



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, NOVEMBER 15, 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, Herrera, Liccardo, Nguyen, Pyle, Rocha; Reed.

Absent: Council Members - Kalra, Oliverio.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Documents Filed: Letter from San José Police Officers Association President George Beattie and San José Firefighters, IAFF Local 230 President Robert Sapien, Jr., dated November 11, 2011, providing a revised Proposal and Proposal Addendum.

Employee Relations Deputy Director Gina Donnelly provided the update.

Public Comments: Robert Sapien (IAFF Local 230), Paula Martinez (MEF), Sharona Rozario, Yolanda Cruz (AFSCME/MEF) and Jon Max Reger (OE-3) urged the City to work with its employees in a lawful manner and with an open mind and respect.

CLOSED SESSION

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

Absent: Council Members - All Present.

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.

CLOSED SESSION (Cont'd.)

Upon motion unanimously adopted, Council recessed at 9:15 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (b) with respect to existing litigation: (1) In re: Smith; Amount of Money or Other Relief Sought: Administrative Appeal; (2) In re: Nanson; Amount of Money or Other Relief Sought: Administrative Appeal; (3) 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; (B) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation in three (3) matters; (C) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 with respect to anticipated litigation in two (2) matters (Claim Not Filed); (D) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: (1) Property Street Address, Parcel Number, or Other Unique Reference of Property: Lonus Street to Minnesota Avenue; 264-11-100 (portion); 264-11-101; 264-54-067; 264-56-108; 429-01-051; 434-01-059; Negotiation Parties: Matt Morley and Nanci Klein for the City of San José and Rick Gooch for Union Pacific Rail Road; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (E) 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, 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

CLOSED SESSION (CONT'D.)

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; For information 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.

By unanimous consent, Council recessed from the Closed Session at 11:20 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

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

Absent: Council Members - All Present.

INVOCATION

Pastor Dwight Bailey, Church of the Chimes, presented the Invocation. (District 10)

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. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the Week of November 13 – 19, 2011 as “Bully Awareness Week” in the City of San José. (Chu)

Mayor Reed and Council Member Chu recognized the Week of November 13 – 19, 2011 as “Bully Awareness Week” in the City of San José.

CEREMONIAL ITEMS

1.3 Presentation of a commendation to “Flat Stanley” in honor of International Education Week. (Kalra)

Mayor Reed and Council Member Kalra recognized and commended “Flat Stanley” in honor of International Education Week.

1.5 Presentation of a commendation to the Almaden Valley Women’s Club for their work to stimulate interest in the social, civic, and cultural improvement of the District 10 community. (Pyle)

Mayor Reed and Council Member Pyle recognized and commended the Almaden Valley Women’s Club for their work to stimulate interest in the social, civic, and cultural improvement of the District 10 community.

1.6 Presentation of a commendation to Second Harvest Food Bank for its dedication to ending local hunger and for its caring and dedicated service to the residents of San José and the Silicon Valley. (Pyle/Mayor)

Mayor Reed and Council Member Pyle recognized and commended Second Harvest Food Bank for its dedication to ending local hunger and for its caring and dedicated service to the residents of San José and the Silicon Valley.

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Adopt the seventeenth supplemental resolution of the Council authorizing the issuance of City of San José Airport Revenue Bonds, Series 2011B and Series 2011C (the “2011B/C Bonds”) in a total aggregate principal amount of not to exceed \$315,000,000 to be sold through negotiated sale; approving substantially final forms of Supplemental Trust Agreement, Preliminary Official Statement, Bond Purchase Agreement and Continuing Disclosure Certificate; authorizing the distribution of one or more Preliminary Official Statements and Final Official Statements; and authorizing and approving other related actions in connection with the issuance of the 2011B/C Bonds. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)**
- (b) Adopt a resolution authorizing the City Attorney to negotiate and execute an amendment to the Agreement with Orrick, Herrington & Sutcliffe LLP for bond and disclosure counsel services in connection with the issuance of the City of San José Airport Revenue Bonds Series 2011A, Series 2011B and Series 2001C in order to increase the compensation by \$50,000 for a total compensation not to exceed \$400,000. (City Attorney's Office)**

6.1 (Cont'd.)

