



---

## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 14, 2011

The Council of the City of San José convened in Regular Session at 9:02 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Herrera, Kalra, Liccardo, Oliverio. (Excused)

### STRATEGIC SUPPORT SERVICES

#### 3.2 (a) Accept Labor Negotiations Update.

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

Public Comments: Brian Doyle, Association of Legal Professionals, indicated that there has not been good faith bargaining with the Unions. Vera Todorov, Association of Legal Professionals, suggested a cooling off period to obtain the facts and to look at actuarial studies that the bargaining units and the City can both agree to.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:08 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: (1) Redevelopment Agency/City vs. Bank of America, N.A., et al; Names of Parties Involved: City of San José, Redevelopment Agency, Bank of America, N.A., Merrill Lynch & Co.; Inc., UBS AG, UBS Financial Services, Inc., UBS Securities, LLC, MBIA, Inc., Citibank, N.A., Citigroup Financial Products Inc., Citigroup Global Markets Holdings Inc., Morgan Stanley, Rabobank Group, Bayerische, Landesbank Gironzentrale, Piper Jaffray & Co., Societe Generale SA, Financial Security Assurance, Inc., Assured Guaranty US Holdings Inc., Dexia S.A., National Westminster Bank, PLC, Natixis Funding Corp., Natixis S.A.,

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

The Goldman Sachs Group, Inc., Goldman Sachs Mitsui Marine Derivative Products, L.P., Goldman Sachs Bank USA, CDR Financial Products, Winters & Co., Advisors, LLC, George K. Baum & Co., Sound Capital Management, Inc., Investment Management Advisory Group, Inc., First Southwest Company, PFM Investment, LLC PFM Asset Management LLC; Court: U.S. District Court, Northern District of California; Case No: CV 102199; Amount of Money or Other Relief Sought: Damages according to proof; (2) County of Alameda, et al. v. AMBAC Financial, et al; Names of Parties Involved: County of Alameda, City and County of San Francisco, City of Los Angeles, Los Angeles Department of Water and Power, Los Angeles World Airports, City of Oakland, City of Richmond, Redwood City, East Bay Municipal Utility District; City of Sacramento, Sacramento Suburban Water District, Sacramento Municipal Utility District, City of San José, City of Stockton, Redevelopment Agency of the City of Stockton, the Public Financing Authority of the City of Stockton, County of Tulare, The Regents of the University of California, Redevelopment Agency of the City of San José, AMBAC Financial Group, Inc., AMBAC Assurance Corporation, MBIA, Inc., MBIA Insurance Corporation, MBIA Insurance Corp. of Illinois, AKA National Public Finance Guarantee Corporation, Syncora Guarantee, Inc., FKA XL Capital Assurance, Inc., Financial Guaranty Insurance Company, Financial Security Assurance Inc., CIFG Assurance of North America, Inc., Assured Guaranty Corp., Jason Kissane, Does 1 through 50; Court: Superior Court of California, In and For the City and County of San Francisco; Case No: CJC-08-004555; Amount of Money or Other Relief Sought: Damages according to proof; (3) Murrel v. City; Names of Parties Involved: Dawn Murrel, City of San José, Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV172575; Amount of Money or Other Relief Sought: Damages according to proof. (B) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation in two (2) matters. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of

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

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 11:01 a.m. and reconvened to Regular Session at 11:16 a.m. in the Council Chambers.

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

Absent: Council Members - All Present.

## **ORDERS OF THE DAY**

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Items 2.3(a)-(e) and Item 3.7(c) were deferred to June 21, 2011. (11-0.)

## **CLOSED SESSION REPORT**

City Attorney Doyle disclosed the following Closed Session actions of June 14, 2011:

### **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.

## CLOSED SESSION REPORT (Cont'd.)

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

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

## STRATEGIC SUPPORT SERVICES

- 3.3 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)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 23, 2011, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75825, entitled: “A Resolution of the Council of the City of San José Approving the Increased Library Parcel Tax Rates for FY 2011-2012 and Approving the Placement of the Library Parcel Tax on the FY 2011-2012 Santa Clara County Property Tax Roll”, was adopted. (11-0.)

## CONSENT CALENDAR

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

- 2.1 Approval of Minutes.**

Action: There were none.

- 2.2 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.**

Action: Deferred to August 9, 2011 per Administration.

**2.3 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.**

Action: 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)**

Documents Filed: The Rules and Open Government Committee Reports dated March 9, 2011, March 16, 2011, March 23, 2011, April 13, 2011 and April 20, 2011.

Action: The Rules and Open Government 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 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)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated May 23, 2011, recommending approval of the third amendment to the agreement.

