CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA **TUESDAY, OCTOBER 18, 2011**

The Council of the City of San José convened in Regular Session at 9:01 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 Nancy Ostrowski, IFPTE Local 21 Senior Staff and Chair, San José Coalition, dated October 18, 2011, offering points of clarification/ corrections in regard to proposals presented during bargaining.

No update was provided.

Public Comments: President, San José Firefighters, IAFF Local 230, Robert Sapien, Jr. articulated concerns of the San José Fire Department. Nancy Ostrowski, IFPTE Local 21 Senior Staff and Chair, San José Coalition, referred to the letter provided to Council dated October 18, 2011.

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 9:05 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) California Redevelopment Association, et al. v Matosantos, et al.; Names of Parties Involved: California Redevelopment Association, League of California Cities, John F. Shirley, Ana Matosantos, John Chiang, Patrick O'Connell; Court: Supreme Court, State of California; Case No: S194861; Amount of Money or Other Relief Sought: Writ of Mandate; (2) Renzo's Bar & Grill, et al. v. City of San José, et al.; Names of Parties Involved: Renzo's Bar & Grill, Inc., Gholam r. Shafazand (as C.E.O. of Renzo's Bary & Grill, Inc.,) and in his individual capacity, City of San José, San José Police Department, San José Police Sergeant John Vanek, San José Police Lieutenant David Hober, Frank Cucuzza, Jr., Cucuzza Family Partnership and Does 1-200; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-114221; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (3) Gomez v. City, et al.; Names of Parties Involved: Cristela Gomez & Jesus Gomez, City of San José, San José Police Department, Officer Fukuma, Officer Santos, Officer Krauss & Sgt. Marfia, and Does 1-60; Court: United States District Court, Northern District of California; Case No: CV-10-04820 LHK; Amount of Money or Other Relief Sought: Damages according to proof; (B) to confer with legal counsel pursuant to Section 54956.9 subsection (c) of the Government Code with respect to anticipated litigation: number of matters to be discussed : 1; (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) In re: Claim of confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA; (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters; (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working

CLOSED SESSION (Cont'd.)

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); Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3; (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association; (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; How to obtain a copy of existing contract or MOA: **http://www.sanjoseca.gov/employeerelations/ moa.asp**; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:10 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Liccardo (1:51 p.m.), Nguyen, Oliverio (1:48 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Leigh High School Band Ensemble, Directed by Suzi Royer, performed a woodwind ensemble piece for the Invocation. (District 9)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance. (District 8)

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 2.3(a) and (c) and Item 6.1 deferred to October 25, 2011, and Item 2.7 dropped. (11-0.)

Supervisor Jim Beall, Jr. offered words honoring his father, James T. Beall, Sr.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the Week of October 16 – 22, 2011 as "National Save for Retirement Week" in the City of San José. (Constant)

Mayor Reed and Council Member Constant recognized the Week of October 16 – 22, 2011 as "National Save for Retirement Week" in the City of San José.

1.2 Presentation of a proclamation declaring the Week of October 16 – 22, 2011 as "National Protect Your Identity Week" in the City of San José. (Constant)

Mayor Reed and Council Member Constant recognized the Week of October 16 – 22, 2011 as "National Protect Your Identity Week" in the City of San José.

1.3 Presentation of a commendation to Norma Rodriguez, Principal of San Antonio Elementary, in recognition and appreciation of her commitment and dedication to the children of the City of San José through her distinguished efforts as an educator. (Campos)

Mayor Reed and Council Member Campos commended Norma Rodriguez, Principal of San Antonio Elementary, in recognition and appreciation of her commitment and dedication to the children of the City of San José through her distinguished efforts as an educator.

1.4 Presentation of a proclamation declaring the Month of October 2011 as "Breast Cancer Awareness Month" in the City of San José. (Herrera)
(Rules Committee referral 10/12/11)

Mayor Reed and Council Member Herrera recognized the Month of October 2011 as "Breast Cancer Awareness Month" in the City of San José.

CONSENT CALENDAR

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

2.1 Approval of minutes.

There were none.