Documents Filed: (1) Memorandum from Acting Director of Finance Julia H. Cooper, dated October 24, 2011, recommending adoption of a resolution. (2) Memorandum from City Attorney Richard Doyle, dated November 4, 2011, recommending adoption of a resolution. (3) Staff presentation outlining Airport Revenue Bond information, dated November 15, 2011.

Acting Director of Finance Julia H. Cooper and Director of Transportation Hans Larsen provided an overview of the Airport Revenue Bond proposal. Director of Aviation William F. Sherry responded to questions from Council.

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

Public Comments: David Wall expressed concerns over the use of 'borrowed money'.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76063, entitled: "A Seventeenth Supplemental Resolution of the Council of the City of San José Approving the Forms of One or More Supplemental Trust Agreements, One or More Preliminary Official Statements, One or More Final Official Statements, One or More Bond Purchase Agreements and One or More Continuing Disclosure Certificates; Providing for the Issuance of One or More Series of City of San José Airport Revenue Bonds in an Aggregate Principal Amount Note to Exceed \$315,000,000; Prescribing the Terms, Conditions and form of Said Series of Bonds; and Authorizing and Approving Other Related Actions"; and Resolution No. 76064, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Amendment to the Agreement with Orrick, Herrington & Sutcliffe LLP for Bond and Disclosure Counsel Services in Connection with the Issuance of the City of San José Airport Revenue Bonds", were adopted. (11-0.)

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) **Regular Minutes of August 2, 2011.**
- (b) **Regular Minutes of August 9, 2011.**
- (c) **Regular Minutes of August 16, 2011.**
- (d) **Regular Minutes of August 23, 2011.**
- (e) **Regular Minutes of August 30, 2011.**

2.1 (Cont'd.)

Documents Filed: (1) Regular Minutes of August 2, August 9, August 16, August 23 and August 30, 2011. (2) Special Minutes of August 24, 2011.

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

2.2 Final adoption of ordinances.

None.

2.3 Approval of Council Committee Reports.

(a) **Rules and Open Government Committee Report of October 26, 2011.**
(Mayor)

(b) **Community and Economic Development Committee Report of October 24, 2011.**
(Herrera)

[Deferred from 11/8/11 – Item 2.3(b)]

Documents Filed: (1) The Rules and Open Government Committee Report dated October 26, 2011. (2) Community and Economic Development Committee Report of October 24, 2011.

Council Member Rocha pulled Item 2.3 to clarify the timeline set by the City Manager's Office for the agendization of Workforce Hiring Practices for Council consideration on policy direction regarding hiring practices of appointed senior staff positions. City Manager Debra Figone responded that a goal had been set for the end of November, 2011.

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, the Committee reports were approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

None.

2.5 City Council Travel Reports.

Documents Filed: Memorandum from Council Member Constant, dated November 14, 2011, providing his travel report for Suwon City, Korea.

Council Member Constant pulled Item 2.5 and referred to his memorandum of November 14, 2011.

Action: The report was accepted.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

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

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated October 3, 2011, recommending approval of amendments.

Action: The First Amendment to the AMS-SJC JV Airport Retail Concession Agreement, Second Amendments to the Airport Food and Beverage Concession Agreements with Areas USA SJC, LLC and Host International, Inc. and a Second Amendment to the Host Airport Retail Concession Agreement to revise the Concession Agreement were approved. (11-0.)

2.8 Approve City Manager's acceptance of a gift from the City of Dublin, Ireland for the cost of the hotel in Dublin, Ireland for the 25th Anniversary Sister City Trip. CEQA: Not a Project, File No. PP10-069, administrative activities. (City Manager's Office)

Documents Filed: Memorandum from City Manager Debra Figone, dated October 26, 2011 recommending approval of acceptance of a gift from the City of Dublin, Ireland.

Action: The acceptance of the City Manager's gift from the City of Dublin, Ireland for the cost of the hotel in Dublin, Ireland for the 25th Anniversary Sister City Trip was approved. (11-0.)

