

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 10, 2011

The Council of the City of San José convened in Regular Session at 9:05 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chu, Constant, Herrera (9:18 a.m.), Kalra, Liccardo, Nguyen (9:18 a.m.), Oliverio (9:18 a.m.), Pyle, Rocha; Reed.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 (a) Accept Labor Negotiations Update.

Documents Filed: Memorandum from Office of Employee Relations Senior Executive Analyst Aracely Rodriquez to Dan Rodriquez, IBEW, Local 332, dated May 9, 2011, presenting the City's Last, Best and Final Offer.

Director of Employee Relations Alex Gurza presented a brief Update on Labor Negotiations.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:10 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation: Toan Nguyen v. City, et al; Names of Parties Involved: Toan Thank Nguyen, Ann Thuy Nguyen, City of San José Department of Transportation, City of San José Department of Public Works; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-115637; Amount of Money or Other Relief Sought: Damages according to proof; (2) Tuttelman v. City of San José, et al; Names of Parties Involved: David M. Tuttelman, City of San José, San José Police Department, San José Police Officer Anthony Luisi, San José Police Officer Ronald Bays; Court: U.S. Court of Appeal, Ninth Circuit; Case No: 07-15241; Amount of

CLOSED SESSION (Cont'd.)

Money or Other Relief Sought: Appeal of USDC Judgment. (B) 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.

By unanimous consent, Council recessed from the Closed Session at 11:21 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 York Hayes from St. Paul Missionary Baptist Church presented a prayer for the Invocation. (District 5)

PLEDGE OF ALLEGIANCE

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

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the recipients of the City of San Jose's *Champions of Arts Education Awards*. (Economic Development)

Action: Mayor Reed and Council Members Liccardo, Herrera and Campos recognized and commended the recipients of the City of San Jose's *Champions of Arts Education Awards*.

1.2 Presentation of a commendation to Baseball Buddies Foundation for their dedication with providing children with proper baseball gear. (Chu)

Action: Mayor Reed and Council Member Chu recognized the Baseball Buddies Foundation.

1.3 Presentation of a proclamation declaring May 7, 2011 through May 15, 2011 as "National Travel and Tourism Week" in the City of San José. (Constant)

Action: Mayor Reed and Council Member Constant recognized May 7, 2011 through May 15, 2011 as "National Travel and Tourism Week" in the City of San José.

1.4 Presentation of a proclamation declaring May 15, 2011 through May 21, 2011 as "National Police Week" in the City of San José. (Mayor)

Action: Mayor Reed recognized May 15, 2011 through May 21, 2011 as "National Police Week" in the City of San José.

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.

- (a) **ORD. NO. 28909 – Rezoning certain real property situated at the southwest corner of Tully Road and South King Road from CP Commercial Pedestrian to CP(PD) Planned Development Zoning District. PDC10-020**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28909 executed on March 22, 2011, submitted by the City Clerk.

Action: Ordinance No. 28909 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of April 20, 2011.**
(c) **Rules and Open Government Committee Report of April 13, 2011.**
(e) **Rules and Open Government Committee Report of March 23, 2011.**
(f) **Rules and Open Government Committee Report of March 16, 2011.**
(g) **Rules and Open Government Committee Report of March 9, 2011.**
(Mayor)

Action: Deferred to May 17, 2011 per City Clerk.

- (b) **Community and Economic Development Committee Report of April 25, 2011. (Herrera)**
(d) **Public Safety, Finance and Strategic Support Committee Report of April 21, 2011. (Constant)**

Documents Filed: (1) The Community and Economic Development Committee Report dated April 25, 2011. (2) The Public Safety, Finance and Strategic Support Committee Report dated April 21, 2011.

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

2.4 Mayor and Council Excused Absence Requests.

Action: There were none.

2.5 City Council Travel Reports.

Action: There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

Action: There were none.

2.7 Report on bids and award of contract for the Castleton Drive Main Replacement to the low bidder, Platinum Pipeline, Inc., in the amount of \$432,350 and approval of a fifteen percent (15%) budget contingency in the amount of \$64,853. CEQA: Exempt, File No. PP11-008. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean and Acting Director of Public Works David Sykes, dated April 18, 2011, recommending approval of the contract to the low bidder with related contingency.

Action: The award of contract for the Castleton Drive Main Replacement to the low bidder, Platinum Pipeline, Inc., in the amount of \$432,350, with related contingency, was approved. (11-0.)

2.8 (a) Approve the first amendment to the agreement with MRF Geosystems Corporation of Calgary, Alberta, Canada, for GIS consultant services for the Storm GIS Data Improvement Project at no cost to the City.

