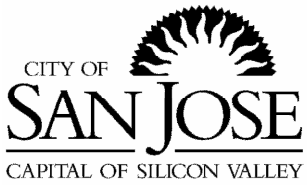

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA **TUESDAY, AUGUST 24, 2010**

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:30 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel with respect to anticipated litigation pursuant to Government Code subsection (b) of Section 54956.9 (Claim not Filed) with significant exposure in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation of significant exposure: (1) in re Claim of Peng; City Department: Police. (C) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) City v. Downer Estates Homeowners Association; Names of Parties Involved: City of San José, Downer Estates Homeowners Association, Does 1 through 700; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV145785; Amount of Money or Other Relief Sought: Damages according to proof. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. 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 10:30 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Council Members - None.

Access the video, the agenda and related reports for this meeting by visiting the City's website at http://www.sanjoseca.gov/clerk/agenda.asp or http:/www.sanjoseca.gov/clerk/MeetingArchive.asp. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

INVOCATION

Pastor Sean Choi, Korean Baptist Church, presented the Invocation. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Vice Mayor Chirco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 2.10 was deferred to September 14, 2010. (10-0-1. Absent: Kalra.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring August 26, 2010 as "Women's Equality Day" in the City of San José. (Herrera)

Action: Mayor Reed, Vice Mayor Chirco and Council Members Herrera, Campos, Pyle and Nguyen recognized August 26, 2010 as "Women's Equality Day" in the City of San José. Mayor Reed presented a plaque to Martha Beattie, President of the League of Women Voters, San José/Santa Clara, in honor of the event.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- **(a) Regular Minutes of May 4, 2010.**
- **(b) Budget Study Session Minutes of May 10-14, 2010.**
- **(c) Regular Minutes of May 11, 2010.**
- **(d) Joint San José Financing Authority Minutes of May 11, 2010.**
- **(e) Regular Minutes of May 18, 2010.**
- **(f) Regular Minutes of May 25, 2010.**

Documents Filed: (1) The Regular Minutes dated May 4, 2010, May 11, 2010, May 18, 2010 and May 25, 2010. (2) The Budget Study Session Minutes dated May 10 through May 14, 2010. (3) The Joint San José Financing Authority Minutes dated May 11, 2010.

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

2.2 Final adoption of ordinances.

(a) ORD. NO. 28791 – Amending Title 20 of the San José Municipal Code to include amendments to: (1) Section 20.70.010 of Chapter 20.70 to expand the applicability of the Downtown Zoning Districts to the area bounded by Julian Street, the Guadalupe River, Santa Clara Street, and Route 87 and modify the geographic description accordingly; (2) Section 20.30.100 of Chapter 20.30 to amend Table 20-50, Residential Districts Land Use Regulations, to allow with a Conditional Use Permit any use of the residential districts or any use of the CP Commercial Pedestrian District, except vehicle-related uses, for designated City of San José Historic Landmark Structures; (3) Section 20.40.100 of Chapter 20.40 to amend Table 20-90, Commercial Districts Land Use Regulations, to allow with a Special Use Permit any use not set forth in Table 20-90 for designated City of San José Historic Landmark Structures; (4) Section 20.50.100 of Chapter 20.50 to amend Table 20-110, Industrial Districts Land Use Regulations, to allow with a Special Use Permit any use not set forth in Table 20-110 for designated City of San José Historic Landmark Structure reuse; (5) Section 20.70.100 of Chapter 20.70 to amend Table 20-140, Downtown Districts Land Use Regulations, to allow with a Special Use Permit any use not set forth in Table 20-140 for designated City of San José Historic Landmark Structures; (7) Section 20.90.220 of Chapter 20.90 to allow a reduction in the required parking for a Historic Landmark Structure, and (8) Chapter 20.200, Definitions, to add a definition of a Historic Landmark Structure.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28791 executed on August 17, 2010, submitted by the City Clerk.

Action: Ordinance No. 28791 was adopted. (11-0)

(b) ORD. NO. 28786 – Amending Section 2.08.130 of Part 1 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise provisions for removal of retirement board members.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28786 executed on August 20, 2010, submitted by the City Clerk.

