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## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 7, 2011

The Council of the City of San José convened in Regular Session at 9:04 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 offered the Labor Negotiations Update.

Documents Filed: Letter from Robert Sapien (San Jose Fire Fighters Local 230), dated June 3, 2011, asking that the City resumes its retirement reform discussions.

Public Comments: Offering criticism and comments on the City's negotiation practices and on pension reform, were: John Mukhar (AEA); Matt Farrell, Nancy Ostrowski and Cay Denise MacKenzie (IFPTE 21); Greg Jobe (AEA), Phyllis Dawkins-Thames (CAMP), Ross Bayer (AMSP), Brian Doyle (ALP) and Robert Sapien (San Jose Fire Fighters).

### 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 9:11 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection

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 (Cont'd.)

(a) of Section 54956.9 with respect to existing litigation: (1) State Farm v. City, et al.; Names of Parties Involved: State Farm Mutual Insurance Company, Henrietta Rodrigues, City of San José, Michael Katherman, Does 1 to 50; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV142472; Amount of Money or Other Relief Sought: Damages according to proof; (B) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.9: with respect to anticipated litigation of significant exposure in one (1) matter. In re: Claim of San Jose Repertory Theatre; City Department: Public Works; (C) to confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: (1) 150 Terrain Street, San José, CA; Negotiating Parties: Nanci Klein for the City of San José and Tom McEnery and Martin Menne for Urban Markets LLC; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (2) Lonus Street to Minnesota Avenue; 264-11-100 (portion), 264-11-101, 264-54-067, 264-56-108, 429-01-051, 434-01-059; Negotiating Parties: Matt Morley and Nanci Klein for the City of San José and Rick Gooch for Union Pacific Rail Road; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (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 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,

## **CLOSED SESSION (Cont'd.)**

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.

## **INVOCATION**

Pastor Scott Simmerok from Church on the Hill presented the Invocation. (District 6)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance accompanied by third-grade students from Queen of Apostles Elementary School, District 1.

## **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, with Items 2.3(d) and 2.3(e) deferred to June 14, 2011. (11-0.)

## **CLOSED SESSION REPORT**

Richard Keit was designated by the Council to lead the Redevelopment Agency following the retirement of Redevelopment Agency Executive Director Harry S. Mavrogenes.

Concerns from bargaining units were heard during Closed Session regarding timelines and processes related to retirement reform:

- The City Council has provided staff direction to work with the bargaining units on potentially giving more time to the process for the good of the City and to provide capacity to talk about both issues together: the potential ballot measure and negotiations over broader retirement reform issues.
- This may or may not include moving the November timeframe for a ballot measure.
- Staff will be contacting the bargaining units to discuss this further.
- However, we want to be clear that we are under a tight timeframe and that there is urgency around this issue in needing to address our retirement costs prior to Fiscal Year 2012-2013. Any process must ensure that we reach a resolution before the budget process begins for 2012-2013.

## CLOSED SESSION REPORT (CONT'D.)

- We also recognize that the POA has not concluded voting on the tentative agreement and we want them to know that we are very appreciative of their work in reaching a tentative agreement that will avoid the layoffs of an additional 156 police officers.
- We want to ensure there is time to work with them, and all of our bargaining units.
- We appreciate those bargaining units who have asked us to begin negotiations on retirement reform, including AEA, CAMP, AMSP and the San José Firefighters.
- Staff will be following up with all of our bargaining units to work on a possible framework for the negotiations and will be reporting back to us no later than June 21, 2011 on those discussions.

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Enrique Flores for his commitment to make quality educational experiences available to underprivileged youths and supporting our community as Founder and Director of East Side Heroes. (Chu/Campos) (Rules Committee referral 05/25/11)**

Action: Mayor Reed commended Enrique Flores for his commitment to make quality educational experiences available to underprivileged youths and supporting our community as Founder and Director of East Side Heroes.

