MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA **TUESDAY, AUGUST 23, 2011**

The Council of the City of San José convened in Regular Session at 9:07 a.m. in the Council Chambers at City Hall.

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

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

STRATEGIC SUPPORT SERVICES

3.2 (a) Accept Labor Negotiations Update.

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

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:07 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: California Redevelopment Association, et al. v. Matosantos, et al. Names of Parties Involved: California Redevelopment Association, League of California Cities, John F. Shirley, Ana Matosantos, John Chiang, Patrick O'Connell; Court: Supreme Court, State of California; Case No: S194861; Amount of Money or Other Relief Sought: Writ of Mandate. (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,

CLOSED SESSION (Cont'd.)

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 11:55 p.m. and reconvened to Regular Session at 1:35 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra (1:35 p.m.), Liccardo, Nguyen, Oliverio (1:35 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Reverend Dinh Do, St. Maria Goretti presented the Invocation. (District 7)

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, and Item 11.3 was deferred to the September 27, 2011 Evening Session. (11-0.)

CEREMONIAL ITEMS

1.2 Presentation of a proclamation declaring August 26, 2011 as "Women's Equality Day" in the City of San José. (Herrera)

Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Pyle recognized August 26, 2011 as "Women's Equality Day" in the City of San José.

CONSENT CALENDAR

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

2.1 Approval of Minutes.

Action: There were none.

2.2 Final adoption of ordinances.

(a) ORD. NO. 28947 – Amending Section 2.08.2010 of Chapter 2.08 of Title 2 of the San José Municipal Code to reduce compensation of members of the Civil Service Commission and increase the compensation of the Presiding Officer of the Civil Service Commission.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28947 executed on August 16, 2011, submitted by the City Clerk.

Action: Ordinance No. 28947 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

(a) Rules and Open Government Committee Report of August 3, 2011. (Mayor)

Documents Filed: The Rules and Open Government Committee Report dated August 3, 2011.

Action: The Committee Report was approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

Action: There were none.

2.5 City Council Travel Reports.

Action: There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

Action: There were none.

2.7 (a) Adopt a resolution authorizing the City Manager to negotiate and execute master consultant 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 September 1, 2011, through August 31, 2013, in a total amount for each agreement not to exceed $520,000, and the total expenditures for both agreements together not to exceed $520,000.

(b) Direct staff to bring back a summary report of the activities and accomplishments related to these agreements to the Council in spring 2013, prior to Council's approval of exercising the first of up to two, one-year options to extend the terms of each agreement through August 31, 2015, in amounts not to exceed a total of $260,000 per year for each agreement, for a total four-year contract amount for each agreement not to exceed $1,040,000, and the total expenditures for both agreements together not to exceed $1,040,000, subject to the annual appropriation of funds by the Council.

CEQA: Not a Project, File No. PP10-066(e), Services involving no physical changes to the environment. (Airport)
(Deferred from 6/21/11 – Item 2.8)

Documents Filed: (1) Memorandum from Director of Aviation William F. Sherry, dated June 6, 2011, recommending approval of a master consultant agreement and adoption of a resolution. (2) Supplemental memorandum from Director of Aviation William F. Sherry, dated August 11, 2011, providing information in response to the Council direction at the June 21, 2011 Council Meeting.

Director of Aviation William F. Sherry responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75954, entitled: A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Master Consultant Agreements with Hoffman/Lewis, Inc. and Barnestorming Advertising and Marketing Communications for Marketing and Communication Support at Norman Y. Mineta San José International Airport", was adopted and Staff was directed to bring back a summary report of the activities and accomplishments related to these agreements to the Council in Spring 2013, prior to Council's approval of exercising the first of up to two, one-year options to extend the terms of each agreement through August 31, 2015, in

2.7 (Action Cont'd.)

amounts not to exceed a total of $260,000 per year for each agreement, for a total four-year contract amount for each agreement not to exceed $1,040,000, and the total expenditures for both agreements together not to exceed $1,040,000, subject to the annual appropriation of funds by the Council. (11-0.)

2.8 (a) Adopt a resolution repealing Resolution No. 75877 and authorizing the City Manager to negotiate and execute a grant agreement and an amendment to a grant agreement with the United States Environmental Protection Agency (EPA) to fund the *Clean Creeks, Healthy Communities Project (Project)* for the term of August 16, 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 $196,867.

(b) Adopt a resolution repealing Resolution No. 75878 and authorizing the City Manager to negotiate and execute (a) an agreement with the Downtown Streets Team, a non-profit 501(c)(3) corporation, for the term August 23, 2011 through August 22, 2012 with an option to extend the term through August 22, 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 the Downtown Streets Team of $55,550; and (b) an amendment to the Memorandum of Agreement between the City of San Jose and the Santa Clara Valley Water District (District) for Trash Removal and Prevention for the District to include Project implementation activities and District payment to City of $65,000 per year for two years (2011-12 and 2012-13) towards the Project.

(c) Adopt the following 2011-2012 Appropriation Ordinance and Funding Source Resolution amendments in the Integrated Waste Management Fund (423):

(1) Increase the estimate for Earned Revenue by $16,000.

(2) Increase the Unrestricted Ending Fund Balance by $16,000.

(3) Decrease the appropriation to the Police Department for Personal Services for Large Encampment Cleanups by $32,000.

(4) Establish an appropriation to the Environmental Services Department for Clean Creeks, Healthy Communities for $32,000.