Action: Ordinance No. 28786 was adopted. (11-0.) (First Reading: 10-1. Noes: Liccardo.)

(c) ORD. NO. 28787 – Amending Sections 2.08.1210, 2.08.1220, 2.08.1225, 20.8.1235, 2.08.1240, 2.08.1245, and 2.08.1270 of Part 12 of Chapter 2.08 of Title 2 and amending Section 3.36.330 of Part 3 of Chapter 3.36 of Title 3 of the San José Municipal Code to revise the structure of the Board of Administration for the Police and Fire Department Retirement Plan, to adopt minimum qualification criteria for public members of said board, revise provisions for compensation of board members and revise the definition of a board quorum.

2.2 (c) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 28787 executed on August 20, 2010, submitted by the City Clerk.

Action: Ordinance No. 28787 was adopted. (11-0.) (First Reading: 10-1. Noes: Liccardo.)

(d) ORD. NO. 28788 – Amending Section 2.08.1010, 2.08.1020, 2.08.1030, 2.08.1050, 2.08.1065 and 2.08.1070 of Part 10 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise the structure of the Board of Administration for the Federated City Employees Retirement System, adopt minimum qualification criteria for public members of said board, and revise provisions for compensation of board members.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28788 executed on August 20, 2010, submitted by the City Clerk.

Action: Ordinance No. 28788 was adopted. (11-0.) (First Reading: 10-1. Noes: Liccardo.)

2.3 Approval of Council Committee Reports.

(a) Rules and Open Government Committee Report of August 4, 2010. (Mayor)
(b) Rules and Open Government Committee Report of July 28, 2010. (Mayor)
(c) Rules and Open Government Committee Report of June 9, 2010. (Mayor)

Documents Filed: The Rules and Open Government Committee Reports dated August 4, 2010, July 28, 2010 and June 9, 2010.

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

2.4 (a) Request for an excused absence for Council Member Pyle from the Regular Meeting of the Rules and Open Government Committee on August 11, 2010 due to a medical appointment. (Pyle)
(b) Request for an excused absence for Council Member Campos from the Regular Meeting of the Transportation and Environmental Committee on August 16, 2010 due to illness. (Campos)

Documents Filed: (1) Memorandum from Council Member Pyle, dated August 11, 2010, requesting an excused absence due to a medical appointment. (2) Memorandum from Council Member Campos, dated August 16, 2010, requesting an excused absence due to illness.

Action: The absences for Council Members Pyle and Campos were excused. (11-0)

2.5 City Council Travel Reports.

Action: There were none.

2.6 (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Building Structure and Construction Tax Fund:

(1) Increase the Beginning Fund Balance by $230,000.

(2) Increase the SJSU to Japantown Pedestrian Corridor appropriation to the Department of Transportation by $175,000.

(3) Increase the Jackson Street: LRT to Japantown Pedestrian Corridor Project appropriation to the Department of Transportation by $55,000.

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Services for Redevelopment Capital Projects Fund:

(1) Increase the Beginning Fund Balance by $150,000.

(2) Increase the 13th Street SNI Couplet Conversion and Pedestrian Improvement – Hensley Historic District SJSU to Japantown Pedestrian Corridor appropriation to the Department of Transportation by $135,000.

(3) Increase the 13th Street SNI Couplet Conversion and Pedestrian Improvement – Jackson St: LRT to Japantown Pedestrian Corridor Project Embossed Crosswalk at 4th and Jackson appropriation to the Department of Transportation by $15,000.

CEQA: Not a Project, File No. PP10-067, appropriation ordinance. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Jennifer Maguire, dated August 2, 2010, recommending adoption of appropriation ordinances and funding sources resolution amendments.

Action: Ordinance No. 28798, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the Building and Structure Construction Tax Fund for the SJSU to Japantown Pedestrian Corridor Project and for the Jackson Street: LRT to Japantown Pedestrian Corridor Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 75533, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the Building and Structure Construction Tax Fund"; Ordinance No. 28799, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in Services for Redevelopment Capital Projects Fund for the 13th Street SNI Couplet Conversion and Pedestrian Improvement – Hensley Historic District SJSU to Japantown Pedestrian Corridor Project and the 13th Street SNI Couplet Conversion and Pedestrian Improvement – Jackson Street: LRT to Japantown Pedestrian Corridor Project Embossed Crosswalk at 4th and Jackson Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 75534, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the Redevelopment Capital Projects Fund", were adopted. (11-0)

2.7 (a) Adopt a resolution to accept the State of California, Office of Traffic Safety 2010-2011 DUI Enforcement and Awareness Program grant in the amount of $382,259 and authorize the City Manager to execute the related grant agreement and to execute additional amendments and related documents without further Council action.