**2.7 (Cont'd.)**

Action: 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 was approved. (11-0.)

**2.8 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)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 31, 2011, recommending approval of the settlement.

Action: The settlement in the case of Alvis v. Olmos, City of San José, et. al. was approved and the City Attorney was authorized to execute a Settlement Agreement and Release with Jennifer and Derek Alvis in the amount of \$225,000.00. (11-0.)

**2.9 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)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Welsh, dated May 23, 2011, recommending adoption of a resolution.

Mayor Reed presented comments about Tesla Motors, Inc.

Action: Upon motion by Council Member Constant, seconded by Council Member Kalra and carried unanimously, Resolution No. 75826, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to File an Application for Foreign Trade Zone Subzone Authority for Tesla Motors, Inc.", was adopted. (11-0.)

**2.10 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)**

Action: Deferred to June 21, 2011 per Administration.

- 2.11 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)**

Action: Deferred to June 21, 2011 per Administration.

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

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 23, 2011, recommending adoption of a resolution.

Action: Report on Request for Proposal for the purchase and deployment of an Adaptive Traffic Control System was accepted and Resolution No. 75827, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute an Agreement with Transcore ITS, LLC for an Adaptive Traffic Control System", was adopted. (11-0.)

- 2.13 (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.**
- (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)**

## 2.13 (Cont'd.)

Documents Filed: (1) Memorandum from Deputy City Manager Deanna Santana and Senior Policy Advisor Michelle McGurk, dated May 19, 2011, recommending adoption of a resolution and appointment of a representative to BayRICS. (2) Memorandum from Mayor Reed, dated June 9, 2011, recommending approval of the Staff recommendation.

Mayor Reed and Council Members Pyle, Herrera and Constant presented comments and congratulated Staff for their work.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Resolution No. 75828, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement to Establish the Bay Area Regional Interoperable Communications System (BayRICS) Authority", was adopted. Senior Policy Advisor Michelle McGurk was appointed as Director to BayRICS and Deputy City Manager Deanna Santana was appointed as Alternate to BayRICS. (11-0.)

## 2.14 **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)**

Documents Filed: Memorandum from Deputy City Manager Deanna Santana and Assistant Fire Chief Teresa Reed, dated May 27, 2011, recommending adoption of a resolution.

Action: Resolution No. 75829, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Second Amendment to the Urban Area Security Initiative Memorandum of Understanding", was adopted. (11-0.)

## 2.15 **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)**

Documents Filed: Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas, dated May 23, 2011, recommending adoption of a resolution.

Council Member Pyle expressed comments about the Memorandum of Understanding for the field at Steinbeck. Council Member Kalra offered his congratulations to the City Staff and San José Unified School District.

**2.15 (Cont'd.)**

Action: Upon motion by Council Member Pyle, seconded by Council Member Kalra and carried unanimously, Resolution No. 75830, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding Between the City of San José and the San José Unified School District for a Soccer Field at Allen at Steinbeck School”, was adopted. (11-0.)

**2.16 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)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 23, 2011, recommending adoption of a resolution.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, Resolution No. 75831, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Cost-Sharing Agreement with the Santa Clara Valley Water District for Thompson Creek and Guadalupe River Bank Erosion and Outfall Repair Projects In An Amount Not To Exceed \$553,000”, was adopted. (11-0.)

**2.17 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)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 23, 2011, recommending approval of a master agreement and authority for the Director of Public Works to approve service orders up to the not to exceed amount.

Action: 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 was approved and authority for the Director of Public Works to approve service orders up to the not to exceed amount, was authorized. (11-0.)

- 2.18 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)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 23, 2011, recommending approval of a master agreement.

Action: 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, was approved. (11-0.)

- 2.19 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)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 23, 2011, recommending adoption of resolutions and transmitting the annual budget reports.

Action: Resolution No. 75832, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 1 (Los Paseos) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75833, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 2 (Trade Zone Boulevard – Lundy Avenue) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75834, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 5 (Orchard Parkway – Plumeria Drive) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75835, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 8 (Zanker – Montague) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75836, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 9 (Santa Teresa – Great Oaks) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75837, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 11 (Brokaw Road from Junction Avenue to Old Oakland Road) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75838, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 13 (Karina – O’Nel) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75839, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 15 (Silver Creek Valley) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75840, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 18 (The Meadowland) for Fiscal Year

## 2.19 (Cont'd.)

2011-2012 and Levying Assessments”; Resolution No. 75841, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 19 (River Oaks Area Landscaping) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75842, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 20 (Renaissance – North First Landscaping) for Fiscal Year 2011-2012 and Levying Assessments”; Resolution No. 75843, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 21 (Gateway Place – Airport Parkway) for Fiscal Year 2011-2012 and Levying Assessments” and Resolution No. 75844, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 22 (Hellyer Avenue – Silver Creek Valley Road) for Fiscal Year 2011-2012 and Levying Assessments”, were adopted. (11-0.)

