



## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, JUNE 21, 2011**

The Council of the City of San José convened in Regular Session at 9:03 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - All Present.

### STRATEGIC SUPPORT SERVICES

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

Documents Filed: Pledge of Cooperation and Agreement Upon a Framework for Retirement Reform and Related Ballot Measure Negotiations, dated June 18, 2011, from the Association of Engineers and Architects, IFPTE Local 21, City Association of Management Personnel and Association of Maintenance Supervisory Personnel.

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

Public Comments: Nancy Ostrowski, representing the Association of Engineers and Architects, IFPTE Local 21, City Association of Management Personnel and Association of Maintenance Supervisory Personnel, stated that the hardworking members of each respective bargaining unit recognize the need for sensible and legal pension reform. Brian Doyle, Association of Legal Professionals, spoke in support to Council Member Kalra's position that the City needs an approach that accomplishes fiscal reform collaboratively and legally. Robert Sapien, San José Firefighters, stated that he looks forward to hard work, diligence and a true effort towards productive negotiations.

## CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:13 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: Murrel v. City; Names of Parties Involved: Dawn Murrel, City of San José, Does 1 through 110; 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 (b) of Section 54956.9 with respect to anticipated litigation of significant exposure (Claim Not Filed) in one (1) matter. (C) to confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: (1) Norman Y. Mineta San José International Airport; Negotiating Parties: William F. Sherry, AAE Director of Aviation and Representatives for all passenger and cargo airlines currently operating at the Norman Y. Mineta San José International Airport; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on City's capital and operating costs for the Airport. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers,

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

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 12:20 p.m. and reconvened to Regular Session at 12:31 p.m. in the Council Chambers.

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

Absent: Council Members - All Present.

## **ORDERS OF THE DAY**

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

## **CLOSED SESSION REPORT**

City Attorney Doyle disclosed the following Closed Session actions of June 21, 2011:

### **A. Pending Litigation – Settlement Authorized:**

Case Name: County of Santa Clara v. Redevelopment Agency, et al.

Substance of Settlement: Approval of settlement of lawsuit with County of Santa Clara.

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

Noes: Oliverio.

Abstain: None.

Not Present: None.

## STRATEGIC SUPPORT SERVICES

### **3.3 Adopt amendments to the annual appropriation ordinance and funding sources resolution for various operating and capital funds to reflect estimated 2010-2011 revenue receipts, expenses, and encumbrances. CEQA: Not a Project, File No. PP10-067 (b), Appropriation Ordinance. (City Manager's Office)**

Documents Filed: (1) Memorandum from Budget Director Jennifer Maguire, dated June 17, 2011, recommending adoption of an appropriation ordinance and funding sources resolution amendments. (2) Supplemental memorandum from Budget Director Jennifer Maguire, dated June 21, 2011, correcting an inadvertent omission to the original memorandum.

Mayor Reed presented introductory remarks. City Manager Debra Figone pointed out that the Budget Office issued a supplemental memorandum which corrected an inadvertent omission to the original memorandum to be incorporated in the Council action today.

Motion: Vice Mayor Nguyen moved approval of the Staff recommendations, including the supplemental memorandum from Budget Director Jennifer Maguire, dated June 21, 2011. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, the supplemental memorandum from City Manager Debra Figone, dated June 21, 2011, was approved, including: (1) Adopt the following 2010-2011 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund: (a) Establish a citywide appropriation to the Finance Department for TRANs Debt Service in the amount of \$600,000. (b) Increase the revenue estimate for Utility Tax by \$400,000. (c) Increase the revenue estimate for Telephone Line Tax by \$200,000; Ordinance No. 28927, entitled: "An Ordinance of the City of San José Amending Ordinance 28765 To Appropriate Monies in the General Fund, Various Special Funds and Various Capital Funds to Reflect Estimated 2010-2011 Revenue Receipts, Expenses and Encumbrances; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 75870, entitled: "A Resolution of the Council of the City of San José Amending Resolution 75447 to Implement the 2010-2011 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds", were adopted, as amended. (9-0-2. Absent: Campos, Chu.)

### **3.12 Adopt 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:**

- (a) **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:**
  - (1) **Increase the daytime incremental parking rate from \$0.75 to \$1 every 20 minutes.**
  - (2) **Increase the maximum incremental daily parking rate from \$15 to \$20.**

- 3.12 (a) (3) **Increase the evening flat rate from \$4 to \$5 effective January 1, 2012.**  
(4) **Establish a \$4 flat daily rate Saturdays, Sundays and major holidays, with an increase to \$5 effective January 1, 2012.**  
(5) **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.**
- (b) **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.**
- (c) **Eliminate the one hour of free parking after 6:00 PM at the Fourth Street Garage.**
- (d) **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 tenant(s), 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.**
- (e) **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)**

Documents Filed: (1) Memorandum from Council Member Liccardo, dated June 14, 2011, recommending approval of the Staff recommendations and the modifications as described below in "Action". (2) Memorandum from Director of Transportation Hans Larsen, dated May 23, 2011, recommending adoption of a resolution. (3) Supplemental memorandum from Director of Transportation Hans Larsen, dated June 17, 2011, providing information that analyzes the financial and operational impacts of Council Member Liccardo's June 14, 2011 recommendations on Downtown parking rates.

Motion: Council Member Liccardo moved approval of the Staff recommendations and his memorandum dated June 14, 2011. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Liccardo, dated June 14, 2011, was approved, accepting the Staff recommendations with the following modifications: (1) Preserve free parking at daytime on Saturdays and Sundays in the Market Street Garage until July 1, 2012, and on Sundays at the 2<sup>nd</sup> and San Carlos, 3<sup>rd</sup> Street and 4<sup>th</sup> and San Fernando Garages until July 1, 2012. (2) Accelerate rate increase for evening parking fees from \$4 to \$5 from January 1, 2012 to July 1, 2012, with continued use of validation for all customers of participating restaurants and retail. (3) Increase the rate on Arena event nights at the Market Street

### 3.12 (Cont'd.)

Garage from \$5 to \$7 and Resolution No. 75871, entitled: “A Resolution of the Council of the City of San José To Set Forth the Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities to Increase the Incremental Twenty Minute, Evening Flat, Daily Maximum and Weekend/Major Holiday Flat Parking Rates, Change the Downtown Validation Program, Eliminate One Hour Free Parking After 6 p.m. at the Fourth Street Garage, Remove Hybrid Vehicles and Add Plug in Hybrid Vehicles and Other Leading Technology Vehicles to the Clean Air Parking Program and Expand The Downtown Parking Incentive Programs to Building Owners or Property Managers and To Repeal Resolution No. 75685 Effective Upon City Council Approval”, was adopted, as amended. (10-0-1. Absent: Chu.)

- 3.4 (a) **Adopt the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 2011-2012 and the Manager’s Final Budget Addendum.**
- (b) **Adopt the Annual Funding Sources Resolution for Fiscal Year 2011-2012 and the Manager’s Final Budget Addendum.**
- (c) **Adopt a resolution in compliance with Article XIII B of the Constitution of the State of California and as modified by Proposition 111 and SB 88 electing the population and inflation factors and establishing the Fiscal Year 2011-2012 Appropriation Limit.**

**CEQA: Not a Project, File No. PP10-067 (b), Appropriation Ordinance. (City Manager)**

Documents Filed: See Appendix A beginning on Page 54.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Ordinance No. 28928, entitled: “An Ordinance of the City of San José For City’s Fiscal Year Beginning July 1, 2011 and Ending June 30, 2012, Appropriating and Authorizing the Expenditure of Monies for the Operation of Each of the Offices, Departments and Agencies of the City During Said Fiscal Year and For Various Other Purposes and Objects for Said Fiscal Year; and Providing for Transfers From Various City Funds to Other City Funds as May Be Necessary During Said Fiscal Year”; Resolution No. 75872, entitled: “A Resolution of the Council of the City of San José Adopting the Estimated Sources of Funds for Fiscal Year 2011-2012” and Resolution No. 75873, entitled: “A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 2011-2012 Appropriations Limit of the City of San José Pursuant to California Constitution Article XIII B and Section 7900 Et Seq. of the California Government Code”, were adopted. (10-0-1. Absent: Chu.)

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

City Manager Debra Figone thanked retiree Kay Winer for her role as Acting Director of Human Resources stepping in at a critical time and leading the department with her expertise, sensitivity and leadership.

## CONSENT CALENDAR

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

### 2.1 Approval of minutes.

- (a) **Regular Minutes of April 5, 2011**
- (b) **The City of San José Housing Authority Minutes of April 5, 2011**
- (c) **Regular Minutes of April 12, 2011**
- (d) **Regular Minutes of April 19, 2011**
- (e) **Regular Minutes of April 26, 2011**
- (f) **The San José Financing Authority Minutes of April 26, 2011**
- (g) **Special Minutes of the Diridon Station Area Plan of April 28, 2011**

Documents Filed: (1) The Regular Minutes dated April 5, 2011, April 12, 2011, April 19, 2011 and April 26, 2011. (2) The City of San José Housing Authority Minutes dated April 5, 2011. (3) The San José Financing Authority Minutes dated April 26, 2011. (4) The Special Meeting of the Diridon Station Area Plan dated April 28, 2011.

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

### 2.2 (a) **ORD. NO. 28924 – Adopting salaries and other compensation for the Mayor and Council Members recommended by the Council Salary Setting Commission pursuant to City Charter Section 407.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28924 executed on June 10, 2011, submitted by the City Clerk.

Action: Ordinance No. 28924 was adopted. (11-0.) (First Reading: 8-3. Noes: Campos, Chu, Pyle.)

### (b) **ORD. NO. 28925 – 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 7.20 of the San José Municipal Code.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 28925 executed on June 17, 2011, submitted by the City Clerk.

Action: Ordinance No. 28925 was adopted. (11-0.)

### (c) **ORD. NO. 28926 – Rezoning certain real property situated at the southeast corner of North First Street and East Rosemary Street from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC11-011**

- 2.2 (c) Documents Filed: Proof of Publication of the Title of Ordinance No. 28926 executed on June 17, 2011, submitted by the City Clerk.

Action: Ordinance No. 28926 was adopted. (11-0.) (First Reading: 10-1. Noes: Oliverio)

2.3 **Approval of Council Committee Reports.**

- (a) **Rules and Open Government Committee Report of June 1, 2011. (Mayor)**
- (c) **Rules and Open Government Committee Report of May 18, 2011. (Mayor)**
- (d) **Rules and Open Government Committee Report of May 25, 2011. (Mayor)**
- (e) **Rules and Open Government Committee Report of May 11, 2011. (Mayor)**
- (f) **Rules and Open Government Committee Report of May 4, 2011. (Mayor)**
- (g) **Rules and Open Government Committee Report of April 27, 2011. (Mayor)**

Action: Deferred to August 2011 per Orders of the Day.

- (b) **Neighborhood Services and Education Committee Report of June 9, 2011. (Pyle)**

Action: Deferred to August 2, 2011 per Orders of the Day and City Clerk.

2.4 **Mayor and Council Excused Absence Requests.**

Action: There were none.

2.5 **City Council Travel Reports.**

Council Members Herrera and Constant presented a brief update on their attendance at the League of California Cities on June 16, 2011 and June 17, 2011.

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

Action: There were none.

2.7 **Adopt a resolution authorizing the Director of Aviation to negotiate and execute:**

- (a) **A First Amendment to the Host International, Inc. (“Host”) Food and Beverage Concession Agreement for the closure of Chiaramonte’s Deli in Terminal A+, an associated reduction in the minimum annual guarantee and a reimbursement for the unamortized capital investment should the closure become permanent.**
- (b) **A First Amendment to the Host Retail Concession Agreement for the closure of Sunset News in Terminal A+, an associated reduction in the minimum annual guarantee and a reimbursement for the unamortized capital investment should the closure become permanent.**

**CEQA: Not a Project, File No. PP10-066(e), Amendment to services agreement involving no physical change to the environment. (Airport)**

**2.7 (Cont'd.)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated May 31, 2011, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 75874, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Negotiate and Execute Amendments to the Host International, Inc. Food and Beverage and Retail Concession Agreements", were adopted. (10-0-1. Absent: Chu.)

- 2.8 (a) Approve consultant master agreements with Hoffman|Lewis, Inc. and with Barnestorming Advertising to provide marketing and communications support services to Mineta San José International Airport for two-year terms beginning July 1, 2011, through June 30, 2013, in a total amount for both agreements not to exceed \$520,000.**
- (b) Adopt a resolution authorizing the City Manager to exercise up to two (2) one-year options to extend the terms of these agreements on a fiscal-year basis to June 30, 2013, in amounts not to exceed a total of \$260,000 per year, for a total four-year contract amount for both not to exceed \$1,040,000.**
- CEQA: Not a Project, File No. PP10-066(e), Services involving no physical changes to the environment. (Airport)**

Documents Filed: Memorandum from Mayor Reed and Council Members Pyle, Herrera and Liccardo, dated June 17, 2011, recommending deferral with direction as indicated.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the memorandum from Mayor Reed, Council Members Pyle, Herrera and Liccardo, dated June 17, 2011, was approved and Item 2.8 was deferred to August 23, 2011, including adding \$30,000 to complete the following. The Administration directed to: (1) Prepare a plan to focus consultant services on the highest priorities of the Airport: engagement with Airline CEOs and route planning executives to recruit more flights and service between San José International and major domestic and international destinations. (2) Identify in the plan how funding resources will be allocated to the consultant scopes of work. (3) Work with the Communications Working Group Chair and the Office of Economic Development to develop a plan. (4) Present the approved plan to the Airport Ad Hoc Committee at its August 18, 2011 meeting. (10-0-1. Absent: Chu.)

- 2.9 Approve settlement in the case of Teresa Banuelos and Jose Banuelos v. City of San José, et al., and authorize the City Attorney to execute a Settlement Agreement and Release with Teresa Banuelos in the amount of \$165,000, and with Jose Banuelos in the amount of \$10,000. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 9, 2011, recommending approval of the settlement and authorization to execute a settlement agreement and release.

## 2.9 (Cont'd.)

Action: The settlement case of Teresa Banuelos and Jose Banuelos v. City of San José, et al. was approved and the City Attorney was authorized to execute a Settlement Agreement and Release with Teresa Banuelos in the amount of \$165,000, and with Jose Banuelos in the amount of \$10,000. (11-0.)

## 2.10 Approve a second amendment to the agreement with Fairbanks, Maslin, Maulin, Metz and Associates to extend the term by three years, reduce per survey cost by 3.8%, and increase the contract amount by \$151,500 from \$400,680, for a total contract amount of \$552,180, and amend the scope of services to add three additional surveys to be conducted during the extension. CEQA: Not a Project, File No. PP10-066, Contracts. (City Manager's Office)

Documents Filed: Memorandum from Director of Communications Tom Manheim, dated June 3, 2011, recommending approval to the second amendment.