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund for Fiscal Year 2010-2011:

(1) Establish a City-wide appropriation to the Police Department for the 2010-2011 DUI Enforcement and Awareness Program grant in the amount of $382,259.

(2) Increase the Revenue Estimate from the State of California by $382,259.

CEQA: Not a Project, File No. PP10-066 (e), DUI Enforcement & Awareness Grant Agreement. (Police/City Manager's Office)

Documents Filed: Memorandum from Police Chief Robert L. Davis and Budget Director Jennifer Maguire, dated July 26, 2010, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 75535, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept a 2010-2011 DUI Enforcement and Awareness Program Grant from the State of California Office of Traffic Safety in an Amount Not To Exceed $382,259 and To Execute All Related Documents"; Ordinance No. 28800, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in General Fund for the 2010-2011 DUI Enforcement and Awareness Program Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 75536, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the General Fund", were adopted. (11-0)

2.8 (a) Increase the contingency amount for the G85B CDBG Green Vision Street Tree Planting Project by $60,000 from $6,000 to $66,000.

(b) Approval of Contract Change Order No. 1 with Blossom Valley Construction, Inc., for the G85B Green Vision Street Tree Planting Project in the amount of $66,000 increasing the total contract amount from $118,568 to $184,568.

CEQA: Exempt, File No. PP08-168. Council Districts 5, 7 and 8. SNI: East Valley/ 680. (Transportation)

Documents Filed: Memorandum from Acting Director of Transportation Hans F. Larsen, dated August 2, 2010, dated August 2, 2010, recommending increasing the contingency amount and approval of Contract Change Order No. 1.

2.8 (Cont'd.)

Action: The contingency amount for the G85B CDBG Green Vision Street Tree Planting Project by $60,000 from $6,000 to $66,000 was increased and Contract Change Order No. 1 with Blossom Valley Construction, Inc., for the G85B Green Vision Street Tree Planting Project in the amount of $66,000 increasing the total contract amount from $118,568 to $184,568, was approved. (11-0)

2.9 (a) Approve Council Member Liccardo's travel to Washington, D.C. on September 27-29, 2010 to participate in the annual Silicon Valley Leadership Group CEO legislative trip as one of the City's designated representatives. Source of Funds: Valley Transportation Agency.

(b) Request an excused absence for Council Member Liccardo from the regular meeting of the Community and Economic Development Committee on September 27, 2010 and the regular City Council meeting on September 28, 2010.

(Liccardo)
(Rules Committee referral 8/11/10)

Documents Filed: Memorandum from Council Member Liccardo, dated August 4, 2010, requesting authorization to travel to Washington, D.C. and requesting excused absences.

Action: The travel for Council Member Liccardo was approved and the absences were excused. (11-0)

2.10 (a) Approve Council Member Liccardo's travel to Seattle, WA on October 27-29, 2010 to participate in the annual San José-Silicon Valley Chamber of Commerce City-to-City trip as one of the City's designated representatives. Source of Funds: Mayor/Council Travel Fund.

(b) Request an excused absence for Council Member Liccardo from the regular City Council meeting on October 27, 2010.

(Liccardo)
(Rules Committee referral 8/11/10)

Action: Deferred to September 14, 2010 per Orders of the Day.

2.11 (a) Adopt a resolution authorizing the City Manager to negotiate and execute agreements with Pacific Gas and Electric (PG&E) with terms covering the period August 16, 2010 through December 31, 2012 to:

(1) Conduct a Community Energy Championship Fund Program and receive funding in an amount not to exceed $531,035; and

(2) Conduct a Municipal Whole House Rehabilitation Pilot Program and receive funding in an amount not to exceed $370,000.

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2010-2011:

(1) Establish a City-wide appropriation to the Environmental Services Department for Silicon Valley Energy Watch (SVEW) Innovator Pilots in the amount of $626,860.