2.9 (a) Adopt a resolution authorizing the City Manager:

- (1) To execute a Lease Agreement with Cirque du Soleil for the purpose of leasing portions of the City's "E" Parking Lot (Taylor, San Pedro, and Mission Streets) to Cirque du Soleil from January 30, 2012 to April 27, 2012 for rental consideration to the City in the amount of \$100,000; and**
- (2) To negotiate and execute a Parking Space License Agreement with the County of Santa Clara for approximately 300 parking spaces in the "C" Lot and "Half Circle Parking Lot" at the former Civic Center site for a license fee amount of \$30,000 and sharing of parking revenues generated at the County facilities for the Cirque du Soleil event to be negotiated by the City Manager.**

2.9 (Cont'd.)

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

- (1) Establish a City-Wide appropriation to the Office of Economic Development for Cirque du Soleil in the amount of \$186,000; and**
- (2) Increase the estimate for Other Revenue by \$186,000.**

CEQA: Exempt, File No. CPA05-015-02. Council District 3. (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 October 18, 2011, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Public Comments: (1) Tina Morrill offered traffic control suggestions. (2) David Wall asserted that 'Cirque' is a public nuisance and questioned its economic impact.

Motion: Council Member Liccardo moved approval of the Staff recommendations with an amendment as outlined below in "Action". Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28993, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the Cirque Du Soleil Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 76054, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Lease Agreement with Cirque Du Soleil for the Purpose of Leasing Portions of the City's "E" Parking Lot (Bounded by Taylor, San Pedro, and Mission Streets) to Cirque Du Soleil From January 30, 2012 to April 27, 2012 for Rental Consideration to the City in the Amount of \$100,000 and to Negotiate and Execute a Parking Space License Agreement with the County of Santa Clara for Approximately 300 Parking Spaces in the "C" Lot and "Half Circle Parking Lot" at the Former Civic Center Site for a License Fee Amount of \$30,000 and Sharing of Parking Revenues Generated at the County Facilities for the Cirque Du Soleil Event to be Negotiated by the City Manager"; and Resolution No. 76055, 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, with direction to Staff to return to the Community and Economic Development Committee within six months to report on alternative sites identified in the downtown core for future staging of Cirque du Soleil and with increased emphasis on the use of public transit for access to the site. (11-0.)

- 2.10 Adopt a resolution authorizing the City Manager to execute an amended Memorandum of Agreement among the cities of San José, Mountain View, Palo Alto, Hayward, Pleasanton and Redwood City, Town of Yountville, Central Contra Costa Sanitary District, Delta Diablo Sanitation District, Dublin San Ramon Services District, Ironhouse Sanitary District, Zone 7 Water Agency, North Coast County Water District, Coastside County Water District, Santa Clara Valley Water District and the Bay Area Clean Water Agencies to implement a regional approach to obtaining and allocating federal funding for water recycling projects, at a cost for 2011-12 not to exceed \$20,000, with future year funding to be subject to appropriation by Council. CEQA: Not a Project, File No.PP10-066 (g), Memorandum of Understanding. (Environmental Services)**

Documents Filed: (1) Memorandum from Acting Director of Environmental Services Kerrie Romanow, dated October 24, 2011, recommending adoption of a resolution. (2) Letter from Chairperson Chuck Reed, the Treatment Plant Advisory Committee, dated November 10, 2011, stating concurrence with the Staff recommendation.

Action: Resolution No. 76056. entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Amended Memorandum of Agreement to Implement a Regional Approach to Obtaining and Allocating Federal Funding for Water Recycling Projects”, was adopted. (11-0.)

- 2.11 (a) Award the construction contract for the Nortech Parkway East Loop Main Extension Project to the low bidder, Ranger Pipelines, Inc., in the amount of \$304,200.**
(b) Approve a contingency in the amount of \$45,630.
CEQA: Exempt, File No. PP10-178. (Environmental Services)

Documents Filed: City Council Action Request dated November 15, 2011, approved by Acting Director of Environmental Services Kerrie Romanow, recommending approval of the award of a construction contract.