## 2.20 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)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes and Director of Transportation Hans F. Larsen, dated May 23, 2011, recommending adoption of a resolution.

Mayor Reed thanked the Downtown property owners.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75845, entitled: “A Resolution of the Council of the City of San José Approving The Downtown San Jose Property-Based Business Improvement District Annual Report for Fiscal Year 2011-2012 as Filed or Modified by the City Council; Confirming the Individual Assessments as Proposed or Modified by the City Council, Including the Assessment on City Owned Property of Approximately \$328,133 and the Assessment on Redevelopment Agency Property of Approximately \$74,142; Directing That the City Baseline Services Contribution in the Amount of \$364,255 and Assessment Payment Be Made; and Directing the Director of Finance to Deliver the Assessment Roll to the County of Santa Clara for Collection with the Property Taxes”, was adopted. (11-0.)

- 2.21 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)**

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

Action: The Jewish American Heritage Month Event 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.)

- 2.22 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)**

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

Action: The Canadian Flag Raising Event 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.)

- 2.23 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)**

Documents Filed: Memorandum from Council Member Chu, dated June 2, 2011, requesting approval of travel.

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

- 2.24 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)**

Documents Filed: Memorandum from Council Member Herrera, dated June 7, 2011, requesting approval of travel.

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

- 2.25 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)**

Documents Filed: Memorandum from Vice Mayor Nguyen, dated June 6, 2011, requesting approval of travel.

Action: The travel request for Vice Mayor Nguyen was approved. (11-0.)

- 2.26 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)**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated June 8, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: Corinne Winter was appointed as an At-Large representative and Steve Borkenhagen as the Downtown Association Representative to the Downtown Parking Board. (11-0.)

## **END OF CONSENT CALENDAR**

### **STRATEGIC SUPPORT SERVICES**

- 3.10 Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the San José 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)**

Documents Filed: (1) Memorandum from Director of Employee Relations Alex Gurza, dated June 3, 2011, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Employee Relations Alex Gurza, dated June 9, 2011, transmitting the tentative agreements reached with the SJPOA on June 3, 2011 and June 6, 2011 and which were to be ratified by the membership and approved by City Council.

City Manager Debra Figone presented introductory comments about the San José Police Officers’ Association agreement.

Director of Employee Relations Alex Gurza provided the report.

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

### 3.10 (Cont'd.)

Council discussion and comments followed.

Public Comments: George Beattie, San José Police Officers' Association, presented comments and requested that Council look at alternative proposals to save all the remaining Police Officers in Tier 1.

Action: On a call for the question, the motion carried unanimously, Resolution No. 74846, entitled: "A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and the San José Police Officers' Association with a Term of July 1, 2011 to June 30, 2012, or June 30, 2013", was adopted. (11-0.)

### 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.

## COMMUNITY AND ECONOMIC DEVELOPMENT

### 4.4 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)

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 23, 2011, recommending approval of an ordinance.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Ordinance No. 28925, entitled: "An Ordinance of the City of San José Adopting a Limited Amnesty Program Under Which the City Will Forgive All Late Licensing Fees and Suspend Issuance of Citations for Violations of Section 7.20.520 of Chapter 720 of the San José Municipal Code", was passed for publication. (11-0.)

### 4.5 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)

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 23, 2011, recommending that Council consent to the request of Applegate Johnston, Inc.

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

#### 4.5 (Cont'd.)

Acting Director of Public Works David Sykes responded to the questions and concerns from Council Member Campos.

Action: On a call for the question, the motion carried unanimously, 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, was approved. (11-0.)

#### 4.6 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.**
  - (b) **Modifications to the City's Development Agreement Ordinance.**
- (Mayor)

Documents Filed: (1) Memorandum from Mayor Reed, Council Members Chu and Liccardo, dated June 3, 2011, recommending direction as described in "Action". (2) Memorandum from City Clerk Dennis D. Hawkins, dated June 1, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Mayor Reed presented introductory remarks and commented on the memorandum he cosigned with Council Members Chu and Liccardo.

Motion: Council Member Chu moved approval of the recommendations of the Rules and Open Government Committee and the memorandum he cosigned with Mayor Reed and Council Member Liccardo. Council Member Liccardo seconded the motion.

Mayor Reed and Council Member Chu provided meeting disclosures.

Action: On a call for the question, the motion carried unanimously, 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. (11-0.)

