

CITY COUNCIL AGENDA

JUNE 14, 2011

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

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On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:08 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:31 p.m. - Reconvene Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.

7:02 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (District 6)**
Father Mark Gazzingan, St. Christopher Church presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed, accompanied by District 8 Girl Scout Troop, led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Items 2.3(a)-(e) and Item 3.7(c) deferred to June 21, 2011.
- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session actions of June 14, 2011:

CLOSED SESSION REPORT (Cont'd.)

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The names of the action(s) and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action(s) are formally commenced.

Council Vote: Ayes: Chu, Constant, Herrera, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.

Noes: Campos, Kalra.
Abstention: None.
Absent: None.

1. CEREMONIAL ITEMS

- 1.1 Presentation of commendations to HACE Scholarship recipients Jeanette Ramos, Athena Salinas, and Julian Perez. (Campos)
Heard in the Evening.
Mayor Reed and Council Member Campos recognized and commended HACE Scholarship recipients Jeanette Ramos, Athena Salinas, and Julian Perez.
- 1.2 Presentation of a commendation to the Jade Ribbon Youth Council for their hard work to mobilize and educate our community to become active leaders in the prevention and eradication of Hepatitis B and Liver Cancer. (Chu)
Heard in the Evening.
Mayor Reed and Council Member Chu recognized and commended the Jade Ribbon Youth Council for their efforts.
- 1.3 Presentation of a commendation to Jorge Zavala for his leadership as Director of TechBA, a Mexico-Silicon Valley Technology business accelerator located in San José that has supported hundreds of entrepreneurs and small business through its extensive services and his involvement as a Board Member of work2future. (Herrera/Economic Development)
Heard in the Evening.
Mayor Reed, Council Member Herrera and Director of Strategic Development Jeff Ruster recognized and commended Jorge Zavala for his leadership as Director of TechBA.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28908 – Amending Title 6 of the San José Municipal Code to add a new Chapter 6.88 to establish regulations pertaining to medical marijuana collectives and to the individual cultivation, and use of medical marijuana.
[Deferred from 5/17/11 – Item 2.2(a)]

Deferred to August 9, 2011 per Administration.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of May 18, 2011.
(b) Rules and Open Government Committee Report of May 25, 2011.
(c) Rules and Open Government Committee Report of May 11, 2011.
(d) Rules and Open Government Committee Report of May 4, 2011.
(e) Rules and Open Government Committee Report of April 27, 2011.

Deferred to June 21, 2011 per Orders of the Day.

- (f) Rules and Open Government Committee Report of April 20, 2011.
(g) Rules and Open Government Committee Report of April 13, 2011.
(h) Rules and Open Government Committee Report of March 23, 2011.
(i) Rules and Open Government Committee Report of March 16, 2011.
(j) Rules and Open Government Committee Report of March 9, 2011.

(Mayor)

Approved.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Agreement with Jefferson Wells for Audit Consultant Services.

Recommendation: Approve the Third Amendment to the agreement with Jefferson Wells International for continuation of on-call audit consultant services for the Terminal Area Improvement Program (TAIP) at the Norman Y. Mineta San Jose International Airport, increasing the total compensation by \$100,000 from \$500,000 to a total not to exceed fee of \$600,000, and extending the term of the agreement to December 31, 2011. CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design/Study/Research/Inspection. (Airport)

Approved.

2. CONSENT CALENDAR

2.8 Approve settlement in the case of *Alvis v. Olmos, City of San Jose, et al.*

Recommendation: Approve settlement in the case of *Alvis v. Olmos, City of San José, et al.*, and authorize the City Attorney to execute a Settlement Agreement and Release with Jennifer and Derek Alvis in the amount of \$225,000.00. CEQA: Not a Project, File No. PP10-066(h), Settlement Agreement. (City Attorney's Office)

Approved.

2.9 Tesla Motors Foreign Trade Subzone Application.

Recommendation: Adopt a resolution to:

- (a) Authorize the City Manager to submit an application to the U.S. Foreign-Trade Zones Board to establish a Foreign Trade Subzone at Tesla Motors, Inc. facilities in Palo Alto and Fremont.
- (b) Authorize the City Manager to negotiate and execute an agreement with Tesla Motors, Inc. for management and operation of the Subzone upon the U.S. Foreign-Trade Zones Board's approval of the application.

CEQA: Not a Project, File No. PP10-068 3(a), Federal Application. (Economic Development)

Resolution No. 75826 adopted.

2.10 Master Agreement with GHD Inc., for Asset Management Consultant Services.

Recommendation: Approve a master agreement with GHD Inc., for Asset Management Consultant Services in an amount not to exceed \$300,000, for a term of July 1, 2011 date to June 30, 2014. CEQA: Not a Project, File No. PP10-066(a), new contract for professional services with no change to the physical environment. (Environmental Services)

Deferred to June 21, 2011 per Administration.