CEQA: Categorically Exempt, File No. PP11-044. Council Districts 3 and 5. SNI: Spartan Keyes, Tully/Senter, and Five Wounds/Brookwood Terrace (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 August 3, 2011, recommending adoption of resolutions and appropriation ordinance and funding sources resolution amendments. (2) Supplemental memorandum from Acting Director of Environmental Services Kerrie Romanow, dated August 17, 2011, recommending the resolution on the EPA grant include authorization for the City Manager to negotiate and execute an amendment to the EPA grant agreement to allow for reimbursement to the City for indirect costs.

2.8 (Cont'd.)

Council Member Liccardo thanked the Environmental Services Team for coming up with a creative solution to move forward with this innovative project and he also thanked Eileen Richardson, Downtown Streets Team.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 75955, entitled: "A Resolution of the Council of the City of San José Authorizing Repealing Resolution No. 75877 and Authorizing the City Manager to Negotiate and Execute a Grant Agreement and an Amendment to a Grant Agreement with the United States Environmental Protection Agency (EPA) to Fund the *Clean Creeks, Healthy Communities Project*, 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 $196,867"; Resolution No. 75956, entitled: A Resolution of the Council of the City of San José Repealing Resolution No. 75878 and Authorizing the City Manager to Negotiate and Execute (1) An Agreement with Downtown Streets Team and (2) An Amendment to the Memorandum of Agreement with Santa Clara Valley District Relating to *Clean Creeks, Healthy Communities Project*"; Ordinance No. 28949, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Integrated Waste Management Fund for the *Clean Creeks, Healthy Communities Project*; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 75957, 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. (11-0.)

2.9 Authorize the Director of Finance to amend the existing Open Purchase Order 45524 with West Coast Arborists Inc. (Pleasanton, CA) to encumber an additional $200,000 for a total amount not to exceed $750,000 for continued Public Right-of-Way Tree Maintenance Services at various locations throughout the City, for the final option year term ending December 15, 2011. CEQA: Exempt, File No. PP07-213. (Finance)

Documents Filed: City Council Action Request from Director of Transportation Hans F. Larsen, dated August 3, 2011, recommending authorization to amend the existing open purchase order.

Action: The Director of Finance was authorized to amend the existing Open Purchase Order 45524 with West Coast Arborists Inc. (Pleasanton, CA) to encumber an additional $200,000 for a total amount not to exceed $750,000 for continued Public Right-of-Way Tree Maintenance Services at various locations throughout the City, for the final option year term ending December 15, 2011. (11-0.)

2.10 Adopt a resolution:

(a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds in two series designated as City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-1 and Series 2011A-2, in the aggregate principal amount not to exceed $7,000,000 and sale of the Bonds to Citigroup Global Markets by negotiated sale.

(b) Approving a loan of bond proceeds to Taylor Oaks Apartments Investors, L.P., a California limited partnership, for financing a portion of the costs of acquiring and rehabilitating the Taylor Oaks Apartments located at 2726 – 2738 Kollmar Avenue in the City of San José.

(c) Approving in substantially final form the following documents:

(1) Trust Indenture.

(2) Financing Agreement.

(3) Regulatory Agreement and Declaration of Restrictive Covenants.

(4) Intercreditor Agreement.

(5) Purchase Contract.

(6) Official Statement.

(d) Authorizing the City Manager, Assistant Director of Finance, Director of Housing or their designees to execute and, as appropriate, negotiate, execute and deliver these bond documents and other related documents as necessary.

CEQA: Exempt, File No. PP11-022. (Finance/Housing)

Action: Item 2.10 was renumbered to Item 4.6. See Item 4.6 for Action.

2.11 (a) Approve the proposed 2011 JAG Spending Plan for the FY 2011 Edward Byrne Memorial Justice Assistance Grant (JAG).

(b) Approve changes to the 2010 JAG Spending Plan.

(c) Adopt a resolution accepting the 2011 Justice Assistance Grant in the amount of $354,370 and authorize the City Manager to negotiate and execute any documents required to effectuate the grant, including a Grant Agreement and the necessary Memorandum of Understanding with the County of Santa Clara.

(d) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:

(1) Increase the estimate for Earned Revenue in the amount of $262,442.

(2) Establish an appropriation to the Police Department for the 2011 Justice Assistance Grant in the amount of $262,442.

CEQA: Not a Project, File No. PP10-066 (g.), Grant Agreements and MOUs. (Police/City Manager's Office)

Documents Filed: Memorandum from Chief of Police Christopher Moore and Budget Director Jennifer A. Maguire, dated August 1, 2011, recommending approval of the JAG Spending Plan, adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

2.11 (Cont'd.)

Action: The proposed 2011 Spending Plan for the FY 2011 Edward Byrne Memorial Justice Assistance Grant was approved, Resolution No. 75958, entitled: A Resolution of the Council of the City of San José Authorizing the City Manager to Accept the 2011 Edward Byrne Memorial Justice Assistance Grant in the Amount of $354,370 and Negotiate and Execute Any Documents Required to Effectuate the Grant, Including the Grant Agreement and the Necessary Memorandum of Understanding with the County of Santa Clara"; Ordinance No. 28950, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Edward Byrne Memorial Justice Assistance Grant Trust Fund for the 2011 Justice Assistance Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 75959, 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 Edward Byrne Memorial Justice Assistance Grant Trust Fund", were adopted. (11-0.)