## NEIGHBORHOOD SERVICES

### 5.1 (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.**

- (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, Categorical 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)**

Documents Filed: Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas, dated May 23, 2011, recommending adoption of a resolution and 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.

## 5.1 (Cont'd.)

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Resolution No. 75847, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager, or Designee, To Submit Grant Applications to the Statewide Park Development and Community Revitalization Program of 2008 Administered by the Office of Grants and Local Services Within the California State Department of Parks and Recreation for Four Projects Identified in the Attachment of this Resolution, in An Amount Not To Exceed \$20 Million, To Accept the Grant if Awarded and To Negotiate and Execute All Related Documents", was adopted and the Roberto Balermينو Park, Tamien Park, and Del Monte Park Phase I projects were exempted from the City Council Policy set forth in Resolution No. 75638 which was adopted on November 16, 2010. (11-0.)

## 5.2 **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)**

Documents Filed: Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas, dated May 27, 2011, recommending adoption of a resolution.

Mayor Reed provided meeting disclosures.

Council Member Liccardo thanked the Staff for their willingness to engage in creative solutions.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 75848, entitled: "A Resolution of the Council of the City of San José to Repeal Resolution No. 75638 and Amend and Restate the Policy Adopted by the City Council on November 16, 2010 To: (1) Implement a Pilot Program, Through December 31, 2012, To Authorize Staff To Proceed with Development of Any New Park or Recreational Facility (Excluding Trail) That Meets Certain Funding Criteria, and (2) Modify the Park Maintenance Exemption to the City's Prevailing Wage Requirements", was adopted. (10-1. Noes: Oliverio.)

## TRANSPORTATION & AVIATION SERVICES

- 6.2 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)**

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen, dated May 27, 2011, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 75849, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Public Private Partnership Agreement Between the City of San José, City and County of San Francisco through the San Francisco Municipal Transportation Authority 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”, was adopted. (11-0.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (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)**

Action: Deferred to June 21, 2011 per Administration.

- 7.2 (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.**

- 7.2 (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)**

Documents Filed: (1) Memorandum from City Clerk Dennis D. Hawkins, dated June 6, 2011, transmitting the recommendations of Transportation and Environment Committee. (2) Proof of Publications of Notices of Public Hearings, executed on May 13, 2010, and May 20, 2011, submitted by the City Clerk.

Mayor Reed opened the public hearings on the San José Municipal Water System Implementation Plan for the Water Conservation Bill of 2009, including the establishment of Urban Per Capita Water Use Targets and the 2010 Urban Water Management Plan Update for the San José Municipal Water System.

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

Assistant City Manager Edward K. Shikada responded to Council questions.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, Resolution No. 75850, entitled: “A Resolution of the Council of the City of San José Approving the San José Municipal Water System 2010 Urban Water Management Plan Update and Directing staff to File the Plan with the California Department of Water Resources”, was adopted. (11-0.)

## **ADJOURNMENT**

The Council of the City of San José adjourned the morning session at 12:13 p.m.

## RECESS/RECONVENE

The City Council recessed at 12:13 p.m. from the morning Council Session and reconvened at 1:31 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - All Present.

## INVOCATION

Father Mark Gazzingan, St. Christopher Church presented the Invocation. (District 6)

## PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by District 8 Girl Scout Troop, led the Pledge of Allegiance.

## 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 (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)

Documents Filed: (1) Memorandum from Mayor Reed, dated June 3, 2011, transmitting the Mayor's June Budget Message for Fiscal Year 2011-2012. (2) Memorandum from Mayor Reed, dated June 13, 2011, transmitting the Mayor's June Budget Adjustments for Fiscal Year 2011-2012. (3) Memorandum from Council Member Constant, dated June 13, 2011, recommending approval of the Mayor's June Budget Message with an amendment to restore 25 Police Officer Positions utilizing the funding sources as outlined in his memorandum. (4) Memoranda from Council Member Campos, both dated June 14, 2011, recommending amendments to the Mayor's June Budget Message. (5) Memorandum from Council Member Kalra, dated June 10, 2011, recommending amendments to the Mayor's June Budget Message. (6) Memorandum from Council Members Chu, Pyle and Rocha, dated June 10, 2011, recommending consideration of budget recommendations from the Youth Commission for integration in the Mayor's

## 9.1 Documents Filed: (Cont'd.)

June Budget Message. (7) Memorandum from Council Member Chu, dated June 8, 2011, recommending approval of the Mayor's Budget Message with revisions to the rebudget amounts for Council Offices to reduce the amounts for each office by \$50,000. (8) Memorandum from Council Members Chu and Rocha, dated June 10, 2011, recommending allocating savings from the Mayor and Council Office rebudgets to restore the Youth Outreach Specialist position. (9) Letter from the San José Trailer Park, dated June 14, 2011, submitting their strong objection to any further increases to the Storm Sewer Services or the Sewer Service and Use Charges. (10) Letter from the California Catholic Conference, dated June 14, 2011, providing a Moral Framework for Addressing California's Budget Crisis.

