CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA **TUESDAY, AUGUST 30, 2011**

The Council of the City of San José convened in Regular Session at 9:04 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Herrera, Kalra, Oliverio, Pyle.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Documents Filed: Coalition Counter Proposal "Retiree Healthcare Benefits for New Employees" submitted by AEA (Units 41/42 and 43), AMSP and CAMP, dated August 29, 2011.

Senior Executive Analyst Aracely Rodriguez offered the Labor Negotiations Update.

Public Comments: Nancy Ostrowski, AEA/CAMP/IFPTE Local 21 offered an update from the bargaining units' perspective.

Deputy City Manager Alex Gurza responded to questions from Council.

Action: The Update was accepted.

CLOSED SESSION

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

Absent: Council Members - All Present.

Upon motion unanimously adopted, Council recessed at 9:08 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) In re: Delgado; Amount of Money or Other Relief Sought: Administrative Appeal; (2) 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; (3) Smith v. City of San José, et al.; Names of Parties Involved: Ted Smith, City of San José, San José Elections Commission, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV089167; Amount of Money or Other Relief Sought: Declaratory relief and attorney's fees; (4) Rosa, Melissa v. County of Santa Clara, City of San José, et al.; Names of Parties Involved: Melissa Rosa, County of Santa Clara, City of San José, and Does 1-50, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV181775; Amount of Money or Other Relief Sought: Damages according to proof; (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA; (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters; (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of

CLOSED SESSION (Cont'd.)

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); 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; How to obtain a copy of existing contract or MOA: web: **http://www.sanjoseca.gov/employee_relations/moa.asp**; Telephone for Employee Relations: 408-535-8150.

INVOCATION

Pastor Arnold Perez of Cryy Out Christian Fellowship provided the Invocation.

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(a) deferred to September 13, 2011 and Item 2.8 deferred to September 27, 2011. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of the "Certificate of Achievement for Excellence in Financial Reporting;" the "Distinguished Budget Presentation Award;" and the "Certificate of Recognition for Budget Presentation" from the Government Finance Officers Association of the United States and Canada to the City of San José for its FY 2009-10 Comprehensive Annual Financial Report and Adopted Budget. (City Manager)

Mayor Reed presented Awards and Certificates of Achievement to the City's Finance Staff from the Government Finance Officers Association of the United States and Canada for its FY 2009-10 Comprehensive Annual Financial Report and Adopted Budget.

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. 28954 – Amending Title 20 of the San José Municipal Code to amend Section 20.40.100 of Chapter 20.40 (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 (Definition), all to establish Land Use Regulations pertaining to Bail Bond Establishments.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28954 executed on August 26, 2011, submitted by the City Clerk.

Action: Ordinance No. 28954 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

(a) Rules and Open Government Committee Report of August 10, 2011. (Mayor)

Action: Deferred to September 13, 2011 per City Clerk.

(b) Transportation and Environment Committee Report of August 15, 2011. (Liccardo)

Documents Filed: Transportation and Environment Committee Report dated August 15, 2011.

Action: The Committee report was accepted. (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.

Council Member Constant provided an update, including research and recommendations provided by consulting group Cortex Applied Research.

2.7 Approve a third Amendment to the Advertising Concession Agreement between the City and Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports at the Norman Y. Mineta San José International Airport to combine the minimum capital investment requirements of the various advertising categories. CEQA: Not a Project, File No. PP10-066(e); Services that involve no physical changes to the environment. (Airport) (Deferred from 8/16/11 – Item 2.7)

Action: Dropped per Administration.