2.12 (a) Adopt a resolution accepting the FY 2011 Internet Crimes Against Children Continuation Grant in the amount of $392,960 and authorize the City Manager to execute the Grant Agreement and all related documents.

(b) Adopt the following Appropriation Ordinance and the Funding Sources Resolution amendments in the General Fund:

(1) Establish a city-wide appropriation to the Police Department for the FY 2011 Internet Crimes Against Children Continuation Grant in the amount of $392,960.

(2) Increase the Earned Revenue Estimate from the Federal Government by $392,960.

CEQA: Not a Project, File No. PP10-066(g.), Grant Agreements and MOUs. (Police/ City Manager's Office)

Documents Filed: Memorandum from Chief of Police Christopher Moore and Budget Director Jennifer A. Maguire, dated August 1, 2011, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 75960, entitled: A Resolution of the Council of the City of San José Authorizing the City Manager to Accept the Fiscal Year 2011 Office of Juvenile Justice and Delinquency Prevention Internet Crimes Against Children Continuation Grant In The Amount of $392,960 and Execute the Grant Agreement and All Related Documents"; Ordinance No. 28951, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the 2011 Internet Crimes Against Children Continuation Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 75961, 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.)

2.13 Report on bids and award of contract for the 2011 ADA Accessibility Ramps Community Development Block Grant (CDGB) Project to the low bidder, SpenCon Contractors, Inc. in the amount of $476,931 and approval of a five percent contingency in the amount of $23,846.55. CEQA: Exempt, File No. PP08-186. Council Districts 3, 5, 6, and 7. (Transportation)

Documents Filed: (1) Memorandum from Director of Transportation Hans F. Larsen, dated August 8, 2011, recommending the award of the contract to the low bidder. (2) Statement and Declaration of Conflict of Interest Form from Council Member Liccardo, dated August 22, 2011, indicating that his residence was located near the project.

Due to a conflict of interest, Council Member Liccardo recused himself from voting.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Nguyen and carried unanimously, the award of contract for the 2011 ADA Accessibility Ramps Community Development Block Grant Project to the low bidder, SpenCon Contractors, Inc. in the amount of $476,931, with related contingency, was approved (10-0-0-1. Abstained: Liccardo.)

2.14 Approve the following grant agreements with Our City Forest:

(a) An Annual Operating Grant Agreement for 2011-2012, not to exceed $148,878.

(b) A Matching Grant Agreement in an amount not to exceed $120,000 for Our City Forest to apply towards its local match required for an AmeriCorps Grant.

CEQA: File No. PP10-151. (Transportation)

Documents Filed: City Council Action Request from Director of Transportation Hans F. Larsen, dated August 2, 2011, recommending approval the grant agreements.

Director of Transportation Hans F. Larsen responded to questions from Council Member Rocha.

Action: Upon motion by Council Member Rocha, seconded by Council Member Campos and carried unanimously, the grant agreements with Our City Forest were approved. (11-0.)

2.15 As recommended by the Rules and Open Government Committee on August 17, 2011, approve an oppose position for SB 931 (Vargas) – Public Employee Organizations. (City Manager's Office)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated August 17, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: An Oppose Position for SB931 was approved. (11-0.)

2.16 As recommended by the Rules and Open Government Committee on August 17, 2011, approve an oppose position for AB 646 (Atkins) – Local Public Employee Organizations: Impasse Procedures. (City Manager's Office)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated August 17, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: An Oppose Position for AB646 approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported the City of San José will be hosting a delegation from Kabul Afghanistan for the "Kabul City Initiative" in an effort to help provide technical and material support to the municipality of Kabul.

3.3 Hold a public hearing on the Sewer Service and Use Charges and Storm Sewer Services Charges report filed by the Director of Finance with the City Clerk's Office and adopt a resolution to approve the placement of recommended charges on the 2011-2012 Santa Clara County assessment roll, with such modifications as the City Council may make based on public hearing testimony. CEQA: Not a Project, File No. PP10-069(a) City Organizational & Administrative Activities. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated July 13, 2011, recommending holding a public hearing and adoption of a resolution. (2) Proofs of Publications of Notices of Public Hearings, executed on August 9, 2011 and August 16, 2011, submitted by the City Clerk.

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

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

Director of Finance Scott P. Johnson responded to Council questions and comments.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75962, entitled: A Resolution of the Council of the City of San José Confirming the Approval of the Annual Report for Fiscal Year 2011-2012 of the Director of Finance on Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges and Confirming the Approval of the Placement of Charges as Set Forth Therein on the 2010-2011 Tax Roll", was adopted. Staff was directed to circulate an information memorandum to Council related to the calculation of fees. (11-0.)

3.5 Adopt a Statement of Policy and City Council Questions related to the selection of a new Director of Department of Public Works as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

Documents Filed: Memorandum from City Manager Debra Figone, dated August 11, 2011, recommending adoption of a Statement of Policy and City Council Questions related to the selection of a new Director of Department of Public Works.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, the Statement of Policy and City Council Questions related to the selection of a new Director of Department of Public Works as described in the memorandum to Council, in compliance with City Charter Section 411.1, was adopted. (11-0.)

3.6 Approve Waivers of the Revolving Door Restriction under Municipal Code Section 12.10.070 for:

(a) Salvador C. Alvarez, former Redevelopment Agency employee, finding that such a waiver is in the best interest of the City.