Action: The award of a construction contract for the Nortech Parkway East Loop Main Extension Project to the low bidder, Ranger Pipelines, Inc., in the amount of \$304,200, with related contingencies, was approved. (11-0.).

- 2.12 Adopt a resolution authorizing the City Manager to submit a grant application to the California Strategic Growth Council for the Proposition 84 Urban Greening Grant Program for the following project to retrofit a City street to integrate stormwater treatment: Green Streets, Greener Neighborhood - Ocala West for a grant amount of \$2,475,000. CEQA: Not a Project, File No. PP10-068(a), Grant Application, where Council is not obligated to enter into an agreement at the time of application. (Environmental Services)**

Documents Filed: Memorandum from Acting Director of Environmental Services Kerrie Romanow, dated October 24, 2011, recommending adoption of a resolution.

Council Members Campos and Herrera pulled Item 2.12 to thank staff, Our City Forest and the City School District for their role in the success of this project.

Action: Upon motion by Council Member Herrera, seconded by Council Member Campos and carried unanimously, Resolution No. 76057, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application to the California Strategic Growth Council for a Grant for the Proposition 84 Urban Greening Grant Program for the Green Streets, Greener Neighborhood – Ocala West Project in an Amount of \$2,475,000”, was adopted. (11-0.)

- 2.13 Adopt a resolution authorizing the City Manager to negotiate and execute the Second Continuation Agreement with Horwath Hospitality & Leisure, LLC:**

(a) To retroactively extend the term of the agreement for an additional one-year period from July 1, 2011 to June 30, 2012, for asset management oversight services with respect to the operation and management of the Dolce Hayes Mansion; and

(b) To increase the contract amount by \$69,600 from \$512, 486 to \$582,086.

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

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated October 24, 2011, recommending adoption of a resolution.

Mayor Reed pulled Item 2.13 to pose questions to Staff. Acting Director of Finance Julia H. Cooper responded to questions, and Council discussion followed.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Resolution No. 76058, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Continuation Agreement with Horwath Hospitality & Leisure, LLC to Extend the Term for Additional One-Year Period and Increase the Contract Amount by \$69,600 for Asset Management Oversight Services of the Dolce Hayes Mansion in an Amount Not to Exceed \$582,086”, was adopted. (11-0.)

- 2.14 Approve a fifth amendment to the agreement with Buis Construction Services, Inc., for construction management assistance on affordable housing projects, increasing the amount of the agreement by \$100,000 from \$241,000 to \$341,000 and extending the term of the agreement to June 30, 2012. CEQA: Not a Project, File No. PP10-066(a), Agreement for professional services with no changes in physical environment. (Housing)**

Documents Filed: City Council Action Request “5th Amendment to Agreement with Buis Construction Services” approved by Director of Housing Leslye Corsiglia, dated November 15, 2011.

Action: A fifth amendment to the agreement with Buis Construction Services, Inc., for construction management assistance on affordable housing projects, increasing the amount of the agreement by \$100,000 from \$241,000 to \$341,000 and extending the term of the agreement to June 30, 2012, was approved. (11-0.)

- 2.15 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2011-2012:**

- (a) Increase the estimate for Earned Revenue by \$150,000.**
- (b) Establish the appropriation to the Department of Public Works for the Improvement District 99-218SJ Deferral of Assessments Fiscal Year 2011-2012 (PSM 624) in the amount of \$150,000.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. Council District 2. SNI Area: Edenvale. (Public Works/City Manager’s Office)

Documents Filed: Joint memorandum from Director of Public Works David Sykes and Budget Director Jennifer Maguire, dated October 24, 2011, recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 28994, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Improvement District 99-218SJ Deferral of Assessments Fiscal Year 201-2012 Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 76059, 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 Services for Redevelopment Capital Projects Fund”, were adopted. (11-0.)