2.8 Adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute a Second Amendment to the Non-Exclusive Installation and Property Use Agreement ("Agreement") with Wayport, Inc. ("Wayport") to extend the term of the Agreement through October 31, 2015, require a security deposit, and modify the calculation of the use charge;

(b) Negotiate and execute a Third Amendment to the Agreement with Wayport to revise the licensed use area to include Terminal B; and

(c) Negotiate and execute additional amendments to extend the term of the Agreement for up to 5 years commencing on November 1, 2015.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)

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

2.9 Adopt a resolution to:

(a) Approve the three-year Airport Concession Disadvantaged Business Enterprise (ACDBE) participation plan update in accordance with the regulations of the Federal Aviation Administration (FAA);

(b) Approve the three-year ACDBE participation target of 9.67% for all Airport concessions, other than car rentals, for Federal Fiscal Years (FFY) 2012 through 2014;

(c) Approve the three-year ACDBE participation target of 0% for car rentals, for FFYs 2012 through 2014;

(d) Authorize the City Manager to submit the three-year ACDBE participation plan update to the FAA; and

(e) Authorize the City Manager to make revisions to the three-year ACDBE participation plan as requested by the FAA.

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

Documents Filed: (1) Memorandum from Director of Aviation William F. Sherry, dated August 8, 2011, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Aviation William F. Sherry, dated August 29, 2011, updating information provided in the memorandum of August 8, 2011.

2.9 (Cont'd.)

Action: Resolution No. 75971, entitled: "A Resolution of the Council of the City of San José, Approving the Airport Concession Disadvantaged Business Enterprise Three-Year Participation Plan Update", was adopted. (11-0.)

2.10 (a) Authorize certification and submittal of the 2010-2011 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act.

(b) Direct staff to return to the Transportation and Environment Committee in October for review and discussion of the Annual Report.

CEQA: Not a Project, File No. PP10-069 (a), City Organizational & Administrative Activities. (Environmental Services Department)

Documents Filed: (1) Memorandum from Acting Director Environmental Services Kerrie Romanow, dated August 8, 2011, authorizing submittal of the Annual Report. (2) Supplemental memorandum from Acting Director Environmental Services Kerrie Romanow, dated August 26, 2011 providing updated program information to be included in the final Annual Report.

Action: The 2010-2011 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board was authorized for certification and submittal with direction to Staff to return to the Transportation and Environment Committee in October for review and discussion. (11-0.)

2.11 Adopt a resolution authorizing the Director of Finance to:

(a) Execute amendments to the existing Open Purchase Orders 45421, 45427 and 45425 with Wilson Concrete (San José, CA), Duran Hogan Construction (San José, CA) and CB Construction (San José, CA), respectively, to encumber an additional $100,000 each, for a total amount not to exceed $345,000 for each purchase order for sidewalk repair; and

(b) Amend the three Purchase Orders to change the funding amounts, with total compensation among all three Purchase Orders not to exceed $1,035,000.

CEQA: Exempt, File No. PP10-113. (Finance)

Documents Filed: City Council Action Request to Encumber Additional Funds to Open Purchase orders with Wilson Concrete, Duran Hogan Construction and CB Construction, submitted by Director of Finance Scott P. Johnson, dated August 30, 2011.

Action: Resolution No. 75972, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute Amendments to Open Purchase Orders for Sidewalk Repairs", was adopted. (11-0.)

2.12 Adopt a resolution authorizing the Director of Finance to:

(a) Execute an Open Purchase Order with Hi-Tech Emergency Vehicle Services, Inc. for the repair and maintenance of the City's fleet of Fire Department vehicles and equipment, for the period September 1, 2011 through August 31, 2012, in an amount not to exceed $450,000.

(b) Exercise three additional one-year options to renew the Purchase Order, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(e), Services involving no physical change to the environment. (Finance)

Documents Filed: City Council Action Request to Award of an Open Purchase Order to Hi-Tech Emergency Vehicle Service, Inc., submitted by Director of Finance Scott P. Johnson, dated August 30, 2011.

Action: Resolution No. 75973, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Open Purchase Order with Hi-Tech Emergency Vehicles Services, Inc., for the Repair and Maintenance of Fire Department Vehicles and Equipment", was adopted. (11-0.)

2.13 Adopt a resolution to update the Heritage Tree List in San José pursuant to Chapters 13.28 and 13.32 of the San José Municipal Code. CEQA: Exempt, File No. PP11-082. (Transportation)

Documents Filed: City Council Action Request regarding Heritage Tree List Update Resolution, submitted by Director of Finance Scott P. Johnson, dated August 30, 2011.