2.2 Final adoption of ordinances.

(a) ORD. NO. 28970 – Amending Part 1 of Chapter 2.08 of Title 2 of the San José Municipal Code to amend Section 2.08.160 and add a new Section 2.08.170 to clarify Council's intent with respect to the nonvoting member position on the Board of Administration of the Federated City Employees Retirement System and the Board of Administration of the Police and Fire Department Retirement Plan and to amend Section 2.08.1270 to correct a clerical error related to compensation for members of the Board of Administration of the Police and Fire Department Retirement Plan.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28970 executed on October 4, 2011, submitted by the City Clerk.

Action: Ordinance No. 28970 was adopted. (10-1. Noes: Rocha.)

(b) ORD. NO. 28974 – Rezoning certain real property situated on the northeast corner of Highway 280 and Saratoga Avenue, from the R-1-5 and R-1-8 Single-Family Residence Zoning Districts to A(PD) Planned Development Zoning District. PDC10-017

Documents Filed: Proof of Publication of the Title of Ordinance No. 28974 executed on October 4, 2011, submitted by the City Clerk.

Action: Ordinance No. 28974 was adopted. (11-0.)

(c) ORD. NO. 28975 – Rezoning certain real property situated at the northwest corner of Jackson Street and North 19th Street (897 Jackson Street) from an A(PD) Planned Development Zoning District and A(PD) Planned Development Zoning District. PDC10-027

Documents Filed: Proof of Publication of the Title of Ordinance No. 28975 executed on October 7, 2011, submitted by the City Clerk.

Action: Ordinance No. 28975 was adopted. (11-0.)

(d) ORD. NO. 28977 – Amending Sections 20.95.020, 20.95.110 and 20.95.120 of Chapter 20.95 of Title 20 of the San José Municipal Code to require special land use category projects that create or replace 5,000 square feet or more to use stormwater treatment measures in accordance with City Council Policy 6-29, and to require property owners to keep records of inspection and maintenance on the project site for all stormwater treatment measures installed pursuant to Policy 6-29.

Documents Filed: Proof of Publication of the Title of Ordinance No. 28977 executed on October 7, 2011, submitted by the City Clerk.

Action: Ordinance No. 28977 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

(b) Community and Economic Development Committee Report of September 26, 2011. (Herrera)

Documents Filed: (1) The Community and Economic Development Committee Report dated September 26, 2011.

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

(a) Rules and Open Government Committee Report of September 21, 2011. (Mayor)
(c) Rules and Open Government Committee Report of September 28, 2011. (Mayor)

Action: Deferred to October 25, 2011 per Orders of the Day.

2.4 Mayor and Council Excused Absence Requests.

(a) Request for an excused absence for Council Member Chu from the Joint City/County Meeting on October 28, 2011 due to Authorized City Business: Travel to China for the Technology Fast 50 Conference in Shenzhen and meetings with officials in Beijing and Tianjin to discuss establishing direct flights to San José and a San José-China Desk in Beijing per travel request dated 9/30/11. (Chu) (Rules Committee referral 10/12/11)

Documents Filed: Memorandum from Council Member Chu, dated October 12, 2011, requesting an excused absence due to authorized City business.

Action: The absence for Council Member Chu was approved. (11-0.)

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

Council Member Herrera, attending as the Alternate Council Liaison, reported on a number of items, including the Board's fiduciary responsibilities and their concerns regarding worker's compensation.

2.7 Authorize travel for City Manager Debra Figone to Portland, Oregon on October 19-21, 2011, to participate in the annual San José Silicon Valley Chamber of Commerce City-to-City trip as one of the designated representatives. Source of Funds: City Manager's Non Personal Services Appropriation. CEQA: Not a Project, File No. PP10-069, administrative activities. (City Manager's Office)

Action: Dropped per Orders of the Day.

2.8 Adopt a resolution authorizing the City Manager:

(a) To negotiate and execute an amendment to the Agreement with History San Jose to remove the Fallon House Parking Lot, APN 259-32-083 located at 150 Terraine Street from the Agreement.

(b) To execute all related documents necessary to complete the transaction.

CEQA: Resolution No. 72767, File No. CP 09-054. Council District 3. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated September 26, 2011, recommending adoption of a resolution.

Action: Resolution No. 76022 entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Amended and Restated Operation Agreement with History San José", was adopted. (11-0.)