(b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute up to four future amendments to this agreement in an aggregate amount not to exceed \$63,000.

CEQA: Not a Project. File No. PP10-066(d), Consultant Services for Design, Study, Research, Inspection or other professional consulting services. (Public Works)

Documents Filed: City Council Action Request from Acting Deputy Director Barry Ng, dated April 29, 2011, recommending approval of the first amendment to the agreement and adoption of a resolution.

Action: The first amendment to the agreement with MRF Geosystems Corporation of Calgary, Alberta, Canada, for GIS consultant services for the Storm GIS Data Improvement Project at no cost to the City was approved and Resolution No. 75795, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute Up to Four Future Amendments to the Agreement With MRF Geosystems Corporation in an Aggregate Amount Not To Exceed \$63,000", was adopted. (11-0.)

2.9 Adopt a resolution setting a public hearing on Tuesday, June 7, 2011, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP10-066(e) services that involve no physical changes to the environment. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated April 18, 2011, recommending adoption of a resolution.

2.9 (Cont'd.)

Action: Resolution No. 75796, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing for the Approval of a Report of the Director of Finance on the Cost of Unpaid Sidewalk Repairs for June 7, 2011", was adopted. (11-0.)

2.10 Adopt a resolution authorizing the City Manager, or designee, to:

(a) Submit a request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2011-2012 Transportation Development Act, Article 3 (TDA3) State grant funding in the amount of \$489,546.

(b) Accept any grant funding from MTC and negotiate and execute any grant documents to effectuate the grant.

CEQA: Exempt, File Nos. PP08-186 and PP10-078. (Transportation)

Documents Filed: City Council Action Request from Bicycle and Pedestrian Program Manager John Brazil, dated April 15, 2011, recommending adoption of a resolution.

Action: Resolution No. 75797, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Submit an Application to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2011-2012 Transportation Development Act, Article 3 (TDA 3) Grant Funding in An Amount Not To Exceed \$489,546 and To Negotiate and Execute Any Documents Necessary to Effectuate the Grant", was adopted. (11-0.)

2.11 As recommended by the Rules and Open Government Committee on May 10, 2011:

(a) Approve the Celebrate Cambrian Festival as a City Council sponsored Special Event.

(b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (City Clerk)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated April 27, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Celebrate Cambrian Festival as a City Council sponsored Special Event was approved and acceptance of donations from various individuals, businesses, or community groups to support the event was authorized. (11-0.)

2.12 Approve travel by Council Member Chu to Ontario, CA on April 8, 2011 to attend the regularly scheduled League of California Cities Transportation, Communication and Public Works Policy Committee as San José's designated representative. Source of Funds: Mayor & Council Travel Fund. (Chu)

Documents Filed: Memorandum from Council Member Chu, dated April 27, 2011, requesting approval of travel.

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

- 2.13 Approve travel by Council Member Chu to Sacramento, CA on May 19-20, 2011 to attend the regularly scheduled League of California Cities Board of Director's meeting as San José's designated representative. Source of Funds: Mayor & Council Travel Fund. The League of California Cities pays for lodging in advance and reimburses the City for other related travel expenses. (Chu)
(Rules Committee referral 05/04/11)**

Documents Filed: Memorandum from Council Member Chu, dated April 27, 2011, requesting approval of travel.

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

- 2.14 Approval of the first amendment to extend the term of the original agreement from June 30, 2011 to June 30, 2013 with IBI Group for architectural design and construction administration services for the Transportation Incident Management Center Project. CEQA: Not a Project, File No. PP10-066(d) Consultant Services. Council District 3. (Public Works)
(Deferred from 5/3/11 – Item 2.12)**

Documents Filed: City Council Action Request from Deputy Director of Public Works Harry Freitas, dated April 29, 2011, requesting approval of the first amendment to the original agreement.

Action: The first amendment to extend the term of the original agreement from June 30, 2011 to June 30, 2013 with IBI Group for architectural design and construction administration services for the Transportation Incident Management Center Project, was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone offered highlights relating to the FY 2011-2012 Council Budget Study Sessions beginning on Wednesday, May 11, 2011.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt a resolution adopting the Mitigated Negative Declaration prepared for the Coleman Soccer Fields project, File No. PP10-155, as having been completed in compliance with CEQA reflecting the City's independent judgment and analysis, and the adoption of a mitigation monitoring and reporting program. Council District 3. CEQA: The environmental impacts of the project were addressed by a Mitigated Negative Declaration circulated on November 17, 2010, and recommended for adoption by City Council. (Planning, Building and Code Enforcement)**

4.1 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 18, 2011, recommending adoption of a resolution.