2.11 Agreement with Westin Engineering, Inc., for Implementation of a Computerized Maintenance Management System.

Recommendation: Approve a Continuation Agreement with Westin Engineering, Inc., for Implementation of a Computerized Maintenance Management System at the San Jose/ Santa Clara Water Pollution Control Plant for ten additional months to expire on June 30, 2012, at no additional cost. CEQA: Not a Project, File No. PP10-066(a), Contract amendment for software installation and support. (Environmental Services)

Deferred to June 21, 2011 per Administration.

2. CONSENT CALENDAR

2.12 Agreement with TransCore ITS for an Adaptive Traffic Control System.

Recommendation:

- (a) Report on Request for Proposal for the purchase and deployment of an Adaptive Traffic Control System.

Accepted.

- (b) Adopt a resolution authorizing the Director of Finance to negotiate and execute:
- (1) An agreement with TransCore ITS, LLC (Pleasanton, CA) for the design, purchase, implementation and deployment of an Adaptive Traffic Control System including all hardware, software (including third party licenses), related professional services, one year of extended maintenance and support, shipping and applicable sales tax for an amount not to exceed \$905,720.
 - (2) Change orders not to exceed a contingency amount of \$90,000 to cover any unanticipated design or implementation changes.
 - (3) Four one-year options for ongoing maintenance and support subject to annual appropriation of funds.
 - (4) An amendment or change order to purchase additional hardware and software to expand the adaptive control system to cover additional intersections for four years, subject to the appropriation of funds.

CEQA: EIR, File No. PP08-154, September 18, 2008. (Finance)

Resolution No. 75827 adopted.

2.13 Joint Powers Agreement to Establish the Bay Area Regional Interoperable Communications System.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to execute the Joint Powers Agreement to Establish the Bay Area Regional Interoperable Communications System (BayRICS) Authority on behalf of the City of San Jose, upon appropriation of funding.

Resolution No. 75828 adopted.

- (b) Authorize the Mayor to appoint a representative from the City of San Jose to the BayRICS JPA Board of Directors and an alternate.

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

Approved.

2. CONSENT CALENDAR

2.14 Amendment to the Urban Area Security Initiative Memorandum of Understanding.

Recommendation: Adopt a resolution authorizing the City Manager to execute a second Amendment to extend the term of the Joint Memorandum of Understanding with the City and County of San Francisco, City of Oakland, Alameda County, and Santa Clara County as partners in the San Francisco Bay Urban Area Security Initiative grant program from July 1, 2011 to December 31, 2011. CEQA: Not a Project, File No. PP10-066 (a), 2010 UASI Grant MOU. (Fire/City Manager's Office)

Resolution No. 75829 adopted.

2.15 Memorandum of Understanding with San José Unified School District for an Artificial Turf Soccer Field at Allen at Steinbeck School.

Recommendation: Adopt a resolution that authorizes the City Manager or designee to negotiate and execute a Memorandum of Understanding between the City of San José and the San José Unified School District which describes the parties' vision for the shared planning, development and operation of an artificial turf soccer field at Allen at Steinbeck School. CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Parks, Recreation and Neighborhood Services)

Resolution No. 75830 adopted.

2.16 Agreement with the Santa Clara Valley Water District for Thompson Creek & Guadalupe River Bank Erosion & Outfall Repair Projects.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a cost-sharing agreement with the Santa Clara Valley Water District to compensate the District for design and construction associated with the repair of a City outfall and an eroded bank along Thompson Creek, and sediment removal and repair of an eroded bank along Guadalupe River in a total amount not to exceed \$553,000. CEQA: "Final Environmental Impact Report for the Multi-Year Stream Maintenance Program" dated August 2001. Resolution No. 2001-56 adopted August 21, 2001, by the Santa Clara Valley Water District Board of Directors. Council Districts 6, 8 and 9. (Public Works)

Resolution No. 75831 adopted.

2.17 Master Agreement with Schaaf & Wheeler for consultant services for Storm Drainage Master Planning and General Engineering Services.

Recommendation: Approve a Master Agreement with Schaaf & Wheeler for consultant services for Storm Drainage Master Planning and General Engineering Services from the date of execution to December 31, 2014, in an amount not to exceed \$500,000, subject to appropriation of funds. CEQA: Exempt, File No. PP10-066. (Public Works)

Approved.

2. CONSENT CALENDAR

2.18 Master Agreement with AECOM Technical Services, Inc. for Consultant Services.

Recommendation: Approve a Master Agreement with AECOM Technical Services, Inc. for consultant services for various projects from the date of execution to June 30, 2014, in an amount not to exceed \$500,000, subject to appropriation of funds. CEQA: Not a Project, File No. PP10-066(d), consultant services that will have no effect on the environment. (Public Works)

Approved.

