CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA **TUESDAY, NOVEMBER 8, 2011**

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, Constant, Herrera, Liccardo, Nguyen, Pyle, Rocha; Reed.

Absent: Council Members - Chu, Kalra, Oliverio.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no update provided.

Public Comments: Yolanda Cruz, AFSCME/MEF announced that finishing touches on the proposal were being drafted and a meeting was planned with the City later in the week. Paula Martinez urged no more cuts and asked that the City bargain in good faith with the unions.

CLOSED SESSION

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

Absent: Council Members - All Present.

Upon motion unanimously adopted, Council recessed at 9:07 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (b) with respect to existing litigation: (1) City v. Alvarez, et al.; Names of Parties Involved: City of San José; People of the State of California; Gindin-R&B Company; Martin C. & Rosanna M. Alvarez; Greg Anderson; Bill & Rebecca Armstrong; Florencia A. Atkinson; Juan G. & Alicia F. Ayala; Yang-Jwun Bao; Edward

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.)

Barr; Joe M. & Martha M. Cabrera; Joel R. Carter; Ephraim C. & Ofemia D. Cencepcion; William T. Chan; James & Jeanine Clemons; Barbara J. Cottrel; Kevin Duffy; Esmeraldo V. & Antonina T. Esposa; Dante & Carmelita Esposa; Maria A. Ferrari; Borghild M. Finke; Henry L. Finlay; Bill I. & Rose Y. Fukuba; Bernardino A. & Honoria T. Gabriel; Philip M. Gin; Corrine & Jonathan Gonzalez; William W. & Marlene Greer; Ramiel L. Elsie A. Gutierrez; Guillermo G. & Teodora P. Guzman; Rosalina R. Hafalia; Tao-Yang Hsieh; Anguo T. & Lu Yen Huang; Pacifico M. Icasiano; Joe Z. Kus; Demetrios E. & Angeliki D. Kutulas; Kai Y. & Gotia Lau; Manh & Li Hoa Le; Trang U. Le; T. & Ho Ai Thi Lecuong; Kayne & Linda S. Lim; Frank F. & Lori J. Lindsen; Kuo-Hsiang & Pi-Yao Liou; David B. & Clara A. Lucero; Ignacio & Raquel Madriz; Gilbert & Cecilia Marosi; William L. McHargue; Abraham L. & Remedios M. Mendoza; Thelma T. & Rogelio A. Millare; Guillermo R. & Rosa I. Munoz; Tai & Han Mai N. Ngo; Hung M. & Diep M. Nguyen; Sau & Dieuxuan T. Nguyen; Son & Vu Lien Nguyen; Thank X. & Anh K. Nguyen; Jose C. Nunes; Severo C. Ozuna; Martina E. & Gabriel Padilla; Jorge L. & Pamela C. Palacios; Eden E. & Jaime F. Pantaleon; David Perry; Hoang H. Pham; Danny Quan; Soledad F. Salvador; Santos Sr. & Esperranza Sanchez; Eduardo V. & Mercedita A. Santos; Ramona E. Schillinger; Hardev S. & Kanwaljit K. Takhar; Masae Toller; Rudolf & Helen H. Ussenko; Alvino Valles; Alvino Vallez; Adalberto & Maria Z. Vargas; Stephen D. Vogel; Suresh H. & Shobha S. Vora; Po H. & Tsui C. Wong; Raymond Wong; Cho Y. & Big H. Yu; Joe Y. & Ng M. Yuen; Walnut Grove Income Estates Homeowners Association; Walnut Woods Neighborhood; and Does 1 through 1,000, inclusive; Court: Superior Court of California, County of Santa Clara; Case No. 1-96-CV759667: Amount of Money or Other Relief Sought: Injunctive Relief; (B) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation in one (1) matter; (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: (1) Property Street Address, Parcel Number, or Other Unique Reference of Property: National Forest Land in Section 28, T.1S, R. 18E, Mt. Diablo Meridian, as shown on map no. 042988 (Commonly known as San José Family Camp, 11401 Cherrylake Road, Groveland, CA in the Groveland Ranger District of the Stanislaus National Forest). Negotiation Parties: Steven Hammick for the City of San José and Maggie Dowd, Groveland District Ranger for U.S. Forest Service; Under Negotiation: Ground Lease; Likely Range of Value of Property: Approximately $41,020 per year; (D) 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,

CLOSED SESSION (Cont'd.)

Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters; (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3; (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association; (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; How to obtain a copy of existing contract or MOA: web: **http://www.sanjoseca.gov/employee relations/moa.asp**; Telephone for Employee Relations: 408-535-8150.

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

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

Absent: Council Members - All Present.

INVOCATION

Musician Bernard Smith sang the national anthem for the Invocation. (District 10)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle**,** seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 2.3(b) deferred to November 15, 2011. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation in support of the Shop San José Campaign to Women Impacting Public Policy (WISP) and representatives of San José's neighborhood business associations declaring November 26, 2011 as "Small Business Saturday" in the City of San José. (Herrera/Economic Development)

Mayor Reed and Council Member Herrera recognized the Shop San José Campaign to Women Impacting Public Policy (WISP) and representatives of San José's neighborhood business associations declaring November 26, 2011 as "Small Business Saturday" in the City of San José.

1.2 Presentation of a proclamation declaring the week of November 13 – 19, 2011 as "National Nurse Practitioner Week" in the City of San José. (Constant)

Mayor Reed and Council Member Constant recognized the week of November 13 – 19, 2011 as "National Nurse Practitioner Week" in the City of San José.

1.3 Presentation of commendations to Lynbrook High School and Valley Christian Junior High School which have each been named a 2011 Intel School of Distinction. (Constant)

Mayor Reed and Council Members Constant and Kalra presented a commendation to Lynbrook High School and Valley Christian Junior High School which have each been named a 2011 Intel School of Distinction.

1.4 Presentation of a commendation to Second Harvest Food Bank for helping to end hunger by providing food and nutrition programs for people in need in our community. (Mayor)

Deferred to November 15, 2011 per Mayor Reed.

1.5 Presentation of a commendation to the SJB Child Development Centers for promoting healthy lifestyles to children and families in San José. (Liccardo) (Rules Committee referral 11/2/11)

Mayor Reed and Council Member Liccardo recognized the SJB Child Development Centers for promoting healthy lifestyles to children and families in San José.

CONSENT CALENDAR

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

2.1 Approval of Minutes.

Action: There were none.

2.2 Final Adoption of Ordinances.

Action: There were none.

2.3 Approval of Council Committee Reports.

(a) Rules and Open Government Committee Report of October 19, 2011. (Mayor)

(c) Rules and Open Government Committee Report of October 12, 2011. (Mayor)
[Deferred from 11/1/11 – Item 2.3(a)]

(d) Public Safety, Finance and Strategic Support Committee Report of October 20, 2011. (Constant)
[Deferred from 11/1/11 – Item 2.3(b)]

(e) Rules and Open Government Committee Report of October 5, 2011. (Mayor)
[Deferred from 10/25/11 – Item 2.3(b) and 11/1/11 – Item 2.3(c)]

Documents Filed: (1) Rules and Open Government Committee Reports dated October 19, 12 and 5, 2011. (2) Public Safety, Finance and Strategic Support Committee Report of October 20, 2011.

Action: The Committee Reports were approved. (11-0.)

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

Action: Deferred to November 15, 2011 per Orders of the Day.

2.4 Mayor and Council Excused Absence Requests.

Action: There were none.

2.5 City Council Travel Reports.

Documents Filed: Memorandum from Council Member Constant, dated November 7, 2011, recommending acceptance of his travel report for retirement board-related educational training.

Council Member Constant reported on his participation as Vice Chair of the National League of Cities' Public Safety and Crime Prevention Steering Committee, which met in October in Washington D.C. to discuss issues facing local governments.

2.6 Report from the Council Liaison to the Retirement Boards.

Council Member Constant offered highlights of Cheiron's experience study on the Police and Fire Department Retirement Plan.

2.7 Approve Third Amendments to the On-Airport Rental Car Operations and Lease Agreements ("Agreement") with Avis Budget Car Rental, LLC; DTG Operations, Inc.; EAN, LLC; Fox Rent A Car, Inc.; and Hertz Corporation to update space layouts to reflect current operations at the Airport and to clarify certain Agreement provisions, including the commencement date and the ground rent appraisal schedule. CEQA: Not a Project, File No. PP10-066(f), Lease of existing space for same use. (Airport)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated October 17, 2011, recommending approval of third amendments to the On-Airport Rental Car Operations and Lease Agreements.