Action: Resolution No. 75974, entitled: "A Resolution of the Council of the City of San José Designating Certain Trees as Heritage Trees, Placing Said Trees on the Heritage Tree List, and Deleting Certain Trees There from, and Repealing Resolution No. 72274", was adopted. (11-0.)

2.14 (a) Approve travel by Council Member Constant to New Orleans, LA on October 31 – November 2, 2011 attend the 57th Annual Employee Benefits Conference to continue training requirements on healthcare and pension plans in the Trustees Masters Program. Source of Funds: Retirement Services. (Constant)

(b) Request for an excused absence for Council Member Constant from the Closed Session and Regular City Council Meeting on November 1, 2011 and the Regular Meeting of the Rules and Open Government Committee on November 2, 2011 due to Authorized City Business: Trustees Masters Program & 57th Annual Employee Benefits Conference in New Orleans, LA.

Documents Filed: Two memoranda from Council Member Constant, both dated August 8, 2011, requesting approval of travel for authorized City Business.

Council Member Kalra pulled Item 2.14 in objection due to budget concerns.

Action: The travel request was approved. (10-1. Noes: Kalra.)

2.15 (a) Approve travel by Council Member Herrera to San Francisco, CA on September 21-23, 2011 to attend the League of California Cities Annual Conference and the Women's Caucus Meeting. Source of Funds: District Funds Council Travel Budget. (Herrera)

(b) Request for an excused absence for Council Member Herrera from the Regular Meeting of the Rules and Open Government Committee on September 21, 2011 due to Authorized City Business: National League of California Cities Annual Conference. (Herrera)

Documents Filed: Two memoranda from Council Member Herrera, dated August 10 and 11, 2011, requesting approval of a travel for authorized City Business.

Council Member Kalra pulled Item 2.15 in objection due to budget concerns.

Action: The travel request was approved. (10-1. Noes: Kalra.)

2.16 (a) Approve travel by Council Member Herrera to Portland, OR on October 19 - 21, 2011 to attend 2011 San José Silicon Valley Chamber of Commerce City to City Trip. Source of Funds: District Funds/Council Travel Budget. (Herrera)

(b) Request for an excused absence for Council Member Herrera from the Regular Meeting of the Rules and Open Government Committee on October 19, 2011 and The Airport Ad Hoc Committee Meeting on October 20, 2011 due to Authorized City Business: 2011 San José Silicon Valley Chamber of Commerce City to City Trip. (Herrera)

(Rules Committee referral 8/17/11)

Documents Filed: Two memoranda from Council Member Herrera, dated August 10, 2011, requesting approval of travel for authorized City Business.

Council Member Kalra pulled Item 2.16 in objection due to budget concerns.

Action: The travel request was approved. (10-1. Noes: Kalra.)

2.17 As recommended by the Public Safety, Finance and Strategic Support Committee on August 18, 2011, accept the Third Audit of the American Recovery and Reinvestment Act. (City Auditor)
[Public Safety, Finance and Strategic Support Committee referral 8/18/11 – Item D(6)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 18, 2011, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: The Third Audit of the American Recovery and Reinvestment Act, as recommended by the Public Safety, Finance and Strategic Support Committee, was accepted. (11-0.)

2.18 As recommended by the Public Safety, Finance and Strategic Support Committee on August 18, 2011, accept the Review of Traffic Citation Revenue. (City Auditor) [Public Safety, Finance and Strategic Support Committee referral 8/18/11 – Item D(7)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 18, 2011, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: The Review of Traffic Citation Revenue, as recommended by the Public Safety, Finance and Strategic Support Committee, was accepted. (11-0.)

2.19 Approve travel by Council Member Chu to San Francisco, CA on September 21-23, 2011 to attend the League of California Cities Annual Conference and Business Meeting as San José's designated LCC Board representative. Source of Funds: Council District 4 Budget. LCC reimburses the City for related travel expenses. (Chu)

Documents Filed: Memorandum from Council Member Chu, dated August 22, 2011, requesting approval of travel for authorized City Business.

Council Member Kalra pulled Item 2.19 in objection due to budget concerns.

Action: The travel request was approved. (10-1. Noes: Kalra.)