2.19 Annual Budget Reports for Fiscal Year 2011-2012 for City of San José Maintenance Districts.

Recommendation: Adopt resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2011-2012 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21 and 22 and levying the assessments therein. CEQA: Not a Project, File No. PP10-069 (a), annual reports. Council Districts 2, 3, 4 and 8. (Public Works)

Resolution Nos. 75832, 75833, 75834, 75835, 75836, 75837, 75838, 75839, 75840, 75841, 75842, 75843 and 75844 adopted.

2.20 Downtown San Jose Property-Based Business Improvement District Annual Report.

Recommendation: Adopt a resolution to:

- (a) Approve the Downtown San Jose Property-Based Business Improvement District Annual Report for Fiscal Year 2011-2012 as filed or modified by Council.
- (b) Confirm the individual assessments as proposed or modified by Council, including the assessment on City-owned property of approximately \$354,773 and the assessment on Redevelopment Agency property of approximately \$47,503.
- (c) Direct the City baseline services contribution in the amount of \$364,255, and assessment payments as described above be made.
- (d) Direct the Director of Finance to deliver the assessment roll to the County for collection with the property taxes.

CEQA: Not a Project, File No. PP10-069(a), annual reports. Council District 3. (Public Works/Transportation)

Resolution No. 75845 adopted.

2.21 Jewish American Heritage Month Event.

Recommendation: As recommended by the Rules and Open Government Committee on June 1, 2011:

- (a) Approve the Jewish American Heritage Month Event as a City Council sponsored Special Event.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

Approved.

2. CONSENT CALENDAR

2.22 Canadian Flag Raising Event

Recommendation: As recommended by the Rules and Open Government Committee on June 1, 2011:

- (a) Approve the Canadian Flag Raising Event as a City Council sponsored Special Event.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(City Clerk)

Approved.

2.23 Council Member Chu's Travel to Sacramento, CA.

Recommendation: Approve travel by Council Member Chu to Sacramento, CA on June 17, 2011 to attend the regularly scheduled League of California Cities Transportation, Communication and Public Works Policy Committee meeting as the City's designated representative. Source of Funds: Mayor/Council Travel Fund if necessary. (Chu)

Approved.

2.24 Council Member Herrera's Travel to Sacramento, CA.

Recommendation: Approve travel by Council Member Herrera to Sacramento, CA on June 16-17, 2011 to attend the regularly scheduled League of California Cities Policy Committee. Source of Funds: Mayor/Council Travel Fund. (Herrera)

Approved.

2.25 Vice Mayor Nguyen's Travel to Sacramento, CA.

Recommendation: Approve travel by Vice Mayor Nguyen to Sacramento, CA on June 27-29, 2011 to participate in the "Capitol Academy 120 – State Leadership: An Insider's View" leadership program sponsored by the California Asian Pacific Islander Legislative Caucus Institute. Source of Funds: California Asian Pacific Islander Legislative Caucus Institute. No City Funds will be used for travel. (Nguyen)

Approved.

2.26 Downtown Parking Board Appointments.

Recommendation: As recommended by the Rules and Open Government Committee on June 8, 2011, appoint Corinne Winter as an At-Large representative and Steve Borkenhagen as the Downtown Association Representative to the Downtown Parking Board. (Liccardo)

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone presented highlights about the conference being held at City Hall, June 23, 2011, for entrepreneurs and small businesses featuring business development through social media.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

Heard 9:00 a.m.

Accepted.

3.3 Library Parcel Tax Rates for Fiscal Year 2011-2012.

Recommendation: Adopt a resolution increasing the Library Parcel Tax rates for Fiscal Year 2011-2012 by 1.69% over the Fiscal Year 2010-2011 rates and approving the placement of the Library Parcel Tax on the Fiscal Year 2011-2012 Santa Clara County Property Tax Roll. CEQA: Not a Project, File No. PP10-067 (a), specific funding mechanism – adjustment to rates. (Finance)

Resolution No. 75825 adopted.

3.4 Sewer Service and Use Charges and Storm Sewer Service Charges for 2011-2012.

Recommendation:

- (a) Conduct a public hearing on proposed 2011-2012 Storm Sewer Service Charges and proposed maximums for rate increases in 2012-2013; and direct staff to return during the 2012-2013 budget cycle with recommendations regarding rate increases in 2012-2013 consistent with staff recommended maximum rate increases noticed for that year;

The Public Hearing was held.

- (b) Adopt a resolution:

- (1) Setting the following Sewer Service and Use Charge rates for 2011-2012:

<u>Category</u>	<u>2011-2012 Monthly Rates</u>
Single-Family Residential	\$33.83
Multi-Family Residential	\$19.35 per unit
Mobile Home	\$19.39 per unit
Non-Monitored Commercial and Industrial	See Attachment A
Monitored Industrial	See Attachment A

- (2) Setting the following Storm Sewer Service Charge rates for 2011-2012:

Resolution No. 75857 adopted.