2.11 (b) (2) Increase the Estimate for Revenue from Local Agencies by $626,860. CEQA: Community Energy Championship Fund: Not a Project, File No.PP10-066 (e), Agreements and Contracts for services that involve no physical changes to the environment; Municipal Whole House Rehab Pilot: Not a Project, File No.PP10-067, Non-Project Specific Funding Mechanism. (Environmental Services/ Housing/City Manager's Office)
(Deferred from 8/17/10 – Item 2.9)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, Director of Housing Leslye Krutko and Budget Director Jennifer Maguire, dated July 26, 2010, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 75537, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Two Innovator Pilot Agreements with Pacific Gas and Electric Company"; Ordinance No. 28801, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in General Fund for the Silicon Valley Energy Watch Innovator Pilots Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 75538, "A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the General Fund", were adopted. (11-0)

2.12 (a) Approve Council Member Constant's travel to Seattle, WA on October 27-29, 2010 to participate in the annual San José-Silicon Valley Chamber of Commerce City-to-City trip as one of the City's designated representatives. Source of Funds: Program Registration: Mayor/Council Travel Fund; Transportation and Miscellaneous Expenses, Including Airfare and Meals: Personal Funds.
(b) Request for an excused absence for Council Member Constant from the Regular Meeting of the Rules and Open Government Committee on October 27, 2010 due to Authorized City Business: 2010 San José/Silicon Valley Chamber of Commerce City-to-City Trip to Seattle, WA.
(Constant)
(Rules Committee referral 8/18/10)

Documents Filed: Memoranda from Council Member Constant, both dated August 16, 2010, requesting authorization to travel to Seattle, WA and requesting excused absences.

Public Comments: David Wall expressed his opinion that all Council Member trips should be suspended.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Nguyen and carried unanimously, the travel for Council Member Constant was approved and the absence was excused. (11-0)

2.13 (a) Approve travel by Council Member Liccardo to the Netherlands on August 28 – September 6, 2010 for the Bike Belong/CROW Bicycle Transportation Study Project tour as one of the City's designated representatives. Source of Funds: Bikes Belong Foundation.

(b) Request an excused absence for Council Member Liccardo from the regular City Council meeting on August 31, 2010.

(Liccardo)
[Rules Committee referral 8/18/10 – Item H(3)]

Documents Filed: Memorandum from Council Member Liccardo, dated August 12, 2010, requesting approval of travel to the Netherlands and requesting an excused absence.

Public Comments: David Wall expressed concern that a Council Member will be traveling to the Netherlands and indicated that the trip should be eliminated.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Nguyen and carried unanimously, the travel for Council Member Liccardo was approved and the absence was excused. (11-0)

2.14 (a) Accept invitation from the Bikes Belong Foundation to participate in a transportation study tour of urban bicycling best practices in the Netherlands from August 28 to September 4, 2010.

(b) Approve travel to the Netherlands for Manuel Pineda, Acting Deputy Director for Transportation Planning and Project Delivery as the City's official staff representative on the study tour.

Source of Funds: The conference sponsor, Bikes Belong Foundation, will pay for travel and accommodations costs.
CEQA: Not a Project. (City Manager's Office)
[Rules Committee referral 8/18/10 – Item H(4)]

Documents Filed: Memorandum from City Manager Debra Figone, dated August 13, 2010, recommending acceptance of the invitation and approval of travel for Acting Deputy Director Manuel Pineda.

Public Comments: David Wall expressed objection to the amount of money being spent on traveling.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Nguyen and carried unanimously, the invitation from the Bikes Belong Foundation was accepted and the travel request for Acting Deputy Director for Transportation Planning and Project Delivery Manuel Pineda was approved. (11-0)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone announced that the first Police Chief Recruitment Community Meeting would be held tonight, August 24, 2010, 6:00 p.m. at the Roosevelt Community Center. She added that the City of San José is interested in receiving community input regarding the ideal qualities of a Police Chief.

