low bidder, Blocka Construction, with related contingency. (2) Supplemental memorandum from Directors Allen and Stufflebean, dated June 11, 2010, providing additional information after having received a bid protest on the project from Monterey Mechanical Company. (3) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated June 8, 2010, stating concurrence with the Staff recommendation.

Assistant Director of Public Works David Sykes provided details about the protest of the project.

Public Comments: Jim Troup (Monterey Mechanical Company) argued that his company submitted the lowest bid, were advised by Staff that their bid was unresponsive and pointed out that he did not receive a copy of the addendum.

Assistant Director of Public Works David Sykes responded to Council questions and concerns.

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Chirco and carried unanimously, the award of contract for the Motor Control Center Phase II Replacement Project to the lowest responsive and responsible bidder, Blocka Construction, in the amount of \$1,020,000, with related contingency, was approved. (11-0.)

7.5 Report on bids and award of contract for the Switchgear M1, M2 & M3 Replacement Design-Build Project to the low bidder, Rosendin Electric, in the amount of \$8,386,978; and approval of a contingency of 15% of the contract amount, in the amount of \$1,258,047. CEQA: Exempt, File No. PP04-03-079. (Environmental Services/Public Works)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean and Director of Public Works Katy Allen, dated May 24, 2010, recommending award of the contract to the low bidder. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated June 8, 2010, stating concurrence with the Staff recommendation.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, the award of contract for the Switchgear M1, M2 & M3 Replacement Design-Build Project to the low bidder, Rosendin Electric, in the amount of \$8,386,978, with related contingency, was approved. (11-0.)

RECESS/RECONVENE

The City Council recessed at 11:56 a.m. from the morning Council Session and reconvened at 1:34 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

INVOCATION

Bishop Robert Geddes, Dry Creek Ward, San José South Stake provided the Invocation. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Morrill Middle School Girl's Varsity Basketball Team for sportsmanship, academics and achieving a 37-0 undefeated season. (Chu)

Action: Mayor Reed and Council Member Chu recognized and commended the Morrill Middle School Girl's Varsity Basketball Team.

1.2 Presentation of a commendation to Girl Scout Troup 60007 for their hard work, dedication and sense of service to the San José community. (Herrera)

Action: Mayor Reed and Council Member Herrera recognized and commended Girl Scout Troup 60007 for their hard work, commitment and service to the San José community.

1.3 Presentation of a commendation to San José Unified School District Superintendent Don Iglesias for his lifetime dedication to the students of San José. (Pyle)

Action: Mayor Reed and Council Members Pyle and Liccardo recognized and commended San José Unified School District Superintendent Don Iglesias for his lifetime dedication to the students of San José.

RECESS/RECONVENE

The City Council recessed at 1:50 p.m. from the afternoon Council Session and reconvened to a Closed Session in Room W133 (A) to confer to confer with Labor Negotiator pursuant to Government Code Section 54957.6.

The City Council reconvened to the afternoon Council Session at 3:13 p.m. in the Council Chambers.

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

Absent: Council Members - None.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Approve an ordinance amending Title 23 (The Sign Ordinance) of the San José Municipal Code to:

- (a) Allow Freeway Signs for large shopping centers.**
- (b) Establish operational requirements for Programmable Electronic Signs.**
- (c) Allow attached signs to face a freeway.**
- (d) Modify the requirements for Fin Signs and Vertical Projecting Signs in the Downtown Sign Zone.**
- (e) Establish and provide sign regulations for the San Pedro Square Signage Area.**
- (f) Allow Architectural Sign Clusters for large parcels in the commercial and industrial zoning districts.**
- (g) Provide regulations for commercial messages.**
- (h) Make other related and clerical modifications.**

CEQA: Negative Declaration, File No. PP10-111. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 1, 2010, recommending approval of an ordinance.

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

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

Public Comments: Ross Signorino was optimistic that the lighting will not be offensive or a safety hazard to drivers.

4.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28754, entitled: “An Ordinance of the City of San José 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”, was passed for publication. (11-0.)

RECESS/RECONVENE

The City Council recessed at 3:22 p.m. from the afternoon Council Session and reconvened to the afternoon Council Session at 4:01 p.m. in the Council Chambers.

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

Absent: Council Members - None.

STRATEGIC SUPPORT SERVICES

3.7 **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 Legal Professionals of San José (ALP), effective June 27, 2010. CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (City Manager’s Office)**

Documents Filed: (1) Memorandum from City Manager Debra Figone, dated June 9, 2010, recommending adoption of a resolution. (2) Supplemental memorandum from City Manager Debra Figone, dated June 15, 2010, outlining the terms of the agreement reached with ALP on June 15, 2010, that achieves a total compensation of 10% and recommending that the execution of an agreement for the period of July 1, 2010 through June 30, 2011. (3) Memorandum from the Association of Legal Professionals, dated June 11, 2010, outlining the ALP Counterproposal to City Implementation of the “Last and Best Offer”.

City Manager Debra Figone provided opening comments about the City’s budget shortfall and the direction for achieving the 10% total compensation reduction for all employees.

