

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 25, 2011

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

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

Absent: Council Members - Liccardo. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Documents: (1) Memorandum from Council Member Rocha, dated October 24, 2011, recommending direction to Staff regarding the Retirement/Pension Reform. (2) Letter to Employee Relations Manager Gina Donnelly, from Yolanda Cruz, President, ASFCME/MEF, dated October 22, 2011, regarding the Non-Management Retirement Coalition Proposal for Opt-In Plan. (3) Proposed Amendments to the Workers' Compensation Reform from the San José Police Officers and Fire Fighters, dated October 24, 2011.

Employee Relations Manager Gina Donnelly presented a brief Update on Labor Negotiations.

Director of Employee Relations Alex Gurza presented the San José Police Officers Fire Fighters proposal and responded to Council questions.

Public Comments: Expressing concerns that Staff was not bargaining in good faith with the bargaining units, proposing that the ballot measure is unfair and illegal, offering comments, suggestions and objections were: Robert Sapien, Jr., Brett Gervasoni, Jason Schaefer, Scott Trotter, Scott Ackermann, Steve O'Steen, Rich Regan, Michael Patterson, Matt Kelly Howard Morton, Eric Hernandez, Brian Palodichuk, Bien Doan, Rick Palmer, Tina Perez, Atanacio Garcia, Joe Crivello, Joseph Rondone, Michael and Bridget Tapia, Mike Moratoa, Moises Estrada, John Pavloff, Doug Humphreys, Bill Newton, Tom Read, Colleen Mulholand, Scott Kouns, Dennis Wheeler, David Scocca, Tony Magallon,

3.2 (Cont'd.)

Public Comments: (Cont'd.)

Nelson Rodrigues, San José Fire Fighters, Local 230, Nancy Ostrowski, IFPTE Local 21, CAMP, AEA and AMSP, Jim McMahan, Retired Police Captain Jack Farmer, Wayne Van Gundy, Cruz Tapia, Clayton Markel, James Gonzales, George Beattie, Leo Prescott, Scott Johnson, San José Police Officers' Association, Mike Van Daley, Karen Augustine, Paul Salerno, Jay Wendling, Association of Retired Police Officers and Firefighters, Soren Coats, Arthur Belton, Michael Whittington, Cay Denise MacKenzie, CAMP/IFPTE, Local 21 and Pete Roman

Council Member Rocha requested that Council consider his memorandum, dated October 24, 2011, regarding City Employee Retirement/Pension Reform in Closed Session this morning.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 10:06 a.m. to a Closed Session in Room W133 (A) to confer 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

CLOSED SESSION (Cont'd.)

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 12:20 p.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Nguyen, Oliverio (1:43 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - Liccardo. (Excused)

INVOCATION

Ida Price Middle School Flute Duet, directed by Mrs. Catherine Lorigan, presented the Invocation. (District 9)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 2.3(b) deferred to November 1, 2011 and Item 4.2 was heard before Item 4.1. (9-0-2. Absent: Liccardo, Oliverio.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Damian Trujillo in celebration of his 15 years of service as the host and producer of NBC Bay Area's weekly program "Comunidad Del Valle." (Campos)

Mayor Reed and Council Members Campos and Kalra recognized and commended Damian Trujillo.

- 1.2 Presentation of commendation to Eros Correa of the San José PAL for his representation in the AIBA World Boxing Championships, and victories at the US Olympic Boxing Trials and CAL PAL Championships. (Campos)**

Action: Deferred to November 1, 2011 per District 5.

- 1.3 Presentation of a proclamation declaring October as “Filipino American History Month” in the City of San José. (Chu)**

Mayor Reed and Council Member Chu recognized October as “Filipino American History Month” in the City of San José.

- 1.4 Presentation of a commendation to Nina Rodriguez in recognition of her excellence and achievements in the sport of golf, and in appreciation for her serving as a role model for San José residents young and old. (Kalra/Campos)**

Mayor Reed and Council Members Kalra and Campos recognized Nina Rodriguez.

- 1.5 Presentation of a proclamation declaring the Month of October 2011 as “Employment of Persons with Disabilities Month” in the City of San José. (Pyle)**

Mayor Reed and Council Member Pyle recognized October as “Employment of Persons with Disabilities Month” in the City of San José.

CONSENT CALENDAR

Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Liccardo.)