Mayor Reed presented introductory comments.

Mayor Reed clarified the adjustments to the Mayor's June 3, 2011 Budget Message for Fiscal Year 2011-2012 in his memorandum dated June 13, 2011, as formally described in "Action" on Page 23.

Public Comments: The following speakers presented comments, complaints, suggestions and support to the Proposed Operating and Capital Budgets for Fiscal Year 2011-2012, the Proposed Five-Year Capital Improvement Program for Fiscal Year 2012-2016, the Proposed Fees and Charges Report for the Fiscal Year 2011-2012, the Mayor's June Budget Message for Fiscal Year 2011-2012 and the Proposed San José Redevelopment Agency Operating and Capital Budgets for Fiscal Year 2011-2012.

Phil Henderson, Roger Lasson, Robert Sapien, San José Firefighters, David Wall, Imam Mubasher Ahmad, Stan Taylor, Reverend Chuck Rawlings, Presbyterian Church, John Freesemann, Holy Redeemer Lutheran Church, Bob Brownstein, Chuck Andrew, Teamsters Automotive Union Local 665, Michael Thompson, Doug Block, Teamsters Joint Council, Reverend Rebecca Kuiken, Interfaith Council, Reverend Ben Chun, Good Shepard Lutheran, Emilie Gatfield, Tony Sanseverino, Augustin Viyan, Alma Center, Jose Orta, Sacred Heart Community Service, Megan Fluke, Habitat Conservation Now, George Beattie, San José Police Officers' Association, Martha O'Connell, HOME, Patricia Ventimiglia, Joseph Ossa, Carlo America, Gina America, Bob Leininger, Elena Backman, David Oki, Charie Chan, Roz Dean, Ben Field, South Bay Labor Union, Judy, Richard McCoy, Melvina Augustine, Scott Knies, San José Downtown Association, Ted Scarlett, Kylee Cooley, Jonathan Lustig, Johnny Khamis and Karen Stephenson.

Motion: Vice Mayor Nguyen moved approval of the Mayor's June Budget Message for Fiscal Year 2011-2012, dated June 3, 2011 and the Mayor's June Budget Message Adjustments for Fiscal Year 2011-2012, dated June 13, 2012, as described in "Action" on Page 23. Council Member Liccardo seconded the motion.

Council Member Herrera expressed her support to the motion on the floor.

## 9.1 (Cont'd.)

Council Member Constant moved approval to amend the motion on the floor to include his memorandum to restore 25 Police Officer positions. The motion failed for lack of a second.

Council Member Kalra requested to amend the motion to include his memorandum, dated June 10, 2011, to allocate 25% of any funding deemed available for the Future Deficit Reserve Fund to restore Police Officer positions. Vice Mayor Nguyen and Council Member Liccardo declined to accept the amendment.

Council Member Kalra moved approval to amend the motion to include his memorandum dated June 10, 2011, as described previously. Council Member Chu seconded the motion. On a call for the question, the motion failed. (3-8. Noes: Constant, Herrera, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.)

Council Member Chu moved approval to amend the motion to include his memorandum dated June 8, 2011, revising the Mayor's recommended rebudget amounts for Council Offices to reduce the amounts for each office by \$50,000. Council Member Campos seconded the motion. On a call for the question, the motion failed. (3-8. Noes: Constant, Herrera, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.)

Council Member Campos moved approval to amend the motion to add 10 Police Officers from Redevelopment Agency reserves, keep the libraries open 4-1/2 days a week and to add funding to San José Best and the Healthy Neighborhood Venture Fund transition, as referred to in his memorandum. Council Member Kalra seconded the motion. On a call for the question, the motion failed. (3-8. Noes: Constant, Herrera, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.)

Extensive Council discussion ensued.

Amendment to the Motion: Council Member Herrera requested to amend the motion to add her memorandum dated June 14, 2011, recommending acceptance of the Neighborhoods Commission as outlined in their May 27, 2011 letter to Mayor Reed and the City Council. The amendment was accepted by Vice Mayor Nguyen and Council Member Liccardo.

Council Member Kalra expressed his disappointment with a few of the priorities that the Council has agreed to set forth, including not making choices to help the Police Department keep the citizens of San José safe.