Director of Employee Relations Alex Gurza and Senior Executive Analyst Aracely Rodriquez reported on the negotiations and the tentative agreement to reach the 10% total compensation reduction with the Association of Legal Professionals.

3.7 (Cont'd.)

Mayor Reed provided comments.

Motion: Council Member Constant moved approval of the Staff recommendations approving an agreement with a term of July 1, 2010 to June 30, 2011. Council Member Liccardo seconded the motion.

Council discussion followed.

Public Comments: Speaking in support to the Staff recommendations were Brian Doyle, Clark Williams, Ross Signorino and Kimberly Brady. David Wall expressed objection to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75419, entitled: "A Resolution of the Council of the City of San José approving and Agreement between the City of San José and the Association of Legal Professionals, with a term of July 1, 2010 to June 30, 2011", was adopted. (11-0.)

3.2 **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)**

Note: Items 3.2, 3.3, 3.4, 3.5 and 3.6 were heard together.

City Manager Debra Figone and Director of Employee Relations Alex Gurza presented opening comments.

Public Comments: The following speakers expressed opposition to imposing the concessions to the unions and requested deferral of one week to work with the negotiating teams: Fred Hirsh, Nancy Ostrowski, Cay Denise MacKenzie, Cameron Cleland, Mark Brogan, Kara Capaldo, Brandi Hoffman, Tony Seebah (CAMP), Jon Max Regger, Don Dietrich (OE-3), Albert Yeong, John Mukhar, Roger Storz, Dianna Butcher (AEA), Victor Chen, Bill Pope, Bob Leininger (San José Retired Employee Association), Phyllis Schulz (AMSP), Dan Rodriguez (IBEW) and David Wall.

Larry Pegram spoke in agreement with implementing the terms in the City's Last and Best Offer and to provide the citizens of the City of San José with continued services

Motion: Council Member Constant moved approval of the implementation of the terms contained in the "Last, Best and Final Offers" for CAMP, IBEW, AMSP and OE3 and direct Staff to be available immediately and on very short notice if necessary, when and if changed circumstances dictate. Council Member Oliverio seconded the motion.

City Attorney Richard Doyle and Director of Employee Relations Alex Gurza responded to Council questions and concerns.

3.2 (Cont'd.)

Substitute Motion: Council Member Nguyen moved approval to defer Items 3.2, 3.3, 3.4, 3.5 and 3.6 one week to allow for labor negotiations. Council Member Pyle seconded the motion.

Extensive Council discussion followed.

Speaking in support to the substitute motion as a fair and balanced approach were Council Member Chu, Vice Mayor Chirco and Council Members Campos, Herrera and Kalra.

Amendment to the Substitute Motion: City Attorney Richard Doyle clarified that due to legal issues a Special Meeting may be held on Thursday, June 17, 2010 in order to allow for labor negotiations and for Council to hear all five items. Council Members Nguyen and Pyle agreed and accepted the amendment.

Action: On a call for the question, the motion carried, Item 3.2 was continued to June 17, 2010 Special Meeting. (9-2. Noes: Constant, Oliverio.)

3.3 **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)**

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried, Item 3.3 was continued to June 17, 2010 Special Meeting. (9-2. Noes: Constant, Oliverio.)

3.4 **Adopt a resolution approving the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the Association of 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)**

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried, Item 3.4 was continued to June 17, 2010 Special Meeting. (9-2. Noes: Constant, Oliverio.)

3.5 **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)**

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried, Item 3.5 was continued to June 17, 2010 Special Meeting. (9-2. Noes: Constant, Oliverio.)

- 3.6 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)**

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried, Item 3.6 was continued to June 17, 2010 Special Meeting. (9-2. Noes: Constant, Oliverio.)

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

City Manager Debra Figone requested that Council defer Item 3.8 to the June 17, 2010 Special Meeting.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried, Item 3.8 was continued to June 17, 2010 Special Meeting. (10-1. Noes: Constant.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

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

CEQA: Not a Project, File No. PP10-069(b), personnel-related decisions. (Mayor)

Action: Upon motion by Council Member Kalra, seconded by Council Member Nguyen and carried, Item 9.2 was continued to June 17, 2010 Special Meeting. (10-1. Noes: Constant.)

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

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

Action: Continued to June 17, 2010 Special Meeting.

STRATEGIC SUPPORT SERVICES

- 3.9 Adopt a resolution increasing the Library Parcel Tax rates for Fiscal Year 2010-2011 by 1.79% over the Fiscal Year 2009-2010 rates and approving the placement of the Library Parcel Tax on the Fiscal Year 2010-2011 Santa Clara County Property Tax Roll. CEQA Not a Project, File No. PP10-067 (a), specific funding mechanism – adjustment to rates. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 27, 2010, recommending adoption of a resolution.

Public Comments: David Wall spoke in opposition and requested information about how the fund will be used.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Nguyen and carried unanimously, Resolution No. 75420, entitled: “A Resolution of the Council of the City of San José Approving the Increased Library Parcel Tax Rates for FY 2010-2011 and Approving the Placement of the Library Parcel Tax on the FY 2010-2011 Santa Clara County Property Tax Roll”, was adopted. (11-0.).