Action: A second amendment to the agreement with Fairbanks, Maslin, Maulin, Metz and Associates to extend the term by three years, reduce per survey cost by 3.8%, and increase the contract amount by \$151,500 from \$400,680, for a total contract amount of \$552,180, and amend the scope of services to add three additional surveys to be conducted during the extension was approved. (11-0.)

## 2.11 Adopt a resolution to:

- (a) **Authorize the City Manager, or designee, to negotiate and execute all contracts, amendments, agreements, leases, subleases and memorandums of understanding with contractors and vendors providing services to the Workforce Investment Act Program (WIA), including, but not limited to, novations or assignments, vendor training contracts, case management contracts, consultant contracts, memorandums of understanding required with Mandatory Partners for the use of One-Stop facilities, and cities and the unincorporated area of Santa Clara County whose residents receive service under the WIA program for the period from July 1, 2011 to June 30, 2012, in accordance with procurement procedures and requirements mandated by the State and Federal governments for Workforce Investment Act grant recipients and with established City procurement procedures and requirements that have been reviewed and approved by the Silicon Valley Workforce Investment Network (work2future) Executive Committee and/or the Board. The City Manager or designee is also authorized to negotiate and execute amendments to Council-approved agreements that have been reviewed and approved by the work2future Executive Committee and/or the work2future Board so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**

- 2.11 (b) **Authorize the City Manager, or designee, to negotiate and execute all grants and sub-grant agreements for discretionary funding applied for and approved by the work2future Board for the period from July 1, 2011 to June 30, 2012.**

**CEQA: Not a Project. File No. PP10-066, Agreements/Contracts (New or Amended). (OED)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated May 31, 2011, recommending adoption of a resolution.

Action: Resolution No. 75875, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Agreements Related to the Workforce Investment Act Program and Projects for FY 2011-2012", was adopted. (11-0.)

- 2.12 **Approve an agreement with Habitat for Humanity Silicon Valley, a California nonprofit corporation for the lease of space in real property located at 1608 Las Plumas Avenue, known as the San José Environmental Innovation Center, for purposes of operating a ReStore business, for rental revenue to City as follows: commencement date through month 28 \$0; month 29 through month 60 \$6,572.70 per month; month 61 through 72 \$6,704.15 per month; month 73 through month 84 \$6,838.24 per month for total compensation to the City of \$372,480. CEQA: Mitigated Negative Declaration for San José Environmental Innovation Center, adopted December 1, 2009, File No. PP09-138. Council District 3. (Economic Development)**

Documents Filed: (1) Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated May 31, 2011, recommending approval of an agreement. (2) Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated June 17, 2011, providing additional information about the \$85,000 recommended grant award to Habitat for Humanity for start up costs and about the determination of fair market value and other proposed business terms of Habitat for Humanity's lease with the City.

Council Members Liccardo and Kalra welcomed Habitat for Humanity Silicon Valley to District 3 and expressed appreciation to Staff for all their efforts.

Public Comments: David Wall raised concerns about the financial status of Habitat for Humanity. Jennifer Simmons, Executive Director of Habitat for Humanity, thanked the City Council for their vision in creating such a center and stated that it will be a major asset to the City of San José.

**2.12 (Cont'd.)**

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, an agreement with Habitat for Humanity Silicon Valley, a California nonprofit corporation for the lease of space in real property located at 1608 Las Plumas Avenue, known as the San José Environmental Innovation Center, for purposes of operating a ReStore business, for rental revenue to City as follows: commencement date through month 28 \$0; month 29 through month 60 \$6,572.70 per month; month 61 through 72 \$6,704.15 per month; month 73 through month 84 \$6,838.24 per month for total compensation to the City of \$372,480 was approved. (11-0.)

**2.13 Approve a grant agreement with Habitat for Humanity Silicon Valley for a term from July 1, 2011 through June 30, 2013, for one-time start up costs related to opening a ReStore in San José in the amount of \$85,000. CEQA: Negative Declaration for the renovation for the EIC was adopted on December 1, 2009. File No. PP09-138. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated May 31, 2011, recommending approval of a grant agreement.

Action: A grant agreement with Habitat for Humanity Silicon Valley for a term from July 1, 2011 through June 30, 2013, for one-time start up costs related to opening a ReStore in San José in the amount of \$85,000 was approved. (11-0.)

**2.14 Adopt a resolution authorizing the City Manager to negotiate and execute a three-year agreement with Christmas in the Park, Inc., to manage and produce Christmas in the Park at Plaza de Cesar Chavez, with City to provide limited support staff and in-kind services for the 2011 event to support the successful production of the event. CEQA: Exempt, File No. PP05-277. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated May 31, 2011, recommending adoption of a resolution.

Action: Resolution No. 75876, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement With Christmas in the Park, Inc. To Manage and Produce a Holiday Event Downtown”, was adopted. (11-0.)

**2.15 Appoint Santa Clara Mayor Jaime Matthews with Santa Clara Vice Mayor Patricia Mahan as alternate to serve on the joint Recycled Water Policy Advisory Committee established in the Recycled Water Facilities and Program Integration Agreement between the City of San José and the Santa Clara Valley Water District. CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making Public Project. (Environmental Services)**

**2.15 (Cont'd.)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 27, 2011, recommending appointments as indicated above. (2) Letter from Chair Chuck Reed, The Treatment Advisory Committee, dated May 19, 2011, stating concurrence with the Staff recommendations.

Action: City of Santa Clara Mayor Jaime Matthews, and City of Santa Clara Vice Mayor Patricia Mahan as alternate, were appointed to serve on the Joint Recycled Water Policy Advisory Committee established in the Recycled Water Facilities and Program Integration Agreement between the City of San José and the Santa Clara Valley Water District.  
(11-0.)

**2.16 Approve the third amendment to the agreement between R3 Consulting Group, Inc., and the City for Consulting Services to support the Construction and Demolition Diversion Program, to extend the term through December 31, 2012, with no increase in total compensation. CEQA: Not a Project, File No. PP10-066(e). (ESD)**

Documents Filed: City Council Action Request from Deputy Director of Environmental Services, Integrated Waste Management Division Jo Zientek, dated June 9, 2011, recommending approval of the third amendment to the agreement.

Action: The third amendment to the agreement between R3 Consulting Group, Inc., and the City for Consulting Services to support the Construction and Demolition Diversion Program, to extend the term through December 31, 2012, with no increase in total compensation, was approved. (11-0.)

- 2.17 (a) Adopt a resolution authorizing the City Manager to negotiate and execute a grant agreement with the United States Environmental Protection Agency (EPA) to fund the Clean Creeks, Healthy Communities Project (Project) for the term of June 30, 2011 through June 30, 2015, with a grant to the City in the amount of \$680,000, at a cost to the City over the term of the Agreement of \$112,867.**
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute the following agreements with a subgrantee and funding agency:**
- (1) An agreement with Downtown Streets Team, a non-profit 501(c)(3) corporation, for the term July 1, 2011 through June 30, 2012 with an option to extend the term through June 30, 2013, subject to the appropriation of additional funds by the City Council, to conduct trash and litter cleanup and provide homeless assistance services as part of the Project at a cost to the City not to exceed \$258,000, with an additional cost to Downtown Streets Team of \$20,000.**

- 2.17 (b) (2) **An amendment to the Memorandum of Agreement between the City of San José and the Santa Clara Valley Water District (Water District) for Trash Removal and Prevention to include Project implementation activities and Water District payment to City of \$65,000 per year for two years (2011-2012 and 2012-2013) towards the Project.**
- (c) **Adopt the following 2011-2012 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Increase the estimate for Revenue from the Federal Government by \$265,000.**
  - (2) **Increase the estimate for Revenue from Local Agencies by \$65,000.**
  - (3) **Establish a Citywide Clean Creeks, Healthy Communities appropriation to the Environmental Services Department in the amount of \$330,000.**

**CEQA: Categorically Exempt, File No. PP11-044. (Environmental Services/City Manager's Office)**

Documents Filed: (1) Memorandum from Council Member Liccardo, dated June 20, 2011, recommending approval of the Staff recommendations. (2) Memorandum from Director of Environmental Services John Stufflebean and Budget Director Jennifer Maguire, dated June 3, 2011, recommending adoption of resolutions and appropriation ordinance and funding sources resolution amendments.

Council Member Liccardo extended an expression of thanks to the many people who collaborated to make this effort possible.

Council Member Kalra expressed his appreciation to the collaboration and thanked Staff for their efforts.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No.75877, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the United States Environmental Protection Agency To Fund the Clean Creeks, Healthy Community Project for the Term of June 30, 2011 Through June 30, 2015, With a Grant to the City of San José In The Amount of \$680,000 At A Cost To the City Over the Term of the Agreement of \$112,867"; Resolution No. 75878, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Following Agreements with Subgrantees: (1) An Agreement with Downtown Streets Team for the Term July 1, 2011 Through June 30, 2012 With An Option to Extend the Term Through June 30, 2013, Subject to the Appropriation of Additional Funds in a Cost Not To Exceed \$258,000 With An Additional Cost To Downtown Streets Team of \$20,000, and (2) An Amendment to the Memorandum of Agreement with Santa Clara Valley Water District for Payment By the Water District to the City of San José In The Amount of \$65,000 Per Year for Two Years, In Connection With the United States Environmental Protection Agency for Receipt of a Grant In The Amount of \$680,000 from the San Francisco Bay Water Quality Improvement Fund for

**2.17 (Cont'd.)**

the Clean Creeks Healthy Communities Project”; Ordinance No. 28929, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the Clean Creeks Healthy Communities Project; and Providing that this Ordinance Shall Be Effective Immediately Upon Adoption” and Resolution No. 75879, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75872 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2011-2012 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

**2.18 (a) Adopt a resolution approving the following:**

- (1) Extending the due dates for the San José Conservation Corps’ performance under the Settlement Agreement and Mutual Release dated January 12, 2010 (“Settlement Agreement”), to allow the Conservation Corps to commence the approved Additional Services in Alum Rock Park in the fall 2011, and extending the due date for completion of the project and for compliance with all requirements under the Settlement Agreement, to occur by December 31, 2011.**
  - (2) Authorizing the City Manager to further extend the due dates for completion of the project or compliance with all other requirements of the Settlement Agreement for up to an additional 12 months.**
- (b) Approve grant agreements with the San José Conservation Corps to provide:**
- (1) Basic park support services for Parks, Recreation and Neighborhood Services from July 1, 2011 through June 30, 2012, with the option of the City to extend the agreement for up to four additional one-year terms with the first year compensation in an amount not to exceed \$250,000 and with compensation for subsequent years subject to adjustment based upon the Consumer Price Index, and appropriation of funds for each extension year.**
  - (2) Events recycling and riparian clean-up services for Environmental Services Department from July 1, 2011 through June 30, 2012, with the option of the City to extend the agreement for up to four additional one-year terms with the first year compensation in an amount not to exceed \$110,000 and with compensation for subsequent years subject to adjustment based upon the Consumer Price Index, and appropriation of funds for each extension year.**
- (c) Adopt a resolution authorizing the City Manager to exercise up to four one-year options to extend the grant agreements with the San José Conservation Corps, subject to appropriation of funds for each option year.**

**CEQA: EIR Resolution No. 71045, File No. PP08-092. (Environmental Services/ Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas and Director of Environmental Services John Stufflebean, dated May 31, 2011, recommending adoption of resolutions and approval of the grant agreements.

**2.18 (Cont'd.)**

Action: The grant agreements with the San José Conservation Corps were approved, Resolution No. 75880, entitled: “A Resolution of the Council of the City of San José Extending Due Dates for Performance by the San José Conversation Corps Under the Settlement Agreement and Mutual Release” and Resolution No. 75881, entitled: “A Resolution of the Council of the City of San José To Grant the City Manager the Authority to Exercise Options To Extend Grant Agreements With the San José Conservation Corps”, were adopted. (11-0.)

**2.19 Adopt a resolution authorizing the Director of Finance to:**

- (a) **Exercise the second of three one-year options to renew an Open Purchase Order with Maintenance Innovations (Patterson, CA) to provide all labor, materials and equipment necessary for the Citywide Weed Abatement Program managed by the Department of Transportation, for the period June 18, 2011 through June 30, 2012, with total compensation not to exceed \$500,000.**
- (b) **Exercise the remaining option to renew the purchase order for one additional year, with total compensation not to exceed \$500,000, subject to the appropriation of funds.**

**CEQA: Exempt, File No. PP08-245. (Finance)**

Documents Filed: City Council Action Request from Purchasing Division Manager Mark Giovannetti, dated June 9, 2011, recommending adoption of a resolution.

Action: Resolution No. 75882, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Exercise Options Relating to An Open Purchase Order with Maintenance Innovations for the Citywide Weed Abatement Program”, was adopted. (11-0.)

**2.20 Adopt a resolution authorizing the Director of Finance to:**

- (a) **Exercise the second of four one-year options to renew and establish an Open Purchase Order with Valley Crest Landscape (San José, CA) for the period July 1, 2011 through June 30, 2012, with total compensation not to exceed \$700,000, for landscape services, including all labor, materials and equipment, for Special Assessment District #15 (Silver Creek Valley) managed by the Department of Transportation.**
- (b) **Exercise the remaining options to renew the purchase order, not to exceed \$725,000 per year, subject to the appropriation of funds.**

**CEQA: Exempt, File No. PP07-213. (Finance)**

Documents Filed: City Council Action Request from Purchasing Division Manager Mark Giovannetti, dated June 9, 2011, recommending adoption of a resolution.

Action: Resolution No. 75883, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Exercise Options Relating to An Open Purchase Order with Valley Crest Landscape for Landscape Services”, was adopted. (11-0.)

**2.21 Adopt a resolution authorizing the Director of Finance to:**

- (a) **Establish unencumbered Open Purchase Orders for the purchase of fuel and petroleum products with three fuel vendors for a total aggregate amount not to exceed \$5,800,000, for the period July 1, 2011 to June 30, 2012 as follows:**
  - (1) **Western States Oil Company (San José, CA) not to exceed \$4,060,000.**
  - (2) **Coast Oil Company (San José, CA) not to exceed \$580,000.**
  - (3) **Valley Oil Company (Mountain View) not to exceed \$1,160,000.**
- (b) **Increase or decrease the not-to-exceed amount for each purchase order as required due to the volatility in fuel prices; subject to the appropriation of funds.**

**CEQA: Not a Project, File No. PP10-066(a), agreements and contracts. (Finance)**

Documents Filed: City Council Action Request from Purchasing Division Manager Mark Giovannetti, dated June 9, 2011, recommending adoption of a resolution.