3.2 Accept the staff response to the Civil Grand Jury Report entitled "Should the City Council Continue to Subsidize Team San José's Increasing Losses?" CEQA: Not a Project, File No.PP10-069 (a), Staff Reports / Assessments / Annual Reports / Information Memos. Council District 3. (Economic Development)

Action: Deferred to September 14, 2010 per Mayor Reed and Council Member Constant.

3.3 (a) Approve an ordinance amending Chapters 4.04, 4.12 and 4.16 of Title 4 of the San José Municipal Code to adjust contract authority limits for Council appointees based on the Consumer Price Index (CPI), and to streamline procurements and the disposition of personal property. CEQA: Not a Project, PP10-068(C) (Municipal Code revisions involving no changes to the physical environment) (City Attorney's Office)

(b) Approve an ordinance amending Section 4.04.020 of Chapter 4.04 of Title 4 and Chapter 4.20 of Title 4 of the San José Municipal Code as follows:

(1) Amend existing authority granted to the City Manager as follows:

(a) Adding Section 4.04.020 (B) (2) to the Municipal Code for the execution of leases where the cumulative total of the rentals do not exceed $250,000.

(b) Amending Section 4.04.020 (B) (5) pertaining to the execution of agreements for the purchase of real property or grant of easements to increase the amount from $100,000 to an amount not exceeding $250,000, and retaining all other limitations.

(c) Amending Section 4.04.020 (B) (6) to increase the City Manager's authority to compensate sellers of temporary construction easements to $250,000 and retaining all other limitations.

(d) Adding Section 4.04.020 (B) (7) to delegate new authority to execute agreements for the sale of fee interests in real property where the sales price does not exceed $250,000, the parcel does not exceed one-half acre in size, and the property has been declared surplus by the City Council.

(2) Amend Chapter 4.20 to allow for the sale of surplus real property through competitive processes other than public auction when authorized by Council; to add a new provision for the sale of surplus property by the use of brokers; and to specify the conditions for the sale to adjacent property owners.

3.3 (c) Adopt a resolution rescinding City Council Policy 7-3 "Disposition of Surplus City Owned Real Properties" property in its entirety. CEQA: Exempt, File No. PP10-068 (b) General Procedure and Policy Making. (General Services)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated August 12, 2010, recommending approval of an ordinance. (2) Memorandum from Director of General Services Peter Jensen, dated August 2, 2010, recommending approval of an ordinance and adoption of a resolution.

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Chirco and carried unanimously, Ordinance No. 28802, entitled: "An Ordinance of the City of San José Amending Various Sections of Chapters 4.04, 4.12 and 4.16 of Title 4 of the San José Municipal Code to Adjust Contract Authority Limits for Council Appointees Based on the Consumer Price Index and To Streamline Procurements and the Disposition of Personal Property" and Ordinance No. 28803, entitled: "An Ordinance of the City of San José Amending Section 4.04.020 of Chapter 4.04 of Title 4 of the San José Municipal Code to Authorize the City Manager to Enter Into and Execute Leases Not Exceeding $250,000 in Rentals Whether the City is a Lessor or Lessee and Authorizing the City Manager to Execute Documents Pertaining to the Sale of Surplus Properties if the Sales Price Does Not Exceed $250,000, The Property Does Not Exceed One Half Acre in Size, and All Other Applicable Provisions of Chapter 4.20 Are Met; and Amending Chapter 4.20 of Title 4 to Add a New Section 4.20.010 Pertaining to Definitions, and Further Amending Sections 4.20.0010 To Add Types of Notices of Sales and Price; 4.20.030 To Specify the Conditions for Direct Negotiations for Sale of Surplus Property; 4.20.040 To Authorize Competitive Processes For Sale In Addition to Auction; 4.20.070 To Modify the Conditions Under Which Property May Be Sold to the Adjacent Property Owner and Renumbering All Remaining Sections of Chapter 4.20 Without Further Modifications", were passed for publication, and Resolution No. 75539, entitled: "A Resolution of the Council of the City of San José Rescinding City Council Policy 7-3, Entitled: Disposition of Surplus City Owned Real Properties", was adopted. (10-1. Noes: Campos.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 (a) Approve an ordinance amending Part 5 of Chapter 14.25 of Title 14 and Part 5 of Chapter 19.38 of Title 19 of the San José Municipal Code ("SJMC") to eliminate the low income exemptions from the requirements of Chapters 14.25 and 19.38 of the SJMC.

