CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA **TUESDAY, FEBRUARY 15, 2011**

The Council of the City of San José convened in Regular Session at 9:33 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Herrera. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 (a) Accept Labor Negotiations Update.
(b) Discussion and Direction to the City Manager regarding labor negotiations on additional reforms.
CEQA: Not a Project, File No. PP10-69(b), Personnel Related Decisions. (City Manager's Office)

Documents Filed: Packet from the Office of Employee Relations dated February 15, 2011 containing: (1) Proposed Negotiation Ground Rules from ALP. (2) MEF/CEO AFSCME, Local 101, 2011 Contract Negotiations Ground Rules. (3) Letter from Yolanda Cruz, President, MEF and LaVerne Washington, President, CEO, dated February 8, 2011, requesting information on salaries. (4) Settlement Proposal from the San José Firefighters, Local 230, dated February 11, 2011. (5) Letter from Bolton Partners, Inc., to Jeff Welch, President, San José Firefighters, Local 230, dated January 12, 2011, regarding pension cost savings related to wage increases.

Mayor Reed and City Manager Debra Figone presented introductory remarks.

Office of Employee Relations Senior Executive Analyst Aracely Rodriquez, Office of Employee Relations Manager Gina Donnelly and Director of Employee Relations Alex Gurza presented updates on various the labor negotiations.

Public Comments: Speaking to the labor negotiations were Jeff Welch, San José Firefighters, Local 230, Brian Doyle, Local 99, Yolanda Cruz, AFSCME/MEF, LaVerne Washington, AFSCME/CEO and Nancy Ostrowski, IFPTE Local 21 for AEA, CAMP.

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.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 10:56 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 (Claim Not Filed) of significant exposure in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a): Ho v. City, et al; Names of Parties Involved: Phoung Quang Ho, City of San José, Chief Robert Davis, Sergeant Jeffrey Martin, Officer Steven Payne Jr., Officer Gabriel Reyes, Officer Kenneth Siegel, Officer Jerome Smith; Court: United States District Court, Northern District of California; Case No: CV-10-0-01825HRL; Amount of Money or Other Relief Sought: Damages according to proof. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) 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 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. Web: **http://www.sanjoseca.gov/employeerelations/ moa.asp**; Telephone for Employee Relations: 408-535-8150.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 12:02 p.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Kalra, Liccardo, Nguyen, Oliverio (1:48 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - Herrera. (Excused)

INVOCATION

Valley Christian High School Conservatory Women's Ensemble presented the Invocation. (District 2)

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by the Third Graders from Payne Elementary School, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 2.3 was deferred to March 1, 2011. (8-0-3. Absent: Herrera, Oliverio, Rocha.)

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: Deferred to March 8, 2011 per Council District 8.

1.2 Presentation of a proclamation declaring February 23, 2011 as "Rotary Day" in the City of San José. (Pyle)

Action: Mayor Reed and Council Member Pyle recognized February 23, 2011 as "Rotary Day" in the City of San José.

1.5 Presentation of a proclamation declaring the month of February 2011 as "African American History Month" in the City of San José. (Kalra/Nguyen)

Action: Mayor Reed, Vice Mayor Nguyen and Council Member Kalra recognized the month of February 2011 as "African American History Month" in the City of San José.

CONSENT CALENDAR

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

2.1 Approval of Minutes.

Action: There were none.

2.2 Final adoption of ordinances.

(a) ORD. NO. 28885 – 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.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28885 executed on February 8, 2011, submitted by the City Clerk.

Action: Ordinance No. 28885 was adopted. (10-0-1. Absent: Herrera.)

(b) ORD. NO. 28886 – 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.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28886 executed on February 8, 2011, submitted by the City Clerk.

Action: Ordinance No. 28886 was adopted. (10-0-1. Absent: Herrera.)

2.3 Approval of Council Committee Reports.

(a) Rules and Open Government Committee Report of January 26, 2011. (Mayor)

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

2.4 Mayor and Council Excused Absence Requests.

Action: There were none.

2.5 City Council Travel Reports.

Council Member Chu reported on his attendance and actions taken at the League of California Cities Board of Directors at the meeting held in Modesto, California on February 10-11, 2011.

2.6 Approve an agreement with the Silicon Valley Community Foundation in an amount not to exceed $350,000 for the purpose of implementing the Community Energy Championship Fund. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)

Documents Filed: City Council Action Request dated February 1, 2011 from Environmental Services Program Manager Mary Tucker, requesting approval of an agreement.