Action: Resolution No. 75884, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance To Establish Unencumbered Open Purchase Orders with Western States Oil Company, Coast Oil Company and Valley Oil Company for the Purchase of Fuel for the Period of July 1, 2011 Through June 30, 2012”, was adopted. (11-0.)

**2.22 Adopt a resolution:**

- (a) **Setting a Public Hearing on Tuesday, August 2, 2011, at 1:30 p.m. for 2011-2012 Sewer Service and Use Charges and Storm Sewer Service Charges based on annual reports of the Director of Finance and direct the City Clerk to publish notice of the time and place of the hearing.**
- (b) **Allowing the Director of Finance to file, with the City Clerk, the 2011-2012 Sewer Service and Use Charges and Storm Sewer Service Charges on or before July 15, 2011.**

**CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 31, 2011, recommending adoption of a resolution.

Action: Resolution No. 75885, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to File with the City Clerk, the 2011-2012 Sewer Service and Use Charges and Storm Sewer Service Charges On or Before July 15, 2011 and Setting a Public Hearing on the Annual Sewer Service and Use Charge and Storm Sewer Service Charge Reports of the Director of Finance Pursuant to Section 15.12.550 and 15.16.1410 of the San José Municipal Code”, was adopted. (11-0.)

**2.23 Authorize the Director of Finance to execute a change order to the existing Open Purchase Order 44517 with Granite Construction Co. (San José, CA) to encumber an additional \$51,189 for a total amount not to exceed \$1,351,189 for the purchase of Asphalt Concrete for the one-year term ending May 30, 2011. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for Purchase of Supplies. (Finance)**

## 2.23 (Cont'd.)

Documents Filed: City Council Action Request from Purchasing Division Manager Mark Giovannetti, dated June 9, 2011, recommending authorization for the Director of Finance to execute a change order.

Action: The Director of Finance was authorized to execute a change order to the existing Open Purchase Order 44517 with Granite Construction Co. to encumber an additional \$51,189 for a total amount not to exceed \$1,351,189 for the purchase of Asphalt Concrete for the one-year term ending May 30, 2011. (11-0.)

## 2.24 Adopt a resolution authorizing the Director of Finance to:

- (a) **Execute a change order to the existing Open Purchase Order 45522 with Baker and Taylor (Commerce, GA) to encumber an additional \$250,000 for a total amount not to exceed \$1,250,000 for the purchase of books including trade editions, publishers library bindings, single binding editions, quality paperbacks and preprocessing as required.**
- (b) **Exercise four one-year options to renew the Purchase Order, not-to-exceed \$1,500,000 per year, subject to the appropriation of funds.**

**CEQA: Not a Project, File No. PP10-066 (a), Agreements and Contracts for Purchase of Supplies. (Finance)**

Documents Filed: City Council Action Request from Purchasing Division Manager Mark Giovannetti, dated June 9, 2011, recommending adoption of a resolution.

Action: Resolution No. 75886, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a Change Order and Exercise Options Relating to An Open Purchase Order with Baker and Taylor for the Purchase of Books", was adopted. (11-0.)

## 2.25 Approve the fourth amendment to the Agreement with Langham Consulting Services, Inc. to provide professional services related to the City's Integrated Billing System; to increase the total compensation by \$410,000 to an amount not to exceed \$840,000; and to extend the agreement term through December 31, 2012. CEQA: Not a Project, File No. PP10-066 (e), Services that involve no physical changes to the environment. (Finance/Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean and Director of Finance Scott Johnson, dated June 9, 2011, recommending approval of the fourth amendment to the agreement.

Action: The fourth amendment to the Agreement with Langham Consulting Services, Inc. to provide professional services related to the City's Integrated Billing System; to increase the total compensation by \$410,000 to an amount not to exceed \$840,000 and to extend the agreement term through December 31, 2012, were approved. (11-0.)

**2.26 Adopt a resolution approving the Relocation Plan for Taylor Oaks Apartments at 2727-2738 Kollmar Avenue prepared by Overland, Pacific & Cutler, Inc. dated May 16, 2011. CEQA: Exempt, File No. PP11-022. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated May 31, 2011, recommending adoption of a resolution.

Action: Resolution No. 75887, entitled: "A Resolution of the Council of the City of San José Approving the Relocation Plan for the Taylor Oaks Apartments", was adopted. (11-0.)

- 2.27 (a) Adopt a resolution authorizing the City Manager to negotiate and execute amendments to the following three current agreements between the City and MHN Services to extend each agreement for a period of six months, from July 1, 2011 to December 31, 2011:**
- (1) Employee Assistance Program for sworn employees at an added cost not to exceed \$254,500, and a total cost not to exceed \$2,500,000 for the total Agreement term.**
  - (2) Employee Assistance Program for non-sworn employees at an added cost not to exceed \$64,000, and a total cost not to exceed \$610,000 for the total Agreement term.**
  - (3) Critical Incident Stress Debriefing for sworn employees at an added cost not to exceed \$7,500, and a total cost not to exceed \$35,000 for the total Agreement term.**
- (b) For all three agreements together, extending the term for a period of six additional months will result in total costs not to exceed \$326,000 for the period of July 1, 2011 to December 31, 2011, and for total costs not to exceed \$3,145,000 for the entire four years and three months term, from October 1, 2007 to December 31, 2011.**

**CEQA: Not a Project, File No. PP10-066(e). (Human Resources)**

Documents Filed: Memorandum from Interim Director of Human Resources Kay Winer, dated May 31, 2011, recommending adoption of a resolution and extending the term for three agreements.

Action: Resolution No. 75888, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to Agreements with MHN Services for Employee Assistance Program and Critical Incident Stress Debriefing Services for Employees and their Dependents for a Period of Six Months from July 1, 2011 to December 31, 2011 for a Total Cost of Not To Exceed \$326,000", was adopted and the terms of the three agreements were extended for a period of six additional months resulting in total costs not to exceed \$326,000 for the period of July 1, 2011 to December 31, 2011, and for total costs not to exceed \$3,145,000 for the entire four years and three months term, from October 1, 2007 to December 31, 2011. (11-0.)

- 2.28 Adopt a resolution authorizing the City Manager to negotiate and execute amendments to extend the two current group life insurance agreements between the City and Standard Insurance Company for a period of six months, from July 1, 2011 to December 31, 2011, to add compensation in an amount not to exceed \$550,000 and for contract costs not to exceed \$5,620,000, subject to the appropriation of available funds as follows:**
- (a) Master Insurance Agreement.**
    - (1) Basic Life Insurance – City-paid basic life insurance for employees at a total additional cost not to exceed \$236,000.**
    - (2) Basic Life Insurance – Retiree-paid basic life insurance for retirees at a total additional cost not to exceed \$87,000.**
    - (3) Additional Life Insurance – Employees. Employee-paid additional life insurance at a total additional cost not to exceed \$193,000.**
    - (4) Dependent Life Insurance – Employees and Retirees. Employee and retiree-paid dependent life insurance at a total additional cost not to exceed \$13,000.**
  - (b) Agreement for Additional Life Insurance for Retirees.**
    - (1) Retiree-paid – additional life insurance at a total additional cost not to exceed \$21,000.**

**CEQA: Not a Project, File No. PP10-066 (e). (Human Resources)**

Documents Filed: Memorandum from Interim Director of Human Resources Kay Winer, dated May 31, 2011, recommending adoption of a resolution.

Action: Resolution No. 75889, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to Extend the Two Current Group Life Insurance Agreements Between the City and Standard Insurance Company for a Period of Six Months from July 1, 2011 to December 31, 2011, To Add Compensation In An Amount Not To Exceed \$550,000 and For a Total Contract Cost Not To Exceed \$5,510,000 Subject to the Appropriation of Available Funds”, was adopted. (11-0.)

- 2.29 (a) Approve an Agreement with FBMC Benefits Management, Inc. (formerly Fringe Benefits Management Company) to provide City’s medical and childcare flexible spending accounts (FSAs), including Internal Revenue Code (IRC) Section 125 compliance management services, and third party administrator (broker) services for the City’s voluntary insurance benefits program for the period of January 1, 2011 to December 31, 2011, with two (2) one-year options to renew the Agreement through December 31, 2013, and one (1) twenty-month option to renew the Agreement from January 1, 2014 to August 31, 2015, for pre-funding costs not to exceed \$15,220 for plan year 2011 and \$42,000 for each subsequent plan year (2012, 2013 and 2014), and for total pre-funding costs not to exceed \$141,220 for the total fifty-six (56) month term, subject to appropriation of funds by the City Council.**

- 2.29 (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Benefit Fund (Fund 160) for 2010-2011;**
- (1) **Increase the estimate for Earned Revenue in the amount of \$9,450;**
  - (2) **Increase the estimate for Transfers in the amount of \$4,770; and**
  - (3) **Increase in the Flexible Spending Account appropriation to the Human Resources Department in the amount of \$14,220.**
- (c) **Adopt the following Appropriation Ordinance amendments in the General Fund (Fund 001) for 2010-2011:**
- (1) **Decrease the Wellness Program Reserve in the amount of \$4,770; and**
  - (2) **Establish a Transfer to the Benefit Fund (Fund 160) in the amount of \$4,770.**
- (d) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Benefit Fund (Fund 160) for 2011-2012:**
- (1) **Increase the estimate for Transfers in the amount of \$8,700; and**
  - (2) **Increase in the Flexible Spending Account appropriation to the Human Resources Department in the amount of \$8,700.**
- (e) **Adopt the following Appropriation Ordinance amendments in the General Fund (Fund 001) for 2011-2012:**
- (1) **Decrease the Wellness Program Reserve in the amount of \$8,700; and**
  - (2) **Establish a Transfer to the Benefit Fund (Fund 160) in the amount of \$8,700.**

**CEQA: Not a Project, File No. PP10-068 (b), Municipal Code, Title 3. (Human Resources/City Manager's Office)**

Documents Filed: Memorandum from Interim Director of Human Resources Kay Winer and Budget Director Jennifer Maguire, dated May 31, 2011, recommending approval of an agreement and adoption of appropriation ordinances and funding sources resolution amendments.

Action: an Agreement with FBMC Benefits Management, Inc. to provide City's medical and childcare flexible spending accounts, including Internal Revenue Code Section 125 compliance management services, and third party administrator services for the City's voluntary insurance benefits program for the period of January 1, 2011 to December 31, 2011, with two, one-year options to renew the Agreement through December 31, 2013, and one, twenty-month option to renew the Agreement from January 1, 2014 to August 31, 2015, for pre-funding costs not to exceed \$15,220 for plan year 2011 and \$42,000 for each subsequent plan year (2012, 2013 and 2014), and for total pre-funding costs not to exceed \$141,220 for the total fifty-six month term, subject to appropriation of funds by the City Council was approved; Ordinance No. 28930, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the Benefit Fund for the Flexible Spending Account; and Providing that this Ordinance Shall Be Effective Immediately Upon Adoption"; Resolution No. 75890, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the Benefit Fund"; Ordinance No. 28931, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the General Fund for the

## 2.29 (Cont'd.)

Transfer to the Benefit Fund (Fund 160); and Providing that this Ordinance Shall Be Effective Immediately Upon Adoption”; Ordinance No. 28932, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the Benefit Fund for the Flexible Spending Account; and Providing that this Ordinance Shall Be Effective Immediately Upon Adoption”; Resolution No. 75892, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75872 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2011-2012 to Adjust Revenues in the Benefit Fund” and Ordinance No. 28933, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the Transfer to the Benefit Fund; and Providing that this Ordinance Shall Be Effective Immediately Upon Adoption”, were adopted. (11-0.) *Note: Resolution Numbers 75891 and 75893 were not used.*

## 2.30 **Adopt a resolution authorizing the City Manager to accept, negotiate, and execute a grant agreement with the Santa Clara Valley Water District the amount of \$300,000 for the Penitencia Creek Reach 1B (Dorel Drive to Noble Avenue) Trail project with a City contribution of \$1,200,000 and to make the required commitments and assurances as set forth in the staff memorandum. CEQA: Mitigated Negative Declaration, File No. PP06-111. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas, dated May 31, 2011, recommending adoption of a resolution.

Action: Resolution No. 75894, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the Santa Clara Valley Water District In An Amount of \$300,000, Awarded Under the Trails and Open Space Grant Program Under the Clean, Safe Creeks and Natural Flood Protection Program of 2000 for the Penitencia Creek Reach 1B (Dorel Drive to Noble Drive) Trail”, was adopted. (11-0.)

## 2.31 **Approve a grant agreement between the City and the State of California through the California Department of Transportation in the amount of \$350,000 for the Coyote Creek (Highway 237 Bikeway to Tasman Drive) Trail project with a City contribution of \$950,000. CEQA: Categorically Exempt, File No. PP10-144. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas, dated May 31, 2011, recommending approval of the grant agreement.

Action: The grant agreement between the City and the State of California through the California Department of Transportation in the amount of \$350,000 for the Coyote Creek (Highway 237 Bikeway to Tasman Drive) Trail project with a City contribution of \$950,000 was approved. (11-0.)

- 2.32 Approve the second amendment to the master agreement with CH2M Hill, Inc., extending the duration from June 30, 2011 to June 30, 2013, for a continuation of ongoing consultant design services supporting various City trail projects, at no additional cost to the City. CEQA: Not a Project, File No. PP10-066(d), Agreements/Contracts (New or Amended). (Public Works)**

Documents Filed: City Council Action Request from Deputy Director of Public Works Harry Frietas, dated June 3, 2011, recommending approval of the second amendment to the master agreement.

Action: The second amendment to the master agreement with CH2M Hill, Inc., extending the duration from June 30, 2011 to June 30, 2013, for a continuation of ongoing consultant design services supporting various City trail projects, at no additional cost to the City was approved. (11-0.)

- 2.33 Approve the first amendment to the master agreement with Callander Associates Landscape Architecture, Inc., extending the duration from June 30, 2011 to June 30, 2013, for a continuation of ongoing consultant design services supporting various City trail projects, at no additional cost to the City. CEQA: Not a Project, File No. PP10-066(d), Agreements/Contracts (New or Amended). (Public Works)**

Documents Filed: City Council Action Request from Deputy Director of Public Works Harry Frietas, dated June 3, 2011, recommending approval of the first amendment to the master agreement.

Action: The first amendment to the master agreement with Callander Associates Landscape Architecture, Inc., extending the duration from June 30, 2011 to June 30, 2013, for a continuation of ongoing consultant design services supporting various City trail projects, at no additional cost to the City was approved. (11-0.)