- 3.10 (a) Hold a public hearing on proposed 2010-2011 Sewer Service and Use Charges and proposed maximums for rate increases in 2011-2012 and 2012-2013; and direct staff to return during the 2011-2012 and 2012-2013 budget cycles with recommendations regarding rate increases in 2011-2012 and 2012-2013 consistent with staff recommended maximum rate increases for those years.**
- (b) Adopt a resolution setting the following Sewer Service and Use Charge and Storm Sewer Service Charge rates for 2010-2011:**

<u>Category</u>	<u>2010-2011 Monthly Rates</u>
Single-Family Residential	\$32.86
Multi-Family Residential	\$18.79 per unit
Mobile Home	\$18.83 per unit
Non-Monitored Commercial and Industrial	See Attachment A
Monitored Industrial	See Attachment A

<u>Category</u>	<u>2010-2011 Monthly Rates</u>
Single Family Residential and Duplex	\$7.64
Mobile Home	\$3.83 per unit
Residential Condominium	\$4.18 per unit
Large Multi-Family Residential (5 or more units)	\$4.18
Small Multi-Family Residential (3-4 units)	\$14.51
Commercial, Institutional, and Industrial	See Attachment B

CEQA: Statutorily Exempt, File No. PP10-067 (a), CEQA Guidelines Section 15273 - Rates, Tolls, Fares, and Charges. (Environmental Services)

3.10 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 25, 2010, recommending holding a public hearing and adoption of a resolution. (2) Supplemental memorandum from Director Stufflebean, dated June 8, 2010, reporting on the written protests received through June 8, 2010, in response to the public notices mailed to the property owners.

Mayor Reed opened the public hearing.

Public Comments: David Wall spoke in protest against the rate increases.

Mayor Reed closed the public hearing.

City Clerk Lee Price noted that the Office of the City Clerk had received valid written protests representing 56 additional parcels and the total numbers of valid written protests were 646 for the proposed Sewer Service and Use Charge rates. City Clerk Lee Price stated that during the public protest period, together with one speaker protesting the rate changes today, represents less than one half of one percent of all property owners impacted by the change in sewer service and use rates. Therefore, she stated that the Council may consider Staff's recommendation for the Sewer Service and Use Charge rate increases.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried, Resolution No. 75421, entitled: "A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges and Storm Service Charges for Fiscal Year 2010-2011", was adopted. (10-1. Noes: Constant.)

- 3.11 (a) **Hold a public hearing on proposed 2010-2011 San José Municipal Water System potable water rates and charges.**
(b) **Adopt a resolution increasing the San José Municipal Water System potable water rates and charges by 3.75% effective July 1, 2010.**

CEQA: Statutorily Exempt, File No. PP10-067 (a), CEQA Guidelines Section 15273 - Rates, Tolls, Fares, and Charges. Council Districts 2, 4, 7 and 8. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 24, 2010, recommending holding a public hearing and adoption of a resolution. (2) Memorandum from Director Stufflebean, dated June 9, 2010, reporting on the written protests received through June 8, 2010, in response to the public notices mailed to the property owners.

Mayor Reed opened the public hearing.

Public Comments: David Wall argued against the rate increase.

Mayor Reed closed the public hearing.

3.11 (Cont'd.)

City Clerk Lee Price noted for the record that the Office of the City Clerk received 103 valid written protests on the proposed 2010-2011 San José Municipal Water System potable water rates and charges.

City Clerk Lee Price stated that during the public protest period, together with one speaker protesting the rate changes today, represents less than one half of one percent of all property owners impacted by the change in rate increase. Therefore, she stated that the Council may consider Staff's recommendation for the Municipal Water System Water Rate Increase.

Director of Environmental Services John Stufflebean responded to Council questions.

Action: Upon motion by Council Member Chu, seconded by Vice Mayor Chirco and carried unanimously, Resolution No. 75422, entitled: "A Resolution of the Council of the City of San José To Establish New Quantity Charges for Potable Water Service Effective July 1, 2010", was adopted. (10-1. Noes: Constant.)

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

Action: Item 3.12 was renumbered to Item 9.3. See action under Item 9.3.

- 3.13 (a) **Adopt resolutions approving the Operating Budget for 2010-2011 for the City of San José, the Capital Budget for 2010-2011 for the City of San José, and the Five Year Capital Improvement Program for 2011-2015 for the City of San José as revised by the Mayor's Budget Message and directing the City Manager to prepare final documents for adoption.**
(b) **Adopt a resolution establishing the Schedule of Fees and Charges for 2010-2011.**
(c) **Adopt a resolution amending Resolution No. 66629 to revise the term of the loan from the Sewage Treatment Plant Connection Fee Fund to the General Fund for construction of the fiber optic conduit installation project to extend the repayment date from June 30, 2011 to June 30, 2013.**
(d) **Approve an ordinance amending Section 9.10.2470 of Chapter 9.10 of Title 9 of the San José Municipal Code to allow the Construction Demolition Debris Diversion Program deposits that are no longer eligible for refund to be transferred to the General Fund.**
(e) **Approve an ordinance repealing Part 33 of Chapter 4.80 of the San José Municipal Code in order to eliminate the Anti-Tobacco Master Settlement Agreement Revenue Fund, to remove the expenditure restrictions, and to provide for the transfer of moneys in the Anti-Tobacco Master Settlement Agreement Revenue Fund to the General Fund.**

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

Action: Continued to June 17, 2010 Special Meeting.