(b) Michael Moehle, former Retirement Services Department employee, finding that such a waiver is in the best interest of the City.

(Rules Committee referral 8/17/11)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 19, 2011, recommending requests for Waivers of the Revolving Door Restrictions.

Motion: Council Member Herrera moved approval of the Staff recommendations to approve waivers for Salvador C. Alvarez and Michael Moehle. Council Member Pyle seconded the motion.

Assistant City Attorney Ed Moran responded to Council questions and comments.

Council Member Oliverio requested that Staff return with a streamlined blanket proposal.

Action: On a call for the question, the motion carried unanimously, the waivers for Salvador C. Alvarez, former Redevelopment Agency employee, and Michael Moehle, former Retirement Services Department employee, were approved. Staff was directed to return with a streamlined blanket proposal. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Conduct a Public Hearing and consider adoption of a resolution ordering the reorganization of territory designated as Downer No. 11 which involves the annexation to the City of San José of approximately 21.51 gross acres of land generally located west at the northwest corner of Blossom Hill Road and Southcrest Way, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. Council District 10. CEQA: The environmental impacts of this project were addressed by an Initial Study and Mitigated Negative Declaration that were prepared by the Director of Planning, Building, and Code Enforcement for both the approved General Plan Amendment (File No. GP10-01-01) and the Planned Development Prezoning/Rezoning (File No. PDC10-007). The documents were circulated for public review between October 14, 2010 and November 3, 2010, and the City Council approved the IS/MND on December 7, 2010. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel, dated July 27, 2011, recommending adoption of a resolution.

Mayor Reed opened the public hearing.

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

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 75963, entitled: A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Downer No. 11, Subject to Liability for General Indebtedness of the City", was adopted. (11-0.)

4.2 Adopt a resolution authorizing the City Manager to negotiate and execute a Participation Agreement with Netflix that will provide funding to Netflix in an amount equal to 50% of the net new sales tax revenue received by the City from the Netflix operation in year one, 40% of the net new sales tax revenue received in year two, and 30% of the net new sales tax revenue received in year three, to be capped at a total of $5,000,000 over three consecutive years. CEQA: Not a Project, File No. PP10-069(a), Participation Agreement. Council District 3. (Economic Development)

Documents Filed: (1) Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated August 1, 2011, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated August 19, 2011, offering clarifying information to the August 1, 2011 memorandum and July 22, 2011 information memorandum, including the square footage of the Netflix headquarters in Los Gatos and additional cost benefit information.

4.2 (Cont'd.)

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

Director of Economic Development/Chief Strategist Kim Walesh responded to Council questions. A short discussion followed.

Council Member Rocha requested to amend the motion to direct Staff to return to Council at the end of three years with a status update. Council Members Liccardo and Herrera accepted the amendment.

Andy Rendich, Chief Service and Operations Officer, Netflix, Inc., stated that on behalf of the entire Netflix Division that the company was very excited about moving its headquarters to the heart of Silicon Valley.

Public Comments: Ross Signorino expressed opposition to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 75964, entitled: A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Participation Agreement with Netflix That Will Provide Funding to Netflix Equal to the Percentage of the Net New Sales Tax Revenue Received by the City from Netflix in a Total Amount Not To Exceed $5 Million Over Three Consecutive Years", was adopted. Staff was directed to provide a report at the end of the third year. (11-0.)

4.3 Adopt a resolution:

(a) Determining that the public interest and necessity require the acquisition of a portion of land owned by North First Street Office Partners LLC located at 3100 North First Street, San José, California (APN Number 097-09-035; -036) comprising 6,756 square feet or 0.16 acre, together with a 12-month temporary construction easement over an adjacent portion of the subject parcel comprising 12,297.80 square feet or 0.28 acres.

(b) Authorizing the City Attorney to file suit in eminent domain to acquire such property interests, to apply for an order for possession before judgment, and to prosecute the action to final judgment.

(c) Authorizing the deposit of money in court for possession of the property from the funds lawfully available.

CEQA: Resolution No. 75696, dated January 11, 2011. Council District 4. (OED)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated August 1, 2011, recommending adoption of a resolution, authorization for the City Attorney to file suit in eminent domain and to authorize the deposit of money in court for possession of the property from the funds lawfully available.

Note: Items 4.3, 4.4 and 4.5 were heard together.

4.3 (Cont'd.)

Economic Development Division Manager Nanci Klein presented introductory comments.

Deputy Director of Transportation Manuel Pineda responded to Council questions.

Action: Upon motion by Council Member Chu, seconded by Council Member Herrera and carried unanimously, Resolution No. 75965, entitled: A Resolution of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: The Acquisition of a Portion of Real Property for Purposes of Widening the North Side of Montague Expressway Between Zanker Road and Orchard Drive With a Portion of Land Owned by North First Street Office Partners LLC located at 3100 North First Street, San José, California (APN 097-09-035 and 097-09-36) Comprising 6,756 Square Feet Together With a 12 Month Temporary Construction Easement Over an Adjacent portion of the Subject Parcel Comprising 12,297.80 Square Feet; and Authorizing and Empowering the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest, To Apply for An Order for Possession Before Judgment, and to Prosecute Said Action to Final Judgment; and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of the Property from the Funds Lawfully Available Therefore", was adopted. (11-0.)