- 2.34 Report on bids and award of contract for the Paul Moore Park Youth & Tot Lot Renovation Project No. 6231 to the low bidder, Goodland Landscape Construction, Inc., for the base bid and Add Alternate No. 1 in the amount of \$777,231, and approval of a contingency in the amount of \$39,000. CEQA: Exempt, File No. PP10-176. Council District 9. (Public Works)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 31, 2011, recommending award of the contract to the low bidder.

Public Comments: Kevin Albanese, Vice President/Chief Operating Officer, Joseph J. Albanese, Inc. expressed opposition to the Staff recommendations and requested that the Council deem Goodland's bid nonresponsive and award the project to Joseph J. Albanese.

Acting Director of Public Works David Sykes presented background on the Paul Moore Park Youth and Tot Lot Renovation and responded to Council questions.

**2.34 (Cont'd.)**

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, the award of contract for the Paul Moore Park Youth & Tot Lot Renovation Project No. 6231 to the low bidder, Goodland Landscape Construction, Inc., for the base bid and Add Alternate No. 1 in the amount of \$777,231, with related contingency was approved. (11-0.)

**2.35 Approve the second amendment to the consultant agreement with Financial Consulting Solutions Group, Inc. for the Storm Drainage, Sanitary Sewer and Sewage Treatment Plant Connection Fee Study, extending the term of the agreement from June 30, 2011 to June 30, 2013, and increasing the amount of compensation by \$40,000, for the total agreement amount not to exceed \$348,000. CEQA: Not a Project, File No. PP10-066(d), Agreements/Contracts (New or Amended). (Public Works)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated May 31, 2011, recommending approval of the second amendment to the consultant agreement.

Action: The second amendment to the consultant agreement with Financial Consulting Solutions Group, Inc. for the Storm Drainage, Sanitary Sewer and Sewage Treatment Plant Connection Fee Study, extending the term of the agreement from June 30, 2011 to June 30, 2013, and increasing the amount of compensation by \$40,000, for the total agreement amount not to exceed \$348,000 was approved. (11-0.)

**2.36 Approve First Amendment to the Right of Way Cooperative Agreement between the City of San José, Santa Clara County, State of California and Valley Transportation Authority for the Guadalupe Corridor Project to extend the term of the agreement from June 30, 2011 to June 30, 2012, and update and replace Exhibit C to the original Agreement to reflect the latest parcel inventory and status. CEQA: File No. PP07-129, Guadalupe Corridor EIR, December 1981. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation Hans Larsen, dated May 31, 2011, recommending approval of the first amendment to the cooperation agreement.

Action: The First Amendment to the Right of Way Cooperative Agreement between the City of San José, Santa Clara County, State of California and Valley Transportation Authority for the Guadalupe Corridor Project to extend the term of the agreement from June 30, 2011 to June 30, 2012, and update and replace Exhibit C to the original Agreement to reflect the latest parcel inventory and status was approved. (11-0.)

- 2.37 Adopt a resolution authorizing the City Manager to negotiate and execute the following agreements related to the BART project:**
- (a) A cooperative agreement between the City of San José (City) and Santa Clara Valley Transportation Authority (VTA) for the construction by VTA of improvements to the existing storm drain system located at Trimble Road and Capitol Avenue, at no cost to the City, and City will own, operate and maintain the improvements after completion.**
  - (b) A cooperative agreement between the City and VTA for the construction by VTA of required improvements to support a future Berryessa BART Station, at no cost to the City, and City will own, operate and maintain the improvements after completion.**
  - (c) A cooperative agreement between the City, VTA, and Santa Clara Valley Water District for the construction by VTA of improvements to Upper Penitencia Creek, at no cost to the City, and City will own, operate and maintain certain improvements after completion.**

**CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding, Council District 3. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated May 31, 2011, recommending adoption of a resolution.

Action: Resolution No. 75895, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Two Cooperative Agreements with Santa Clara Valley Transportation Authority (VTA) and a Cooperative Agreement with VTA and Santa Clara Valley Water District Related to the BART/Silicon Valley Berryessa Extension Project”, was adopted. (11-0.)

- 2.38 Adopt a resolution authorizing the City Attorney to negotiate and execute a Sixteenth Amendment to the agreement with Orrick Herrington & Sutcliffe LLP for legal services related to the financing of improvements at the Norman Y. Mineta San José International Airport and the City’s outstanding Airport revenue debt, to increase the compensation by \$75,000 for a total amount not to exceed \$610,000. CEQA: Not a Project, File No. PP10-066, services that involve no physical changes to the environment. (City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 10, 2011, recommending adoption of a resolution.

Action: Resolution No. 75896, entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Sixteenth Amendment to the Agreement with Orrick Herrington & Sutcliffe LLP for Legal Services Related to the Financing of Improvements at the Norman Y. Mineta San José International Airport and the City’s Outstanding Airport Revenue Debt, Increasing the Compensation by \$75,000 for a Total Amount Not To Exceed \$610,000”, was adopted. (11-0.)

**2.39 Adopt a resolution:**

- (a) **Amending the City of San José Pay Plan, effective June 26, 2011, to create the following classifications:**
- (1) **Council Policy Aide, Analyst, Advisor, Director (7671/7673/7675/7677).**
  - (2) **Council Community Relations Aide, Representative, Coordinator, Director (7672/7674/7676/7678).**
  - (3) **Council Chief of Staff (7679).**
- (b) **Amending the City of San José Pay Plan, effective June 26, 2011, to delete job classifications no longer in use:**
- (1) **Council Assistants (8899).**
  - (2) **Senior Council Aide (PT) (7663).**
- (Human Resources)**

Documents Filed: Memorandum from Interim Director of Human Resources Department Kay Winer, dated June 10, 2011, recommending adoption of a resolution.

Action: Resolution No. 75897, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications”, was adopted. (11-0.)

**2.40 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)**

Documents Filed: (1) City Council Action Request from Environmental Services Program Manager Stephane Lannoye, dated June 7, 2011, recommending approval of a master agreement. (2) Letter from Chair Chuck Reed, The Treatment Plant Advisory Committee, dated May 19, 2011, stating concurrence with the Staff recommendation.

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

**2.41 Approve a Continuation Agreement with Westin Engineering, Inc., for Implementation of a Computerized Maintenance Management System at the San José/ 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)**

Documents Filed: (1) City Council Action Request from Environmental Services Senior Engineer John Mukhar, recommending approval of a continuation agreement. (2) Letter from Chair Chuck Reed, The Treatment Plant Advisory Committee, dated May 19, 2011, stating concurrence with the Staff recommendation.

**2.41 (Cont'd.)**

Action: A Continuation Agreement with Westin Engineering, Inc., for Implementation of a Computerized Maintenance Management System at the San José/ Santa Clara Water Pollution Control Plant for ten additional months to expire on June 30, 2012, at no additional cost, was approved. (11-0.)

- 2.42 Adopt a resolution authorizing the Director of Finance to execute the Second Amendment to the Public Address System Agreement with Signatures Technology Inc., dba Com-Net Software, to expand the public address system into the Federal Inspections Services International Terminal at the Norman Y. Mineta San José International Airport and to increase the total compensation by an amount not to exceed \$50,438, from \$2,276,269 to \$2,326,707, including all hardware, software, sales tax and the first year of support and professional services and warranty. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-160. (Finance)**

*Note: Item 2.42 was renumbered from Item 3.5.*

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 31, 2011, recommending adoption of a resolution.

Action: Resolution No 75898, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute the Second Amendment to the Public Address System Agreement with Signatures Technology, Inc., dba Com-Net Software Relating to the Public Address System at the Norman Y. Mineta San José International Airport", was adopted. (11-0.)

**2.43 As recommended by the Rules and Open Government Committee on May 25, 2011 and June 15, 2011:**

- (a) Appoint Clorama Sarah Dorvillias to the Housing and Community Development Advisory Commission to an unexpired term ending December 31, 2011. (Nguyen)**
- (b) Appoint Amal Sinha to the Human Right Commission to an unexpired term ending December 31, 2011. (Chu)**
- (c) Appoint Brad Cox to the Library Commission to a term ending June 30, 2014. (Oliverio)**
- (d) Appoint Zheng Yu Huang and John Horton to the Small Business Development Commission to unexpired terms ending December 31, 2013, and Richard Reed to an unexpired term ending December 31, 2012. (Chu)**
- (e) Reappoint Milton Cadena, Martha O'Connell, and Chaitanya Vaidya to the Senior Citizens Commission to terms ending June 30, 2014, and appoint Vincent Tarpey, Margaret Young, and Lynda Kelaita to term ending June 30, 2014. (Constant)**
- (f) Appoint Hope Cahan, City Planning Commissioner, to the Airport Noise Advisory Committee. (Airport)**
- (g) Reappoint Kaela Bernal, Walter Soellner, Patrick Lydon, Chris Esparza, and Ben Miyaji to the Arts Commission to terms ending June 30, 2014. (Liccardo)**

- 2.43 (h) **Reappoint Daniel E. Collen and Elizabeth Kabanek to the Traffic Appeals Commission to terms ending June 30, 2014. (Nguyen)**
- (i) **Reappoint Leslee Hamilton and Winston Chew to the Parks and Recreation Commission to terms ending June 30, 2014. (Pyle)**
- (j) **Reappoint James Westman and Christine Wright to the Disability Advisory Commission to terms ending June 30, 2014. (Pyle)**
- (k) **Reappoint George Gange and Ian Klufft to the Airport Commission to terms ending June 30, 2014. (Chu)**
- (l) **Reappoint William Collins and Kaushik Joglekar to the Early Care Education Commission to terms ending June 30, 2014. (Rocha)**
- (m) **Appoint Oliver Minkowski of Quality Beyond Testing, San José, California, to serve as private-sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by Law. (Mayor)**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated June 15, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The appointments were approved, as described previously in Item 2.43. (11-0.)

- 2.44 **Approve a Master Agreement for the Terms and Conditions of Accepting Airport Improvement Program (AIP) grants with the United States Department of Transportation Federal Aviation Administration (FAA) which shall apply to all future AIP grants from the FAA. CEQA: Resolutions No. 67380 and 71451, File No. PP 11-049. (Airport)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated June 13, 2011, recommending approval of the master agreement and transmitting additional information.

Action: A Master Agreement for the Terms and Conditions of Accepting Airport Improvement Program (AIP) grants with the United States Department of Transportation Federal Aviation Administration (FAA) which shall apply to all future AIP grants from the FAA was approved. (11-0.)

- 2.45 **Adopt a resolution authorizing the City Attorney to execute a Second Amendment to Second Continuation Agreement with Bartel Associates LLC for actuarial services related to labor negotiations, to extend the term through December 31, 2011, with no increase in the amount of total compensation allowed. CEQA: Not a Project; File No. PP10-066e, Services that involve no physical changes to the environment. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 16, 2011, recommending adoption of a resolution.

Action: Resolution No. 75899, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute A Second Agreement to the Second Continuation Agreement with Bartel Associates LLC for Actuarial Services Related to Labor Negotiations", was adopted. (11-0.)

**2.46 Adopt a resolution to:**

- (a) **Authorize the Director of Housing, or designee, to submit a grant application in the amount of up to \$1,781,200 to the California Department of Housing and Community Development, such amount being subject to revision by HCD in the course of application review, under the Housing-Related Parks Program (HRPP) for the acquisition of parkland in the Rincon South neighborhood.**
- (b) **Authorize the Director of Housing, or designee, to accept HRPP grant awards and conduct all negotiations, execute and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary in connection with these grants.**

**CEQA: Not a Project, File No. PP10-068(a), Grant Application. (Housing/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia and Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas, dated June 15, 2011, recommending adoption of a resolution and transmitting additional information.

Action: Resolution No. 75900, entitled: “A Resolution of the Council of the City of San José Authorizing the Application for Housing Related Parks Grant”, was adopted. (11-0.)

**2.47 As recommended by the Rules and Open Government Committee on June 15, 2011:**

- (a) **Approve the Mid-Autumn Festival as a City Council Sponsored Special Event.**
- (b) **Approve and accept donations from various individuals, businesses or community groups to support the Mid-Autumn Festival.**

**(City Clerk)**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated June 15, 2011, transmitting the recommendations of the Rules and Open Government Committee.

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

**2.48 Adopt a resolution extending the period of time to September 30, 2011, for discussions with the City of Campbell regarding options for the reorganization of some or all of the affected 103-acre territory of Cambrian No. 36 in a manner that would be revenue neutral or beneficial to the City of San José. CEQA: Not a Project, PP10-069, City Organizational & Administrative Activities. Council District 9. (Planning, Building and Code Enforcement)**

*Note: Item 2.48 was renumbered from Item 4.5.*

**2.48 (Cont'd.)**

Documents Filed: Memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel, dated June 3, 2011, recommending adoption of a resolution.

Action: Resolution No. 75901, entitled: "A Resolution of the Council of the City of San José Amending City Council Resolution No. 75679 to Extend the Period of Time to Refrain From Proceedings to Complete the Cambrian No. 36 Change in Organization Process to September 30, 2011", was adopted. (11-0.)

**2.49 As recommended by the Public Safety, Finance and Strategic Support Committee on June 16, 2011:**

- (a) Accept the report on 2009-2010 San José Bringing Everyone's Strengths Together (BEST) and the Mayor's Gang Prevention Task Force (MGPTF) Evaluation Report.**
- (b) Approve the MGPTF Strategic Work Plan Update 2011-2013 "Action Collaboration Transformation."**
- (c) Approve the Resource Allocation Plan of the San José BEST Program for 2011-2012.**

**(City Manager's Office)**

Documents Filed: (1) Memorandum from Mayor Reed, dated June 20, 2011, recommending acceptance of the Staff recommendations and formally thanking the donors. (2) Memorandum from City Clerk Dennis D. Hawkins, dated June 16, 2011, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Mayor Reed presented comments and formally thanked the donors to the 2011 Safe Summer Initiative.

A short discussion followed.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the memorandum from Mayor Reed, dated June 20, 2011, was approved, accepting the Staff recommendations and formally thanking the donors to the 2011 Safe Summer Initiative. (11-0.)

**ADJOURNMENT**

The Council of the City of San José adjourned the morning Council Session at 1:00 p.m.

## **RECESS/RECONVENE**

The City Council recessed at 1:00 p.m. from the afternoon Council Session and reconvened at 1:33 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**

Rabbi Joshua Fenton presented the Invocation. (District 6)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a commendation to AKA Gym in recognition and appreciation of their commitment to the City of San José and the Silicon Valley. (Kalra)**

Action: Deferred to August 2011.