- 3.14 **Adopt a Medical Marijuana Ordinance. (City Manager’s Office/ Police/Planning, Building and Code Enforcement)**

Action: Deferred to June 22, 2010 per Administration.

- 3.15 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. CEQA: Not a Project, File No. PP10-069(a), staff reports and informational memoranda involving no approvals. (Auditor)**

Action: Deferred to June 22, 2010 per Administration.

- 3.17 Approve ordinances amending the Municipal Code to add and amend provisions related to retirement contributions to implement additional employee contributions for Fiscal Year 2010-11 as follows:**

- (a) **An ordinance 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 for Fiscal Year 2010-2011.**
- (b) **An ordinance 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 for Fiscal Year 2010-2011.**

**CEQA: Not a Project, File No. PP10-068(b), Municipal Code amendments pertaining to personnel issues. (City Attorney's Office)
(Rules Committee referral 6/9/10)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 10, 2010, recommending approval of the ordinances to amend the Municipal Code to require additional employee retirement contributions for Fiscal Year 2010-2011.

City Attorney Richard Doyle and Director of Employee Relations Alex Gurza responded to Council questions and concerns.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Chirco and carried unanimously, Ordinance No. 28752, entitled: "An Ordinance of the City of San José 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" and Ordinance No. 28753, entitled: "An Ordinance of the City of San José Amending Part 10 of Chapter 3.36 of Title 3 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 Related to Employee and Employer Retirement Contributions", were passed for publication. (11-0.)

OPEN FORUM

- (1) David Wall referenced a San José Mercury News article concerning a whistleblower falsely accusing the San José Police Officers of wrongdoing.
- (2) Ross Signorino commented about the use of hands free cell phones while driving.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 6:17 p.m.

RECESS/RECONVENE

The City Council recessed at 6:17 p.m. from the afternoon Council Session and reconvened at 7:05 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

CEREMONIAL ITEMS

1.4 Presentation of a commendation to the Encorps Teachers Program and Michelle Lyle with Northwood Elementary for their outstanding service to students in the Bay Area and the City of San José. (Chu)

Action: Mayor Reed and Council Member Chu recognized and commended the Encorps Teachers Program and Michelle Lyle with Northwood Elementary for their exceptional service to students in the Bay Area and the City of San José.

1.5 Presentation of commendations to recipients of the Keep San José Beautiful Steering Committee “Community Improvement Awards” in recognition for their commitment to volunteer time to beautify a property in San José. (Nguyen)

Action: Mayor Reed and Council Members Nguyen, Pyle, Oliverio and Chu recognized and commended the recipients of the Keep San José Beautiful Steering Committee “Community Improvement Awards” in recognition for their commitment to volunteer time to beautify a property in San José.

1.6 Administer Oaths of Office to District 1 Youth Commissioner Peter Tang, District 6 Youth Commissioner Nicholas Taxera, and District 10 Youth Commissioner Layla Foroghi. (City Clerk)

Action: City Clerk Lee Price administered the Oaths of Office to the Youth Commissioners in Districts 1, 6 and 10.

PUBLIC HEARINGS

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

11.6 Adopt a resolution to certify:

- (a) The City Council has read and considered the Final Supplemental EIR.**
- (b) The Final SEIR has been completed in compliance with the California Environmental Quality Act (CEQA); and The Final SEIR reflects the independent judgment and analysis of the City of San José; and The Director of Planning, Building and Code Enforcement shall transmit copies of the Final SEIR to the Applicant and to any other decision-making body of the City of San José for the project.**

SNI: Burbank/Del Monte.

PP05-214 – District 6

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 7, 2010, recommending adoption of a resolution and transmitting an appeal dated May 24, 2010 from Marc Morris, an Appeal dated May 24, 2010 from Michael Wilson on behalf of Stand for San José, an appeal dated May 24, 210 from Misty Macias on behalf of Silicon Valley Sports and Entertainment and responses to comments from Silicon Valley Sports and Entertainment and Stand for San José. (2) Supplemental memorandum from Director Horwedel, dated June 15, 2010, identifying an error in the June 7, 2010 report and providing the correction. (3) Proof of Publication of Notice of Public Hearing, executed on June 7, 2010, submitted by the City Clerk. (4) Staff presentation dated June 15, 2010 summarizing the Ballpark Final SEIR, Appeal of Certification. (5) Staff presentation dated June 15, 2010 outlining the EIR Response to Closing Fire Stations. (5) Four letters from the public all dated June 15, 2010 regarding the Final EIR.

Principal Planner Darryl D. Boyd presented the Staff Report.

Mayor Reed opened the public hearing.

Ronald Van Buskirk (Stand for San José) stated that the SEIR does not comply with California Environmental Quality Act and that it does not fairly and fully advise the voters of the environmental impacts of the ballpark projects. Marc Morris expressed concern that the neighborhoods are not being protected and that the parking supply is overstated.

