

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 8, 2011

The Council of the City of San José convened in Regular Session at 9:03 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.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Director of Employee Relations Alex Gurza provided the Labor Negotiations Update.

Public Comments: The following bargaining unit representatives offered comments: Jeff Welch (Firefighters Union), Nancy Ostrowski (IFPTE Local 21 for AEA/CAMP) and Brian Doyle (ALP).

CLOSED SESSION

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 9:17 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation of significant exposure

CLOSED SESSION (Cont'd.)

(Claim Not Filed) 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 (Claim Not Filed) in one (1) matter;. (C) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) Swayzer. v. City, et al.; Names of Parties Involved: Prince Swayzer II and Deborah Porter and individuals and Jill Scott as Guardian Ad Litem for J.P.S., a minor and as Administrator of the Estate of Prince Swayzer III, deceased, City of San José, Taser International Inc., Does 1 through 100; Court: United States District Court, Northern District of California; Case No: C10-03119 HRL; Amount of Money or Other Relief Sought: Damages according to proof. (2) Marlo Custodio, Romel Custodio, Marilou Custodio and Oscar "O.J." Custodio, Jr., the County of Santa Clara, California, the City of San José, Police Chief Robert Davis, individually and in his official capacity as Chief of the San José Police Department, San José Police Department Sergeant Evans (Badge #2339), individually and in his official capacity as a supervisory police officer for the City of San José, San José Police Department Officers EPP (Badge #3048), individually and in his capacity as a police officer for the City of San José, Morasci (Badge #3292), individually and in his capacity as a police officer for the City of San José, Tran (Badge #3269), individually and in his capacity as a police officer for the City of San José, Unger (Badge #3715), individually and in his capacity as a police officer for the City of San José, Demaria (Badge #3728), individually and in his capacity as a police officer for the City of San José, Jeffrey (Badge #3715), individually and in his capacity as a police officer for the City of San José, Crawley (Badge #3357), individually and in his capacity as a police officer for the City of San José, Purnell (Badge #3627), individually and in his capacity as a police officer for the City of San José, Cahill (Badge #3703), individually and in his capacity as a police officer for the City of San José, and Does one through fifty; Court: United States District Court, Northern District of California; Case No: C09-00527 PVT; 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) 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 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; (4) 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; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local

CLOSED SESSION (Cont'd.)

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; (7) 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; (8) 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; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3; (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association; (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; 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 11:35 a.m. and reconvened to Regular Session at 1:35 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

Symphony Silicon Valley performed a symphonic piece for the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance accompanied by third-grade students from Lynhaven Elementary.

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 Item 8.1 heard as part of the Consent Calendar. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to San José resident, Juan Valencia, for his courageous efforts to rescue a woman being attacked by two pit bull dogs. (Herrera)

Action: Mayor Reed and Council Member Herrera recognized and commended San José resident, Juan Valencia, for his courageous efforts to rescue a woman being attacked by two pit bull dogs.

1.2 Presentation of a commendation to the Tzu Chi Foundation for its partnership relationship with Orchard School on education and community service. (Chu)

Action: Mayor Reed and Council Members Chu and Kalra recognized and commended the Tzu Chi Foundation for its partnership relationship with Orchard School on education and community service.

1.3 Presentation of a commendation to Ariana Lena, who was selected as a Student Ambassador for the 2011 People to People Student Ambassador Program. (Nguyen)

Action: Mayor Reed, Vice Mayor Nguyen and Council Member Campos recognized and commended Ariana Lena, who was selected as a Student Ambassador for the 2011 People to People Student Ambassador Program.

CONSENT CALENDAR

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

2.1 Approval of minutes.

Action: There were none.

2.2 Final adoption of ordinances.

Action: There were none.

2.3 Approval of Council Committee Reports.

(b) Public Safety, Finance and Strategic Support Committee Report of February 17, 2011. (Constant)

Documents Filed: The Public Safety, Finance and Strategic Support Committee Report dated February 17, 2011.

Action: The Council Committee Report was accepted. (11-0.)

- 2.3 (a) **Rules and Open Government Committee Report of February 16, 2011. (Mayor)**
(c) **Rules and Open Government Committee Report of February 9, 2011. (Mayor)**
[Deferred from 3/1/11 – Item 2.3(d)]

Action: Deferred to March 15, 2011 per the City Clerk.