## 9.1 (Cont'd.)

Action: On a call for the question, the motion carried, 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, including: (1) Keep the 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 the Safe School Campus Initiative at middle and high schools; (5) Restore 2 Park Ranger positions bringing the 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, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Agreements Addressed in the Mayor's 2011 Budget Message and Approved Amendments in Amounts That Exceed the City Manager's Contract Authority" and Redevelopment Agency Resolution No. 6017, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the Executive Director to Negotiate and Execute Certain Agreements Addressed in the Mayor's 2011 Budget Message and Approved Amendments in Amounts that Exceed the Executive Director's Contract Authority", were adopted. (7-4. Noes: Campos, Chu, Constant, Kalra.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 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.***

- 4.1 (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)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated May 24, 2011, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated June 13, 2011, regarding questions received from an interested citizen about this project, with the questions and answers included as an attachment.

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

Amendment to the Motion: City Attorney Richard Doyle requested to amend the motion to change the recommendation on (b) to: 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. Council Members Constant and Herrera accepted the amendment.

Director of Housing Leslye Corsiglia responded to Council questions.

Public Comments: Terri Balandra, Fiesta Lanes Action Group, expressed concerns about a disturbing lack of clarity and an opportunity for serious future negative consequences and offered her insight.

Council Member Oliverio expressed opposition to the motion on the floor.

Action: On a call for the question, the motion carried, Resolution No. 75842, entitled: "A Resolution of the Council of the City of San José Allowing the Assignment and Assumption of the Outstanding Loan Balance from the San Carlos Townhomes Project to the San Carlos Senior Apartments Project", was adopted, as amended, and revised the recommendation on Item 4.1(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.* (10-1. Noes: Oliverio.)

- 4.2 (a) **Public hearing on and consideration of adoption of a resolution to designate the "Curtis House" located at 96 South 17<sup>th</sup> Street as a landmark of special historic, architectural, aesthetic or engineering interest, or value of a historic nature.**
- (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 17<sup>th</sup> Street.**

## 4.2 (Cont'd.)

**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 17<sup>th</sup> 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**

Documents Filed: (1) Memorandum from Secretary of the Historic Landmarks Commission Joseph Horwedel, dated June 2, 2011, recommending approval of the proposed landmark designation and the contract. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL10-196/MA11-003, dated May 25, 2011. (3) Proof of Publication of Notice of Public Hearing, executed on May 20, 2011, submitted by the City Clerk. (4) Affidavit of Routing, dated July 12, 2011, submitted by the City Clerk.

Mayor Reed opened the public hearing.

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75853, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Preston and Norwita Powell for the Curtis House Located at 96 South 17<sup>th</sup> Street, San José” and Resolution No. 75854, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Curtis House Site/Structure Located at 96 South 17<sup>th</sup> Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, were adopted. (11-0.)

## 4.3 **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**

### 4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Secretary of the Historic Landmarks Commission Joseph Horwedel, dated June 2, 2011, recommending approval of the proposed historic property contract. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. MA11-001, dated May 25, 2011. (3) Proof of Publication of Notice of Public Hearing, executed on May 20, 2011, submitted by the City Clerk. (4) Affidavit of Routing, dated July 12, 2011, submitted by the City Clerk.

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

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 75855, entitled: "A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Sue Cucuzza for the Ashworth-Remillard House Located at 755 Story Road, San José", was adopted. (11-0.)

## PUBLIC SAFETY SERVICES

### 8.1 **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)**

Documents Filed: Memorandum from Deputy City Manager Deanna J. Santana and Fire Chief William McDonald, dated May 31, 2011, recommending adoption of a resolution.

Fire Chief William McDonald responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Resolution No. 75856, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Emergency Medical Services Provider Agreement with the County of Santa Clara", was adopted. (11-0.)

## 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.

## **RECESS/RECONVENE**

The City Council recessed at 5:41 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chu, Constant (7:14 p.m.), Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.

Absent: Council Members - All Present.

City Clerk Dennis D. Hawkins, CMC, read the requests for continuance of the applications. Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

## **CEREMONIAL ITEMS**

### **1.1 Presentation of commendations to HACE Scholarship recipients Jeanette Ramos, Athena Salinas, and Julian Perez. (Campos)**

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)**

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)**

Mayor Reed, Council Member Herrera and Director of Strategic Development Jeff Ruster recognized and commended Jorge Zavala for his leadership as Director of TechBA.

**STRATEGIC SUPPORT SERVICES**

- 3.4 (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;**

- (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:**

<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)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 23, 2011, recommending holding a public hearing and adopting a resolution. (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated June 8, 2011, reporting on the written protests received through June 5, 2011 in response to Public Notices mailed to the property owners.