Action: The Third Amendments to the On-Airport Rental Car Operations and Lease Agreements ("Agreement") with Avis Budget Car Rental, LLC; DTG Operations, Inc.; EAN, LLC; Fox Rent A Car, Inc.; and Hertz Corporation with related contingencies were approved. (11-0.)

2.8 Adopt a resolution authorizing the City Manager to execute a joint two-year Memorandum of Understanding (Updated Governance MOU) between the City of Oakland, City of San Jose, City and County of San Francisco, County of Alameda, County of Contra Costa, County of Marin, County of Monterey, County of San Mateo, County of Santa Clara, and County of Sonoma as partners in the San Francisco Bay Urban Area Security Initiative (UASI) grant program with an effective term of December 1, 2011 to December 1, 2013. CEQA: Not a Project, File No. PP10-066(a), UASI Grant MOU. (Fire)

Documents Filed: Memorandum from Fire Chief William McDonald, dated October 17, 2011, recommending approval of a resolution.

2.8 (Cont'd.)

Action: Resolution No. 76043, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Joint Two-Year Memorandum of Understanding for the San Francisco Bay Urban Area Security Initiative Grant Program", was adopted. (11-0.)

2.9 (a) Adopt a resolution authorizing the City Manager to accept the FY 2011 Protecting Children from Commercial Sexual Exploitation Grant in the amount of $292,000; and to execute the grant agreement with the Department of Justice, Office of Juvenile Justice and Delinquency Prevention specifying the grant terms 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 expense appropriation to the Police Department for the 2011 Protecting Children from Commercial Sexual Exploitation Grant in the amount of $145,000; and

(2) Increase the estimate for Earned Revenue from the Federal Government by $145,000.

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 October 17, 2011, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 28988, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the 2011 Protecting Children From Commercial Sexual Exploitation Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 76044, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept the Fiscal Year 2011 Protecting Children from Commercial Sexual Exploitation Grant in the Amount of $4292,000 and to Execute the Grant Agreement with the Department of Justice and Delinquency Prevention and all Related Documents Necessary to Effectuate the Grant"; and Resolution No. 76045, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75872 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2011-2012 to Adjust Revenues in the General Fund", were adopted. (11-0.)

2.10 Adopt a resolution of intention to form Maintenance District 24 (The Alameda) and directing the Director of Public Works to create and file an Engineer's Report. CEQA: Exempt, File No. PP10-132. Council District 6. (Public Works/Transportation)

Documents Filed: Memorandum from Director of Public Works David Sykes and Director of Transportation Hans Larsen, dated October 17, 2011, recommending adoption of a resolution.

2.10 (Cont'd.)

Action: Resolution No. 76046, entitled: "A Resolution of the Council of the City of San José, Declaring its Intention to Establish Maintenance District 24 (The Alameda)", was adopted. (11-0.)

2.11 Adopt a resolution to repeal Resolution No. 75871 and set forth the Master Parking Rate Schedule to modify the Downtown Parking Incentive Programs by:

(a) Expanding the Downtown Free Parking Incentive Program to include existing businesses that expand their Downtown office or commercial building space by a minimum of 10,000 square feet on or after November 1, 2011.

(b) Expanding the Downtown Free and 50% Discounted Parking Incentive Programs to include Owner-Occupied Businesses that acquire Downtown office or commercial building space on or after November 1, 2011 and need parking for its employees.

(c) Expanding the Downtown Free and 50% Discounted Parking Incentive Programs and provide the City Manager authority to negotiate and execute parking agreements for up to two and a half years of free or 50% discounted parking for up to 100 parking permits when it is determined that the enhanced terms of the parking agreement would be an overriding factor in the relocation or retention of a business in the Downtown as described in the memorandum and the business meets one of the following conditions on or after November 1, 2011:

(1) New Downtown business entering into a new office or commercial building lease for a minimum of 10,000 square feet; or

(2) New Downtown business entering into a new office or commercial building lease and executing a parking agreement with the City for a minimum of 30 parking permits for the duration of the parking agreement; or

(3) Existing Downtown business entering into a new office or commercial building lease and:

(a) Expanding their operation Downtown by a minimum of 5,000 square feet, or

(b) Executing a parking agreement with the City for a minimum of 30 parking permits if they are relocating their parking from a private parking facility to a City facility, or

(c) Executing a parking agreement with the City for a minimum additional 30 parking permits if they are already purchasing parking in a City facility.

CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section No. 15273, Rates, Tolls, Fares and Charges. Council District 3. (Transportation)

Council Member Liccardo pulled Item 2.11 to applaud Transportation Division Manager Joe Garcia and Assistant Director of Transportation Jim Ortbal for their hard work and dedication to this project.

2.11 (Cont'd.)

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated October 17, 2011, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, Resolution No. 76047, entitled: "A Resolution of the Council of the City of San José Setting Forth the Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities to Expand the Downtown Parking Incentive Programs and to Repeal Resolution No. 75871 Effective Retroactively on November 1, 2011", was adopted. (11-0.)

2.12 Approve travel by Council Member Herrera to San Diego, CA on November 16 – 18, 2011 to attend the League of California Cities Leaders Workshop/ General Session as the President of the Women's Caucus. Source of Funds: League of California Cities and Mayor/Council Travel Fund. (Pyle)
[Rules Committee referral 11/2/11 – Item A(1)(a)(1)]

Documents Filed: Memorandum from Council Member Herrera, dated October 25, 2011, requesting authorization to travel on authorized City business.

Action: The travel for Council Member Herrera was approved. (11-0.)

2.13 As recommended by the Rules and Open Government Committee, extend the term of office and reappoint Sean Kaldor, Fire Department employee member of the Board of Administration of the Police and Fire Department Retirement Plan, until such time as the City Council makes the appointment of an employee member to a new term of office expiring November 30, 2015. (City Clerk)
[Rules Committee referral 11/2/11 – Item H(5)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated October 27, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The term of office and reappointment of Sean Kaldor, Fire Department employee member of the Board of Administration of the Police and Fire Department Retirement Plan, until such time as the City Council makes the appointment of an employee member to a new term of office expiring November 30, 2015, was approved. (11-0.)

STRATEGIC SUPPORT SERVICES

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

City Manager Figone shared highlights of the 2012-2013 Preliminary General Fund Forecast.

3.3 Report on Request for Proposal for Citywide Janitorial Services and adoption of a resolution authorizing the City Manager to:

(a) Execute five separate agreements with GCA Services Group Inc. (Alviso, CA) for Janitorial Services, with an initial three year term ending October

31, 2014 for each agreement, and a cumulative total amount not to exceed $19,118,608. Year two and three of the contract are subject to the appropriation of funds.

Department	Year One Cost	Max. Compensation (three years)
Public Works (Citywide Facilities)	$2,951,232	$8,853,696
Airport	2,576,126	7,728,377
Parks, Recreation & Neighborhood Services	462,597	1,387,790
Environmental Services	369,718	1,109,154
Office of Cultural Affairs	13,197	39,591
Total	**$6,372,870**	**$19,118,608**

(b) Execute amendments as required to add or delete facilities, or change service levels due to seasonal changes or budget constraints, subject to the appropriation of funds.

(c) Execute five one-year options to renew each of the agreements 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)

Action: Deferred to November 29, 2011 per Administration.

3.4 (a) Interview applicants for appointment to the Civil Service Commission;

(b) Appoint up to three (3) members to the Civil Service Commission to full four-year terms expiring November 30, 2015; and

(c) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.

(City Clerk)

Action: Deferred to November 15, 2011 per Administration.

3.5 Approve an ordinance amending Chapter 12.10 of Title 12 of the San José Municipal Code by adding Section 12.10.035 to prescribe limited restrictions for designated employees terminated due to reductions in work force. (City Attorney's Office) [Rules Committee referral 10/26/11 – Item H(5)]

Documents Filed: (1) Joint memorandum from Council Member Rocha, Oliverio and Kalra, dated November 4, 2011, recommending revisions to the Staff's recommendations. (2) Memorandum from City Clerk Dennis Hawkins, CMC, dated October 27, 2011 recommending approval of an ordinance amending Chapter 12.10 of Title 12 of the San José Municipal Code.

City Attorney Richard Doyle provided background on the revolving door policies.

Motion: Council Member Rocha moved approval of the memorandum he cosigned with Council Members Oliverio and Kalra with the caveat that "any limitation of section 12.10.030 B still in effect shall apply for *one year*". Council Member Oliverio seconded the motion.

