



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 25, 2011

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, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.

Absent: Council Members - All Present.

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) In re Scott; Amount of Money or Other Relief Sought: Administrative Appeal; (2) In re Gonzalez; Amount of Money or Other Relief Sought: Administrative Appeal; (3) In re Sutton; Amount of Money or Other Relief Sought: Administrative Appeal; (4): Love v. City, et al.; Names of Parties Involved: Bennie Love, Jr., City of San José; San José Police Department; Officer Julie Marin, and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-151820; Amount of Money or Other Relief Sought: Damages according to proof; (5): Aguilera v. City, et al.; Names of Parties Involved: Refugio J. Aguilera, City of San José, the Donna Griffiths Living Trust, and Does 1 through 50; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV-167022; Amount of Money or Other Relief Sought: Damages according to proof; (B) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation of significant exposure (Claim Not Filed) in one (1) matter. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) 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. (2) 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. (3) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours,

CLOSED SESSION (Cont'd.)

Working Conditions, etc; (4) 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; (5) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (6) 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; (7) 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; (8) 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; (9) 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; (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. How to obtain a copy of existing contract or MOA: 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 11:20 a.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - All Present.

INVOCATION

Pastor Joseph Leon from Pueblo De Dios Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance accompanied by students from Country Lane Elementary School.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Redevelopment Agency items to be heard first; Council item 3.3, Joint item 8.4 and Financing Authority item #2 deferred one week, and item 3.4 to be heard before item 3.2. (11-0.)

CEREMONIAL ITEM

1.2 Presentation of a proclamation declaring January 25, 2011 as “International Holocaust Remembrance Day” in the City of San José. (Herrera/Kalra/Oliverio)

Action: Mayor Reed and Council Members Herrera, Kalra and Oliverio recognized January 25, 2011 as “International Holocaust Remembrance Day” in the City of San José.

CONSENT CALENDAR

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

2.2 (a) **ORD. NO. 28866** – Rezoning certain real property situated at 405 North Third Street from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to *three* residential units (total) on a 0.17 gross acre site. PDC08-033 [Deferred from 12/14/10 – Item 2.2(h) and 1/11/11 – Item 2.2(a)]

Documents Filed: (1) Supplemental memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated January 4, 2011, presenting the Development Standards including City Council action taken on December 7, 2010. (2) Proof of Publication of the Title of Ordinance No. 28866 executed on December 10, 2010, submitted by the City Clerk.

Item 2.2 (a) was pulled by Council Member Liccardo to clarify development standards. Director, Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council.

- 2.2 (a) Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Ordinance No. 28866 was adopted with a proposal by Staff to modify development standards regarding the elimination of a second driveway. (11-0.)

2.3 **Approval of Council Committee Reports.**

- (a) **Transportation and Environment Committee Report of December 6, 2010. (Liccardo)**
(b) **Rules and Open Government Committee Report of December 8, 2010.**
(c) **Rules and Open Government Committee Report of December 15, 2010.**

Documents Filed: (1) The Transportation and Environment Committee Report, dated December 6, 2010. (2) The Rules and Open Government Committee Reports dated December 8 and 15, 2010.

Action: The Committee reports were approved. (11-0.)

- (d) **Rules and Open Government Committee Report of January 5, 2011. (Mayor)**

Action: Deferred.

- 2.4 (a) **Request for an excused absence for Council Member Constant from the Regular Meetings of the Public Safety, Finance and Strategic Support Committee on January 20, 2011 and June 16, 2011 and the Regular Meeting of the Rules and Open Government Committee on September 21, 2011 due to Authorized City Business: League of California Cities Public Safety Committee Meetings in Sacramento, CA and San Francisco, CA. (Constant)**

Documents Filed: (1) Memorandum from Council Member Constant, dated January 5, 2011, requesting excused absences due to authorized City business.

Action: The absences for Council Member Constant were excused. (11-0.)

- 2.6 **Report on bids and award of contract for Installation of Potable and Non-Potable Water Services and Mains: 2010-2011 to the lowest responsive bidder, West Valley Construction, for the estimated term of March 2011 to April 2012, in an amount not to exceed \$627,925. CEQA: Exempt, File No. PP10-163. (Environmental Services/Public Works)**

Documents Filed: (1) Joint memorandum from Director of Environmental Services John Stufflebean and Assistant Director Public Works David Sykes, dated December 13, 2010, providing a report on bids and recommending award of a contract. (2) Letter from Treatment Plant Advisory Committee Chair Chuck Reed, dated December 20, 2010, stating concurrence with the Staff recommendations.

2.6 (Cont'd.)

Action: The report on bids and award of contract for Installation of Potable and Non-Potable Water Services and Mains: 2010-2011 to the lowest responsive bidder, West Valley Construction, for the estimated term of March 2011 to April 2012 with related contingency, was approved. (11-0.)

2.7 Adopt a resolution authorizing the City Manager to submit grant applications to the U.S. Environmental Protection Agency for the San Francisco Bay Area Water Quality Improvement Fund for the following projects:

- (a) Coyote Creek Homeless and Community Engagement Project for a grant amount of \$680,000;
- (b) San Francisco Bay Protection and Behavior Change Campaign for a grant amount of \$500,000; and
- (c) San José Green Street Effectiveness Demonstrations up to \$1,200,000.

CEQA: Not a Project, File No. PP10-068(a) Grant Application. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated January 14, 2011, recommending adoption of a resolution. (2) Statement and Declaration of Conflict of Interest Form from Council Member Liccardo, dated January 25, 2011.

Council Member Liccardo recused himself due to being a Board Member of “Destination: Home”, recipient of grant funds.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Resolution No. 75699, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit Three Grant Applications to the U.S. Environmental Protection Agency for the San Francisco Bay Area Water Quality Improvement Fund for Three Projects”, was adopted. (10-0-0-1. Disqualified: Liccardo.)

2.8 Authorize the Director of Finance to execute a change order to the existing Open Purchase Order 44517 with Granite Construction Co. (San Jose, CA) to encumber an additional \$350,000 for a total amount not to exceed \$1,300,000 for the purchase of asphalt concrete. CEQA: Not a Project, File No. PP10-066(a), Purchase Order. (Finance)

Documents Filed: City Council Action Request from Director of Finance Scott P. Johnson, dated January 25, 2011, recommending execution of a change order.

Action: Execution of a change order to the existing Open Purchase Order 44517 with Granite Construction Co. (San Jose, CA) to encumber an additional \$350,000 for a total amount not to exceed \$1,300,000 for the purchase of asphalt concrete, was approved. (11-0.)