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

Mayor Reed clarified that the Mitigated Negative Declaration was circulated on November 17, 2010.

Council Member Liccardo requested that Staff provide outreach to the District 3 community regarding the Coleman Soccer Fields Project.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75798, entitled: "A Resolution of the Council of the City of San José Adopting the Coleman Soccer Fields Mitigated Negative Declaration, For Which An Initial Study was Prepared, All in Accordance with the California Environmental Quality Act and Adopting a Related Mitigation Monitoring and Reporting Program", was adopted, as amended, with Staff directed to provide outreach to the District 3 community regarding the Coleman Soccer Fields Project. (11-0.)

4.2 **Accept the staff report to continue current practices of reservation and allocation of residential units in the North San José Area Development Policy area. CEQA: Resolution No. 72768 and Addenda thereto. Council Districts 3 and 4. (Planning, Building and Code Enforcement/Housing)**

Action: Deferred to May 17, 2011 per Administration.

NEIGHBORHOOD SERVICES

5.1 **Conduct a public hearing and consider the adoption of a resolution setting forth the new Schedule of Parkland Fees to reflect the 2010 Residential Land Value Study to be effective on August 1, 2011. CEQA: Not a Project, File No. PP10-067(a), Adjustments to Fees. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas, dated April 18, 2011, recommending adoption of a resolution.

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

5.1 (Cont'd.)

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, Resolution No. 75799, entitled: "A Resolution of the Council of the City of San José Setting Forth the Schedule of Parkland Fees Charged Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code to Reflect the 2010 Residential Land Value Study", was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.1 **Report on bids and award of contract for the 2011 Hillsdale Avenue Resurfacing Project to the low bidder Granite Construction Company in the amount of \$829,453 and approval of a five percent (5%) contingency in the amount of \$41,473. CEQA: Exempt, File No. PP11-035. Council District 9. (Transportation)**

Documents Filed: Memorandum from Acting Director of Transportation Hans F. Larsen, dated April 18, 2011, recommending the award of the contract to the low bidder with related contingency.

Acting Director of Transportation Hans Larsen presented the report and responded to Council questions.

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

Action: On a call for the question, the motion carried unanimously, the award of contract for the 2011 Hillsdale Avenue Resurfacing Project to the low bidder Granite Construction Company in the amount of \$829,453, with related contingency, was approved. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

7.1 **Report on bids and award of contract for the Morrill Avenue and Sierra Road Sanitary Sewer Improvement (RE-BID) Project to the low bidder, Pacific Underground Construction, Inc., in the amount of \$1,056,230, and approval of a contingency in the amount of \$106,000. CEQA: File No. PP11-015, dated February 4, 2011. Council District 4. (Public Works)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated April 18, 2011, recommending award of the contract to the low bidder with related contingency.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, award of contract for the Morrill Avenue and Sierra Road Sanitary Sewer Improvement Project to the low bidder, Pacific Underground Construction, Inc., in the amount of \$1,056,230, with related contingency, was approved. (11-0.)

PUBLIC SAFETY SERVICES

8.1 Accept the 2010 Independent Police Auditor's Year End Report. (Independent Police Auditor)

Documents Filed: (1) The 2010 Independent Police Auditor Year End Report. (2) Staff presentation dated May 10, 2011 summarizing the 2010 Independent Police Auditor Year End Report.

Independent Police Auditor LaDoris H. Cordell and Assistant Independent Police Auditor Shivaun Nurre presented the report and responded to council questions.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, the 2010 Independent Police Auditor's Year End Report, was accepted. (11-0.)

8.2 Accept the San José Police Department's (Department) Internal Affairs Unit (IA) report on Department Initiated Investigations for CY 2010. CEQA: Not a Project, File No. PP10-069(a), annual reports. (Police)

Documents Filed: Memorandum from Chief of Police Christopher Moore, dated April 28, 2011, recommending acceptance of the report.

Chief of Police Christopher Moore presented the 2010 San José Police Department Internal Affairs Department Initiated Investigations and responded to Council questions.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, the San José Police Department's (Department) Internal Affairs Unit (IA) report on Department Initiated Investigations for CY 2010, was accepted. (11-0.)

ADJOURNMENT

The Council of the City of San José was adjourned at 3:56 p.m. in memory of Anne Mack, a life long dedicated community activist, whose impact on the City of San José will always be remembered. (Campos/Chu/Kalra/Pyle)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis D. Hawkins, CMC
City Clerk
smd/05-10-11 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.