(b) Conduct a public hearing and adopt a resolution amending Resolution No. 75346 ("Schedule of Parkland Fees") establishing the parkland fees charged for low income units pursuant to Chapters 14.25 and 19.38 of the SJMC at 50% of the applicable parkland fees for each residential unit type and continue to exempt certain low income units from the requirements of Chapters 14.25 and 19.38 that have obtained an approved discretionary permit under Title 20 or a tentative or parcel map on or before October 22, 2010 as further defined in staff's memorandum.

4.1 CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges. (Housing/Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated August 2, 2010, recommending approval of an ordinance, conducting a public hearing and adoption of a resolution.

Mayor Reed opened the public hearing.

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

Council Member Oliverio disagreed with the Staff recommendations, stating that the parkland fees should be charged at 100% not 50%.

Public Comments: David Wall expressed opposition to the Staff recommendations.

Mayor Reed closed the public hearing.

Action: On a call for the question, the motion carried, Ordinance No. 28804, entitled: "An Ordinance of the City of San José Amending Part 5 of Chapter 14.25 of Title 14 and Part 5 of Chapter 19.38 of Title 19 of the San José Municipal Code to Eliminate the Low Income Unit Exemption from the Requirements of Chapter 14.25 and Chapter 19.38, Respectively", was passed for publication and Resolution No. 75540, entitled: "A Resolution of the Council of the City of San José Amending Exhibit A of Resolution No. 75346 (Schedule of Parkland Fees) Establishing the Parkland Fees Charged for Low Income Units Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code at Fifty Percent (50% of the Applicable Parkland Fees for Each Residential Unit Type", was adopted. (10-1. Noes: Oliverio.)

4.2 Support the City's two applications to the Strategic Growth Council for its Sustainable Communities Planning Grant and Incentives Program with one application seeking funding through an Economical Disadvantaged Community (EDC) Set Aside Sustainable Communities Grant for the East Santa Clara Street area, for an amount of approximately $325,000 but in no event to exceed $1,000,000, and the second application seeking funding through a non-EDC Sustainable Communities Grant for the Bascom Avenue, Vasona Corridor, and West San Carlos area, for an amount of approximately $875,000 but in no event to exceed $1,000,000, by adopting a resolution for each application that:

(a) Approves and authorizes the Director of Planning, Building and Code Enforcement to file the application for the development of Urban Corridor Master Plan(s) in order to become a sustainable community.

(b) Certifies that the City of San José understands the assurances and certifications in its application.

4.2 (c) Certifies that the City of San José will have sufficient funds to develop the proposed Urban Corridor Master Plans or will secure the resources to do so.

(d) Certifies that the proposed Urban Corridor Master Plan(s) will comply with any applicable laws and regulations.

(e) Authorizes the City Manager, or her designee, to conduct on behalf of City all negotiations, and to execute and submit on behalf of City all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned Master Plan(s) in order to finalize and submit the grant applications and to accept and implement the grant award if awarded.

CEQA: Not a Project, File No. PP10-068(a), Grant Applications. Council Districts 3 and 6. SNI Areas: University Neighborhoods, Thirteenth Street, Five Wounds Brookwood Terrace, Burbank/Del Monte. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 2, 2010, recommending adoption of resolutions.

In response to the question from Council Member Liccardo, Director of Planning, Building and Code Enforcement Joseph Horwedel replied that Staff was currently trying to obtain a grant for $70,000 from Community Foundation.

Action: Upon motion by Vice Mayor Chirco, seconded by Council Member Nguyen and carried unanimously, Resolution No. 75541, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Planning, Building and Code Enforcement to Execute and Submit an Application to the State of California Sustainable Communities Planning Grant and Incentives Program Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) for a Grant for the Sustainable Communities Economically Disadvantaged Set Aside Planning Grant for the Urban Corridor Plan for the East Santa Clara Street Area for an Amount of Approximately $325,000, But In No Event to Exceed $1 Million; and Authorizing the City Manager to Accept the Grant if Awarded, and to Negotiate and Execute All Related Documents" and Resolution No. 75542, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Planning, Building and Code Enforcement to Execute and Submit an Application to the State of California Sustainable Communities Planning Grant and Incentives Program Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) for a Grant for the Sustainable Communities Economically Disadvantaged Set Aside Planning Grant for the Urban Corridor Plan for the West San Carlos, South Bascom Avenue and Vasona Light Rail Corridor Area for an Amount of Approximately $875,000; and Authorizing the City Manager to Accept the Grant if Awarded, and to Negotiate and Execute All Related Documents", were adopted. (11-0)