2.9 Adopt a resolution authorizing the City Manager to:

(a) Execute a Second Amendment to the Agreement for a Park Management System with VGS Systems Engineering Inc., doing business as OmniTicket Network to add additional Hardware, Software Licenses, configuration services and training to expand the number of points of sale and improve automated business processes at the Happy Hollow Park & Zoo and Leininger Community Center, and increase compensation by $40,674 for a revised not to exceed contract amount of $270,283.45.

(b) Increase the contingency amount by $60,000 to $90,000 to cover unanticipated changes to the system implementation or functionality, or add additional points of sale, without further Council action other than appropriations of funds

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for purchase and supplies. (Finance)

Documents Filed: Memorandum from Assistant Director of Finance Julia H. Cooper, dated September 26, 2011, recommending adoption of a resolution.

Action: Resolution No. 76023, entitled: "A Resolution of the Council of the City of San José, Authorizing the City Manager to Execute a Second Amendment to the Agreement for a Park Management System for Happy Hollow Park and Zoo", was adopted. (11-0.)

2.10 Adopt a resolution authorizing the City Manager to:

(a) Execute a Purchase Order with Cannon Sline Industrial, Inc. (Long Beach, CA) for the painting and rehabilitation of the first five of 25 secondary clarifier tanks at the Water Pollution Control Plant (WPCP) for the period October 1, 2011 through September 30, 2012, in an amount not to exceed $449,578.

(b) Execute additional purchase orders as required to complete the painting and rehabilitation of the remaining 20 tanks, at a fixed price per tank as established by a competitive bid, over a four year period ending September 30, 2016, subject to the appropriation of funds.

(c) Execute change orders for contingencies not to exceed $50,000 for any unforeseen changes or requirements that may arise prior to the completion of services.

CEQA: Exempt, File No. PP03-112. (Finance)

Documents Filed: (1) Memorandum from Letter from Chairperson Chuck Reed, the Treatment Plant Advisory Committee, dated October 12, 2011, stating concurrence with the Staff recommendation. (2) City Council Action Request provided by Assistant Director of Finance Julia H. Cooper, dated October 18, 2011, recommending adoption of a resolution.

Action: Resolution No. 76024, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Purchase Order with Cannon Sline Industrial, Inc., for the Painting and Rehabilitation of Clarifier Tanks at the Water Pollution Control Plant", was adopted. (11-0.)

2.11 Adopt a resolution authorizing the City Manager:

(a) To execute a one-year agreement with four, one-year options for renewal with Club One, Inc., to conduct a comprehensive Wellness Program with the San José Fire Department, with a total first year compensation not to exceed $115,000; and

(b) To execute up to four, one-year options to renew subject to annual appropriation.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for Professional Services. (Fire)

Documents Filed: Memorandum from Fire Chief William McDonald, dated September 26, 2011, recommending adoption of a resolution.

Action: Resolution No. 76025, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Purchase Order with Club One, Inc. to Conduct a Comprehensive Wellness Program with the San José Fire Department", was adopted. (11-0.)

2.12 (a) Adopt a resolution authorizing the City Manager to accept the FY 2011 Enhanced Collaborative Model to Combat Human Trafficking Grant in the amount of $500,000 and to execute the grant agreement with the Department of Justice specifying the grant terms including the City's provision of in-kind services and all related documents necessary to effectuate the grant.

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

(1) Establish a city-wide expenses appropriation to the Police Department for the 2011 Human Trafficking Prevention Grant in the amount of $120,000;

(2) Increase the estimate for Earned Revenue from the Federal Government by $120,000.

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

Documents Filed: Joint memorandum from Chief of Police Chris Moore and Budget Director Jennifer Maguire, dated September 26, 2011, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 28978, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund City-Wide Public Safety for the 2011 Human Trafficking Prevention Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 76026, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept the FY 2011 Enhanced Collaborative Model to Combat Human Trafficking Grant from the U.S. Department of Justice, Bureau of Justice Assistance in the Amount of $500,000, and to Execute all Related Documents Necessary to Effectuate the Grant"; and Resolution No. 76027, 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 5o Adjust Revenues in the General Fund", were adopted. (11-0.)