3. STRATEGIC SUPPORT SERVICES

3.4 Sewer Service and Use Charges and Storm Sewer Service Charges for 2011-2012 (Cont'd.)

<u>Category</u>	<u>2011-2012 Monthly Rates</u>
Single Family Residential and Duplex	\$7.87
Mobile Home	\$3.94 per unit
Residential Condominium	\$4.30 per unit
Large Multi-Family Residential (5 or more units)	\$4.30
Small Multi-Family Residential (3-4 units)	\$14.95
Commercial, Institutional, and Industrial	See Attachment B

CEQA: Not a Project, File No. PP10-067 (a) Increases or Adjustments to Fees, Rates & Fares. (Environmental Services)

3.5 Municipal Water System Potable Water Rate Increase for 2011-2012.

Recommendation:

- (a) Conduct a public hearing on proposed 2011-2012 San Jose Municipal Water System potable water rates and charges;
- (b) Adopt a resolution increasing the San Jose Municipal Water System potable water rates and charges by 5.9% effective July 1, 2011.

CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273 - Rates, Tolls, Fares, and Charges. (Environmental Services)

**The Public Hearing was held.
Resolution No. 75858 adopted.**

3.6 Recycle Plus Rates.

Recommendation:

- (a) Conduct a public hearing on proposed 2011-2012 Recycle Plus rates and proposed maximums for rate increases in 2012-2013 and 2013-2014; and direct staff to return during the 2012-2013 budget cycle with recommendations regarding rate increases in 2012-2013 consistent with staff recommended maximum rate increases noticed for that year;
- (b) Adopt a resolution to amend the current Recycle Plus rate resolution, as follows:
 - (1) Increase rates for multi-family households by 9%, effective July 1, 2011;
 - (2) Increase rates for single-family households by 9%, effective August 1, 2011;
 - (3) Effective August 1, 2011, cap enrollments in the single-family Low Income Rate Assistance program to ensure funding is available to cover costs of current program participants.

CEQA: Negative Declaration for 2010 Solid Waste Service Agreements, File No. PP10-055, adopted June 18, 2010. (Environmental Services)

**The Public Hearing was held.
Resolution No. 75859 adopted.**

Noes: Oliverio.

3. STRATEGIC SUPPORT SERVICES

3.7 Approve the 2011-2012 Operating and Capital Budgets for the City of San José and Schedule of Fees and Charges.

Recommendation:

- (a) Adopt a resolution approving the Operating Budget for 2011-2012 for the City of San José, the Capital Budget for 2011-2012 for the City of San José, and the Five Year Capital Improvement Program for 2012-2016 for the City of San José as revised by the Mayor's Budget Message and directing the City Manager to prepare final documents for adoption.
Resolution Nos. 75860, 75861 and 75862 adopted.
- (b) Adopt a resolution establishing the Schedule of Fees and Charges for 2011-2012.
Resolution No. 75863 adopted.
- (c) City Council adoption of a resolution to repeal Resolution No. 75686 and set forth the Master Parking Rate Schedule, with rates effective July 1, 2011, unless noted otherwise to:
 - (1) Implement the following parking rate and validation program changes at the Fourth Street Garage, the Market/San Pedro Square Garage, the Second/San Carlos Garage, and the Third Street Garage:
 - (a) Increase the daytime incremental parking rate from \$0.75 to \$1 every 20 minutes.
 - (b) Increase the maximum incremental daily parking rate from \$15 to \$20.
 - (c) Increase the evening flat rate from \$4 to \$5 effective January 1, 2012.
 - (d) Establish a \$4 flat daily rate Saturdays, Sundays and major holidays, with an increase to \$5 effective January 1, 2012.
 - (e) Modify the Downtown Parking Validation Program to provide for unlimited parking between 6 PM to 6 AM, Monday through Friday and all day on Saturday, Sunday and major holidays, with a two hour validation coupon.
 - (2) Increase the daytime incremental parking rate from \$0.75 to \$1 every 20 minutes and increase the maximum incremental daily parking rate from \$15 to \$20 at the City Hall Garage.
 - (3) Eliminate the one hour of free parking after 6:00 PM at the Fourth Street Garage.
 - (4) Modify the Free and 50% Discounted Parking Incentive programs to allow a building owner or property manager to enter into a parking lease agreement with the City on behalf of their tenants, for up to two years of free or 50% discounted parking for eligible businesses and under the same terms and conditions of the existing programs.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.7 Approve the 2011-2012 Operating and Capital Budgets for the City of San José and Schedule of Fees and Charges (Cont'd.)

- (c) (5) Incorporate other changes as described in this memorandum to include the Japantown Lot and previously owned Redevelopment Agency parking facilities transferred to the City and other new facilities now owned, controlled, or operated by the City, improve operations of the parking facilities and associated programs, modify eligibility for the Clean Air Vehicle Program and Downtown Validation Program, and clarify the Director of Transportation's authority relative to establishing parking rates. (Transportation)

Deferred to June 21, 2011 per Orders of the Day.