### **1.2 Presentation of a commendation to Denis Tarasov and Sophia Nasyrova for their participation as photographers in the Sister City exchange between Ekaterinburg and San José. (Pyle)**

Mayor Reed and Council Member Pyle recognized and commended Denis Tarasov and Sophia Nasyrova.

## **STRATEGIC SUPPORT SERVICES**

### **3.8 Adopt resolutions to:**

(a) **Authorize the Director of Finance to negotiate and execute the following agreements with:**

(1) **MuniServices to provide Sales and Use Tax revenue enhancement services and data analysis for the term of July 1, 2011 through June 30, 2014, at a maximum annual compensation not to exceed \$415,000, with two one-year options to extend through June 30, 2016, at the same rate of compensation for each additional optional year subject to the City Council's annual appropriation of funds;**

- 3.8 (a) (2) **Tax Compliance Services to provide Utility Users Tax and Franchise Fee compliance services for the term of July 1, 2011 through June 30, 2014, at a maximum annual compensation not to exceed \$127,800, with two one-year options to extend through June 30, 2016, at the same rate of compensation for each additional optional year subject to the City Council’s annual appropriation of funds.**
- (3) **Tax Compliance Services to provide Lodging Taxes and Fees compliance services for the term of July 1, 2011 through June 30, 2014, at a maximum annual compensation not to exceed \$46,125, with two one-year options to extend through June 30, 2016, at the same rate of compensation for each additional optional year subject to the City Council’s annual appropriation of funds.**
- (b) **Authorize MuniServices to examine all Sales and Use Tax records of the California State Board of Equalization for tax collection purposes and other governmental functions of the City.**
- CEQA: Not a Project, File No. PP10-069, City organizational and administrative activities. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated June 3, 2011, recommending adoption of resolutions.

Director of Finance Scott P. Johnson responded to Council questions. A short discussion followed.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Resolution No. 75902, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute Agreements with MuniServices, LLC for Services Related to Sales and Use Tax and Tax Compliance Services for Services Relating to Utility Users Tax and Franchise Fees and Lodging Taxes and Fees” and Resolution No. 75903, entitled: “A Resolution of the Council of the City of San José Authorizing MuniServices, LLC to Examine All Sales and Use Tax Records of the California State Board of Equalization for Tax Collection Purposes and Other Governmental Functions”, were adopted. (11-0.)

- 3.9 **Adopt a resolution approving a new City Council Policy entitled, “Governmental Fund Balance Financial Reporting Policy,” to comply with Governmental Accounting Standards Board (GASB) Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy revision. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated June 15, 2011, recommending adoption of a resolution.

Director of Finance Scott Johnson presented introductory remarks and responded to Council questions.

### 3.9 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75904, entitled: "A Resolution of the Council of the City of San José Approving A New Council Policy Entitled: Governmental Fund Balance Financial Reporting Policy", was adopted. (11-0.)

- 3.10 (a) **Adopt a resolution authorizing the City Manager to accept funds from the U.S. Department of Health and Human Services in the amount of \$1,276, 177 for the Early Retirement Reinsurance Program in the 2010-21011 fiscal year;**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Benefit Fund (Fund 160) for 2011-2012:**
- (1) **Increase the estimate for Beginning Fund Balance in the amount of \$1,276,177.**
  - (2) **Establish an earmarked reserve for Early Retiree Reinsurance Program in the amount of \$1,276,177.**

**CEQA: Not a Project, File No. PP10-068(a). (Human Resources/City Manager's Office)**

Documents Filed: Memorandum from Acting Director of Human Resources Kay Winer and Budget Director Jennifer Maguire, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 75905, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept Grant Funds from the U.S. Department of Health and Human Services for a Grant for the Early Retiree Reinsurance Program in An Amount Not To Exceed \$1,276,177.00"; Ordinance No. 28934, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Benefit Fund for the Early Retiree Reinsurance Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 75906, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75872 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2011-2012 to Adjust Revenues in the Benefit Fund", were adopted. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Conduct public hearing and adopt a resolution approving the Hotel Business Improvement District budget report for Fiscal Year 2011-12, as filed or as modified by the Council, and to levy the Hotel BID assessments for 2011-2012. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**

- 4.1 (b) **Conduct public hearing and adopt a resolution approving the Japantown Business Improvement District budget report for Fiscal Year 2011-12, as filed or as modified by the Council, and to levy the Japantown BID assessments for 2011-2012. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**
- (c) **Conduct public hearing and adopt a resolution approving the Downtown Business Improvement District budget report for Fiscal Year 2011-12, as filed or as modified by the Council, and to levy the Downtown BID increased assessments for 2011-2012. CEQA: Exempt, File No. PP08-048. Council District 3. SNI: St. James Square; University; Joséfa/Auzerais; Burbank/Del Monte. (Economic Development)**

Documents Filed: (1) Memoranda from Director of Economic Development/Chief Strategist Kim Welsh, all three dated May 31, 2011, recommending adoption of resolutions. (2) Proof of Publication of Notice of Public Hearing, executed on May 16, 2011, submitted by the City Clerk. (3) Three Proofs of Publications of Notices of Public Hearings, executed on June 10, 2011, submitted by the City Clerk.

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

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

Action: On a call for the question, the motion carried unanimously, Resolution No. 75907, entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Hotel Business Improvement District for Fiscal Year 2011-2012 and Levying Assessments in the Bid for Fiscal Year 2011-2012"; Resolution No. 75908, entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Japantown Business Improvement District for Fiscal Year 2011-2012 and Levying Assessments in the Bid for Fiscal Year 2011-2012" and Resolution No. 75909, entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Downtown Business Improvement District for Fiscal Year 2011-2012 and Levying Increased Assessments in the Bid for Fiscal Year 2011-2012", were adopted. (11-0.)

**4.2 Adopt a resolution to:**

- (a) **Declare the vacant 50,530 square foot City-owned parcel [APN 464-44-057] located at the northern terminus of Cahalan Avenue south of the Route 85 freeway surplus to the needs of the City.**
- (b) **Approve an agreement between the City and Summerhill Blossom Hill Land Holding, LLC, for the sale of the property in the amount of \$450,000.**
- (c) **Authorize the Director of Economic Development or designee to execute all sales documents and deeds necessary to complete the transaction.**

**CEQA: Exempt, File No. PP10-102. Council District 10. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Welsh, dated May 31, 2011, recommending adoption of a resolution.

#### 4.2 (Cont'd.)

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

Public Comments: David Wall suggested transferring the \$450,000 to fund more positions for Police Officers.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75910, entitled: "A Resolution of the Council of the City of San José Declaring Certain City Owned Property Located at the Northern Terminus of Cahalan Avenue South of the Route 85 Freeway as Surplus to the Needs of the City, Approving an Agreement to Sell, and Authorizing the City manager to Execute All Documents Necessary for the Transfer of Such Property to Summerhill Blossom Hill Land Holding LLC", was adopted. (11-0.)

#### 4.3 Adopt a resolution to:

- (a) **Declare the vacant 13,045 square foot 150 Terraine Street City-owned Parcel (APN 259-32-083) surplus to the needs of the City;**
- (b) **Authorize the City Manager or designee to negotiate and execute a Purchase and Sale Agreement for City owned property located at 150 Terraine Street; and**
- (c) **Authorize the City Manager or designee to execute all sales documents and deeds necessary to complete the transaction.**

**CEQA: Resolution No. 72767, File No. CP 09-054. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated June 3, 2011, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75911, entitled: "A Resolution of the Council of the City of San José Declaring Certain City Owned Property Located at 150 Terraine Street as Surplus to the Needs of the City, Authorizing the City Manager to Negotiate and Execute a Purchase and Sale Agreement and Authorizing the City Manager to Execute All Documents Necessary for the Transfer of Such Property to Urban Markets LLC", was adopted. (11-0.)

- #### 4.4
- (a) **Adopt a resolution authorizing the City Manager to negotiate and execute an Interim Incubator Operator Agreement with 1stACT Silicon Valley, for the management and operation of the Plaza based on business terms and conditions described in this memorandum for a term not to exceed 3 years at a maximum total compensation not to exceed \$1,485,000, subject to the City Council's annual appropriation of funds for the operating payments.**
  - (b) **Adopt a resolution to amend the FY 2011-2012 Schedule of Fees and Charges (Resolution No. 72737, as amended) to suspend the use and rental fees for Mexican Heritage Plaza for so long as the City is not operating the facility.**

**CEQA: Exempt, File No. PP10-097. Council District 5. SNI Area: Mayfair. (Public Works/Office of Economic Development)**

#### 4.4 (Cont'd.)

Documents Filed: Memorandum from Acting Director of Public Works David Sykes and Director of Economic Development/Chief Strategist Kim Walesh, dated May 27, 2011, recommending adoption of resolutions.

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

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: On a call for the question, the motion carried, Resolution No. 75912, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Interim Incubator Operator and Use Agreement With 1stAct Silicon Valley, For the Management and Operation of the Mexican Heritage Plaza for A Term Not To Exceed Three Years at a Maximum Total Compensation Not To Exceed \$1,485,000, Subject to Annual Appropriation and Resolution No. 75913, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72737 As Previously Amended by Resolutions Numbers 73019, 73056, 73242, 73637, 73831, 73879, 73881, 74035, 74047, 74452, 74839, 74841, 74981, 75135, 75334, 75338, 75442, 75502, 75509, 75600, 75610, 75639, 75639, 75641, 75684, 75725, 75783 and 75863 To Suspend the Use and Rental Fees for Mexican Heritage Plaza for So Long as the City Is Not Operating the Facility, To Be Effective June 21,2011", was adopted. (9-2. Noes: Constant, Oliverio.)

#### 4.5 **Adopt a resolution extending the period of time to September 30, 2011, for discussions with the City of Campbell regarding options for the reorganization of some or all of the affected 103-acre territory of Cambrian No. 36 in a manner that would be revenue neutral or beneficial to the City of San José. CEQA: Not a Project, PP10-069, City Organizational & Administrative Activities. Council District 9. (Planning, Building and Code Enforcement)**

Action: Item 4.5 was renumbered to Item 2.48. See Item 2.48 for action.

### NEIGHBORHOOD SERVICES

- 5.1 **Adopt a resolution authorizing the following, subject to the appropriation of funds by the City Council, and on such terms and conditions as deemed appropriate by the City Manager:**
- (a) **Authorize the City Manager to negotiate and execute all agreements and amendments for the Department of Parks, Recreation and Neighborhood Services identified on Attachment A of the staff memorandum consistent with the 2011-2012 Proposed Budget.**
  - (b) **Authorize the City Manager to negotiate and execute agreements and amendments to accept grant funds identified in Attachment B of the staff memorandum.**

- 5.1 (c) Authorize the City Manager to negotiate and execute a four-month extension of the agreement with the County of Santa Clara for the Senior Nutrition Agreement into the first four months of 2011-2012 and to accept grant funds for that period in amounts consistent with budgeted amount in the 2010-2011 agreement, until a new agreement for 2011-2012 is finalized with the County.
- (d) Authorize the Director of Parks, Recreation and Neighborhood Services to negotiate and execute 2011-2012 contracts and amendments consistent with Adopted Budget amounts for the following grant programs:
- (1) Bringing Everyone's Strengths Together (B.E.S.T.)
  - (2) Safe Summer Initiative Grant (S.S.I.G.)
  - (3) Mayor's Gang Prevention Task Force Memorandums of Understanding
- (e) Authorize the City Manager or designee to negotiate and execute 2011-2012 contracts and amendments consistent with Adopted Budget amounts for the following:
- (1) Children's Health Initiative
  - (2) General Fund Grants (formerly known as Healthy Neighborhoods Venture Fund - HN VF)
- (f) Authorize the City Manager to negotiate and execute the Third Amendment to the Park Maintenance Agreement between the City of San José and Hitachi Technologies, Inc. to extend the term of maintenance agreement from June 30, 2011 to June 30, 2012 for the Ramac, Raleigh Linear Green and Charlotte Commons parks at no cost to the City.

**CEQA: Grace Baptist Church, Not a Project, File PP10-066(e), Lease of Existing Space; Kids Love Soccer, Not a Project, File PP10-066(e), Consultant Services; Children's Health Initiative, Not a Project, File PP10-066(e), Services that involve no change to the environment; Hitachi Technologies, Mixed Use Transit Village, EIR, Resolution No. 72772; B.E.S.T., Not a Project, File PP10-066(e), Services that involve no change to the environment; General Fund Grants, Not a Project, File PP10-066(e), Services that involve no change to the environment; Alum Rock School District, Not a Project, File PP10-066(e), Services that involve no change to the environment; COPS Urban Violence Grant, Not a Project, File PP10-066(e), Services that involve no change to the environment; County of Santa Clara – Mental Health Services, Not a Project, File PP10-066(e), Services that involve no change to the environment; First 5 of Santa Clara County, Not a Project, File PP10-066(e), Services that involve no change to the environment; County of Santa Clara Agreement for Senior Nutrition Program, Not a Project, File PP10-066(e), Services that involve no change to the environment. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas, dated May 31, 2011, recommending adoption of a resolution.

Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas and City Manager Debra Figone responded to Council questions.

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

## 5.1 (Cont'd.)

Public Comments: Sylvia Lowe, Overfelt Gardens Park, expressed support to the Park Rangers.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75914, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Various Agreements and Amendments to the Agreements and To Accept Grant Funds for Parks, Recreation and Neighborhood Services Programs; and Authorizing the Director of Parks, Recreation and Neighborhood Services to Negotiate and Execute Agreements and Amendments to Agreements Related to Certain Grant Programs, All Consistent with the Amounts Budgeted for These Programs in the Adopted Budget for Fiscal Year 2011-2012”, was adopted. (11-0.)

## 5.2 Approve an ordinance amending Ordinance No. 28178 to adjust the dates of the two-year pilot for the Neighborhoods Commission to reflect an extension of the Commission to December 31, 2011. CEQA: Not a Project, File No. PP10-069, City Organizational & Policy Making. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Council Member Herrera, dated June 20, 2011, recommending preserving the Neighborhoods Commission as the integrated voice of the neighborhoods. (2) Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas, dated June 10, 2011, recommending approval of an ordinance.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Ordinance No. 28935, entitled: “An Ordinance of the City of San José Amending Ordinance 28178 to Extend the Ending Date of the Pilot for the Neighborhoods Commission to December 31, 2011”, was passed for publication. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) **Adopt a resolution authorizing the Director of Public Works to:**
- (1) **Determine the lowest responsive and responsible bidder and to award a construction contract for the 2010 STP Resurfacing and Rehabilitation Project–Monterey Road to the lowest responsive bidder, in an amount not to exceed the funds appropriated for the project, or to reject all bids and re-bid the project.**
  - (2) **Determine whether or not to award the “green” resurfacing process bid alternate as part of the construction contract, provided that awarding this bid alternate would not cause the construction contract to exceed the amount of funds appropriated for the project.**
- (b) **Approve a contingency equal to five percent of the base contract award amount.**

**CEQA: Exempt, File No. PP11-035. Council District 2. (Transportation)**

## 6.1 (Cont'd.)

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen, dated May 31, 2011, recommending adoption of a resolution and approval of a contingency.

