SPECIAL MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA **TUESDAY, JUNE 24, 2011**

The Council of the City of San José convened in Special Session at 1:31 p.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio (1:37 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - All Present.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, The Orders of the Day and the Amended Agenda were approved. Regarding Item 4.1, the City Council, by unanimous vote, made in a good faith, reasonable determination that an issue has arisen that must be resolved in less than 4 days and approved the addition of the item to the Agenda. (10-1. Absent: Oliverio.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Adopt a resolution approving a construction and permanent funding commitment of up to $6,300,000 of 20% Housing Funds to ROEM Development Corporation, or its legal affiliate, for the development of the 184-unit First and Rosemary Family Apartments project, located at the southeast corner of Rosemary and North First Streets. CEQA: EIR Resolution 72768, adopted June 21, 2005, File No. PDC07-101. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated June 22, 2011, recommending adoption of a resolution.

Public Comments: David Wall expressed opposition to the Staff recommendations.

4.1 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75932, entitled: A Resolution of the Council of the City of San José Approving a Construction and Permanent Funding Commitment of up to $6,300,000 for the Development of the First and Rosemary Family Apartments Project Located at the Southeast Corner of Rosemary and North First Streets", was adopted. (10-1. Noes: Oliverio.)

STRATEGIC SUPPORT SERVICES

3.1 (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 August 2, 2011 per Rules Committee.

3.1 (c) Report on and provide Council direction regarding fiscal reforms:

(1) Report on and provide direction regarding analysis of costs of possible new "opt in" tier and other proposed changes in retirement benefits for existing employees, as directed on May 24, 2011.

(2) Update the Council on negotiations with unions regarding a process to combine meeting and conferring on a fiscal reform ballot measure with meeting and conferring on contract terms for retirement reform.

(3) Direct staff on scope and timing of polling to be done to test voter support for revenue measures if fiscal reforms are implemented.

Documents Filed: (1) Memorandum from Mayor Reed, dated June 20, 2011, recommending deferring Items 3.1(a) and 3.1(b) and including Council direction in the report on fiscal reforms for Item 3.1(c). (2) Memorandum from Council Member Liccardo, dated June 24 2011, providing direction as indicated in "Action" on Page 6. (3) Memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Herrera, Constant and Liccardo, dated June 22, 2011, recommending negotiations with the bargaining units that shall include direction that continues with current Council direction.

3.1(c) (Cont'd.)

Documents Filed: (Cont'd.)

(4) Memorandum from Mayor Reed, dated May 24, 2011, transmitting a copy of "Declarations of Fiscal Emergency: A Resurging Option for Public Entities Attempting to Deal with the Current Economic Crisis". (5) Memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Liccardo, dated May 13, 2011, regarding Fiscal Reforms. (6) Memorandum from Council Member Kalra, dated June 23, 2011, recommending approval of the Mayor's memorandum dated June 20, 2011 with further direction. (7) Memorandum from Council Member Rocha, dated June 20, 2011, recommending approval of the Mayor's memorandum dated June 20, 2011, and requesting deferral of 3.1(a)(b). (8) Memorandum from Council Member Pyle, dated May 23, 2011, regarding recommendations to the City Manager's Fiscal Reform Plan. (9) Memorandum from Memorandum from Director of Employee Relations Alex Gurza, dated June 23, 2011, recommending acceptance of the Retirement Benefit Opt In Programs. (10) Letter from Dave Low, Executive Director, California School Employees Association, dated June 24, 2011, expressing strong opposition to declaring a fiscal state of emergency in San José. (11) Letter from Bill Misher, dated June 24, 2011, urging a tax increase to avoid stripping the right to bargain effectively.

City Manager Debra Figone presented introductory remarks. Director of Communications Tom Manheim provided revenue measure considerations. Director of Finance Scott Johnson presented business tax modernization. City Manager Debra Figone summarized the City Manager's Fiscal Reform Plan. Director of Employee Relations Alex Gurza outlined the City Council Direction and Goals and additional comments about the Fiscal Reform Plan.

Public Comments: Speaking in support to retirement/pension reform, objecting to the proposals on the floor and requesting that bargaining be done in good faith with the employees, expressing opposition to the Mayor's memoranda, expressing concern about taking away collective bargaining rights, voicing objections to the ballot measure and to declaring a fiscal emergency were: Nancy J. Ostrowski (IFPTE Local 21/AEA/CAMP), Amos Brown, Charles Goetilius (California School Employees Association), Rachel Sater (Retired Police Officers/Firefighters), Dale Dapp (AMSP), Cay Denise MacKenzie (CAMP/IFPTE Local 21), Kevin R. Fish, Bill Mishler Jr. submitted a $365.25 check to the City Clerk for the General Fund, Claudia Shope, Robert Sapien (Firefighters), Arleen Speidel, Lorraine Oback, David Wall, Charles Christensen, Aurelia Sanchez, LaVerne Washington (AFSCME/CEO), Paula Martinez, Matt Savage, Victoria Bourdon and Craig Wendrip (Next Gen Bay Area), Bridget Tapia, Jo Kenny, Jon Max Reger, Fred Hirsch, Steve Kline, Maria Noel Fernandes (Sacred Heart Community Services), Tom Linebarger, Anna Schlotz, Reverend Rebecca Kuik (Interfaith Council), Reverent Steve Pinkston, Jennifer Keltner, Sandy Perry (CHAM Deliverance Ministry), Helen Chapman, Sabuhi Saddique, Elisa Koff-Ginsborg, Henry Servin (Engineers and Architects, Local 21), Bob Brownstein, George Beattie (San José Police Officers' Association), Yolanda Cruz and Gerry Chappuis (AFSCME/MEF), Gary Jansen, Vera Todorov, Peter O'Reilly, Gay Gale and Bob Leininger (San José Retired Employees Association).