- 2.9 Approve an ordinance amending the provisions governing the Housing Trust Fund (Section 4.80.3015 of Title 4 of the Municipal Code) to allow administrative expenditures for personal services and non-personal expenses. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making, Municipal Code or Policy (new or revised). (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated January 3, 2011, recommending adoption of an ordinance.

Action: Ordinance No. 28878, entitled: “An Ordinance of the City of San José Amending Section 4.80.3015 of Chapter 4.80 of Title 4 of the San José Municipal Code to Allow Administrative Expenditures for Personal Services and Nonpersonal Expenses Under the Housing Trust Fund”, was passed for publication. (11-0.)

- 2.10 Adopt a resolution that:**

- (a) **Authorizes the City Manager, or designee, to submit a grant application in the amount not to exceed \$1,055,000 to Caltrans under the Bicycle Transportation Account program for the Coyote Creek Trail (Highway 237 Bikeway to Tasman Drive) project;**
- (b) **Certifies that the City will have the required local match of \$350,000 and any additional sufficient funds to complete the Project available prior to commencement of any work on the Project included in the application;**
- (c) **Certifies that the City has or will have sufficient funds to operate and maintain the Project;**
- (d) **Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for the Project;**
- (e) **Delegates the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project; and**
- (f) **Authorizes the City Manager, or designee, to resubmit the grant application in subsequent years for the same amount and grant requirements described in this memorandum if the City is unsuccessful in receiving a grant award with the initial grant application.**

CEQA: Exempt, File No. PP10-144. Council District 4. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated January 6, 2011, recommending adoption of a resolution.

Action: Resolution No. 75700, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Submit an Application to the State of California Under the Bicycle Transportation Account Program, for a Grant in the Amount Not to Exceed \$1,055,000, for the Coyote Creek Trail (Highway 237 Bikeway to Tasman Drive) Project, to Accept the Grant if Awarded, and to Negotiate, Execute and Submit all Related Documents”, was adopted. (11-0.)

2.11 Adopt a resolution authorizing the City Manager to negotiate and execute a Sixth Amendment to the agreement with Festival Fun Parks, LLC, dba Palace Entertainment (“Raging Waters”) for the lease at Lake Cunningham Regional Park to adjust Section 4.02 “Investment in Capital Improvements”, Section 4.03 “Maintenance”, Section 9.02 “Accounting and Operations Reports” and Exhibit E “Insurance Requirements” as follows:

- (a) Amend annual capital investment to allow banking for three years of capital funding, so that larger capital investments, such as new attractions, can be added to the facility.**
- (b) Set the on-going capital repair amount to \$35,000 for each year.**
- (c) Lessee shall increase the minimum maintenance allocation fund by 7.4% every three years. Ensure that the minimum maintenance allocation is not tied to the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers.**
- (d) Amend the contact information for the agreement from the Director of Conventions, Arts and Entertainment to the Director of Parks, Recreation and Neighborhood Services (PRNS) and amend all references to City Hall from the 801 North First Street to 200 East Santa Clara Street.**
- (e) Amend Exhibit E (Insurance Requirements) to bring Raging Waters into compliance with the City’s current requirements.**
- (f) Amend recipient of Annual Financial Report to include Director of Parks, Recreation and Neighborhood Services.**
- (g) Lessee shall provide Director of PRNS an annual report certifying that the capital investment has been satisfied.**

CEQA: Not a Project, File No. PP10-066(f), Lease of equipment of existing space for the same use. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated January 3, 2011, recommending adoption of a resolution.

Action: Resolution No. 75701, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Sixth Amendment to the Agreement with Festival Fun Parks, LLC DBA Palace Entertainment for the Lease at Lake Cunningham Regional Park to Modify Provisions Regarding Minimum Maintenance Allocation Funds and Capital Repairs, and to Make Other Technical Changes”, was adopted. (11-0.)

- 2.12**
- (a) Adopt a resolution authorizing the City Manager to accept and execute a grant agreement with the Association of Bay Area Governments in the amount of \$200,000 for the Bay Trail Reach 9 (San Tomas Aquino Trail to Alviso Slough) project, with a City contribution of \$350,000;**
 - (b) Adopt an Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4 (Fund 381):**

- 2.12 (b) (1) **Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$550,000 for the TRAIL: Bay Trail Reach 9.**
- (2) **Decrease the Reserve: TRAIL: Future Trail Projects by \$550,000.**
- CEQA: Mitigated Negative Declaration, File No. PP09-182. Council District 4. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Joint memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Jennifer Maguire, dated January 6, 2011, recommending adoption of a resolution and appropriation ordinance amendments.

Action: Ordinance No. 28879, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 4 Fund for the Trail: Bay Trail Reach 9 Project; Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 75702, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept and Execute a Grant Agreement with the Association of Bay Area Governments in the Amount of \$200,000, for the Bay Trail Reach 9 (San Tomas Aquino Trail to Alviso Trough) Project", were adopted. (11-0.)

2.13 **Adopt a resolution authorizing the City Manager to:**

- (a) **Execute a Second Amendment to the Memorandum of Understanding regarding the operation of the Automated Fingerprint Identification System to provide local law enforcement agencies access to the California Identification System in order to change the methodology for allocating costs among participating agencies from one based upon population to one based upon historical usage; and**
- (b) **Negotiate and execute future amendments to the Memorandum of Understanding without further Council action other than the appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Police)

Documents Filed: Memorandum from Acting Chief of Police Chris Moore, dated January 3, 2011, recommending adoption of a resolution.

Action: Resolution No. 75703, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Second Amendment to the Memorandum of Understanding Regarding the Operation of the Automated Fingerprint Identification System", was adopted. (11-0.)

- 2.14 Adopt a resolution authorizing the Director of Public Works to negotiate and execute a purchase agreement with Shapell Industries, Inc., a Delaware corporation, in the amount of \$1,000,000 for the purchase of land located at Evergreen Village, San Jose, CA (a portion of APN N. 659-56-063) for the future site of the Southeast Branch Library, and to negotiate and execute related amendments to the Evergreen Village CC&Rs and all other documents necessary to complete the transaction. CEQA: Addendum to the Evergreen Specific Plan EIR Resolution No. 63719, File No. PP10-008. Council District: 8. (Public Works/Library)**

Documents Filed: Joint memorandum from Assistant Director Public Works David Sykes and Library Director Jane Light, dated January 6, 2011, recommending approval of a purchase agreement and adoption of a resolution.

Council Member Herrera pulled Item 2.14 to thank Library Director Jane Light and Deputy Director of General Services Matt Morley for their community outreach.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, Resolution No. 75704, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute Certain Documents for the Purchase of Property Pertaining to the Southeast Branch Library Project”, was adopted. (11-0.)