2.20 Retroactively approve travel by Council Member Chu to Long Beach, CA on July 20-22, 2011 to attend the regularly scheduled League of California Cities Board of Director's meeting as San José's designated representative. Source of Funds: Council District 4 Budget. LCC reimburses the City for related travel expenses. (Chu)

Documents Filed: Memorandum from Council Member Chu, dated August 22, 2011, requesting approval of travel for authorized City Business.

Council Member Kalra pulled Item 2.20 in objection due to budget concerns.

Action: The travel request was approved. (10-1. Noes: Kalra.)

2.21 As recommended by the Rules and Open Government Committee on August 24, 2011, approve an oppose position for AB 1178 (Ma) – Solid Waste: Place of Origin. (Environmental Services)
[Rules Committee referral 08/24/11 – Item D(1)(b)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 24, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: An oppose position was approved for AB 1178 (Ma) – Solid Waste: Place of Origin. (11-0.)

2.22 As recommended by the Rules and Open Government Committee on August 24, 2011:
(a) Approve the District 4 Safety Resource Fair and Movie Night as a City sponsored Special Event; and
(b) Approve and accept donations from various individuals, businesses or community groups to support the event.
CEQA: Not a Project. (City Clerk)
[Rules Committee referral 08/24/11 – Item H(4)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 24, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 4 Safety Resource Fair and Movie Night as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.5 (1) Interview applicants for appointment to the Elections Commission
(2) Appoint one (1) member to the Elections Commission to a term expiring March 1, 2015.
(3) If no applicant is appointed, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.
(City Clerk)

3.5 (Cont'd.)

Documents Filed: (1) Memorandum from Deputy Director of Planning, Building and Code Enforcement Mike Hannon, dated August 16, 2011, providing background on the Election Commission applicants. (2) Memorandum from City Clerk Dennis Hawkins, dated August 19, 2011, recommending Election Commission applicants to be interviewed. (3) Supplemental memorandum from City Clerk Dennis Hawkins, dated August 22, 2011, identifying applicants selected to be interviewed based on the Council's indications of interest. (4) Replacement memorandum from City Attorney Richard Doyle, dated August 24, 2011, providing background on applicants.

Action: The applicants were interviewed. Rolanda Pierre Dixon was appointed to the Elections Commission to a term expiring March 1, 2015.

3.3 Consider an ordinance amending Title 3 of the San José Municipal Code to add new Chapter 3.54 and 3.56, and to amend Sections 3.36.575, 3.36.1925, 3.36.1930, 3.36.2030 and 3.36.2050 for the purposes of establishing a new trust pursuant to Section 115 of the Internal Revenue Code related to retiree health care benefit funding and payment of retiree health care benefits. CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office)
(Rules Committee referral 05/25/11)
(Deferred from 6/7/11, Item 3.6 – Deferred from 8/2/11, Item 3.3)

Action: Deferred September 27, 2011 per Administration.

3.6 As recommended by the Public Safety, Finance and Strategic Support Committee on August 18, 2011, accept the Annual Review and Proposed Amendments of the City's Investment Policy and adopt a resolution approving revisions to City Council Policy 1-12 to reflect recent changes to the Federal Reserve Bank's Primary *Dealer* List. CEQA: Not a Project. (Finance)
[Public Safety, Finance and Strategic Support Committee referral 8/18/11 – Item D(3)]
Note: Revision per Staff recommendation.

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 18, 2011, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Constant and carried unanimously, the Annual Review and Proposed Amendments of the City's Investment Policy was accepted, and Resolution No. 75975, entitled: "A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 1-12, the City of San José Investment Policy", was adopted. (10-0-1. Absent: Liccardo.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Adopt the following 2011-2012 Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act (WIA) Fund (290):

(a) Increase the estimate for Earned Revenue by $1,509,191;

(b) Increase the National Emergency Grant (NEG) Dislocated Workers – NUMMI appropriation in the amount of $1,493,839; and

(c) Establish an appropriation to the Office of Economic Development for the Exemplary Performance Award in the amount of $15,352.

