

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, JANUARY 24, 2012**

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

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

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

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

Director of Employee Relations Alex Gurza presented a brief report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:03 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel with respect to Public Employment/Public Employee Evaluation pursuant to Government Code Section 54957: City Clerk; Name: Dennis D. Hawkins. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (c) with respect to anticipated litigation in two (2) matters. (C) to confer to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working

## **CLOSED SESSION (Cont'd.)**

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 11:38 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu (1:38 p.m.), Constant, Herrera, Kalra (1:36 p.m.), Liccardo, Nguyen, Oliverio (1:44 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - All Present.

## **INVOCATION**

PT Mammen, Pastor of the International Christian Center, presented a prayer for the Invocation. (District 1)

## **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 Items 2.3(a)(b)(d) were deferred to January 31, 2012. (9-0-2. Absent: Chu, Oliverio.)

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a proclamation celebrating Lunar New Year in the City of San José. (Chu/ Nguyen)**

Action: Deferred to February 07, 2012 per Rules and Open Government Committee.

### **1.2 Presentation of a proclamation declaring January 24, 2012 as “Health for Humanity Day” in the City of San José and recognizing the Evergreen Chapter of Hindu Swayamsevak Sangh (HSS) for organizing the 6<sup>th</sup> Annual Health for Humanity Yogathon. (Herrera)**

Mayor Reed and Council Member Herrera recognized January 24, 2012 as “Health for Humanity Day” in the City of San José and recognized and commended the Evergreen Chapter of Hindu Swayamsevak Sangh.

## **CONSENT CALENDAR**

Upon motion by Council Member Constant, 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) Closed Session Minutes of September 06, 2011.**
- (b) Regular Minutes of September 13, 2011.**
- (c) Regular Minutes of September 20, 2011.**
- (d) Regular Minutes of September 27, 2011.**
- (e) Joint/San José Financing Authority Minutes of September 27, 2011.**
- (f) Redevelopment Agency Closed Session Minutes of September 27, 2011.**

Documents Filed: (1) The Closed Session Minutes dated September 06, 2011. (2) The Regular Minutes dated September 13, 2011, September 20, 2011 and September 27, 2011. (3) The Joint/San José Financing Authority Minutes dated September 27, 2011. (4) The Redevelopment Agency Closed Session Minutes dated September 27, 2011.

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

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 29019 – Establishing a Public Right-of-Way over a portion of Ramblewood Park to accommodate the existing southbound Route 101 off ramp to Yerba Buena Road, in accordance with Charter Section 1702.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29019 executed on January 17, 2012, submitted by the City Clerk.

Action: Ordinance No. 29019 was adopted. (11-0.)

**2.3 Approval of Council Committee Reports.**

- (a) **Transportation and Environment Committee Report of December 5, 2011. (Liccardo)**
- (b) **Rules and Open Government Committee Report of December 7, 2011. (Mayor)**
- (d) **Rules and Open Government Committee Report of January 4, 2012. (Mayor)**

Action: Deferred to January 31, 2012 per Orders of the Day.

- (c) **Rules and Open Government Committee Report of December 14, 2011. (Mayor)**

Documents Filed: The Rules and Open Government Committee Report dated December 14, 2011.

Action: The Rules and Open Government Committee Report was approved. (11-0.)

**2.4 Mayor and Council Excused Absence Requests.**

There were none.

**2.5 City Council Travel Reports.**

There were none.

**2.6 Report from the Council Liaison to the Retirement Boards.**

Council Member Constant provided highlights of the Federated Board Meeting.

**2.7 Approve an ordinance:**

- (a) **Amending various sections of Title 2 of the San Jose Municipal Code, Section 13.23.210 of Chapter 13.23 of Title 13, and Section 14.04.141 of Chapter 14.04 of Title 14 to reflect the reorganization of City services within City departments.**

- 2.7 (b) **Repealing and modifying various sections of Part 2 of Chapter 11.36 of Title 11 relating to parking and traffic control within the Old City Hall property due to the transfer of the property.**

**CEQA: Not a Project, File PP10-069(c), Municipal Code revisions involving no changes to the physical environment. (City Manager's Office)**

Documents Filed: Memorandum from Assistant City Manager Edward K. Shikada, dated January 3, 2012, recommending approval of an ordinance.

Action: Ordinance No. 29021, entitled: "An Ordinance of the City of San José Amending Various Sections of Chapter 2.04 of Title 2 of the San José Municipal Code, Amending Section 13.23.210 of Chapter 13.23 of Title 13, and Amending Section 14.04.141 of Chapter 14.04 of Title 14, To Reflect the Reorganization of City Services within City Departments; Repealing and Modifying Various Sections of Part 2 of Chapter 11.36 of Title 11 Relating to Parking and Traffic Control Within the Old City Hall Property Due to the Transfer of the Property", was passed for publication. (11-0.)