- 2.15 Accept the annual status report on the Branch Library Bond Projects for FY 2009-2010. CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Citizen Oversight Committee for the Library Bond Projects)**

Action: Deferred to March 1, 2011 per Administration.

- 2.16 As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the reports on the activities of the Hayes Mansion for the fiscal year ended June 30, 2010. The reports include:**

- (a) The Independent Auditor’s Report and Financial Statements;**
- (b) The Independent Accountant’s Report on applying Agreed-Upon Procedures; and**
- (c) The Public Safety, Finance and Strategic Support Committee Report (Management Letter).**

(Finance)

[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(5)]

Action: Deferred to February 1, 2011 by the Rules and Open Government Committee.

- 2.17 As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the reports on the activities of the San José Convention Center and Cultural Facilities for the fiscal year ended June 30, 2010. The reports include:**
- (a) The Independent Auditor’s Report and Financial Statements; and**
 - (b) The Public Safety, Finance and Strategic Support Committee Report (Management Letter).**
- (Finance)**
[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(6)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated January 10, 2011, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Council Member Liccardo pulled item 2.17 to question Staff regarding the operating loss.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, the Independent Auditor’s Report and the Public Safety, Finance and Strategic Support Committee report were accepted. (11-0.)

- 2.18 Approve travel by Council Member Constant to attend the League of California Cities Public Safety Policy Committee Meetings on:**
- (a) January 21, 2011 in Sacramento, CA. Mode of Transportation: Drive;**
 - (b) April 7, 2011 in Ontario, CA. Mode of Transportation: Flight;**
 - (c) June 16, 2011 in Sacramento, CA. Mode of Transportation: Drive; and**
 - (d) September 21-23, 2011 in San Francisco, CA. Mode of Transportation: Drive.**
- Source of Funds: Mayor & Council Travel Fund for Airfare Only. (Constant)**
(Rules Committee referral 01/12/11)

Documents Filed: Memorandum from Council Member Constant, dated January 6, 2011, submitting authorization to travel.

Action: The travel for Council Member Constant was approved. (11-0.)

- 2.19 Approve travel by Council Member Rocha to Sacramento, California on January 19-21, 2011 to attend the League of California Cities New Mayors and Council Members Academy. Source of Funds: Mayor & Council Travel Fund. (Rocha)**
(Rules Committee referral 01/12/11)

Documents Filed: Memorandum from Council Member Rocha dated January 7, 2011, submitting authorization to travel.

Action: The travel for Council Member Rocha was approved. (11-0.)

- 2.20 As recommended by the Rules and Open Government Committee on January 19, 2011:**
- (a) Re-appoint Buu Thai, Al Reinig and Nathaniel Montgomery to the Project Diversity Screening Committee for terms ending December 31, 2012. (Nguyen)**
 - (b) Appoint Hobin Kim to the Project Diversity Screening Committee for a term ending December 31, 2012 and appoint Jeannie LoFranco as Chair of the Project Diversity Screening Committee for an unexpired term ending December 31, 2011. (Mayor) [Rules Committee referral 01/19/11 – Items G(1)(a) – G(1)(b)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated January 19, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The appointments to the Project Diversity Screening Committee were approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Figone provided a labor update, reporting that the Manager's Office has begun 2011 negotiations with all of the bargaining units, except for OE3, who have yet to respond.

- 3.3 (a) Approve an ordinance amending Chapter 3.28 of Title 3 of the San José Municipal Code to incorporate provisions related to primary purpose of the Federated City Employees Retirement Plan, use of retirement plan assets, prohibited retirement plan transactions, pension benefit vesting, pension benefit and contribution limits, required benefit payments, permissive purchases of service credit, rollover of employee contributions into other tax qualified plans and accounts, permissive retirement plan investment vehicles, qualified domestic relations orders and contributions, benefits, service credit for qualified military service, date of establishment of medical benefits account, and to make other technical amendments related to Internal Revenue Code provisions for qualified governmental retirement plans.**

- 3.3 (b) **Approve an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code to incorporate provisions related to primary purpose of the Police and Fire Department Retirement Plan, use of retirement plan assets, prohibited retirement plan transactions, pension benefit vesting, pension benefit and contribution limits, required benefit payments, permissive purchases of service credit, rollover of employee contributions into other tax qualified plans and accounts, permissive retirement plan investment vehicles, qualified domestic relations orders and contributions, benefits, service credit for qualified military service, date of establishment of medical benefits account, and to make other technical amendments related to Internal Revenue Code provisions for qualified governmental retirement plans.**
CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office)

Action: Deferred to February 1, 2011 per Orders of the Day.

- 3.5 **As recommended by the Public Safety, Finance and Strategic Support Committee on December 16, 2010, accept the audit of Police Department Staffing. (City Auditor)**
[Public Safety, Finance and Strategic Support Committee referral 12/16/10 – Item D(7)]

Action: Deferred to February 1, 2011 by the Rules and Open Government Committee.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 **Adopt the Cultural Connection: San José's Cultural Plan for 2011-2020. CEQA: Not a Project, File No. PP10-066(e), Services that involved no physical changes to the environment. (Economic Development)**
(Deferred from 1/11/10 – Item 4.1)

Action: Deferred to February 1, 2011 by the Rules and Open Government Committee.

- 4.2 (a) **Authorizing the Director of Housing to accept a \$1,500,000 CalHome Program grant from the California Department of Housing and Community Development; and**
(b) **To negotiate and execute the grant agreement and any amendments or other documents necessary to implement the CalHome Program.**
CEQA: Statutorily Exempt, CEQA Guidelines Section 15267, Financial Assistance to Low- or Moderate-Income Housing. (Housing)

4.2 (Cont'd.)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated January 3, 2011, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 75706, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Accept a CalHome Program Grant and to Negotiate and Execute a Grant Agreement and Any Amendments or other Documents Necessary to Implement the CalHome Program", was adopted. (11-0.)