2.1 Approval of minutes.

- (a) Regular Minutes of June 7, 2011.**
- (b) Special Minutes of June 13, 2011.**
- (c) Regular Minutes of June 14, 2011.**
- (d) Special Redevelopment Agency Minutes of June 17, 2011.**
- (e) Regular Minutes of June 21, 2011.**
- (f) Special Minutes of June 24, 2011.**
- (g) Special Redevelopment Agency Minutes of June 24, 2011.**

Documents Filed: (1) The Regular Minutes dated June 7, 2011, June 14, 2011 and June 21, 2011. (2) Special Council Minutes dated June 13 and June 24, 2011. (3) Special Redevelopment Minutes dated June 17, 2011 and June 24, 2011.

Action: The Council Minutes and Redevelopment Agency Board Minutes were approved. (10-0-1. Absent: Liccardo.)

2.3 Approval of Council Committee Reports.

- (a) Transportation and Environment Committee Report of October 3, 2011. (Liccardo)**
- (c) Neighborhood Services and Education Committee Report of October 13, 2011. (Pyle)**
- (d) Rules and Open Government Committee Report of September 21, 2011.**
- (e) Rules and Open Government Committee Report of September 28, 2011. (Mayor)**

Documents Filed: (1) The Transportation and Environment Committee Report dated October 3, 2011. (2) The Neighborhood Services and Education Committee Report dated October 13, 2011. (3) The Rules and Open Government Committee Reports dated September 21, 2011 and September 28, 2011.

Public Comments: David Wall suggested modifying or waiving elements of the curfew to accommodate the new airline routes to China and Japan.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Committee Reports were approved. (10-0-1. Absent: Liccardo.)

- (b) Rules and Open Government Committee Report of October 5, 2011. (Mayor)**

Action: Deferred to November 1, 2011 per Orders of the Day.

2.4 Mayor and Council Excused Absence Requests.

Action: There were none.

2.5 City Council Travel Reports.

Action: There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

Council Member Constant presented highlights from the Cheiron Presentation to the Board of Administration Federated City Employees' Retirement System on October 20, 2011, regarding the Preliminary June 30, 2011 Valuation Results and the Impact of Potential Assumption Changes. Council Member Constant provided comments about the discussions relating to calculation of the reconciliation of prepayment based on different assumption rates and the Department of the Retirement Services staffing levels.

- 2.7 Approve a Third Amendment to the Advertising Concession Agreement between the City of San José and Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports (“Clear Channel”) at the Norman Y. Mineta San José International Airport to:**
- (a) Combine the minimum capital investment requirements of the various advertising categories.**
 - (b) Provide Clear Channel with office/storage space at no additional charge in support of its operations at the Airport.**
- CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)**

Documents: Memorandum from Director of Aviation William F. Sherry, A.A.E., dated October 3, 2011, recommending approval of a third amendment to the agreement.

Council Member Rocha requested information from Assistant Director of Aviation/Chief Operating Officer Kim Aguirre.

Action: Item 2.7 was dropped.

- 2.8 Approve a First Amendment to the AMS-SJC JV Airport Retail Concession Agreement, Second Amendments to the Airport Food and Beverage Concession Agreements with Areas USA SJC, LLC and Host International, Inc. and a Second Amendment to the Host Airport Retail Concession Agreement to revise the Concession Agreement provisions regarding customer pricing and to revise provisions regarding concession concepts and space layouts to reflect current concession operations at the Airport. CEQA: Not a Project, File No. PP10-066(e), Service agreements involving no physical change to the environment. (Airport)**

Action: Deferred to November 15, 2011 per Administration.

- 2.9 Adopt a resolution:**
- (a) Setting the Voluntary Expenditure Limits for the 2012 Municipal Election Cycle based upon current population figures.**
 - (b) Calling for a Regular Municipal Election on June 5, 2012 and a Run-off Municipal Election on November 6, 2012, if necessary, for the purpose of electing Council Members for Districts 2, 4, 6, 8, and 10 and requesting consolidation with the County of Santa Clara.**
- (City Clerk)**

Action: Deferred to November 1, 2011 per City Clerk.

- 2.10 (a) **Approve travel by Council Member Constant to Washington, D.C. on October 27, 2011 to represent the City of San José as Vice Chair of the National League of Cities' (NLC) Public Safety and Crime Prevention (PSCP) Steering Committee. Source of Funds: Mayor & Council Travel Fund. (Constant)**
- (b) **Request for an excused absence for Council Member Constant from the Regular Meeting of the Rules and Open Government Committee on October 26, 2011 due to Authorized City Business: Representing National League of Cities Public Safety & Crime Prevention Committee at a meeting with Senior White House Officials in Washington, D.C. (Constant)**

Documents Filed: Memoranda from Council Member Constant, both dated October 17, 2011, requesting authorization to travel and an excused absence due to authorized City business.