- 2.16 (a) Award the construction contract for the Handrail Replacement Re-Bid Phase IV Project to the low bidder, B Side Inc., in the amount of \$398,900; and**
(b) Approve a contingency in the amount of \$79,780.
CEQA: Exempt, File No. PP 11-028. (Public Works/Environmental Services)

Documents Filed: City Council Action Request “Report on Bids and Award of Contract for the Handrail Replacement Re-Bid Phase IV Project”, dated November 15, 2011. (2)
Letter from Chairperson Chuck Reed, the Treatment Plant Advisory Committee, dated November 10, 2011, stating concurrence with the Staff recommendation.

Action: The construction contract for the Handrail Replacement Re-Bid Phase IV Project to the low bidder, B Side Inc., in the amount of \$398,900, with related contingency, was approved. (11-0.)

- 2.17 As recommended by the Rules and Open Government Committee on November 9, 2011, approve the appointment of Sima Yazdani, Senior IT/Business Operations Manager at Cisco in San José, California to serve as a private-sector representative on the Silicon Workforce Investment Network Board of Directors as required by law. (Mayor)**
[Rules Committee referral 11/9/11 – Item G(1)(a)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 10, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The appointment of Sima Yazdani, Senior IT/Business Operations Manager at Cisco in San José, California to serve as a private-sector representative on the Silicon Workforce Investment Network Board of Directors, was approved. (11-0.)

- 2.18 As recommended by the Rules and Open Government Committee on November 9, 2011, adopt a resolution in support for the work that Santa Clara County is conducting through their Suicide Prevention Strategic Plan. (Chu)**
[Rules Committee referral 11/9/11 – Item H(2)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 10, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: Resolution No. 76060, entitled: “A Resolution of the Council of the City of San José Supporting Santa Clara County’s Work in Promoting a Suicide Prevention Strategic Plan”, was adopted. (11-0.)

2.19 As recommended by the Rules and Open Government Committee on November 9, 2011:

- (a) Approve the “Let’s Give” donations drive as a City Council 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 11/9/11 – Item H(2)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 10, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The “Let’s Give” Donations Drive 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**
- (a) Interview applicants for appointment to the Civil Service Commission;**
 - (b) Appoint up to three (3) members to the Civil Service Commission to full four-year terms expiring November 30, 2015; and**
 - (c) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.**
- (City Clerk)**

Documents Filed: (1) Memorandum from City Clerk Dennis Hawkins, dated October 28, 2011, providing Civil Service Commission Appointment applications and guidelines. (2) Supplemental memorandum from City Clerk Dennis Hawkins, dated November 1, 2011, transmitting the names of applicants to be interviewed for appointment to the Civil Service Commission.

Action: Joan Smith, Roy Truitt and Holden Green were appointed to the Civil Service Commission to full four-year terms expiring November 30, 2015.

STRATEGIC SUPPORT SERVICES

3.3 Approve the following:

- (a) **An ordinance to amend the Deferred Compensation Plan under Chapter 3.48 of Title 3 of the San José Municipal Code to comply with the federal Pension Protection Act of 2006 and miscellaneous United States Treasury regulations.**
- (b) **An ordinance to amend the PTC Plan under Chapter 3.50 of Title 3 of the San José Municipal Code to comply with the federal Pension Protection Act of 2006 and miscellaneous United States Treasury regulations.**

CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 3, 2011, recommending approval of ordinances.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Nguyen and carried unanimously, Ordinance No. 28995, entitled: "An Ordinance of the City of San José Amending Various Sections of Chapter 3.48 of Title 3 of the San José Municipal Code the San José Deferred Compensation Plan, to Comply with the Pension Protection Act of 2006"; and Ordinance No. 28996, entitled: "An Ordinance of the City of San José Amending Various Sections of Chapter 3.50 of title 3 of the San José Municipal Code, the San José PTC Plan, to Comply with the Pension Protection Act of 2006", were passed for publication. (11-0.)