2.4 **Mayor and Council Excused Absence Requests.**

Action: There were none.

2.5 **City Council Travel Reports**

Council Member Chu reported on a League of California Cities emergency teleconference board meeting held on March 8 and an online campaign signature drive, “myvotecountsca.org”.

2.6 **Adopt a resolution authorizing the Director of Finance to:**

- (a) **Execute the third amendment to the Custodial Services Agreement for City Hall with ACME Building Maintenance, Inc. (ACME) to expand the scope of services to include custodial services at the San José Police Department, Mexican Heritage Plaza, and Animal Care Services.**
(b) **Execute amendments to the agreement as required to add or delete locations without further Council action and subject to the appropriation of funds.**
(c) **Execute any amendments required to extend the ACME agreements for City Hall and the Airport for up to four additional months (from July 9, 2011 to November 9, 2011) subject to the appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for Maintenance Service. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated February 14, 2011, recommending adoption of a resolution.

Action: Resolution No. 75746, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute the Third Amendment to the Custodial Services Agreement for City Hall with Acme Building Maintenance, Inc., to Expand the Scope of Services to Include Custodial Services at the San José Police Department, Mexican Heritage Plaza, and Animal Care Services; to Execute Amendments to the Agreement as Required to Add or Delete Locations Without Further City Council Action and Subject to the Appropriation of Funds; and to Execute any Amendments Required to Extend the Acme Agreements for City Hall and the Airport for up to Four Additional Months (From July 9, 2011 to November 9, 2011) Without Further City Council Action and Subject to the Appropriation of Funds”, was adopted. (11-0.)

2.7 Authorize the Director of Finance to:

- (a) **Execute two Open Purchase Orders to Environmental Systems, Inc. (Santa Clara, CA) and EMCOR Services (Hayward, CA) in the amounts of \$757,131 and \$504,754, respectively, for Heating, Ventilation, and Air Conditioner (HVAC) Installation Services.**
- (b) **Shift funding between the two Purchase Orders such that the total compensation of the two Purchase Orders does not exceed \$1,261,885.00.**

CEQA: Exempt, File No. PP11-005. (Finance)

Documents Filed: City Council Action Request for repair/replacement of HVAC equipment, from Director of Finance Scott P. Johnson, dated March 8, 2011.

Action: Open Purchase Orders to Environmental Systems, Inc. and EMCOR Services in the amounts of \$757,131 and \$504,754, respectively, for Heating, Ventilation, and Air Conditioner (HVAC) Installation Services, with the agreement to shift funding between the two Purchase Orders such that the total compensation of the two Purchase Orders does not exceed \$1,261,885.00, was authorized. (11-0.)

2.8 Adopt a resolution to:

- (a) **Amend the City of San José Pay Plan effective March 8, 2011 to create the following classification:**
 - (1) **Environmental Sustainability Manager (8206).**
- (b) **Amend the City of San José Pay Plan effective March 8, 2011 to change the job classification title of:**
 - (1) **Investment Officer (7504) (formerly titled Retirement Investment Officer)**

CEQA: Not a Project, File No. PP10-068 (b), Municipal Code, Title 3. (Human Resources)

Documents Filed: Memorandum from Acting Director of Human Resources Kay Winer, dated February 14, 2011, recommending adoption of a resolution.

Action: Resolution No. 75747, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan", was adopted. (11-0.)

2.9 (a) Accept the annual status report on the Safe Neighborhood Parks and Recreation Bond Projects for FY 2009-2010.

- (b) **Accept the annual status report on the Branch Library Bond Projects for FY 2009-2010.**

[Deferred from 1/25/11 – Item 2.15 and 3/1/11 – Item 2.6]

- (c) **Accept the annual status report on the Public Safety Bond Program for FY 2009-2010.**

CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Citizen Oversight Committee for the Library Bond Projects/Citizen Oversight Committee for the Public Safety Bond Program/Citizen Oversight Committee for the Parks and Recreation Bond Projects)

2.9 (Cont'd.)