Action: An agreement with the Silicon Valley Community Foundation in an amount not to exceed $350,000 for the purpose of implementing the Community Energy Championship Fund was approved. (10-0-1. Absent: Herrera.)

2.7 Approve Consultant Master Service Agreements with the following firms for various City projects:

(a) Cornerstone Earth Group for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000.

(b) URS Corporation for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000.

(c) Environmental Resource Management, Inc. for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000.

(d) Kleinfelder, Inc. for a variety of on-call environmental consulting services from the date of execution through December 31, 2013 in an amount not to exceed $250,000.

CEQA: Not a Project, File No.PP10-066 (a), Agreements and Contracts for purchase of professional services. (Environmental Services)

2.7 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated January 24, 2011, recommending approval of the agreements. (2) Letter from Chuck Reed, Chairperson, The Treatment Plant Advisory Committee, dated February 8, 2011, stating concurrence with the Staff recommendations.

Public Comments: David Wall suggested deferring this item because of the high cost being paid to the consultants.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Nguyen and carried unanimously, the Consultant Master Service Agreements with Cornerstone Earth Group, URS Corporation, Environmental Resource Management, Inc. and Kleinfelder, Inc. for a variety of on-call environmental consulting services were approved. (10-0-1. Absent: Herrera.)

2.8 Adopt a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding between the City of San José and Habitat for Humanity, Silicon Valley regarding their intent to develop lease terms to occupy 15,000 square feet at the San José Environmental Innovation Center to operate a building materials reuse store. CEQA: Mitigated Negative Declaration for San José Environmental Innovation Center adopted December 01, 2009, File No. PP09-138. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated January 24, 2011, recommending adoption of a resolution.

Action: Resolution No. 75728, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with Habitat for Humanity of Silicon Valley for the Development of Lease Terms for a Construction Materials Reuse Store at the Environmental Innovation Center", was adopted. (10-0-1. Absent: Herrera.)

2.9 (a) Adopt a resolution authorizing the Director of Housing to negotiate and execute the agreements and any amendments or other documents necessary to implement Phase One of a pilot project for improvements at the Donna Bradford Apartment complex.

(b) Adopt the following Appropriation Ordinance amendments in the General Fund:

(1) Establish a citywide appropriation to the Housing Department for the Donna Bradford Improvement Project in the amount of $300,000.

(2) Decrease the Neighborhood Capital Improvements Fund Reserve by $300,000.

CEQA: Exempt, File No. PP10-188. Council District 9. SNI: Camden/Hillsdale. (Housing/City Manager's Office)

2.9 (Cont'd.)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia and Budget Director Jennifer Maguire, dated January 31, 2011, recommending adoption of a resolution and appropriation ordinance amendments.

Action: Resolution No. 75729, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute the Agreements and Any Amendments or Other Document Necessary to Complete Phase One of A Pilot Project for Improvements at the Donna Bradford Apartment Complex" and Ordinance No. 28890, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the General Fund for the Donna Improvement Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0-1. Absent: Herrera.)

2.10 Adopt a resolution authorizing the Director of Public Works to accept a $485,000 grant from the Environmental Protection Agency (EPA) that will provide the City with financial assistance to fund improvements for the Japantown Sewer Infrastructure project, and allow the Director of Public Works to accept the grant and execute all grant related documents. CEQA: Exempt, File No. PP09-103, dated April 29, 2009. Council District 3. SNI: 13th Street. (Public Works)

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated January 24, 2011, recommending adoption of a resolution.

Action: Resolution No. 75730, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Accept a Grant from the Environmental Protection Agency in the Amount of $485,000 for the Japantown Infrastructure Project and To Execute All Related Documents to Effectuate the Grant", was adopted. (10-0-1. Absent: Herrera.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.3 Adopt a resolution authorizing the City Manager to execute a Second Amendment to the "Agreement for the Management of the San Jose Convention Center and Cultural Facilities between the City of San José and Team San José." CEQA: Not a Project, File No.PP10-066(e), Agreements/Contracts. (Economic Development/ City Manager's Office)

Action: Deferred to March 1, 2011 per Administration.

3.4 (a) Accept status report on the update for the Team San José Spending Reduction Plan and Convention Center and Cultural Affairs Fund Forecast for the proposed Convention Center expansion and direction to the City Manager to proceed accordingly.