4.4 Adopt a resolution:

(a) Determining that the public interest and necessity require the acquisition of a portion of land owned by FortuneFirst LLC located at 3101 North First Street, San José, California (APN Number 097-06-054) comprising 1,422.81 square feet.

(b) Authorizing the City Attorney to file suit in eminent domain to acquire such property interests, to apply for an order for possession before judgment, and to prosecute the action to final judgment; and

(c) Authorizing the deposit of money in court for possession of the property from the funds lawfully available.

CEQA: Resolution No. 75696, dated January 11, 2011. Council District 4. (OED)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated August 1, 2011, recommending adoption of a resolution, authorization for the City Attorney to file suit in eminent domain and to authorize the deposit of money in court for possession of the property from the funds lawfully available.

Public Comments: Greg Galasso, Hydrix Semiconductor America, stated that he was not in agreement with the price that was proposed and would like to speak with the City Attorney.

4.4 (Cont'd.)

Action: Upon motion by Council Member Chu, seconded by Council Member Herrera and carried unanimously, Resolution No. 75966, entitled: A Resolution of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: The Acquisition of a Portion of Real Property for Purposes of Widening the North Side of Montague Expressway Between Zanker Road and Orchard Drive With a Portion of Land Owned by FortuneFirst LLC Located at 3101 North First Street, San José, California (APN 097-06-054) Comprising 1,422.81 Square Feet; and Authorizing and Empowering the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest, To Apply for An Order for Possession Before Judgment, and to Prosecute Said Action to Final Judgment; and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of the Property from the Funds Lawfully Available Therefore", was adopted. (11-0.)

4.5 Adopt a resolution:

(a) Determining that the public interest and necessity require the acquisition of a portion of land owned by Conejo Valley Development Corporation California, a California corporation located at 3137/3141/3151 Zanker Road, San José, CA (APN Number 097-09-023) comprising 3, 227.16 square feet or 0.07 acre.

(b) Authorizing the City Attorney to file suit in eminent domain to acquire such property interests, to apply for an order for possession before judgment, and to prosecute the action to final judgment; and

(c) Authorizing the deposit of money in court for possession of the property from the funds lawfully available.

CEQA: Resolution No. 75696, dated January 11, 2011. Council District 4. (OED)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated August 1, 2011, recommending adoption of a resolution, authorization for the City Attorney to file suit in eminent domain and to authorize the deposit of money in court for possession of the property from the funds lawfully available.

Action: Upon motion by Council Member Chu, seconded by Council Member Herrera and carried unanimously, Resolution No. 75967: entitled: A Resolution of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: The Acquisition of a Portion of Real Property for Purposes of Widening the North Side of Montague Expressway Between Zanker Road and Orchard Drive With a Portion of Land Owned by Conejo Valley Development Corporation California Located at 3137/3141/3151 Zanker Road, San José, California (APN 097-09-023) Comprising 3,227.16 Square Feet; and Authorizing and Empowering the City Attorney to File Suit in

4.5 (Action Cont'd.)

Eminent Domain to Acquire Such Property Interest, To Apply for An Order for Possession Before Judgment, and to Prosecute Said Action to Final Judgment; and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of the Property from the Funds Lawfully Available Therefore", was adopted. (11-0.)

4.6 Adopt a resolution:

(a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds in two series designated as "City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-1 and Series 2011A-2, in the aggregate principal amount not to exceed $7,000,000 and sale of the Bonds to Citigroup Global Markets by negotiated sale;

(b) Approving a loan of bond proceeds to Taylor Oaks Apartments Investors, L.P., a California limited partnership, for financing a portion of the costs of acquiring and rehabilitating the Taylor Oaks Apartments located at 2726 – 2738 Kollmar Avenue in the City of San José;

(c) Approving in substantially final form the following documents:

(1) Trust Indenture.

(2) Financing Agreement.

(3) Regulatory Agreement and Declaration of Restrictive Covenants.

(4) Intercreditor Agreement.

(5) Purchase Contract.

(6) Official Statement.

(d) Authorizing the City Manager, Assistant Director of Finance, Director of Housing or their designees to execute and, as appropriate, negotiate, execute and deliver these bond documents and other related documents as necessary.

CEQA: Exempt, File No. PP11-022. (Finance/Housing)

Note: Item 4.6 was renumbered from Item 2.10.

Documents Filed: (1) Memorandum from Council Member Campos, dated August 22, 2011, recommending approval of the Staff recommendations. (2) Memorandum from Assistant Director of Finance Julia Cooper and Director of Housing Leslye Corsiglia, dated August 1, 2011, recommending adoption of a resolution. (3) Supplemental memorandum from Assistant Director of Finance Julia Cooper and Director of Housing Leslye Corsiglia, dated August 19, 2011, providing updated status on financing, details of which arose subsequent to August 1, 2011.