City Clerk Dennis D. Hawkins, CMC, reported that the Office of the City Clerk received 46 valid ballots representing 46 parcels and a total of 273 valid written protests for the Proposed Sewer Service and Use Charges and Storm Sewer Service Charges rate increases. City Clerk Hawkins stated that the total protests during the protest period, together with the six speakers that protested the rate changes today, represented approximately one tenth of one percent of all property owners impacted by the change in sewer service and use charges and storm sewer service charge increases; therefore the Council may consider the Staff recommendations for the rate increases.

### 3.4 (Cont'd.)

Mayor Reed opened the public hearing.

Public Comments: There was no testimony from the floor at this time. Six speakers were heard during the public hearing of Item 9.1. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75857, entitled: "A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges for Fiscal Year 2011-2012", was adopted. (10-0-1. Absent: Kalra.)

- 3.5 (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)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflean, dated May 23, 2011, recommending holding a public hearing and adoption of a resolution. (2) Supplemental memorandum from Director of Environmental Services John Stufflean, dated June 8, 2011, reporting on the written protests received through June 7, 2011 in response to the Public Notices mailed to the property owners.

City Clerk Dennis D. Hawkins, CMC, reported that the Office of the City Clerk received 62 valid ballots representing 62 parcels and a total of 62 valid written protests for the proposed Municipal Water System Water Rate Increase. City Clerk Hawkins stated that all written protests during the public protest period represented approximately one tenth of one percent of all property owners impacted by the increases; therefore the Council may consider the Staff recommendations for the rate increases.

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

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, Resolution No. 75858, entitled: "A Resolution of the Council of the City of San José To Establish New Quantity Charges for Potable Water Service Effective July 1, 2011", was adopted. (10-0-1. Absent: Kalra.)

- 3.6 (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.**

- 3.6 (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)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated June 2, 2011, recommending holding a public hearing and adoption of a resolution. (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated June 8, 2011, reporting on the written protests received through June 5, 2011 in response to the Public Notices mailed to the property owners.

City Clerk Dennis D. Hawkins, CMC, reported that subsequent to the supplemental memorandum from the Environmental Services Department, the Office of the City Clerk received 84 valid ballots representing 84 parcels and a total of 481 valid written protests for the Proposed Recycle Plus Rate Increases. City Clerk Hawkins stated that all written protests during the public protest period, together with the two speakers protesting earlier today, represented less than approximately two tenths of one percent of all property owners impacted by the increases; therefore the Council may consider the Staff recommendations for the rate increases.

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

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried, Resolution No. 75859, entitled: "A Resolution of the Council of the City of San José Adopting Service Rates for the Recycle Plus Program Effective July 1, 2011 and Superseding Resolution No. 74905", was adopted. (9-1-1. Noes: Oliverio. Absent: Kalra.)

- 3.7 (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.**
- (b) **Adopt a resolution establishing the Schedule of Fees and Charges for 2011-2012.**
- (c) **Item 3.7(c) was 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.**

- 3.7 (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 No 75689, entitled Administrative Citation Schedule of Fines for Certain Violations of the San Jose Municipal Code.**

Documents Filed: (1) Supplemental memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated June 9, 2011, providing input from public outreach regarding the sale of the City owned property. (2) Proof of Publication dated May 6, 2011, submitted by the City Clerk.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, Resolution No. 75860, entitled: “A Resolution of the Council of the City of San José Approving for Adoption the Operating Budget for Fiscal Year 2011 – 2012”; Resolution No.75861, entitled: “A Resolution of the Council of the City of San José Approving for Adoption the Capital Budget for Fiscal Year 2011 – 2012”; Resolution No. 75862, entitled: “A Resolution of the Council of the City of San José Approving for Adoption the Five Year Capital Improvement Program for Fiscal Years 2012 – 2016”; Resolution No. 75863, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72737 To Amend and Establish Various Fees and Charges Effective July 1, 2011”; Resolution No. 75864, entitled: “A Resolution of the Council of the City of San José Declaring Certain City Owned Property Located at 1590 Gold Street as Surplus to the Needs of the City and Authorizing the City Manager to Proceed with the Sale of Such Surplus Property in Accordance with the Applicable Provisions of the Municipal Code and Any City Policies, Including Any Amendments Thereto and Applicable State Law” and Resolution No. 75865, entitled: “A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code In Order to Establish Administrative Fines for Violations Related to Medical Marijuana and Repealing Resolution No. 75689”, were adopted. (10-0-1. Absent: Kalra.)