- 2.8 **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Gift Trust Fund:**

- (1) **Establish an appropriation to the Office of the Independent Police Auditor (IPA) for the IPA's Teen Leadership Council in the amount of \$10,875; and**
- (2) **Increase the estimate for Earned Revenue in the amount of \$10,875.**

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

Documents Filed: Memorandum from Independent Police Auditor Judge LaDoris Cordell and Budget Director Jennifer A. Maguire, dated January 3, 2012, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29022, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Gift Trust Fund for the Independent Police Auditor's (IPA) Teen Leadership Council; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 76122, 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 Gift Trust Tax Fund", were adopted. (11-0.)

- 2.9 **Approve the Fourth Amendment to the Master Agreement for Consultant Services between the City and David J. Powers & Associates to provide environmental consulting services on an as-needed basis, extending the term through December 31, 2012, with no increase in the amount of total compensation, and a total amount not to exceed \$600,000. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Environmental Services)**

Documents Filed: City Council Action Request from Acting Director of Environmental Services Kerrie Romanow, dated January 3, 2012, recommending adoption of a resolution.

**2.9 (Cont'd.)**

Action: The Fourth Amendment to the Master Agreement for Consultant Services between the City and David J. Powers & Associates to provide environmental consulting services on an as-needed basis, extending the term through December 31, 2012, with no increase in the amount of total compensation, and a total amount not to exceed \$600,000, was approved. (11-0.)

**2.10 Adopt a resolution to support an application to the Association of Bay Area Governments FOCUS program to designate thirteen Envision San José 2040 General Plan Growth Areas including eleven Urban Villages generally located along transit corridors, and two employment areas of Old Edenvale and the International Business Park area, as a regional Priority Development Area called the “Envision San José 2040 General Plan Growth Areas,” and authorize the City Manager to take steps necessary to complete the application process. CEQA: Envision San José 2040 Final Environmental Impact Report, adopted on November 1, 2011, Resolution No. 76041. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated January 5, 2012, recommending adoption of a resolution.

Council Member Liccardo expressed concern that significant areas are not being included on the Proposed Priority Development Area maps.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti and City Manager Debra Figone responded to Council questions and concerns.

Motion: Council Member Liccardo moved approval of the Staff recommendations with direction to Staff to return the Transportation and Environment Committee with additional information about whether additional areas can be incorporated after discussions with MTC and ABAG Staffs.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76123, entitled: “A Resolution of the Council of the City of San José Supporting the City’s Application for the Designation of Thirteen Envision San José 2040 Growth Areas as a Regional Priority Development Areas (PDA) to Specified Regional Government Agencies for Participation in the Focus Program and Authorizing the City Manager to Take Actions Necessary to Complete the Application Process”, was adopted. Staff was directed to return the Transportation and Environment Committee with additional information about whether additional areas can be incorporated after discussions with MTC and ABAG. (11-0.)

- 2.11 Accept the Willow Glen Community Benefit and Improvement District Financial Report for FY 2010-2011, which provides information to the public and the property owners in the District regarding the use of the assessments and the management and operations of the District. CEQA: Not a Project, File No. PP10-069(a), Annual Reports. Council District 6. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated January 3, 2012, recommending acceptance of the report.

Action: The Willow Glen Community Benefit and Improvement District Financial Report for FY 2010-2011, which provides information to the public and the property owners in the District regarding the use of the assessments and the management and operations of the District, was accepted. (11-0.)

- 2.12 As recommended by the Rules and Open Government Committee on January 18, 2012:**
- (a) Approve the Celebrate Cambrian Festival as a City Council sponsored Special Event.**
  - (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.**
- CEQA: Not a Project. (City Clerk)**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated January 18, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Celebrate Cambrian Festival as a City Council sponsored Special Event was approved; expending funds and donations from various individuals, businesses, or community groups to support the event, was authorized for acceptance. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone shared highlights of her trip to the Semi-Annual Large City Executive Forum in San Antonio, Texas and to the American Library Association in Dallas, Texas.

### 3.3 As recommended by the Rules and Open Government Committee on January 4, 2012, accept the Staff Analysis of AB1148, the California Disclosure Act. (City Attorney/City Manager's Office)

Documents Filed: (1) Memorandum from Council Members Kalra, Chu, Liccardo and Rocha, dated January 20, 2012, recommending acceptance of the Staff analysis and preparation of a resolution. (2) Memorandum from City Attorney Richard Doyle, dated January 12, 2012, recommending adoption of a resolution. (3) Memorandum from City Clerk Dennis D. Hawkins, dated January 11, 2012, transmitting the recommendations of the Rules and Open Government Committee. (4) Statement from Spencer B. Graves, dated January 24, 2012, in support to the California Disclosure Act.