Action: Upon motion by Council Member Campos, seconded by Council Member Herrera and carried unanimously, Resolution No. 75968, entitled: A Resolution of the Council of the City of San José Authorizing the Issuance, Sale and Delivery of Multifamily Housing Revenue Bonds in an Aggregate Principal Amount Not To Exceed $7,000,000 for the Purpose of Making a Loan to Provide Financing for Taylor Oaks Apartments; Determining and Prescribing Certain Matters Relating Thereto and Approving and Authorizing Related Actions and the Execution and Delivery of Related Documents", was adopted. (10-0-1. Absent: Constant.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Adopt resolutions by the City Council and Redevelopment Agency Board adopting the Enforceable Obligation Payment Schedule detailing the obligations of the Redevelopment Agency and the City of San Jose related to the Low and Moderate Income Housing Fund, in order to comply with the provisions of Section 34169 of the Health and Safety Code. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (City Manager's Office/RDA)

Documents Filed: (1) Memorandum from City Manager Debra Figone and Redevelopment Agency Director Richard Keit, dated August 19, 2011, recommending adoption of resolutions. (2) Staff presentation dated August 23, 2011 summarizing the Enforceable Obligations Payment Schedule.

Director of Housing Leslye Corsiglia presented the report. Redevelopment Agency Managing Director Richard Keit provided an update on the appeal which was filed yesterday.

Council discussion followed.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 75969, entitled: A Resolution of the Council of the City of San José Adopting the Enforceable Obligation Payment Schedule Detailing the Obligations of the Redevelopment Agency and the City of San José Related to the Low and Moderate Income Housing Fund, In Order to Comply with the Provisions of Section 34169 of the Health and Safety Code" and Redevelopment Agency Resolution No. 6029, entitled: entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Adopting the Enforceable Obligation Payment Schedule Detailing the Obligations of the Redevelopment Agency and the City of San José Related to the Low and Moderate Income Housing Fund, In Order to Comply with the Provisions of Section 34169 of the Health and Safety Code", were adopted. (11-0.)

OPEN FORUM

(1) Barbara Santos-George expressed concern about high rental fees for the senior boutiques at the community centers.
(2) Richard McCoy, United Veterans Council of Santa Clara County, presented an invitation to the Annual Veterans Day Parade being held on September 11, 2011 at 11:00 a.m. at Cesar Chavez Plaza.
(3) Mark Trout voiced apprehensions about forced vaccinations.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 2:59 p.m. and reconvened to Closed Session at 3:00 p.m.

RECESS/RECONVENE

The City Council recessed from Closed Session at 5:00 p.m. and reconvened at 7:00 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.

CEREMONIAL ITEM

1.1 Presentation of a commendation to Ishaan Singh for his life saving efforts. (Constant)

Mayor Reed and Council Member Constant recognized and commended Ishaan Singh for his extraordinary life saving efforts.

STRATEGIC SUPPORT SERVICES

3.4 (a) Conduct a Public Hearing on the 2011 Redistricting Advisory Commission recommendations.
(b) Accept the Redistricting Commission's report and recommendations dated May 31, 2011.
(c) Approve an ordinance establishing and declaring the Boundaries of the City Council Districts Using 2010 Federal Census Data as recommended by the Commission in its report and the Recommended Redistricting Plan, identified as "Plan B, dated May 23, 2011".
(d) Direct City staff to take the necessary steps to implement changes to Council District boundaries as soon as possible.
CEQA: Not a Project, File No. PP10-069, City administrative and organizational activities. (City Clerk)

Documents Filed: (1) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 9, 2011, recommending holding a public hearing, accepting the report, approving an ordinance and direction to Staff. (2) Presentation from the Redistricting Commission dated August 23, 2011 outlining the Redistricting Process and Goals.

Rich de la Rosa, Chair and Judy Chirco, Vice Chair presented the report on the 2011 Redistricting Advisory Committee Report.

Council discussion ensued.

3.4 (Cont'd.)

Mayor Reed opened the public hearing.

Council Member Constant expressed concern about not achieving enough equity between the Districts, the overall deviation and the fact that these neighborhoods are separated by physical boundaries. He added that it will be much more difficult for the Redistricting Commission that will deal with this issue in ten years.

Public Comments: Erik Schoennauer and Dave Fadness spoke in support to the Staff recommendations.

Mayor Reed closed the public hearing.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, the Redistricting Commission's report and recommendations dated May 31, 2011 was accepted; Ordinance No. 28952, entitled: "An Ordinance of the City of San José Establishing and Declaring the Boundaries of the City Council Districts Using 2010 Federal Census Data", was passed for publication and City Staff was directed to take the necessary steps to implement changes to Council District boundaries as soon as possible. (10-1. Noes: Constant.)

PUBLIC HEARINGS

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

11.2 Conduct an Administrative Hearing and consider an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at a general retail/pharmacy store in an existing approximately 20,317 square-foot tenant space in a shopping center on an approximately 13.2 gross-acre site in the CG-Commercial General Zoning District located 100 feet westerly of the northwest corner of Morrill Avenue and Amberwood Lane (2105 Morrill Avenue) (Chiu Gabriel H Trustee & Et Al, Owner; Walgreens, Applicant). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (5-0-2; Commissioners Kamkar and Platten Absent).
CP10-016/ABC10-003 – District 4

11.2 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Chu, dated August 18, 2011, recommending approval of the appeal and allow the off sale of alcohol. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated April 21, 2011, recommending upholding the Planning Commission recommendation and to deny the subject Conditional Use Permit. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File CP10-016/ABC10-003, dated March 14, 2011. (4) Proof of Publication of Notice of Public Hearing, executed on April 29, 2010, submitted by the City Clerk. (5) Letter from Six to Midnite, dated May 23,2011, protesting the appeal of the Planning Commission decision. (6)

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

Mayor Reed opened the public hearing.