Assistant Director of Transportation Jim Ortbal responded to Council questions.

Action: Upon motion by Council Member Kalra, seconded by Council Member Liccardo and carried unanimously, Resolution No. 75915, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Award a Construction Contract for the 2010 STP Resurfacing and Rehabilitation Project – Monterey Road to the Lowest Responsive and Responsible Bidder in An Amount Not To Exceed the Funds Appropriated for the Project, and To Determine Whether to Award the Green Resurfacing Process Bid Alternate", was adopted, with an approved contingency equal to five percent of the base contract award amount. (11-0.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Adopt a resolution to adopt the Negative Declaration prepared for the Commercial Collection System Redesign Project, File No. PP10-157, as having been completed in compliance with the California Environmental Quality Act and reflecting the City's independent judgment and analysis.**
- (b) **Hold a public hearing on the application of Allied Waste Services of Santa Clara County for Commercial Solid Waste and Recyclable Material Collection Franchises for the North and South Service Districts; approve ordinances granting the franchises; and adopt a resolution authorizing the City Manager to negotiate and execute a Commercial Solid Waste and Recyclable Material Collection Franchises Agreement with Allied Waste Services of Santa Clara County, in substantial compliance with the terms specified in the draft Franchises Agreement, for a term from September 13, 2011 through June 30, 2027.**
- (c) **Direct staff to return to Council in 2011-2012 with proposed ordinances or resolutions for adoption needed to implement the new commercial solid waste system, including establishing maximum customer service rates.**

**CEQA: Negative Declaration, File No. PP10-157. (Environmental Services/Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean and Director of Building, Planning and Code Enforcement Joseph Horwedel, dated May 31, 2011, recommending holding a public hearing, adoption of a resolution and approval of ordinances. (2) Proof of Publication of Notice of Public Hearing, executed on June 3, 2011, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

## 7.1 (Cont'd.)

Director of Environmental Services John Stufflebean and Deputy Director of Integrated Waste Management Division Jo Zientek responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75916, entitled: "A Resolution of the Council of the City of San José Adopting the Commercial Collection Redesign Negative Declaration, For Which an Initial Study Was Prepared, All in Accordance with the California Environmental Quality Act of 1970" and Resolution No. 75917, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement with Allied Waste Services of North America, LLC, dba Allied Waste Services of Santa Clara County for Commercial Solid Waste and Recyclable Material Collection Franchises for the North Service District and the South Service District with a Term from September 13, 2011 through June 30, 2027", were adopted; Ordinance No. 28936, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclable Material Collection Franchise for the South District to Allied Waste Services of North America, LLC dba Allied Waste Services of Santa Clara County" and Ordinance No. 28937, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclable Material Collection Franchise for the North District to Allied Waste Services of North America, LLC dba Allied Waste Services of Santa Clara County", were passed for publication. Staff was directed to return to Council in 2011-2012 with proposed ordinances or resolutions for adoption needed to implement the new commercial solid waste system, including establishing maximum customer service rates. (11-0.)

- 7.2 (a) **Adopt a resolution to adopt the Mitigated Negative Declaration prepared for the Dry-Fermentation Anaerobic Digestion Facility Project, File No. SP09-057, as having been completed in compliance with the California Environmental Quality Act and reflecting the City's independent judgment and analysis, and to adopt a related mitigation monitoring and reporting program. CEQA: Mitigated Negative Declaration for Special Use Permit for a 270,000 ton per year dry fermentation anaerobic digestion facility to process the organic portion of solid waste, File No. SP09-057.**
- (b) **Adopt a resolution to authorize the City Manager to negotiate and execute a ground lease in the form proposed, with Zero Waste Energy Development Company for the construction and operation of a dry anaerobic digestion facility on Water Pollution Control Plant land, for a 30 year term, subject to base rent equivalent to \$850,000 per year on Phase I, and ongoing rent payments of \$4.35 per organic ton processed in Phases II and III, subject to annual adjustment directly tied to Consumer Price Index increases.**

**Council District 4. (Planning, Building and Code Enforcement/Economic Development)**

## 7.2 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated June 7, 2011, recommending adoption of resolutions. (2) Supplemental memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel, dated June 14, 2011, providing comments received on the Initial Study/Mitigated Negative Declaration. (3) Supplemental memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel, dated June 16, 2011, additional comments received on the Initial Study/Mitigated Negative Declaration. (4) Letter from Chair Chuck Reed, The Treatment Plant Advisory Committee, dated May 19, 2011, stating concurrence with the Staff recommendation. (5) Letter from Department of Fish and Game, dated March 16, 2011, regarding the Santa Clara Water Pollution Control Plant Master Plan.

Mayor Reed provided meeting disclosures.

Director of Planning, Building and Code Enforcement Joseph Horwedel presented introductory remarks and responded to Council questions.

Motion: Council Member Chu moved approval of the Staff recommendations and the two supplemental memoranda from the Director of Planning, Building and Code Enforcement. Council Member Liccardo seconded the motion.

Council Members Chu, Campos, Constant and Liccardo provided meeting disclosures.

Erik Schoennauer, representing the Applicant, Zero Waste Energy Development Company, spoke to the merits of the project.

Public Comments: Expressing comments and opposition about the project and the proposed mitigations for the animals were Richard Santos, Shani Kleinhaus, Santa Clara Valley Audubon Society, Eileen McLaughlin, Citizens Committee to Complete the Refuge, David Wall and Craig K. Breon.

A short discussion followed.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75918, entitled: "A Resolution of the Council of the City of San José Adopted the Dry-Fermentation Anaerobic Digestion Facility Project Mitigation Negative Declaration, For Which An Initial Study Was Prepared, All in Accordance With the California Environmental Quality Act and Adopting a Related Mitigation Monitoring and Reporting Program" and Resolution No. 75919, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Ground Lease with Zero Waste Energy Development Company for the Construction and Operation of a Dry Anaerobic Digestion Facility on Water Pollution Control Plan Land", were adopted. The supplemental memoranda from Director of Building, Planning and Code Enforcement Joseph Horwedel, dated June 14, 2011 and June 16, 2011, were approved. (11-0.)

- 7.3 Adopt a resolution authorizing the City Manager to negotiate and execute a Commercial Organic Waste Processing Services Agreement with Zero Waste Energy Development Company, LLC, in substantial compliance with the terms specified in the draft Agreement, for a term from July 1, 2011 through June 30, 2027, with an initial service mobilization period from July 1, 2011 through June 30, 2012, and services to begin July 1, 2012, at a first year annual cost not to exceed \$6,000,000, subject to appropriation of funds. CEQA: Mitigated Negative Declaration for Special Use Permit for a 270,000 ton per year dry fermentation anaerobic digestion facility to process the organic portion of solid waste, File No. SP09-057. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated June 2, 2011, recommending adoption of a resolution.

Director of Environmental Services John Stufflebean responded to Council questions.

Public Comments: David Wall presented comments on the agreement with Zero Waste Energy Development Company.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 75920, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With Zero Waste Energy Development Company, LLC for Organics Processing Services With a Term from July 1, 2011 Through June 30, 2027 in a First Year Annual Amount Not To Exceed \$6,000,000 Beginning July 1, 2012, Subject to Appropriation of Funds", was adopted. (11-0.)

- 7.4 (a) Adopt a resolution authorizing the City Manager to negotiate and execute a term sheet with JPMorgan Chase N.A., Brownfield Revitalization, LLC, Northern California Community Loan Fund, and HEDC-New Markets, Inc., to secure New Markets Tax Credit financing for the San José Environmental Innovation Center.**
- (b) Adopt a resolution authorizing the City Manager or Designee to execute and record a grant deed effecting a lot line adjustment permit for the Environmental Innovation Center property.**
- CEQA: Negative Declaration for the renovation of the EIC was adopted on December 1, 2009, File No. PP09-138. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated May 31, 2011, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Environmental Services John Stufflebean, dated June 17, 2011, modifying the original recommendation and providing a status update on the negotiations.

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

#### 7.4 (Cont'd.)

Deputy Director of Integrated Waste Management Division Jo Zientek responded to Council questions.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75921, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement with JP Morgan Chase N.A., Brownfield Revitalization LLC, Northern California Community Loan Fund and HEDC-New Markets Inc. to Secure New Markets Tax credit Financing for the San José Environmental Innovation Center, and To Pay for the Potential Costs Associated with Closing the Financial Transaction In An Amount Not To Exceed \$300,000” and Resolution No. 75922, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Execute and Record a Grant Deed Effecting a Lot Line Adjustment Permit for the Environmental Innovation Center Property”, were adopted. (11-0.)

### STRATEGIC SUPPORT SERVICES

- 3.5 Adopt a resolution authorizing the Director of Finance to execute the Second Amendment to the Public Address System Agreement with Signatures Technology Inc., dba Com-Net Software, to expand the public address system into the Federal Inspections Services International Terminal at the Norman Y. Mineta San José International Airport and to increase the total compensation by an amount not to exceed \$50,438, from \$2,276,269 to \$2,326,707, including all hardware, software, sales tax and the first year of support and professional services and warranty. CEQA: Resolution Nos. 67380 and 71451, File No. PP09-160. (Finance)**

Action: Item 3.5 was renumbered to Item 2.42. See Item 2.42 for action.

- 3.6 (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for Fiscal Year 2011-2012:**
- (1) Increase the estimate for Other Revenue in the amount of \$125,000,000.**
  - (2) Increase the estimate for Use of Money and Property in the amount of \$50,000.**
  - (3) Increase the City-wide appropriation to the Finance Department for TRANs Debt Service by the amount of \$125,050,000.**
- (b) Adopt a resolution to:**
- (1) Authorize the issuance and sale of the City of San José 2011 Tax and Revenue Anticipation Note (“2011 Note”) in the not to exceed aggregate principal amount of \$125,000,000, to be sold through a private placement.**

- 3.6 (b) (2) **Approve, in substantially final form, the Note Purchase Agreement and authorizing the Director of Finance or other authorized officers to execute the Note Purchase Agreement and other related documents, as necessary, in connection with the issuance of the 2011 Note and authorizing other related actions in connection therewith.**
- (c) **Adopt a resolution authorizing the Director of Finance to negotiate and execute a third amendment to the agreement with Public Resources Advisory Group serving as the City General Financial Advisor to increase the total not to exceed compensation amount authorized under the agreement from \$350,000 to \$450,000.**

**CEQA: Not a Project, File No. PP10-069, City organizational and administrative activities. (Finance/City Manager's Office)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson and Budget Director Jennifer A. Maguire, dated June 7, 2011, recommending adoption of resolutions and appropriation ordinance and funding sources resolution amendments.

Director of Finance Scott Johnson presented the report and responded to Council questions. A short discussion followed.

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

Discussion ensued.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28938, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund – Citywide – Strategic Support for the Trans Debt Service; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 75923, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75872 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2011-2012 to Adjust Revenues in the General Fund"; Resolution No. 75924, entitled: "A Resolution of the Council of the City of San José Providing for the Borrowing of Funds for Fiscal year 2011-2012 and the Issuance and Sale of the City of San José 2011 Tax and Revenue Anticipation Note (Or Portions Thereof) In An Amount Not To Exceed \$125,000,000 and Approving the Execution of a Note Purchase Agreement Relating to Such Note and Authorizing Other Actions in Connection Therewith" and Resolution No. 75925, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute an Amendment to the Agreement to the Agreement with Public Resources Advisory Group, Serving as the City General Financial Advisor, To Increase the Total Not To Exceed Compensation Amount Authorized Under the Agreement From \$350,000 to \$450,000", were adopted. (11-0.)

- 3.7 (a) **Hold a TEFRA (Tax Equity and Fiscal Responsibility Act) hearing with respect to the proposed issuance by the City of tax-exempt airport revenue bonds and subordinated airport commercial paper notes in an aggregate principal amount not to exceed \$320,000,000, pursuant to a plan of financing in order to provide proceeds to finance or refinance all or a portion of the costs of acquisition, construction, equipping, financing, reconstruction, development, and modification of airport facilities that are included in or are consistent with the Airport Master Plan for the Airport.**
- (b) **Adopt the Sixteenth Supplemental Resolution (the “Resolution”) of the City Council authorizing the issuance of City of San José Airport Revenue Bonds, Series 2011A in one or more series (the “2011A Bonds”) in a total aggregate principal amount of not to exceed \$300,000,000, to be sold through negotiated sale; approving in substantially final form the Seventh Supplemental Trust Agreement, the Preliminary Official Statement, the Bond Purchase Agreement, the Escrow Agreement and the Continuing Disclosure Certificate; authorizing the distribution of one or more Preliminary Official Statements and the Final Official Statements; and authorizing and approving other related actions in connection with the issuance of the Series 2011A Bonds.**
- (c) **Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement by and among the City, Public Financial Management and Public Resources Advisory Group for financial advisory services in connection with the issuance of the City of San José Airport Revenue Bonds Series 2011A and Series 2011B, in an amount not to exceed \$420,000.**
- (d) **Adopt a resolution authorizing the City Attorney to negotiate and execute an Agreement with Orrick, Herrington & Sutcliffe LLP for bond and disclosure counsel services in connection with the issuance of the City of San José Airport Revenue Bonds Series 2011A and Series 2011B, in an amount not to exceed \$350,000.**

**CEQA: Resolutions No. 67380 and 71451, File No. PP 07-149. (Finance)**

Documents Filed: (1) Memorandum from Assistant Director of Finance Julia Cooper, dated May 31, 2011, recommending holding a TEFRA hearing and adoption of resolutions. (2) Supplemental memorandum from Assistant Director of Finance Julia Cooper, dated June 16, 2011, providing additional information related to the issuance of the Norman Y. Mineta San José International Airport Revenue Bonds, Series 2011. (3) Memorandum from Assistant Director of Finance Julia Cooper, dated June 10, 2011, transmitting the preliminary Official Statement for the City of San José Airport Revenue Bonds, Series 2011A.

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

Director of Finance Scott P. Johnson and Division Manager of the Treasury Division Arn Andrews provided comments. Assistant Director of Finance Julia Cooper presented the report.