3.4 **Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City and Standard Insurance Company to provide Long-Term Disability insurance services to employees at a cost not to exceed \$10,045,390 for the period of January 1, 2012 through December 31, 2016. CEQA: Not a Project, PP10-066 (e), Services that involve no physical changes to the environment. (Human Resources)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated October 25, 2011, recommending adoption of a resolution.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, Resolution No. 76061, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Standard Insurance Company for Long Term Disability Insurance to Employees in an Amount Not to Exceed \$10,045,390 for the Period of January 1, 2012 Through December 31, 2016", was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Accept the staff report to consider modifications to the current practices of reservation and allocation of residential units in the North San José Area Development Policy area to allow affordable housing units to be reallocated for market rate projects that provide extraordinary level of affordable housing funding. CEQA: Resolution No. 72768 and Addenda thereto. Council Districts 3 and 4. (Planning, Building and Code Enforcement/Housing)**

Action: Deferred to November 29, 2011 per Administration.

- 4.2 As recommended by the Community and Economic Development Committee on October 24, 2011, adopt a resolution authorizing the City Manager to submit a Foreign Trade Zone Alternative Site Framework application to the Foreign Trade Zones Board of the U.S. Department of Commerce for the City of San José. (Economic Development)
[Community and Economic Development Committee referral 10/24/11 – Item D(7)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 2, 2011, transmitting the recommendations of the Community and Economic Development Committee.

Director of Economic Development/Chief Strategist Kim Walesh responded to questions from Council.

Action: Upon motion by Council Member Kalra, seconded by Council Member Pyle and carried unanimously, Resolution No. 76062, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Foreign Trade Zone Alternative Site Framework Application to the Foreign Trade Zones Board of the U.S. Department of Commerce”, was adopted. (10-0-1. Absent: Oliverio.)

TRANSPORTATION AND AVIATION SERVICES

- 6.2 (a) Accept staff report on Request for Proposal (RFP) for the purchase of a “smart” light emitting diode (LED) streetlight wireless communication monitoring and control system (“System”);**
- (b) Adopt a resolution authorizing the City Manager to:**
- (1) Execute an agreement with Schröder Lighting, LLC (Illinois) for the purchase of “smart” LED streetlight wireless communication monitoring and control system, including all hardware, software, professional services, three years of software maintenance and support, shipping, and applicable sales tax for an amount not to exceed \$2,087,000, with an initial expiration date of November 15, 2014;**

6.2 (Cont'd.)

- (b) (2) **Execute a software license and maintenance support services agreement with Schröder Lighting, LLC (Illinois) at no additional cost to City during the initial term for use of the OWLET Nightshift software application with the purchase of the “smart” LED streetlight wireless communication monitoring and control system;**
- (3) **Negotiate and execute change orders or amendments to the agreement to cover any unanticipated design or implementation changes or to purchase additional luminaries and accessories for both the initial term of the agreement and option years, subject to the appropriation of funds; and**
- (4) **Execute up to three, one-year options to extend the software license and maintenance agreement as required to provide ongoing software maintenance and support of the system, subject to the appropriation of funds.**

CEQA: Exempt, File No. PP11-002, January 12, 2010. (Finance/Transportation)

Documents Filed: Joint memorandum from Acting Director of Finance Julia H. Cooper and Director of Transportation Hans Larsen, dated October 24, 2011, recommending acceptance of a staff report and adoption of a resolution.

Director of Transportation Hans Larsen provided a brief presentation regarding the proposal and responded to questions from Council.

Public Comments: Ross Signorino expressed support of the new system.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76065, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Agreements with Schreder Lighting, LLC for a “Smart” LED Streetlight System”, was adopted. (11-0.)

6.3 Approve a framework for a 15 mph school zone pilot program at three school zones to evaluate the effectiveness of enhancing school access safety, to be accomplished with existing resources allocated for school area safety. CEQA: Exempt, File No. PP10-113. (Transportation)

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members Oliverio and Rocha, dated November 10, 2011, supporting Staff’s recommendations with additional changes as outlined. (2) Memorandum from Director of Transportation Hans Larsen, dated October 24, 2011, recommending approval of a pilot program. (3) Letter from Kathy Almazol, Superintendent of Catholic Schools for the Diocese of San José, providing letters of support for the 15 mph school zone pilot program.

6.3 (Cont'd.)