Public Comments: David Bunim, representing Walgreens, spoke to the Walgreen's impeccable track record for 42 years.

Mayor Reed closed the public hearing.

Mayor Reed and Council Member Chu provided meeting disclosures.

Motion: Council Member Chu moved approval of the memorandum he cosigned with Mayor Reed. Council Member Constant seconded the motion.

Council Members Constant and Kalra expressed support. Council Member Oliverio voiced opposition citing that he supports the sale of alcohol with food. Council Members Liccardo, Herrera and Rocha objected to the motion on the floor.

Action: On a call for the question, the motion carried, the memorandum from Mayor Reed and Council Member Chu, dated August 18, 2011, was approved, the appeal of the Planning Commission decision to deny the permit was approved and the off sale of alcohol as an allowable use based upon a determination of public convenience and necessity was approved; Resolution No. 75970, entitled: A Resolution of the Council of the City of San José Granting a Conditional Use Permit and Granting a Determination of Public Convenience or Necessity to Allow Off Sale of Alcohol (Beer and Wine Only) For An Existing General Retail Store/Pharmacy in An Existing Approximately 20,317 Square Foot Tenant Space In A Shopping Center Located at 2105 Morrill Avenue On An Approximately 13.2 Gross Acre Site", was adopted. (7-4. Noes: Herrera, Liccardo, Oliverio, Rocha.)

11.3 Consideration of an ordinance rezoning the real property located at the northwest corner of Jackson Street and North 19th Street (897 Jackson Street) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow the addition of a 2-story, accessory structure (consisting of a home office over a 2 car garage) to be constructed without a driveway adjacent to the North 19th Street property line on a .29 gross acre site currently zoned for single-family, duplex and bed and breakfast uses (Eric Thacker Trustee, et al., Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommends denial (4-0-2; Commissioner Cahan and Platten absent).
PDC10-027 – District 3

Action: Deferred to September 27, 2011 evening per Orders of the Day.

11.4 Consideration of an ordinance rezoning the real property located at the northeast corner of North Capitol Avenue and Sierra Road (1328 North Capitol Avenue) from the R-1-8 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow for the development of up to 96 multi-family residential units on a 4.30 gross acre site (Orlando William Jr Trustee & Et Al, Owner). CEQA: Mitigated Negative Declaration. The Planning Commission voted 4-3-0 (Commissioners Jensen, Cahan, and Kamkar opposed) to recommend that the Council approve the Planned Development Zoning as requested by the applicant. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (4-3-0).
PDC10-025 – District 4

Documents Filed: (1) Memorandum from Council Member Chu, dated August 18, 2011, recommending approval of the Planning Commission recommendation with direction as described in "Action". (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 1, 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. PDC10-025, dated June 15, 2011. (4) Supplemental memorandum from Secretary of Planning Commission Joseph Horwedel, dated August 16, 2011, clarifying the motion made by the Planning Commission in regard to the above mentioned project at their public hearing on June 22, 2011. (5) Proof of Publication of Notice of Public Hearing, executed on June 10, 2010, submitted by the City Clerk.

Mayor Reed opened the public hearing.

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

Public Comments: Erik Schoennauer, representing the Applicant, Trumark Companies, spoke in support to the recommendation of the Planning Commission, the memorandum from Council Member Chu and to the merits of the project.

Mayor Reed closed the public hearing.

11.4 (Cont'd.)

Motion: Council Member Chu moved approval of his memorandum dated August 18, 2011, recommending approval of the Staff/Planning recommendation with direction as indicated below in "Action". Council Member Constant seconded the motion.

Mayor Reed provided meeting disclosures.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Chu, dated August 18, 2011, was approved; the recommendation of the Planning Commission and Planning Director was approved, with the inclusion of development standards as presented by developers at the June 22, 2011 meeting; (1) As part of the proposed project, the developer was directed to: (a) Increase the height of the fence on the northwestern boundary to 8 feet. (b) Work with adjacent homeowners to provide input on the landscaping plan to address and ensure privacy concerns are met. (2) The supplemental memorandum from the Planning Commission, dated August 16, 2011, was approved, clarifying the motion made by the Planning Commission in regard to the project at the June 22, 2011 meeting, and Ordinance No. 28953, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of North Capitol Avenue and Sierra Road from R-1-8 Single Family Residence Zoning District to A(PD) Planned Development Zoning District", was passed for publication, as amended. (11-0.)

11.5 Consideration of ordinance of the City of San José amending Title 20 of the San José Municipal Code to amend Section 20.40.100 of Chapter 20.40 (Commercial Zoning District), to add a new Part 1.5 to Chapter 20.80 (Specific Use Regulations), and to add a new Section 20.200.114 to Chapter 20.200 (Definitions), all to establish land use regulations pertaining to bail bonds establishments. CEQA: Reuse of San José 2020 General Plan Environmental Impact Report, Resolution No. 65459, File No. PP11-063.
Citywide

Documents Filed: (1) Memorandum from Council Members Chu, Herrera, Liccardo and Pyle, dated August 16, 2011, recommending approval of the Staff recommendations with direction. (2) Memorandum from Council Member Rocha, dated August 22, 2011, requesting Staff provide information, to the extent possible given the late release of his memorandum. (3) Memorandum from Director of Building, Planning and Code Enforcement Joseph Horwedel, dated August 4, 2011, transmitting the recommendation of the Planning Commission. (4) Proofs of Publications of Notices of Publics Hearings, executed on July 22, 2011 and July 26, 2011, submitted by the City Clerk. (5) Letter from Patricia E. Saucedo, Vice President, San José Silicon Valley Chamber of Commerce, dated August 23, 2011, regarding the Bail Bond Establishments. (6) Letter from the Law Offices of Donald Kilmer, dated August 23, 2011, regarding the ordinance to amend the Bail Bond Establishments. (7) Two letters from Rutan & Tucker, LLP, dated August 9, 2011 and August 19, 2011, regarding the Bail Bond Establishments. (8) Petition signed by fifty eight people, dated August 23, 2011, in agreement with the ordinance with one exception, that there be 300 feet between bail bond establishments, property zoned for residential uses, public parks, kindergarten through 12th grade, public or private.