Council discussion followed.

### 3.7 (Cont'd.)

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

Public Comments: David Wall commented on the Staff recommendations and provided suggestions.

Mayor Reed closed the TEFRA hearing.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75926, entitled: "A Sixteenth Supplemental Resolution of the Council of the City of San José Approving the Forms of One or More Supplemental Trust Agreements, One or More Preliminary Official Statements, One or More Final Official Statements, One or More Bond Purchase Agreements and One or More Continuing Disclosure Certificates; Providing for the Issuance of One or More Series of City of San José Airport Revenue Bonds in an Aggregate Principal Amount Not To Exceed \$300,000,000; Prescribing the Terms, Conditions and Form of Said Series of Bonds; and Authorizing and Approving Other Related Actions"; Resolution No. 75927, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement By and Among the City, Public Financial Management and Public Resources Advisory Group for Financial Advisory Services in Connection With the Issuance of the City of San José Airport Revenue Bonds Series 2011A and 2011B In An Amount Not To Exceed \$420,000" and Resolution No. 75928, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement With Orrick, Herrington & Sutcliffe LLP for Bond and Disclosure Counsel Services in Connection with the Issuance of the City of San José Norman Y. Mineta San José International Airport Revenue Bonds Series 2011A and 2011B In An Amount Not To Exceed \$350,000", were adopted. (11-0.)

- 3.11 (a) **Adopt a Declaration of a Fiscal and Public Safety Emergency establishing the necessity of making fiscal reforms to avert a fiscal disaster, prevent substantial degradation of public safety and other vital city services, and maintain the integrity of our retirement system so that earned and accrued benefits can be paid to current and future retirees.**
- (b) **Discuss possible draft ballot language for ballot measures allowing the residents of San José to vote on proposed changes to the Charter:**
- (1) **Discuss possible draft ballot language for proposed changes to the Charter to set maximum limits on benefits and other compensation that may not be exceeded without voter approval;**
  - (2) **Amend Charter Section 1504 and Section 1505 to clarify purpose of disability retirement benefit.**

Action: Deferred to June 24, 2011 per Mayor Reed.

- 7.5 (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 August 16, 2011 per Administration.

## **OPEN FORUM**

- (1) David Wall congratulated the City Manager and District 3 Staff for their work and added that The Treatment Plant Advisory Committee meeting should be recorded and the minutes taken by the Office of the City Clerk.
- (2) Roland Lebrun spoke about issues related to the Habitat Plan and the County of Santa Clara.
- (3) Michael Medlin, Security Officer, presented his thoughts to the City Council about his experiences working for City Hall over the past 5 years.

## **ADJOURNMENT**

The Council of the City of San José adjourned the afternoon session at 4:01 p.m.

## RECESS/RECONVENE

The City Council recessed at 4:01 p.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Liccardo. (7:22 p.m.) (Excused)

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

## GENERAL PLAN PUBLIC HEARINGS

- 10.2 Adopt a resolution amending the San José 2020 Land Use/Transportation Diagram designation on a 19.2-acre site from General Commercial (approximately 7 acres) and Heavy Industrial (approximately 12.2 acres) to Combined Industrial/Commercial, located on the East side of Monterey Road, approximately 500 feet southerly of East Alma Avenue. Director of Planning, Building and Code Enforcement and Planning Commission (5-0-2, Kamkar and Kline absent) recommend approval. CEQA: EIR Resolution adopted. GP10-07-01 – District 7**

*Note: Item 10.2 and 11.3 were heard together.*

Documents Filed: (1) Memorandum from Vice Mayor Nguyen, dated June 16, 2011, recommending approval of the Staff/Planning recommendations, with direction. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated June 6, 2011, transmitting the recommendation of the Planning Commission. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP10-07-01, dated May 16, 2011. (4) Proof of Publication of Notice of Public Hearing, executed on May 6, 2010, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel presented a brief report.

Mayor Reed opened the public hearing.

Public Comments: Speaking in support to the Staff recommendations were Martin Delson, Mary Guzman, Lovie Spencer and Henry Cord.

Michael Mulcahy, representing the Applicant, Sun Garden TIC, spoke to the merits of the project. He stressed that there was a need to maintain all five driveways and requested that Council consider approving all five.

## 10.2 (Cont'd.)

Mayor Reed closed the public hearing.

Council Member Liccardo arrived to the meeting at 7:22 p.m.

Motion: Vice Mayor Nguyen moved approval of her memorandum dated June 16, 2011, approving the recommendations of the Planning Staff and the Planning Commission and allowing as part of the Zoning and Development Standards, a total of five driveways (including the signalized entrance), as shown on the conceptual site plan; and she read the Statement of Overriding Considerations into the record as depicted below in “Action”. Council Member Constant seconded the motion.

Mayor Reed and Council Member Constant provided meeting disclosures.

A short discussion ensued.

Action: On a call for the question, the motion carried unanimously, The Statement of Overriding Considerations was read into the record by Council Member Nguyen: “The Final Environment Impact Report for this proposed project identified significant and unavoidable environmental impacts. However, as described in more detail in the proposed resolution of the EIR findings for this item there is no feasible way to lessen or avoid these significant effects for this project and approval of this proposed project is anticipated to result in several benefits to the City. All of these benefits outweigh the significant, unavoidable environmental impacts identified in the Final EIR for this project”; Resolution No. 75929, entitled: “A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Environmental Effects and Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives, and Adopting a Statement of Overriding Considerations, All for the Sun Garden Redevelopment Project (File No. GP10-06-01 and PDC10-026) For Which an Environmental Impact Report Has Been Prepared in Accordance with the California Environmental Quality Act of 1970, as amended” and Resolution No. 75930, entitled: A Resolution of the Council of the City of San José Specifying the Council’s Determination on a Proposed Amendment to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code”, were adopted. (11-0.)

**END OF GENERAL PLAN PUBLIC HEARINGS**

## **PUBLIC HEARINGS ON CONSENT CALENDAR**

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the northeast corner of Toy Lane and Kettmann Road (2605 Toy Lane) to allow up to two single-family houses on .32 acres. Specifically, the proposal would facilitate the following: 1) an existing single-family lot to be subdivided into two lots; 2) demolition of a detached garage and storage structure; 3) the addition of an attached garage to the existing detached single-family residence; and 4) the construction of a new single-family detached residence with an attached garage on the newly created lot (Desai Himanshu and Anima H. Trustee, Owner). CEQA: Exempt. PDC07-052 – District 8**

Documents Filed: (1) Memorandum from Planning Commission Secretary Joe Horwedel, dated June 9, 2011, transmitting the recommendation of the Planning Commission. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-052, dated May 27, 2011. (3) Proof of Publication of Notice of Public Hearing, executed on May 27, 2010, 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 Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Director and Planning Commission was approved, Ordinance No. 28940, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Toy Lane and Kettmann Road (2605 Toy Lane) from A(PD) Planned Development Zoning District to R-1-8(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 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 an existing full-service grocery store in an approximately 39,661 square-foot tenant space in a shopping center on a 14.10 gross-acre site in the CG-Commercial General Zoning District at the northeast corner of South White Road and Story Road (1070 S White road) (Mi Pueblo San José, Inc., Applicant / White Road Partners, LLC, Owner). SNI: East Valley/680 Communities. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends the Council uphold the appeal and overturn the Planning Commission's decision to deny the permit and not grant the Determination of Public Convenience or Necessity.**  
**CP11-017/ABC11-003 – District 5**

Documents Filed: (1) Memorandum from Council Member Campos, dated May 17, 2011, recommending approval of the Planning Director's decision to uphold the appeal of the Planning Commissioner's decision and approve the subject conditional use permit. (2) Memorandum for Director of Building, Planning and Code Enforcement Joseph Horwedel, dated April 21, 2011, recommending upholding the appeal of the Planning Commissioner's decision and approve the subject conditional use permit. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP11-017/ABC11-003, dated March 21, 2011. (4) Proof of Publication of Notice of Public Hearing, executed on April 29, 2010, submitted by the City Clerk. (5) Approximately 2,000 signatures submitted from the Community expressed their approval to upholding the appeal of the Planning Commissioner's decision and approve the subject conditional use permit for Mi Pueblo Food Center.

Mayor Reed opened the public hearing.

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

Perla Rodriguez, Vice President of Public Affairs, Mi Pueblo Food Center, speaking to the merits of her appeal, she expressed the importance of customers being able to purchase alcoholic beverages of any type when they are doing their grocery shopping.

Public Comments: Speaking in support to upholding the appeal and approving the subject conditional use permit were Alofa Talivaa, Sierra Neighborhood Association, Christina Duarte, Myra Nava and Frank Cortez, Alum Rock Village Business Association.

Expressing concerns about allowing too many liquor stores in this area were Elsie Aranda, East Valley/680 Neighborhood Association, Sammy Castillo, Frank Harms, Alex Hernandez and Ernesto.

Perla Rodriguez, Mi Pueblo Food Center, rebutted and pointed out that this store would be a one-stop convenience to local customers.

## 11.2 (Cont'd.)

Mayor Reed closed the public hearing.

Motion: Council Member Campos moved approval of his memorandum dated May 17, 2011, to uphold the appeal of the Planning Commissioner's decision and approve the subject conditional use permit. Council Member Liccardo seconded the motion.

Mayor Reed, Vice Mayor Nguyen and Council Members Campos, Liccardo and Herrera provided meeting disclosures.

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Campos, dated May 17, 2011, was approved, the recommendation of the Planning Director was approved and Resolution No. 75931, entitled: A Resolution of the Council of the City of San José Approving a Conditional Use Permit and Granting a Determination of Public Convenience or Necessity to Allow Off Sale Alcohol of any Type in Conjunction with an Approximately 39,661 Square Foot Full Service Grocery Store Within an Existing Shopping Center Located at 1070 South White Road on an Approximately 14.1 Gross Acre Site", was adopted. (11-0.)

## 11.3 **Consideration of an ordinance rezoning the real property located at/on the east side of Monterey Road from LI-Light Industrial and HI-Heavy Industrial Zoning Districts to CG(PD) Planned Development Zoning District to allow the demolition of the three existing structures and construction of up to 257,296 square feet of commercial building on a 19.75 gross acre site (Michael Mulcahy for Sun Garden Tenants in Common, Owner). CEQA: EIR Resolution was adopted under Item 10.2. PDC10-026 – District 7**

*Note: Item 11.3 and 10.2 were heard together. See Item 10.2 for other actions.*

Documents Filed: (1) Memorandum from Vice Mayor Nguyen, dated June 16, 2011, recommending approval of the Staff/Planning recommendations, with direction. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated June 6, 2011, transmitting the recommendation of the Planning Commission. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC10-026, dated May 16, 2011. (4) Proof of Publication of Notice of Public Hearing, executed on May 16, 2010, submitted by the City Clerk. (5) Petition of 140 signatures submitted by the Alma Community Residents dated June 21, 2011, in support of the redevelopment of the former Sun Garden Packing Plant to a proposed retail center.

### 11.3 (Cont'd.)

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Constant and carried unanimously, the memorandum from Vice Mayor Nguyen, dated June 16, 2011, was approved, accepting the Staff/Planning recommendations, approving the proposed project and allowing as part of the Zoning and Development Standards, a total of five driveways (including the signalized entrance) as shown on the conceptual site plan and Ordinance No. 28939, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Monterey Road, Approximately 300 Feet Southerly of Alma Avenue, From the LI Light Industrial and HI Heavy Industrial Zoning Districts to the CG (PD) Planned Development Zoning District", was passed for publication, as amended. (11-0.)

### NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9994	866 Hillsdale Avenue	6	Daya Tiffany Partnership	7 Lots/ 6 Units	SFD	Approve

### OPEN FORUM

Peter B. Kennelly expressed concern about the type of material on billboards, specifically at Race Street and The Alameda.

### ADJOURNMENT

The Council of the City of San José was adjourned at 8:16 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

City Clerk Dennis D. Hawkins, CMC

/smd 06-21-11 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.

## APPENDIX A

### 3.4 (Continued from Page 6)

Documents Filed: (1) Memorandum from Budget Director Jennifer Maguire, dated June 17, 2011, recommending adoption of the 2011-2012 Operating and Capital Budgets (Manager's Budget Addendum 49) and appropriation ordinance and funding sources resolution amendments. (2) Memorandum from Budget Director Jennifer Maguire, dated June 3, 2011, recommending adoption of a resolution. (3) Proposed Operating Budget Binder for Fiscal Year 2011-2012. (4) Proposed Fiscal Year 2011-2012 Capital Budget and 2012-2016 Capital Improvement Program Binder. (5) Proposed 2011-2012 Fees and Charges Report.