CEQA: Not a Project; File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager's Office)

Documents Filed: Joint memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer Maguire, dated August 8, 2011, recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Ordinance No. 28955, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Workforce Investment Act (WIA) Fund for the National Emergency Grant (NEG) Dislocated Workers Funding: and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 75976, 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 Workforce Investment Act Fund", were adopted. (10-0-1. Absent: Kalra.)

4.2 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund (Fund 290):

(a) Increase the estimate for Recovery Act – Federal Revenue by $985,000;

(b) Establish an appropriation to the Office of Economic Development for Recovery Act - 25% Additional Assistance - Transition Supplemental Support Project in the amount of $985,000.

CEQA: Not a Project; File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager's Office)

Documents Filed: Joint memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer Maguire, dated August 8, 2011, recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Ordinance No. 28956, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Workforce Investment Act (WIA) Fund for the American Recovery and Reinvestment Act Transition Supplemental Support Project: and Providing that this Ordinance Shall

4.2 (Cont'd.)

Become Effective Immediately Upon Adoption", and Resolution No. 75977, 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 Workforce Investment Act Fund", were adopted. (10-0-1. Absent: Kalra.)

TRANSPORTATION & AVIATION SERVICES

6.1 Approve a long-term parking agreement for up to 50 years with the Superior Court of the State of California, County of Santa Clara, for the issuance of up to 450 parking permits to the Superior Court for use of the Market/San Pedro Square Garage at no cost for three years and a monthly charge thereafter for the remaining 47 years. CEQA: Not a Project, File No. PP10-066(f), Agreement for lease of existing space. Council District 3. (Transportation)

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated August 8, 2011, recommending approval of a long-term parking agreement.

Public Comments: David Yamasaki, Santa Clara Superior Court, spoke to the merits of the project.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the long-term parking agreement for up to 50 years with the Superior Court of the State of California, County of Santa Clara, for the issuance of up to 450 parking permits to the Superior Court for use of the Market/San Pedro Square Garage with related contingency, was approved. (11-0.)

6.2 (a) Approve a funding agreement for the Route 101 from I-280 to Yerba Buena Road project providing funding in the amount of $4,200,000 from the City of San José to the Santa Clara Valley Transportation Authority.

(b) Adopt the following Appropriation Ordinance Amendments in the Building and Structure Construction Tax Fund:

(1) Increase the appropriation to the Department of Transportation for the Route 101/Tully Interchange Upgrade by $500,000; and

(2) Decrease the Ending Fund Balance by $500,000.

CEQA: Mitigated Negative Declaration, File No. OA05-010. (Transportation/City Manager's Office)

Documents Filed: (1) Joint memorandum from Vice Mayor Nguyen and Council Member Herrera and Campos, dated August 26, 2011, in support of Staff recommendations with additional direction in the construction of Phase II. (2) Joint memorandum from Director of Transportation Hans Larsen and Budget Director Jennifer Maguire, dated August 1, 2011, recommending a funding agreement and appropriation ordinance amendments.

6.2 (Cont'd.)

Motion: Council Member Herrera moved approval of the memorandum she cosigned with Vice Mayor Nguyen and Council Member Campos. Vice Mayor Nguyen seconded the motion.

Action: On a call for the question and carried unanimously, a funding agreement for the Route 101 from I-280 to Yerba Buena Road project providing funding in the amount of $4,200,000 from the City of San José to the Santa Clara Valley Transportation Authority was approved, and Ordinance No. 28957, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Building and Structure Construction Tax Fund for the Route 101 From I-280 to Yerba Buena Road Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0-1. Absent: Constant.)

STRATEGIC SUPPORT SERVICES

3.4 Approve staff workplan for Fiscal Year 2011-2012 priority ordinances. CEQA: Not a Project, File No. PP10-069(a), staff reports and informational memos. (City Manager's Office)