- 4.3
- (a) **Hold a public hearing on a Substantial Amendment to the 2010-2011 Consolidated Annual Action Plan to allocate \$114,109 of Emergency Shelter Grant funds to a Downtown outreach-to-the-homeless program and to the operation of the cold weather shelter at the Boccardo Regional Reception Center.**
 - (b) **Adopt a resolution approving the Substantial Amendment and authorizing the Director of Housing, on behalf of the City, to:**
 - (1) **Submit the Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD).**
 - (2) **Negotiate and execute with HUD all agreements and documents for the expenditure of \$114,109 of ESG funds.**
 - (c) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:**
 - (1) **Increase the appropriation to the Housing Department for the Emergency Shelter Grants project in the amount of \$114,109.**
 - (2) **Increase the estimate for Earned Revenue by \$114,109.**

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

Documents Filed: (1) Joint memorandum from Director of Housing Leslye Corsiglia and Budget Director Jennifer Maguire, dated January 3, 2011, recommending holding a public hearing, and adoption of a resolution and appropriation ordinance and funding sources resolution amendments. (2) Supplemental memoranda from Secretary of the Housing and Community Development Advisory Commission, Leslye Corsiglia, dated January 20 and January 24, 2011, clarifying deadline issues for the subject report. (3) Proof of Publication of Notice of Public Hearings, executed on December 17 and December 20, 2010, as submitted by the City Clerk.

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

4.3 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Ordinance No. 28880, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the Multi-Source Housing Fund for the Emergency Shelter Grants Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 75707, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Submit the Substantial Amendment to the Consolidated Annual Action Plan to the U.S. Department of Housing and Urban Development and to Negotiate and Execute with HUD All Agreements and Documents for the Expenditure of Additional Emergency Shelter Grant Funds”, and Resolution No. 75708, 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 Multi-source Housing Fund”, were adopted. (11-0.)

4.5 **Conduct a Public Hearing and approve an ordinance to establish Kirk Park/Community Center Rule 20A Underground Utility District along Foxworthy Avenue, between Yucca Avenue and Briarwood Avenue. CEQA: Addendum to a Mitigated Negative Declaration, File No. PP10-002. The Mitigated Negative Declaration adopted for the project identifies mitigation measures that will be included in any specific construction project that disturbs the physical environment. These measures and their manner of implementation are identified in the Mitigated Negative Declaration, File No. PP08-257. These measures are incorporated into the project design and the encroachment permit. Council District 9. (Public Works)**

Documents Filed: (1) Memorandum from Assistant Director Public Works David Sykes, dated January 3, 2011, recommending conducting a public hearing and approval of an ordinance. (2) Supplemental memorandum from Assistant Director Public Works David Sykes, dated January 24, 2011, providing a correction to the memorandum of January 3, 2011.

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

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, Ordinance No. 28881, entitled: “An Ordinance of the City of San José Establishing Kirk Park/Community Center Rule 20A Underground Utility District Along Foxworthy Avenue, between Yucca Avenue and Briarwood Avenue”, was passed for publication. (11-0.)

OPEN FORUM

Angelica Arpin discussed issues she has encountered with the City Inspectors and a permit process for her property. Mayor Reed referred Ms. Arpin to Assistant City Manager Ed Shikada to address her concerns.

RECESS/RECONVENE

The City Council recessed at 2:36 p.m. and reconvened at 3:00 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.4 Discussion and Direction to the City Manager regarding labor negotiations on second tier retirement benefits for new employees. 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 January 11, 2011, recommending acceptance of the Staff's report. (2) Staff presentation "Retirement Reform: 2nd Tier Benefits", dated January 25, 2011.

Director of Employee Relations Alex Gurza provided an extensive presentation on retirement reform, and Council discussion followed.

Motion: Council Member Constant moved approval of the Staff recommendations with additional direction to Staff to the explore issues of prospective changes in formulative benefits and return to Council for further direction. Council Member Liccardo seconded the motion.

Public Comments: Offering comments and criticism of the 2-tier retirement system and expressing a need to move forward in a spirit of collaboration, were: Jeff Welch (San José Firefighters), Pat Sausedo (San José/Silicon Valley Chamber of Commerce), Aurelia Sanchez, Cay Denise MacKenzie (CAMP/IFPTE Local 21), John Mukhar (AOE & AEA), Yolanda Cruz (AFSCME MEF) Ben Field (SBLC), Bob Brownstein, Bob Leininger (Retired Employee's Association), John Wolfran and Jon Reger (OE3).

Further Council discussion followed.

Mayor Reed suggested that Council continue Item 3.4 to the evening session.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 5:32 p.m.

RECESS/RECONVENE

The City Council recessed at 5:32 p.m. from the afternoon Council Session and reconvened at 6:30 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.4 Discussion and Direction to the City Manager regarding labor negotiations on second tier retirement benefits for new employees. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (Cont'd.)

Council discussion continued regarding labor negotiations on second tier retirement benefits.

Mayor Reed proposed a friendly amendment to clarify Council's intent to provide benefits greater than Social Security. The friendly amendment was accepted by Council Members Constant and Liccardo.

Action: On a call for the question, the Staff recommendations were approved, with Staff directed to explore issues of prospective changes in formulative benefits, clarify the Council's intent to provide benefits greater than Social Security and to return back for further direction as necessary. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Silver Creek High School student, Crystal Vo, for her accomplishments in placing 1st at the Network for Teaching Entrepreneurship (NTFE) Bay Area Regionals and placing 3rd at the National Business Plan Competition Finals. (Herrera)

Action: Mayor Reed and Council Member Herrera commended Silver Creek High School student, Crystal Vo, for her accomplishments in placing 1st at the Network for Teaching Entrepreneurship (NTFE) Bay Area Regionals and placing 3rd at the National Business Plan Competition Finals.

1.3 Presentation of a commendation to the Willow Glen High School Football Team for the Division 2 CCS Football Championship. (Oliverio)

Action: Mayor Reed and Council Member Oliverio commended the Willow Glen High School Football Team for the Division 2 CCS Football Championship.

1.4 Presentation of a commendation to the Northern California Innocence Project in recognition of their 10-year Anniversary. (Constant)

Action: Mayor Reed and Council Member Constant commended the Northern California Innocence Project and recognized their 10-year Anniversary.

STRATEGIC SUPPORT SERVICES

**3.2 As recommended by the Rules and Open Government Committee on December 15, 2010, adopt a resolution modifying Council Labor Negotiation Guidelines (Council Policy 0-39) to provide for more transparency in the negotiation process. (Mayor)
[Rules Committee referral 12/15/10 – Items H(3)]**

Documents Filed: (1) Memorandum from Mayor Reed, dated January 14, 2011, recommending modifications to Council Labor Negotiation Guidelines. (2) Memorandum from Council Member Rocha, dated January 21, 2011, recommending further recommendations to Council Labor Negotiation Guidelines. (3) Memorandum from City Clerk, Lee Price, dated December 15, 2010, transmitting recommendations of the Rules and Open Government Committee. (4) Letter from Vera Todorov, Vice President of the Association of Legal Professionals (ALP), dated January 19, 2011, regarding Council Labor Relations Guideline changes as proposed by Mayor Reed.