**[A] FISCAL YEAR 2011-2012 BUDGET DOCUMENTS (BD) AND DOCUMENT LOG:** [1] Memorandum from Mayor's Policy Office Director Armando Gomez, dated April 28, 2011, providing information for the Budget Process for FY 2011-2012 and the Budget Document Template. [2] Memorandum from Council Member Oliverio, dated May 23, 2011, requesting a pilot program for outsourcing park maintenance for City parks. [3] Memorandum from Council Member Oliverio, dated May 23, 2011, requesting prioritizing library services. [4] Memorandum from Council Member Oliverio, dated May 23, 2011, requesting the elimination of 40 boards and commissions. [5] Memorandum from Council Member Oliverio, dated May 23, 2011, requesting funding changes for Strong Neighborhoods Initiative (SNI) programs. [6] Memorandum from Council Member Oliverio, dated May 23, 2011, requesting changing the shift times for the San José Fire Department. [7] Memorandum from Council Member Oliverio, dated May 23, 2011, requesting outsourcing payroll in the Finance Department. [8] Memorandum from Council Member Oliverio, dated May 23, 2011, requesting changing the use of the Healthy Neighborhood Venture Fund (HNVF). [9] Memorandum from Council Member Oliverio, dated May 23, 2011, requesting the investigation of cross training of police and firefighters on disaster preparedness of the Water Pollution Control Plant (WPCP). [10] Memorandum from Council Member Constant, dated May 25, 2011, requesting funding changes that would preserve 53 police officers and adequate sources of funds for years 1-3 of the COPS Grant. [11] Memorandum from Council Member Constant, dated May 25, 2011, requesting changes to authorized positions in the San José Police Department. [12] Memorandum from Council Member Constant, dated May 25, 2011, recommending options for position restorations of 8 to 21 police officers. [13] Memorandum from Council Member Constant, dated May 25, 2011, requesting restoration of 2 police officers and to eliminate General Fund support for the Arts and Cultural Development. [14] Memorandum from Council Member Constant, dated May 25, 2011, requesting the reinstatement of 6.0 Code Enforcement Officer positions and Library Parcel Tax Funding reallocation. [15] Memorandum from Council Member Constant, dated May 25, 2011, requesting reinstating 2.0 Workers' Compensation Claims Adjusters. [16] Memorandum from Council Member Constant, dated May 25, 2011, requesting reinstating 2.0 Workers' Compensation Claims Adjusters by eliminating positions in the Office of Equality Assurance funded by the General Fund. [17] Memorandum from Council Member Constant, dated May 25, 2011, requesting restoring

### 3.4 (Cont'd.)

**[A] FISCAL YEAR 2011-2012 BUDGET DOCUMENTS (BD) AND DOCUMENT LOG (Cont'd.):** [18] Memorandum from Council Member Constant, dated May 25, 2011, requesting the elimination of all Boards, Commissions, Task Forces and Advisory Commissions except for those required by the City Charter or other authority. [19] Memorandum from Council Member Campos, dated May 25, 2011, requesting the District 5 Office and constituent outreach budget carry over. [20] Memorandum from Council Member Campos, dated May 25, 2011, requesting restoring the full time Youth Outreach Specialist at the Alum Rock Youth Center. [21] Memorandum from Vice Mayor Nguyen, dated May 25, 2011, requesting the Council District 7 Office budget carry over. [22] Memorandum from Vice Mayor Nguyen, dated May 25, 2011, requesting the restoration of the Recreation Specialist at the Alma Community Center. [23] Memorandum from Vice Mayor Nguyen, dated May 25, 2011, requesting the funds that would benefit services for the Senior Nutrition Program. [24] Memorandum from Council Member Oliverio, dated May 25, 2011, requesting the District 6 Office budget carry over. [25] Memorandum from Council Member Chu, dated May 25, 2011, requesting consideration of a pilot program to allow school districts to organize a program to coordinate crossing guard services. [26] Memorandum from Council Member Chu, dated May 25, 2011, requesting funding to support Youth Intervention Services that will allow the City to continue to provide recreation and community services to the youth. [27] Memorandum from Council Member Chu, dated May 25, 2011, requesting extending funding for the Park Ranger Program through June 30, 2012 and direction to the City Manager to explore grand funding opportunities to support the program. [28] Memorandum from Council Member Chu, dated May 25, 2011, requesting consideration of a pilot program to provide parking and traffic enforcement training for school administrators at the local schools. [29] Memorandum from Council Member Chu, dated May 25, 2011, requesting the District 4 Office Rebudget. [30] Memorandum from Council Member Pyle, dated May 24, 2011, requesting the District 10 Office and constituent budget carry over. [31] Memorandum from Council Member Pyle, dated May 25, 2011, requesting a social host ordinance that will hold adults who provide alcohol and host underage drinking parties responsible. [32] Memorandum from Council Member Pyle, dated May 25, 2011, requesting the restoration of one Park Ranger based out of Lake Almaden and focus on citywide trail patrol. [33] Memorandum from Council Member Rocha, dated May 25, 2011, requesting maintaining the crossing guard service at current year levels. [34] Memorandum from Council Member Rocha, dated May 25, 2011, requesting restoring library service to 33 hours per week. [35] Memorandum from Council Member Rocha, dated May 25, 2011, requesting the District 9 Office Rebudget. [36] Memorandum from Council Member Rocha, dated May 25, 2011, requesting maintaining the current Youth Commission Staff. [37] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting funds supporting the Senior Wellness Programs and socialization at the Alma and Gardner Centers [38] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting an additional one time allocation of \$400,000 for senior wellness services at sites currently operated by community-based organizations. [39] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting two additional Code Enforcement Officers.

### 3.4 (Cont'd.)

**[A] FISCAL YEAR 2011-2012 BUDGET DOCUMENTS (BD) AND DOCUMENT LOG (Cont'd.):** [40] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting maintaining 46 part time crossing guard positions slated for elimination in the 2011-2012 proposed budget. [41] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting \$358,704 in funding for the STAND Program. [42] Memorandum from Council Member Kalra, dated May 25, 2011, requesting the Council District 2 Budget carry over. [43] Memorandum from Council Member Kalra, dated May 25, 2011, requesting funding \$400,000 for the Senior Services and Wellness Program. [44] Memorandum from Council Member Constant, dated May 25, 2011, requesting direction to the City Manager to collaborate with department heads in exploring a hybrid security system at Norman Y. Mineta San José International Airport that will utilize the San José Police Department officers to supervise and work alongside contracted security. [45] Memorandum from Council Member Herrera, dated May 25, 2011, requesting restoring an additional half day of service to the libraries from 3 days a week to 3.5 days a week. [46] Memorandum from Council Member Herrera, dated May 25, 2011, requesting restoration of seasonal staffing at the Velma Million Marina and Lake Cunningham Regional Skate Park until October 1, 2011. [47] Memorandum from Council Member Herrera, dated May 25, 2011, requesting the Council District 8 Office Budget and constituent outreach budget carry over. [48] Memorandum from Council Member Herrera, dated May 25, 2011, requesting restoring one senior maintenance worker to oversee the Alternate Work Program for the Anti-Graffiti and Anti-Litter programs. [49] Memorandum from Council Member Campos, dated May 25, 2011, requesting restoration of City Services in the amount of \$14 Million. [50] Memorandum from Council Member Kalra, dated May 25, 2011, requesting \$363,000 for the Anti-Graffiti program. [51] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting \$950,000 for the Center for Employment Training Renovation. [52] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting the Council District 3 Office and constituent rebudget. [53] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting \$100,000 for “Downtown for the Holidays”. [54] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting the restoration of three attorneys and one legal administrative assistant to the Workers’ Compensation legal support staff. [55] Memorandum from Council Member Liccardo, dated May 25, 2011, requesting restoration of one Park Ranger for the Guadalupe River Park Conservancy. [56] Memorandum from Council Member Oliverio, dated May 25, 2011, requesting \$400,000 for IT phone service.

**[B] FISCAL YEAR 2011-2012 MANAGER’S BUDGET ADDENDA (MBA) AND DOCUMENT LOG:** [1] Memorandum from City Manager Debra Figone, dated May 2, 2011, transmitting the Fiscal Reform Plan. [2] Memorandum from City Manager Debra Figone, dated May 4, 2011, transmitting the 2011-2012 Proposed Budget Summary. [3] Memorandum from Fire Chief William McDonald, dated May 5, 2011, transmitting information about the Fire Company flexible brown-out plan fact sheet and facts. [4] Memorandum from Budget Director Jennifer A. Maguire, dated May 6, 2011, transmitting the agendas for the Fiscal Year 2011 – 2012 Budget Study Sessions.

### 3.4 (Cont'd.)

**[B] FISCAL YEAR 2011-2012 MANAGER'S BUDGET ADDENDA (MBA) AND DOCUMENT LOG:** [5] Replacement memorandum from Library Director Jane Light, dated May 26, 2011, transmitting the reduction of branch library days of service. [6] Memorandum from Secretary of Planning Commission Joseph Horwedel, dated May 12, 2011, recommending adoption of the proposed 2012-2016 Capital Improvement Program (CIP) and give the highest priority to road maintenance and repair and consider additional Planning Commission comments outlined herein. [7] Memorandum from City Manager Debra Figone, dated May 16, 2011, providing information about the position and compensation reductions over the last several years that illustrates the balanced approach which has been taken to downsize the organization. [8] Memorandum from City Manager Debra Figone, dated May 19, 2011, transmitting information that if a 10% ongoing total compensation reduction is not achieved from the San José Police Officers' Association (SJPOA) recommending approval of the 2011-2012 proposed operating budget rebalancing actions as outlined in her memorandum. [9] Memorandum from Assistant City Manager Edward K. Shikada, dated May 18, 2011, recommending approval of the Building Automation System as part of the 2011-2012 Capital Budget for repairs and replacements for Sharks Ice at San José. [10] Memorandum from Assistant City Manager Edward K. Shikada, dated May 11, 2011, recommending approval of the HP Pavilion at San José, 2011-2012 Capital Budget as submitted by the San José Arena Authority Board of Directors. [11] Memorandum from Director of Environmental Services John Stufflebean, Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer A. Maguire, dated May 19, 2011, recommending approval of the 2012-2016 Proposed CIP – Water Pollution Control Public Art Allocation. [12] Memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel, dated May 20, 2011, transmitting information about the potential revenue generation to the City if all water heaters replaced in the City obtained required permits when installed. [13] Memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel and Budget Director Jennifer A. Maguire, dated May 24, 2011, recommending approval of an amendment to the 2011-2012 Proposed Fees and Charges Report to eliminate the proposed Planning expedited coordinated review fee. [14] Memorandum from Library Director Jane Light, dated May 24, 2011, recommending restoration of library hours with elimination of library services. [15] Memorandum from City Attorney Richard Doyle, dated May 25, 2011, recommending allocation of \$1,075,000 in funding to restore the Workers' Compensation legal support unit and to restore one attorney and one legal analyst in the Litigation Division. [16] Memorandum from Assistant City Manager Edward K. Shikada and Budget Director Jennifer A. Maguire, dated May 25, 2011, recommending actions for the Arena Authority funding. [17] Memorandum from City Manager Debra Figone, dated May 25, 2011, recommending the Office of the City Manager staffing reorganization. [18] Memorandum from Chief of Police Christopher Moore, dated May 25, 2011, responding to inquiry about the Ice Cream Vender Fee program and activity level. [19] Memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer A. Maguire, dated May 24, 2011, recommending Mexican Heritage Plaza Funding. [20] Memorandum from Director of Building, Planning and Code

### 3.4 (Cont'd.)

**[B] FISCAL YEAR 2011-2012 MANAGER'S BUDGET ADDENDA (MBA) AND DOCUMENT LOG:** [20] (Cont'd.) Enforcement Joseph Horwedel and Budget Director Jennifer A. Maguire, dated May 25, 2011, recommending actions for Solid Waste Enforcement Fee and Code Enforcement Staffing. [21] Memorandum from Library Director Jane Light, dated May 24, 2011, providing background about the West Valley Branch Library and the cost of additional open hours. [22] Memorandum from Chief of Police Christopher Moore and Director of Transportation Hans F. Larsen, dated May 26, 2011, providing information about the School Crossing Guard Program. [23] Memorandum from May 25, 2011, recommending acceptance of the Team San José 2011-2012 performance measures. [24] Memorandum from City Manager Debra Figone, dated May 27, 2011, providing information about Tier 2 Non-Public Safety contingency plan update. [25] Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated May 20, 2011, providing information about the incentive program exploration for tenant improvements of existing buildings. [26] Memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel, dated May 27, 2011, providing information on how the total cost of development permits in San José compares to other cities. [27] Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 27, 2011, recommending approval of the addition of the Bascom Community Center to the Facility Reuse Program with no impact to the General Fund for utility and other operating expenses. [28] Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 20, 2011, responding to concerns that were raised by the public and Council about the elimination of dedicated staff for support of the Youth Commission effective July 2011. [29] Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 27, 2011, responding about the safety at the Lake Cunningham Regional Skate Park and about the alternative operating hours and costs. [30] Memorandum from Deputy City Manager Deanna Santana and Budget Director Jennifer A. Maguire, dated May 27, 2011, recommending actions with regard to medical marijuana. [31] Memorandum from Fire Chief William McDonald and Budget Director Jennifer A. Maguire, dated May 27, 2011, recommending amending the Fire Department expedited inspection fee. [32] Memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel and Director of Environmental Services John Stufflebean, dated May 26, 2011, providing information about the neighborhood clean up program events. [33] Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 27, 2011, transmitting the Senior Nutrition program transition report. [34] Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 25, 2011, transmitting information about establishing a new parks reservation fee. [35] Memorandum from Deputy City Manager/Acting Director of Parks, Recreation and Neighborhood Services Norberto Dueñas and Budget Director Jennifer A. Maguire, dated May 26, 2011, recommending budget actions for the Strong Neighborhoods Initiative. [36] Replacement memorandum from City Attorney Richard Doyle, Director of Environmental Services John Stufflebean, Acting Director of Public Works David Sykes and Budget Director

### 3.4 (Cont'd.)

**[B] FISCAL YEAR 2011-2012 MANAGER'S BUDGET ADDENDA (MBA) AND DOCUMENT LOG:** [36] (Cont'd.) Jennifer A. Maguire, dated May 31, 2011, recommending budget actions for legal services, environmental services and Public Works capital projects. [37] Memorandum from Director of Environmental Services John Stufflebean, Budget Director Jennifer A. Maguire and Director of Building, Planning and Code Enforcement Joseph Horwedel, dated May 20, 2011, recommending amending the Environmental Services Department Treatment Plant – Capital Limit Dated Positions. [38] Memorandum from Director of Economic Development/Chief Strategist Kim Welsh and Budget Director Jennifer A. Maguire, dated May 27, 2011, recommending amendments with regard to the Enterprise Zone Program. [39] Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 27, 2011, recommending amendments to the Graffiti eradication alternative service delivery proposal. [40] Memorandum from Director of Economic Development/Chief Strategist Kim Welsh, Acting Director of Public Works David Sykes and Budget Director Jennifer A. Maguire, dated May 26, 2011, recommending amendments to the 2012-2016 CIP, public art allocations in various capital programs. [41] Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 27, 2011, recommending amendments to the alternative service delivery proposals, parks landscape and custodial services. [42] Memorandum from Director of Aviation William F. Sherry, dated May 27, 2011, providing Norman Y. Mineta San José International Airport competitiveness strategic plan alternatives. [43] Memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel and Budget Director Jennifer A. Maguire, dated May 31, 2011, recommending amendments to development services, working at the speed of business. [44] Memorandum from City Manager Debra Figone, dated May 31, 2011, providing information about the 211 COPS Hiring Grant. [45] Memorandum from City Manager Debra Figone, dated June 2, 2011, recommending actions with regard to the Safety for Adequate Fire and Emergency Response (SAFER) Grant. [46] Memorandum from Chief of Police Christopher Moore, dated June 2, 2011, providing information about the Police Span of Control. [47] Memorandum from Budget Director Jennifer A. Maguire, dated June 3, 2011, recommending amendments to the 2011-2012 proposed operating and capital budgets. [48] Memorandum from Budget Director Jennifer A. Maguire, dated June 13, 2011, recommending additional funding based on third quarter sales tax receipts/ Patrol Police Officer positions.

**[C] BUDGET CORRESPONDENCE FROM THE PUBLIC:** [1] Two Hundred Fifty cards submitted by the Friends of the Hillview Library stating that the libraries need to be open more than three days a week starting in July 2011.