Documents Filed: Three memoranda, all dated February 14, 2011, from (1) the Branch Library Bond Oversight Committee, recommending acceptance of the annual status report; (2) the Citizen Oversight Committee for Parks and Recreation Bond Projects recommending acceptance of the FY 2009-2010 Status Report; and (3) The Citizen Oversight Committee for the Public Safety Bond Program, recommending acceptance of the Annual Financial Report for FY 2009-2010.

Action: The reports were accepted. (11-0.)

2.10 Adopt a resolution:

- (a) **Authorizing the City Manager, or designee, to submit a grant application in the amount not to exceed \$450,000 to Santa Clara Valley Water District under the 2011 Trails and Open Space Program for the Three Creeks Trail (Los Gatos Creek to Guadalupe River) Interim Improvements project ("Project") with a local contribution of \$200,000 for a total project cost of \$650,000;**
- (b) **Certifying that the City has or will have sufficient funds to operate and maintain the Project, provided the City has obtained the necessary property interests in real properties for the Project;**
- (c) **Agreeing to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines for Project;**
- (d) **Certifying that the City has reviewed, understands and agrees to the Special Provisions, General Provisions and Financial Provisions contained in the Agreement;**
- (e) **Delegating 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) **Authorizing 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 an award with the initial grant application and to negotiate and execute any documents to effectuate the grant.**

CEQA: Exempt, File No. PP02-370. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated February 14, 2011, recommending adoption of a resolution.

2.10 (Cont'd.)

Action: Resolution No. 75748, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager, or Designee, to Submit a Grant Application in the Amount Not To Exceed \$450,000 to the Santa Clara Valley Water District Under the 2011 Trails and Open Space Program for the Three Creeks Trail (Los Gatos Creek to Guadalupe River) Interim Improvements Project with a Local Contribution of \$200,000, to Accept the Grant if Awarded, and to Negotiate and Execute all Related Documents", was adopted. (11-0.)

2.11 Report from the Council Liaison to the Retirement Boards

Action: There was none.

2.12 (a) **Approve travel by Council Member Constant to Washington, D.C. on March 15 – 17, 2011 to participate in the Silicon Valley Leadership Group's Annual Washington, D.C. Advocacy Trip. Source of Funds: Mayor & Council Travel Fund & Office Budget. (Constant)**

(b) **Request for an excused absence for Council Member Constant from the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on March 17, 2011 due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Constant)**

(Rules Committee referral 3/2/11)

Documents Filed: Two (2) memoranda from Council Member Constant, dated February 28, 2011, requesting an excused absence and authorization to travel due to authorized City Business.

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

2.13 (a) **Approve travel by Council Member Kalra to Washington, D.C. on March 15 – 18, 2011 to participate in the Silicon Valley Leadership Group's Annual Washington, D.C. Advocacy Trip. Source of Funds: District 2 Office Funds. (Kalra)**

(b) **Request for an excused absence for Council Member Kalra from the Closed Session, the Regular City Council Meeting and Evening City Council Meeting on March 15, 2011 due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Kalra)**

(Rules Committee referral 3/2/11)

Documents Filed: Memorandum from Council Member Kalra, dated February 28, 2011, requesting an excused absence and authorization to travel due to authorized City Business.

Action: The travel request for Council Member Kalra and absence was approved. (11-0.)

- 8.1 Adopt a resolution authorizing the City Manager to execute an amendment to extend the term of the joint Memorandum of Understanding with the City and County of San Francisco, City of Oakland, Alameda County, and Santa Clara County as partners in the San Francisco Bay Urban Area Security Initiative grant program from December 31, 2010 to June 30, 2011. CEQA: Not a Project, File No. PP10-067(g), Memorandum of Understanding. (Fire/City Manager's Office)**

Documents Filed: Joint memorandum from Deputy City Manager Deanna J. Santana and Assistant Fire Chief Teresa Deloach Reed, dated February 14, 2011, recommending adoption of a resolution.