Employee Relations Staff provided a presentation regarding labor negotiation guidelines.

Mayor Reed outlined his recommendations, and City Manager Debra Figone added additional comments regarding labor negotiations.

Motion: Council Member Liccardo moved approval of Mayor Reed's memorandum of January 14, 2011 with allowance of Council questions for clarification purposes as recommended in Council Member Rocha's memorandum of January 21, 2011 and outlined below in "Action". Council Member Oliverio seconded the motion.

Public Comments: Pat Sausedo, representing the San José/Silicon Valley Chamber of Commerce, Ben Field and Laverne Washington (AFSCME) spoke in support of the recommendations as modified to allow greater communication between Council and bargaining units.

3.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 75705, entitled: “A Resolution of the Council of the City of San José approving Amendments to Council Policy No. 0-39, Relating to Council Labor Negotiation and Transparency Guidelines”, was adopted, with the recommendation that Council Labor Negotiation Guidelines (Council Policy 0-39) be modified as follows: Section 5: “Nothing in this policy shall prohibit members of the City Council, Council staff *or any Council Appointee* from listening to bargaining unit representatives or persons acting on their behalf. Members of the City Council shall not knowingly respond to or discuss any confidential closed session discussion.”; Section 11: “*Nothing in this policy will prohibit or restrict questions for clarification purposes*”, and Section 12: “*Nothing in this policy shall limit, restrict, or modify any of the powers provided to Council Appointees under the City Charter*”. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.4 (a) **Direct the Administration to:**
- (1) **Complete additional environmental impact analyses of two additional Draft Envision 2040 General Plan land use designation options for residential uses on the Rancho del Pueblo golf course site (GP10-05-01) and the Edenvale iStar site (GP07-02-01); and**
 - (2) **Conduct community outreach on the development options/sale of the Rancho del Pueblo golf course site.**
- (b) **Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the existing contract with David J. Powers and Associates for:**
- (1) **Revised scope of work to perform the additional analyses associated with Rancho del Pueblo and the Edenvale iStar sites;**
 - (2) **Extended term to perform such additional work; and**
 - (3) **An additional contract amount of \$155,000 for this additional work.**
- (c) **Provide direction regarding the type and intensity of uses and buildings outside the Urban Growth Boundary (UGB).**
- (d) **Reject the Request for a Different Draft Envision 2040 Land Use designation (Request No. ESJ2040-012) to convert 15 acres in the Edenvale Redevelopment Area from Transit Employment Center to Urban Residential.**
- (e) **Refer to the Diridon Station Area Plan process the Request for a Different Draft Envision 2040 Land Use designation (Request No. ESJ2040-005) to convert 1.68 acres on the east side of Stockton Avenue north of The Alameda from Transit Employment Center to Transit Residential.**

- 4.4 (f) **Reject two Requests for Different Draft Envision 2040 Land Use designations and associated General Plan Amendments to increase the allowed residential density on properties located on both sides of Highway 87 north of Alma Avenue from the current maximum of 55 DU/AC to 95 DU/AC within the Tamien Station Area Specific Plan (Request Nos. ESJ2040-013 and -014/GP10-03-001 and GP10-06-01) until such time as a comprehensive specific planning process is initiated in the future for the Tamien Station Area Planned Community/Specific Plan by the City Council.**

CEQA: Not a Project, File No. PP10-069(a), Assessments of Work Done. The proposed action will allow staff and the consultants to proceed with the analysis of potential environmental impacts of the proposed General Plan Update as required by CEQA. (Planning, Building and Code Enforcement)

Documents Filed: (1) Joint memorandum from Mayor Reed, Vice Mayor Nguyen, and Council Members Liccardo and Kalra, dated January 21, 2011, approving Staff's recommendations with additional direction. (2) Memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated January 12, 2011, recommending acceptance of the Envision 2040 General Plan Draft Environmental Impact Report (DEIR) and General Plan Actions. (3) Supplemental memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated January 21, 2011, further defining the project scope for the General Plan Update. (4) Proof of Publication of Notice of Public Hearing, executed on January 22, 2011, submitted by the City Clerk. (5) Letter from Francis Duino, representing Duino Family Lands, dated January 26, 2011, expressing criticism of the Staff's recommendation. (6) Letter from Santa Clara Valley Transportation Authority representative, Timothy Nieuwsma, dated January 24, 2011, withdrawing their request for a General Plan amendment application.

Director, Planning, Building and Code Enforcement Joseph Horwedel provided the Envision San José 2040 General Plan Update.

Motion: Council Member Liccardo moved approval of Mayor Reed, Vice Mayor Nguyen, and Council Members Liccardo and Kalra's memorandum of January 21, 2011. Vice Mayor Nguyen seconded the motion.

Mayor Reed and Council Members Campos, Constant, Liccardo, Pyle and Rocha offered meeting disclosures.

Mayor Reed opened the public hearing.

Public Comment: Eric Schoennauer and Henry Cord expressed support for the project. The following offered criticism and comments regarding the staff's recommendation: Eloy Wouters, Helen Chapman (S/HPNA), Danny Garza (M.A.P.A.), Guadalupe Gonzalez (Mayfair NAC), Manny Diaz (Friends of Rancho de Pueblo), John Urban (Newhall Neighborhood Association), Terri Balandra, Stan Perry (for Francis Duino), Thomas Zolezzi, Bob Leininger, and Harvey Darnell.

4.4 (Cont'd.)

Mayor Reed closed the public hearing.

Council Members Oliverio and Campos expressed reluctance to approve the recommendation with its potential conversion to housing. Extensive Council discussion followed.

Director, Planning, Building and Code Enforcement Joseph Horwedel agreed to defer the Tamien Station Area amendments pending meeting with VTA staff due to an earlier conversation with Council Member Liccardo.

Action: On a call for the question, the motion carried, Resolution No. 75709, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreement for Consultant Services Between the City of San José and David J. Powers & Associates, Inc., for Environmental Impact Report Preparation Services for the Envision San José 2040 General Plan Update Expanding the Scope of Services, Extending the Term to December 31, 2011 and Increasing the Compensation by \$155,000 for a Total Amount Not to Exceed \$1,838,201”, was adopted, and the Staff’s recommendation was approved with a 3-week deferral of the Tamien Station Area amendments pending creation of a project description and following discussion with VTA staff. (9-2. Noes: Campos, Oliverio.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 City Council and Redevelopment Agency Board adopt resolutions to:

- (a) **Accept the Good Neighbor Committee’s recommendations as outlined in the attached Diridon Station Area Framework for Implementation;**
- (b) **Direct the City Manager and the Redevelopment Agency Executive Director to consider including the Diridon Station Area Framework for Implementation priorities in potential agreements, contracts and projects where appropriate as they become realized; and,**
- (c) **Direct the City Manager and Redevelopment Agency Executive Director to reengage the Good Neighbor Committee to meet periodically, or as needed, to be updated on progress and to provide input as projects develop.**

CEQA: Not a Project, File No. PP10-068 (b), General Procedure & Policy Making. (City Manager/Redevelopment Agency)

Documents Filed: Joint memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated January 10, 2011 recommending adoption of resolutions.