Action: On a call for the question, the motion failed. (7-4. Noes: Constant, Herrera, Nguyen, Reed.) *Note: Approval of this item requires 8 or more affirmative votes.*

Amendment to the Motion: Council Member Rocha requested to amend the motion to include only item #1 from the memorandum he cosigned with Council Members Oliverio and Kalra, omitting the one-year waiting period as outlined in item #2.

Action: On a call for the question and carried unanimously, Ordinance No. 28989, entitled: "An Ordinance of the City of San José Amending Chapter 12.10 of Title 12 of the San José Municipal Code by Adding a New Section 12.10.035 to Prescribe Limited Restrictions for Designated Employees Terminated Due to Reductions in Work Force", passed for publication, with revision to staff's draft proposal, outlined as "Attachment A" in the memorandum dated November 4, 2011, cosigned by Council Members Rocha, Oliverio and Kalra, as follows:.

12.10.035 Designated Employees Terminated Due to Reduction in Work Force

A. Notwithstanding the provisions in this Chapter to the contrary, for any designated employee who was terminated or involuntarily separated from City or Agency service due to consolidation or elimination of functions or other reduction in the City or Agency work force which was based solely on economic or budgetary conditions, the provisions of Section 12.10.030 shall apply as follows:

1. Section 12.10.030 A shall not apply.

3.5 (Cont'd.)

2. Section 12.10.030 B shall apply insofar as it prohibits representation of anyone or any matter before the City Council, Redevelopment Agency Board, or any individual member of the City Council or Redevelopment Agency Board, but shall not apply insofar as it prohibits representation of anyone on any matter before any commission, any individual member of a commission, or City or Redevelopment Agency staff, provided that the business or person being represented (a) did not receive any subsidy from the City or Agency within the last 12 months of the employee's employment; or (b) was not involved in any project on which the employee worked within the last twelve (12) months of the employee's employment.
3. Except as provided in Subsection A.1, Section 12.10.030 C shall still apply.

(11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 (a) Council consideration of adoption of an urgency ordinance suspending Ordinance No. 28958 and providing that amending Ordinance No. 28958, adopted by the City Council on September 27, 2011 to establish land use regulations pertaining to medical marijuana collectives, to provide that Ordinance No. 28958 shall become effective only if and when Ordinance No. 28960, establishing health and safety regulations for medical marijuana collectives, first becomes effective and setting forth the facts constituting such urgency.

Please note: Approval of this item requires 8 or more affirmative votes (2/3).

(b) Council consideration of approval of an ordinance suspending Ordinance No. 28958 and providing that Ordinance No. 28958, adopted by the City Council on September 27, 2011 to establish land use regulations pertaining to medical marijuana collectives, shall become effective only if and when Ordinance No. 28960, establishing health and safety regulations for medical marijuana collectives, first becomes effective.

CEQA: Resolution No. 75984. (City Attorney's Office/City Manager's Office)
(Deferred from 11/1/11 – Item 4.2)

Documents Filed: (1) Memorandum from City Manager Debra Figone and City Attorney Richard Doyle, dated October 31, 2011, recommending adoption of an Urgency Ordinance. (2) Memorandum from Citizens Coalition for Patient Care (CCPC), dated November 8, 2011, expressing support for the urgency ordinance. (3) Receipt for Referendum Petition Certificate of Page and Signature County for Referendum Against an Ordinance Passed by the city Council, Ordinance No. 28960, signed by City Clerk Dennis Hawkins, CMC, dated October 28, 2011.

4.1 (Cont'd.)

City Attorney Richard Doyle explained the rationale for the proposed Urgency Ordinance.

Motion: Vice Mayor Nguyen moved approval of the Staff recommendations. Council Member Constant seconded the motion.