City Attorney Richard Doyle offered analysis and background on the San José Municipal Code Regulations on Disclosure and AB1148.

Motion: Council Member Kalra moved approval of the memorandum he cosigned with Council Members Chu, Liccardo and Rocha. Council Member Chu seconded the motion.

Mayor Reed and Council Members Chu and Herrera expressed support to the motion on the floor.

Public Comments: Speaking in support to the Staff recommendations and the motion on the floor were David Wall, Betsy Wolf-Graves, Spencer B. Graves and Craig Dunkerley.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Members Kalra, Chu, Liccardo and Rocha, dated January 20, 2012, was approved, (1) Accepting the Staff Analysis of AB1148, the California Disclosure Act. (2) Staff directed to prepare a resolution demonstrating the City of San José's support for the California Disclosure Act, requiring full disclosure, in the ads themselves, of the largest major funders of all political television, radio, print, mass mailing and online advertising for an against ballot measures and for independent expenditures for and against candidates. (11-0.)

**3.4 As recommended by the Rules and Open Government Committee on January 4, 2012:**

- (a) Adopt a resolution giving notice of the City's intention to terminate its contract with CalPERS and direct staff to deliver this resolution to CalPERS.**
- (b) Upon receipt of a preliminary valuation report from CalPERS, direct the City Attorney to present the findings of the report to the City Council at the next City Council Meeting, at which time, the City Council may choose to adopt an ordinance or resolution terminating its contract with CalPERS.**

**(Constant)**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated January 11, 2012, transmitting the recommendations of the Rules and Open Government Committee.

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

City Manager Debra Figone, City Attorney Richard Doyle and Senior Deputy City Attorney Lisa Herrick responded to Council questions and concerns.

Extensive Council discussion ensued.

Substitute Motion: Council Member Chu moved approval to defer this item to February 7, 2012, in order for Staff to perform more analysis and research. Council Member Campos seconded the motion. On a call for the question, the motion failed. (2-9. Noes: Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.)

The Council returned to the original motion.

Council Member Constant moved to amend the original motion to include a \$15,000 cap limit for the preliminary valuation report and if the cap is exceeded, to direct Staff to return to Council for further discussion and approval. Council Member Liccardo accepted the amendment.

Public Comments: Aurelia Sanchez stated that more incentives are needed.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76124, entitled: "A Resolution of the Council of the City of San José To Terminate the Contract Between the Board of Administration California Public Employees' Retirement System and the City Council of San José", was adopted. The City Attorney was directed to present the findings of the report to the City Council at the next City Council Meeting, at which time, the City Council may choose to adopt an ordinance or resolution terminating its contract with CalPERS was approved. A \$15,000 cap limit for the preliminary valuation report was approved, and if the cap was exceeded, Staff was directed to return to Council for further discussion and approval. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Hold a public hearing on a Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan (ConPlan) to allocate \$550,000 of Community Development Block Grant (CDBG) funds to pay 50% of the cost of a new fire truck to serve Low-Moderate Income neighborhoods.**
- (b) **Adopt a resolution approving the Substantial Amendment and authorizing the Director of Housing, on behalf of the City, to:**
- (1) **Submit the Substantial amendment to the U.S. Department of Housing and Urban Development (HUD).**
  - (2) **Negotiate and execute with HUD all agreements and documents for the expenditure of these CDBG funds.**

**CEQA: Not a Project, File No. PP10-067 (Statutory Exemption, Sec. No. 15273), Rates, Tolls, Fares, and Charges. Council Districts 4 and 5. SNI: Mayfair and East Valley/680 Communities. (Housing)**

Action: Item 4.1 was dropped; To be renoticed.

## TRANSPORTATION & AVIATION SERVICES

- 6.1 **Conduct a public meeting to receive public comment on a proposal to create Maintenance District 24 (The Alameda). CEQA: Exempt, File No. PP10-132. Council District 6. (Public Works/Transportation)**

Documents Filed: (1) Memorandum from Director of Public Works David Sykes and Director of Transportation Hans Larsen, dated January 3, 2012, recommending conducting a public hearing. (2) Proofs of Publications of Notices of Public Hearings, executed on December 12, 2011, December 14, 2011 and December 16, 2011, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Director of Public Works David Sykes presented comments.

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

Mayor Reed continued the public hearing to the February 28, 2012 City Council Meeting.