9.2 (Cont'd.)

Redevelopment Agency Director of Strong Neighborhood Initiatives Kip Harkness and Downtown Manager Lee Wilcox, representing the Good Neighbor Committee, offered an overview of the development of the Diridon Station area.

Mayor Reed invited the Good Neighbor Committee's group to the podium.

Offering proposals and various ideas to the proposed policy for the Diridon Station Master Plan were Harvey Darnell, Helen Chapman, Eloy Wouters and Michelle Beaslee.

Public Comments: Carlos Babcock (Silicon Valley Bicycle Coalition) and Brian Darrow (Working Partnerships) spoke in support of the implementation.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, Resolution No. 75710, entitled: "A Resolution of the Council of the City of San José: (A) Accepting the Good Neighbor Committee's Recommendations as Outlined in the Diridon Station Area Framework for Implementation; (B) Directing the City Manager to Consider Including the Diridon Station Area Framework for Implementation Priorities in Potential Agreements, Contracts, and Projects Where Appropriate As They Become Realized; (C) Directing the City Manager to Reengage the Good Neighbor Committee to Meet Periodically, or as Needed, to be Updated on Progress and to Provide Input as Projects Develop"; and Redevelopment Agency Board Resolution No. 6004, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José (A) Accepting the Good Neighbor Committee's Recommendations as Outlined in the Diridon Station Area Framework for Implementation; (B) Directing the Redevelopment Agency Executive Director to Consider Including the Diridon Station Area Framework for Implementation Priorities in Potential Agreements, Contracts, and Projects Where Appropriate As They Become Realized; (C) Reappointing a Smaller Ongoing Good Neighbor Committee to Meet Periodically or as Needed, to be Updated on Progress and to Provide Input as Projects Develop"; and (D) Directing the Good Neighbor Committee to Form Three Smaller Working Groups on Parking and Traffic/Connectivity, High Speed Rail/Diridon Station and the Major League Ballpark, to be Able to Work on these Key Issues", were adopted. (11-0.)

- 9.3**
- (a) Accept staff report and presentation on the scope and status of the draft Diridon Station Area Master Plan.**
 - (b) Direct staff to prepare an Environmental Impact Report (EIR) for the recommended Preferred Land Use Master Plan for the Diridon Station Area and complete the Draft Plan. After completion of the EIR, the City Council will have the opportunity to decide on the final land use plan.**
 - (c) Provide staff direction to include the following elements in the Draft Diridon Station Area Master Plan:**
 - (1) Create a great place in the City of San José that is both a local and regional destination and expand the Diridon Transit Station into a center of functional and architectural significance.**
 - (2) Provide a variety of commercial and mixed-use development opportunities, with maximum densities in accordance with the goals of the City’s current General Plan and future General Plan 2040. The recommended Preferred Land Use Plan proposes a maximum development scenario of 4,950,000 S.F. of office/commercial; 420,000 S.F. of retail/restaurant; 2588 residential units; and 900 hotel rooms. By environmentally clearing the maximum development scenario Council would have flexibility to approve any project that falls within those maximums.**
 - (3) Develop a multi-modal transportation system with convenient access for all users and with a plan to improve pedestrian, bicycle, transit, and automobile connectivity between the station and adjacent land uses in Downtown, surrounding neighborhoods, and the Airport.**
 - (4) Provide a long-range parking strategy to share use and reduce parking requirements as transportation options develop in the Diridon Station Plan Area, in accordance with the proposed policies and goals for Envision San José 2040 General Plan.**
 - (5) Provide a near-term phasing plan for transportation and parking (Phase I Transportation/Parking Plan) that addresses the next 10 years of development in the Plan Area.**
 - (d) Adopt a resolution authorizing the City Manager to negotiate and execute the following agreements:**
 - (1) A funding agreement with the California High Speed Rail Authority (CHSRA) to provide the City up to \$200,000 to analyze station design and access and circulation relating to the High Speed Train project.**
 - (2) A First Amendment to the existing agreement between the City and Field Paoli Architects to increase the compensation by up to \$159,000 from \$950,000 to an amount not to exceed \$1,109,000, expand the scope of services to include a phasing analysis for near-term development in the Diridon Station Area and amend the schedule of performance.**

- 9.3 (d) (3) **A First Amendment to the existing agreement between the City and ARUP to increase the compensation by up to \$146,000 from \$99,000 to an amount not to exceed \$245,000, expand the scope of services to include station planning and an analysis of parking access and circulation relating to the High Speed Train project and amend the schedule of performance.**
- (e) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund.**
- (1) **Increase the appropriation to the Department of Transportation for the High Speed Rail Project by \$305,000;**
 - (2) **Increase the estimate for Earned Revenue by \$200,000; and**
 - (3) **Decrease the Ending Fund Balance by \$105,000.**

CEQA: Statutorily Exempt, CEQA Guidelines Section 15262, Planning and Feasibility Studies, File No. PP10-066(d). Council Districts 3 and 6. SNI: Burbank/Del Monte; Delmas Park. (Transportation/Planning, Building and Code Enforcement/)

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members Liccardo and Oliverio, dated January 21, 2011, recommending acceptance of the Staff's report with additional direction. (2) Joint memorandum from Acting Director of Transportation Hans Larsen, Director, Planning, Building and Code Enforcement Joseph Horwedel and Budget Director Jennifer Maguire, dated January 10, 2011, recommending acceptance of the Staff's report.

A presentation was provided by Acting Director of Transportation Hans Larsen, Director of Economic Development/Chief Strategist Kim Welsh and Director, Planning, Building and Code Enforcement Joseph Horwedel.

Motion: Council Member Liccardo moved approval of the memorandum he coauthored with Mayor Reed and Council Member Oliverio. Council Member Oliverio seconded the motion.

Council Members Campos, Liccardo and Rocha provided meeting disclosures.