Director of Transportation Hans Larsen, Deputy Director of Transportation Laura Wells, and Acting San José Police Captain Jeff Marozick, provided a presentation on improving safety with the 15-mph school zone pilot program.

Motion: Council Member Oliverio moved approval of the memorandum he cosigned with Mayor Reed and Council Member Rocha. Council Member Rocha seconded the motion.

Extensive Council discussion followed.

Council Member Constant requested to amend the motion to allow three school zones selected, as noted below in “Action”. Council Members Oliverio and Rocha accepted the amendment.

Council Member Liccardo requested to further amend with direction to Staff to return to the Transportation and Environment Committee for review. Council Members Oliverio and Rocha accepted the amendment.

Action: On a call for the question, the motion carried unanimously, the memorandum cosigned by Mayor Reed and Council Members Oliverio and Rocha, dated November 10, 2011, was approved, with three school zones selected for the pilot project with data collected and evaluated by the Department of Transportation, and with the provision that future schools may participate on a cost-recovery basis. Staff was directed to return to the Transportation and Environment Committee one year after implementation for review of measurable results. All aspects of the project must be within full compliance of state law. (11-0.)

RECESS/RECONVENE

The City Council recessed from Closed Session at 5:00 p.m. and reconvened at 7:02 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.

City Clerk Dennis 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.)

CEREMONIAL ITEM

- 1.2 Presentation of a commendation to Kelly Newell, a third-grade teacher at George Miner Elementary School, in recognition of the heroism and quick thinking she demonstrated by saving a third-grade student from choking. (Kalra)**

Mayor Reed and Council Member Kalra recognized and commended Kelly Newell, a third-grade teacher at George Miner Elementary School, in recognition of the heroism and quick thinking she demonstrated by saving a third-grade student from choking.

- 1.4 Presentation of an award from the Tobacco Free Coalition of Santa Clara County and Community Advocate Teens of Today to the City of San José in honor of Lung Cancer Awareness Month for the City's outstanding leadership in reducing the burden of tobacco use and protecting the public's health by passing strong tobacco prevention policies. (Mayor)**

Mayor Reed accepted an award from the Tobacco Free Coalition of Santa Clara County and Community Advocate Teens of Today presented to the City of San José in honor of Lung Cancer Awareness Month for the City's outstanding leadership in reducing the burden of tobacco use and protecting the public's health by passing strong tobacco prevention policies.

STRATEGIC SUPPORT SERVICES

3.6 Accept the report on the 2012 – 2013 Preliminary General Fund Forecast. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (City Manager’s Office)

Documents Filed: (1) Memorandum from City Manager Debra Figone, dated November 9, 2011, providing a report on the 2012-2013 Preliminary General Fund Forecast, as directed by the Rules and Open Government Committee. (2) Presentation “2012-2013 Preliminary General Fund Forecast” dated November 15, 2011.

Budget Director Jennifer Maguire provided an overview of the General Fund Forecast.

Action: No action required.

NEIGHBORHOOD SERVICES

5.1 Adopt a resolution including the following actions:

- (a) **Authorize the City Manager to offer for sale the improvements associated with Camp, and therefore remove the City from future obligations to operate Camp, or if acceptable financial terms cannot be reached;**
- (b) **Operate Camp through a third party concessionaire similar to the other facilities under the City’s Community Center Reuse Policy, which would require the City to enter into a new Special Use Permit/Land Lease with the U.S. Forest Service and does not relieve the City from the future capital expenditures at Camp.**

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members Pyle, Herrera, Liccardo and Campos, dated November 10, 2011, providing recommendations regarding San José Family Camp. (2) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Julie Edmonds-Mares, date October 28, 2011, recommending adoption of a resolution. (3) Staff presentation “City of San José Family Camp” dated November 15, 2011.

An overview of the proposal was provided by Acting Director of Parks, Recreation and Neighborhood Services, Julie Edmonds-Mares and Deputy Director Steve Hammack.