- 6.2 (a) **Approve two Cooperative Agreements, at no cost to the City, pursuant to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for design and construction of the BART extension to Berryessa relating to:**
- (1) **Reconstruction of the existing City-owned storm and sanitary sewer siphon at Lundy Avenue and former Union Pacific Railroad tracks.**

- 6.2 (a) (2) **Relocation of existing City utilities at Trade Zone Boulevard and former Union Pacific Railroad tracks.**
- (b) **Adopt a resolution authorizing the City Manager to negotiate and execute the following three Cooperative Agreements, at no cost to the City, pursuant to the Master Agreement with the VTA for the design, construction, and reimbursement relating to the BART project:**
- (1) **The construction of a new City street to be called “Berryessa Station Way”, improvements to existing Berryessa Road and Mabury Road, and improvements to the existing storm drain system at Sierra Road and Lundy Avenue and reconfiguration of Sierra Road and Lundy Avenue.**
  - (2) **A Cooperative Agreement for cost reimbursement for City of San Jose project management services in an amount not to exceed \$600,000 for the period of January 1, 2012 through December 31, 2014.**
  - (3) **A Cooperative Agreement for cost reimbursement for City of San Jose design review, encroachment permits, and construction inspection services in an amount not to exceed \$4,100,000 for the period of January 1, 2012 through December 31, 2016.**

**CEQA: Resolution by the City, as a responsible agency for the Project under CEQA, to be adopted in accordance with the provisions of Section 15096(h) of the CEQA Guidelines (set forth at Title 14 of the California Code of Regulations, Chapter 3). The Final Environmental Impact Report prepared by the VTA for the extension of the BART system to Berryessa in City (the “Final EIR”) was certified and related findings adopted by the VTA Board on December 9, 2004, the Final Supplemental Environmental Impact Report prepared for the Project (the “Final SEIR”) was certified and related findings adopted by the VTA Board on June 7, 2007, and the Final Supplemental Environmental Impact Report #2 prepared for the Project (the “Final SEIR2”) was certified and related findings adopted by the VTA Board on March 3, 2011. The Administration has reviewed these actions and findings by the VTA and concurs with that analysis, which concurrence is reflected in the proposed CEQA resolution for this item. Council District 4. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated January 3, 2012, recommending approval of two Cooperative Agreements and adoption of resolutions.

Director of Transportation Hans Larsen presented the report and responded to Council questions.

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

Brief discussion ensued.

## 6.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 76125, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Following Three Cooperative Agreements, At No Cost to the City, Pursuant to the Master Agreement With the Valley Transportation Authority (VTA) for the Design, Construction, and Reimbursement Relating to the Bart Project: (1) For the Construction of a New City Street To Be Called Berryessa Station Way, Improvements to Existing Berryessa Road and Mabury Road and Improvements to the Existing Storm Drain System at Sierra Road and Lundy Avenue and Reconfiguration of Sierra Road and Lundy Avenue, (2) A Cooperative Agreement for Cost Reimbursement for City of San José Project Management Services in An Amount Not To Exceed \$600,000 for the Period of January 1, 2012 Through December 31, 2014 and (3) A Cooperative Agreement for Cost Reimbursement for City of San José Design Review, Encroachment Permits and Construction Inspection Services In An Amount Not To Exceed \$4,100,000 for the Period of January 1, 2012 Through December 31, 2016” and Resolution No. 76126, entitled: “A Resolution of the Council of the City of San José Adopting Findings for Purposes Of and Pursuant to the Provisions of the California Environmental Quality Act of 1970 in Connection with the Approval of Discretionary Actions by the City Necessary for the Construction of the Bart Extension to Berryessa Project”, were adopted. (11-0.)

- 6.3 (a) **Adopt a resolution approving proposed Minimum Standards for future development of new and upgraded general aviation facilities on the west side of the Norman Y. Mineta San José International Airport; and**
- (b) **Accept the key terms and conditions to be used in the Request For Proposals process for a new fixed base operator leasehold to be developed on the west side of the Airport.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP12-001. (Airport)**

Documents Filed: (1) Memorandum from Council Member Rocha, dated January 9, 2012, recommending deferring action on this item and direction to the Community and Economic Development Committee. (2) Memorandum from Director of Aviation William F. Sherry, A.A.E., dated December 5, 2011, recommending adoption of a resolution and acceptance of key terms and conditions to be used in the Request for Proposals process. (3) Supplemental memorandum from Assistant Director of Aviation Kimberly B. Aguirre, dated January 9, 2012, transmitting additional information.

Action: Item 6.3 was dropped.