11.5 (Cont'd.)

Mayor Reed opened the public hearing.

Deputy Director of Planning, Building and Code Enforcement Laurel Prevetti presented the report on the Bail Bond Regulations.

Public Comments: Providing comments and suggestions to the Staff recommendations, either in favor or against establishing land use regulations pertaining to bail bonds establishments were, Ron Cochran, Susan Lapsys, Reta Reynoso, Angelina Valencia-Gable, Antonia, Marie Moore, Hyde Park Neighborhood Association, Bill Mains, Erik Schoennauer, Patti Phillips, Horace Mann Neighborhood Association, Roma Dawson, Catherine Festa, Ellen Manneale, David Pandori, Josh Brouillette, Ransom Fields, Wade Hall, Ernesto Fausto, Vendome Neighborhood, Eric Cantu, Pacific Coast Bail, Petra Pino, Tina Morrill, Don Gagliardi, Aurelia Sanchez, Jose Luna, Norm Matthews, Bail Hot Line, Mark Garcia, Golden State Investigations, Ash Pirayou, All Pro Bail/Pacific Coast Bail, Craig Stanley, Don Kilmer, C. Jeffery Stanley, Bad Boys Bail Bonds, Michael Bluto and Steve Sparcino, Tapout Bail Bonds.

Mayor Reed closed the public hearing.

Mayor Reed, Vice Mayor Nguyen and Council Members Constant, Rocha, Campos, Pyle and Liccardo provided meeting disclosures.

Motion: Council Member Liccardo moved approval of the memorandum he cosigned with Council Members Chu, Herrera and Pyle, recommending approval of the Staff recommendation, with direction. Council Member Herrera seconded the motion.

Council discussion followed.

Director of Building, Planning and Code Enforcement Joseph Horwedel and Deputy Director Laurel Prevetti provided a verbal response to Council Member Rocha regarding his request for information in his memorandum dated August 22, 2011.

Council Member Kalra and Herrera expressed support to the motion on the floor.

Council Members Constant expressed several concerns including the inappropriate way the ordinance addresses this entire issue and how it affects the community.

Council Member Campos stated that the bail bonds establishments are not the problem, and indicated that in his view retail was not thriving in the downtown because of the zoning that currently exists.

Vice Mayor Nguyen expressed objection because of the over concentration of bail bond establishments in the area and stated that the neighborhoods want more diversity

11.5 (Cont'd.)

Vice Mayor Nguyen requested to amend the motion to add flexibility so the existing bail bonds businesses can apply for rezoning without the requirement of the ground floor use. Council Member Liccardo declined to accept the amendment.

Council Member Liccardo moved to amend the motion to remove the ground floor restrictions. Council Member Herrera accepted the amendment.

Council Member Oliverio requested to amend the motion to require a 200 foot in lieu of 300 foot. The amendment was accepted by Council Members Liccardo and Herrera.

Action: On a call for the question, the motion carried, the memorandum from Council Members Chu, Liccardo, Herrera and Pyle, dated August 16, 2011, was approved, as amended: (1) Require a 200 foot (instead of 300 foot) distance between any new bail businesses and property zoned for residential uses, public parks, K-12 public and private schools. (2) Remove the ground floor restrictions, and Ordinance No. 28954, entitled: "An Ordinance of the City of San José Amending Title 20 of the San José Municipal code to Amend Section 20.40.100 of Chapter 2040 (Commercial Zoning Districts), To Add a New Part 1.5 to Chapter 20.80 (Specific Use Regulations) and To Add a New Section 20.200.114 To Chapter 20.200 (Definitions), All to Establish Land Use Regulations Pertaining to Bail Bond Establishments", was passed for publication, as amended. (7-4. Noes: Campos, Constant, Nguyen, Rocha.)

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:

Tract	Location	Council District	Developer	Lots/ Units	Type	Proposed Decision
10089	NW Corner of Olin Avenue and Hatton Street (Santana Row)	6	Frit San Jose Town & Country Village, LLC	1 Lot/ 108 Units	MFA	Approve

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:

Tract	Location	Council District	Developer	Lots/Units	Type
10086	W/S North 1st Street approximately 450 feet southerly of Rio Robles	4	Wyse Technology Investments, Inc.	3 Lots/ 271 Units	MFA
10089	NW Corner of Olin and Hatton Streets (Santana Row)	6	Frit San Jose Town & Country Village, LLC	1 Lot/ 108 Units	MFA

ADJOURNMENT

The Council of the City of San José was adjourned at 10:29 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis D. Hawkins, CMC
City Clerk

/smd 08-23-11 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.