3.4 (b) Approve changes to Team San José performance and incentive measures for 2010-2011.

(c) Adopt the following Appropriation Ordinance Amendments in the Convention and Cultural Affairs Fund:

(1) Establish an appropriation for the Center for Performing Arts Improvements in the amount of $700,000.

(2) Establish an appropriation for Convention Facilities Industry Advisor in the amount of $50,000.

(3) Increase the appropriation for the Team San Jose Executive Management Fee by $62,500.

(4) Decrease the appropriation for the Team San Jose Management Fee for Performance by $62,500.

(5) Decrease the unrestricted Ending Fund Balance by $750,000.

CEQA: Not a Project, File No.PP10-066(e), Agreements/Contracts. (Economic Development/City Manager's Office)

Action: Deferred to March 1, 2011 per Administration.

3.5 (a) Hold a Tax Equity and Fiscal Responsibility Act ("TEFRA") Hearing for the issuance of $11,000,000 of tax-exempt 501(c)(3) revenue bonds by the California Statewide Communities Development Authority ("CSCDA") for the benefit of Launchpad Development Company for the construction of Rocketship Four Public School Project to be located at 1200 Lucretia Avenue, San José, CA.

(b) Adopt a resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Rocketship Four Public School Project, originally adopted by the Rocketship Four Elementary School Board on January 10, 2011.

(c) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds, by the CSCDA in an aggregate principal amount not to exceed $11,000,000 on behalf of Launchpad Development Company for the financing of the construction of Rocketship Four Public School to be located at 1200 Lucretia Avenue, San José, CA.

CEQA: The Rocketship Four Elementary School Board prepared an Initial Study and Mitigated Declaration for the construction of the Rocketship Four School in November 2010. The Rocketship Four School Board adopted the Mitigated Negative Declaration and approved the project on January 10, 2011. The resolutions from the Rocketship Board adopting the mitigated negative declaration and approving the project are attached to the staff report. The initial study and mitigated negative declaration are available on the internet at: http://www.rsed.org/downloads/llc_4-ceqa_mnd_and_initial_study-11.4.10.pdf. Planning, Building & Code Enforcement staff has reviewed the Initial Study and Mitigated Negative Declaration and determined that the Initial Study and Mitigated Negative Declaration have been prepared in compliance with CEQA. Council approval of a resolution adopting the Mitigated Negative Declaration would provide environmental clearance for Council's actions relating to this project. (Finance)

3.5 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated January 24, 2011, recommending holding a TEFRA hearing and adoption of resolutions.

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

Vice Mayor Nguyen provided meeting disclosures.

Mayor Reed opened the Tax Equity and Fiscal Responsibility Act (TEFRA) public hearing.

Erik Schoennauer, representing Launchpad Development Company and Rocketship Four Public School, spoke to the merits of the project and addressed the parking issues.

Public Comments: Speaking in support to the project were Julio Caleron and Nelly Gutierrez.

Mayor Reed closed the TEFRA public hearing.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75731, entitled: "A Resolution of the Council of the City of San José Making Certain Findings in Accordance with the California Environmental Quality Act of 1970 in Connection with Actions that Approve the Issuance of Bonds and the Use of Proceeds to Support the Development of Rocketship Four, A Public Charter School Located at the Southeast Corner of Lucretia and Owsley Avenues in San José and For Which an Initial Study/Mitigated Negative Declaration Was Prepared in Accordance with the California Environmental Quality Act of 1970" and Resolution No. 75732, entitled: "A Resolution of the Council of the City of San José Approving the Issuance of Revenue Bonds by the California Statewide Communities Development Authority for the Purpose of Financing the Costs of Acquisition, Construction, Improvement and Equipping of Certain Charter School Education Facilities and Certain Other Matters Relating Thereto", were adopted. (10-0-1. Absent: Herrera.)

RECESS/RECONVENE

Upon motion unanimously adopted, Council recessed at 2:07 p.m. to a Closed Session in Room W133 from the afternoon Council Session and reconvened at 3:04 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Herrera. (Excused)

STRATEGIC SUPPORT SERVICES

3.6 (a) Consider the appointment of Martin Dirks to the Board of Administration of the Federated City Employees' Retirement System as recommended by the Board.