2.13 (a) Approve travel by Council Member Chu to Shenzhen, Beijing and Tianjin on October 26 – November 6, 2011 to attend the "Technology Fast 50" Conference in Shenzhen and meeting with officials in Beijing and Tianjin to discuss establishing direct flights to San José and a San José-China Desk in Beijing. Source of Funds: U.S.-China Exchange Council. (Chu)

(b) Request for an excused absence for Council Member Chu from the Regular Meeting of the City Council on November 1, 2011 due to Authorized City Business: Travel to Shenzhen, Beijing and Tianjin to attend the "Technology Fast 50" Conference in Shenzhen and meeting with officials in Beijing and Tianjin to discuss establishing direct flights to San José and a San José-China Desk in Beijing. (Chu)

(Rules Committee referral 10/5/11)

2.13 (Cont'd)

Documents Filed: Memoranda from Council Member Chu, dated September 30, 2011 and October 5, 2011, requesting authorization to travel and an excused absence due to City business.

Action: Authorization to travel and the excused absence were approved. (11-0.)

2.14 Approve travel by Council Member Liccardo to Dublin, Ireland and London, England on July October 6 – 16, 2011 to travel with local leaders from the San José-Dublin Sister City Board and other San José community member to celebrate the 25th anniversary of the sister city relationship between San José and Dublin. Source of Funds: Personal Funds. (Liccardo)
[Rules Committee referral 10/5/11 – Item A(2)(a)(1)]

Documents Filed: Memorandum from Council Member Liccardo, dated September 29, 2011, requesting authorization to travel.

Action: The authorization to travel was approved. (11-0.)

2.15 (a) Approve travel by Council Member Liccardo to Hong Kong and Shenzhen on October 23 – 28, 2011 as one of the City's designated representatives with the Silicon Valley-China Business Connect delegation for a weeklong series of meetings with businesses in China seeking to expand overseas, a goal of creating jobs and tax revenue in San José, and meet with airlines seeking to establish direct routes to San José. Source of Funds: U.S.-China Exchange Council. (Liccardo)

(b) Request for an excused absence for Council Member Liccardo from the Regular Meeting of the Community and Economic Development Committee on October 24, 2011, the Closed Session, Regular Meeting and Evening Session of the City Council on October 25, 2011, and the Joint City/County Meeting on October 28, 2011 due to Authorized City Business: Travel to Hong Kong and Shenzhen as one of the City's designated representatives with the Silicon Valley-China Business Connect delegation for a weeklong series of meetings with businesses in China seeking to expand overseas, a goal of creating jobs and tax revenue in San José, and meet with airlines seeking to establish direct routes to San José. (Liccardo)

[Rules Committee referral 10/5/11 – Items A(2)(a)(2) and A(2)(a)(3)]

Documents Filed: Memoranda from Council Member Liccardo, dated October 12, 2011 and October 13, 2011, requesting authorization to travel and an excused absence due to City business.

Action: Authorization to travel and the excused absence were approved. (11-0.)

2.16 Request for an excused absence for Council Member Liccardo from the Regular Meeting of the Transportation and Environment Committee on October 3, 2011 due to Authorized City Business: Travel to Sacramento, CA to meet with National Resources Secretary, John Laird, and travel to Oakland to meet with Metropolitan Transportation Commission Executive Director, Steve Heminger, to advocate on two critical transportation-related priorities for the City of San José. (Liccardo) [Rules Committee referral 10/5/11 – Item A(2)(a)(4)]

Documents Filed: Memorandum from Council Member Liccardo, dated September 29, 2011, requesting an excused absence due to authorized City business.

Action: The excused absence was approved. (11-0.)

2.17 As recommended by the Rules and Open Government Committee on October 5, 2011:

(a) Approve the District 6 Movie Night 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: Exempt, File No. PP11-089. (City Clerk)
[Rules Committee referral 10/5/11 – Item H(4)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated October 6, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 6 Movie Night as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.3 (a) Accept the 2010-2011 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701(F).

(b) Adopt Appropriation Ordinance and Funding Sources Resolution amendments for 2011-2012 in various operating and capital funds to implement the 2010-2011 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section IV (Recommended Budget Adjustments and Clean-Up Actions).

3.3 (Cont'd.)