- (d) Adopt a resolution declaring the 0.23 acres of City-owned real property and building (old Fire Station 25) located at 1590 Gold Street surplus to the needs of the City.

Resolution No. 75864 adopted.

- (e) Adopt a resolution to amend the Administrative Citation Schedule of Fines to establish fines for various violations related to Title 6, Business Licenses and Regulations, Chapter 6.88 (Medical Marijuana Collectives) and repeal Resolution No75689, entitled Administrative Citation Schedule of Fines for Certain Violations of the San Jose Municipal Code.

Resolution No. 75865 adopted.

3.8 Report on RFP for Graffiti Abatement Services.

Recommendation:

- (a) Accept the Report on Request for Proposal for Graffiti Abatement Services.

Accepted.

Noes: Campos, Chu, Kalra, Rocha.

- (b) Adopt a resolution authorizing the Director of Finance, subject to the appropriation of funds, to:

- (1) Negotiate and execute an agreement with Graffiti Protective Coatings, Inc. (Los Angeles, CA) to provide Citywide Graffiti Abatement Services for an initial five-year term of June 27, 2011 through June 30, 2016, with a maximum compensation amount not to exceed \$3,159,503 for the initial five year term of the agreement.

- (2) Execute two (2) two-year options to renew the agreement.

CEQA: Exempt. (Finance/Parks, Recreation and Neighborhood Services)

Resolution No. 75866 adopted.

Noes: Campos, Chu, Kalra, Rocha.

3. STRATEGIC SUPPORT SERVICES

3.9 Actions Related to Medical Marijuana Zoning.

Recommendation: Conduct a public hearing and consider an ordinance of the City of San José amending Title 1 of the San José Municipal Code by amending Section 1.13.050 of Chapter 1.13 to exempt a lawful Medical Marijuana Collective from the definition of a public nuisance and amending Title 20 of the San José Municipal Code by amending Section 20.10.040 of Chapter 20.10, amending Section 20.40.100 of Chapter 20.40, amending Section 20.50.100 of Chapter 20.50, amending Section 20.70.100 of Chapter 20.70, adding a new Part 9.5 to Chapter 20.80, adding a new Part 13 to Chapter 20.100, and amending Section 20.100.200 of Chapter 20.100, all to establish land use regulations pertaining to Medical Marijuana Collectives and to establish a related zoning verification certificate process. (Planning, Building and Code Enforcement/City Attorney's Office)

Deferred to August 9, 2011 per Administration.

3.10 Approval of the Terms of an Agreement with the San Jose Police Officers' Association (SJPOA).

Recommendation: Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the San Jose Police Officers' Association (SJPOA) for the term of July 1, 2011 to June 30, 2012 or June 30, 2013, and authorizing the City Manager to execute an agreement, pending ratification by the SJPOA membership. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

Resolution No. 74846 adopted.

3.11 Council Appointee Compensation.

Recommendation: Adopt a resolution implementing compensation and benefit changes for the City Council Appointees to make last year's 10% reduction in compensation ongoing. (Mayor)

(Rules Committee referral 6/8/11)

The memorandum from Mayor Reed, dated May 19, 2011, was approved, and amended to include the Independent Police Auditor.

Resolution No. 75867 adopted, as amended.

Noes: Chu; Reed.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Request to Allow Assignment of Outstanding Loan from the San Carlos Townhomes Project to the San Carlos Senior Apartment Project.

Recommendation: Adopt a resolution to:

- (a) Approve a request to allow the assignment and assumption of an outstanding loan in the original amount of \$4,851,000 (“Townhomes Loan”), made to San Carlos Town Homes, LLC for the San Carlos Townhomes Project (“Townhomes Project”) to San Carlos Willard Associates, L.P., or its designated affiliate, in the form of new construction/permanent loan documents, to fund the development costs for the 95-unit San Carlos Senior Apartments project (“Senior Project”) located at 1523-1533 West San Carlos Street.
- (b) *Approve a waiver of the requirement that Agency supplemental housing funds be used solely to fund extremely low income units to allow a change in affordability mix for the senior project from 99 affordable unit serving households earning up to 30% Area Median Income (“AMI”) to 94 affordable units with 29 units serving households earning up to 30% AMI, 31 units serving households earning up to 40% AMI and, 34 units serving households earning up to 50% AMI, and one unrestricted manager’s unit.*
- (c) Extending the term of the existing loans on the Townhomes Project/Senior Project loans.
- (d) Authorize the Director of Housing to negotiate and execute all documents to effectuate these transactions and to extend the term of the loans as appropriate.