## CONSENT CALENDAR

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

- 2.2. (a) ORD. NO. 28918 – Rezoning certain real property situated at the southwest corner of Foxworthy Avenue and Almaden Expressway (1175 Hillsdale Avenue; APN: 451-06-066 & -068) to CN(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28918 executed on May 24, 2011, submitted by the City Clerk.

Action: Ordinance No. 28918 was adopted.

- 2.2 (b) **ORD. NO. 28919** – Amending Sections 25.08.700 and 25.08.730 of Part 7 of Chapter 25.08 and Section 25.16.050 of Chapter 25.16 of Title 25 of the San José Municipal Code to require all providers of Taxicab services at the airport to obtain an Airport Ground Transportation Permit, to require that parking shuttle operations be conducted in a separate vehicle from any other ground transportation services at the airport and to clarify the circumstances under which persons may be authorized to park without charge in public parking facilities at the airport.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28919 executed on May 24, 2011, submitted by the City Clerk.

Action: Ordinance No. 28919 was adopted.

### 2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of May 11, 2011.**
- (b) **Public Safety, Finance and Strategic Support Committee Report of May 19, 2011. (Constant)**
- (c) **Community & Economic Development Committee Report of May 23, 2011. (Herrera)**
- (f) **Rules and Open Government Committee Report of April 20, 2011. (Mayor)**  
[Deferred from 5/10/11 – Item 2.3(a), 5/17/11 – Item 2.3(b) and 5/24/11 – Item 2.3(e)]
- (g) **Rules and Open Government Committee Report of April 13, 2011. (Mayor)**  
[Deferred from 5/3/11 – Item 2.3(a), et al, 5/24/11 – Item 2.3(f)]
- (h) **Rules and Open Government Committee Report of March 23, 2011. (Mayor)**  
[Deferred from 4/12/11 – Item 2.3(a), et al, and 5/24/11 – Item 2.3(g)]
- (i) **Rules and Open Government Committee Report of March 16, 2011. (Mayor)**  
[Deferred from 4/5/11 – Item 2.3(a), et al, and 5/24/11 – Item 2.3(h)]
- (j) **Rules and Open Government Committee Report of March 9, 2011. (Mayor)**  
[Deferred from 3/29/11 – Item 2.3(a), et al, and 5/24/11 – Item 2.3(i)]

Documents Filed: (1) The Rules and Open Government Committee Reports dated May 11, April 20, April 13, March 23, March 16 and March 19, 2011. (2) Public Safety, Finance and Strategic Support Committee Report dated May 19, 2011. (3) Community & Economic Development Committee Report, dated May 23, 2011.

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

- (d) **Rules and Open Government Committee Report of May 4, 2011. (Mayor)**  
[Deferred from 5/24/11 – Item 2.3(c)]
- (e) **Rules and Open Government Committee Report of April 27, 2011. (Mayor)**  
[Deferred from 5/17/11 – Item 2.3(a) and 5/24/11 – Item 2.3(d)]

Action: Deferred to June 14, 2011 per the City Clerk.

- 2.4 (a) **Request for an excused absence Vice Mayor Nguyen from the City Council Budget Study Session on May 19, 2011 due to illness. (Nguyen) (Rules Committee referral 05/25/11)**
- (b) **Request for an excused absence Vice Mayor Nguyen from the regular meeting of the Public Safety, Finance and Strategic Support Committee on May 19, 2011 due to illness. (Nguyen) (Rules Committee referral 05/25/11)**

Documents Filed: Two memoranda from Vice Mayor Nguyen, dated May 19, 2011, requesting excused absences due to illness.

Action: The absences were excused. (11-0.)