Action: The travel for Council Member Constant was authorized and the absence due to authorized City business was excused. (10-0-1. Absent: Liccardo.)

- 2.11 (a) **Approve travel by Mayor Reed to Portland, Oregon on October 19-21, 2011 to attend the 2011 San José/Silicon Valley Chamber of Commerce City-to-City Trip as one of the City's designated representatives. Source of Funds: Mayor's Office Fund. (Mayor)**
- (b) **Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on October 19, 2011 due to Authorized City Business: Representing the City on the 2011 San José/Silicon Valley Chamber of Commerce City-to-City Trip to Portland, Oregon. (Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated October 17, 2011, requesting authorization to travel and an excused absence due to authorized City business.

Action: The travel for Mayor Reed was authorized and the absence due to authorized City business was excused. (10-0-1. Absent: Liccardo.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that the 2011 National Medal for Museum and Library Services from the Federal Institute of Museum Library Services was bestowed to the City of San José Public Library.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Adopt a resolution authorizing the City Manager to negotiate and execute a Capital Equipment and Assistance Agreement with Polycom, Inc., in which the City will provide an amount not to exceed \$200,000 for the acquisition of production and assembly equipment to be installed at Polycom's new headquarters facility in San José. CEQA: Not a Project, File No. PP10-066(a), Equipment Acquisition. Council District 4. (Economic Development)**

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

Deputy Director of Economic Development Nanci Klein presented the report.

Robert Teal, President of Real Estate, Polycom, Inc., stated that Polycom was looking forward to relocating its headquarters to San José and Mr. Teal also offered background information about Polycom, Inc.

Mayor Reed provided meeting disclosures.

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

Discussion ensued.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76032, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Capital Equipment and Assistance Agreement with Polycom, Inc. in an Amount Not to Exceed \$200,000", was adopted. (10-0-1. Absent: Liccardo.)

- 4.1 Adopt a resolution authorizing the City Manager to negotiate and execute an agreement to restructure the existing \$2,000,000 revolving loan Line of Credit Agreement with the San José Repertory Theatre and convert it to a \$2,000,000 Term Loan Agreement to be repaid with interest on or before April 1, 2037. CEQA: Not a Project, File No. PP10-066(e), Services that involved no physical changes to the environment. (Economic Development/Finance)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Welsh and Acting Director of Finance Julia H. Cooper, dated October 11, 2011, recommending adoption of a resolution.

Director of Cultural Affairs Kerry Adams Hapner presented the report and responded to Council questions, comments and concerns.

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

4.2 (Cont'd.)

Mayor Reed and Council Member Kalra expressed support to the motion.

Council Member Herrera offered meeting disclosures.

Council Member Constant expressed his concerns and opposition about supporting the restructure of the agreement with the San José Repertory Theatre.

Public Comments: Speaking in support to the Staff recommendations were Bobby Yount and Patricia McDonald, San José Arts Commission and Sharon Kirsch, The San José Repertory Theatre. David Wall presented neutral comments.

Action: On a call for the question, the motion carried, Resolution No. 76033, “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement to Restructure the Existing \$2,000,000 Revolving Loan Line of Credit Agreement with The San José Repertory Theatre and Convert It to a \$2,000,000 Term Loan Agreement to be Repaid with Interest on or Before April 2037”, was adopted. (9-1-1. Noes: Constant. Absent: Liccardo.)

TRANSPORTATION & AVIATION SERVICES

6.1 As recommended by the Transportation and Environment Committee on October 3, 2011:

- (a) **Accept report on the status of San José’s Pavement Maintenance Program as a follow up to the City Council Study Session on Pavement Maintenance held on October 12, 2010.**
- (b) **Provide input to staff on the development of potential priorities for future street maintenance due to the limited funding availability for further consideration by the City Council during the 2012-13 Budget Process.**

CEQA: Not a Project, File No. PP10-069(a), Staff reports that involve no approval of any City actions. (Transportation)

Documents Filed: (1) Memorandum from Council Member Rocha, dated October 24, 2011, recommending acceptance of the report with direction to Staff as depicted in “Action” on Page 10. (2) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated October 13, 2011, transmitting the recommendations of the Transportation and Environment Committee. (3) Staff presentation dated October 25, 2011, highlighting the Status of the Pavement Maintenance Program.