(c) Adopt a resolution authorizing the City Manager and Chief of Police:

(1) To negotiate and execute a Grant Agreement and any related documents to accept the 2011 COPS Hiring Program Grant in the amount of $1,703,664, adding 3.0 Police Officer positions in the Police Department;

(2) To negotiate and execute additional amendments to the grant and any related documents necessary to effectuate the grant without further action by the City Council.

CEQA: Not a Project, File No. PP10-069(a), Annual Report. (City Manager's Office)

Documents Filed: (1) Memorandum from Mayor Reed, dated October 13, 2011, recommending approval of the 2010-2011 Annual Report. (2) 2010-2011 Annual Report provided by the City Manager, dated September 2011.

Budget Director Jennifer Maguire provided an overview of the report and responded to questions from Council.

Motion: Vice Mayor Nguyen moved approval of Mayor Reed's memorandum of October 13, 2011. The motion was seconded by Council Member Constant.

Chief of Police Chris Moore, Fire Chief William McDonald and Assistant Director of Finance Julia H. Cooper responded to questions from Council.

Action: On a call for the question, the motion carried unanimously, the 2010-2011 City Manager's Annual Report of the Finances of the City of San José was accepted; Ordinance No. 28979, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Various Funds to Implement 2010-2011 Annual Report Recommendations and Make Appropriate Technical Adjustments; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 76028, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75872 to Implement the 2010-2011 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds, and Resolution No. 76029, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager and Chief of Police to Negotiate and Execute the U.S. Department of Justice 2011 Office of Community Oriented Policing Services (COPS) Hiring Program Grant in the Amount of $1,703,664", were adopted. (11-0.)

3.4 (a) Adopt an ordinance ratifying the final 2010-2011 appropriation increases detailed in this report.

(b) Adopt the following 2010-2011 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:

(1) Increase the Earned Revenue estimate by $885,672;
(2) Increase the Transfer to Council District 1 by $57,741;
(3) Increase the Transfer to Council District 2 by $40,952;
(4) Increase the Transfer to Council District 3 by $48,894;
(5) Increase the Transfer to Council District 4 by $32,000;
(6) Increase the Transfer to Council District 5 by $70,207;
(7) Increase the Transfer to Council District 6 by $53,975;
(8) Increase the Transfer to Council District 7 by $53,323;
(9) Increase the Transfer to Council District 8 by $58,098;
(10) Increase the Transfer to Council District 9 by $50,398;
(11) Increase the Transfer to Council District 10 by $35,292;
(12) Increase the Transfer to City-Wide by $250,940; and
(13) Increase the Transfer to the General Fund – Parks Eligible Maintenance Costs by $133,852.

(c) Adopt the following 2010-2011 Appropriation Ordinance amendments in the Home Investment Partnership Program Trust Fund:

(1) Increase the Multi-Family Loans & Grants appropriation by $44,428;
(2) Decrease the Ending Fund Balance estimate by $44,428.

(d) Adopt the following 2010-2011 Appropriation Ordinance amendments in the Multi-Source Housing Fund:

(1) Increase the CalHome Program (BEGIN) appropriation by $428,746;
(2) Decrease the Ending Fund Balance estimate by $428,746.

(e) Adopt the following 2010-2011 Appropriation Ordinance amendments in the Vehicle Maintenance and Operation Fund:

(1) Increase the Inventory Purchases appropriation by $263,116; and
(2) Decrease the Ending Fund Balance estimate by $263,116.

CEQA: Not a Project, File No. PP10-069(b), Appropriation Ordinance. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Jennifer Maguire, dated October 3, 2011, recommending adoption of an ordinance and appropriation ordinances and funding sources resolution amendments.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, Ordinance No. 28980, entitled: "An Ordinance of the City of San José Authorizing and Ratifying Certain Encumbrances and/or Expenditures in Various Funds Made During City's 2010-2011 Fiscal Year in Excess of Sums Appropriated Therefore", Ordinance No. 28981, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund for the Transfer to

3.4 (Cont'd.)