## 2.6 **Report from the Council Liaison to the Retirement Boards**

Council Member Constant provided a verbal Retirement Board report regarding unfunded liability contribution rates for healthcare.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Council Member Constant's Retirement Board report was approved, with direction to the City Attorney to report back to the Rules Committee with further clarification of California Government Code Section 7513.95 under Public Pension and Retirement Plans, which states: "A member or employee of the board shall not, directly or indirectly, by himself or herself, or as an agent, partner, or employee of a person or entity other than the board, sell or provide any investment product that would be considered an asset of the fund to any public retirement system in California." (11-0.)

- 2.7 **Approve settlement in the case of *Phuong Quang Ho v. City of San José, et al.*, and authorize the City Attorney to execute a Settlement Agreement and Release with Phuong Quang Ho in the amount of \$225,000. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 26, 2011, recommending approval of a settlement.

Action: The settlement in the case of *Phuong Quang Ho v. City of San José, et al.*, authorizing the City Attorney to execute a Settlement Agreement and Release with Phuong Quang Ho in the amount of \$225,000, was approved. (11-0.)

- 2.8 (a) **David J. Powers & Associates, Inc. for a variety of environmental support services from the date of execution through December 31, 2014 in an amount not to exceed \$500,000, subject to appropriation of funds.**
- (b) **Denise Duffy & Associates, Inc. for a variety of environmental support services from the date of execution through December 31, 2014 in an amount not to exceed \$500,000, subject to appropriation of funds.**

**CEQA: Not a Project, File No. PP10-066, contracts for professional services. (Public Works)**

**2.8 (Cont'd.)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 16, 2011, recommending approval of consultant master agreements.

Action: Master Agreements for Environmental Support Services with David J. Powers & Associates, Inc. and Denise Duffy & Associates, Inc. for a variety of environmental support services from the date of execution through December 31, 2014, were approved. (11-0.)

**2.9 (a) Adopt a resolution authorizing the Director of Public Works to negotiate and execute the following amendments to the Agreement for Design Services with the Santa Clara Valley Transportation Authority for the Capitol Expressway Light Rail Pedestrian Improvements (CELR) Project:**

- (1) A first amendment to add services, extend the term, and increase compensation in the amount of \$150,000 for a total contract amount not to exceed \$459,225, subject to the appropriation of funds; and
- (2) A subsequent amendment to adjust reimbursable hourly compensation rates after approval of the 2011-2012 Adopted Operating Budget and total compensation costs are known.

**(b) Adopt the following 2010-2011 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:**

- (1) Increase the appropriation to the Department of Transportation for the Capitol Expressway Light Rail Pedestrian Improvements project by \$50,000.
- (2) Increase the estimate for Earned Revenue by \$50,000

**CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. Council Districts: 5 & 8. SNI Areas: Five Wounds/Brookwood Terrace, Gateway East, Mayfair, East Valley/680 Communities. (Public Works/City Manager's Office) (Deferred from 5/24/11 – Item 2.13)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 2, 2011, recommending adoption of a resolution, an appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 28923, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the Construction Excise Tax Fund for the Capitol Expressway Light Rail Pedestrian Improvements Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 75818 entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute Amendments to the Agreement for Design Services with the Santa Clara Valley Transportation Authority for the Capitol Expressway Light Rail Pedestrian Improvements Project”; and Resolution No. 75819, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the Construction Excise Tax Fund”, were adopted. (11-0.)

- 2.10 Approve the amendment to the Route 87 Freeway Project Right of Way Cooperative Agreement between the State of California and the City of San José, extending the termination date of the agreement to December 31, 2012. CEQA: Route 87 Freeway Project EIR, Resolution No. 65071. (Transportation)**

Documents Filed: City Council Action Request approved by Director of Transportation Hans Larsen, dated May 11, 2011, recommending approval of the Amendment to the route 87 Freeway Project Right of Way Cooperative Agreement.

Action: The amendment to the Route 87 Freeway Project Right of Way Cooperative Agreement between the State of California and the City of San José, extending the termination date of the agreement to December 31, 2012 was approved. (11-0.)