Public Comments: Speaking in support to the EIR and the stadium were Former Mayor of San José Susan Hammer, Michael Mulcahy, Daniel Hendel De La O (Pro Baseball for San José), Nick Rajkovich (Silicon Valley Leadership Group), Dan Fenton (Team San José), Jack Wimberly, Henry Cord, Scott Knies (San José Downtown Association), Neil Struthers (Building Trades Council), Matthew Johnson, Paul Higgins and Pat Sausedo (San José Silicon Valley Chamber of Commerce).

11.6 Public Comments (Cont'd.)

Helen Chapman (Shasta Hanchett Neighborhood Park Association), Stephen Kline (Sherman Oaks Neighborhood Association) urged Council to protect the neighborhoods and include the neighborhood concerns in the documents. Carlos Babcock (Silicon Valley Bicycle Coalition) urged the Council to promote cycling and to consider the impacts of parking and traffic. Richard Zappelli (Willow Glen Neighborhood Association) and Ross Signorino voiced concerns about the impacts to the neighborhoods.

Tom Sawyer expressed opposition that the difficulties for emergency vehicles coming through the area were not answered in the EIR. Yolanda Reynolds and Eloy Wouters expressed opposition with the negative impacts to parking, traffic flow in the neighborhoods, noise and the increased number of police officers that will be needed. John Urban urged the Council to complete the Autumn Street connection before the stadium is completed. Kevin Kelley expressed concern about the length of time required for emergency response vehicles.

Mayor Reed closed the public hearing.

Mayor Reed provided meeting disclosures.

Motion: Council Member Liccardo moved approval of the Staff recommendations to deny the appeal and certify the EIR. Council Member Herrera seconded the motion.

Principal Planner Darryl D. Boyd and Senior Deputy City Attorney Renee Gurza responded to Council questions and concerns.

Council Member Campos disclosed that Neil Struthers (Building Trades Council) was her husband.

Action: On a call for the question, the motion carried unanimously, CEQA Resolution No. 75432, entitled: "A Resolution of the Council of the City of San José Finding an Appeal of the Planning Commission's Certification Action that a Final Supplemental Environmental Impact Report Prepared for a Ballpark Project Described in Application File No. PP05-214 Has Been Completed in Compliance with the California Environmental Quality Act", was adopted. (11-0.)

GENERAL PLAN PUBLIC HEARINGS

- 10.1 Tentative approval of a General Plan amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Non-Urban Hillside (Silver Creek Planned Residential Community) to Public/Quasi-Public (Silver Creek Planned Residential Community) on a 3-acre portion of a 21.1-acre site, located on the east side of Dove Hill Road, approximately 500 feet north of Hassler Parkway (4200 Dove Hill Road) (Kuehne Stanislaus and Eleanore Trustee & Et, owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

GP08-08-03 – District 8

[Continued from 4/27/10 – Item 10.1(a) and 5/18/10 – Item 10.1(a)]

Documents Filed: (1) Memorandum from Council Member Herrera, dated June 15, 2010, recommending approval of the Staff recommendations with several conditions as described in “Action”. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP08-08-03 dated March 30, 2010. (3) Memorandum from Planning Commission Secretary Joe Horwedel, dated April 8, 2010, transmitting the Planning Commission recommendation. (4) Supplemental memorandum from Planning Commission Secretary Joe Horwedel, dated June 9, 2010, transmitting the results of the June Planning Commission meeting on this topic, as well as a summary of the community outreach that occurred in late May and early June. (5) Proof of Publication of Notice of Public Hearing, executed on June 2, 2010, submitted by the City Clerk. (6) Two letters from the public both dated May 18, 2010, expressing support to the memorandum from Council Member Herrera.

Motion: Council Member Herrera moved approval of her memorandum dated June 15, 2010, recommending approval of the Staff recommendations with several conditions as described in “Action”. Council Member Constant seconded the motion.

City Attorney Richard Doyle disclosed that it has come to his attention that there was concern that the developer was looking to flip this property and that there was speculation about a land sale. However, he noted that the Attorney’s Office investigated the concern and had been assured by Mr. Caruso that was not the case.

Mayor Reed and Council Member Campos provided meeting disclosures.

Mayor Reed opened the public hearing.

Sal Caruso, representing the Developer/Applicant, noted that the project has been reduced from 5 acres to 3 acres and pointed out the merits of the project.

Public Comments: Speaking in support to the memorandum from Council Member Herrera and to the Staff recommendations were Bonnie Mace, Neil Struthers (Building Trades Council), Richard Rosdail and Chris Wolfgram.

10.1 (Cont'd.)

Speaking in opposition to the proposed project because of the significant effects to the habitat of the Bay Checkerspot Butterfly, traffic congestion, fire safety hazards, air pollution, decreased response for emergency vehicles were Vidyadhara Bellippady, Sanjay Saini, Stephen Sullins, Deepesh Chouhan, Samar Sharma, Satish Menon, Ashirwad Bahukhandi and Sonia Saini.

Sal Caruso rebutted that an emergency evacuation plan will be addressed and he expressed his willingness to work with the surrounding neighborhood to address all of their concerns.