NEIGHBORHOOD SERVICES

5.1 Pursue the following actions related to the Santa Clara County Open Space Authority (OSA) relative to the Three Creeks Trail project (Lonus Street to Highway 87 Bikeway):

(a) Approve a Funding Agreement for contribution by OSA to the City in the amount of $2,000,000 for acquisition of real property for possible future development of the project.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute an additional Funding Agreement for contribution by OSA to the City in the amount of $1,000,000 for acquisition of real property for possible future development of the project.

(c) Approve a Conservation Easement to be recorded against real property acquired by City using funding from OSA pursuant to the two funding agreements above for the project.

CEQA: Exempt, File No. PP02-12-370. Council District 6 and 7. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated August 3, 2010, recommending approval of a funding agreement, adoption of a resolution and approval of a conservation easement.

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

Public Comments: Bruce Tichinin, Save Our Trails, Inc., expressed support to the Staff recommendations and enthusiasm about partnering with the City of San José. David Wall stated that the program was excellent however it should be linked to the Santa Clara Valley Habitat Plan.

Council Member Nguyen cautioned Staff to be aware of the various safety concerns within the heavy industrial area of the Monterey Corridor.

Action: On a call for the question, the motion carried unanimously, a Funding Agreement for contribution by OSA to the City in the amount of $2,000,000 for acquisition of real property for possible future development of the project, was approved; Resolution No. 75543, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Additional Funding Agreement for Contribution by the Santa Clara Open Space Authority to the City in the Amount of $1,000,000 for Acquisition of Real Property for Possible Future Development of the three Creeks Train Project", was adopted and a Conservation Easement to be recorded against real property acquired by City using funding from OSA pursuant to the two funding agreements, was approved. (11-0)

TRANSPORTATION & AVIATION SERVICES

6.1 As recommended by the Transportation and Environment Committee on June 7, 2010, accept the progress report on the California High Speed Rail project. (Transportation)
[Transportation and Environment Committee referral 6/7/10 – Item D(4)]
(Deferred from 6/22/10 – Item 6.3)

Action: Deferred to September 14, 2010 per Administration.

6.2 (a) Adopt a resolution authorizing the Director of Public Works to determine the lowest responsive and responsible bidder for the contract for the "San José International Airport Terminal B Parking Lot" Project, and to either:
(1) Award the contract to the lowest responsive and responsible bidder in an amount not to exceed $3,000,000; or,
(2) Reject all bids and re-bid the Project.
(b) Approve a contingency equal to fifteen percent (15%) of the award.
CEQA: Resolution Nos. 67380 and 71451, File No. PP10-138. (Public Works/ Airport)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated August 2, 2010, recommending adoption of a resolution with 10% related contingency. (2) Supplemental memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated August 20, 2010, recommending a 15% contingency for funding for any unanticipated work necessary for the proper completion and/or construction of the project.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75544, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Determine the Lowest Responsive and Responsible Bidder, To Award the San José International Airport Terminal B Parking Lot Project to the Lowest Responsive and Responsible Bidder, In Am Amount Not To Exceed $4,000,000 or To Reject All Bids and Rebid the Project", was adopted, with related 15% contingency. (11-0)

OPEN FORUM

(1) Robert Cortese suggested that the City consider a non-motorized traffic trail at Alum Rock Park as a connection to Grant Ranch on Mount Hamilton Road.
(2) David Wall expressed concerns about limits on public comments on the Consent Calendar and about a problem he encountered with a letter he submitted to the Office of the City Clerk for the Public Record.

ADJOURNMENT

The Council of the City of San José was adjourned at 2:02 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/08-24-10 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at http://www.sanjoseca.gov/clerk/agenda.asp or http:/www.sanjoseca.gov/clerk/MeetingArchive.asp. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.