Director of Transportation Hans Larsen presented the report.

Public Comments: David Wall provided his own views about the Pavement Maintenance Program.

6.1 (Cont'd.)

Council Member Rocha spoke to his memorandum dated October 24, 2011.

Director of Transportation Hans Larsen responded to questions and concerns from the Council Members.

Discussion ensued.

Motion: Council Member Herrera moved the memorandum from Council Member Rocha, dated October, 24, 2011, accepting the Staff recommendations and providing additional direction. Vice Mayor Nguyen seconded the motion.

Council Member Campos requested that Staff consider further analysis on the “cut-through streets”.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Rocha, dated October 24, 2011 was accepted, with Staff directed to include the prioritization of major roadways with residential frontages in the alternatives analysis scheduled to be discussed in the March report to the Transportation and Environment Committee in 2012. (10-0-1. Absent: Liccardo.)

6.2 **Adopt a resolution authorizing the City Manager to execute the Sixth Amendment to the Parking Management Agreement for the Norman Y. Mineta San José International Airport with Ampco System Parking, Inc., to reduce the compensation rate for the last two months of the current term, and extend the term of the agreement for one year ending on October 31, 2012, with a maximum compensation of \$4,740,000 for this extension term. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance/Airport) (Deferred from 10/18/11 – Item 6.1)**

Documents Filed: (1) Memorandum from Acting Director of Finance Julia H. Cooper and Assistant Director of Aviation Kim Aguirre, dated September 26, 2011, recommending adoption of a resolution. (2) Supplemental memorandum from Acting Director of Finance Julia H. Cooper and Assistant Director of Aviation Kim Aguirre, dated October 20, 2011, notifying Council that the negotiations with Ampco System Parking had resulted in further reductions in compensation from the figures presented in the original Council memorandum dated September 26, 2011.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 76034, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Sixth Amendment to the Agreement with Ampco Systems Parking, Inc. for Airport Parking Facilities Management Services”, was adopted. (9-0-2. Absent: Liccardo, Rocha.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Adopt a resolution to authorize the City Manager to execute a Ground Lease, Master Lease, Development Agreement, One-Day Loan Agreement, Investment Fund Leverage Loan Agreement, Put/Call Agreement, Environmental Indemnification in the form proposed, and to authorize the City Manager to execute and deliver these documents and other related documents as necessary in connection with the closing of the New Markets Tax Credit (NMTC) financing transaction for the Environmental Innovation Center project.**
- (b) **Adopt the following 2011-2012 Appropriation Ordinance and Funding Source Resolution amendments in the Integrated Waste Management Fund:**
- (1) **Increase the estimate for Earned Revenue by \$8,022,174 to recognize revenue from a one-day loan.**
 - (2) **Decrease the appropriation to the Environmental Services Department for Household Hazardous Waste Las Plumas Facility by \$11,587,471.**
 - (3) **Establish an appropriation to the Finance Department for a NMTC Transaction Leverage Loan in the amount of \$19,609,645.**
 - (4) **Increase the estimate for Earned Revenue by \$8,022,174 to recognize ground lease revenue.**
 - (5) **Decrease the appropriation to the Environmental Services Department for Non-Personal/Equipment by \$20,055;**
 - (6) **Establish an appropriation to the Finance Department for the NMTC Transaction One-Day Loan Repayment in the amount of \$8,042,229.**
 - (7) **Increase the estimate for Earned Revenue by \$10,630,285 to recognize revenue from an initial draw and the fiscal year 2011-2012 portion of development budget.**
 - (8) **Increase the appropriation for Household Hazardous Waste Las Plumas Facility by \$10,441,785.**
 - (9) **Establish an appropriation to the Office of Economic Development for the Environmental Innovation Center's Public Art in the amount of \$188,500.**

CEQA: Mitigated Negative Declaration, Resolution No. 75918. Council District 3. (Environmental Services/City Manager's Office)

Documents Filed: (1) Memorandum from Acting Director of Environmental Services Kerrie Romanow and Budget Director Jennifer A. Maguire, dated October 11, 2011, recommending adoption of a resolution and appropriation ordinances and funding sources resolution amendments. (2) Supplemental memorandum from Acting Director of Environmental Services Kerrie Romanow, dated October 21, 2011, describing the standard provisions and/or obligations the City would be assuming in executing some of these agreements. (3) Staff presentation dated October 25, 2011 describing the New Markets Tax Credit Funding – Environmental Innovation Center Construction.