- 2.11 As recommended by the Rules and Open Government Committee on June 1, 2011, adopt an oppose position for AB 976 (Hall) – Public Contracts: Consulting Services: Community Choice Aggregators. (Environmental Services) [Rules Committee referral 6/1/11 – Item D(1)(b)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated June 1, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: An oppose position was adopted for AB 976 (Hall) – Public Contracts: Consulting Services: Community Choice Aggregators. (Environmental Services). (11-0.)

- 2.12 As recommended by the Rules and Open Government Committee on June 1, 2011, approve a support position AB 512 (Gordon) – Local Government Renewable Energy Generation. (Environmental Services) [Rules Committee referral 6/1/11 – Item D(1)(c)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated June 1, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: A position of support was adopted for AB 512 (Gordon) – Local Government Renewable Energy Generation. (11-0.)

- 2.13 As recommended by the Rules and Open Government Committee on June 1, 2011, approve a support position for SB 790 (Leno) – Electricity: Community Choice Aggregators. (Environmental Services) [Rules Committee referral 6/1/11 – Item D(1)(d)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated June 1, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: A position of support was adopted for SB 790 (Leno) – Electricity: Community Choice Aggregators. (11-0.)

- 2.14 As recommended by the Rules and Open Government Committee on June 1, 2011:**
- (a) Appoint Mike Yaghamai to a term expiring June 30, 2014 on the Parks and Recreation Commission. (Pyle)**
  - (b) Appoint Paula Davis to an unexpired term ending June 30, 2013 on the Arts Commission. (Liccardo)**
- [Rules Committee referral 6/1/11 – Items G(1)(a) & G(1)(b)]**

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

Action: The appointment of Mike Yaghamai to the Parks and Recreation Commission, and the Appointment of Paula Davis to the Arts Commission were approved. (11-0.)

## **END OF CONSENT CALENDAR**

### **STRATEGIC SUPPORT SERVICES**

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

The City Manager indicated that the flags in front of City Hall were being flown at half mast in recognition of the two San Francisco firefighters who lost their lives in the line of duty this past week.

#### **3.3 As recommended by the Council Salary Setting Commission, approve an ordinance setting the salaries and benefits of the Mayor and City Council for the period June 26, 2011 through June 30, 2013 – Fiscal Years (FY) 2011- 2012 and FY 2012 – 2013 as follows:**

- (a) For the Mayor, reduce the salary recommended by the Commission for the 2009-2011 period from \$127,000 annually to \$114,000 annually, to be effective June 26, 2011.**
- (b) For each Councilmember, reduce the salary recommended by the Commission for 2009-2011 from \$90,000 annually to \$81,000 annually, to be effective June 26, 2011.**
- (c) Retain the levels of health, dental, life insurance and other benefits through in accordance with the benefits provided to management employees in Unit 99.**
- (d) For the current Mayor and Councilmembers (meaning those in office as of July 1, 2011), maintain the City’s participation and contributions to CalPERS defined benefit or PTC 457 defined contribution plans through their terms of office.**
- (e) Direct the City Clerk and City Attorney to perform necessary research and return with recommendations for the implementation of a change in retirement plan benefits for future Councilmembers, including options available through CalPERS or other providers.**

- 3.3 (f) Reduce the 2009-2011 Commission recommendation of a monthly \$600 vehicle allowance to a monthly \$350 vehicle allowance for the Mayor and each member of the City Council, to be effective June 26, 2011. (g) Continue to require Councilmembers to pay \$250 for each unexcused absence at scheduled Council meetings, pursuant to City Charter Section 407. (City Clerk) (Deferred from 5/17/11 – Item 3.3)**

Documents Filed: (1) Memorandum from Mayor Reed, dated May 19, 2011, recommending adoption of an ordinance. (2) Memorandum from Council Member Constant, dated June 6, 2011, recommending acceptance of the report with modifications. (3) Joint memorandum from City Clerk Dennis Hawkins and City Attorney Richard Doyle, dated May 6, 2011, recommending approval of an ordinance.