(b) At the Council's discretion, appoint Martin Dirks to the Board of Administration of the Federated City Employees' Retirement System for a term of office expiring February 28, 2015.

(c) If the Council does not appoint Martin Dirks, staff recommends the Council request that the Federated Retirement Board provide an additional recommendation(s) for Council consideration from the remaining applicants, or provide alternative direction to staff concerning a procedure for filling the fourth public member seat on the Federated Retirement Board

CEQA: Not a Project. (City Clerk)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February, 11, 2011, recommending consideration the appointment of Martin Dirks to the Federated Retirement Board.

City Clerk Dennis D. Hawkins, CMC, presented introductory remarks. Mr. Martin Dirks addressed the City Council.

Motion: Council Member Constant recommended approval of the appointment of Mr. Dirks. Council Member Liccardo seconded the motion.

Action: On a call for the question, the motion carried unanimously, Martin Dirks was appointed to the Federated Retirement Board. (10-0-1. Absent: Herrera.)

3.7 (a) Acknowledge receipt of the following:

(1) Certification by the City Clerk of results of elections conducted among the retired members of the Police and Fire Department Retirement Plan.

(2) Recommendation from the panel convened to interview candidates for the Retiree Representative on the Police and Fire Retirement Board.

(b) At the City Council's discretion:

(1) Appoint one retiree member to the Board of Administration of the Police and Fire Department Retirement Plan to a term expiring November 30, 2014; or

(2) If an appointment is not made, direct the City Clerk to conduct a new process to recommend the appointment of a retired member as necessary.

CEQA: Not a Project. (City Clerk)

Documents Filed: (1) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated January 21, 2011, recommending appointment of one retiree member to the board, or direct the City Clerk to conduct a new process, as described above. (2) Supplemental memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 11, 2011, providing the report of the interview panel with the two candidates for appointment.

3.7 (Cont'd.)

City Clerk Dennis D. Hawkins, CMC, offered introductory comments.

Public Comments: Paul Mulholand and Jay Wendling urged the City Council to fill the vacancy today.

The candidates were interviewed by the City Council.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Nguyen and carried unanimously, Richard Santos was appointed to the Board of Administration of the Police and Fire Department Retirement Plan to a term expiring November 30, 2014. (10-0-1. Absent: Herrera.)

OPEN FORUM

Sara Jo Larsen and Judy Bender related issues pertaining to volunteering at the Southside Senior Center.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 3:27 p.m.

RECESS/RECONVENE

The City Council recessed at 3:27 p.m. from the afternoon Council Session and reconvened at 7:00 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Herrera. (Excused)

City Clerk Dennis D. Hawkins read the requests for continuance of the applications. Upon motion by Council Member Liccardo, seconded by Council Member Pyle, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Herrera.)

CEREMONIAL ITEMS

1.3 Presentation of commendations to Harker School students Nikhil Parthasarathy and Rohan Mahajan for their selection as finalists in the 2011 Intel Science Talent Search. (Constant)

Action: Mayor Reed and Council Member Constant recognized and commended Harker School students Nikhil Parthasarathy and Rohan Mahajan.

1.4 Presentation of a commendation to the members of the Tully/Senter Neighborhood Action Coalition for their volunteer efforts in the renovation of the Santee Neighborhood Action Center. (Nguyen)

Action: Mayor Reed and Vice Mayor Nguyen recognized and commended the members of the Tully/Senter Neighborhood Action Coalition.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 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. (PBCE)

4.1 (Cont'd.)

Documents Filed: (1) Amended memorandum from Council Member Liccardo, dated February 15, 2011, recommending acceptance of the Staff recommendations with revisions as described in "Action". (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated January 12, 2011, recommending direction to the Administration and adoption of a resolution.

Motion: Council Member Liccardo moved approval of his amended memorandum dated February 15, 2011, accepting the Staff recommendations with revisions as depicted in "Action". Vice Mayor Nguyen seconded the motion.