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Authorize submittal of the City's Short Term Trash Load Reduction Plan to the San Francisco Bay Regional Water Quality Control Board in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (Stormwater Permit) requirement, pursuant to the Federal Clean Water Act.
- (b) Direct staff to provide an update to the Transportation and Environment Committee in 2013 on the status of the City's efforts in attaining the Stormwater Permit's required trash reduction goals and potential trash reduction actions to be considered for attaining the Stormwater Permit's long term trash reduction goals of 70 percent by 2017 and 100 percent by 2022.
- (c) Direct staff to take the following actions regarding polystyrene foam food service ware:
- (1) Actively support a regional approach for countywide initiatives to reduce polystyrene foam food service ware litter as recommended by the Santa Clara County Recycling and Waste Reduction Commission.
  - (2) Support legislation that would implement a state-wide program that would significantly reduce the use of polystyrene foam food service ware for the purposes of reducing litter from this source.
  - (3) Return to the Transportation and Environment Committee in 2013 with options that move the City toward eliminating polystyrene foam food ware litter including program components that address key stakeholder concerns, programmatic options that would minimize impacts of a potential prohibition, and any practicable alternatives and partnerships that would achieve the litter reduction goals of the Municipal Regional Stormwater Permit.

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

Documents Filed: (1) The memorandum from Council Member Liccardo, dated January 23, 2012, recommending acceptance of the Staff recommendations with modifications. (2) Memorandum from Acting Director of Environmental Services Kerrie Romanow, dated January 3, 2012, recommending as described previously in Item 7.1 above. (3) Ten letters, dated January 24, 2012, expressing support to the elimination of polystyrene food ware. (4) Petition signed by two hundred thirty eight residents, dated January 24, 2012, in support to Ban Foam Food Containers in San José and to Support a Statewide Ban.

Mayor Reed provided meeting disclosures.

Acting Director of Environmental Services Kerrie Romanow presented the report and responded to Council questions and comments.

Motion: Council Member Liccardo moved approval of his memorandum dated January 23, 2012, as described in "Action" below. Council Member Chu seconded the motion.

## 7.1 (Cont'd.)

Council Member Liccardo requested to amend his motion to defer the amendment of the City procurement guidelines to halt purchases and use of EPS by the City of San José at City facilities and City-sponsored events to January 31, 2012. Council Member Chu accepted the amendment to the motion.

Public Comments: Expressing support, opposition and various comments to the City's Short Term Trash Load Reduction Plan were, David Wall, Miriam Gordon (Clean Water Action), Allison Chan (Save the Bay), Sandra Hayden (Sierra Club), Michael Westerfield and Jonathan Choi Dart (Container Corporation), Paul Singarella, Tommy Kim (NEPCO), Amalia Chamorro (California Restaurant Association), Ron Pentz and Will Wong (Chick-Fil-A), Bob Loreen (PAMS), Alex Ontiveros, Michael Gutierrez (Casa Vicky), Aaron Rezendes (East Side Restaurants Coalition), Kevin Hittilo and Ed McGovern (DART).

Council Member Constant requested that Staff return with a report about how Los Angeles was handling recycling.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Liccardo, dated January 23, 2012 was approved, accepting the Staff recommendations with the following modifications: (1) The amendment of the City procurement guidelines to halt purchases and use of EPS by the City of San José at City facilities and City-sponsored events was deferred to January 31, 2012. (2) Continue investigation of prices and material of alternative options, including: (a) Verification of prices of alternative purchasing options presented in the attached summary chart from the County of San Mateo. (b) Engagement with GreenTown Los Altos or other purchasing cooperative to explore expansions to include San José area restaurants. (c) Consultation with other cities to explore low cost EPS alternatives and purchasing arrangements used in their jurisdictions. (3) Return to the Transportation and Environment Committee this Fall with the results of this fact gathering. Staff was further directed to return with a report about how Los Angeles was handling recycling. (11-0.)

## PUBLIC SAFETY SERVICES

- 8.1 (a) **Approve the proposed 2011-2013 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund for \$1,819,465 and authorize the Chief of Police to amend the spending plan in conformity to the budget priorities set out in the staff memorandum in the event State SLES Grant payments are less than expected.**
- (b) **Adopt the following 2011-2012 Appropriation Ordinance and Funding Sources Resolution Amendments in the Supplemental Law Enforcement Services Fund (Fund 414):**
- (1) **Increase the Earned Revenue by \$298,357.**
  - (2) **Establish an appropriation for the Police Department for the SLES Grant for \$298,357.**

- 8.1 (c) **City Council certification that:**
- (1) **Funding strategies will be pursued so that the projected funding for operations and maintenance of the Police Department's Automated Field Reporting/Records Management System (AFR/RMS) will be made available in the first year of operation.**
  - (2) **Appropriate efforts will be undertaken so that those funding strategies cover the entire cost of the project, including operations and maintenance costs, as to not require a decrease in existing basic neighborhood services.**