Mayor Reed closed the public hearing.

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

Council Member Herrera requested that Staff address Bay Checkerspot Butterfly considerations at the Planned Development Permit Zoning and/or Permit stages.

Action: On a call for the question, the motion carried, the City Council recommended tentative approval of the memorandum from Council Member Herrera, dated June 15, 2010: (1) Approving the Staff recommendations on the proposed General Plan Amendment for GP08-08-03 with the following issues to be addressed at the Planned Development Permit Zoning and/or Permit stages: (a) Air quality for the future residents of the assisted living facility. (b) Traffic capacity and traffic safety on Dove Hill Road and Hassler Parkway. (c) Emergency vehicle access into and out of the site. (d) Emergency exit and emergency evacuation capacity for Ranch residents in addition to the future residents on Dove Hill Road. (e) Noise Levels for future Residents of the assisted (f) Bay Checkerspot Butterfly considerations. (2) Direct Staff to initiate a General Plan change back to Non-Urban Hillside if construction on the project has not begun within two years of approval of the Planned Development Permit. (10-1. Noes: Liccardo.)

Adopt a resolution approving all General Plan amendment actions taken on April 27, 2010 and June 15, 2010. (Planning, Building and Code Enforcement)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75433, entitled "A Resolution of the Council of the City of San José Specifying the Council's Determination on a Proposed Amendment to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code", was adopted. (11-0.)

END OF GENERAL PLAN PUBLIC HEARINGS

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Vice Mayor Chirco, seconded by Council Member Oliverio and carried unanimously, the Public Hearings on Consent Calendar were approved and the below listed actions were taken as indicated. (11-0.)

- 11.1 (a) Consideration of a conforming rezoning ordinance rezoning the real property located 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 to redefine the location where previously approved development may be constructed on a 52.68 gross acre site. This proposal will not increase the allowable building square footage from previous approval nor allow an increase in student enrollment (Valley Christian School, Owner/Applicant). CEQA: Resolution No. 65245 and addendum. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
PDC10-009 – District 2**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC10-009, dated June 3, 2010. (2) Proof of Publication of Notice of Public Hearing, executed on May 21, 2010, submitted by the City Clerk.

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

Action: The recommendation of the Planning Director was approved, Ordinance No. 28755, entitled: “An Ordinance of the City of San José 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”, was passed for publication. (11-0)

- (b) Consideration of an ordinance rezoning the real property located on the west side of Carol Drive, approximately 100 feet north of the terminus of Carol Drive (2661 Carol Drive) to allow for the demolition of one existing single-family detached residence and the development of two new single-family detached residences on a 1.67 gross acre site (Madhvani Kantilal, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC07-018 – District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-018, dated May, 2010. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated May 27, 2010, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on May 14, 2010, submitted by the City Clerk.

11.1 (b) (Cont'd.)

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

Action: The recommendation of the Planning Director and Planning Commission was approved, Ordinance No. 28756, entitled: “An Ordinance of the City of San José 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”, was passed for publication. (11-0)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consider an ordinance rezoning the real property located at/on the west side of N. Third Street, 340 feet south of Hensley Street (405 N Third Street) in the Hensley Historic District from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to six residential units within the existing structure(s) on a 0.17 gross acre site (Layne Sharon J, Owner; Bill Priest, Developer). SNI: 13th Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval of 4 units only (5-2-0, Do and Jensen opposed). PDC08-033 – District 3**

Action: Continued to August 2010 per Orders of the Day.

- 11.3 The project being considered in located at the southeast corner of McKee Road and N. 33rd Street (280 N. 33rd St. & 1604 McKee Rd.), in the CP Pedestrian Commercial Zoning District (Amir Shirazi, Owner). SNI: Five Wounds/Brookwood Terrace:**

- (1) Administrative Hearing on and consideration of an Appeal of the Planning Commission's decision to adopt a Negative Declaration which found the project described below will not have a significant effect on the environment in that the Initial Study and Response to Comments identify that there will be no potentially significant effects on the environment.**
- (2) CP09-015. Administrative Hearing on and consideration of an Appeal of the Planning Commission's decision to approve a Conditional Use Permit to allow the demolition of an existing single-family detached residence and the expansion of an existing gas and service station. Three additional gas pumps and a canopy for the new pumping facility will be constructed.**

Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

District 3

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 3, 2010, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP09-015, dated September 16, 2009. (2) Revised Proof of Publication of Notice of Public Hearing, executed on May 21, 2010, submitted by the City Clerk. (3) Correspondence from the Law Offices of James M. Dombroski, Attorney at Law, dated June 14, 2010, regarding the Permit and Environmental Appeal. (4) Letter from Gary B. Wesley, Attorney at Law, dated May 14, 2010, regarding the hearing on the Appeal from Negative Declaration.

Director of Planning, Building and Code Enforcement Joseph Horwedel pointed out that Staff has looked at the claims about the level of service impacts and disagree with the conclusions that the Appellant has made. Director Horwedel stated that there was no fair argument of any possible impact of significant nature and therefore was no need for an environmental impact report. He requested that Council consider denying the appeal and approve the Conditional Use Permit.