Public Comments: Urging Council to keep San José Family Camp open and consider other options, were: George Schoenherr, Ralph Occhipinti, Garry Solmonson, Michael Jennings, Tom Bonsack, Brianna Bonsack, Angela Corcoran, Pat Allen, Wendy Marley, Scott McMaster, Charles Welsh, George Cox, Rebecca Haggerty, Eric Heckman, Brad Reinard, George Bulman, Ed Ortler, Alan Hilton-Nickel, Mimi Bini, Shannon Opilla, Lianne Burton, Karen Gillette, Christopher Salcido and Noelle Salcido.

5.1 (Cont'd.)

Motion: Council Member Pyle moved approval of the memorandum she cosigned with Mayor Reed and Council Members Herrera, Liccardo and Campos. Council Member Herrera seconded the motion.

City Attorney Richard Doyle offered modification to the language provided in the memorandum as indicated below in "Action".

Council Member Constant withheld support of the motion citing the City cannot financially sustain the continuation of Camp San José.

Acting Director of Parks, Recreation and Neighborhood Services, Julie Edmonds-Mares and Deputy Director Steve Hammack responded to further questions from Council.

Extensive discussion continued.

Action: On a call for the question the motion carried, the memorandum cosigned by Mayor Reed and Council Members Pyle, Herrera, Liccardo and Campos, dated November 10, 2011, was approved, with the following modifications:

1. Authorize the City Manager to execute and negotiate the terms of a new special use permit/land lease agreement with the United States Forest Service for a term of shorter duration (e.g. five (5) years); or alternatively, an agreement that includes a right of "assignment". *Included in negotiation authority, give the City Manager authority to enter into a short-term extension with the Forest Service on the current lease so as to consummate the new agreement.*
2. Authorize the City Manager to execute and negotiate partnership agreements, which may include the City of Tracy, San Jose State University, and Friends of Family Camp to reduce expenses, increase revenue, and share future capital expenditures.
3. Direct Staff to continue collaboration with the USFS and other agencies, and our Congressional Representatives to solicit grants and/or donations to augment city funds for future capital repairs.
4. Finish the Draft Master Plan and Environmental documents as required to obtain a new special use permit/land lease agreement.
5. Provide pre and post season reports to the Parks and Recreation Commission and Neighborhood Services and Education Committee with information about partnerships, completed and anticipated capital improvements, pre and post season reservations, occupancy rate, expenses, income and grants submitted for Family Camp.
6. Direct Staff to establish a Capital Reserve Fund for Family Camp and collect a supplemental user fee (surcharge) of \$20 per tent, per night, starting in 2012 to help fund future improvements at the site.

(10-1. Noes: Constant).

PUBLIC HEARINGS

- 11.2 Consider an ordinance rezoning the real property located on the east side of South 12th Street, approximately 140 feet southerly of East Santa Clara Street (562 East Santa Clara Street) from A(PD) Planned Development Zoning District to R-1-8 Single-Family Residential Zoning District on a .16 gross acre site (Diana Bermudez, Owner). SNI: University. CEQA: San José 2020 General Plan EIR Resolution No. 65459. Planning staff recommends that Council approve the proposed Conforming Rezoning for the following reasons: The proposed rezoning is in conformance with the San José 2020 General Plan Land Use/Transportation Diagram's land use designation of Medium Low Density Residential (8 DU/AC) with Santa Clara Street/Alum Rock Avenue Transit-Oriented Development District Overlay for the subject site. The proposed rezoning would allow residential uses on the site that are compatible with the existing structure and surrounding uses. The rezoning is in conformance with the California Environmental Quality Act. C11-015 – District 3**
- 11.2 (Cont'd.)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C11-015, dated August 10, 2011, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on October 28, 2011, submitted by the City Clerk.

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, the recommendation of the Planning Director was approved, and Ordinance No. 28997, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of South 12th Street, on a 0.16 Gross-Acre site, Approximately 140 Feet Southerly of East Santa Clara Street (562 East Santa Clara Street) to the R-1-8 Single-Family Residence Zoning District", was passed for publication. (11-0.)

ADJOURNMENT

The Council of the City of San José adjourned at 9:22 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk

rmk/11-15-11MIN