**CEQA: Not a Project, File No.PP10-066(a). (Police/City Manager's Office)**

Documents Filed: Memorandum from Chief of Police Christopher Moore and Budget Director Jennifer A. Maguire, dated January 3, 2012, recommending approval of the proposed 2011-2013 Spending Plan for the Supplemental Law Enforcement Services Fund, authorization for the Chief of Police to amend the spending plan, adoption of appropriation ordinance and funding sources resolution amendments and City Council certification on funding strategies.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the proposed 2011-2013 Spending Plan for the Supplemental Law Enforcement Services Fund for \$1,819,465 was approved and the Chief of Police was authorized to amend the spending plan in conformity to the budget priorities set out in the Staff memorandum in the event State SLES Grant payments are less than expected, Ordinance No. 29023, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Supplemental Law Enforcement Services Fund for the Supplemental Law Enforcement Services Grant 2011-2012; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 76127, 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 Supplemental Law Enforcement Services Fund", were adopted. The City Council certified that funding strategies will be pursued so that the projected funding for operations and maintenance of the Police Department's Automated Field Reporting/Records Management System will be made available in the first year of operation and appropriate efforts will be undertaken so that those funding strategies cover the entire cost of the project, including operations and maintenance costs, as to not require a decrease in existing basic neighborhood services. (10-0-1. Absent: Kalra.)

## **JOINT COUNCIL/REDEVELOPMENT AGENCY**

The Redevelopment Agency Board was convened at 4:19 p.m. to consider Item 9.1 in a Joint Session.

**9.1 It is recommended that the City Council, the City Council acting as the Successor Agency to the Redevelopment Agency of the City of San José, and the Redevelopment Agency Board take the following actions to implement the provisions of AB X1 26:**

- (a) Adopt a resolution of the Redevelopment Agency Board:**
  - (1) Memorializing the dissolution, by operation of law, of the Redevelopment Agency of the City of San José as of February 1, 2012.**
  - (2) Memorializing the transfer, by operation of law, as of February 1, 2012, of all assets, properties, contracts, leases, books and records, buildings and equipment, of the Redevelopment Agency to the City of San José in its capacity as Successor Agency.**
  - (3) Memorializing the transfer, by operation of law, as of February 1, 2012, of all housing assets and functions of the Agency, with regard to the Low and Moderate Income Housing Program, to the City of San José as Successor Housing Agency.**
- (b) Adopt a resolution of the City Council of the City of San José:**
  - (1) Memorializing the designation of the City of San José in its capacity as the Successor Agency to the Redevelopment Agency of the City of San José.**
  - (2) Electing to retain the housing assets and functions of the Redevelopment Agency with regard to the Low and Moderate Income Housing Program.**
  - (3) Establishing a new fund for the Successor Housing Agency, effective February 1, 2012, entitled “Affordable Housing Investment Fund.”**
- (c) Adopt 2011-2012 Appropriation Ordinance and Funding Sources Resolution amendments of the City Council in the Affordable Housing Investment Fund, the Home Investment Partnership Program Fund, the Housing Trust Fund, the Low and Moderate Income Housing Fund, and the Multi-Source Housing Fund as detailed in Attachment A of the staff memorandum.**
- (d) Adopt a resolution of the City of San José as the Successor Agency to the Redevelopment Agency of the City of San José:**
  - (1) Establishing a new fund entitled the “Redevelopment Obligation Retirement Fund”, effective February 1, 2012, for the Successor Agency as required by AB X1 26, for the purposes of receiving funds to repay the obligations of the dissolved Redevelopment Agency.**
  - (2) Appointing the City Manager as the Executive Officer of the Successor Agency to administer and oversee the dissolution of the Redevelopment Agency with the same contracting and hiring authority granted to the City Manager by the City Charter and the Municipal Code.**
  - (3) Designating the Low and Moderate Income Housing Fund as a Successor Agency Fund effective February 1, 2012.**

**9.1 (e) Adopt 2011-2012 Appropriation Ordinance and Funding Sources Resolution amendments of the City Council, in its capacity as the Successor Agency, in the Redevelopment Obligation Retirement Fund as detailed in Attachment B of the staff memorandum.**

Documents Filed: (1) Memorandum from City Manager Debra Figone and Redevelopment Agency Managing Director Richard Keit, dated January 20, 2012, recommending adoption of resolutions and appropriation ordinance and funding sources resolution amendments. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated January 24, 2012, updating the listing of housing assets.

Mayor Reed presented introductory remarks.

Redevelopment Agency Managing Director Richard Keit and Director of Housing Leslye Corsiglia presented the report and responded to Council questions and comments.

City Manager Debra Figone and City Attorney Richard Doyle offered comments.