- (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.**

- 3.7 (c) (1) (e) **Modify the Downtown Parking Validation Program to provide for unlimited parking between 6 p.m. to 6 a.m., 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.**
- (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)**

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

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

Documents Filed: Memorandum from Director of Finance Scott Johnson and Assistant Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 31, 2011, recommending acceptance of the report and adoption of a resolution.

Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas provided introductory comments. Assistant Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares presented the report.

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

Council discussion ensued.

### 3.8 (Cont'd.)

Council Members Rocha, Campos and Kalra expressed concerns about contracting out and dismantling the current Graffiti Abatement team.

Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas pointed out that Staff will be reporting to the Neighborhood Services and Education Committee on the outsourcing services associated with Graffiti Protective Coatings, Inc. on a frequent basis.

Action: On a call for the question, the motion carried, the Report on Request for Proposal for Graffiti Abatement Services was accepted and Resolution No. 75866, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute an Agreement with Graffiti Protective Coatings, Inc. to Provide Citywide Graffiti Abatement Services”, was adopted (7-4. Noes: Campos, Chu, Kalra, Rocha.)

### 3.9 **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)**

Action: Deferred to August 9, 2011 per Administration.

### 3.11 **Adopt a resolution implementing compensation and benefit changes for the City Council Appointees to make last year’s 10% reduction in compensation ongoing. (Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated May 19, 2011, recommending adoption of a resolution.

Mayor Reed presented introductory remarks and referred to his memorandum dated May 19, 2011.

Council Member Constant pointed out that the Independent Police Auditor should participate in the wage reduction.

Motion: Council Member Constant moved approval of the memorandum from Mayor Reed, dated May 19, 2011, including a revision to the memorandum to include the Independent Police Auditor in the 10% reduction in compensation ongoing. Council Member Herrera seconded the motion.

### 3.11 (Cont'd.)

Action: On a call for the question, the motion carried, the memorandum from Mayor Reed, dated May 19, 2011, was approved and amended to include the Independent Police Auditor in the 10% reduction in compensation ongoing and Resolution No. 75867, entitled: "A Resolution of the Council of the City of San José Approving a 10% Ongoing Reduction in Total Compensation for Council Appointees, Effective June 26, 2011", was adopted, as amended. (9-2. Noes: Chu; Reed.)

## TRANSPORTATION & AVIATION SERVICES

### 6.1 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)**

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen, dated May 23, 2011, recommending adoption of a resolution.

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

Director of Transportation Hans Larsen presented brief comments and responded to Council questions.

## 6.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 75868, entitled: “A Resolution of the Council of the City of San José (1) Establishing Speed Limits with Changes on 9 Roadway Segments; (2) Reestablishing Speed Limits on 7 Roadway Segments; (3) Recognizing Speed Limits Established by the State of California; (4) Reestablishing Speed Limits on Portions of Alamen Expressway and Capital Expressway; (5) Adopting the Speed Limit Established by the City of Santa Clara for a Portion of Winchester Boulevard; (6) Making Administrative Corrections to the Previous Speed Limit Resolution; (7) Reestablishing, Without Change, Speed Limits on Other Streets Within the City of San José and (8) Repealing Resolution No. 75531”, was adopted. (10-0-1. Absent: Rocha.)

## PUBLIC HEARINGS

- 11.2 Conduct an Administrative Hearing and consider an appeal of the Planning Commission’s decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at a general retail/pharmacy store in an existing approximately 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**

Action: Continued to August 23, 2011 per Council District 4.

- 11.3 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 (1<sup>st</sup> & Rosemary Senior, 1<sup>st</sup> 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**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC11-011, dated May 23, 2011. (2) Proof of Publication of Notice of Public Hearing, executed on May 13, 2011, submitted by the City Clerk.

### 11.3 (Cont'd.)

Mayor Reed opened the public hearing.

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

Public Comments: Jonathan Emami, ROEM Development Corporation, provided additional comments about the project.

Mayor Reed closed the public hearing.

Motion: Council Member Liccardo moved approval of the Staff recommendations, including the addition of the following: to modify 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. Council Member Herrera seconded the motion.

Deputy Director of Planning, Building and Code Enforcement Laurel Prevetti responded to questions from Council Member Liccardo.

Deputy Director Prevetti requested to amend the motion to add that the second reading for this rezoning be heard at the Council Meeting scheduled on June 21, 2011. The amendment was accepted by Council Members Liccardo and Herrera.

Action: On a call for the question, the motion carried, Ordinance No. 28926, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of North First Street and East Rosemary Street to the A(PD) Planned Development Zoning District", was 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, with the second reading for the rezoning to be heard on June 21, 2011. (10-1. 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)

Minutes Recorded, Prepared and Respectfully Submitted by,

City Clerk Dennis D. Hawkins, CMC

/smd 06-14-11 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.