Council District No. 1, for the Transfer to Council District No. 2, for the Transfer to Council district No. 3, for the Transfer to Council District No. 4, for the Transfer to Council District No. 5, for the Transfer to District No. 6, for the Transfer to Council District No. 7, for the Transfer to Council District No. 8, for the Transfer to Council District No. 9, for the Transfer to Council District No. 10, for the Transfer to Parks City-Wide, and to Parks Eligible Maintenance Costs; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 76030, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75447 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2010-2011 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund", Ordinance No. 28982, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the Home Investment Partnership Program Fund for the Multi-Family Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", Ordinance No. 28983, entitled: "An Ordinance of the City of San José, Amending Ordinance No. 28765 to Appropriate Monies in the Multi-Source Housing Fund for the CALHOME (BEGIN) Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Ordinance No. 28984, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28765 to Appropriate Monies in the Vehicle Maintenance and Operations Fund for the Inventory Purchases; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0-1. Absent: Constant.)

3.5 Approve an ordinance amending Section 12.04.160 of Chapter 12.04 of Title 12 of the San José Municipal Code to clarify enforcement of Title 12; amending Section 12.06.050 of Chapter 12.06 of Title 12 to clarify that volunteer personal services are not contributions; adding Section 12.06.140 to define late contribution; amending Section 12.06.210 and repealing Section 12.06.540 to delete alternative contribution limits; amending Sections 12.06.290 and 12.06.610 to revise the campaign contribution collection period; amending Section 12.06.295 to revise the deadline for a candidate to deposit personal funds; amending Section 12.06.530 to revise the current formula for calculating voluntary expenditure limits for Council Districts and to impose a method for adjusting the expenditure limits for Mayoral and Council District candidates in the future, if necessary; repealing Section 12.06.560 to delete the provision increasing expenditure limits during an election; amending Section 12.06.920 to revise the requirements of the report published by the City Clerk; and making other technical corrections. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated October 6, 2011, recommending approval of an ordinance. (2) Supplemental memorandum from City Attorney Richard Doyle, dated October 14, 2011, clarifying definition of a late contribution.

Motion: Council Member Liccardo moved approval of the recommended revisions with $250 set for defining late contribution. Council Member Constant seconded the motion.

3.5 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28985, entitled: "An Ordinance of the City of San José Amending Section 12.04.160 of Chapter 12.04 of Title 12 of the San José Municipal Code to Clarify Enforcement of Title 12; Amending Section 12.06.050 of Chapter 12.06 of Title 12 to Clarify that Volunteer Personal Services are not Contributions; Adding Section 12.06.140 to Define Late Contribution Amending Section
12.06.210 and Repealing Section 12.06.540 to Delete Alternative Contribution Limits; Amending Sections 12.06.290 and 12.06.610 to Revise the Campaign Collection Period; Amending Section 12.06.295 to Revise the Deadline for a Candidate to Deposit Personal Funds; Amending Section 12.06.50 to Revise the Current Formula for Calculating Voluntary Expenditure Limits for Council Districts and to Impose a Method for Adjusting the Expenditure Limits for Mayoral and Council District Candidates in the Future, if Necessary; Repealing Section 12.06.560 to Delete the Provision Increasing Expenditure Limits During an Election Amending 12.06.950 to Revise the Requirements of the Report Published by the City Clerk; and Making other Technical Corrections", was passed for publication, with the definition of "late contribution" being revised to $250. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Approve an ordinance to amend Title 18 (Local Planning) of the San José Municipal Code to add a new Chapter 18.02 to codify existing regulations of the City pertaining to the consideration of development agreements. CEQA: Not a Project, File No. PP10-068(c), Municipal Code changes involving no changes to the physical environment. Citywide. (City Attorney's Office)

Documents Filed: (1) Memorandum from Mayor Reed, dated October 14, 2011, recommending approval of an ordinance with additions as noted. (2) Memorandum from City Attorney Richard Doyle, dated September 8, 2011, recommending approval of an ordinance. (3) Supplemental memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated October 5, 2011, providing additional information in the consideration of development agreements.