11.3 (Cont'd.)

Mayor Reed opened the public hearing.

Public Comments: James Dombroski, Attorney at Law, representing the Appellant, requested a deferral for the hearing of this item because his client did not receive the requisite 10-day notice with respect to June 15, 2010. Mr. Dombroski also requested that a traffic study should include traffic time spent during peak periods and observing the chaos in order to properly understand the current situation.

Gary Wesley, Attorney at Law, representing the Applicant Amir Shirazi, spoke to the merits of the issue, citing that the proposed project would improve the neighborhood and the traffic flow.

Mr. Dombroski rebutted that there was a school located across the street from the project and there was a serious traffic problem.

Mayor Reed closed the public hearing.

Motion: Council Member Liccardo moved approval of the Staff recommendations to uphold issuance of Conditional Use Permit, with an additional condition for a Major Permit Adjustment to read: Prior to the issuance of a Building Permit, the applicant is required to apply for and have approved a Major Permit Adjustment for site modifications to address the issue of on-street queuing through: (a) The use of on-site queuing, relocated parking and directional arrows and signage. (b) Promote improved aesthetic interface along the McKee and 33rd Street frontage with additional landscaping. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Director and Planning commission was approved, Resolution No. 75434, entitled: "A Resolution of the Council of the City of San José Upholding the Planning Commission's Decision to Adopt a Negative Declaration for a Conditional Use Permit for the Expansion of an Existing Gasoline Service Station on a Site Located on the Southeast Corner of McKee Road and North 33rd Street in Compliance with the California Environmental Act of 1970, as Amended, and Title 21 of the San José Municipal Code" and Resolution No. 75435, entitled: "A Resolution of the Council of the City of San José Approving a Request for a Conditional Use Permit to Allow the Demolition of an Existing Single Family Detached Residence and the Expansion of an Existing Gas and Service Station on a 0.51 Gross Acre Site on the Southeast Corner of McKee Road and North 33rd Street (1604 McKee Road), San José", were adopted, as amended. Staff was directed to uphold issuance of Conditional Use Permit, with an additional condition for a Major Permit Adjustment to read: Prior to the issuance of a Building Permit, the applicant is required to apply for and have approved a Major Permit Adjustment for site modifications to address the issue of on-street queuing through: (a) The use of on-site queuing, relocated parking and directional arrows and signage. (b) Promote improved aesthetic interface along the McKee and 33rd Street frontage with additional landscaping. (11-0)

- 11.4 Consideration of an ordinance rezoning the real property located at/on the north side of Auzerais Avenue between Bird Avenue and Royal Avenue (395 Bird Avenue) from LI Light Industrial to A(PD) Planned Development Zoning District to demolish an existing gas station and construct a new gas station/mini-mart/car wash on a 0.6 gross acre site (Vintners Distributors, Inc. Sunny Goyal, Owner/Developer). SNI: Burbank/Del Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC09-023 – District 6**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated March 16, 2010, providing an overview of the City's ability to regulate the sale of alcoholic beverages at gas stations. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated February 3, 2010, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC09-023, dated February 2, 2009. (3) Memorandum from Planning Commission Secretary Joe Horwedel, dated February 11, 2010, transmitting the recommendation of the Planning Commission. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 3, 2010, clarifying the regulations and requirements related to off-sale of alcohol with respect to the proposed rezoning. (5) Proof of Publications of Notices of Public Hearing, executed on January 29, 2010, and May 28, 2010, submitted by the City Clerk.

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

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, Ordinance No. 28757, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the North Side of Auzerais Avenue between Bird Avenue and Royal Avenue (395 Bird Avenue) from LI Light Industrial to A(PD) Planned Development Zoning District", was passed for publication. (11-0)

- 11.5 Consideration of an ordinance rezoning the real property located at the area south of the Village Square, encompassed by Cortona Drive, Classico Avenue and Ruby Avenue (4035 Evergreen Village Square) to allow for the development of up to 35 single-family attached residences on a 2.8 gross acre site located adjacent to an approved, but not yet constructed, 36,500 square foot commercial building (Shapell Industries, Owner). CEQA: Resolution Nos. 63179 and 73570 and addenda thereto. Director of Planning, Building and Code Enforcement recommends approval with the revised development standards and Planning Commission recommends approval with a density of 12 DU/AC (5-2-0).
PDC09-020 – District 8**

11.5 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Herrera, dated June 15, 2010, recommending approval of the Staff recommendations. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC09-020, dated May 14, 2009. (3) Memorandum from Planning Commission Secretary Joe Horwedel, dated May 27, 2010, transmitting the recommendation of the Planning Commission. (4) Proof of Publication of Notice of Public Hearing, executed on May 14, 2010, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel provided comments about the rezoning to allow for the development of up to 35 single family attached residences.

Motion: Council Member Herrera moved approval her memorandum dated June 15, 2010, approving the Staff recommendations. Council Member Liccardo seconded the motion.

Mayor Reed opened the public hearing.

Public Comments: Speaking in support to the Staff recommendations were Susan Mineta (Shapell Homes), Charles Welsh (Great Clips, Evergreen Village), Bonnie Mace and Danielle Bechwati.