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

Action: Upon motion by Council Member Constant, seconded by Council Member Campos and carried unanimously, Redevelopment Agency Board Resolution No. 6033, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José To: (A) Memorialize the Dissolution, By Operation of Law, of the Redevelopment Agency of the City of San José; (B) Memorialize the Transfer, By Operation of Law of All Assets, Properties, Contracts, Leases, Books and Records, Buildings and Equipment, of the Redevelopment Agency to the City of San José In Its Capacity as Successor Agency; (C) Memorialize the Transfer, By Operation of Law, Of All Housing Assets and Functions of the Agency, With Regard to the Low and Moderate Income Housing Program, To the City of San José as Successor Housing Agency"; Resolution No. 76128, entitled: "A Resolution of the Council of the City of San José (A) Memorializing the Designation of the City of San José In Its Capacity as The Successor Agency to the Redevelopment Agency of the City of San José; (B) Electing to Retain the Housing Assets and Functions of the Redevelopment Agency With Regard to the Low and Moderate Income Housing Program; (C) Establishing a New Fund for the Successor Housing Agency, Effective February 1, 2012, Entitled Affordable Housing Investment Fund"; Ordinance No. 29024, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Affordable Housing Investment Fund for the Attorney's Office for Non-Personal/Equipment, The Attorney's Office for Personal Services, The City Manager's Office for Non-Personal/Equipment, The City Manager's Office for Personal Services, The Finance Department for Personal Services, The Human Resources Department for Personal Services, The Human Resources Department for Workers' Compensation Claims, The Housing Department for Non-Personal/Equipment, The Housing Department for Personal Services, The Housing Department for Loan Management, The Public Works Department for Non-Personal/Equipment, The Public Works Department for Personal Services, and The

## 9.1 (Action Cont'd.)

Reserve for Retirement Prepayment; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, Ordinance No. 29025, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Home Investment Partnership Program Fund for the Housing Department Personal Services; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76129, 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 Affordable Housing Investment Fund”; Resolution No. 76130, 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 Home Investment Partnership Program Fund”; Ordinance No. 29026, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Housing Trust Fund for the Housing Department Personal Services; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 29027, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Low and Moderate Income Housing Fund for the Reserve for Enforceable Obligations; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76131, 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 Low and Moderate Income Housing Fund”; Ordinance No. 29028, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Multi Source Housing Fund for the Housing Department Personal Services; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76132, entitled: “A Resolution of the Council of the City of San José as the Successor Agency to the Redevelopment Agency of the City of San José: (A) Establishing a New Fund Entitled the Redevelopment Obligation Retirement Fund, Effective February 1, 2012, For the Successor Agency as Required by AB X1 26, For the Purposes of Receiving Funds to Repay the Obligations of the Dissolved Redevelopment Agency; (B) Appointing the City Manager as the Executive Officer of the Successor Agency To Administer and Oversee the Dissolution of the Redevelopment Agency With the Same Contracting and Hiring Authority Granted to the City Manager by the City Charter; and the Municipal Code; and (C) Designating the Low and Moderate Income Housing Fund as a Successor Agency Fund Effective February 1, 2012”; Successor Agency Resolution No. 7001, entitled: “A Resolution of the Council of the City of San José as the Successor Agency to the Redevelopment Agency of the City of San José: (A) Establishing a New Fund Entitled the Redevelopment Obligation Retirement Fund for the Successor Agency as Required by AB X1 26, for the Purposes of Receiving Funds to Repay the Obligations of the Dissolved Redevelopment Agency; (B) Appointing the City Manager as the Executive Officer of the Successor Agency to Administer and Oversee the Dissolution of the Redevelopment Agency With the Same Contracting and Hiring Authority Granted to the City Manager by the City Charter; and The Municipal Code; and (C) Designating the

## 9.1 (Action Cont'd.)

Low and Moderate Income Housing Fund as Successor Agency Fund”; Ordinance No. 29029, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Redevelopment Obligation Retirement Fund for the Local Agency Payments (AB 1290), Administration, Capital Projects, County Administration Fee; Debt Service Payment – Union Bank, Debt Service Payment – US Bank, Letters of Credit/Debt Service Fees, Loan Repayment – HUD-108, Loan Repayment – State of California, Transfer to the General Fund – Reimbursement for Administrative Services, Transfer to the General Purpose Parking Fund – 4th/San Fernando Debt Service, Transfer to Low/Moderate Income Housing Fund – 20% Funding, and Reserve for Successor Agency Debt Service; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76133, 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 Redevelopment Obligation Retirement Fund”, were adopted. (11-0.)

Council Member Oliverio registered a no vote exclusively on the Housing Portion of Item 9.1.

## OPEN FORUM

- (1) David Wall requested that the City Manager offer an accounting about the Applegate Johnson matter.
- (2) Kevin Hittilo voiced his concerns and opposition to the plastic bag ban.
- (3) Ross Signorino pointed out that the Mercury News should not have revealed the identity of the girl that was abducted last week or expose the horrific events that happened to her. He suggested the City should discourage this.
- (4) Shirley Vargas urged the Council to establish lower taxes for San José residents, increase revenues, attempt to provide more jobs in San José and to cease building low income housing.

## ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 5:16 p.m.

## RECESS/RECONVENE

The City Council recessed at 5:16 p.m. from the afternoon Council Session and reconvened at 7:01 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 D. Hawkins 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

### 1.3 Presentation of a commendation to the Oak Grove Red Warriors Cadet Football team for their record winning season. (Kalra/Campos)

Mayor Reed and Council Members Kalra and Chu recognized and commended the Oak Grove Red Warriors Cadet Football team.

## PUBLIC HEARINGS

### 11.1 (a) Consideration of an ordinance rezoning the real property located on the east side of Quimby Road, approximately 440 feet east of Murillo Road (3770 Quimby Road) to the A(PD) Planned Development Zoning District to allow for the development of up to seven single-family detached residences and hillside open space on a 2.8 gross acre site (Huang Tammy C Et Al, Huang Euson, Owner). CEQA: Mitigated Negative Declaration to be adopted. PDC10-002 – District 8

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC10-002, dated November 28, 2011. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated December 15, 2011, transmitting the recommendation of the Planning Commission of approval. (3) Proof of Publication of Notice of Public Hearing, executed on December 2, 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.

**11.2 (Cont'd.)**

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 29030, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Quimby Road, Approximately 440 Feet East of Murillo Road (3770 Quimby Road) From Unincorporated County to A(PD) Planned Development Zoning District to Allow Up to Seven Single Family Detached Residences on a 2.8 Gross Acre Site”, was passed for publication and Resolution No. 76134, entitled: “A Resolution of the Council of the City of San José Adopting the Huang/Quimby Road Project (3770 Quimby Road) Mitigated Negative Declaration, For Which An Initial Study Was Prepared, All In Accordance With the California Environmental Quality Act, As Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted. (11-0.)

- 11.2 Consideration of an ordinance rezoning the real property located on the east side of Morse Street, approximately 320 feet north of McKendrie Street (980 Morse Street), from the R-1-8 Residential Zoning District to the A(PD) Planned Development Zoning District to allow for the development of four single-family detached residences on a 0.61 gross acre site (Barry Swenson Builder, Owner). CEQA: Mitigated Negative Declaration to be adopted. The Planning Commission voted 4-1-2 (Commissioner Platten opposed, Commissioners Yob and Kamkar absent) to recommend that Council approve the proposed Planned Development Rezoning as recommended by staff with an added requirement that at least two (2) of the units have a different architectural style.  
PDC11-010 – District 6**

Action: Continued to February 28, 2012 per Rules and Open Government Committee.

**NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10093	Southwest corner of Ruby Avenue and Aborn Road	8	SummerHill Ruby Avenue, LLC	93 Lots / 107 Units	SFDR/ SFAR	Approve
10097	Northwest corner of Blossom Hill Road and Southcrest Way	10	Brookfield Westbury, LLC	91 Lots / 86 Units	SFDR	Approve

## OPEN FORUM

Documents Filed: (1) Letter from City Manager Jennifer Sparacino, City of Santa Clara, dated September 7, 2011, regarding allowing non-San José residents to continue to utilize the Hamline Community Garden. (2) Two letters from members of the public, both dated January 24, 2012, requesting allowing non-San José residents to continue to utilize the Hamline Community Garden.

The following speakers representing Hamline Community Garden complained about the residents-only rule for the San José community gardens, the lack of transparency and the added City fees, requested to see a detailed breakdown of the work, expressed concern about the eviction of non-residents and complained that the neighborhood concerns have not been adequately addressed, were: John Joseph, Ann-Charlotte Joseph, Kimberly Echeverri, Margaret Harris, Caroline Dudley and Karen McCreddin.

The following speakers representing the Seven Trees Community complained about the lack of police presence, the heavy crime and gang activity, the speeding cars throughout the neighborhood, the shooting near Arboles Elementary School, the high speed police chase through the neighborhood, the trash, drugs and violence and the need for speed bumps, were: Jose Morquecho, Antonio Elias Zaragoza, Gary Cooper, Fatima de Guzman, Jesus Zavala and Pedro Mendoza.

City Manager Debra Figone commented that she will be meeting with Staff to obtain more details surrounding the issues with the Hamline Community Garden and will circulate an information memorandum to Council of the findings. City Manager Figone noted that she responded to the letter from the City Manager of Santa Clara.

Council Member Oliverio requested that an information memorandum be forwarded to the Council on all Open Forum issues.

## ADJOURNMENT

The Council of the City of San José was adjourned at 7:32 p.m. in memory of Eileen Dorset who joined the Redevelopment Agency in 1988 as the Neighborhood Business District Manager for Alum Rock and served the Agency for 20 years. She will be remembered for her outstanding contributions to the Redevelopment Agency and to the San José community. (Mayor)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis D. Hawkins, CMC  
City Clerk  
/smd 01-24-12 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.