CEQA: Exempt, File No. PD04-103. Council District 6. SNI: Burbank/DelMonte.
(Housing)

Resolution No. 75842 adopted, as amended, revise recommendation on section (b) above: *Approve a waiver of the requirement that Agency supplemental housing funds be used solely to fund extremely low income units to allow a change in affordability mix for the senior project from 99 affordable unit serving households.*

Noes: Oliverio.

4.2 Public Hearing on a Historic Landmark Designation and a Historic Property Contract for the “Curtis House”.

Recommendation:

- (a) Public hearing on and consideration of adoption of a resolution to designate the “Curtis House” located at 96 South 17th Street as a landmark of special historic, architectural, aesthetic or engineering interest, or value of a historic nature; and **The Public Hearings were held.**

Resolution No. 75853 adopted.

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Public Hearing on a Historic Landmark Designation and a Historic Property Contract for the “Curtis House” (Cont’d.)

- (b) Public hearing on and consideration of adoption of a resolution to approve a Historic Property Contract (California Mills Act) between the City of San José and the property owner for the preservation of the Curtis House (City Landmark No. HL10-196), located at 96 South 17th Street.

The Historic Landmarks Commission (4-0-2, Commissioners Jackson and Colombe absent) recommends the City Council adopt the resolution designating the Curtis House located at 96 South 17th Street as Historic Landmark HL10-196 and recommends that the City Council approve a Historic Property Contract for the Curtis House (City Landmark No. HL10-196) with modifications to Exhibit C Preservation Plan of the Contract to remove or reduce the amount of landscaping work, remove the kitchen remodel, and add in work associated with façade improvements and replacing the roof with tile (Norwita & Preston Powell, Owners). SNI: University. CEQA: Exempt.

HL10-196/MA11-003 – District 3

Resolution No. 75854 adopted.

4.3 Public Hearing on a Historic Property Contract for the “Ashworth-Remillard House”.

Recommendation: Public hearing on and consideration of adoption of a resolution to approve a Historic Property Contract (California Mills Act) between the City of San José and the property owner for the preservation of the Ashworth-Remillard House, located at 755 Story Road for the property known as the Ashworth-Remillard House (Sue Cucuzza, owner). The Historic Landmarks Commission (4-0-2, Commissioners Jackson and Colombe absent) recommends that the City Council approve a historic property contract for the Ashworth-Remillard House – City Historic Landmark No. HS-92-62. CEQA: Exempt.

MA11-001 – District 7

The Public Hearing was held.

Resolution No. 75855 adopted.

4.4 Animal License Amnesty Program.

Recommendation: Approve an ordinance authorizing an Animal License Amnesty Program from September 1, 2011 through October 31, 2011, suspending all animal license citation activity, and waiving late fees. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Public Works)

Ordinance No. 28925 passed for publication.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Fire Station No. 36 Administrative Hearing on Request for Substitution of Subcontractor.

Recommendation: Consent to the request of Applegate Johnston, Inc., the general contractor on the new Fire Station No. 36 Project, to substitute itself and Butte Steel for Sciarini Steel. CEQA: Exempt, File Nos. PPO6-009 and PPO9-150. (Public Works)
Approved.

4.6 Amendments to Cisco Systems Alviso Development Agreement and City's Development Agreement Ordinance.

Recommendation: As recommended by the Rules and Open Government Committee on June 1, 2011, discuss and provide direction on:

- (a) The approval of an ordinance amending the Cisco Systems June 2000 Development Agreement; and
- (b) Modifications to the City's Development Agreement Ordinance.
(Mayor)

The memorandum from Mayor Reed and Council Members Chu and Liccardo, dated June 3, 2011 was approved. The Administration was directed to:

- (1) **Negotiate and prepare for City Council consideration in September 2011, amendments to the Development Agreement with Cisco Systems to:**
 - (a) **Allow Cisco Systems to retain approved entitlements for Site 6 in Alviso.**
 - (b) **Remove the second condition of the current agreement requiring half of the Phase 1 square footage to be built within 12 years.**
 - (c) **Retain the effectiveness of the 2000 agreement through 2020.**
- (2) **Prepare for City Council consideration in the August Priority Setting Session, a work load assessment to develop modifications to the Development Agreement Ordinance to streamline and strengthen the ordinance to support and advance the City's Economic Strategy goals.**

5. NEIGHBORHOOD SERVICES

5.1 Grant Applications for Round Two Proposition 84, Statewide Park Program Grant Funds.

Recommendation:

- (a) Adopt a resolution that authorizes the City Manager or designee to:
- (1) Submit grant applications for the following four projects: 1) Roberto Antonio Balermino Park, 2) Tamien Park, 3) St. James Park, and 4) Del Monte Park Phase I, in a total amount not to exceed \$20,000,000 under the Statewide Park Development and Community Revitalization Program of 2008 (Statewide Park Program) administered by the Office of Grants and Local Services (OGALS) within the California State Department of Parks and Recreation (DPR).
 - (2) For all projects with appropriate CEQA clearance, accept any grant funds awarded to the City and negotiate and execute all necessary documents to implement the grant awards and agree to the commitments required by the grant program as described in the memorandum.
 - (3) For the Tamien Park project, accept any grant funds awarded to the City for the limited purpose of completing CEQA, and negotiate and execute all necessary documents to implement the grant award for CEQA clearance and to return to City Council after appropriate CEQA clearance, for authorization to negotiate and execute all necessary documents including acceptance of any grant funds awarded to the City.