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

Action: On a call for the question, the motion carried unanimously, the amended memorandum from Council Member Liccardo, dated February 15, 2011 was approved, accepting the Staff recommendations and including the following: (1) Continue to review and process the application of the Santa Clara Valley Transportation Authority (VTA) as to Site A of Request No. ESJ2040-014 at 1197 Lick Avenue, to provide the designation of Urban Residential on land currently designated as: (a) Public/Quasi-Public (approximately 2.88 acres) and (b) Park/Open Space (approximately 3.46 acres) in the draft Envision San José 2040 Land Use/Transportation Diagram (Tamien East) and provide the designation of Park/Open Space on the remaining northerly land currently designated as Transit Corridor Residential (approximately 4.13 acres), for Staff's future recommendation as part of the Envision 2040 General Plan that will come before Council this Fall. (2) Deny the remaining request from VTA on any changes of land use on Tamien West, or on any other parcels in the Tamien Specific Plan, until and unless the Council approves a change in the Tamien Specific Plan, after full community input and process. (10-0-1. Absent: Herrera.)

TRANSPORTATION & AVIATION SERVICES

6.1 Adopt a resolution to:

(a) Repeal Resolution No. 63396, adopted by the City Council on December 10, 1991, relating to design standards for the installation of public streetlights in new developments.

(b) Approve San José Public Streetlight Design Guide, which includes three separate sections:

(1) "Public Streetlight Replacement Guide", which establishes design guidelines for replacing existing public streetlights in the City.

(2) "Public Streetlight Installation Guide", which establishes design guidelines for installing new public streetlights in the City.

6.1 (b) (3) "Adaptive Street Lighting Design Guide", which establishes design guidelines for dimming public streetlights when reduced pedestrian and vehicular traffic in particular areas justify lower light levels.

(c) Approve revisions to City Council Policy 4-2: Public Streetlights by removing references to "Streetlight Master Plan" and replace them with the term "Streetlight Design Guide"; to remove references to "lighting curfew" and replace them with "adaptive lighting; to remove references to an "energy cap"; and to remove section of policy related to the "transition period."

CEQA: Exempt, File No. PP11-002. (Transportation)

Documents Filed: (1) Memorandum from Acting Director of Transportation Hans F. Larsen, dated January 25, 2011, recommending adoption of a resolution. (2) Proof of Publication of the Notice of Public Hearing dated February 8, 2011, submitted by the City Clerk. (3) Staff presentation dated February 15, 2011 outlining the Streetlight Design Guide.

Acting Director of Transportation Hans Larsen presented the report on the Streetlight Design Guide and responded to Council questions and comments. Nancy Clanton, Clanton & Associates, offered additional comments about the adaptive lighting design features.

Mayor Reed provided meeting disclosures.

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

Council discussion ensued.

Council Member Liccardo pointed out that on Page 7 of the Staff Report the criteria Staff was using to identify how much street lighting may be reduced included: vehicular traffic, transit ridership and land use data, and he expressed concern that he did not see crime listed.

Council Member Liccardo requested to amend the motion to add direction to Staff to factor in crime issues as a criterion. The amendment was accepted by Council Member Constant.

Public Comments: Speaking in support to the Staff recommendations were Rick Hamburger, Philips Lumileds and Raja Guha Thakurta, Lick University.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75733, entitled: "A Resolution of the Council of the City of San José Repealing Resolution No. 63396 Relating to Design Standards for the Installation of Public Streetlights in New Developments, Approving the San José Public Streetlight Design Guide and Approving Revisions to City Council Policy 4-2 Regarding Public Streetlights", was adopted. Staff was directed to factor in crime issues as a criterion. (10-0-1. Absent: Herrera.)

PUBLIC HEARINGS

11.2 Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at a general retail/pharmacy store in an existing approximately 15,465 square foot tenant space in a shopping center on an approximately 7.2 gross acre site in the CN Commercial Neighborhood Zoning District located on the southwest corner of Meridian Avenue and Hamilton Avenue (1601, 1613, and 1615 Meridian Avenue) (Filice Lansford Development Corp, Owner/Walgreen Co., Applicant). CEQA: Exempt. The Director of Planning, Building and Code Enforcement recommends the City Council deny the subject Conditional Use Permit and not make a Determination of Public Convenience or Necessity by finding that the required findings for a Determination of Public Convenience or Necessity cannot be made and that there is not a significant overriding public benefit served by the proposed off-sale of alcohol. CP10-022/ABC10-011 – District 6

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated January 24, 2011, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP10-022/ABC10-011, dated November 22, 2010. (2) Proof of Publication of the Notice of Public Hearing dated January 28, 2011, submitted by the City Clerk. (3) Petition signed by two hundred residents dated February 10, 2011, against the sale of alcohol at Walgreen's at the corner of Hamilton and Meridian Avenues.