Action: Resolution No. 75751, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Amendment to the Urban Area Security Initiative Memorandum of Understanding", was adopted.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

The City Manager reported that the Fitch Ratings Agency affirmed an A-minus rating on all outstanding debt at the San José International Airport.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) Accept the Annual Status Report on the Citywide Capital Improvement Program.**
- (b) Streamline the process of procuring public works professional services for architectural, landscape architectural, engineering, environmental, land surveying, and construction management firms (collectively "Public Works Professional Service Contracts") by doing each of the following:**
- (1) Approve an ordinance that amends Title 4 of the San José Municipal Code as follows:**
- (a) Deletes from Section 4.04.020 the exclusion of Public Works Professional Service Contracts from the definition of "services" so that - as with other consultant agreements - the City Manager can execute such contracts up to a maximum amount of \$250,000.**
- (b) Delete from Section 4.12.055 the exclusion of Public Works Professional Service Contracts from the definition of "services" so that these contracts are subject to the same procurement requirements as other consultant service agreements.**

4.1 (Cont'd.)

- (b) (1) (c) **Delete Subdivision C of Section 4.12.110, which would no longer be necessary to make the small and local business preferences applicable to Public Works Professional Service Contracts.**
- (2) **Adopt a resolution rescinding Council Policy 8-15 ("Qualification Based Consultant Selection (QBCS) Policy"), which sets forth a separate administrative process for procuring Public Works Professional Service Contracts.**

CEQA: Not a Project, File No. PP10-069 (a) Annual Reports. Council District: Citywide. (Public Works)

Documents Filed: (1) Memorandum from Acting Director of Public Works David Sykes, dated February 14, 2011, recommending acceptance of the Citywide Capital Improvement Program Annual Status Report and Procurement Streamlining Measures. (2) Letter from Gail A. Price, Executive Director AIA Santa Clara Valley, dated March 8, 2011, providing a statement from the AIA Santa Clara Valley Chapter.

Acting Director of Public Works David Sykes provided the annual status report and responded to questions from Council.

Public Comments: Gail A. Price, Executive Director AIA Santa Clara Valley, stressed a continued emphasis on Qualification Based Consultant Selection (QBCS) in the procurement of public works professional service contracts.

Action: Upon motion by Council Member Kalra, seconded by Council Member Liccardo and carried unanimously, Ordinance No. 28897, entitled: "An Ordinance of the City of San José Amending Section 4.04.040 of Chapter 4.04 and Sections 4.12.055 and 4.12.110 of Chapter 4.12 of Title 4 of the San José Municipal Code to Align the Process for Selection of Architectural and Engineering Consultants to be Consistent with that of other Consultant Procurements", was passed for publication, and Resolution No. 75749, entitled: "A Resolution of the Council of the City of San José Rescinding City Council Policy 8-15, the Qualifications Based Consultant Selection Policy", was adopted. (11-0.)

- 3.3 As recommended by the Public Safety, Finance and Strategic Support Committee on February 17, 2011, accept the status report on the Alternative Service Delivery Evaluation for Workers' Compensation Administration and Employee Health Services and direct staff to continue to work on the recommendations noted in the report and to expand their comparison of injury rates to other jurisdictions by incorporating in the analysis job classifications and risk factors; include disability pay borne by individual departments in cost analyses; and look at best practices employed by other jurisdictions who approach workers' compensation and wellness from the perspective of treating employees and returning them to work, versus simply the management of claims. (City Manager's Office/Human Resources) [Public Safety, Finance and Strategic Support Committee referral 2/17/11 – Item D(2)]**

3.3 (Cont'd.)

Documents Filed: (1) Memorandum from City Clerk Dennis Hawkins, dated February 17, 2011, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (2) Letters of recommendations regarding Workers' Compensation/Employee Services, including "comments from Workers Compensation Customer Surveys", dated March 2011.

Acting Director of Human Resources Kay Winer provided a status report on the Alternative Service Delivery Evaluation for Workers' Compensation Administration and Employee Health Services. Human Resources Assistant Risk Manager David Wong responded to questions from Council.

Council Member Constant asked what information can be gained from health providers, claims adjusters and others familiar with the system. City Manager Debra Figone recommended taking the review to the next level, and Council discussed a strategy to address concerns in a more comprehensive way.

Public Comments: Offering alternative ideas and objections to an alternative service delivery pilot program, were Matt Chasuk, Charles Allen (AFSCME/MEF), Rachelle Tagud, Janis Gill, Charie Chan, David Oki, Laura Arechiga, Susan Covich, Chris Monahan, Han Van and Elena Backman.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Status Report on the Alternative Service Delivery Evaluation for Workers' Compensation Administration and Employee Services was accepted, with direction to Staff to return to the Public Safety, Finance & Strategic Support Committee in Fall 2011 with a comprehensive workplan. (11-0.)