Documents Filed: (1) Memorandum from City Manager Debra Figone, dated August 19, 2011, recommending approval of the staff workplan. (2) Supplemental memorandum from City Manager Debra Figone, dated August 29, 2011 providing corrections and modifications to the information previously provided. (3) Joint memorandum from Council Members Kalra, Liccardo, Rocha and Campos, dated August 25, 2011, recommending addition to the approved 2011-2012 workplan items. (4) Memorandum from Council Member Pyle, dated August 26, 2011, recommending addition to the approved 2011-2012 workplan items. (5) Memorandum from Council Member Chu, dated August 29, 2011, recommending additions to the approved 2011-2012 workplan items. (6) Correspondence from County of Santa Clara Supervisor Ken Yeager, dated August 26, 2011, supporting the addition of "Smoking in Outdoor Areas" to the work plan items. (7) Correspondence from Eric Swallow, Garden City Casino/Casino M8trix, dated August 29, 2011, recommending support of Amendments to Title 16 for Gaming Control licensing and work permits. (8) Letter from Pastor Jethroe Moore II, San José/Silicon Valley NAACP, dated August 30, 2011, regarding caps on interest rates for pay-day lenders, including a Payday Lending "Fact Sheet". (9) Staff presentation "FY 2011-2012 Council Priority Ordinances", dated August 30, 2011. (10) Excel spreadsheet, results of "Council Priority Setting Results – 8/30/11".

Mayor Reed outlined the ordinances to be prioritized. Assistant City Manager Ed Shikada provided the context for the procedure.

3.4 (Cont'd.)

Public Comments: Rich De La Rosa (Garden City Casinos and Casino M8trix) urged prioritization of Title 16 for Gaming Control licensing and work permits; Ellen Prior, Margo Sidener and Maria Francisco (Breathe California), Uka Masada, Dr. Marty Fenstersheib, and Carol Baker (American Cancer Society) asked that Council prioritize "Smoking in outdoor areas"; Speaking on the importance of the "Social Host Ordinance" were Gabrielle Antolovich, Kim Bravo (Urban Coalition), Carla Holtzclaw, and Rogelio (County of Santa Clara); Richard Kondor (Asian Law Alliance), Liana Molina (California Reinvestment Coalition), Steve Preminger (South Bay Labor Council), Ricky Alexander, Kyra Kazantuis (Public Interest Law Firm), and Gregory Kepferle asked that Council prioritize the Payday Lending issue. Mark Trout spoke in opposition to mandatory vaccinations.

Council Member Pyle read a letter from a constituent, emphasizing the dangers of underage drinking and the importance of the social host ordinance.

Director, Planning, Building and Code Enforcement Joseph Horwedel and Director of Economic Development/Chief Strategist Kim Walesh answered questions regarding the special events ordinance.

Motion: Council Member Kalra moved the inclusion of five priority ordinance items rather than three. The motion was seconded by Council Member Herrera. Mayor Reed clarified that an item must get six votes before it can make the priority list. On a call for the question, the motion carried. (10-1-0. Noes: Oliverio.)

City Clerk Dennis Hawkins explained the process by which Council would be voting to prioritize ordinances.

Council Member Campos provided meeting disclosures.

Top ordinances were prioritized by Council as follows:

(1) Smoking in Outdoor Areas (10 votes)
(2) Social Host Ordinance (9 votes)
(3) Payday Lending (9 votes)
----------These items were added to the top ten priority list----------

(4) Zoning Standards – Main Street/Alum Rock (6 votes)
(5) Development Agreement Ordinance (6 votes)
(6) Real Estate Streamlining Transactions (6 votes)
----------These items are to be added as top ten items are completed----------

(7) Public Entertainment Business Permit Fee Methodology (4 votes)
(8) Plug-in Requirements for Parking Garages (2 votes)
(9) Lighting on Private Property Policy Changes (1 vote)
(10) Conservation Area Ordinance Streamlining (Distinctive Neighborhoods) (1 vote)

Noise Performance Standards Update (1 vote)

OPEN FORUM

Mark Trout expressed religious views.

ADJOURNMENT

The Council of the City of San José adjourned at 5:00 p.m. in memory of former San José Firefighter Bruce Blain De Mers, who passed away on May 20, 2011. After retiring from the San José Fire Department, Bruce was very active in professional and labor organizations. He served as president and vice-president of the Association of Retired San José Police Officers and Firefighters. Additionally, Bruce was highly respected, admired, and recognized as an excellent role model for all. (Chu/Herrera/Rocha)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk

rmk/8-30-11MIN

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