Kevin Liao and Chaowei Liao spoke in support of 20 single family residences in lieu of 35.

Mayor Reed closed the public hearing.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28758, entitled: "An Ordinance of the City of San José 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", was passed for publication to allow for the development of up to 35 single family attached residences on a 2.8 gross acre site. (11-0)

ADJOURNMENT

The Council of the City of San José was adjourned at 9:59 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/06-15-10 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanoseca.gov/clerk/agenda.asp> or <http://www.sanoseca.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 (40

JOINT/REDEVELOPMENT AGENCY

The Joint Redevelopment Agency Board convened at 11:17 a.m. to consider Items 8.1 and 8.2 in a Joint Session.

8.1 Acceptance by the Redevelopment Agency Board and City Council of the Final Report “The Alameda, A Plan For The Beautiful Way” articulating the community’s vision for the future of The Alameda/Highway 82 from Stockton Avenue to Interstate 880. CEQA: Exempt, File No PP07-276. [THE ALAMEDA]

Documents Filed: Memorandum from Executive Director of the Redevelopment Agency Harry S. Mavrogenes and City Manager Debra Figone, dated June 3, 2010, recommending acceptance of the report.

Redevelopment Agency Director of Business Development Richard Keit presented the Staff Report.

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

Public Comments: Speaking in support to the Staff recommendations were Betty Slater, Larry Clark and Ross Signorino.

Action: On a call for the question, the motion carried unanimously, the Final Report “The Alameda, A Plan For The Beautiful Way” articulating the community’s vision for the future of The Alameda/Highway 82 from Stockton Avenue to Interstate 880, was accepted. (11-0)

8.2 Adoption of resolutions by the Redevelopment Agency Board and City Council approving an amendment to the City/Agency Inclusionary Housing Policy in Redevelopment Project Areas, temporarily suspending inclusionary housing requirements related to newly constructed rental units until the earlier of January 1, 2013, or the effective date of the City’s Inclusionary Housing Ordinance, to ensure compliance with case law, 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, 05/26/10 – Item h(1)] (Deferred 06/08/10 - Item 8.2)

Action: Deferred to June 22, 2010 per Orders of the Day.

The Council of the City of San José and Redevelopment Agency Board was adjourned at 11:35 a.m.

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY/AGENDA**

2. (a) **Adopt a resolution of the City Council:**
- (1) **Repealing Resolution No. 71579 of the City Council adopted on November 17, 2009;**
 - (2) **Authorizing the issuance of tax-exempt multifamily housing revenue bonds in two series designated as "City of San José Multifamily Housing Revenue Bonds (Orvieto Family Apartments), Series 2010B-1 and Series 2010B-2" in the aggregate principal amount not to exceed \$14,200,000 (individually, the "Series B-1 Bonds", the "Series B-2 Bonds" and collectively, "Bonds");**
 - (3) **Approving a loan of Bond proceeds to Orvieto Family Apartments, L.P., a California limited partnership (the "Borrower"), for financing a portion of the costs of constructing the Orvieto Family Apartments (the "Project") located at 80 Montecito Vista Drive in the City of San José (the "City");**
 - (4) **Approving in substantially final form the Series B-1 Senior Trust Indenture with Wells Fargo Bank, National Association, as Trustee (the "Trustee"), the Series B-2 Subordinate Trust Indenture with JP Morgan Chase Bank, N.A., as Bondowner Representative (the "Bondowner Representative"), the Series B-1 Financing Agreement among the City, the Borrower and the Trustee, the Series B-2 Loan Agreement among the City, the Borrower and the Bondowner Representative, Regulatory Agreement among the City, the Borrower and the Trustee, the Intercreditor Agreement among the City, the Trustee, Freddie Mac and the Bondowner Representative, the Bond Purchase Agreement among the City, the Borrower and RBC Capital Markets as Underwriter of the Series B-1 Bonds, and the Official Statement; and**
 - (5) **Authorizing the City Manager, Assistant Finance Director, Director of Housing or their designees to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.**
 - (6) **Authorizing the Director of Housing, to negotiate and execute an agreement with the City of San José Financing Authority (the "Authority") related to the groundlease revenues of the Project and ultimate disposition of the Project improvements and the Site.**

2. (b) **Adopt a resolution of the City of San José Financing Authority Board (the “Authority Board”):**
- (1) **Repealing Resolution No. 93 of the Authority Board adopted on November 17, 2009;**
 - (2) **Authorizing the Executive Director of the Authority, or designee, to acquire the Project site (the “Site”) from the Borrower and, with the Director of Housing, negotiate and execute a ground lease of the Site back to the Borrower for a term of up to 99 years with such other terms to be negotiated by the Executive Director of the Authority and the Director of Housing.**
 - (3) **Authorizing the Executive Director of the Authority and Director of Housing to negotiate and execute an agreement with the City related to the ground lease revenues from the Project and the ultimate disposition of the Project improvements and the Site.**

CEQA: Resolution No. 72877, Goble Lane Environmental Impact Report, File No. PP09-086. (Finance/Housing)

Action: Deferred to June 22, 2010 per City Attorney.