Motion: Council Member Kalra moved approval of the Staff recommendations, including Mayor Reed's memorandum of October 14, 2011. Vice Mayor Nguyen seconded the motion.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28986, entitled: "An Ordinance of the City of San José Amending Title 18 (Local Planning) of the San José Municipal Code to Add a New Chapter 18.02 to Codify Existing Regulations of the City of San José Pertaining to the Consideration of Development Agreements and to Amend the Criteria for Developments Eligible for a Development Agreement and Rescinding City Ordinance No. 24297 Pertaining to Development Agreements", was passed for publication. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 As recommended by the Community and Economic Development Committee on September 26, 2011, accept staff's proposed Economic Strategy Workplan. CEQA: Not a Project, File No. PP10-066(a), Staff Report. (Economic Development) [Community and Economic Development Committee referral 9/26/11 – Item D(3)]

Documents Filed: (1) Joint memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Herrera, Pyle and Rocha, dated October 14, 2011, regarding the economic strategy 18-month workplan. (2) Memorandum from City Clerk Dennis Hawkins, CMC, dated October 6, 2011, providing recommendations of the Community and Economic Development Committee. (3) Supplemental memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated October 14, 2011, providing Council with addition information regarding the workplan. (4) Letter from San José Silicon Valley Chamber of Commerce Vice President, Patricia Sausedo, dated October 19, 2011, offering input on the 18-month workplan.

The City of San José Planning Staff provided a presentation on the proposed Economic Strategy Workplan, and Director, Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council.

Motion: Council Member Herrera moved approval of the memorandum she coauthored with Mayor Reed, Vice Mayor Nguyen and Council Members Pyle and Rocha, including Staff's proposed workplan. Council Member Rocha seconded the motion.

Public Comments: Brian Schmidt (Committee for Green Foothills) argued that the workplan does not fix the existing problem with the EIR's.

Further discussion continued, and staff responded to additional questions from Council.

Action: On a call for the question, the motion carried unanimously, the memorandum of October 14, 2011 was approved, including the Staff's proposed Economic Strategy Workplan. (11-0.)

STRATEGIC SUPPORT SERVICES

3.6 (a) Interview applicants for appointment to the Planning Commission
(b) Appoint one (1) member to the Planning Commission to the balance of an unexpired term ending June 30, 2012.
(c) If no appointment is made, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.
(City Clerk)

3.6 (Cont'd.)

Documents Filed: (1) Memorandum from City Clerk Dennis Hawkins, CMC, dated October 7, 2011, providing Planning Commission applicant profiles and appointment instruction. (2) Supplemental memorandum from City Clerk Dennis Hawkins, CMC, dated October 12, 2011, transmitting conflict of interest review.

Action: Dori Yob was appointed to the Planning Commission to the balance of an unexpired term ending June 30, 2012.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Direct staff to continue participation in Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) preparation, including:

(a) Refinement of the draft HCP/NCCP in accordance with the September 2011 Framework;

(b) Completion of the environmental review process for the HCP/NCCP;

(c) Drafting of related wildlife and wetlands permits;

(d) Performance of a cost-benefit assessment of the HCP/NCCP; and

(e) Returning to Council for consideration of adoption of the HCP/NCCP and related documents and permits upon completion.

CEQA: Not a Project, File No. PP10-069. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated September 8, 2011, recommending refinements to the draft Habitat Conservation Plan and continuance for action. (2) Supplemental memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated October 12, 2011, providing cost information and a regulatory agency meeting update. (3) Email from Myron Crawford, Berg & Berg Developers, received September 24, 2011, expressing opposition to the Habitat Conservation Plan.

Public Comments: Roland Lebrun and Brian Schmidt (Committee for Green Foothills) offered their support to the Habitat Conservation Plan.

Director, Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council.

Action: Upon motion by Council Member Kalra, seconded by Council Member Liccardo and carried unanimously, Staff was directed to continue participation in Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) preparation. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.1 Adopt a resolution authorizing the City Manager to execute the Sixth Amendment to the Parking Management Agreement for the Norman Y. Mineta San Jose International Airport with Ampco System Parking, Inc., to add an option to extend the term of the agreement one year, ending on October 31, 2012, with the maximum compensation for this one-year extension term of $4,800,000. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance/Airport)

Action: Deferred to October 25, 2011 per Orders of the Day.

6.2 Adopt a resolution authorizing the City Manager to:

(a) Execute the third amendment to the agreement with Air-Transport IT Services, Inc. to extend services for system maintenance and support for an additional twelve month period ending on December 31, 2012, for a total compensation amount not to exceed $1,587,824, for the one year of maintenance services.