Acting Assistant Director of Environmental Services Jo Zientek presented the report and responded to Council questions and concerns.

7.1 (Cont'd.)

A brief discussion followed.

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

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried, Resolution No. 76035, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Ground Lease, Master Lease, Development Agreement, Completion Assurance Agreement, Reimbursement Agreement, One Day Loan Agreement, Fund Loan Agreement, Put/Pull Option Agreement and Hazardous Material Guaranty and Indemnification Agreement in the Form Proposed; and To Deliver these Documents and Other Related Documents As Necessary in Connection With the Closing of the New Markets Tax Credit Financing Transaction for the Environmental Innovation Center”; Ordinance No. 28987, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Integrated Waste Management Fund for the NMT Transaction Leverage Loan, For the NMTC Transaction One Day Loan Repayment, For the Household Hazardous Waste Las Plumas Facility and For the Environmental Innovation Center’s Public Art; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76036, 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 Integrated Waste Management Fund”, were adopted. (9-1-1. Noes: Oliverio. Absent: Liccardo.)

- 7.2 As recommended by the Transportation and Environment Committee on September 12, 2011, accept the report recommending that the City not proceed with further Community Choice Aggregation efforts at this time, but instead, to continue to monitor Community Choice Aggregation efforts and return with possible recommendations for a work plan should the key uncertainties and benefits change. Continue to expand and continue collaboration with the California Public Utilities Commission, PG&E, and other stakeholders for the identification and implementation of activities that support the City’s achievement of the Green Vision Goal of receiving 100% of its electricity from clean, renewable resources by 2022. Specific opportunities identified include development and/or expansions of Smart Grid, Direct Access and Feed-in-Tariff programs as a means of achieving increased energy renewable sources and economic development programs. CEQA: Not a Project, File No. PP10-069(a), Staff reports that involves no approval of any City actions. (Environmental Services)**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated September 20, 2011, transmitting the recommendations of the Transportation and Environment Committee.

Acting Director of Environmental Services Kerrie Romanow provided introductory comments.

7.2 (Cont'd.)

Environmental Services Program Manager Mary Tucker presented the report, noting that Staff was recommending that the City not proceed with further Community Choice Aggregation Efforts at this time, but instead, to continue monitoring Community Choice Aggregation Efforts and return with possible recommendations for a work plan should the key uncertainties and benefits change.

Acting Director of Environmental Services Kerrie Romanow responded to Council questions, comments and concerns.

Discussion ensued.

Motion: Council Member Herrera moved approval of the Staff recommendations, with Staff directed to return to the Transportation and Environment Committee and/or add to the Green Vision Work Plan an impact analysis regarding exploration of alternatives such as Smart Grid, Direct Access and Feed-in-Tariff programs, including partnerships with the California Public Utilities Commission and PG&E. Council Member Pyle seconded the motion.

Council Member Herrera requested to amend the motion to add Council Member Rocha's suggestion to include more private industries and the private sector in the outreach. The amendment was accepted by Council Member Pyle.

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

Public Comments: David Wall pointed out that the City of Santa Clara would be the only city to benefit from this type of proposal because they have a power plant and they have offered to sell power to the Water Pollution Control Plant.

Action: On a call for the question, the motion carried, the Report accepted, with Staff directed to: (1) Include more private industries and the private sector in the outreach. (2) Return to the Transportation and Environment Committee and/or add to the Green Vision Work Plan an impact analysis regarding exploration of alternatives such as Smart Grid, Direct Access and Feed-in-Tariff programs, including partnerships with the California Public Utilities Commission and PG&E. (9-1-1. Noes: Kalra. Absent: Liccardo.)

OPEN FORUM

Documents Filed: Letters from Gil Villagran and Laura Allen, both dated October 25, 2011, expressing their views and opinions regarding “Occupy San José”.

Mike Sampson, Joseph Markenstein, Ryan Bonner, Mark Dugger and Aaron Byrne expressed opposition to allowing only 10 medical cannabis collectives to operate within the limits of San José.

Jerome Mills, Martin Truong, Gil Villagran, Joseph Rosas, Rosylin Dean, Lauren Renaud, Elaine Brown, Marcos Barrera, Tim Bonnemann and Pablo Ghenis voiced support to the freedom of speech and the right to occupy San José.

David Wall suggested that more discussion was needed about environmental issues related to the anaerobic digester operation and the ongoing toxicity at the water pollution control plant.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:01 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis D. Hawkins, CMC
City Clerk

/smd 10-25-11 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.