Motion: Council Member Constant moved approval of the Staff's recommendations, including modifications as outlined in his memorandum of June 6, 2011. Council Member Oliverio seconded the motion.

Council discussion followed.

Action: On a call for the question, the motion carried, Ordinance No. 28924, entitled: "An Ordinance of the City of San José Adopting Salaries and Other Compensation for the Mayor and Council Members Recommended by the Council Salary Setting Commission Pursuant to City Charter Section 407", was adopted, with modifications as outlined in Council Member Constant's memorandum of June 6, 2011, with item #1 modified to read "Limit future elected Council Members to participation in the City's PTC 457 Defined Contribution Plan *or similar defined contribution plan*, exclusively". (8-3. Noes: Campos, Chu, Pyle.)

- 3.4 As referred by the Public Safety, Finance and Strategic Support Committee on May 19, 2011, accept the Audit of Key Drivers of Employee Compensation. (City Auditor) [Public Safety, Finance and Strategic Support Committee referral 5/19/11 – Item D(5)]**

Documents Filed: (1) Memorandum from City Clerk Dennis Hawkins, dated May 19, 2011, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (2) Staff presentation "Key Drivers of Employee Compensation", dated June 7, 2011.

City Auditor Sharon Winslow-Erickson presented an overview of the Audit of Key Drivers of Employee Compensation and responded to extensive questions from Council.

Council Member Kalra offered criticism of the merit-based systems, citing a lack of checks and balances. Council Member Chu recommended a thorough review of the performance review system.

### 3.4 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Audit of Key Drivers of Employee Compensation Agreement as recommended by the Public Safety, Finance and Strategic Support Committee, was accepted. (11-0.)

### 3.5 **Conduct a public hearing on recording liens on property for the reimbursement of cost for sidewalk repairs and adopt a resolution to approve the report from the Director of Finance on the reimbursement of cost for sidewalk repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP10-067(a), Specific Funding mechanism for Increase or Adjustment to Fees, Rates and Fares. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated May 25, 2011, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Finance Scott P. Johnson, dated June 7, 2011, updating the report with results of Sidewalk Repair Administrative Hearings held on May 26, 2011.

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

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, Resolution No. 75820, entitled: “A Resolution of the Council of the City of San José Approving the Report of the Director of Finance on the Reimbursement of Cost for Sidewalk Repairs, Confirming the Assessments Contained in the Report and Directing the Recording of Liens on the Property Tax Roll for the Cost of Sidewalk Repairs”, was adopted. (11-0.)

### 3.6 **Consider an ordinance amending Title 3 of the San José Municipal Code to add new Chapter 3.54 and 3.56, and to amend Sections 3.36.575, 3.36.1925, 3.36.1930, 3.36.2030 and 3.36.2050 for the purposes of establishing a new trust pursuant to Section 115 of the Internal Revenue Code related to retiree health care benefit funding and payment of retiree health care benefits. CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office) (Rules Committee referral 05/25/11)**

Action: Deferred to August 2, 2011 per Administration.

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) Preliminary approval of the report as filed by the Hotel Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2011-2012, and set June 21, 2011 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. (Economic Development)
- (b) Preliminary approval of the report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2011-2012, and set June 21, 2011 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. Council District 3. SNI: 13<sup>th</sup> Street. (Economic Development)
- (c) Preliminary approval of the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution to levy an increased annual assessment for Fiscal Year 2011-2012, and confirming June 21, 2011 at 1:30 pm as the date and time for the public hearing on the levy of the proposed increased assessment. CEQA: Exempt, File No. PP03-05-165. Council District 3. SNI: St. James Square; University; Josefa/Auzerais; Burbank/DelMonte. (Economic Development)

Documents Filed: (1) Three memoranda from Director of Economic Development/Chief Strategist Kim Walesh, each dated May 16, 2011, recommending preliminary approval of the 2011-12 Budget Report and approval of resolutions. (2) Proof of Publication of Notice of Public Hearing, executed on May 6, 2011, submitted by the City Clerk.