(b) Exercise an option for an additional one-year term ending on December 31, 2013, with a compensation adjustment based on the Consumer Price Index, not to exceed 3%, subject to the appropriation of funds.

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

Documents Filed: Memorandum from Assistant Director of Finance Julia H. Cooper, dated September 26, 2011, recommending adoption of a resolution.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Resolution No. 76031, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Third Amendment to the Agreement for Integrated Systems Between the City of San José and Air Transport IT Services, Inc.", was adopted. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

7.1 (a) Adopt a resolution to authorize the City Manager to execute a Ground Lease, Master Lease, Development Agreement, One-Day Loan Agreement, Investment Fund Leverage Loan Agreement, Put/Call Agreement, Environmental Indemnification in the form proposed, and to authorize the City Manager to execute and deliver these documents and other related documents as necessary in connection with the closing of the New Markets Tax Credit (NMTC) financing transaction for the Environmental Innovation Center project.

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

(1) Increase the estimate for Earned Revenue by $8,022,174 to recognize revenue from a one-day loan;

7.1 (Cont'd.)

(b) (2) Decrease the appropriation to the Environmental Services Department for Household Hazardous Waste Las Plumas Facility by $11,587,471;

(3) Establish an appropriation to the Finance Department for a NMTC Transaction One-Day Loan in the amount of $19,609,645;

(4) Increase the estimate for Earned Revenue by $8,022,174 to recognize ground lease revenue;

(5) Decrease the appropriation to the Environmental Services Department for Non-Personal/Equipment by $20,055;

(6) Establish an appropriation to the Finance Department for the NMTC Transaction One-Day Loan Repayment in the amount of $8,042,229;

(7) Increase the estimate for Earned Revenue by $10,630,285 to recognize revenue from an initial draw and the fiscal year 2011-2012 portion of development budget;

(8) Increase the appropriation for Household Hazardous Waste Las Plumas Facility by $10,441,785; and

(9) Establish an appropriation to the Office of Economic Development for the Environmental Innovation Center's Public Art in the amount of $188,500.

CEQA: Negative Declaration for the renovation of the EIC was adopted on December 1, 2009, File No. PP09-138. Council District 3. (Environmental Services/City Manager's Office)

Action: Deferred October 25, 2011 per Administration.

7.2 Approve the Agreement for Commercial Organic Waste Processing Services between Zero Waste Energy Development Company, LLC and the City of San José, for a term from November 1, 2011 through June 30, 2027 with an initial service mobilization period from November 1, 2011 through June 30, 2012, and interim composting services to begin July 1, 2012. CEQA: Mitigated Negative Declaration, Resolution No. 75918. (Environmental Services)

Documents Filed: Memorandum from Acting Director Environmental Services Kerrie Romanow, dated September 26, 2011, recommending approval of an agreement for Commercial Organic Waste Processing Services. (2) Supplemental memorandum from Acting Director Environmental Services Kerrie Romanow, dated October 12, 2011, providing significant changes from the draft agreement and CEQA updates.

Public Comments: Emily Hanson, representing Zero Waste Energy Development, offered appreciation for the opportunity and thanked the Staff for doing an excellent job.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Agreement for Commercial Organic Waste Processing Services between Zero Waste Energy Development Company, LLC and the City of San José with related contingencies, was approved. (11-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

Tract	Location	Council District	Developer	Lots/ Units	Type	Proposed Decision
10071	E/S of S. White Road approximately 400 feet south of Cunningham Avenue	8	Ponderosa Homes II, Inc.	16 Lots/ 14 Units	SFDR	Approve

ADJOURNMENT

The Council of the City of San José adjourned at 6:03 p.m. in memory of James T. Beall, Sr., a long-time San Jose resident. He and his wife, Katherine, were the parents of 10 children. One of his sons, Jim Beall, Jr., would be elected to serve on the San Jose City Council. James Beall, Sr. fought to keep America free as a paratrooper in the 326th Glider Infantry Regiment of the 82nd Airborne, fighting in the European Theater of World War II. Mr. Beall treasured his family and friends in the belief that kindness was the greatest legacy a man could leave behind. May his memory and legacy forever live on in our hearts and minds. (Chu)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk

rmk/10-18-11MIN

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.