- 3.4 (a) **Interview applicants and appoint up to three (3) members of the Elections Commission for terms of office expiring March 1, 2015.**
(b) **If less than three applicants are appointed, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.**

(City Clerk)

Action: Deferred to March 15, 2011.

- 4.2 (a) **Conduct an Administrative Hearing on and Consideration of an Appeal of the Planning Director's use of an addendum (File No. PD10-025) to the Foster Towers Initial Study (File No. PDC06-130) prepared in connection with the use of the Final Environmental Impact Report for the Vision North San José Area Development Policy (FEIR), approved under Resolution No. 72768, as environmental clearance for the Director's approval of Planned Development Permit File No. PD 10-025 for the Garden City Casino relocation project, implementing that certain rezoning adopted by City Council on May 25, 2010 (PDC10-003).**

- 4.2 (b) **Adopt a resolution finding that:**
- (1) **The City Council has read and considered the Addendum to the Foster Towers Initial Study (File No. PDC06-130) prepared in connection with File No. PD10-025 implementing PD Rezoning PDC10-003, as well as the FEIR; and**
 - (2) **The FEIR, together with the Addendum (File No. PD10-025) has been prepared and completed in compliance with the California Environmental Quality Act of 1970, together with state and local implementation guidelines ; and**
 - (3) **The FEIR, together with the Addendum (File No. PD10-025) reflects the independent judgment and analysis of the City of San José; and**
 - (4) **Preparation of a subsequent or supplemental Environmental Impact Report is not required because no new environmental impacts have been identified and no new mitigation measures are required; and**
 - (5) **The Director of Planning, Building and Code Enforcement shall transmit copies of the FEIR and the Addendum to any other decision-making body of the City of San José for the project.**

CEQA: Resolution to be adopted.

PDC10-025 – Council District 3.

(Continued from 3/1/11 – Item 4.1)

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated February 24, 2011, recommending rejection of an appeal and recommendation of a resolution. (2) Proof of Publication of Notice of Public Hearings, executed on February 4, 2011, submitted by the City Clerk. (3) Letter from Margo N. Bradish, Cox, Castle & Nicholson LLP, responding to the appeal of the Planning Director's Environmental Determination for Planned Development Permit File No. PD10-025. (4) Letter from Elizabeth Klebaner, Adams Broadwell Joseph & Cardoza, regarding Appeal of Environmental Determination for the Garden City Cardroom and Hotel Project: Appellants' Rebuttal Comments, dated March 7., 2011.

Mayor Reed, Vice Mayor Nguyen and Council Members Campos, Chu, Liccardo, Pyle and Rocha provided meeting disclosures.

Director, Planning, Building and Code Enforcement Joseph Horwedel provided a presentation in support of upholding the decision of the Department of Planning, Building and Code Enforcement.

Mayor Reed opened the public hearing.

Elizabeth Klebaner of Adams Broadwell Joseph & Cardoza on behalf of the appellant, UNITE HERE Local 19, asserted that the City must defer consideration of the Project pending preparation of an adequate environmental analysis.

4.2 (Cont'd.)

Margo Bradish of Cox, Castle & Nicholson LLP, representing the applicant, Airport Parkway Two, LLC, urged Council to uphold the Planning Director's action.

Public Comments: Enrique Fernandez and Lee Strieb, representing UNITE HERE Local 19 urged greater environmental review of the proposed project. Ben Field, South Bay Labor Council, spoke in support of the Planning Director's assessment.

Elizabeth Klebaner reiterated that the project should be delayed until a substantial environmental review is completed.

Margo Bradish commended the staff for their work on this project and asked that the appeal be denied.

Mayor Reed closed the public hearing.

Council discussion followed.

Motion: Vice Mayor Nguyen moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

Substitute Motion: Council Member Chu moved deferral of this item one month to allow for further evaluation. Council Member Kalra seconded the motion.

On a call for the question, the substitute motion failed. (3-8-0. Noes: Constant, Herrera, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed).