Resolution No. 75847 adopted.

- (b) Exempt the Roberto Balermino Park, Tamien Park, and Del Monte Park Phase I projects from the City Council policy set forth in Resolution No. 75638 adopted on November 16, 2010 requiring staff to identify long-term non-General Fund funding for maintenance prior to the commitment for development of any new park, trail or recreational facility.

CEQA: Roberto Antonio Balermino Park, Negative Declaration, File No. PDC98-089; St. James Park, Categorically Exempt, File No. PP02-108; Del Monte Park Phase I, EIR Resolution No. 72625, File No. PDC03-071; Tamien Park, Not a Project, File No. PP10-068, grant applications. (Parks, Recreation and Neighborhood Services)

Approved.

5. NEIGHBORHOOD SERVICES

5.2 Amendment to Pilot Program for Maintenance Funding for New Park Facilities.

Recommendation: Adopt a resolution to amend and restate the policy and pilot program approved by the City Council on November 16, 2010, that authorized City staff to proceed with the development of any new park or recreational facility if long-term non-general funding for maintenance is identified to:

- (a) Remove any reference to “trail” from the policy.
- (b) Expand the policy to allow more residential development projects to take advantage of the policy and pilot program by receiving credit against their parkland fees in exchange for providing long-term maintenance of a new park or new recreational facility.

CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges. (Parks, Recreation and Neighborhood Services)

Resolution No. 75848 adopted.

Noes: Oliverio.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Actions Related to Establishing Speed Limits.

Recommendation: Adopt a resolution to repeal Resolution No. 75531 and set forth the speed limits in the City of San José in compliance with State law and provide the opportunity for radar speed enforcement by:

- (a) Establishing speed limits on nine roadways; including portions of Bailey Avenue, Bernal Road/Silicon Valley Blvd., Blossom Hill Road, Charcot Avenue, Farnsworth Drive, Junction Avenue, Skyport Drive, Tasman Drive, and Yerba Buena Road.
- (b) Re-establishing speed limits with changes to seven roadways; including portions of Almaden Road, Great Oaks Blvd., O’Toole Avenue, Race Street, Seventh Street, and Tenth Street.
- (c) Recognizing speed limits established by the State of California for a portion of State Route 82 on San Carlos Street, and re-establishing speed limits on portions of Almaden Expressway and Capitol Expressway.
- (d) Adopting the speed limit established by the City of Santa Clara for Winchester Blvd. between Newhall Street and Stevens Creek Blvd for the segment within the jurisdiction of San José.
- (e) Making administrative corrections to the speed limit resolution as described in this memorandum.

CEQA: Exempt, File No. PP10-113. (Transportation)

Heard in the Evening.

Resolution No. 75868 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.2 Actions Related to the Development of Battery Switch Stations and the Operation of a Network of Zero-Emission “Battery Switchable” Electric Taxi Vehicles.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Public-Private Partnership Agreement between City of San José, City and County of San Francisco through San Francisco Municipal Transportation Authority (SFMTA) and Better Place Inc., relating to the development of battery switch stations and the operation of a network of zero-emission “battery switchable” electric taxi vehicles in San José and San Francisco as part of the Bay Area Electric Vehicle Taxi Corridor Program partially funded by a grant administered by the Federal Highway Administration of the U.S. Department of Transportation. CEQA: Exempt. (Transportation)

Resolution No. 75849 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 San José/Santa Clara Water Pollution Control Plant Odor Assessment.

Recommendation:

- (a) Accept the Plant’s odor assessment status report and direct staff to continue with the development of a regional odor assessment study:
 - (1) Develop a stakeholder process including the other possible odor generating facilities and the Plant’s tributary agencies.
 - (2) Develop a funding plan to include a portion of the funding from sources other than the Sewer Service and Use Charges.
 - (3) Complete development of a scope and engage consultant services.
 - (4) Provide a status report in the fall of 2011 on progress made.
- (b) Accept the analysis of the feasibility of implementing odor control projects in three to seven years and direct staff to continue to explore the possibility of accelerating biosolids projects and deliver a status report in fall 2011.

CEQA: Not a Project, File No. PP10-069 (a) Staff Reports. (Environmental Services/Public Works)

(Continued from 5/24/11 – Item 7.1)

Deferred to June 21, 2011 per Administration.