Public Comments: Offering support and additional comments regarding the Preferred Land Use Master Plan for the Diridon Station Area, were: Terri Balandra, Michele Beasley (Greenbelt Alliance), Don Gralnek, Erik Schoennauer (Hudson Companies), Carlos Babcock (Silicon Valley Bicycle Coalition), Bill Bystricky, Richard Zappelli (Willow Glen Neighborhood Association), Steve Kline, Tian Harter, Brian Darrow, Jean Dresden, Larry Ames and Scott Knies (Sa Jose Downtown Association).

9.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28882, 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 High Speed Rail Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 75711, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Following Agreements: (1) Funding Agreement with the California High Speed Rail Authority to Provide the City Up To \$200,000 to Analyze Station Design and Access and Circulation Relating to the High Speed Train Project; (2) First Amendment of the Existing Agreement Between the City and Field Paoli Architects to Increase the Compensation by Up To \$150,000 From \$950,000 to an Amount Not To Exceed \$1,100,000, Expand the Scope of Services, and Amend the Schedule of Performance; and (3) First Amendment to the Existing Agreement Between the City and ARUP to Increase the Compensation by up to \$135,000 from \$99,000 to an Amount Not To Exceed \$234,000 and Expand the Scope of Services”; and Resolution No. 75712, 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”, were adopted. (11-0.)

PUBLIC HEARINGS

- 11.2 Consider an ordinance rezoning the real property located at the northwest corner of North 10th Street and East Taylor Street (357 East Taylor Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for the demolition of 242,000 square feet of office/ light industrial space and to allow a mixed use development including up to 5,500 square feet of commercial space and up to 403 multi-family residential units, and the retention of 129,646 square feet of light industrial space (currently Gordon Biersch) (CP Associates, Owner). SNI: 13th Street. CEQA: Mitigated Negative Declaration. PDC08-036 – District 3**

Documents Filed: (1) Memorandum from Council Member Liccardo, dated January 24, 2011, approving Staff’s recommendation with additional direction. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC08-036, dated January 6, 2011, recommending approval. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated January 13, 2011, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing, executed on December 10, 2010, submitted by the City Clerk.

Director, Planning, Building and Code Enforcement Joseph Horwedel made a correction to the agenda regarding the number of residential units as indicated in Public Noticing and noted above per staff.

11.2 (Cont'd.)

Mayor Reed and Council Member Liccardo provided meeting disclosures.

Mayor Reed opened the public hearing.

Public Comment: Property owner Don Lapidus and Dan Gordon, representing Gordon Biersch, spoke to the merits of the project.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 28883, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of North 10th Street and East Taylor Street from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District”, was passed for publication, and Resolution No. 75713, entitled: “A Resolution of the Council of the City of San José Approving Environmental Analysis for the Cannery Park Village Project, for which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act, and Adopting a Mitigation Monitoring and Reporting Program”, was adopted. (11-0.)

ADJOURNMENT

The Council of the City of San José adjourned at 10:31 p.m. in memory of Herman R. Alvarez who passed away January 23, 2011 and is honored for his community service and the pursuit of human rights and social justice. (Mayor)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk

rmk/1-25-11MIN

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

JOINT CITY COUNCIL/FINANCING AUTHORITY ITEM

2. Agreement with The Housing Trust of Santa Clara County for Construction of the Ford and Monterey Special Needs Apartments.

- (1) Adopt a resolution of the City Council:**
 - (a) Authorizing the Director of Housing to negotiate and execute an amended consortium agreement with The Housing Trust of Santa Clara County (“HTSCC”) under the Neighborhood Stabilization Program 2 (“NSP2”) in an amount up to \$3,000,000 for construction of the 20-unit Ford and Monterey Special Needs Apartments;**
 - (b) Approving a funding commitment to Eden Housing, Inc. (“Eden”), or its designated affiliate for up to \$3,000,000 for a Project construction/permanent loan funded from NSP2 (Fund 448);**
 - (c) Approving a pledge of a City owned 3.06 acre land parcel as collateral to secure a \$500,000 predevelopment from the Housing Trust of Santa Clara County to Eden Housing, Inc. or its designated affiliate (“Eden”) and authorizing the Director of Housing to negotiate and execute an intercreditor agreement with HTSCC;**
 - (d) Authorizing the Director of Housing to negotiate and execute an agreement with the City of San José Financing Authority related to the ground lease revenues of the Project and ultimate disposition of the Project improvements and the Project site (the “Site”).**
- (2) Adopt a resolution of the City of San José Financing Authority Board:**
 - (a) Authorizing the Executive Director of the City of San José Financing Authority, (the “Authority”), or designee, to acquire the Site from the City and negotiate and execute a ground lease of the Site to the Borrower for a term of up to 75 years with an annual rent of \$1.00 for the first 55 years; and,**
 - (b) Authorizing the Executive Director of the Authority, or designee, to negotiate and execute an agreement with the City of San José related to the ground lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site.**

**CEQA: Mitigated Negative Declaration, File No. PDC09-022. Council District 2. (Housing/Finance)
(Rules Committee referral 01/19/11)**

Action: Deferred to February 1, 2011 per Orders of the Day.

JOINT REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 1:51 p.m. to consider Items 8.1, 8.2, 8.3 and 9.1 in a Joint Session.

- 8.1**
- (a) Acceptance of the Agency's Financial Progress Report;**
 - (b) Discussion of proposed State budget actions and impacts to Redevelopment Agency and City of San Jose budgets; and,**
 - (c) Direction to Agency and City Administrations.**
- CEQA: Not a project. [Merged]**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated January 21, 2011, recommending accepting the Agency's monthly Financial Progress Report.

Redevelopment Agency Executive Director Harry S. Mavrogenes provided the Agency's Financial Progress Report.

Action: No action was taken.

- 8.2**
- (a) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a Capital Equipment and Assistance Agreement with Maxim Integrated Products, Inc., and the City of San Jose, in which the Redevelopment Agency will provide an amount not to exceed \$500,000 for the acquisition of industrial and manufacturing equipment to be installed at Maxim's new global headquarters and existing fabrication facility in the Rincon de Los Esteros Redevelopment Project Area; and making certain findings as required by California redevelopment law.**
 - (b) Adoption of a resolution by the City Council authorizing the City Manager to:**
 - (1) Negotiate and execute a Capital Equipment and Assistance Agreement with Maxim and the Redevelopment Agency, in which the City will provide an amount not to exceed \$500,000 for the acquisition of equipment to be installed at Maxim's new headquarters and existing fabrication facility in San Jose, and for payment of fees and taxes associated with Maxim's relocation and expansion; and,**
 - (2) Negotiate and execute a Participation Agreement with Maxim that will provide funding in an amount equal to 50% of the City's 5% of net new utilities taxes generated by Maxim's new headquarters facility for five consecutive years.**
- CEQA: Not a Project, File No. PP10-066(a). [Rincon de los Esteros]**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated January 20, 2011, recommending adoption of a resolution and execution of an agreement.