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 3:22 p.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (c) with respect to anticipated litigation in one (1) matter. (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: **http://www. sanjoseca.gov/employeerelations/moa.asp**; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 4:15 p.m. and reconvened to Regular Session at 4:29 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.

STRATEGIC SUPPORT SERVICES

3.1(c) Report on and provide Council direction regarding fiscal reforms. (Cont'd.)

There was no report from Closed Session. Council discussion returned to Item 3.1(c).

Motion: Council Member Liccardo moved approval of the memorandum from Mayor Reed, dated June 20, 2011 and the recommendations from the memorandum jointly signed by Mayor Reed, Vice Mayor Nguyen, and Council Members Constant, Herrera, and Liccardo, dated June 22, 2011, including other modifications as indicated in the final "Action". Council Member Constant seconded the motion.

Council Members Herrera and Constant expressed their support to the motion.

City Manager Debra Figone, Interim Director of Human Resources Kay Winer and Memorandum from Director of Employee Relations Alex Gurza responded to Council questions and concerns.

Substitute Motion: Council Member Rocha moved approval of his memorandum dated June 20, 2011 and the memorandum from Council Member Kalra, dated June 23, 2011. Council Member Campos seconded the motion.

Mayor Reed and Council Members Constant and Herrera expressed opposition to the substitute motion.

City Manager Debra Figone expressed concern about the implications of the memorandum from Council Member Rocha with regard to Staff's work.

Council Member Kalra requested to amend the substitute motion to include direction to Staff to prepare an appropriate amendment as soon as possible to save Police Officer positions. The amendment was accepted by Council Members Rocha and Campos.

On a call for the question, the motion substitute motion failed. (5-6. Noes: Constant, Herrera, Liccardo, Nguyen, Oliverio; Reed.)

Discussion followed on the original motion.

Council Member Liccardo requested to amend the motion to waive the seven-day noticing requirement in the Council Policy as indicated in the final "Action". The amendment was accepted by Council Member Constant.

Discussion ensued about the entire Labor Negotiation/Bargaining Unit process in July to become a public process.

Council Member Liccardo requested to amend his original motion to include: if any bargaining unit requests an open labor negotiation, that the City's negotiating team will return to Council in a special session for a Council decision. The amendment was accepted by Council Member Constant. (6-5. Noes: Campos, Chu, Kalra, Pyle, Rocha.)

3.1(c) (Cont'd.)

Action: On a call for the question, the original motion carried, the memorandum from Mayor Reed, dated June 20, 2011, was approved; The recommendations from the memorandum jointly signed by Mayor Reed, Vice Mayor Nguyen, and Council Members Constant, Herrera, and Liccardo, dated June 22, 2011, were approved; Council waived the seven-day noticing requirement with the following modifications: (1) Paragraph 2(b) to incorporate the notion that the amount negotiated would be flexible, so long as the total package achieves the overall goal of returning retirement costs to their Fiscal Year 2010-2011 levels, that is $186 million from all funds. (2) include a Paragraph 2(d) that includes consideration of positive incentives that might be proposed by any bargaining groups, including cash payments, under the condition that the overall cost savings achieved reach the $186 million goal, and that if any bargaining unit requests open labor negotiations that the City's negotiating team will return to Council in a special session for a Council decision. (6-5. Noes: Campos, Chu, Kalra, Pyle, Rocha.)

Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried, Item (3) from the memorandum from Council Member Liccardo, dated June 24, 2011, was approved: Polling: the City Manager shall include questions in its summer polling that seek to assess the level of voter support for: (a) A revenue generating measure where it is: (1) Included on the same ballot with retirement benefits reform. (2) Included within the same measure with retirement benefits reform. (3) Placed on separate ballot from a retirement benefits reform referendum. (b) A specific tax (to support public safety) or a general tax. (1) Questions shall ascertain whether a measure will be most successful if it is targeted solely on funding police, fire or more broadly focused on "public safety" (to include crossing guards, gang prevention programs and the like) are most likely to engender public support. (c) Ballot language should be vetted with organizations experienced in proposing and supporting ballot measures, such as the Silicon Valley Leadership Group, South Bay Labor Council and the San José Silicon Valley Chamber of Commerce. Staff directed to conduct stakeholder outreach on business tax modernization and return to Council by the end of the year with the results; the Council waived the seven-day noticing requirement and its review of the July polling questions. (Noes: 6-5. Campos, Kalra, Oliverio, Pyle, Rocha.)

ADJOURNMENT

The Council of the City of San José was adjourned at 6:20 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis D. Hawkins, CMC
City Clerk

/smd 06-24-11 MIN