Action: On a call for the question, the original motion carried unanimously, the appeal was denied, and Resolution No. 75750, entitled: "A Resolution of the Council of the City of San José Denying an Appeal of and Upholding the Director of Planning, Building and Code Enforcement's Determination to Prepare and Consider an Addendum to the Vision North San José Area Development Policy Final Environmental Impact Report, as Addended, for a Planned Development Permit to Allow for the Construction and Operation of a Relocated Cardroom, Together with Associated Uses, Within the Vision North San José Area Development Policy Area, All Pursuant to the Requirements of the California Environmental Quality Act, Together with Related State and Local Government Implementation Guidelines", was adopted. (11-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>		<u>Lots/Units</u>	<u>Type</u>
10071	E/S of S. White Road approximately 400 feet South of Cunningham Avenue	8	Ponderosa Homes II, Inc.		16 Lots / 14 Units	SFDR

OPEN FORUM

Documents Filed: (1) Letter from Sal Galvan, dated March 2011, outlining a written list of concerns regarding the Southside Advisory Council; (2) Written recommendations of "Measure U" provided by Douglas Chloupek of Medmar Healing Center, dated March 2011.

- (1) Dan Rush, representing the United Food & Commercial Workers Union Local #5, applauded the Council for their support of the medical cannabis ordinance and for providing job opportunities in the industry.
- (2) Dave Hodges recommended revisions to the text of Measure U and submitted edited text for Council's review.
- (3) Norman Larsen recommended an independent investigation of Southside Advisory Council officers.
- (4) Sal Galvan recommended changes to bylaws of the Southside Advisory Council and replacement of the Center supervisor. He provided a written list of concerns to the Council.
- (5) Douglas Chloupek, representing Medmar Healing Center, asked that light industrial be considered in addition to commercial general designation for medical marijuana clubs.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:33 p.m. in memory of Sal Sunseri, who was a beloved resident as well as youth baseball and soccer coach in District 9. (Rocha)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk

rmk/3-08-11MIN

JOINT/REDEVELOPMENT AGENCY ITEMS

The Joint Redevelopment Agency Board convened at 4:55 p.m. to consider Item 8.1 and 8.2 in a Joint Session.

8.1 Adoption of resolutions by the City Council and Redevelopment Agency Board:

- (a) Authorizing the City Manager to execute, on behalf of the City, a joint powers agreement for the San Jose Diridon Development Authority;**
- (b) Authorizing the Executive Director to: (i) execute, on behalf of the Redevelopment Agency, a joint powers agreement for the San Jose Diridon Development Authority; and (ii) execute such documents as necessary to transfer various Agency properties to the San Jose Diridon Development Authority for potential development by the San Jose Diridon Development Authority.**

CEQA: Not a Project; File No. PP10-066(g), Memorandum of Understanding. [MERGED]

Documents Filed: Joint memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated March 4, 2011, recommending adoption of resolutions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75752, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Joint Powers Agreement for the San José Diridon Development Authority”, and Redevelopment Agency Resolution No. 6008 were adopted. (11-0.)

8.2 Recommendation: Adoption of resolutions by the City Council and Redevelopment Agency Board:

- (a) Authorizing the City Manager to negotiate and execute, on behalf of the City, a Cooperation Agreement with the Redevelopment Agency, which provides for the transfer to the City of various properties which are public facilities;**
- (b) Authorizing the Executive Director to negotiate and execute, on behalf of the Redevelopment Agency, a Cooperation Agreement with the City to provide for the transfer to the City of various Agency-owned properties acquired by the Agency and developed for, or to be developed for, public facilities.**

CEQA: Not a Project. [MERGED]

Documents Filed: Joint memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated March 4, 2011, recommending adoption of resolutions.

8.2 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75753, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute, on Behalf of the City, a Cooperation Agreement with the Redevelopment Agency of the City of San José, Which Provides for the Transfer to the City of Various Agency-Owned Properties Acquired by the Agency and Developed for, or to be Developed for, Public Facilities", and Redevelopment Agency Resolution No. 6009 were adopted. (11-0.)

The Joint Council/RDA adjourned to a meeting of the Diridon Development Authority at 5:18 p.m.