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

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 75821 entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2011-2012 in the Hotel Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing"; Resolution No. 75822, entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2011-2012 in the Japantown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing"; and Resolution No. 75823, entitled: "A Resolution of the Council of the City of San José

#### 4.1 (Cont'd.)

Declaring its Intent to Levy An Increased Annual Assessment for Fiscal Year 2011-2012 in the Downtown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Confirming June 21, 2011 at 1:30 P.M. as the Date and Time for the Public Hearing on the Levy of the Proposed Increased Assessments”, were adopted. (11-0.)

#### 4.2 **Adopt a resolution to amend the Schedule of Parkland Fees to clarify the definition of “low-income units” exempt from the payment of parkland fees applying to residential projects that have obtained an approved discretionary permit or tentative or parcel map on or before October 24, 2010 and subsequently obtain an amendment or new development approval(s) without changing the type or increasing the number of units in the residential project. CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges. (Parks, Recreation and Neighborhood Services/Housing)**

Documents Filed: Joint memorandum from Director of Housing Leslye Corsiglia and Deputy City Manager Noberto Duenas, dated May 16, 2011, recommending adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried, Resolution No. 75824, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75799 (Schedule of Parkland Fees) to Clarify the Definition of “Low-Income Units” Exempt from the Payment of Parkland Fees for Residential Projects that have Obtained an Approved Discretionary Permit or Tentative or Parcel Map on or Before October 24, 2010 and Subsequently Obtain an Amendment to the Approved Discretionary Permit or Tentative or Parcel Map or Obtain a New Development Approval(s) for Essentially the Same Project Without Changing the Type or Increasing the Number of Units in the Residential Project”, was adopted. (10-1. Noes: Oliverio.)

#### 4.3 **Approve Deferred Annexation Agreements with the present and/or prospective owners of the Lands of Viso and forward the Agreements to the County of Santa Clara for recordation. CEQA: Mitigated Negative Declaration adopted by the Santa Clara County Board of Supervisors. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated May 16, 2011, recommending authorization of Deferred Annexation Agreements.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the Deferred Annexation Agreements with the present and/or prospective owners of the Lands of Viso and forward the Agreements to the County of Santa Clara for recordation were approved. (11-0.)

## **TRANSPORTATION & AVIATION SERVICES**

- 6.1 As recommended by the Transportation and Environment Committee on May 2, 2011, accept the Valley Transportation Plan 2040 Report. (Transportation)  
[Transportation and Environment Committee referral 5/2/11 – Item D(4)]  
(Deferred from 5/24/11 – Item 6.2)**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated May 2, 2011, transmitting the recommendations of the Transportation and Environment Committee.

Action: The Valley Transportation Plan 2040 Report was approved. (11-0.)

## **ENVIRONMENTAL & UTILITY SERVICES**

- (a) Hold a Public Hearing to allow community input regarding the implementation plan for complying with the requirements of Senate Bill X7-7 (SB 7), Water Conservation Bill of 2009.**
- (b) Hold a Public Hearing to allow community input regarding the draft Urban Water Management Plan prior to its adoption.**
- (c) Adopt a resolution approving the San Jose Municipal Water System 2010 Urban Water Management Plan update and directing staff to file the Plan with the California Department of Water Resources.**

**CEQA: The preparation and adoption of an UWMP is exempt from the CEQA process per California Water Code section 10652. Council Districts 2, 4 7 and 8. (Environmental Services)**

Action: Continued to June 14, 2011 per Administration.

## **OPEN FORUM**

John Mayer expressed the importance of maintaining a strong police force.

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 3:49 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC  
City Clerk

rmk/06-07-11MIN