GENERAL PLAN PUBLIC HEARINGS

10.2 Adopt a resolution to approve the Envision San José 2040 General Plan and Land Use/Transportation Diagram which is a comprehensive update of the current Focus on the Future San José 2020 General Plan, adopted by the City Council in 1994. The City's General Plan is a long-term plan that describes the amount, type and phasing of development needed to achieve the City's social, economic and environmental goals. The General Plan is the policy framework which creates a blueprint for future development and addresses all geographic areas contained within San José's Sphere of Influence and also incorporates goals and policies for a wide variety of municipal services provided by the City. Director of Planning, Building and Code Enforcement and Planning Commission (5-0-1, Platten absent) recommend approval of the Envision General Plan as recommended by the Envision Task Force with minor land use and text changes, but do not recommend any of the following options:

- (a) Land use and policy options submitted by community stakeholders as part of the Envision San José 2040 General Plan update process, such as but not limited to:**
 - (1) Open Hillside Development: an option forwarded by the Envision Task Force for City Council consideration to modify the text of the Envision San José 2040 General Plan, Policy Goal LU-19 to add further restrictions on the allowable intensity of development for lands with the Open Hillside designation. Director of Planning, Building and Code Enforcement and Planning Commission (4-1-1, Cahan opposed, Platten absent) recommend not to include policy option.**
 - (2) 1506 Hamilton Avenue: a privately requested option for Envision Land Use/Transportation Diagram designation of Mixed-Use Neighborhood (up to 30 DU, FAR 0.25 to 2.0) to allow attached residential units instead of Neighborhood Community/Commercial to for the 0.92-acre property located at 1506 Hamilton Avenue. Director of Planning, Building and Code Enforcement and Planning Commission (5-0-1, Platten absent) recommend not to include policy option.**
 - (3) 12750 and 12751 Mabury Road: a privately requested option for Envision Land Use/Transportation Diagram designation of Mixed-Use Neighborhood (up to 30 DU, FAR 0.25 to 2.0) to allow attached residential units instead of Residential Neighborhood (up to for the 3.1-acre property located at 12750 and 12751 Mabury Road. Director of Planning, Building and Code Enforcement and Planning Commission (5-0-1, Platten absent) recommend not to include policy option.**

- 10.2 (b) **Rancho del Pueblo Residential Option (GP10-05-01): an option for Envision Land Use/Transportation Diagram designation of Mixed Use Neighborhood (up to 30 DU, FAR 0.25 to 2.0) to allow approximately 700 townhouse units, instead of the Task Force, staff, and Planning Commission recommended Open Space, Parklands and Habitat on the approximately 31-acre site(City-owned Ranch del Pueblo golf course) located at the northwest corner of King Road and Hermocilla Way (City of San José, Owner). Council District 5. SNI/RDA: Gateway East SNI area. Director of Planning, Building and Code Enforcement and Planning Commission (5-0-1, Platten absent) recommend not to include.**
- (c) **iStar Residential Option (GP07-02-01): an option for Envision Land Use/Transportation Diagram designation of Mixed Use Neighborhood (up to 30 DU, FAR 0.25 to 2.0) to allow approximately 700 attached residential units instead of the Task Force, staff, and Planning Commission recommended Combined Industrial/Commercial on a 51.7-acre portion of the approximately 76-acre site (iStar site) located north of State Route 85, west of Monterey Highway (iStar, Owner). Council District 2. SNI/RDA: Edenvale RDA area. Director of Planning, Building and Code Enforcement and Planning Commission (4-1-1, Bit-Badal opposed, Platten absent) recommend not to include policy option.**
- CEQA: Envision San José 2040 General Plan Program Environmental Impact Report, EIR Resolution to be adopted.**

Action: Item 10.2 was rescheduled to November 1, 2011 per the Rules and Open Government Committee.

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 receipt of the following Final Maps for review:

| <u>Tract</u> | <u>Location</u> | <u>Council District</u> | <u>Developer</u> | <u>Lots/Units</u> | <u>Type</u> |
|--------------|---|-------------------------|--------------------------|--------------------|-------------|
| 10092 | S/W corner of W San Carlos St & Meridian Ave, including properties along Page Street & Meridian | 6 | Meridian Associates, LLC | 1 Lot / 218 Units | MFA |
| 10097 | N/S side of Blossom Hill Road 250' easterly of Cahalan Ave | 10 | Summerhill Homes, LLC | 91 Lots / 86 Units | SFD |