Deputy Director of Planning, Building and Code Enforcement Mike Hannon and Assistant Director of Finance Julia H. Cooper responded to questions from Council, and Council discussion followed.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 28990, entitled: "An Urgency Ordinance of the City of San José Suspending the Effectiveness of Ordinance No. 28958 and Providing that Ordinance No. 28958 (Related to Land Use Regulations for Medical Marijuana Collectives) Shall Become Effective No Earlier Than City Ordinance No. 28960 Establishing Health and Safety Regulations and a Registration Process Related to Medical Marijuana Collectives and Setting Forth the Facts Constituting Such Urgency", was adopted, and Ordinance No. 28991, entitled: "An Ordinance of the City of San José Suspending the Effectiveness of Ordinance No. 28958 and Providing that Ordinance No. 28958, Related to Land Use Regulations for Medical Marijuana Collectives, Shall Become Effective No Earlier Than City Ordinance No. 28960 Establishing Health and Safety Regulations and a Registration Process Related to Medical Marijuana Collectives", was passed for publication. (11-0.).

TRANSPORTATION & AVIATION SERVICES

6.1 Adopt a resolution:

(a) Imposing a customer facilities fee and customer transportation fee (collectively, "CFC") of $6.00 per day, up to a maximum of five days per rental car contract effective December 1, 2011, for customers renting vehicles from On-Airport Rental Car Companies, for the purpose of paying the costs of the financing, design and construction of the Consolidated Rental Car Garage, and the costs of providing a common-use transportation system to transport rental car customers between Terminal A and the Consolidated Rental Car Garage;

(b) Subject only to the State Controller's Office substantiating the continued need for the rate increase at that time, increasing the CFC from $6.00 to $7.50 per day, up to a maximum of five days per rental car contract effective January 1, 2014, for customers renting vehicles from On-Airport Rental Car Companies, for the purpose of paying the costs of the financing, design and construction of the Consolidated Rental Car Garage, and the costs of providing a common use transportation system to transport rental car customers between Terminal A and the consolidated Rental Car Garage;

(c) Authorizing the City Manager to reinstate and impose a CFC of $10 per rental car contract in the event that the per day CFC provided for herein is held to be invalid or unenforceable; and

(d) Repealing Resolution No. 74039, effective December 1, 2011.

CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273, Rates/Tolls/Fares/Charges. (Airport)

6.1 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Aviation William F. Sherry, dated October 20, 2011, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Aviation William F. Sherry, dated November 4, 2011, providing additional information for clarification.

Public Comments: Len Almaleck (Enterprise Holdings) and Lorraine Tallarico (Avis Budget Group) expressed support for the Staff's recommendations. John Salah (Airport Commission) recommended that a decision be postponed with fees moved up only incrementally. Rick Wakida (Silicon Valley Business Travel Association) asked that other solutions be explored that may benefit all affected parties.

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried, Resolution No. 76048, entitled: "A Resolution of the Council of the City of San José Imposing a Customer Facilities Fee and Customer Transportation Fee (Collectively, "CFC") of $6.00 per Day, up to a Maximum of Five Days per Rental Car Contract Effective December 1, 2011, and Increasing the CFC from $6.00 to $7.50 per Day up to a Maximum of Five Day per Rental Car Contract Effective January 1, 2014, for Customers Renting Vehicles from On-Airport Car Rental Agencies, and Repealing Resolution No. 74039, Effective December 1, 2011", was adopted. (10-1. Noes: Chu.)

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
10078	E/S Almaden Expwy, 200' S/O Fleetwood Drive	10	HH Almaden LLC	16 Lots / 16 Units	SFDR	Approve

OPEN FORUM

1. Frank Jer urged fair treatment of City employees.
2. Jeanne Barber implored Council's consideration of hardships created for retirees and City employees in cutting COLA's and healthcare benefits.
3. Judy Bender expressed dissatisfaction with the City's treatment of her worker's compensation claim.
4. Jon Max Reger complained that PRNS employees are disproportionately effected by the City's reduction of benefits and read from the Koran.

ADJOURNMENT

The Council of the City of San José adjourned at 4:09 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk

rmk/11-8-11MIN

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

JOINT CITY OF SAN JOSÉ CITY COUNCIL/
DIRIDON DEVELOPMENT AUTHORITY AGENDA

2:01 P.M. TUESDAY, NOVEMBER 8, 2011 CHAMBERS

1. Call to Order and Roll Call.

2. Actions Related to the Sale of Property to Athletics Investment Group LLC.

Recommendation: **It is recommended that the San José City Council and the San Jose Diridon Development Authority Board (Authority) conduct a public hearing and take the following actions:**

(a) The City Council and the Authority Board adopt resolutions affirming prior resolutions adopted by the City Council and Redevelopment Agency Board in support of the efforts of the Oakland Athletics organization to move the team to San Jose, including Resolution No. 74908 adopted in May, 2009, Resolution No. 75513 adopted in August, 2010, and Resolution 75567 adopted in September, Public hearing held.