7. ENVIRONMENTAL & UTILITY SERVICES

7.2 San José Municipal Water System 2010 Urban Water Management Plan Update.

Recommendation:

- (a) Conduct 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) Conduct a Public Hearing to allow community input regarding the draft Urban Water Management Plan prior to its adoption.

The Public Hearings were held.

- (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. (ESD)

Resolution No. 75850 adopted.

8. PUBLIC SAFETY SERVICES

8.1 Agreement with the County of Santa Clara Emergency Medical Services Agency 911 Emergency Medical Services Provider.

Recommendation: Adopt a resolution authorizing the City Manager to execute the “911 Emergency Medical Services Provider Agreement between the City of San Jose and the County of Santa Clara Emergency Medical Services Agency” for the period of July 1, 2011 – July 1, 2016. CEQA: Not a Project, File No. PP10-066, Agreements. (Fire/City Manager’s Office)

Resolution No. 75856 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 1:41 p.m. to Consider Item 9.1 in a Joint Session.

9.1 Mayor's 2011 June Budget Message.

Recommendation:

- (a) Review, discuss and approve the Mayor's 2011 June Budget Message.
- (b) Adopt resolutions authorizing the City Manager and Redevelopment Agency Executive Director to negotiate and execute agreements for projects for which funding has been approved in the Mayor's Budget Message when amounts exceed the City Manager's or Executive Director's contract authority and environmental review has been completed.

(Mayor)

The following items were approved:

- (a) **The Mayor's 2011 June Budget Message for Fiscal Year 2011-2012, dated June 3, 2011.**
- (b) **The memorandum from Mayor Reed, dated June 13, 2011, June Budget Message Adjustments for Fiscal Year 2011-2012.**
- (c) **The Mayor's additions at the June 14, 2011 City Council Meeting:**
 - (1) **Keep San José branch libraries open 4 days per week;**
 - (2) **Restore 49 firefighter positions through the SAFER grant;**
 - (3) **Rehire additional police officers from any increase in sales tax receipts or COPS grants, and maximize the number of officers on patrol;**
 - (4) **Preserve Safe School Campus Initiative at middle and high schools;**
 - (5) **Restore 2 Park Ranger positions bringing total to 6 full-time FTE and 2.5 PT positions;**
 - (6) **Crossing guards: Added \$75,000 to fund additional priority intersections;**
 - (7) **Code Enforcement Officers: Reinstate 2.0 Code Enforcement officers to retain ability to respond to neighborhood quality complaints;**
 - (8) **Senior Wellness Programs: \$400,000 allocated to continue wellness programs at City and Community Based Organization sites.**
- (d) **The memorandum from Council Member Herrera dated June 14, 2011, accepting the recommendations of the Neighborhoods Commission as outlined in their May 27, 2011 letter to the Mayor and Council.**

Resolution No. 75851 adopted.

Redevelopment Agency Resolution No. 6017 adopted.

Noes: Campos, Chu, Constant, Kalra.

- **Open Forum**
Mark Trout presented his own observations on Child Protective Services.
- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 5:41 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

11.2 Administrative Hearing and Consideration of an Appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity.

Recommendation: 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 20,317 square-foot tenant space in a shopping center on an approximately 13.2 gross-acre site in the CG-Commercial General Zoning District located 100 feet westerly of the northwest corner of Morrill Avenue and Amberwood Lane (2105 Morrill Ave) (Chiu Gabriel H Trustee & Et Al, Owner; Walgreens, Applicant). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (5-0-2; Commissioners Kamkar and Platten Absent). CP10-016/ABC10-003 – District 4

Continuance to August 23, 2011 per Council District 4.

11.3 Rezoning real property located at/on the southeast corner of North First Street and East Rosemary Street.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the southeast corner of North First Street and East Rosemary Street (1290 North First Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to modify a zoning provision related to a voluntary contribution for parkland for an approved project which allows up to 290 multi-family residential units (106 Senior Affordable and 184 Multifamily Affordable) on a 4.045 gross acre site (1st & Rosemary Senior, 1st and Rosemary Family Housing, L.P., Owner). CEQA: North San José Development Policy Update EIR, Resolution No. 72768, adopted June 2005. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC11-011 – District 3

Ordinance No. 28926 passed for publication, as amended, with the modification on Page 13 of the Development Standards in paragraph (a) to read as follows: The developer shall pay an amount to the City to assist in the acquisition and/or improvement of parkland in an amount between \$400,000 and \$500,000, apportioned between the two (senior and family) projects.

Noes: Oliverio.

- **Open Forum**
Chris Ortiz expressed concerns about the continued gang violence and urged the Council to reconsider cutting staffing and resources of the Mayor's Gang Prevention Task Force and other Youth Intervention Programs.

- **Adjournment**
The Council of the City of San José was adjourned at 8:15 p.m. in memory of Lance Corporal Harry Lew, who passed away in April while defending our Country, for his approach to life with a creative expression that inspired those around him. (Chu)