8.2 (Cont'd.)

Redevelopment Agency Executive Director Harry S. Mavrogenes provided an overview of the agreement with Maxim.

Mayor Reed provided meeting disclosures.

Public Comments: Phil Tomac, representing Maxim Integrated Products spoke on the company's relocation to San José.

Action: Upon motion by Council Member Chu, seconded by Council Member Herrera and carried unanimously, Resolution No. 75714, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to: (1) Negotiate and Execute a Capital Equipment and Assistance Agreement with Maxim Integrated Products, Inc., And the Redevelopment Agency, in Which the City Will Provide an Amount Not to Exceed \$500,000 for the Acquisition of Equipment to be Installed at Maxim's New Headquarters and Existing Fabrication Facility in San José, and for Payment of Fees and Taxes Associated with Maxim's Relocation and Expansion; and (2) Negotiate and Execute a Participation Agreement with Maxim that Will Provide Funding to Maxim in an Amount Equal to 50% of the City's 5% of Net New Utilities Taxes Generated by Maxim's New Headquarters Facilities for Five Consecutive Years", and Redevelopment Agency Resolution No. 6001 were adopted. (11-0.)

- 8.3 (a) **Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a Capital Equipment and Assistance Agreement with SunPower Corporation and the City of San Jose, in which the Agency will provide an amount not to exceed \$500,000 for the acquisition of industrial and manufacturing equipment to be installed at SunPower's new global headquarters in the Rincon de Los Esteros Redevelopment Project Area; and making certain findings as required by California redevelopment law.**
- (b) **Adoption of a resolution by the City Council authorizing the City Manager to:**
- (1) **Negotiate and execute a Capital Equipment and Assistance Agreement with SunPower and the Redevelopment Agency, in which the City will provide an amount not to exceed \$500,000 for the acquisition of equipment to be installed at SunPower's new headquarters in San Jose**
 - (2) **Negotiate and execute a Participation Agreement with SunPower that will provide funding in an amount equal to 50% of the City's 5% of net new utilities taxes received from SunPower for five consecutive years, and 50% of the City's 1% of net new sales taxes received from SunPower for five consecutive years.**
- CEQA: Not a Project, File No. PP10-066(a). [RINCON DE LOS ESTEROS]**

8.3 (Cont'd.)

Documents Filed: Joint memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated January 20, 2011, recommending adoption of a resolution and negotiation of agreements.

Council Member Liccardo provided meeting disclosures.

Public Comments: Julie Blunden, representing SunPower Corporation, expressed enthusiasm for their company remaining in San José.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75715, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to: (1) Negotiate and Execute a Capital Equipment and Assistance Agreement with SunPower Corporation and the Redevelopment Agency, in which the City will Provide an Amount Not to Exceed \$500,000 for the Acquisition of Equipment to be Installed at SunPower's New Headquarters in San José, and for Payment of Fees and Taxes Associated with SunPower's Relocation and Expansion; and (2) Negotiate and Execute a Participation Agreement with SunPower that will Provide Funding to SunPower in an Amount Equal to 50% of the City's 5% of Net New Utilities Taxes Received from SunPower for Five Consecutive Years, and 50% of the City's 1% of Net New Sales Taxes Received from SunPower for Five Consecutive Years", and Redevelopment Agency Resolution No. 6002 were adopted. (11-0.)

8.4 In response to the Governor's proposed State budget package and proposals for FY 2011-12, which include recommending the elimination of redevelopment agencies "to realign the delivery of state services to counties and local governments" and eliminate a projected State deficit of \$25.4 billion, the City Manager and Agency Executive Director recommend the following actions intended to provide flexibility to fund the Agency's existing debt obligations and to reaffirm the Agency's obligations and appropriation of funding for its previously approved FY 2010-11 Operating Budget, its Three-Year Capital Improvement Plan and other contractual obligations.

(a) City Council and Agency Board by motion, makes a good faith, reasonable determination by a 2/3 vote of the body that an issue has arisen that must be resolved in less than 4 days.

Action: Item Deferred to February 1, 2011.

8.4 (Cont'd.)

- (b) Adoption of resolutions by the Agency Board and City Council authorizing the Executive Director and City Manager to negotiate and execute a Cooperation Agreement between the City of San Jose and the San Jose Redevelopment Agency relating to funding certain Redevelopment Agency capital improvements, public improvements and obligations located within currently designated redevelopment project areas.**
(Deferred from Jan 19, 2011, Special Meeting.)

Action: Item Deferred to February 1, 2011.

- (c) Adoption of resolutions by the Agency Board, the San Jose Financing Authority Board and the City Council authorizing the Agency Executive Director, the City Manager, the Executive Director of the Financing Authority and the Housing Department Director to negotiate and execute agreements necessary to protect and secure existing obligations and to acquire, construct, develop and implement projects specified in the Agency and City's approved capital improvement plan and City's five-year affordable housing plan as specified herein.**

Action: Action taken at Special Meeting on January 19, 2011.

- (d) Adoption of a resolution by the City Council making certain findings and determinations as may be necessary.**

Action: Item Dropped.

- (e) Adoption of resolutions by the Agency Board and City Council authorizing the Director of Housing to negotiate and execute agreements in the amount of \$1.43 million of Low- and Moderate-Income Housing funds (20% funds) to Eden Housing or its affiliate for the Ford & Monterey Special Needs Housing Project (Project) in order to meet federal Stimulus (NSP2) timeframes; and make a finding that the use of 20% Low- and Moderate-Income Housing Funds outside a redevelopment project area for the affordable housing to be provided by the Project and its Phase II benefits the Agency's redevelopment project areas.**

Action: Action taken at Special Meeting on January 19, 2011.

9.1 As recommended by the Rules and Open Government Committee on December 1, 2010:

- (a) Approve the appointment of Madison Nguyen as Vice Mayor.**
- (b) Approve the appointment of Madison Nguyen as Vice Chairperson of the Redevelopment Agency.**

(Mayor/Redevelopment Agency)

[Rules Committee referral 12/1/10 – Items H(8) – H(9)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated January 12, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the appointment of Madison Nguyen as Vice Mayor and Vice Chairperson of the Redevelopment Agency was approved. (11-0.)

The Joint meeting of the Council of the City of San José and Redevelopment Agency Board was adjourned at 2:20 p.m.