Director of Planning, Building and Code Enforcement Joseph Horwedel recommended that Council deny the Conditional Use Permit and not make a Determination of Public Convenience or Necessity by finding that the required findings for a Determination of Public Convenience or Necessity cannot be made and that there is not a significant overriding public benefit served by the proposed off-sale of alcohol.

Mayor Reed opened the public hearing.

Dan Kramer, Haasnajarian LLP, Attorneys at Law, representing Walgreen's, requested that the Council consider the appeal on the grounds that despite the existence of other off-sale outlets within 1,000 feet from the site, there is not evidence that the sale of beer and wine by Walgreen's will adversely affect the peace, health, safety or welfare of persons residing or working in the surrounding area. Greg Kaufman, the community leader that oversees store in question, stated that the reason why Walgreen's was asking for the ability to sell liquor at his store would basically put the store on a level playing field with its competitors.

Public Comments: Speaking in opposition to the Conditional Use Permit were Jeet Singh, John Dinuzzo, Vucks Liquors, Cynthia Goodwin, Vince Milewski, Keesling Neighborhood and Michael Lerner.

Richard Zappelli, Willow Glen Neighborhood Association, expressed support to the appeal for Walgreen's.

11.2 (Cont'd.)

Mayor Reed closed the public hearing.

Mayor Reed provided meeting disclosures.

Motion: Council Member Oliverio moved to deny the Conditional Use Permit. Council Member Liccardo seconded the motion.

Council Members Chu and Constant voiced objection to the motion and expressed their support to Walgreen's to sell alcohol. Council Member Constant offered meeting disclosures.

Action: On a call for the question, the motion carried, the recommendation of the Planning Director was approved, Resolution No. 75734 was adopted to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at a general retail/pharmacy store. (8-2-1. Noes: Chu, Constant. Absent: Herrera.)

11.3 Consider an ordinance prezoning and rezoning the real property located on the north side of Blossom Hill Road, approximately 250 feet easterly of Cahalan Avenue, from Unincorporated to A(PD) Planned Development Zoning District to allow for the development of up to 86 single-family detached residences on an 8.4 gross acre site (Lester, Walter C., Owner). CEQA: Mitigated Negative Declaration. PDC10-007 – District 10

Documents Filed: (1) Memorandum from Council Member Pyle, dated February 14, 2011, recommending approval of the Staff recommendations, with additional direction to the developer described in "Action. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC10-007, dated January 19, 2011. (3) Memorandum from Planning Commission Secretary Joe Horwedel, dated January 31, 2011, transmitting the recommendation of the Planning Commission. (4) Proof of Publication of the Notice of Public Hearing dated January 14, 2011, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel provided comments.

Motion: Council Member Pyle moved approval of Staff recommendations and her memorandum dated February 14, 2011. Vice Mayor Nguyen seconded the motion.

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

11.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Director and Planning Commission was approved, Ordinance No. 28891, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Blossom Hill Road and Southcrest Way from Unicorporated and R-1-8 Single Family Residence District to A(PD) Planned Development Zoning District", was passed for publication, the memorandum from Council Member Pyle, dated February 14, was approved, with additional direction to the developer to: (1) Expand street improvements on Southcrest Way to include pavement grind and asphalt overlay to the existing roadway to conform with the roadway widening along the project frontage. (2) Construct trail corridor improvements to County standards along the westerly project boundary for future connection to Martial Cottle Park by the County of Santa Clara. (10-0-1. Absent: Herrera.)

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 pending decision on the following Final Maps:

Tract	Location	Council District	Developer	Lots/ Units	Type	Proposed Decision
10039	E/S San Felipe Rd, approx. 700' northerly of Silver Creek Rd	8	DAL Properties, LLC	21 Lots / 15 Units	SFD	Approve

OPEN FORUM

(1) Abraham Thompson presented an invitation to the Asian Art Foundation and New Tang Dynasty at the Center for Performing Arts on April 9-10, 2011.

(2) Carl Guardino, Silicon Valley Leadership Group, invited the Council to participate in the travel to Washington D.C. on March 15-17, 2011 advocating for job creation, innovation and economic competitiveness for the Nation; April 12-13, 2011 travel to Sacramento advocating for the future of Silicon Valley, innovation and economy.

ADJOURNMENT

The Council of the City of San José was adjourned at 8:41 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis D. Hawkins, CMC
City Clerk
smd/02-15-11 MIN

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