Resolution No. 76049 adopted.

Diridon Development Authority Resolution No. 105.1 adopted.

Staff recommendations were approved, including the incorporation of all resolutions, with the provision that if this option is exercised, the City will comply with any provision requiring a vote of the electorate, and including acceptance of recommendations outlined in the memorandum cosigned by Mayor Reed and Council Members Herrera and Liccardo, dated November 4, 2011, to:

(1) Approve the sale of an option to purchase property as recommended in the October 24, 2011 staff report to City Council and the San José Diridon Development Authority Board;

(2) Direct the transfer of funds from the sale of property to the San José Redevelopment Agency; and

(3) Reaffirm ass prior resolutions adopted by the City Council and Redevelopment Agency Board in support of the A's moving to San José.

Noes: Oliverio.

(Item Continued on the next page)

2. Option Agreement for Sale of Property to Athletics Investment Group LLC. (Cont'd.)

Recommendation:

(b) The City Council adopt a resolution:

(1) Approving the potential sale of certain real property (Property) located along South Montgomery Street between West San Fernando Street and Park Avenue in San José to the Athletics Investment Group, LLC (AIG) pursuant to an Option Agreement for the Sale of Property between AIG and the Authority, and

(2) Accepting the Summary Report and Re-Use valuation, and;

(3) Finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Strong Neighborhoods Initiative Redevelopment Project Area, and that the consideration for the property is not less than the fair reuse value for the proposed use with the covenants and conditions to be imposed under the Option Agreement and the potential costs of the proposed project;

Resolution No. 76050 adopted.
Noes: Oliverio.

(c) The Authority Board adopt a resolution approving the Option Agreement for the Sale of Property with AIG and authorizing the Executive Director to negotiate and execute the purchase agreement and other ancillary documents contemplated by the Option Agreement, with proceeds of the sale to be paid to the San José Redevelopment Agency as consideration for the original transfer of the Property to the Authority;

Diridon Development Authority Resolution No. 106.1 adopted.
Noes: Oliverio.

(d) The Authority Board adopt a resolution approving the establishment of a new fund for the San José Diridon Development Authority and consenting to the budget actions recommended to be taken by the City Council below; and

Diridon Development Authority Resolution No. 107.1 adopted.
Noes: Oliverio.

(e) The City Council approve the establishment of the new fund and adopt the following Appropriation Ordinance and Funding Source Resolution amendments in the San José Diridon Development Authority Fund:

(1) Establish an estimate for Earned Revenue in the amount of $200,000;

(2) Establish an estimate for Transfers from the Redevelopment Agency in the amount of $60,000;

(3) Establish an appropriation to the Office of Economic Development for Non-Personal/Equipment expenses in the amount of $30,000;

(4) Establish an appropriation to the Office of Economic Development for Administration expenses in the amount of $10,000; and

(5) Establish an Ending Fund Balance in the amount of $220,000.

(Item Continued on the next page)

2. Option Agreement for Sale of Property to Athletics Investment Group LLC. (Cont'd.)

Recommendation:

(e) CEQA: Resolution to be adopted. This resolution will be based upon the information contained in that certain Final Environmental Impact Report for the Baseball Stadium in the Diridon/Arena Area, certified by the Planning Commission on February 28, 2007 by Resolution No. PC07-009, as supplemented by the information contained in that certain Final Supplemental Environmental Impact Report for the Baseball Stadium in the Diridon/Arena Area, certified by the City Council on June 16, 2010, by Resolution No. 75432.

Ordinance No. 28992 adopted.
Resolution No. 76051 adopted.
Resolution No. 76052 adopted.
CEQA Resolution No. 76053 adopted, with Council acknowledgement that the CEQA resolution identifies potential impacts, feasible mitigation, and findings, as well as the statement of override and the disclosure of any potential impacts, and that the letter and the spirit consistent with the requirements of CEQA have been followed.
Noes: Oliverio.

3. Open Forum
None.

4. Adjourn the meeting of the San Jose Diridon Development Authority
The meeting was adjourned at 3:15 p.m.

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.